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October 13, 2015

Lower Brule Sioux Tribal Court
Marlys Langdeau
PO Box 122
Lower Brule, SD 57548

Re: *Langdeau, Jr., et al. v. Wright, et al.*
Civ 15-9-0111

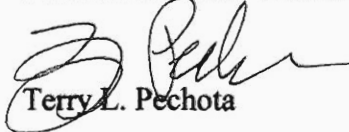
Dear Marlys:

Enclosed for filing in the above referenced matter is the original *Response of Plaintiffs to Show Cause Materials Submitted by Defendants*. Please file accordingly. I am also emailing a copy of these documents to Steve Emery as noted on the certificate of service.

Should you have any questions, please contact my office. Thank you.

Sincerely,

PECHOTA LAW OFFICE



Terry L. Pechota

TLP/mhbb
Enc.

cc: clients

LOWER BRULE SIOUX TRIBAL COURT
LOWER BRULE SIOUX TRIBE
LOWER BRULE INDIAN RESERVATION

IN TRIBAL COURT

CIVIL DIVISION

Civil 15-9-0111

ORVILLE "RED" LANGDEAU, JR., AND
JOHN MCCAULEY, SR., on behalf of them-
selves and all other Tribal members affected
by the conduct of defendants,

Plaintiffs,

v.

RESPONSE OF PLAINTIFFS TO
SHOW CAUSE MATERIALS SUBMITTED
BY DEFENDANTS

KEVIN WRIGHT, SONNY ZIEGLER,
DESIREE LAROCHE, AND LEWIS GRASS-
ROPE,

Defendants.

On or about September 11, 2015, plaintiffs submitted a verified complaint with attachments claiming that action taken by defendants on September 2 and September 3 or September 8, whichever latter date it was, were invalid. The action taken on September 3 or 8 were invalid because there was no quorum present, the Tribal Secretary-Treasurer was not present, no notice was given, the meeting was held outside the Lower Brule Indian Reservation, the 2/3 majority vote of the full Tribal Council was not cast, the acting Chairman voted, the votes of acting Council members were counted as votes in the affirmative, and the conduct of the meeting violated previous orders of the Lower Brule Sioux Tribal Court.

On October 5, 2015, the court ordered that defendants submit materials showing why the action taken at a meeting in Rapid City, South Dakota, should not be declared void and of no legal effect. Plaintiffs were given until October 12, 2015, to respond to any material submitted by defendants.

At the outset, plaintiffs objected to any filings by Mr. Steve Emery because he is a fact witness in the case and will be a witness at the October 23 scheduled hearing. He has a conflict. Moreover, it does not appear that Mr. Emery was licensed in this Court until late October 7, 2015, and filings prior to that are invalid. Defendants filings were in default on September 24, 2015.

MOTION TO DISMISS

Defendants make reference to certain exhibits that were not attached. See, e.g., footnote

2 of motion to dismiss, exhibits A and C, and at page 6. Additionally, Exhibits 3, 4, and 5, and exhibit C, affidavit of Sonny Ziegler, at 6 of the motion to dismiss.

Defendants in their motion to dismiss refer to the parties as appellants and appellees. This is not a case on appeal and the reference to appellants and appellees is erroneous.

Defendants have wholly failed to show cause why the meeting on September 3 or September 8 is not invalid.

First, defendants submit a motion to dismiss the action because the complaint filed contained the docket number of the previous action, 14-12-0119. Plaintiffs reply as follows: (1) the clerk assigned a new and the present number 15-9-0111 to the new complaint although it may have not been added to the complaint (2) the new complaint was in fact a new complaint, i.e., it dealt with matters occurring on and after September 2 and it contained a new defendant, namely Lewis Grassrope; defendants were not misled, but submitted an answer (3) defendants were personally served copies of the complaint in 15-9-0111, although they attempted to evade service (4) defendants then counsel, Gary Montana, was served with the new complaint, and (5) this court has already noted this technical error and cured it.

Second, defendants claim that plaintiffs have referred to themselves as the "Tribe" and that plaintiffs cannot bring the action on part of other tribal members. Plaintiffs have not referred to themselves as the Tribe and they, like any other plaintiff, can bring an action on part of others similarly situated.

Third, plaintiffs have not acted contrary to court orders. They have not attended when defendants acted unconstitutionally, when their personal safety was at issue, or when they were threatened and called out to physically fight. Plaintiffs have attended council meetings and negotiated with defendants in this action on controversial issues when done constitutionally. See July, 2015, court proceedings; plaintiffs were present at the September 2, 2015 meeting. It is the defendants who have wholly failed to follow the Constitution and Bylaws of the Tribe. Indeed, this whole matter could have been avoided had defendants not tried, not once but twice, to stage a coup and remove and replace lawfully elected officials, once when a court order was in effect prohibiting them from doing so. Defendants cannot seek equity with dirty hands.

Fourth, defendants spend considerable time talking about alleged "self help" by Orville Langdeaux. These allegations center around action taken by Langdeaux on May 6 and September 2. Motion to dismiss at 6-8. The issue in the order to show cause encompasses action taken by defendants on September 3 or 8, not May 6 or September 2. Plaintiffs are not required to participate in meetings that do not follow constitutional process. See point three in immediately preceding paragraph. Indeed, defendants were free to institute an action against plaintiffs if they felt that plaintiffs violated their rights.

Fifth, defendants raise, again, the defense of sovereign immunity. However, plaintiffs

have briefed the subject of sovereign immunity on numerous occasions in the past. The court has ruled that sovereign immunity is waived under the long standing maxim set forth in *Ex Parte Young*, 209 U.S. 123 (1908), and reiterated in *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978), and most recently in *Michigan v. Bay Mills Indian Community*, 134 S.Ct. 2024 (2014). Defendants acted unconstitutionally in denying plaintiffs their rights as elected officials as well as interfering with their livelihood. Attempted coups twice over in violation of court orders are not protected by sovereign immunity.

Sixth, defendants admit that they met in Rapid City either on the 3rd or 8th. See defendant's answer at ¶ 8. Their motion to dismiss admits that they appointed or elected Lewis Grassrope by three of the five elected Tribal Council Representatives for the Lower Brule Sioux Tribe. Motion to dismiss at 8. Notice was not provided. See September 29, 2015, E-mail from Steve Emery to validate action taken on September 8, but never had a meeting on September 10. Lack of notice was admitted. Defendants are in contempt of court and violated the Indian Civil Rights Act, 25 USC 1302 (8).

KELLY KING AFFIDAVIT

Kelly King is not the official recorder for the Lower Brule Sioux Tribe, Scott Jones is. There is no allegation that King requested an official transcript from Jones. Her transcript is not official. An official transcript should not be in support of either side, but simply record and set forth what actually occurred. King is hardly neutral; she is the wife of the media consultant hired by defendants. Her purported recording is not supported by a proper foundation or chain of custody. There is no indication of whether the transcription was edited or from whom she received the recording or whether she was there in person. King's qualifications to record or transcribe are not set forth. A review of the purported transcription reflects that she makes editorial comments, that certain things were omitted, that the recording started after the meeting began, and she gives her subjective reactions. The affidavit is wholly unreliable and should not be relied upon as support for any relevant facts.

ANSWER

One, the answer does not reflect proper service. Sheryl Scott has no connection with the case; she is not an attorney or interested party.

Two, Mr. Emery will be a witness at the October 23 hearing. He is disqualified to act as counsel. Moreover, he was not licensed prior to October 7 and his filings prior to that are invalid.

Three, there is no reason to argue laches unless defendants did something in violation of the Constitution.

Four, the answer lacks candor. Defendants fail to admit what occurred on September 3 or

8th. They deny what they have told newspaper reporters.

Five, the answer fails to satisfy the directive in the order to show cause, i.e., to show why the action they took on September 3 or 8 should be determined to be valid. The answer fails to do that. It, like the motion to dismiss, centers around events occurring on September 2 and before, completely irrelevant.

Six, the answer at ¶ 6 seems to confuse plaintiffs with defendants. Occurrences on September 2 are irrelevant and are an attempt to distract from defendants' inability to show cause why their actions on September 3 or 8 are valid. The vote of the Vice Chairman was not needed as there were already 4 votes in favor. At the meeting, no discussion was being allowed and no proper motions or seconds were taken.

Seven, the answer at ¶ 8 admits a meeting was held outside the Reservation in violation of the Constitution and Bylaws. In fact, upon information and belief, defendants were traveling to conferences and met in Rapid City. In fact they did not travel to conferences an unlawful expenditure of tribal monies. The defense of laches essentially admits that plaintiffs were not informed of the meeting and that the September 3 or 8 meeting was invalid.

Eight, the answer at ¶ 9 essentially admits that the Constitution and Bylaws require meetings to be held on the Reservation, which were not. No notice was provided as required. Moreover, Mr. Steve Emery is a first hand witness to what occurred in the allegations of the complaint at ¶¶ 8 to 10. He attended the meeting, swore in Grassrope, and advised the defendants on having their names placed on Tribal accounts. He was also voted in as their attorney.

Nine, the answer at ¶ 10 denies as to what took place at the Rapid City meeting, but defendants issued press releases admitting what they did. Exhibits attached to the complaint provide proof of what occurred as does the E-mail of 9/29/15 at 1:54 p.m. from Emery to the court.

Ten, the answer at ¶ 12 seems to reflect a lack of knowledge as to what was or is required of them in the order to show cause.

Eleven, the answer at ¶ 13 reflects a lack of candor.

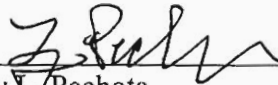
Twelve, the answer set forth additional defenses. This argument admits defendants did meet and that plaintiffs were not present. There is no need to make such argument if it was not true. This argument is proof of such. Additionally, there is not requirement for plaintiffs to participate in invalid and unconstitutional meetings as defendants have a history of conducting. There is no requirement to attend meetings in which the Vice Chairman, presiding officer, is regularly suggesting that members step outside and fight. An order to attend does not include the requirement to remain when unconstitutional activities are being conducted. The response to the

motion to dismiss discusses defendants' citation argument.

CONCLUSION

For all the reasons set forth in the verified complaint, the relief requested in the complaint should be granted. Any action taken at the meeting held in Rapid City, South Dakota on September 3 or 8 are invalid. Defendants should again be restrained from holding meetings without notice, without a quorum, without 4 affirmative votes in favor of any action taken, without anyone filling the Chairman's position voting except in the case of a tie, enforcing any action taken on September 3 or 8, 2015, including submitting signature cards to any banking institution adding names of parties who will have access to Tribal funds or assuming the office of Tribal Chairman.

Dated October 12, 2015.



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CERTIFICATE OF SERVICE

On the above date, I caused to be faxed to Steve Emery at 605-867-1166 a true and correct copy of the plaintiffs response and sent a copy to him by U.S. mails addressed to Emery Law Firm, 2419 Sheridan Lake Road, Rapid City, South Dakota 57702.



Terry L. Pechota