



LOWER BRULE SIOUX TRIBAL COURT

FACSIMILE

Lower Brule Sioux Tribal Court
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Message: Defendants' motion for the Lower Brule Sioux Tribal Appellate Court in defendant appeal for Civ. # 14-12-0119 to recognize the legal fact that the defendants after the Appellate Court's rulings if adverse to them

You should have received 8 page(s), including this cover sheet. If you do not receive all the pages. Please contact me at (605) 473-5528.

THANK YOU.

LOWER BRULE SIOUX TRIBAL COURT) IN TRIBAL APPELLATE COURT
 LOWER BRULE SIOUX RESERVATION) CIVIL DIVISION
 LOWER BRULE SIOUX JURISDICTION) CIV-#14-12-0119

Lower Brule Sioux Tribe, Plaintiff Remaining individual plaintiffs Orville(Red) Langdeau and John McCauley . vs. Kevin Wright, Sonny Ziegler and Desiree LaRoche Defendants	* Defendant's moves for the Lower Brule Sioux Tribal Appellate * Court in defendants' appeal for CIV-#14-12-0119 to recognize * the legal fact that the defendants after the appellate court's rulings * ; if adverse to them; that the defendants, " <i>have exhausted their</i> * <i>tribal court remedies</i> " and that they be allowed significant time * to prepare their appeal onto the US Federal District Court; under * jurisdiction of 28 USC Sec 1331 Arising under Federal Question. * This legal fact prevents any Lower Brule Sioux regular (<i>inferior</i>) * court action on the same mater to proceed until the Federal Court's • ruling on this mater, "that the defendants claim the special judge has made an abuse of his discretion in extending a temporary restraining order indefinitely" that prevents the • defendants for excising their elected rights including the federal question of finding out just what the plaintiffs did with over 24 million dollar in federal funds given to the 2012=2014 years term of TRIBE that the plaintiffs where part of. Plaintiffs' latest amended pleading in this lawsuit at claim number 23 seeks to prevent defendant Kevin Wright from pursing action to find the missing 24million+ by asking the federal official Kevin Washburn for assistance in this federal question question matter.
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Comes Now, the defendants in this case lawsuit Civ-#14-12-0119 consisting of the Lower Brule Sioux Tribal Vice-Chairman Kevin Wright now acting Chairman (*due to unforeseen circumstances of the elected chairman passing away and the two remaining plaintiffs refusing to attend and participate in the last regular tribal council meeting*), Lower Brule Sioux Tribal Council Member Sonny Ziegler and Lower Brule Sioux Tribal Tribal Council Member Desiree LaRoche; who move for for the Lower Brule Sioux Tribal Appellate Court in defendants' appeal for CIV-#14-12-0119 to recognize the legal fact that the defendants after the appellate court's rulings if adverse to them; that the defendants, "*have exhausted their tribal court remedies*" and that they be allowed significant time to prepare their appeal onto the US Federal District Court; under jurisdiction of 28 USC Section 1331 Arising under Federal Question and 5 U.S.C. Secs. 701 et seq. the Administrative Procedure Act or (APA). The apeplate

court needs to advise the defendants of the statute of limitation for them to file their appeal to the US federal district court.

This legal fact and procedure Exhaustion of the defendants' "tribal court remedies" prevents any Lower Brule Sioux regular (*inferior*) court action on the same matter to proceed until the Federal Court's ruling on this matter, "*that the defendants claim the special judge has made an abuse of his discretion in extending a temporary restraining order indefinitely*"¹; that prevents the defendants for excising their elected rights of office including the "federal question" of finding out just what the plaintiffs did with over 24 million dollar in federal funds given to the 2012=2014 years term of TRIBE!

Plaintiffs' acknowledge that this lawsuit contains a federal question regarding the federal funds; by in their latest amended pleading of this lawsuit at claim number 23 ; they seeks to prevent defendant vice-chairman and acting chairman Kevin Wright from pursing action to find the missing 24million + by him asking the federal official Kevin Washburn for assistance in this federal question matter. The Administrative Procedure Act or (APA) requires that federal agency official be responsible for federal funds given to the tribes to make sure that the funds are spent for the purposes for which they were given to the tribes.

The defendants now state to the tribal appellate court that the legal issues and facts in their appeal for civ 14-12-0119 is legally on all fours with a earlier Lower Brule Sioux Tribal government appeal that of Goodface 708 F.2d 335; that also contained arising under federal question and was accepted by the US Federal District Court and reviewed by the US Court of Appeals for the Eighth Circuit .

As a general rule of law tribal matters are not reviewable in federal court. The exception to this is when the tribal matter also contains a question of federal law or a question on a federal issue. The

¹ The defendants also claim that the basis for the illegal extended TRO is based upon faulty legal reasoning of where the special judge found that a-like tribal violation of a federal violation of property rights had occurred. The defendants argue that no removal action occurred with a lost of pay or benefits so there could be no like federal violation of property rights occurred.

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defendants, Vice-Chairman Kevin Wright (*now acting Chairman due to unforeseen circumstances of the elected chairman passing away*), with support of the other two defendants Lower Brule Sioux Tribal Council Member Sonny Ziegler and Lower Brule Sioux Tribal Council Member Desiree LaRoche was attempting to locate the missing 24 million plus dollars by requesting assistance from the Assistant Secretary for Interior Kevin Washburn and the plaintiffs call this malfeasance of office. Or derogation of the tribe's constitution. This plaintiff ^{being up} issues for this federal question in their claim number 23 of their amended pleadings. This federal issue of the defendants' quest to find the missing federal funds also satisfies the requirement of the federal question needed for the US District court jurisdiction. Another federal question in this lawsuit is the special judge's findings that a tribal property violation of the elected tribal chairman and the two remaining plaintiffs losing their jobs or positions that is the equivalent of a federal violation of a property right. This finding is the basis for the special judge to extend the TRO indefinitely thus allowing the special judge to exert control over the defendants in regard to the tribal government functions. The tribal court by the special judge now in effect controls the tribal government. The Lower Brule Tribal Chief Judge appointed the Special Judge. The plaintiffs and the tribal council from the 2012=2014 term appointed the chief judge after she was beat in the 2014-2018 election term finishing third out of three candidates who ran for the chief judge position. The winning candidate withdrew and the second place candidate filled to the election board a protest or challenge to the the plaintiffs and the 2012-2014 term tribal council appointment of the now chief judge as the winning candidate. The then chairman stopped the election board from addressing the challenge and from naming the second place candidate as the chief judge. The plaintiffs in their claim number 26 of their amended pleadings make a claim of intimidation and threats for tribal employees Lee Brannan the tribal business manger (*who is also the current chief judge's significant other*) and Patricia Lundell who is the finance manger. Both employees have blocked the acting chairman's attempt to review business records that may show where the missing 24 million + is at or how it was spent. The plaintiffs and their supporters of the tribal employees in the tribal business

offices look to the special judge to help prevent the defendants from inquiring or looking for where the missing 24 million dollars (plus) is at or how it was used; especially the acting chairman in his capacity of being responsible for the tribe's day to day operations.

TRIBAL EXHAUSTION RULE

The United States Supreme Court in the case of *National Farmers Union Insurance Cos. v. Crow Tribe of Indians*,² first began to grapple with the issue or questions regarding the proper jurisdictional boundaries among tribal, state, and federal courts. In that case, the Court announced what has come to be known as the "tribal exhaustion rule," under which federal courts must decline to exercise jurisdiction over matters that fall within tribal jurisdiction until the appropriate tribal remedies have been exhausted.³ The tribal court exhaustion rule, which mandates that a dispute arising within Indian country be adjudicated first through the tribal court to permit the tribal court to explain its exercise of subject matter jurisdiction before a federal court can review the exercise. Federal courts will generally stay their jurisdiction to enjoin a tribal court action until such time as the tribal trial and appellate courts have had the opportunity to address the subject matter jurisdiction of the tribal court.⁴

TRIBAL COURT'S SUBJECT MATTER JURISDICTION

Whether the Tribal Court has personal and subject matter jurisdiction under tribal law. A major step in the analysis is whether the tribal court has personal jurisdiction over a litigant and subject matter jurisdiction over a dispute under its own constitution and laws. In general, such determinations are tribal matters not reviewable in federal court. It has been state that determining whether the tribal court has subject matter jurisdiction under tribal law over a particular type of dispute is always a dicey

² *National Farmer's Union Insurance Co. v. Crow Tribe*, 471 U.S. 845 (1985).

³ See *Iowa Mutual Insurance Co. v. LaPlante*, 480 U.S. 9 (1987);

⁴ See *Basil Cook Enterprises v. St. Regis Mohawk Tribe*, 117 F.3d 61 (2nd Cir. 1997); *City of Timber Lake v. Cheyenne River Sioux Tribe*, 10 F.3d 554 (8th Cir. 1993). Both of these cases suggest that tribal court interpretations of tribal law are entitled to absolute deference in federal court.

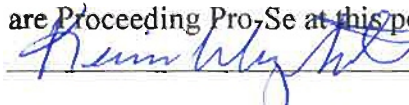
proposition because many Tribal codes are lacking in much of the substantive law which a practitioner has come to expect under state law. The special Judge's creative usage of the following case law appears to be attempt to splice and dice legal concepts to patch up the plaintiffs' lawsuit so it could proceed; finding that the plaintiffs are now somehow intervenors and some one other than them is the TRIBE or Tribal association plaintiff that has brought this lawsuit. The original complaint had the Lower Brule Sioux Tribal Attorney Tara Adamski bringing the lawsuit on the behalf of the Tribe with three tribal council members listed as the plaintiffs; the then Chairman Michael Jandreau, Secretary Treasurer Orville(Red) Langduca and tribal council member John McCauley This attorney was in violation of her tribal contract and also of her licensing bar by engaging in a lawsuit against her own current clients the defendants all who were members of the TRIBE or Tribal councils at the time of the lawsuit. None the defendants at that time gave the tribally paid attorney Tara Adamski permission or waivers to bring this lawsuit against them. The first attorney withdrew after being confront by the defendants with the conflict of interest issue then another tribally paid attorney Marshall Matz took over the case for Tara Adamski. The Attorney Matz then also engaged in a conflict of interest and violation of his tribal contract by bringing a lawsuit against his current clients the three named defendants and a violation of his licensing authority. The defendants were also made aware of the fact that the two remaining plaintiff's current attorney, " may have been" retained in whole or at least in part by tribal funds illegally obtained from the tribal farm operation account. The defendants in their defensive action had to pay out of their own pocket for their attorney and now in this second action in their defense they are proceeding pro-se due to a lack of funds for representation. The special judge in this case where three members of the TRIBE bring suit against the other three members of the TRIBE (in violation of the Tribe's Code chapter 11 Sec 2.) as for the basis of allowing this lawsuit to proceed; uses the cite of case law that is non-Indian Law, "that being the case law of *James B. Hunt, Jr., Governor of the State of North Carolina, et al., Appellants, v. Washington State Apple Advertising Commission.* " The following is a statement of the holding.

[332 U.S. 333, 97 S.Ct. 243, 53 L. Ed. 2nd 383, 76-63. Argued Feb. 22, 1977 Decided June 20, 1977. Appellee, a statutory agency for the promotion and protection of the Washington State apple industry and composed of 13 state growers and dealers chosen from electoral districts by their fellow growers and dealers, all of whom by mandatory assessments finance appellees operations, brought this suit challenging the constitutionality of a North Carolina statute requiring that all apples sold or shipped into North Carolina in closed containers be identified by no grade on the container other than the applicable federal grade or a designation that the apples are not graded. A three-judge District Court granted the requested injunctive and declaratory relief, holding that appellee had standing to challenge the statute, that the \$10,000 jurisdictional amount of 28 U.S.C. § 1331 was satisfied, and that the challenged statute unconstitutionally discriminated against commerce insofar as it affected the interstate shipment of Washington apples, Held: 1. Appellee has standing to bring this action in a representational capacity. Pp. 341-345.(a) An association has standing to bring suit on behalf of its members when (1) its members would otherwise have standing to sue in their own right; (2) the interests it seeks to protect are germane to the organization's purpose; and (3) neither the claim asserted nor the relief requested requires the participation in the lawsuit of each of the individual members. Warth v. Seldin, 422 U.S. 490, 95 S.Ct. 2197, 45 L.Ed.2d 343. Pp. 342-343.]

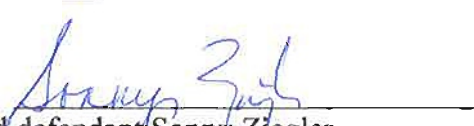
In this cite the special judge states the Lower Brule Sioux Tribe (*and its elected representative tribal council members*) is being treated like and held to a status like that of an association. The presiding judge offers no cites of any Indian Law cases wherein this association case is cited. Therefore the defendants state that there is reason or rhyme for this association case law to be used in the legal analysis of the plaintiffs' lawsuit here in Lower Brule Tribal Court. This case cite of Hunt in this lawsuit is in direct opposition of the US Supreme Court ruling in Santa Clara Pueblo v. Martinez 436 U.S. (1978) in which the U.S. Supreme Court held that the Tribe were recognized as governmental entities and not merely associations.

Date: May 18, 2015

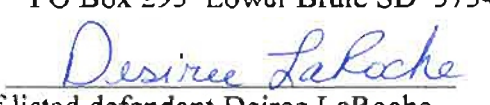
Defendants are Proceeding Pro-Se at this point in litigation:



Signature of listed Defendant Kevin Wright
Address PO Box 57 Lower Brule SD 57548



Signature of listed defendant Sonny Ziegler
PO Box 295 Lower Brule SD 57548



Signature of listed defendant Deiree LaRoche
PO Box 448 Lower Brule SD 57548 2015

Kevin Wright
 CERTIFICATE OF SERVICE

I, *Sonny Ziegler* *Desiree LaRoche* listed as defendants (Kevin, Wright, Sonny Ziegler and Desiree LaRoche) in action entitled CIV-#14-12-0119/also listed as defendants in the second amended document/motion in Lower Brule Sioux Tribal Court Civil Division filed by attorney Terry Pechota ; hereby certify on the date of May 18, 2015 ; that I have caused to be served the document called the defendants' (Kevin, Wright, Sonny Ziegler and Desiree LaRoche) Notice of their rights under the, "Exhaustion of Tribal Remedies Doctrine" to the Lower Brule Appellate court ; with service upon the following persons listed below; I have made personal service upon Lower Brule Sioux Tribal Court Clerk at the tribal court house located in Lower Brule SD. Time 10:38 AM and date of May 18 2015: the Lower Brule clerk of court is mandated to make service then upon the listed plaintiffs by service upon their attorney of record, However defendants Kevin, Wright, Sonny Ziegler and Desiree LaRoche just to be safe in addition to service upon the clerk of court; will also make service by first class mail to the plaintiffs Orville (Red) Langdeau and John McCauley Sr. listed now as intervenors' by serving their Attorney listed as Terry Pechota at his place of business address on the date of May 18 2015.

Date: May 18, ²⁰¹⁵ Defendants are Proceeding Pro-Se at this point in litigation:

Kevin Wright
 Signature of listed Defendant Kevin Wright
 Address PO Box 57 Lower Brule SD 57548

Sonny Ziegler
 Signature of listed defendant Sonny Ziegler
 PO Box 295 Lower Brule SD 57548

Desiree LaRoche
 Signature of listed defendant Deiree LaRoche
 PO Box 448 Lower Brule SD 57548 2015

Addresses:

[i] Lower Brule Sioux Tribal Court Clerk *Mauley Langdeau* at the tribal court house located in Lower Brule SD.[method personal service]

[ii] Plaintiffs/intervenors Attorney Terry Pechota [method of service by 1st class mail plus fax at place of business 605-341-0716:] business address 1617 Sheridan Lake Road Rapid City SD 57702