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**E-filed October 1, 2007**

*Attorneys for Defendants/Counterclaimants, Thomas R. Wasson, Andrea Davidson, Elverine Castro, Sharon Wasson and the Winnemucca Indian Colony Council*

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

BANK OF AMERICA, N.A.  
a Delaware corporation,

CV-N-00-0450-HDM (VPC)

Plaintiff,

vs.

WILLIAM BILLS;  
SHARON WASSON; ELVERINE CASTRO;  
THOMAS W. MAGIERA(deceased);  
THOMAS R. WASSON; and WINNEMUCCA  
INDIAN COLONY COUNCIL,

Defendants

\_\_\_\_\_  
THOMAS W. MAGIERA(deceased);  
THOMAS R. WASSON; ANDREA DAVIDSON;  
ELVERINE CASTRO, SHARON WASSON; and  
the WINNEMUCCA INDIAN COLONY COUNCIL,

Counter-claimants,

vs.

WILLIAM BILLS and KYLE SWANSON,  
and DOES I-X, inclusive,

Defendants.

**Opposition to Motion for Summary Judgment**  
**and**  
**Motion to Strike**

**I.****MOTION TO STRIKE**

Counsel has filed documents late in nearly every single instance of this case in all phases of litigation. He conducts his law practice as though the rest of the world can wait for his convenience. This is a pattern and practice established by him and the Court should consider this a fugitive document and strike his opposition to supplemental motion for summary judgment from the docket.

The Court has the option of awarding attorney's fees to the party who must answer the late filed fugitive document.<sup>1</sup> The Federal Rules of Civil Procedure, Rule 6(b)(2) provides that the court may enlarge the specified time period for filing an opposition or a motion "upon motion made. . . where the failure to act was excusable neglect." The determination of "excusable neglect" is an equitable decision made in the court's discretion.<sup>2</sup> The Movant in the Arizona case made some showing of excusable neglect which Mr. Pope failed to do. The attorney in the Arizona case was faced with two medical emergencies and was only two days later than her requested one month extension of time. The opposing party filed a Motion to Strike. The Court upheld the Motion to Strike and the reasoning is applicable to this case.

The Movant in the Arizona case pointed out the time that the medical emergencies had occurred and the Court believed that adequate time had elapsed to have sought a stipulation for the continuance. Mr. Pope did not confer with opposing counsel in any way to seek a stipulation for a continuance. The Court also noted that the Movant's counsel had missed other deadlines. As demonstrated by the filing in the response to non-service, Mr. Pope has yet to make a deadline or ask for a stipulated continuance. Magistrate Cooke warned Mr. Pope about delaying this

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<sup>1</sup> ***Finazzo v. Hawaiian Airlines***, 2006 U.S. Dist. LEXIS 89480 (U.S.D.C. Haw. 2006)

<sup>2</sup> ***Kastl v. Maricopa County Community College District***, 2006 U.S. Dist. LEXIS 60267 (U.S.D.C. Ariz. 2006) citing ***Pioneer Inv. Serv. Co. V. Brunswick Assocs. Ltd. P'ship***, 507 U.S. 380, 395, 113 S.Ct. 1489, 123 L.Ed 2d 74 (1993).

1 matter. The entire strategy of his clients is to delay this matter and continue to  
 2 occupy the trust lands knowing that the Bureau of Indian Affairs will do nothing and,  
 3 thus, they are able to keep the profits from the Indian Trust lands to which they have  
 4 no entitlement whatsoever.

5 Also the counsel in the Arizona case stated that she had increased workload  
 6 just as Mr. Pope has contended. He stated that he was visiting with his son for two  
 7 weeks and yet his filing is over two months late. The Arizona Court granted the  
 8 Motion to Strike stating:

9 “Although counsel may be going through a rough  
 10 time in both her personal and professional life, that is no  
 11 excuse **for not taking care of her professional**  
 12 **responsibilities in a timely manner.** Most attorneys  
 13 face great pressure from “extenuating” circumstances but  
 14 are forced to meet the deadlines set by the courts or the  
 15 rules of procedures.”<sup>3</sup>

16 WHEREFORE THE ABOVE-STATED REASONS, the Winnemucca Indian  
 17 Colony, Thomas Wasson, Chairman, respectfully requests that this Court strike the  
 18 opposition to Motion for Summary Judgment/Motion for Summary Judgment of the  
 19 Donald Pope clients.

## 20 **II.**

### 21 **Opposition to Motion for Summary Judgment**

22 **A. The Procedural and Factual History as reiterated by the Pope**  
 23 **clients is inaccurate.**

24 There are not nor have there ever been two factions of the Winnemucca Indian  
 25 Colony. The persons led by Thomas Wasson as Chairman have been members of the  
 26 Winnemucca Indian Colony and have proven their membership over and over. The  
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28 <sup>3</sup> ***Kastl***, at page 10.

one objective tribunal that heard this matter, the Minnesota panel of Sioux judges<sup>4</sup> agreed and reinstated this group as the legitimate government of the Winnemucca Indian Colony. Later the Inter Tribal Court of Appeals of Nevada, after it was refunded in 2004 entered into a stipulation through its Chief Judge recognizing this same government.

No Tribunal in any phase of the Tribal Court process has ever recognized the Don Pope clients as anything. The Don Pope clients were, in part, members of the Lovelock Paiute Tribe and, in part, are not Indians at all. They continue to occupy the Winnemucca Indian Colony.

The Winnemucca Indian Colony has been through seven years of impoverished exile, required to fund the litigation from their pockets individually. The legal tenets that Indian Tribes are sovereign<sup>5</sup> and the Winnemucca Indian Colony is a federally recognized Tribe.<sup>6</sup> Moreover, there is very little recourse to federal courts to resolve these matters.<sup>7</sup>

When the Winnemucca Indian Colony attempted to re-enter its lands, the BIA officers arrested them. The BIA officers were later found to have wrongfully arrested them by the Honorable David Hagen, CV-N-01-0644-DWH (VPC), which resulted in an award so low, that self help was never again pursued. With no federal intervention and no way to make those who occupy the lands recognize the

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<sup>4</sup> In the year that the Tribal Court decision on this matter was set for appeal, 2002, the Bureau of Indian Affairs had failed to fund the Inter Tribal Court of Nevada. The parties agreed to take the funds from the Bank of America account to pay an appellate tribunal chosen by the parties to hear the matter on appeal. This was agreed to in order to settle an appeal before the 9<sup>th</sup> Circuit Court of Appeals and the mediator from the 9<sup>th</sup> Circuit approved the settlement. The parties chose the attorney and Tribal Judge suggested by Donald Pope. She was the Chief Judge of the Sioux Nation and a partner in a law firm in Minneapolis. She chose two persons to serve with her who were Tribal Judges and attorneys. A judgment was rendered in 2002 recognizing Sharon Wasson as Chairman, council members William Bills, Thomas Wasson, Elverine Castro and someone appointed to take the place of Thomas Magiera, who was his daughter, Andrea Davidson.

<sup>5</sup> ***Santa Clara Pueblo v. Martinez***, 436 U.S. 49 (1978)

<sup>6</sup> Exhibit 1, letter from Robert Hunter.

<sup>7</sup> ***Williams v. Gover***, 490 F.3d 785 (9<sup>th</sup> Cir. 2007)

1 Minnesota panel decision, the Colony is faced with a Catch 22 sovereignty issue.  
 2 However, if this Court gives recognition to the Minnesota panel decision and  
 3 distributes the account, the Winnemucca Indian Colony will again request the  
 4 recognition of their government to the BIA and have the funds to litigate this matter  
 5 to a resolution.

6 The sad fact of sovereignty is that for these small Indian Colonies sovereignty  
 7 is a joke. In this case the Chairman was assassinated by being stabbed repeatedly on  
 8 the steps of the Administration building of the Winnemucca Indian Colony in  
 9 February 2000. Since then the Federal Bureau of Investigation has not solved the  
 10 murder, nor really investigated the murder.<sup>8</sup> The Colony has no funds to investigate  
 11 the murder.

12 In the aftermath of the assassination, William Bills claimed to be the Acting  
 13 Chairman and expelled all other members of the Colony Council at that time. He  
 14 acted on his own without a Council in violation of the Winnemucca Indian Colony  
 15 By-laws and Constitution.<sup>9</sup> He obtained unlawful orders from Kyle Swanson as cited  
 16 by Mr. Pope. Now, Mr. Pope argues that his clients took by some right from these  
 17 unlawful orders. All of those orders were appealed to the Inter-Tribal Court and  
 18 when the Inter Tribal Court of Nevada ceased to exist, the Minnesota Panel was  
 19 appointed to take its place and render a decision. This long history was recognized  
 20 by the Honorable Howard McKibben and by Magistrate Cooke. Both stated that  
 21 when the Tribal Court processes were completed, the bank account would be  
 22 released. Mr. Pope's clients want to ignore the appeal, the resolution and reinstitute  
 23 orders that were long ago overruled.

24 The Inter-Tribal Court of Nevada when it still existed had the appeal of the  
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26 <sup>8</sup> 18 U.S.C. § 1151 provides that the federal government has jurisdiction over major crimes  
 27 in Indian country.

28 <sup>9</sup> Exhibit 2, Constitution and By-laws of Winnemucca Indian Colony, Article IV, Section 1.

1 Swanson orders before it, but stated that since Kyle Swanson made no record  
 2 whatsoever before he entered the unlawful orders, that the parties had to agree to  
 3 another Tribal Court proceeding.<sup>10</sup> The parties agreed to have hearings and did have  
 4 those hearings for more than four weeks before a Tribal Judge from Sacramento,  
 5 California. The holding of those hearings alone made the Kyle Swanson orders  
 6 invalid and of no further force and effect. Exhibit D should be stricken as an  
 7 unverified document of unknown origin. It is an opinionated fugitive document with  
 8 no reference. A verified chronology is attached as Attachment 1 to the Affidavit of  
 9 Treva J. Hearne.

10 Moreover, there have been superceding orders issued by the Winnemucca  
 11 Indian Colony Tribal Court, Charles Hartman, Judge that enforce the Minnesota  
 12 Panel decision long after Kyle Swanson resigned as the Judge of the Winnemucca  
 13 Indian Colony. All parties appeared before Judge Hartman and were represented by  
 14 counsel. Don Pope was present representing his clients.

15 The real issue before this Court is that the Winnemucca Indian Colony is  
 16 asking this Court to give comity to the Minnesota Panel, more correctly referred  
 17 to as the Specially Appointed Appellate Court of the Winnemucca Indian Colony  
 18 decision of August 16, 2002.<sup>11</sup> Magistrate Valerie Cooke gave the parties 90 days  
 19 to exhaust Tribal remedies in February 2003.<sup>12</sup> This process took until the re-  
 20 instituted Inter Tribal Court of Nevada, with a panel of attorneys from Colorado  
 21 and Arizona, withdrew its jurisdiction leaving the Minnesota Panel decision in  
 22 full force and effect in May 17, 2007.

23 Don Pope's clients ask this Court to recognize the 2001 order of Kyle  
 24 Swanson as Tribal Judge. That matter has been reheard and appealed and the

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25  
 26 <sup>10</sup> Exhibit 3, Order of the Inter-Tribal Court of Nevada 2001.

27 <sup>11</sup> Exhibit 4, Decision of Minnesota Panel.

28 <sup>12</sup> Decision of the Magistrate Valerie Cooke, Docket Entry 169.

1 Winnemucca Indian Colony asks that this Court recognize the decision of the  
 2 Minnesota Panel entered on August 16, 2002 under the principles of comity.<sup>13</sup>  
 3 That is the only issue in this proceeding.

4 The Court has held the bank account of the Winnemucca Indian Colony for  
 5 seven years. This interpleader action has been delayed by Tribal process that has  
 6 moved at glacial speed. The Interior Board of Indian Appeals states that the  
 7 group divided into two factions, one led by Bills and one led by Wasson. At this  
 8 time, William Bills serves as the Vice Chairman of the Winnemucca Indian Colony  
 9 Council. The members are Thomas Wasson, Chairman, William Bills, Vice-  
 10 Chairman, Sharon Wasson, member, Elverine Castro, member, and Judy Rojo,  
 11 member. There is no longer a "Bills group."

12 **B. Comity for a Tribal Court decision is appropriate when due**  
 13 **process has been afforded.**

14 In the Kyle Swanson orders that Don Pope's clients ask this Court to  
 15 recognize, no hearing was held, no notice of the proceeding given. Kyle Swanson,  
 16 *sua sponte*, made his order permanent. The Inter-Tribal Court of Nevada found  
 17 that there was no record and the matter was sent to another proceeding in front  
 18 of an agreed to arbitrator serving as Tribal Judge for four weeks of hearing. All  
 19 parties were present at the hearings.<sup>14</sup> Testimony was given, cross examination  
 20 was allowed, briefs were filed by both parties. Likewise when the Minnesota  
 21 panel convened all parties were present and represented by counsel. Don Pope  
 22 represented his clients. Arguments were heard, briefs were filed.

23 The Court may deny comity recognition if due process is denied.<sup>15</sup> The Kyle  
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25 <sup>13</sup> *At&T Corp. V. Coeur D'Alene Tribe*, 295 F.3d 899 (9<sup>th</sup> Cir. 2002) cited by the Cooke decision,  
 26 page 8, Docket Entry 169.

27 <sup>14</sup> Exhibit 5, covers of transcript of hearings.

28 <sup>15</sup> *Coeur D'Alene Tribe*, at page 904.



Swanson decisions denied due process because no notice was given to the parties, no hearing was held and no record made of the decision. Kyle Swanson states in his Order that the parties were not present, he does not state that notice was ever given to the parties and merely refers to an advocate who appeared at a June 14<sup>th</sup> hearing. There is no such flaw in the process of the Minnesota panel.

**C. The argument that the withdrawal of jurisdiction by the Inter-Tribal Court of Appeals nullifies a Federal Court stipulation is unsupported.**

The specific matter before the Inter-Tribal Court of Appeals of Nevada when they withdrew themselves from jurisdiction was Don Pope's clients' attempts to get the Inter-Tribal Court to overrule the Minnesota Panel decision. The Don Pope clients had asked the Inter-Tribal Court of Nevada determine that the Winnemucca Indian Colony had defaulted on filing its membership, which was denied since they had not.<sup>16</sup>

Then Don Pope's clients attempted to get the Inter-Tribal Court to accept jurisdiction over the matter after the prior panel of the Inter-Tribal Court had attempted to interfere in the determination of who the members of the Colony were.<sup>17</sup> The Inter-Tribal Court of Nevada refused jurisdiction in May of 2007, upon motion of the parties to the matter, Winnemucca Indian Colony and William Bills.

The Stipulation was made in the Federal Court by the Inter-Tribal Court of Appeals of Nevada Chief Judge. A later withdrawal of jurisdiction of the Inter-Tribal Court cannot affect the stipulation because it wasn't an order. The Inter-Tribal Court specifically states that it withdraws all prior orders on this matter that it made. The Stipulation was not an order.

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<sup>16</sup> Exhibit 6, Order, Inter-Tribal Court of Appeals,

<sup>17</sup> Exhibit 7, Petition of Donald Pope



1 All parties attended the hearing that resulted in the Stipulation. Don  
2 Pope's clients did not intervene in the matter but were merely spectators.<sup>18</sup>

3 **C. The real issue of this matter is whether the lawful procedure will**  
4 **prevail over the unlawful oppression exercised by Don Pope's**  
5 **clients.**

6 Don Pope's clients argue that this Court should by comity adopt the  
7 arbitrary orders of Kyle Swanson issued without hearing, without record and  
8 without due process. The Winnemucca Indian Colony asks this Court to  
9 recognize the Minnesota panel decision in which full due process was afforded.

10 Don Pope's clients have before argued that only Don Pope agreed to the  
11 process not they themselves even though they were represented by Don Pope.  
12 Such representation would require a sanction by the Bar but none has been  
13 sought, thus the credibility of such a statement is less than zero. The  
14 Winnemucca Indian Colony has stated that they agreed to the process before the  
15 Minnesota Panel and agreed to have the funds taken from their money in the  
16 Bank of America account because it was a lawful means of resolving this matter.

17 Don Pope's clients claim authority that has never been legally sanctioned  
18 and cannot be legally validated at any juncture. None of them have ever been  
19 members of the Winnemucca Indian Colony. The Winnemucca Indian Colony,  
20 Thomas Wasson, Chairman, has sued Departments of the United States of  
21 America to stop the bomb testing at the Nevada Test Site with no challenge by the  
22 United States that they were not the legitimate government of the Winnemucca  
23 Indian Colony.<sup>19</sup> The Bureau of Indian Affairs has not recognized a government  
24 and will not until all court processes are complete.

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26 <sup>18</sup> Affidavit of Treva J. Hearne

27 <sup>19</sup> *Winnemucca Indian Colony et al. v. United States of America*, Case No: 2:06-cv-00497-

1 A recognition of the Minnesota Panel decision by this Court will terminate  
2 this litigation and allow the party to have its funds to go forward with re-instating  
3 the Colony to its rightful members after seven years, one assassination and many  
4 years of litigation. One of my clients is ninety years old, one is 78. This matter  
5 should be resolved expeditiously and finally.

6 WHEREFORE THE ABOVE-STATED REASONS, the Winnemucca Indian  
7 Colony, Thomas Wasson, Chairman respectfully requests that this Court  
8 recognize the decision of the Specially Appointed Appellate Court of the  
9 Winnemucca Indian Colony of August 16, 2002.

10 DATED this 1<sup>st</sup> day of October, 2007.

11 **HAGER & HEARNE**

12  
13 By: \_\_\_\_\_/s/ Treva J. Hearne, Esq.

14 **Treva J. Hearne, Esq.**

15 **HAGER & HEARNE**

16 910 Parr Blvd. #8

17 Reno, Nevada 89512

18 Attorney for Winnemucca Indian Colony,  
19 Thomas Wasson, Chairman  
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CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify that I am an employee of the law offices of HAGER & HEARNE, 910 Parr Boulevard, Suite 8, Reno, Nevada 89512, and that on this date, I served the foregoing Opposition to Motion for Summary Judgment and Motion to Strike on the party(s) set forth below by:

\_\_\_\_ Personal delivery.

\_\_\_\_ Federal Express or other overnight delivery.

\_\_\_\_ Facsimile (FAX) to: \_\_\_\_\_

\_xx\_ E-filing : United States District Court for the District of Nevada

Donald K. Pope, Esq.  
1188 California Ave.  
Reno, NV 89509

\_xx\_ Placing an original or true copy thereof in a sealed envelope placed for collection and mailing in the United States Mail, at Reno, Nevada, postage prepaid, following ordinary business practices.

Heidi M. Staudenmaier  
Snell & Wilmer  
400 East Van Buren  
One Arizona Center  
Phoenix, AZ 85004-2202

DATED this 1st day of October, 2007.

/s/ Bobbie Meyer  
Bobbie Meyer

## **EXHIBIT 1**



# United States Department of the Interior

## BUREAU OF INDIAN AFFAIRS

WESTERN NEVADA AGENCY  
311 E. WASHINGTON STREET  
CARSON CITY, NEVADA 89701

IN REPLY REFER TO:

Tribal Operations  
775/887-3590

**FEB 23 2007**

Mr. William Bills  
P. O. Box 1797  
Woodbridge, California 95258

Dear Ms. Castro:

Several letters have been received from the Winnemucca groups concerning the status of the governing body and membership of the Winnemucca Indian Colony. Because of tribal issues on appeal in the court systems, we have always responded that no acknowledgement of a governing body would be given until these processes are completed.

Currently, the Federal Courts and the Inter-Tribal Appellate Court are reviewing these issues. In December 2004, the Federal District Court of Nevada had a hearing and shortly thereafter a written stipulation was agreed upon by the parties. The stipulation reinstated the tribal council according to the Minnesota Panel, consisting of Sharon Wasson, Thomas Wasson, Elverine Castro, Andrea Davidson and Williams Bills. This Council was to serve until another Council is elected pursuant to a membership chosen by this Council and elected at a valid and legal election of the Winnemucca Indian Colony. The Council would meet and carry out the objectives of the court, the written stipulation, and Tribal Constitution and Bylaws and Tribal Ordinances to satisfy the requirements of the courts. Therefore, through the Court Order, and the Stipulation, the Council was delegated to accomplish two tasks. First, to allow anyone who felt they qualified, to apply for membership. Anyone denied would be allowed to appeal to a recognized tribal court. Second, once the enrollment appeals were satisfied, then an election was to be held to determine the members of the Tribal Council. No other delegations were given. This two-step process would partially satisfy the Interior Board of Appeals decisions under Docket Nos. IBIA 04-81-A and IBIA 05-03-A dated January 24, 2006.

The enrollment process would require the Council to initiate enrollment proceedings according to the Tribal Constitution and Bylaws, and the Enrollment Ordinance. The Council would hold meetings, provide notice to eligible applicants of enrollment procedures, approve/disapprove applications, process appeals through available tribal forums and approve a membership roll by tribal council resolution. When this process is completed, the Council would report their accomplishments to the Federal and Appellate Court. The enrollment process would be continuous, but, to satisfy the courts, an approved membership roll would be submitted to the appellate court, and the court would decide if the requirements were satisfied.

After the enrollment process is completed, the Council would schedule a tribal election in accordance with the Tribal Constitution and Bylaws, and the Election Ordinance. A report should be submitted to the appellate court and they would make a decision that this requirement was completed. A copy of the report should be sent to the Western Nevada Agency for our files.

When both of these processes are completed and meets the requirements of the courts, the Bureau of Indian Affairs would then establish a government-to-government relationship with a Tribal Council entity. The Interior Board of Indian Appeals decisions under Docket Nos. IBIA-4-81-A and IBIA 05-93-A established a lengthy history of the issues not resolved, therefore, serves as a valuable tool in determining a proper resolution.

Hopefully, this clears up why a tribal council has not been acknowledged for Federal purposes. The Council mentioned above should be able to carry out the objectives and orders of the court systems. Thereafter, the new Council would determine their sovereignty and be able to operate a tribal government similar to most tribal governments.

If we can be of further assistance, your contact will be the Branch of Tribal Operations at the above listed number.

Sincerely,

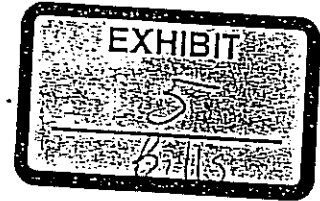
A handwritten signature in black ink, appearing to read "Robert H. Hunte". The signature is fluid and cursive, with a large initial "R" and a stylized "H".

Superintendent

## **EXHIBIT 2**



CONSTITUTION AND BYLAWS  
OF THE  
WINNEMUCCA INDIAN COLONY  
NEVADA



PREAMBLE

We, the Indians of the Winnemucca Indian Colony of Humboldt County, Nevada, having voted not to reject the Indian Reorganization Act of 1934 (48 Stat. 984), do hereby establish this constitution and bylaws pursuant to Section 16 of that act and do affirm it as the foundation of our local colony government.

ARTICLE I - TERRITORIAL JURISDICTION

Section 1. The territorial jurisdiction of the Winnemucca Indian Colony, hereinafter referred to as the "colony," shall include the following lands:

- (a) That 160 acres set aside by Executive Order of June 18, 1917, described as the NE1/4 of Section 32, Township 36 N., Range 38 E., M.D.M.
- (b) That 160 acres withdrawn by Executive Order of February 8, 1918, described as the SE1/4 of Section 32, Township 36 N., Range 38 E., N.D.M.
- (c) That 20 acres acquired by the Acts of May 21, 1928 (45 Stat. 618) and May 29, 1928 (45 Stat. 899) and described as N1/2, NE1/4, SW1/4, Section 29, Township 36 N., Range 38 E., M.D.M.

Sec. 2. In addition, the territorial jurisdiction shall be extended to any lands hereafter acquired by or for the colony.

ARTICLE II - MEMBERSHIP

Section 1. The membership of the colony shall include all persons of at least one-fourth (1/4) degree Paiute and/or Shoshone Indian blood who meet the following requirement:

appeal, on the Dec. 5, 1916, census of the Winnemucca Shoshone Indians. The degree of Indian blood of all persons listed on the 1916 roll will be determined from information contained in the records of the Nevada Agency.

Sec. 2. No person shall be eligible for membership in the Winnemucca Indian Colony who has received land or money as a result of having been enrolled as a member of some other tribe, band or community of Indians.

Sec. 3. The Winnemucca Colony Council shall have the power to enact ordinances subject to the approval of the Secretary of the Interior or his authorized representative governing the procedures to be followed when a member becomes ineligible for continued membership, when a person wishes to be adopted into membership, and when an eligible member requests to be officially enrolled.

### ARTICLE III - GOVERNING BODY

Section 1. Composition. The governing body of the colony shall consist of a council known as the Winnemucca Colony Council, hereinafter referred to as the "council." The council shall be composed of five (5) members including a chairman and a vice chairman selected by the council from within its own members. A secretary-treasurer may be selected by the council from within or without its own membership.

Sec. 2. Eligibility. All members of the colony, twenty-one (21) years of age or older, shall be eligible to serve on the council.

Sec. 3. Length of term. All council members shall serve a term of two (2) years or until their successors are duly elected and seated.

### ARTICLE IV - NOMINATIONS AND ELECTIONS

Section 1. The first election of the council shall be held within sixty (60) days from the date of this constitution's approval. The election shall be conducted in accordance with rules prescribed by the existing tribal council. Those elected shall serve until the installation of council members following the 1972 election.

Sec. 2. All ensuing elections shall be held every two (2) years starting in 1972 during the month of October and shall be conducted in accordance with an election ordinance established by an election board appointed by the council. Such procedures shall include provisions for resolving election disputes.

Sec. 4. Voting shall be by secret ballot.

## ARTICLE V - VACANCIES, REMOVAL AND RECALL

Section 1. Filling vacancies. If a council member or other colony officer shall resign, be removed from office by the council or be recalled, or otherwise vacate his seat, the council shall declare the office vacant and appoint a successor to fill the unexpired term. Vacancies shall be filled within thirty (30) days from the date of occurrence.

Sec. 2. Removal. A council member or other colony officer may be removed from office by a majority vote of the council members if, in their opinion, he is guilty of improper conduct or gross neglect of duty, provided that the accused shall be given full opportunity to reply to any and all charges at a designated meeting, and provided further that the accused be given a written statement of the charges against him at least ten (10) days before a meeting set for his hearing.

Sec. 3. Recall. A council member or other colony officer may be recalled from office by the eligible voters of the colony. The council shall call a recall election upon being presented with a petition requesting such election signed by at least one-third (1/3) of the qualified voters. The recall election shall be called and held within thirty (30) days from the date of the validation of the petition. The decision of the majority of the voters who vote in such election shall be final, provided that at least thirty (30) percent of those entitled to vote shall vote.

## ARTICLE VI - POWERS OF THE COUNCIL

Section 1. The Winnemucca Colony Council shall exercise the following powers, subject to any limitations imposed by the laws or the Constitution of the United States.

- (a). To employ legal council, the choice of counsel and the fixing of fees to be subject to the approval of the Secretary of the Interior.
- (b) To prevent the sale, disposition, lease or encumbrance of any colony lands, interests in land, or other colony assets without the consent of the council.

- (d) To negotiate with Federal, State and local governments on behalf of the colony.
- (e) To manage all economic affairs and enterprises of the colony, including acceptance of gifts, grants and donations, and to cause an annual audit to be made of all colony funds and operations, including receipts and expenditures.
- (f) To permit the borrowing of money for economic development and the obligations of future income as security for repayment of the loan with the approval of the Secretary of the Interior.
- (g) To enact ordinances which shall be subject to approval by the Secretary of the Interior, dealing with the following: such law and order matters as have not been assumed by the State pursuant to Public Law 280; 83rd Congress, as modified by Public Law 90-284, 90th Congress (the Act of April 11, 1968; 82 Stat. 77); domestic relations and welfare; providing for the manner of making, holding and revoking assignments of colony land; providing for the levying of taxes, fees, and other assessments; and governing the exclusion of nonmembers from colony lands.
- (h) To enact ordinances to protect the health, welfare, and property of the members of the colony and for other purposes considered in the best interests of the colony.
- (i) To create and maintain a colony fund for the deposit of any income from gifts, grants and donations, or other sources through community or colony enterprises, assessments or otherwise, and to make expenditures therefrom.
- (j) To establish subordinate organizations and to vest in these organizations all necessary powers, reserving the right to review any action taken by virtue of such delegated power.

Sec. 2. The council shall exercise such further powers as may in the future be delegated to it by the government of the United States or the State of Nevada.

## ARTICLE VII - POWERS OF THE PEOPLE

Section 1. The power of the colony lies with its members. Any action taken by the council pursuant to constitutional delegation shall be subject to revocation or change at the will of a majority of the colony members through the adoption of appropriate amendments.

Sec. 2. The will of the members of the colony shall be imposed through referendum, initiative, and recall, the procedures to be used in accomplishing this shall be specified in an ordinance which shall be enacted by the council within one (1) year following the effective date of this document.

## ARTICLE VIII - RIGHTS OF MEMBERS

All members of the Winnemucca Indian Colony shall be accorded equal rights. No member shall be denied any of the rights or guarantees enjoyed by non-Indian citizens under the Constitution of the United States, including but not limited to freedom of religion and conscience, freedom of speech, the right to orderly association or assembly, the right to petition for action, or the redress of grievances, and for due process of law. No person shall be denied any of the applicable rights or guarantees as provided in Title II of the Civil Rights Act of 1968 (82 Stat. 77).

## ARTICLE IX - AMENDMENTS

Section 1. Amendments to this constitution and bylaws may be ratified and approved in the same manner as the constitution was originally ratified and approved. The qualified voters of the colony shall vote on any proposed amendment in an election which shall be authorized by the Secretary of the Interior when requested by a petition containing the signatures of twenty-five (25) percent or more of the qualified voters or by a majority of the council. No amendment shall be effective until approved by the Secretary of the Interior.

## ARTICLE I - DUTIES OF OFFICERS

Section 1. The Chairman of the Winnemucca Colony Council, hereinafter referred to as the council, shall preside over all meetings of the council at which he is present and shall perform all duties assigned to him and exercise any authority delegated to him.

Sec. 2. The vice chairman shall assume the duties and responsibilities of the chairman in his absence.

Sec. 3. The secretary-treasurer shall be responsible for taking minutes at each council meeting and for forwarding a copy of the minutes to the Superintendent of the Nevada Indian Agency. In addition, the secretary-treasurer shall perform all duties assigned by the council. Further, he shall receive, receipt for, and safeguard all funds in custody of the council whether same be funds of the Winnemucca Indian Colony or special funds for which the council is acting trustee or custodian. He shall deposit all such funds in the manner and in the place as directed by the council, provided such depositories are insured by the Federal Government, and he shall keep an accurate record of all funds. He shall report all receipts, expenditures, and balances of deposits when requested to do so by the council. The secretary-treasurer shall be bonded in an amount as prescribed by the council and at the expense of the council.

## ARTICLE II - SEATING OF COUNCIL MEMBERS

Section 1. All newly elected council members who have been duly certified shall be installed at the first duly authorized meeting of the council following their election.

Sec. 2. Each council member or other colony officer elected or appointed pursuant to the colony constitution shall take an oath of office prior to assuming his duties.

OATH: "I, \_\_\_\_\_; do solemnly swear that I will support and defend the Constitution of the United States; that I will carry out faithfully and impartially the duties of my office; that I will promote and protect the best interests of the colony in accordance with the Constitution and Bylaws of the Winnemucca Indian Colony."



Sec. 2. Special meetings may be called by the chairman or by a majority of the council members.

#### ARTICLE IV - QUORUM

Section 1. No business shall be transacted by the council unless a quorum of three (3) council members is present. Should both the chairman and the vice chairman be absent, those council members present shall select from among themselves a temporary chairman.

#### ARTICLE V - ORDER OF BUSINESS

Section 1. The order of council business shall be as follows:

- (a) Meeting called to order.
- (b) Roll Call.
- (c) Reading of minutes of the last meeting.
- (d) Reports.
- (e) Unfinished business.
- (f) New business.
- (g) Adjournment.

#### ARTICLE VI - SALARIES AND EXPENSES

Section 1. The council may prescribe such salaries and expenses for officers or council members as it deems advisable, from such funds as may be available.

#### ARTICLE VII - ORDINANCES AND RESOLUTIONS

Section 1. All final decisions of the council of general and permanent application to the members of the colony shall be embodied in ordinances.



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interest, or relating especially to particular individuals or officials, or requiring action by an agency or organization, shall be embodied in resolutions or in written correspondence where appropriate.

Sec. 3. All council legislation, meeting minutes, and the financial records of the colony, shall be open to inspection by any member of the colony at such times as is convenient to the secretary-treasurer.

Sec. 4. All questions of procedure (such as acceptance of committee reports or invitations to outsiders to speak) shall be decided by the council or by the ruling of the chairman if no objection is heard. On all ordinances, resolutions, or motions, a council quorum may act by majority vote.

#### ARTICLE VIII -- ADOPTION

Section 1. This constitution and bylaws shall be in full force and effect when ratified by a majority of the qualified adult voters of the Winnemucca Indian Colony voting in an election authorized by the Secretary of the Interior in which at least thirty (30) percent of those entitled to vote shall vote and the Secretary of the Interior shall have approved same, as provided in the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

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pursuant to an election authorized by the Acting Commissioner of Indian  
Affairs on September 24, 1970, under delegated authority, the attached  
Constitution and Bylaws of the Winnemucca Indian Colony was submitted  
to the qualified voters of the colony and was on December 12, 1970, duly  
adopted by a vote of 15 for, and 0 against, in an election in which  
at least thirty (30) percent of the 15 members entitled to vote cast  
their ballots in accordance with Section 16 of the Indian Reorganization  
Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15,  
1935 (49 Stat. 378).

(Signed) Frederic W. Forbusch  
Chairman, Election Board

(Signed) Elaine Thomas  
Election Board Member

(Signed) Anna Snapp  
Election Board Member

APPROVAL

Harrison Loesch, Assistant Secretary of the Interior of the United  
States of America, by virtue of the authority granted to me by the Act  
of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the  
attached Constitution and Bylaws of the Winnemucca Indian Colony, Nevada.

Approval Recommended:

(Signed) Louis R. Bruce  
Commissioner of Indian Affairs

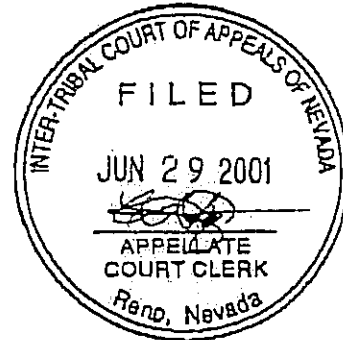
(Signed) Harrison Loesch  
Assistant Secretary of the Interior

Washington, D.C.

Date: MAR 5, 1971

## **EXHIBIT 3**

IN THE INTER-TRIBAL COURT OF APPEALS OF NEVADA  
IN AND FOR THE WINNEMUCCA TRIBAL COURT  
WASHOE COUNTY, RENO, NEVADA



SHARRON WASSON, LUCY (WASSON)  
LOWERY, ELVERINE CASTRO AND  
THOMAS WASSON, BUSINESS COUNCIL  
OF THE WINNEMUCCA INDIAN COLONY,

Appellants,

v.

WILLIAM BILLS, an individual,

Appellee.

IN RE: KYLE SWANSON

Case No. AP 1.01

**ORDER**

Before: Arthur A. Gladstone, Associate Justice  
Peter J. Sferrazza, Associate Justice  
Phillip M. Becker, Associate Justice

Appearances: Treva J. Hearne, Esq., Counsel for Appellants  
Brian R. Morris, Esq., Counsel for Appellee

By: P. Becker, Associate Justice

THIS MATTER came before the Inter-Tribal Court of Appeals of Nevada on June 11, 2001, the Honorable Justice Arthur A. Gladstone presiding, with Justices Peter J. Sferrazza and Phillip M. Becker. The Appellant was represented by Treva J. Hearne, Esq., and Appellee was represented by Brian R. Morris, Esq.

1 After hearing argument from Counsel, the Court observed that there exist  
2 several issues which have not been ruled upon and which should have been done prior to  
3 appeal. It was then suggested by the Court that the matter be remanded to be heard  
4 before a Trial Judge mutually selected by the parties to resolve and decide said issues.  
5

6 THEREUPON, pursuant to stipulation by the parties, IT IS ORDERED:

- 7 (1) This Court accepts the agreement of Counsel that the parties will contact  
8 Larry Echobawk, Esq. to act as pro tem Tribal Court Judge and to  
9 conduct a trial to receive evidence and to make findings of fact and  
10 conclusions necessary and appropriate to resolve the issues stipulated for  
11 determination.  
12
- 13 (2) In the event Mr. Echobawk is not available to act, he will designate  
14 someone agreeable to the parties to conduct said trial.
- 15 (3) The parties agree to each pay one-half of all costs incurred, but may use  
16 the Reno-Sparks Tribal Courtroom without charge on weekends, or make  
17 arrangements to use the Federal Court in Reno during the week.
- 18 (4) The following issues are to be resolved:
- 19 A. The names of the members of the Winnemucca Indian Colony who  
20 are eligible for enrollment.
- 21 B. The identity of the proper and legitimate members of the Business  
22 Council of the Winnemucca Indian Colony at the present time.
- 23 C. The identity of the Tribal Judge, other than the pro tem Judge,  
24 legally authorized to hold such office for the Colony at the present  
25 time.  
26  
27  
28

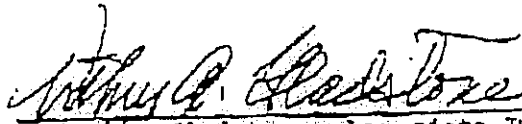
(5) Parties may present such other issues as they deem necessary to resolve the case, subject to the Judge's ruling on their relevance.


(6) On or before July 12, 2001, Counsel will jointly file with the Clerk of this Court a status report together with a time schedule for the completion of the trial of this matter. Further status reports shall be filed with this Court every 14 days.

(7) Either party may appeal the final determination of this matter by the Trial Judge to this Court.

IT IS FURTHER ORDERED that this matter is hereby REMANDED for action as above set forth.

SO ORDERED this 28th day of June, 2001.

  
Arthur A. Gladstone, Associate Justice

  
Peter A. Sforzetta, Associate Justice

  
Phillip M. Becker, Associate Justice

## **EXHIBIT 4**



IN THE APPEALS COURT OF THE  
WINNEMUCCA INDIAN COLONY

IN NEVADA

Case No. CV1003 (Lower Court)

Sharon Wasson, Lucy (Wasson) Lowery, et al.,  
Appellants,

Vs.

William Bills, Acting Tribal Chairman, et al.  
Appellees,

Filed August 16, 2002  
Reversed.

Treva J. Heame, Esq., Zeh, Saint-Aubin, Spoo & Heame, 575 Forest Street, Suite, 200, Reno,  
Nevada 89509; and

Donald K. Pope, Esq., 1385 Haskell St., Reno, Nevada 89509.

Considered and decided by Scheffler, Chief Judge, Reding, Associate Judge, and Trauer,  
Associate Judge.

SYLLABUS

1. The Trial Court's determination of members of the Winnemucca Colony Council is not supported by substantial evidence and does not comport with the Constitution and Bylaws of the Winnemucca Indian Colony in Nevada.
2. The Trial Court's determination of the membership of the Winnemucca Indian Colony is not supported by substantial evidence and does not comport with the Constitution and Bylaws of the Winnemucca Indian Colony.
3. The Trial Court's determination of Tribal Judge is not supported by substantial evidence and does not comport with the Constitution and Bylaws of the Winnemucca Indian Colony.
4. The Order of Steven Haberfeld, issued on May 9, 2002 is reversed and vacated.

The Winnemucca Indian Colony (WIC) was created by the federal government of the United States by Executive Order No. 2639 dated June 18, 1917 which set aside 340 acres near the town of Winnemucca, Nevada for the benefit of certain "homeless Indians" in the area. The Indians of the Winnemucca Indian Colony organized under the Indian Reorganization Act of June 18, 1934 (as amended). In December 1970 the Winnemucca Indian Colony adopted a Constitution and Bylaws which were approved by the Assistant Secretary of the Interior on March 5, 1971.

Under the Constitution and Bylaws, the WIC had an operating tribal council and engaged in government-to-government relations with the United States government. As of February 21, 2000, the members of the Winnemucca Colony Council were Chairman Glenn Wasson, Vice Chairman Williams Bills, and members at large Thomas Wasson, Elverine Castro, and Lucy Lowery.

On February 22, 2000, Council Chairman Glenn Wasson was murdered. The events leading to this lawsuit followed the death of Chairman Wasson. The remaining Colony Council split into two factions, both purporting to be the legitimate Colony Council. Each faction took various actions "on behalf of" the Colony. Each faction later held an election and claimed to seat a new council. The governmental chaos in the Colony caused the federal government to declare the Colony to be dysfunctional and to break off government to government relations with it.

Eventually, various lawsuits were filed and the two sides became engaged in litigation to resolve the issues. After a complicated procedural history which is shown in the list of pleadings

- 1) The names of the members of the Winnemucca Indian Colony who are eligible for enrollment.
- 2) The identity of the proper and legitimate members of the Business Council of the Winnemucca Indian Colony at the present time.
- 3) The identity of the Tribal Judge, other than the *pro tem* Judge, legally authorized to hold such office for the Colony at the present time.

Judge Haberfeld's Order dated May 9, 2002, as amended by Order dated May 22, 2002, determined the identity of the legitimate tribal judge, created a membership list for the WIC, and determined that there was no legitimately formed tribal council and ordered an election to establish the council. Although the trial court judge recognized that an "Indian tribe's most basic power is the authority to determine its own membership," he determined that in this instance, he was given specific instructions to determine the names of person eligible for enrollment. Therefore, he made specific findings regarding certain persons' eligibility for membership and he established a list of 48 people who "have been placed on the Official Winnemucca Indian Colony Tribal Enrollment List" out of 106 potentially eligible persons.

Both parties appealed the Tribal Judge's decision. Due to lack of funding, the Intertribal Court of Appeals that would normally hear this case is not functioning. The parties, through counsel, stipulated to the appointment of a special appellate panel to hear appellate arguments and to issue a binding, non-appealable decision. The standard of review stipulated by the parties is as follows: *de novo* review of constitutional issues, *de novo* review of legal issues, and "any substantial evidence" review of factual issues.

The WIC's membership initially included those persons listed on the 1916 census rolls, hereinafter known as the "List of 17". (Exhibits 36 and 84). When the WIC adopted a constitution, the Constitution provided that to be a member of the Colony a person must be at least 1/4 degree Paiute and/or Shoshone Indian blood AND they must be named or descended from person(s) named on the December 9, 1916 census of the Winnemucca Shoshone Indians. Further, no person can be a member of the Winnemucca Indian Colony if they have received money or land as a result of having been enrolled as a member of some other tribe.

In the 1980s, the BIA expressed concern that the membership rolls of the Colony included people who were not eligible for membership under the Constitution. (Exhibit 38b.) In 1994, the Colony adopted Enrollment Ordinance No. 310, which was approved by the Acting Area Director of the Phoenix Area Office of the BIA on July 12, 1994. On February 14, 1998, the WIC adopted a revised membership list which included 77 names (hereinafter known as the "List of 77".) This membership list was accepted by the Colony through their elected Council. The membership list was forwarded to the BIA for verification. The BIA did not approve the membership list because the Colony had not brought individual resolutions for each new member before the Colony Council for approval. (Exhibit 38a.)

As of February 21, 2000, the members of the Winnemucca Colony Council were Chairman Glenn Wasson, Vice Chairman Williams Bills, and members at large Thomas Wasson, Elverine Castro, and Lucy Lowery. On February 22, 2000, Chairman Glenn Wasson was murdered in front of the administration building of the Colony. As the Vice-Chairman, William Bills became the Acting Chairman of the Colony. The Council members thereafter split into two factions, as shown by their subsequent actions. One faction, hereinafter known as the Wasson

At a meeting on February 28, 2000, the three members of the Wasson Council held a meeting at which they purported to appoint Sharon Wasson as a Council member to fill Glenn Wasson's vacant seat. (Exhibit 7.)

At a Council meeting on March 22, 2000, the seat vacated by Glenn Wasson was declared to be vacant and William Bills was declared to be the Chairman. (Exhibit 10.) By a separate resolution, an Enrollment Committee was established. (Exhibit 10.) Another resolution set a special/emergency meeting date for April 8, 2000 to fill the vacant Council seat.

After the regular Council meeting, three of the four remaining members, Thomas Wasson, Elverine Castro, and Lucy Lowery, held another meeting, the purpose of which was to appoint a replacement for former member Glenn Wasson within thirty (30) days after the seat became vacant, as required by Article V, Section I of the Constitution. They elected Sharon Wasson to the empty seat on the Council. The three members acting at that time also stated their intent to call a special meeting to discuss, among other things, removal of Mr. Williams Bills from the council. (Exhibit 11.)

Article 3, Section II of the Bylaws allows special meetings to be called by a chair or the majority of the Council. The three members acting at this time constituted a majority of the Council. Further, Article V, Section 1 of the Bylaws allows the appointment of another council member "to fill the unexpired term." The Constitution and Bylaws do not specify where Council meetings must be held and they do not specify any notice requirements for special meetings. (Exhibit 1.)

and each group continued to act and take action as if it was the legitimate Colony Council. At a meeting on March 24, 2000, attended by Sharon Wasson, Thomas Wasson, Lucy Lowery, and Elverine Castro, the Wasson Council voted to make Sharon Wasson Acting Chair of the Council while they attempted to address membership issues and removal of Mr. Bills. (Exhibits 11 and 12.) The Wasson Council sent a letter to Mr. Bills informing him of his removal from the position of Chairman and his opportunity to respond to the Council at a meeting on April 8, 2000. (Exhibit 13.) Although there is no proof of service of this letter, Mr. Bills did appear at the April 8, 2000 hearing. There was not a quorum at the meeting. The meeting agenda does not contain an item regarding the removal of Bills and there is no evidence in the record that the removal of Bills was discussed at the April 8, 2000 meeting or that he was given a hearing or opportunity to oppose his removal.

On April 7, 2000, William Bills filed a Motion for Emergency Injunctive Relief in the Winnemucca Tribal Court. (Exhibit 15). This Motion sought an order against the other Council members ordering them to cease from interfering with the finances of the colony, and to turn over all bank account information and funds. On April 17, 2000, then-current Tribal Court Judge Kyle Swanson issued an order granted Bill's motion for emergency relief. (Exhibit 19.) The Wasson Group, through their attorney, filed a Motion to Dismiss the injunction dated April 19, 2000. (Exhibit 20.)

On April 11, 2000, the Wasson Council removed Mr. Bills as the Chair of the Committee and appointed Sharon Wasson Chairman, pursuant to Article VI, Section I of the Constitution. (Exhibit 17.) By Resolution dated April 24, 2000, the Wasson Council attempted to remove William Bills as a Council member. The three signatories on that resolution were Sharon

the council, listing him as "absent without excuse" on many Council documents. (Exhibit 38a)

By Resolution dated May 2, 2000, signed by Elverine Castro, Lucy Lowry, Thomas Wasson, and Sharon Wasson, Kyle Swanson was purportedly removed from service as a Tribal Judge. The Resolution indicated that a hearing on the matter would be held on May 13, 2000. (Exhibit 22.) Judge Swanson did not receive a copy of the Resolution regarding his removal until approximately two weeks later, after the scheduled May 13, 2000 hearing. (Exhibit 25.) It is unclear from the record if the May 13, 2000 hearing took place.

Also on May 2, 2000, the same group of actors appointed Chuck Hartman as associate Judge of the Winnemucca Tribal Court. (Exhibit 23.) On May 23, 2000 this group entered into a Memorandum of Understanding regarding his term and compensation as associate judge. (Exhibit 28.) On August 9, 2000, Judge Hartman issued an Order removing William Bills from all tribal business, recognizing Sharon Wasson as Tribal Chairman, and ordering release of all tribal bank account funds to the Wasson Council. (Exhibit 31.)

William Bills sent correspondence to Judge Swanson dated May 18, 2000, instructing him to sit as Tribal Judge on May 19, 2000. (Exhibit 26.) By Order dated May 19, 2000, Judge Swanson issued his Order for Preliminary Injunction, which essentially gave control of the Colony's finances to Mr. Bills and enjoined the Wasson Group from interfering with the activities of the Enrollment Committee.

On or about June 25, 2000, Council member Lucy Lowery died. On July 13, 2000, Tom Magiera was appointed to the Council to replace Ms. Lowery. (Exhibit 46.) By Resolution dated September 14, 2000, the Wasson Council disenrolled/banished William R. Bills. By



Also on October 16, 2000, the Wasson group brought a Complaint and Motion for Temporary Restraining Order before Judge Hartman. On the same date, Judge Hartman issued a temporary restraining order restraining William Bills from entering the trust lands of the Winnemucca Indian Colony and issued an order to show cause at a hearing on October 31, 2000 why the order should not become permanent. (Exhibit 49.)

From the time of its appointment in March 2000, the Enrollment Committee continued to accept enrollment applications and enroll various people as members in the tribe. Both sides also held Council elections which each claimed to be the legitimate election to seat the legitimate Colony Council. After an election in October 2000, the Wasson Council claimed that its duly elected members were Thomas Wasson, Thomas Magiera, Elverine Castro, Andrea Davidson, and Merlene Magiera. After an election in April 2001, the Bills Council claimed that its members were Allen Ambeler, Linda Ayer, Lovelle Brown, Charlene Dressler, and Lorinda (Toni) George. (Exhibit 64). For various reasons that are outlined in the record, both faction's elections had procedural and due process deficiencies.

On January 18, 2001, Judge Swanson issued an Order for Permanent Injunctive Relief and Restraining order, which found, among other things, that William Bills was the Acting Tribal Chair, that Sharon Wasson was not a Council member, and that the Wasson Council was ordered to refrain from interference or participation in the daily operations of the tribe's smoke shop. (Exhibit 34.) After appeals from Judge Swanson's Order, the parties had a trial before Judge Haberfeld. Both parties appealed Judge Haberfeld's decision and the following opinion results from the appeals of Judge Haberfeld's Order.

## ISSUES

- I. Whether the Trial Court's Order determining the members of the Winnemucca Colony Council is supported by substantial evidence and comports with the Constitution and Bylaws of the Winnemucca Indian Colony.
- II. Whether the Trial Court's Order determining the membership of the Winnemucca Indian Colony is supported by substantial evidence and comports with the Constitution and Bylaws of the Winnemucca Indian Colony.
- III. Whether the Trial Court's Order determining the Tribal Judge is supported by substantial evidence and comports with the Constitution and Bylaws of the Winnemucca Indian Colony.

## ANALYSIS

### Winnemucca Colony Council

A vacancy was properly declared pursuant to Article V, Section I of the Winnemucca Indian Colony of Nevada Constitution (the "Constitution") shortly after the death of Glenn Wasson. William Bills ascended to the Chair position by virtue of being the Vice Chair. This ascension is permitted whenever the Chair is not able to fulfill his responsibilities under the Constitution.

The WIC Constitution at Article V, Section 1 provides that the remaining Colony Council members, after declaring a vacancy, shall appoint a successor to fill the unexpired term. On March 22, 2000 a majority of the Council appointed Sharon Wasson to the Colony Council according to the Constitution. The WIC Constitution at Article III, Section 1 states that a

Article V, Section II of the Constitution provides for removal of members of the Colony Council. The Constitutional provisions for removal were not followed to properly remove Mr. Bills from the Colony Council. A letter marked Exhibit #13 from Sharon Wasson to William Bills gives notice to Mr. Bills of his removal and that a hearing was set for April 8, 2002. The notice was defective in that it did not have an address on its face for Mr. Bills, and there was no evidence of service. Mr. Bills appears to have had knowledge of the April 8<sup>th</sup> hearing because (1) he filed a legal action in another court the day before and (2) Mr. Bills showed up for the meeting on April 8, 2002, the Wasson group did not prove actual notice. There is considerable case law identifying the difference between actual notice and legal notice.

Mr. Bills, Thomas Wasson and one other Colony Council member were present at the April 8<sup>th</sup> meeting. Two other Colony Council members' car broke down and they were not in attendance at the meeting. The evidence provided in the record indicated that a number of topics were covered but no action was taken on the removal of Mr. Bills. The attempt to remove Mr. Bills from the Council was procedurally defective, was not completed, and, therefore, is ineffective.

As time went on, Mr. Bills' name continued to appear on official documents and the other council members present would sign their initials that he was absent without an excuse. This evidence shows that even the Wasson Council continued to include Mr. Bills as a Colony Council member and Vice Chair through September of 2000.

However, the record does not reflect that the process was ever carried out for a recall of Colony Council members.

The WTC Constitution at Article V directs how a vacancy on the Colony Council is to be filled and Article IV of the WTC Constitution describes a quorum of three as necessary to transact business of the Colony Council. A quorum of the Wasson Council declared a vacancy when Lucy Lowery died. As stated in Exhibit #46 dated July 13, 2000, the Wasson Council declared a vacancy, took nominations and appointed Tom Magiera to the Wasson Council. Article II, Section 2 of the WTC Bylaws requires that each Colony Council member elected or appointed take an oath of office. Mr. Magiera took the oath of office as required by the WTC Constitution.

Exhibit #47 states that Mr. Bills was disenrolled or banished, that there was a vacancy on the Colony Council and that Andrea L. Davidson was appointed to fill the position declared vacant. The contents of Exhibit #49 do not illustrate any due process in trying to disenroll or banish Mr. Bills. There was not an effective disenrollment or banishment of Mr. Bills. Therefore, there was no vacancy on the Wasson Council and Ms. Davidson was not validly appointed to the Wasson Council.

The election of October 28, 2000 was defective for a number of reasons including:

- 1) the election committee was not valid because only one member was a member of the Colony at the time;
- 2) there was an altercation which disrupted the process;
- 3) two of the election committee members were incarcerated; and
- 4) the polling place was changed at last minute to a different place than posted.

All these incidents resulted in an invalid election on October 28, 2000.

his authority by ignoring the Constitutional election requirements.

On or about January 2001, Mr. Bills appointed an interim Colony Council, known as the Bill's Council in this opinion. The appointment of such a council was invalid and unconstitutional. There is absolutely no provision in the Constitution providing for the appointment of an interim Colony Council. There is no Constitutional provision for a single Council member to appoint any other council members or to act as a Colony Council of one. For foregoing reasons, the Bills' council is invalid.

#### Membership List

One of the inherent powers of self-government is the power to establish the members or citizens of a particular tribe, nation, band, community or colony. Another power of self-government is to exclude people from the tribe, nation, band or community or colony's territories or lands. The Enrollment Ordinance is clear about how to apply for membership and identifies the appeal for denial of a membership application. The Constitution is silent on how a member loses their membership or how they are excluded from tribal territories or lands. The Enrollment Ordinance is also silent on the process to disenroll someone. The Constitution places great value on due process as illustrated in Article VIII. The Enrollment Ordinance reflects the importance of due process by providing for due process if one's application for membership is denied. It is not the place of the judiciary to carry out an inherent sovereign power to say who the members are of a tribe, nation, band, community or colony. The last known list approved by the validly constituted Colony Council, the body with the authority to declare who the members are of the Colony, was the "list of 77 from 1998."

March, 2000, continued to act on enrollment applications throughout the past two years of chaos.

Some membership applications were forwarded to the Council for approval and acted on by the council. There is no evidence in the records that these new membership approvals are defective. Any membership application which was approved by the Wasson Council, or the predecessor WIC Council, shall be added to the valid enrollment list of the Colony.

This Court is aware of the disproportionate number of Shoshone represented on the Colony Council and in the previous enrollment committee and that there are Paiutes who desire to be enrolled and may be eligible under the Constitution but are concerned about potential bias against Paiutes by enrollment committee members. The Colony is ordered to take steps to address this issue.

#### Tribal Judge

On April 7, 2000, William Bills filed a motion for emergency injunctive relief in the WIC Tribal Court requesting that the Wasson Group be enjoined from interfering with WIC financial matters. Kyle Swanson was the only sitting Judge of the WIC Tribal Court at that time. The Wasson Council had duly appointed him to his position in 1998. (See Exhibit 25). On April 17, 2000, the same day Bills' motion was served on the defendants; Judge Swanson issued an order granting Bills' motion for an emergency injunction. (Exhibit 19).

On May 2, 2000, the Wasson Council passed a resolution immediately removing Judge Swanson from office. (Resolution 5-2000-3, Exhibit 22). The stated grounds for his removal were that he presided over litigation in which a party was a close friend and did not hold hearings at a time and place provided by the WIC Law and Order Code. The resolution provided that a hearing would be held on Swanson's removal on May 13, 2000. It is unclear from the record

stated that he did not receive notice of his removal until three days after the scheduled hearing.

He clearly was not given a fair hearing and an opportunity to respond to the charges.

Except for the resolution of removal itself, the record below does not establish that a written complaint to the Wasson Council was ever made by anyone against Judge Swanson. The record does support a conclusion that Judge Swanson did not receive notice of the charges made in the resolution for two weeks. His receipt of notice was three days after the scheduled May 13<sup>th</sup> hearing. Contrary to the clear requirements of the Code sections cited above, Judge Swanson was removed without any notice and prior to any hearing. Other sections of the Code were also violated. Section 1-40-100(b)(4) provides that hearings regarding removal of a judge shall be set at least thirty days but not more than sixty days in advance. Here, the removal hearing was set to take place eleven days after its passage.

The actions taken by the Wasson Council were clearly illegal under the WIC Code. They were also unlawful under the due process requirements of the WIC Constitution and under controlling federal law. Article VIII of the WIC Constitution provides that "No person shall be denied any of the applicable rights or guarantees as provided in Title II of the Civil Rights Act of 1968 (82 Stat. 77). The Federal Indian Civil Rights Act of 1968 (hereinafter ICRA) provides as follows:

No Indian tribe in exercising powers of self-governmental shall . . .  
deprive any person of liberty or property without due process of  
law. 25 U.S.C. 1302(8).

Certainly, Judge Swanson had a property interest in his position as Tribal Judge. It is elementary law that due process generally requires notice and an opportunity to be heard prior to deprivation

In her letter to Judge Swanson, Ms. Heame apparently took the position that Judge Swanson's contract had simply expired. The Code, however, provides that the "Tribal Court shall consist of one Chief Judge and at least one or more Associate Judges" . . . and further that "all judges shall serve for a term of one year and until their successors take office" . . . (Code Sections 1-40-010 and 1-40-050). (Emphasis supplied). Judge Swanson was the only judge serving on the Tribal Court when these events took place. He had held his position for two years. The resolution appointing Chuck Hartman clearly states he was appointed as an associate judge. The only logical conclusion is that Judge Hartman was not appointed as a successor to Judge Swanson and that, therefore, removal based on expiration of Judge Swanson's term is also illegal.



I. The Trial Court's determination of members of the Winnemucca Colony Council is not supported by substantial evidence and does not comport with the Constitution and Bylaws of the Winnemucca Indian Colony in Nevada.

Mr. Bills was properly elevated to the position of Chair pursuant to the by-laws of the Winnemucca Indian Colony of Nevada Article I, Section II. Sharon Wasson was properly appointed to the Wasson Council and subsequently properly appointed Chair of the Wasson Council. The Court finds no hearing for removal of Mr. Bills was ever held. We find that the removal of Mr. Bills was defective resulting in the fact that Mr. Bills is still on the tribal council.

There was no recall of Wasson Council members because the recall process was not completed. Mr. Bills continued to serve and continues to serve on the Wasson Council. Tom Magiera was properly appointed to replace Lucy Lowery. After review of the documents, this Court finds there was no proper procedure followed for the disenrollment of Mr. Williams. Therefore, it was inappropriate to declare a vacancy, nominate and appoint Andrea Davidson. The appointment of Andrea Davidson was defective, she is not a member of the Council and Mr. Bills remained and remains as a valid member of the Wasson Council.

The Court finds the Order of Judge Swanson dated January 18, 2001 invalid. The valid Colony Council that has survived to the present includes the following: Sharon Wasson, Thomas Wasson, Williams Bills, Elverine Castro and Thomas Magiera until his death.

Therefore, all subsequent activities of the Bills Council are found to be unconstitutional and invalid. The election held on April 2001 is declared an invalid election and in violation of the Constitution.

remove Mr. Bills as a member of the Colony Council and/or disenroll Mr. Bills, then the Colony Council must follow the Constitution and By-Laws including proper notice, procedure, and opportunity to be heard at a hearing. The Colony Council has the responsibility and duty to assure that due process is provided for in any ordinance or procedure in compliance with the Constitution in order to avoid any further defective disenrollment or defective removal of a Colony Council member.

The next Colony Council election scheduled pursuant to the Constitution would be October 2002. The Court and the parties have the desire for that election to occur on time. However, the serious situation the Colony faces today results from the chaos which began in February 2000 including the unconstitutional and invalid actions identified by this Court. Because of the need to identify who the Colony members are, the need to draft procedures to identify members and because the Constitution permits all Colony Council members to serve a term of two (2) years or until their successors are duly elected and seated, the October 2002 election shall occur within six months of October 2002.

The desire is for the Colony to definitively identify its members and hold a valid election with the purpose of bringing order to the Colony and making a future again for its members. This huge effort will require a complete and participatory Colony Council and active tribal members. If tribal members choose to be obstruct, uncooperative, petty and selfish, then this Colony will continue in chaos with no hope. The people have to care enough to move forward. The judicial and legal systems can do only so much.

II. The Trial Court's determination of the membership of the Winnemucca Indian Colony is not supported by substantial evidence and does not comport with the Constitution and Bylaws of the Winnemucca Indian Colony.

Judge Haberfeld's Order is overturned in its entirety. The "list of 77 from 1998" is the valid list of the members of the Winnemucca Indian Colony of Nevada. Anyone who was added by previous Council or the Wasson Council from 1998 to the present shall be added to the "list of 77 from 1998".

#### Tribal Judge

III. The Court's determination of Tribal Judge is not supported by substantial evidence and does not comport with the Constitution and Bylaws of the Winnemucca Indian Colony.

We find that Swanson's removal as Tribal Court Judge was improper and illegal under the WIC Law and Order Code. (Hereinafter "Code"). Removal of Judges, Section 1-40-100(b)(1) of the Code provides that "no action will be taken except upon written complaint to the Tribal Council setting forth specific facts which justify removal." Section 1-40-100(b)(2) provides that the "judge shall be immediately notified of the charges against him." The Code further provides that "No judge shall be removed except following a hearing on the complaint and a subsequent decision by the Tribal Council that removal is appropriate." (Code Section 1-40-100(b)(3); (emphasis supplied).

We agree Judge Haberfeld's determination that the attempted removal of Judge Swanson and the appointment of Judge Hartman was a reaction to a negative decision issued by Swanson and an attempt to create a Tribal Court more to the liking of the residual Council members.

according to the requirements of WIC's laws. He is legally authorized to hold the office of Judge of the WIC Tribal Court.

### ORDER

1. The Order of Steven Habersfeld, issued on May 9, 2002, is reversed and vacated.
2. The WIC Colony Council is Sharon Wasson, Thomas Wasson, Williams Bills, Elverine Castro. There is one vacancy created by the death of Thomas Magiera.
3. The WIC Colony Council shall declare a vacancy on the Colony Council because of the death of Thomas Magiera immediately and within 30 days of this order appoint a successor to fill the unexpired term of Thomas Magiera.
4. The WIC Colony Council shall serve until their successors are duly elected and seated or any member is duly disenrolled or banished.
5. The October 2002 election of the WIC shall occur within six months of October 2002.
6. The WIC Colony Council shall set time lines within the next six months of the date of this Order for the following:
  - a. amend the enrollment ordinance within 45 days of this order to provide procedures for appealing a denial of an application including due process provisions and to provide procedures to disenroll a member including due process provisions;

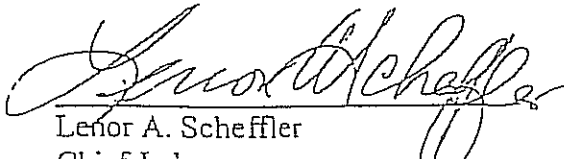
- b. the enrollment committee shall publish notice and post notice announcing that anyone who wishes to be enrolled should contact them and follow application procedures;
  - c. the enrollment committee shall publish notice and post notices announcing that anyone who wishes to disenroll someone else should contact them and follow the disenrollment procedures; and
  - d. the Colony Council shall take every step to assure a tribal election is held within six months of October 2002.
7. The WIC Colony Council shall appoint a validly constituted enrollment committee, if one does not exist, within 10 days of this order. The Court orders the Colony Council to address the real or perceived bias in favor of Shoshone by requiring the following:
- a. The Colony Council shall make every attempt to be sure that there are equal numbers of Paiute and Shoshone on the enrollment committee;
  - b. That any appointment of members are members who have open minds and will look at the facts in front of them without bias for tribal or family or any other political loyalties.
8. The WIC Colony Council shall establish standards reflecting the due process required by the Constitution in denying an application for membership and in disenrolling members. The process for denial of a membership application and the disenrollment of a member shall include:
- a. notice of actions to be taken or taken;
  - b. publish timelines for each process;

- d. written reasons for denial of an membership application and disenrollment;
- e. hearing and hearing procedures, if any;
- f. in disenrollment processes the burden is upon the person bringing or requesting the action of disenrollment; and
- g. appeal and appeal procedures including the use of an independent body or court.

9. The WIC Colony Council shall contact the United States Department of Interior Bureau of Indian Affairs office for the last address list for members of the Colony.

Signing for the Appeals Court of the Winnemucca Indian Colony in Nevada:

Date: 8-16-12

  
Lenor A. Scheffler  
Chief Judge

Certified by:

  
Acting Clerk of Court

## **EXHIBIT 5**

1 IN THE WINNEMUCCA TRIBAL COURT  
2 IN AND FOR THE WINNEMUCCA INDIAN COLONY  
3 WINNEMUCCA, HUMBOLDT COUNTY, NEVADA

4 -oOo-

5  
6 WILLIAM BILLS, Acting Tribal )  
Chairman for Winnemucca Indian )  
7 Colony, et al, )

8 Plaintiffs, )

9 vs. )

10 SHARON WASSON, LUCY (WASSON) )  
11 LOWERY, ELVERINE CASTRO and )  
12 THOMAS WASSON, (aka Business )  
Council of the Western )  
Shoshone), )

13 Defendants. )  
14 ----- )  
15

CERTIFIED COPY

Case No. CV-1003

16 ARBITRATION BEFORE STEVEN J. HABERFELD, Ph.D.  
17 Tuesday, November 13, 2001  
18 At 349 West South Street  
19 Winnemucca, Nevada  
20  
21  
22  
23

24 REPORTED BY:

LEE L. VOGT, CCR #663  
MOLEZZO REPORTERS  
25 (775) 322-3334



1     APPEARANCES OF COUNSEL:

2     For the Plaintiffs:     DONALD K. POPE, ESQ.  
3                                 1440 Haskell Street  
4                                 Reno, Nevada 89509

5     For the Defendants:    ZEH, SAINT-AUBIN, SPOO & HEARNE  
6                                 575 Forest Street  
7                                 Suite 200  
                               Reno, Nevada 89509  
                               BY: TREVA J. HEARNE, ESQ.

8                                 ROBERT R. HAGER, ESQ.  
9                                 546 Ridge Street  
                               Reno, Nevada 89501

1 IN THE WINNEMUCCA TRIBAL COURT  
2 IN AND FOR THE WINNEMUCCA INDIAN COLONY  
3 WINNEMUCCA, HUMBOLDT COUNTY, NEVADA

4 -ooo-

5  
6 WILLIAM BILLS, Acting Tribal )  
Chairman for Winnemucca Indian )  
7 Colony, et al, )

8 Plaintiffs, )

9 vs. )

10 SHARON WASSON, LUCY (WASSON) )  
LOWERY, ELVERINE CASTRO and )  
11 THOMAS WASSON, (aka Business )  
Council of the Western )  
12 Shoshone), )

13 Defendants. )  
14 ----- )

CERTIFIED COPY

Case No. CV-1003

15  
16 ARBITRATION BEFORE STEVEN J. HABERFELD, Ph.D.  
17 Wednesday, November 14, 2001  
18 At 349 West South Street  
19 Winnemucca, Nevada  
20  
21  
22  
23

24 REPORTED BY:

LEE L. VOGT, CCR #663  
MOLEZZO REPORTERS  
25 (775) 322-3334

APPEARANCES OF COUNSEL:

For the Plaintiffs: DONALD K. POPE, ESQ.  
1440 Haskell Street  
Reno, Nevada 89509

For the Defendants: ZEH, SAINT-AUBIN, SPOO & HEARNE  
575 Forest Street  
Suite 200  
Reno, Nevada 89509  
BY: TREVA J. HEARNE, ESQ.

## **EXHIBIT 6**

INTER-TRIBAL COURT OF APPEALS OF NEVADA

SHARON WASSON, et al.,

APPELLANT,

v.

WILLIAM BILLS,

APPELLEE,

)

)

)

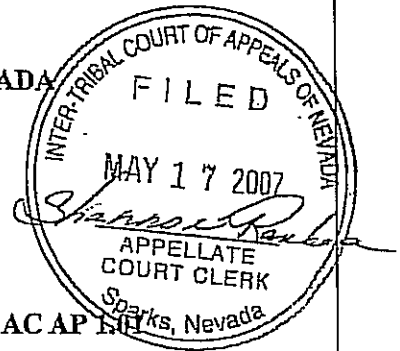
)

)

)

Case No. ITCN AC AP 101

PER CURIAM



BEFORE: Associate Justice Gary Bass, Associate Justice Cheryl Fairbanks, Associate Justice Eric P. Swenson.

This matter is before this Court on its own motion to revisit the granting of jurisdiction. It is apparent that jurisdiction was improvidently assumed. Accordingly, we withdraw the mandates of all orders and rulings. We recognize that this ruling leaves the issues raised in this and other proceedings uncertain in terms of finality and effect. Nevertheless, this Court may proceed no further once it is determined there is no appellate jurisdiction.<sup>1</sup>

It is SO ORDERED, this 7<sup>th</sup> day of May, 2007.

<sup>1</sup> We also note the failure to comply with this Court's order of September 8, 2006 provides additional ground to dismiss this appeal and strike all pleadings from the record.

INTER-TRIBAL COURT OF APPEALS OF NEVADA  
IN AND FOR THE WINNEMUCCA  
TRIBAL COURT  
WASHOE COUNTY, SPARKS, NEVADA

SHARRON WASSON, LUCY  
(WASSON) LOWERY, ELVERINE  
CASTRO AND THOMAS WASSON,  
BUSINESS COUNCIL OF THE  
WINNEMUCCA INDIAN COLONY,  
V.

Case No. ITCN / AC AP 1.01

WILLIAM BILLS, an individual,

Shannon R. Rambeau, hereby deposes and says: That she is a citizen of the United States of America, over the age of 21, not a party to, nor interested in, the above entitled matter, and that she mailed by first-class postage, delivered in person, or sent by facsimile transmission (as noted), a file-stamped copy of the attached document(s) entitled:

AFFIDAVIT OF SERVICE

to the following individual(s):

Donald K. Pope, Esq.

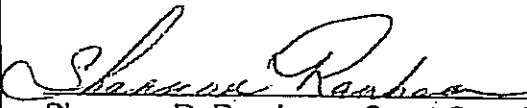
1385 Haskell St, 118 CALVE AVE  
Reno, NV 89509

Treva Hearne, Esq.

Heame & Hager  
910 East Parr Blvd. Suite 8  
Reno, NV 89512

Sarah Lawson, Esq.

Rosette & Associates  
6124 East Brown Road Suite 101  
Mesa, AZ 85205

  
Shannon R. Rambeau, Court Coordinator

Dated: May 17, 2007

## **EXHIBIT 7**

1  
2 Donald K. Pope  
3 Nevada State Bar #1294  
4 1385 Haskell St.  
5 Reno, NV 89509  
6 (775) 329-7899  
7 Attorney for: William Bills  
8

9  
10  
11 IN THE INTER-TRIBAL COURT OF APPEALS OF NEVADA  
12 IN AND FOR THE WINNEMUCCA TRIBAL COURT  
13 WASHOE COUNTY, NEVADA  
14

15 SHARRON WASSON,  
16 LUCY (WASSON) LOWERY,  
17 ELVERINE CASTRO AND  
18 THOMAS WASSON,  
19 BUSINESS COUNCIL OF THE  
20 WINNEMUCCA INDIAN COLONY,  
21

22 Appellants

23 v.

Case No. AP 1.01

24 WILLIAM BILLS, an individual,  
25

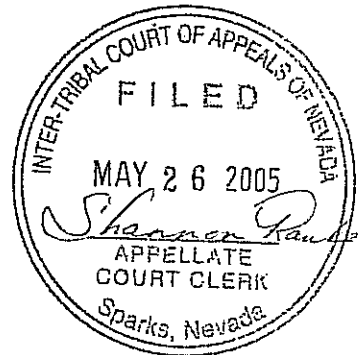
26 Appellee.  
27  
28

In Re: Kyle Swanson

**MOTION FOR DEFAULT**

29 The Leyva Group, one of the two groups litigating this matter before this court hereby  
30 moves this court to enter its order and judgment by default as follows:

31 First, for an order declaring that the current recognized Colony Council of the  
32 Winnemucca Indian Colony is Vivian Leyva, Chairperson, Linday Ayer, Jim Ayer, Charlene  
33  
34





1  
2 Dressler and Clorinda George, members.

3 2. For an order declaring the enrollment list as determined by Judge Haberfeld and  
4 presented to this court on October 20, 2004 is the official membership list of the Winnemucca  
5 Indian Colony.

6 3. This motion is based on the Points & Authorities set forth below.

7  
8 **POINTS & AUTHORITIES**

9 The last order issued by this court in this case was dated September 16, 2004. That order  
10 and an earlier one resolved outstanding issues regarding the Minnesota panel and its status and  
11 the reviewability of its work. Among the orders of this court on September 16, 2004 was that  
12 each of the two sides to this case was to submit a membership list to this court following which  
13 this court would review and finalize the membership list in an orderly fashion and then conduct  
14 an election from the membership list.

15  
16 The Leyva Group complied with that order completely. The Wasson Group did not  
17 comply at all. Their only action in the following 8 months was to file a federal lawsuit against  
18 this court, which was dismissed. No pleading from that case was ever served by the Wasson  
19 Group on the Leyva Group. In a completely bizarre effort to engage in ex-parte control of this  
20 court, the Wasson Group sought fought federal court orders against this court. None were ever  
21 obtained. Instead, the Wasson Group prepared a most tortured stipulation in the federal  
22 proceedings that this court would allow it to conduct an enrollment procedure and have an  
23 election. Of course, as this court pointed out in the federal litigation, this court has no authority  
24 to enter into a stipulation with one party to a case pending before it.

25  
26 Thus, the Leyva Group always viewed the federal litigation and the stipulation in the  
27  
28

1  
2 federal litigation as merely the Wasson Group receiving, once again, the direction from this court  
3 that the Wasson Group could prepare an enrollment list to be submitted to this court.

4 No doubt, other persons will have very different interpretations of what happened in the  
5 federal court but the fact remains that the stipulation was not in this litigation, was not made by  
6 the parties to this litigation and was meaningless as to this litigation. Considering the strangeness  
7 of that federal lawsuit, it is probable that the entire thing was a nullity. The stipulation made  
8 inside that litigation, if it wasn't meaningless from the outset, was made meaningless by the  
9 dismissal of that litigation.  
10

11 Furthermore, to the extent that the stipulation was an agreement that the Wasson Group  
12 could hurry up and present to this court its enrollment list, it has never done so.  
13

14 The Wasson Group may respond with a long story, starting with: they used the federal  
15 stipulation with this court as a basis for a motion for summary judgement in the federal court in  
16 another case involving the Tribe's money that was in the Bank of America. The Wasson Group  
17 claimed that the stipulation somehow finalized all litigation and they should receive the Bank of  
18 America money. A telephone conference was heard on that motion for summary judgement and  
19 it was denied.  
20

21 However, because of the Wasson Group's lawsuit against this court and because of the  
22 confusion the Wasson Group has managed to create over all of this, including some indication  
23 that this court is not willing to continue its work in this case, there has been created in Judge  
24 McKibben's mind some idea that the Minnesota panel has a continued vitality. Accordingly, on  
25 April 1, 2005, he ordered the parties to submit enrollment lists to the Minnesota panel.  
26

27 Of course, it is impossible to comply with that order without first reassembling the  
28

1  
2 Minnesota panel. The problems with any such process are myriad. It is not clear why anything  
3 would need to go to that panel or any other trial court since the issue of the enrollment lists was  
4 fully litigated in front of Judge Haberfeld and that is ultimately what came before this court on  
5 appeal. Moreover, it is not clear how or in what way the panel would be assembled, what their  
6 task would be and from whence their authority would be drawn. The problems are legion.  
7  
8 Nevertheless, it is not useful to discuss those here because the case is much simpler than that.  
9 The simple fact is, this court entered an order that one side to the litigation has refused for eight  
10 months to comply with. They have further failed to comply with whatever they thought the  
11 stipulation meant and it is appropriate for their default to be taken and the case resolved in favor  
12 of the party that has complied with the order.

13  
14 Further, the ersatz revitalization of the Minnesota panel is also a red herring. It was  
15 because of the legal challenge of the Leyva Group to the original order of the Minnesota panel  
16 that this matter was brought back before this court. Based on the jurisdiction of this court to  
17 resolve those issues, the federal litigation in the Bank of America case was put on administrative  
18 hold pending this court's resolution of the issues. It is completely improper for the Wasson  
19 Group or the Federal Court to reintroduce the Minnesota panel by filing a separate federal  
20 lawsuit against this court and somehow confusing the federal judge into ordering further  
21 proceedings before the Minnesota panel.

22  
23 One of things the Wasson Group has presented in argument to this court and apparently  
24 also to the federal court is the claim that this court does not have the authority to create an  
25 enrollment list but it can only be done by a Tribal Council and that the process must go back to  
26 the beginning rather than have its resolution before this court after all these years. This  
27  
28

1 arguments is fallacious for two reasons: first, it was presented several times before and has been  
2 ruled upon and second, the proceedings before this court represent the proper culmination of that  
3 entire process. This court can fashion the remedies it finds necessary to conclude this litigation,  
4 just as federal judges several decades ago had to finally undertake the actual hands on  
5 management of busing and school desegregation.  
6

7  
8 On the first point, at trial, the Wasson Group tried to argue that Judge Haberfeld who was  
9 specifically ordered by this court to go determine the membership of the Colony did not have the  
10 power to do so because it all had to be acted on by the Council first. However, it was shown to  
11 Judge Haberfeld that all of the persons seeking membership had made numerous applications to  
12 the Council and under the Tribe's own laws had the right to have a court case following the  
13 denial of their rights to membership. The litigation in front of Judge Haberfeld was the logical  
14 and legal step after the erroneous determinations by the former Councils during the 90's.  
15

16 When this case once again made its way back to this court at the hearings in 2004, the  
17 Wasson Group once again tried to say, somehow there needed to be a Tribal Council (meaning  
18 them) who got to decide all these membership issues before the matter could come before first a  
19 trial court and then an appellate court. Once again, the Wasson Group missed the point that step  
20 one (wrongful denials of membership by the Councils of the 1990's) was completed and that step  
21 two (action at trial court level - Judge Haberfeld) was completed. Apparently, not liking this  
22 court's determination to bring this matter to a conclusion, the Wasson Group ran to the federal  
23 court and tried to convince the federal court that this court should not be resolving these issues.  
24 Apparently, in some unknown way, James Underwood also got involved in trying to convince the  
25 federal court that this court should not be doing the work that it set out to do in its order of  
26  
27  
28

1 September 16, 2004.

2  
3 **Conclusion**

4 Be that as it may, the simple fact remains, this court on September 16, 2004, entered an  
5 order designed to resolved this situation. The Wasson Group has failed utterly to participate.  
6 Accordingly, all issues should be resolved based on the materials before the court which is that  
7 the Leyva Group should be recognized as the Tribal Council and the membership lists presented  
8 by the Leyva Group, as found and ordered at the trial level by Judge Haberfeld, should be  
9 declared the membership list.  
10

11 Accordingly, based on all of the above, the court is requested to enter its order declaring  
12 that the members of the Leyva Group are the recognized governing body of the Winnemucca  
13 Indian Colony and that the membership of the Winnemucca Indian Colony is that as set forth by  
14 Judge Haberfeld in his original order.  
15

16 For this court's information, attached find the motion of the Leyva Group to be relieved  
17 of the federal court's order to submit an enrollment list to the Minnesota panel.  
18

19 Date May 26, 2004

Donald K. Pope  
Donald K. Pope  
Nevada State Bar #1294  
1385 Haskell St.  
Reno, NV 89509  
(775) 329-7899  
Attorney for the Leyva Group

PROOF OF SERVICE

The Motion for Default was served by  
me, Donald K Pope on TREVA HEARNE, ESQ.

by mailing X

by certified mail \_\_\_\_\_

by return receipt requested \_\_\_\_\_

by faxing \_\_\_\_\_

by hand delivery \_\_\_\_\_

a copy of the above pleading (s) to the address (es) set forth below on May 26, 2005.

Treva Hearne, Esq.  
Attorney At Law  
910 East Parr Blvd.  
Suite 8  
Reno, NV 89512

Date May 26, 2005 Donald K Pope

000509

1 Donald K. Pope  
 2 Nevada State Bar #1294  
 3 1385 Haskell St.  
 4 Reno, NV 89509  
 (775) 329-7899  
 5 Attorney for William Bills and  
 6 Successors in interest claiming to be  
 The Winnemucca Colony Council

7 IN THE UNITED STATES DISTRICT COURT

8 DISTRICT OF NEVADA

9 BANK OF AMERICA, N.A.  
 10 a Delaware corporation,

Case No. CV-N-00-450-HDM (VPC)

11 Plaintiff,

12 vs

MOTION FROM RELIEF FROM  
 COURT'S ORDER OF APRIL 1, 2005

13 WILLIAM BILLS, et al.,

14 Defendants.

15  
 16 And related actions.

17 On April 1, 2005, this court entered its order that the parties each submit a membership  
 18 list to the Minnesota panel. This is the motion of the defendants/counter defendants Bills, et al to  
 19 be relieved from that order for an indefinite period of time.

20 It is quite difficult to figure out how to revitalize the Minnesota panel and exactly what  
 21 role they should play in the on going processes of the Winnemucca Indian Colony. Several years  
 22 ago, an appeal from the trial decision in the Winnemucca case was presented to the Minnesota  
 23 panel. Their decision was presented by the Wasson Group to this court as the final resolution of  
 24 all matters. The Bills Group challenged that position in this court and requested the Inter-Tribal  
 25 Court of Appeals of Nevada to review the actions of the Minnesota panel, its legitimacy and  
 26  
 27  
 28

1  
2 carry forward with the issues in this case. This court put this case on administrative status  
3 pending that process. Subsequently, the Inter-Tribal Court of Appeals reviewed matters and  
4 entered orders regarding the Minnesota panel and its decision and further entered orders  
5 instructing the parties in this case to take further steps to produce enrollment lists. The Wasson  
6 Group responded by suing the Inter-Tribal Court of Appeals in this court, which litigation has  
7 now been dismissed.  
8

9 In the opinion of the Bills Group, this leaves the last outstanding valid order to be the one  
10 issued by the Inter-Tribal Court of Appeals on September 16, 2004. But, apparently, this court  
11 and Ms. Hearne believe that the Inter-Tribal Court of Appeals has decided to not take further  
12 action. Without getting into how all of that might have occurred and whether it was right or  
13 wrong, the Bills Group thinks the proper place for the next step is before the Inter-Tribal Court of  
14 Appeals and has filed in that court a motion for default judgment. See copy attached as Exhibit  
15 A.  
16

17 Further, attached is Exhibit B is Donald K. Pope's Affidavit explaining the contact he has  
18 had with Ms. Hearne or Mr. Hager that leads him to believe that they have no intention of  
19 involving the Minnesota panel in this matter at this time.  
20

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28



Conclusion

Accordingly, it is requested that the parties be relieved of the order to present anything to the Minnesota panel until the Inter-Tribal Court of Appeals itself by order, has resolved the pending motion and clarified its status in this situation.

Date May 26, 2005

Donald K. Pope  
Donald K. Pope  
Nevada State Bar # 1294  
1385 Haskell St.  
Reno, NV 89509  
(775) 329-7899  
Attorney for William Bills & WCC

000512

AFFIDAVIT OF DONALD K. POPE

State of Nevada

County of Washoe

Donald K. Pope, being first duly sworn, says as follows:

1. On April 1, 2005, immediately following the telephone conference with Judge McKibben, I called Treva Hearne to discuss the meaning of the Judge's order regarding submitting a membership list to the Minnesota panel. She responded by saying we should wait until we received the court order for review.

2. On April 8, 2005, I received a fax of two pages from Ms. Hearne. One was a fax from Ms. Hearne to the court clerk of the Inter-Tribal Court of Appeals of Nevada which inquired whether anything was pending in Winnemucca matters. The second page was a fax response of April 8, 2005 from the court clerk saying that as far as the clerk knew, there was nothing pending.

3. The only other communication from Ms. Hearne or her office was a phone call from Bob Hager on May 20, 2005 inquiring as to whether Mr. Pope still represented his clients since he had heard rumors to the contrary. During that conversation, Mr. Hager made no reference to revitalizing the Minnesota panel nor to either side submitting enrollment lists to the Minnesota panel. He made some effort at reciting the process and decisions that had occurred in his litigation against the Inter-Tribal Court but summed it all up by saying that there was going to be an enrollment and an election. Apparently conducted by his clients. No mention was made of the Minnesota panel.

End of Affidavit.

Exhibit B

000513

1  
2 Date May 26, 2005

Donald K Pope  
Donald K. Pope

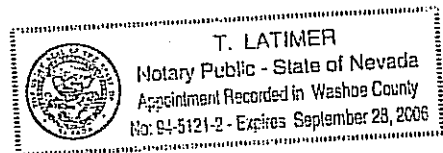
3 STATE OF NEVADA

4 COUNTY OF WASHOE

5 This instrument was acknowledged before me on May 26, 2005

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7 by Donald K Pope

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NOTARY T. Latimer



000514

PROOF OF SERVICE

The Motion For Relief was served by

me, Donald K Pope on TREVA HEARNE, ESQ.

by mailing X

by certified mail \_\_\_\_\_

by return receipt requested \_\_\_\_\_

by faxing \_\_\_\_\_

by hand delivery \_\_\_\_\_

a copy of the above pleading (s) to the address (es) set forth below on May 26, 2005

Treva Hearne  
Attorney At Law  
910 East Parr Blvd.  
Suite 8  
Reno, NV 89512

Date May 26, \_\_\_\_\_, 2005

Donald K Pope

000515

Affidavit of Treva J. Hearne

Treva J. Hearne states under penalty of perjury that the following statement is true.

1. I am an attorney practicing law in Nevada in the law firm of **Hager & Hearne**.

2. After the United States Federal District Court, the Honorable Howard McKibben, directed the parties to submit a list of enrolled members to the Minnesota panel, I assisted the Colony in:

a. Publishing the notice of the call for applications in the Humboldt Sun because they had no funds to make such a publishing themselves;

b. Sent letters to the Regional and Western Nevada Agency of the BIA with the notice;

c. Sent a notice to the Inter-Tribal Council;

d. Sent a notice to Donald Pope.

3. I have represented the Winnemucca Indian Colony since 2000 when I was contacted by Council member Lucy Lowery who asked for my help because she was too frightened to attend a Council meeting because people showed up with guns.

4. I have represented the Winnemucca Indian Colony before the Tribal Courts, the Inter-Tribal Court of Appeals of Nevada, the Specially Appointed Appellate Court of the Winnemucca Indian Colony, the Interior Board of Indian

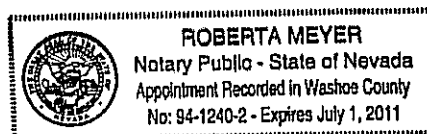
Appeals, the United States Federal District Court, and the Ninth Circuit Court of Appeals and have personal knowledge of the dates and occurrences that are included on the Chronology that is attached. I have reviewed the documents and participated in the Court hearings that make up that chronology and state that these are true to the best of my knowledge and belief.

5. I attended the hearing wherein the Honorable Howard McKibben suggested to the Inter Tribal Court of Appeals of Nevada that the body with its decision was infringing on the constitutional rights of the Tribe to choose its own membership. At that hearing, Judge McKibben suggested that the Inter-Tribal Court recognize the Minnesota Panel decision as it was well reasoned and all parties were represented. The Stipulation with the Chief Judge of the Inter-Tribal Court was there representing the Court and entered into that stipulation upon the Court's suggestion.

6. At that hearing, Don Pope and Linda Ayers and other persons who were the claimed clients of Don Pope were present. At no time did they intervene in this proceeding or ask the Court permission to intervene. At no time did they object to the proceedings. Some of them were present for the entire hearing.

Further affiant sayeth naught.

*SUBSCRIBED and Sworn  
to before me this 1ST  
day of October, 2007.  
Roberta Meyer*



## CHRONOLOGY OF THE WINNEMUCCA INDIAN COLONY

1. 1916 - CENSUS taken by federal government.
2. 1917/1918 - EXECUTIVE ORDER ( in two parts) setting aside 320 acres signed by Woodrow Wilson
3. 1925 - PURCHASE of additional 20 acres as Colony
4. 1935 - REORGANIZATION ACT and adoption of Constitution and By-Laws
5. 1938 - REVISION of Constitution and By-Laws suggesting that the Winnemucca Indian Colony be Winnemucca Shoshone, but determined it would organize as Winnemucca Indian Colony because any Nevada Indian was eligible for homesite.
6. 1985 - BIA INTERVENTION WITHDRAWING RECOGNITION OF TRIBAL COUNCIL - BIA withdrew its recognition of the Council then in place because they were not eligible for membership in Colony and intended to take allotments from the Northern Paiute Judgment Fund as members of Ft. McDermitt. BIA declared only 12 persons eligible for membership.
7. 1987 - NEWS RELEASE - BIA is requesting descendants of 1916 list in order to establish members of WIN.
8. 1990 - OFFICIAL TRIBAL MEMBERSHIP ROLL. Seventeen members are certified by BIA. Tribal Council is recognized as: Glenn Wasson, Chairman, Richard Tom, Tom Magiera, Lucy Lowry and Sharon Wasson.
9. 1994 - ELECTION of Tribal Council: Glenn Wasson, Richard

Tom, Lucy Lowry, Elverine Castro, and Sharon Wasson.

10. 1998 - REVISED MEMBERSHIP ROLL. A revised membership roll consisting of 99 members is certified by the Tribal Council and submitted to BIA but rejected and not certified by BIA. BIA recognizes election of Glenn Wasson, Chairman, Lucy Lowry, Sharon Wasson, and Elverine Castro and recognizes William Bills appointed to Richard Tom's position.
11. Glenn Wasson as Chairman becomes very active in the fight of the Western Shoshone for their lands. Glenn Wasson operates the Smoke Shop and starts to build another Smoke Shop on the 320 acre parcel which until 1999 had never been used by the Winnemucca Indian Colony. It is discovered that the water rights that flowed across the lands of the WIC on the 320 acre parcel have been stripped and sold to a private person who serves the City of Winnemucca.
12. August 5, 1999 - William Bills on his own applies for a grant from federal government, EPA, using Elverine Castro's name without her permission. Glenn Wasson adamantly disapproved of any request for funds from federal government. Bills had no majority of council approval as required by Constitution and By-laws. The Council voted down the request for 10 acres made by William Bills wherein he desired to build a casino.
13. February 11, 2000 - Glenn Wasson is upset with William Bills for diverting Colony mail and disregard of authority of Council and discovers that he is not Native American and announces that the next agenda will have an item to remove William Bills from the Council.
14. February 22, 2000 - Glenn Wasson, Chairman of the Winnemucca Indian Colony, is assassinated outside the administration building by being stabbed in the back 14 times. BIA recognizes Bills as Acting Chairman of the colony.



15. March 1, 2000 - William Bills, without Council approval, has soil removed from the Colony lands that held evidence of the murder and sold the 5000 yards of top soil without approval and without turning over the funds to the Colony. Bills excludes the rest of the Council from the administration building. A further letter from Robert Hunter, Supt. of the Western Nevada Agency of the BIA, recognizes William Bills as Chairman.
16. March 22, 2000 - The Council meets to replace Glenn Wasson but disruption occurs fomented by William Bills, Allen Ambler, and Charlene Dressler. Majority of Council moved to another meeting area and appointed Sharon Wasson to replace Glenn Wasson.
17. March 25, 2000 - The Council meets and votes to make Sharon Wasson the new Chairman and removed William Bills as Chairman. April 13, 2000 - The BIA recognizes Sharon Wasson as the new chairman of the WIC.
18. April 17, 2000 - William Bills requests from Kyle Swanson TRO as though Bills were the Chairman of the WIC and without the consent of the majority of the Council and in contradiction to the BIA letter.
19. April 19, 2000 - Majority of Council files Motion to Dismiss TRO.
20. April 29, 2000 - Hearing postponed because Swanson had no copy of Tribal Law and Order Code.
21. May 2, 2000 - Majority of Tribal Council voted to remove Kyle Swanson as Tribal Judge and replace him with another Judge because his term had expired and he was removed for cause.
22. May 2, 2000 - The BIA recognizes William Bills as Chairman

again and not Sharon Wasson, based upon order issued by Kyle Swanson holding himself out as the Tribal Judge.

23. May 13, 2000 - Regular Council meeting held in Winnemucca and William Bills enters armed with a pistol. Remainder and majority of Council voted to move meetings away from Colony until William Bills is removed physically forever from Colony.
24. May 19, 2000 - Swanson issues TRO without ruling on Motion to Dismiss.
25. May 23, 2000 - Charles Hartman is appointed Tribal Judge and later that day, BIA declares that the Tribal Council of the WIC is dysfunctional. June 6 letter is issued declaring Council dysfunctional. (Not overruled by Phoenix Area office until 12/20/00)
26. June 1, 2000 - William Bills takes over the Smoke Shop and breaches the management contract signed by a majority of the Council.
27. June 10, 2000 - Majority of Council appeals to BIA the dysfunctional determination.
28. July 13, 2000 - Thomas Magiera appointed to Council to replace Lucy Lowry who died on 6/25/00.
29. July/August 2000 - The Bank of America where the account of the WIN is located freezes the account and files an interpleader action to have the Federal District Court determine who is rightful signatories. (The Federal District Court still holds the funds and refuses to make a decision, holding approximately \$400,000)
30. September 14, 2000 - William Bills is banished by resolution of the majority of the Council. The BIA refuses to assist in

enforcement of banishment because of federal court case pending.

31. October 28, 2000 - Regularly scheduled election is held. Thomas Magiera, Thomas Wasson, Andrea Davidson, Elverine Castro and Merlene Magiera are elected. During the election William Bills has Wassons and the election committee arrested by the BIA.(In March 2005, the Federal District Court determined that this was a wrongful arrest and awarded those arrested \$1.00 each)
32. October 31, 2000 - Tribal Judge Charles Hartman issues a TRO removing Bills and his associates from Colony lands and BIA refuses to assist in enforcement of this because of federal court case pending.
33. January 18, 2001 - As an attempt to resolve the dispute in federal district court, J. McKibben recommends that BIA resolve the issues. BIA writes a letter that states since a regular election has been held pursuant to internal tribal process and certain persons were elected, that it withdrew all previous letters. On this same day, Kyle Swanson issues an order that alleges that the restraining order of May 19 is made permanent.
34. January 23, 2001 - The majority of the duly elected and serving Winnemucca Indian Colony Tribal Council appeal the Order of Swanson and ask for a writ of prohibition against him.
35. March 1, 2001 - A hearing on the objection of jurisdiction of the Inter Tribal Court of Appeals by Bills is heard.
36. March 12, 2001 - Order of Inter-Tribal Court of Appeals referring case to Arbitration because no lower court record was ever made, in other words, the Tribal Court, Kyle Swanson, just issued orders without a hearing.
37. April 2, 2001 - William Bills admits under oath that he may not

be Native American pursuant to a birth certificate from the State of California stating that he is Filipino and not the son of Ermon Bills.

38. April 27, 2001 - Order on Stipulation for hearing to be set - jurisdiction no longer an issue.
39. May 2001 - William Bills no longer holds himself out as Chairman or Acting Chairman. Allen Ambler and Charlene Dressler claim they are the Council. Hearing before U.S. District Court requires Bills to produce discovery. Discovery produced that indicates sums being paid from Colony Smoke Shop to Allen Ambler in excess of \$6000/month since William Bills took over in March 2000.
40. October 2001 - Stipulated Tribal Judge (Arbitrator) begins hearings.
41. March 2002 - Hearings completed.
42. May 2002 - Order from Tribal Judge (Arbitrator) stating that no Council is legal and elections should be held and he should be paid to monitor them.
43. March through May 2002 - Mediation before the 9<sup>th</sup> Circuit Court of Appeals, San Francisco.
44. July 2002 - hearing before the appointed appellate panel stipulated to by the parties. Hearing held in the federal court house in Reno, Nevada.
45. August 2002 - decision by the appellate panel (referred to as the Minnesota Panel because Judges who were prominent attorneys and Tribal Court judges from the Sioux Nation were brought to Nevada to hear this appeal. Magistrate Valerie Cooke allowed use of her courtroom for this purpose.) Sharon Wasson

determined to be the Chairman.

46. September 2002 - Kyle Swanson resigns and Charles Hartman who was Associate Judge becomes the Chief Judge.
47. Charles Hartman as Tribal Judge enters a temporary restraining order and adopts the appellate panel's decision.
48. Judge Hartman holds a hearing on the temporary restraining order and enters a permanent order telling Allen Ambler et al to leave the lands of the Winnemucca Indian Colony.
49. Allen Ambler asks the Court to reconsider its decision. That reconsideration is denied.
50. January 2003 the Interior Board of Indian Appeals states that it does not have jurisdiction over this matter and defers to the United States Federal District Court.
51. February 2003 - Federal Magistrate Valerie Cook enters two orders in this matter stating that the Court will not decide the membership and waiting 90 days before extending comity to the appellate panel decision to allow the parties to exhaust all remedies.
52. All briefs are filed with the 9<sup>th</sup> Circuit Court of Appeals awaiting decision regarding whether BIA is required to recognize a Council of the Winnemucca Indian Colony.
53. The Ninth Circuit Court of Appeals refuses to reverse the lower Court and gives the BIA more time to recognize a Council.
54. December 10, 2004, the Honorable Howard McKibben hears the matter of Wasson v. Inter-Tribal Court of Appeals which has attempted to decide the membership of the Winnemucca Indian Colony. Judge McKibben encourages all parties to accept the

well reasoned decision of the Minnesota Panel

55. The Inter-Tribal Court represented by its Chief Judge, William Kockenmeister, entered into a stipulation that the Council of the Winnemucca Indian Colony was Sharon Wasson, Thomas Wasson, Elverine Castro, Andrea Davidson and William Bills
56. 2005: An Appeal is again made to the Regional and IBIA and both entities uphold the right of the BIA not to recognize the government of a federally recognized Tribe.
57. 2006: The United States Federal District Court, District of Nevada still holds the \$400,000 of the Winnemucca Indian Colony. Allen Ambler still controls the Winnemucca Indian Colony. No Court, nor any Arbitrator or Judge ever found that Allen Ambler was a legitimate member of the Winnemucca Indian Colony.
58. On January 24, 2006, the Interior Board of Indian Appeals issues an order that gives directions for the Winnemucca Indian Colony to be recognized.
59. The Winnemucca Indian Colony, Thomas Wasson, Chairman publishes notice of how anyone can apply for membership with the Colony at the BIA, the Inter-Tribal Council, with Donald Pope, and in the Winnemucca newspaper.
60. Members make application and a membership list is completed, approved by the Council and sent to the Minnesota Panel pursuant to the directions of the Honorable Howard McKibben. No one files an objection, appeal or any other protest regarding the membership.
61. The Inter-Tribal Court re-convenes with different Judges and orders briefs on that matter and a hearing. William Bills is represented by Rosette and Associates of Mesa, Arizona even

though Don Pope claims that he represents him.

62. On May 17, 2007, the Inter-Tribal Court of Appeals issued an Order stating that it had improvidently assumed jurisdiction and withdrew all previous orders, leaving the Minnesota Panel decision the only appellate decision on this matter and a final decision.
63. On May 31, 2007, Thomas Wasson, Chairman, filed a request that the account be distributed to Thomas Wasson, Chairman, Winnemucca Indian Colony, responses were due by June 18, 2007.
64. On July 3, 2007, Donald Pope alleging still to represent William Bills files a notice of non-service.
65. On July 10, 2007, the Winnemucca Indian Colony again served Donald Pope although he appeared to be a registered user of the e-filing of the United States Federal District Court, District of Nevada.
66. On July 30, 2007, the Winnemucca Indian Colony filed an affidavit in lieu of reply because no opposition had been filed by any party.
67. On September 12, 2007, Donald Pope again alleging to represent William Bills filed a Motion for Summary Judgment.