

The Honorable James L. Robert

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

BILL T. SWEET, CAROLYN LUBENAU, )  
SHARON FRELINGER, MARILEE MAI, )  
VYONDA ROSE, LOIS SWEET DORMAN, )  
LINDA SWEET BAXTER, BEN SWEET, )  
and CHARLES "CHUCK" WILLOUGHBY, )

Petitioners, )

v. )

MARYANNE HINZMAN, ARLENE VENTURA, )  
MARGARET MULLEN, KATHERINE M. )  
BARKER, FRANCES DE LOS ANGELES, )  
ROBERT HINZMAN, NINA REPIN, )  
KANIAM VENTURA, JO-ANNE DOMINICK, )  
JERRY ENICK, NATHAN "PAT" BARKER, )  
and STACI MOSES, in their official capacities as )  
the Snoqualmie Indian Tribal Council, )

Respondents. )

NO. CV8-00844 JLR

MOTION TO DISMISS FOR  
LACK OF SUBJECT MATTER  
JURISDICTION AND FOR  
FAILURE TO STATE A CLAIM  
UPON WHICH RELIEF CAN BE  
GRANTED

(Fed.R.Civ.P. 12(b))

NOTE ON MOTION CALENDAR:  
July 25, 2008

**I. MOTION**

COMES NOW the Respondents, by and through their attorney of record, Law Office of  
PETER T. CONNICK, and respectfully moves the court for an *Order Dismissing Petition for Writ*

MOTION TO DISMISS (FRE 12(b))

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Law Office of  
**PETER T. CONNICK**  
80 Yesler Way Suite 320  
Seattle, WA 98104  
(206) 624-5958

1 of *Habeas Corpus*. The grounds for this motion are that the federal district court lack subject  
 2 matter jurisdiction and the *Petition* seeks to override the sovereign immunity of the Snoqualmie  
 3 Nation.

4 This motion is made pursuant to Fed.R.Civ.P. 12(b) for lack of subject matter jurisdiction  
 5 and for failure to state a cause of action for which relief can be granted. This motion his further  
 6 based on the tribal sovereignty of the Snoqualmie Indian Nation and is based upon the attached  
 7 memorandum and the records and files herein.

8 DATED this 9<sup>th</sup> day of July, 2008.

9  
 10   
 11 PETE CONNICK - #12560  
 Attorney at Law

## 12 II. MEMORANDUM AND POINTS OF AUTHORITY

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### 18 A. INTRODUCTION

19 Petitioners raise five causes of action under the Indian Civil Right Act ("ICRA" - 25 U.S.C.  
 20 §§ 1321- 1322).in their *Petition for Writ of Habeas Corpus*:

- |                 |                                                                                                                            |
|-----------------|----------------------------------------------------------------------------------------------------------------------------|
| 21 First Cause  | - due process violation stemming from banishment (p.27);                                                                   |
| 22 Second Cause | - equal protection violations attributable to banishment and "intentional<br>interference with voting rights" (pp. 28-29); |
| Third Cause     | - violation of the right to free speech an peaceful assembly through<br>banishment (p.30);                                 |
| Fourth Cause    | - right to be informed of charges and confront witnesses when banished<br>(p.31); and                                      |
| Fifth Cause     | - violation of the right to practice one's religion. (p. 32).                                                              |

1 The factual assertions made in the *Petition* surround two events – two Snoqualmie General  
 2 Membership meetings on September 8, 2007 (invalidating its May, 2007 elections and holding new  
 3 Tribal Council elections) and April 28, 2008 (banishment of members whose actions disrupted  
 4 Tribal affairs and governance and undermined the Tribe's government).

5 In sum, Petitioners complain about tribal elections, tribal membership and tribal  
 6 banishment. Petitioners attempt to interweave these three matters into an ICRA claim, like other  
 7 disgruntled members before them, must fail. Petitioners' complaints address matters of tribal  
 8 sovereignty and immunity; matters reserved exclusively to the Snoqualmie Tribe and not the  
 9 federal court.

## 10 **B. GENERAL BACKGROUND**

### 11 **1. Brief Comment On Snoqualmie Tribal Government.**

12 The Snoqualmie Tribe ("Tribe") was federally recognized by the United States government  
 13 in 1953. The Tribe lost that recognition. In October 1999 the Bureau of Indian Affairs once again  
 14 granted recognition to the Snoqualmie. *Snoqualmie Tribe History* (website). *Governor's Office of*  
 15 *Indian Affairs*. [www.goia.wa.gov/Tribal-Information/Tribes/snoqualmie.htm](http://www.goia.wa.gov/Tribal-Information/Tribes/snoqualmie.htm)

16 The Tribe has a Constitution which provides for an elected Tribal Council (its governing  
 17 body) and a General Membership Council whose vote is necessary to elect Tribal Council  
 18 members and matters of recall and referendum. *Snoqualmie Tribal Constitution*, Article III  
 19 (*General Council*), Article IV (*Governing Body*), VII (*Vacancies and Removal From Office*).  
 20 Petitioners protest the actions taken by the General Membership of the Tribe.<sup>1</sup>

21  
 22 <sup>1</sup> Relevant Tribal Constitutional sections on the Tribal Council, General membership, elections,  
 recall and referendum are attached as Addendum A.

Petitioners Bill T. Sweet et al. contend that the Tribal elections of September 8, 2007 and their banishment by the General Membership on April 27, 2008, violate the Indian Civil Rights Act<sup>2</sup> because Petitioners were denied various procedural protections available in federal and state courts. The Snoqualmie Tribal Council (“Respondents”) assert sovereign immunity,<sup>3</sup> which includes the right of the Tribe to follow its own traditional adjudicatory procedures in banishment proceedings. For the reasons and argument presented below, Respondents request dismissal of the *Petition* in this matter for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted.

## 2. Similar Lawsuit By Former Chairman.

About fourteen (14) years ago former Chairman, Ron Lauzon, filed an ICRA lawsuit in United States Western District Court against the Snoqualmie Tribal Council. Mr. Lauzon raised the same issues and complaints that Bill Sweet et al. now raises – i.e., improper elections, selective

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<sup>2</sup> “ICRA” - 25 U.S.C. §§ 1321- 1322; 25 U.S.C. §1303 (2006) provides: “The privilege of the writ of habeas corpus shall be available to any persons, in a court of the United States, to test the legality of his detention by order of an Indian tribe.”

<sup>3</sup> The Tribe expressly assert its sovereignty in its Constitution:

### Article I – Name And Sovereignty

Section 1. *Name*. The legal name of the tribal organization created by this Constitution shall be the Snoqualmie Indian Tribe.

Section 2. *Sovereignty*. The aboriginal and inherent sovereign power of the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council and limited only as expressly and unambiguously provided by federal law.

Section 3. *Sovereign immunity*. The Snoqualmie Indian Tribe is immune from suit except to the extent that the Tribal Council expressly and unambiguously waives its sovereign immunity.

1 memberships, and banishments. Mr. Lauzon had lost his Chairmanship at an election and refused  
 2 to accept the General Membership's decision. Judge Thomas Zilly entered a minute order  
 3 dismissing the suit, in part, because ". . . the Indian Civil rights Act does not authorize action  
 4 against either a tribe or its officers." citing Santa Clara Pueblo v. Martinez, 436 U.S. 49, 72, 56  
 5 L.Ed.2d 106 (1978). See Attachments #1 & #1A -07/01/4 *Minute Order* and 01/12/94 *Complaint*  
 6 *For Injunctive And Declaratory Relief* - Ronald Lauzon v. Andy De Los Angeles, Katherine M.  
 7 Barker, Mary Anne Hinzman, Arlene Ventura, Shelly Burch, Leona Eddy, M. Arlene Mullen, Tina  
 8 Barber, and the Snoqualmie Tribal Council, U.S. West. District # C94-0062.

9 Petitioners in this case raise the same complaints before this court and should receive the  
 10 same result.

#### 11 C. SUMMARY OF ARGUMENT

12 Each Petitioner has invoked the Indian Civil Rights Act ("ICRA") to overturn the election  
 13 and banishment decisions of the Snoqualmie General Membership (although Petitioners pursue the  
 14 Tribal Council that held and voted in the proceeding).<sup>4</sup> Petitioners further seek to have the federal  
 15 district court impose a remedy which would have the court, not the Tribe, adopt some unarticulated  
 16 procedure paralleling a criminal proceeding conducted under the principals of American  
 17 jurisprudence.

18 In essence, Petitioners invite the federal district court to violate the Tribe's fundamental  
 19 right to determine its membership, something exclusively determined by tribal law. (See, e.g.,  
 20 Santa Clara Pueblo v. Martinez, 436 U.S. 49, 59, 98 S.Ct. 1670, 56 L.Ed.2d 106 (1978)). As set  
 21 forth with more particularly below, Petitioners ignore long-established intra-tribal dispute  
 22

1 resolution mechanisms and create instability within the Tribe. Petitioners rejected the Tribe's  
 2 mechanisms for dispute resolution of intra-tribal conflicts and sought alternative means to inject  
 3 outside agencies (e.g., the BIA, the federal courts, etc.), thereby threaten the fundamental  
 4 sovereignty of the Tribe. Each Petitioner was called before the General Membership, the governing  
 5 body of the Tribe, and offered an opportunity to explain their threatening behavior or to suffer  
 6 exclusion from the Tribe.<sup>5</sup>

7 The Snoqualmie's General Membership Council is an integral component of the Tribe's  
 8 self-government. The remedy of banishment is one which has been employed by Native American  
 9 tribes, including the Snoqualmie Indian people, as a means of self protection and preservation of  
 10 community interest. ICRA has no application to an election or membership dispute to the exclusion  
 11 of a remedy long used by the Tribe to preserve their way of life (i.e., requesting consideration by  
 12 the Tribal Council and/or the General Membership Council).

13 This motion seeks to terminate this litigation on four separate grounds. First, the remedy  
 14 sought by Petitioners is beyond the jurisdiction of this Court. There is no authority which grants to  
 15

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16 <sup>4</sup> Subject of a previously filed motion to dismiss for failure to join.

17 <sup>5</sup> Twelve affidavits from tribal members, officers and Council members, have been attached to this  
 18 motion regarding the General Membership meetings of September 8, 2007 and April 27, 2008, the  
 19 notice given, and the opportunity to be heard: (1) Attachment #2 - 06/17/08 Affidavit of Pat  
 20 Barker, Chief's Council; (2) Attachment #3 - 06/16/08 Affidavit of Josephine Irene Moses, Tribal  
 21 member; (3) Attachment #4 - 06/16/08 Affidavit of Peter Reisert, Tribal Security; (4) Attachment  
 22 #5 - 06/16/08 Affidavit of Steven Mullen, Tribal Member; (5) Attachment #6 - 06/16/08 Affidavit  
 of Arlene Ventura, Tribal Secretary; (6) Attachment #7 - 06/16/08 Affidavit of Andrea Rodgers  
 Harris, Tribal In-house-Counsel; (7) Attachment #8 - 06/16/08 Affidavit of Kanium Ventura; (8)  
 Attachment #9 - 06/16/08 Affidavit of Marvin Kempf, Tribal Member; (9) Attachment #10 -  
 06/16/08 Affidavit of Michelle Buchanan - General Facilitator at September 8, 2007 General  
 Membership meeting; (10) Attachment #11 - 06/17/08 Affidavit of Jennifer Repin, Tribal Member;  
 (11) Attachment #12 - 06/16/08 Affidavit of Cheryl Mullen Director of Enrollment; (12)  
 Attachment #13 - 06/19/08 Affidavit of Jennifer Davis.

1 the court the ability to create a judicial tribunal or to impose upon the Tribe rules and procedures  
2 which mirror the principals of American jurisprudence for the purpose of resolving intra-tribal  
3 disputes related to elections or membership. Indeed, Petitioners must go to Congress for the  
4 remedy they seek. *See United States v. Mazurie*, 419 U.S. 544, 557, 95 S.Ct. 710, 42 L.Ed.2d 706  
5 (1975) (tribes retain authority to govern “both their members and their territory,” subject ultimately  
6 to Congress); *Nevada v. Hicks*, 533 U.S. 353, 392, 121 S.Ct. 2304, 150 L.Ed.2d 398 (2001)  
7 (“[T]ribes retain sovereign interests in activities that occur on land owned and controlled by the  
8 tribe”)

9 Second, Petitioners are each seeking a writ of habeas corpus for their detention/ restraint on  
10 liberty. Although banishment excludes a person from the premises of the Snoqualmie Tribe’s  
11 properties, banishment does not “detain” Petitioners for purposes of allowing a habeas petition and  
12 denying the Tribe’s sovereign immunity. *Shenandoah v. Halbritter*, 366 F.3d 89  
13 (C.A.2 (N.Y.), 2004) (A petitioner seeking a writ of habeas corpus as a remedy for a violation of  
14 rights guaranteed under the Indian Civil Rights Act (ICRA) must allege that defendants pose a  
15 severe actual or potential restraint on his or her liberty).

16 Third, Petitioners were provided due process by the Tribe (i.e., they attended the elections  
17 on September 8, 2007 and walked out and refused to appear before the General Membership April  
18 27, 2008). Even now Petitioners refuse to bring their complaints to the General Membership. They  
19 can now apply to the General Membership for reinstatement. As such, the remedy Petitioners  
20 request exists before the General Membership, not the federal district court. Petitioners refuse to  
21 avail themselves of that remedy. Thus, the current *Petition* is moot.



1 Finally, Petitioners have failed to exhaust their administrative remedies, a requirement to  
 2 obtain a writ of habeas corpus. Again, a banished member may petition the General Membership  
 3 for reinstatement. Petitioners have walked out of elections and failed to appear before the General  
 4 Membership during its meeting on banishment. Petitioners fail to petition the General Membership  
 5 for reinstatement. As such, they have not exhausted their tribal remedies.

#### 6 **D. ARGUMENT**

##### 7 **1. Standard Of Review Under Fed.R.Civ.P. 12(b).**

8 Petitioners have the burden of proving that subject matter jurisdiction exists. When  
 9 Respondents challenge subject matter jurisdiction pursuant to Rule 12(b)(1), “the district court is to  
 10 regard the pleadings as mere evidence on the issue, and may consider evidence outside the  
 11 pleadings without converting the proceeding to one for summary judgment.” The district court  
 12 should grant the Rule 12(b)(1) motion to dismiss “only if the material jurisdictional facts are not in  
 13 dispute and the moving party is entitled to prevail as a matter of law.” Evans v. B.F. Perkins Co.,  
 14 166 F.3d 642, 647 (4th Cir.1999); accord, Velasco v. Government of Indonesia, 370 F.3d 392, 398  
 15 (4th Cir.2004).

##### 16 **2. The Snoqualmie Tribe Enjoys Sovereign Immunity From Petitioners’ Suit.**

17 In 1978 the United States Supreme Court established the principle that Indian tribes  
 18 exercise inherent sovereign authority over its members and territories, including sovereign  
 19 immunity from suit, absent a clear waiver by the tribe or congressional abrogation. Santa Clara  
 20 Pueblo v. Martinez, 436 U.S. 49, 59, 98 S.Ct. 1670, 56 L.Ed.2d 106 (1978) (Santa Clara Pueblo  
 21 involved a membership issue wherein a female member of the Indian tribe sought declaratory and  
 22 injunctive relief against enforcement of a tribal ordinance denying membership in the tribe to



1 children of female members who married outside the tribe while extending membership to children  
2 of male members who married outside the tribe. The District Court for the District of New Mexico  
3 entered judgment in favor of the tribe, the Court of Appeals reversed on the merits, and certiorari  
4 was granted wherein the Supreme Court held that: (1) suits against a tribe under Indian Civil  
5 Rights Act are barred by its sovereign immunity from suit, and (2) Indian Civil Rights Act does not  
6 impliedly authorize private actions for declaratory or injunctive relief against a tribe's officers). The  
7 federal district court in this case faces the same issues – i.e., election and membership questions  
8 left to the Snoqualmie Tribe.

9 Thus, the bedrock of Indian law remains inviolate to this day: “Indian tribes are ‘domestic  
10 dependent nations’ that exercise inherent sovereign authority over their members and territories.”  
11 Oklahoma Tax Comm’n v. Citizen Band Potawatomi Indian Tribe of Oklahoma, 498 U.S. 505,  
12 509, 111 S.Ct. 905, 909, 112 L.Ed.2d 1112 (1991) (internal citation omitted). As an aspect of this  
13 sovereign immunity, suits against tribes are barred in the absence of an unequivocally expressed  
14 waiver by the tribe or abrogation by Congress. Id.; Santa Clara Pueblo v. Martinez, 436 U.S. 49,  
15 58-59, 98 S.Ct. 1670, 1676-77, 56 L.Ed.2d 106 (1978).

16 In sum, Indian tribes are “distinct, independent political communities, retaining their  
17 original natural rights” in matters of local self-government. Worcester v. Georgia, 6 Pet. 515, 559,  
18 8 L.Ed. 483 (1832); see United States v. Mazurie, 419 U.S. 544, 557, 95 S.Ct. 710, 717, 42  
19 L.Ed.2d 706 (1975); F. Cohen, *Handbook of Federal Indian Law*, 122-123 (1945). Although no  
20 longer “possessed of the full attributes of sovereignty,” they remain a “separate people, with the  
21 power of regulating their internal and social relations.” United States v. Kagama, 118 U.S. 375,  
22

1 381-382, 6 S.Ct. 1109, 1112-1113, 30 L.Ed. 228 (1886). See United States v. Wheeler, 435 U.S.  
 2 313, 98 S.Ct. 1079, 55 L.Ed.2d 303, (1978).

3 The above principles of Indian sovereignty have been recognized over the course of a  
 4 hundred years. Tribes have had the power to make their own substantive law in their internal  
 5 matters, - e.g., to determine membership, inheritance rights, domestic relations, and to enforce its  
 6 own laws Roff v. Burney, 168 U.S. 218, 18 S.Ct. 60, 42 L.Ed. 442 (1897) (membership); Jones v.  
 7 Meehan, 175 U.S. 1, 29, 20 S.Ct. 1, 12, 44 L.Ed. 49 (1899) (inheritance rules); United States v.  
 8 Quiver, 241 U.S. 602, 36 S.Ct. 699, 60 L.Ed. 1196 (1916) (domestic relations), Williams v. Lee,  
 9 358 U.S. 217, 79 S.Ct. 269, 3 L.Ed.2d 251 (1959) (to enforce tribal law in their own forums).

10 **a. Snoqualmie Tribal Sovereignty In Its Tribal Elections Bars Petitioners' Claims.**

11 Petitioners' lawsuit complains about two General Membership Meetings on September 8,  
 12 2007 and April 27, 2008. The September 8, 2007 General Membership meeting invalidated the  
 13 Tribe's election of May, 2007 and held elections for the vacant seats on the Tribal Council.  
 14 Petitioners complain about exclusion of tribal members who could vote at the September 8, 2007,  
 15 meeting and at a later meeting involving banishment on April 27, 2008. These meetings, and the  
 16 subjects they addressed, are uniquely "tribal". The Tribe has sovereign immunity from lawsuits  
 17 involving elections and tribal memberships.

18 The *Petition* in this case raises election issues like those in Boe v. Fort Belknap Indian  
 19 Community of Ft. Belknap Reservation, Montana, 55 F.Supp. 462 (D.C.Mont.,1978). The suit  
 20 involved an election dispute within the Sac and Fox Tribe of the Mississippi in Iowa (a federally  
 21 recognized Indian tribe). In the fall of 2002, members of the Tribe circulated petitions to seek a  
 22 special election to recall the entire council (the Walker Council). The petitioners submitted more

1 than the requisite number of signatures on a recall petition but the Walker Council refused to  
2 conduct a recall election, alleging forgeries and irregularities in the petitions. The Walker Council  
3 stated that it was satisfied that the irregularities were sufficient to warrant not holding a recall  
4 election.

5 Under the S&F tribal constitution, the Walker Council's responsibilities included dispute  
6 resolution and the duty to call special elections. At the time the petition was submitted, the elected  
7 council provided the only avenue of appeal for the dissatisfied tribal members (the S&F Tribe did  
8 not have a tribal court). In March, 2003, the hereditary chief of the S&F Tribe, Charlie Old Bear,  
9 appointed a new tribal council led by Homer Bear, Jr. (Bear Council). The Bear Council claimed  
10 authority to govern the Tribe based on the traditional form of tribal government that predated the  
11 tribal constitution. The members of the Bear Council, who previously led the recall petition effort,  
12 did not seek assistance from the Bureau of Indian Affairs (BIA) in securing the recall election  
13 before claiming authority to govern the Tribe. When the Bear Council sought BIA recognition as  
14 the new government of the tribe, the BIA refused to involve itself in what it characterized as an  
15 internal tribal matter. In late March, 2003, the Bear Council seized control of its casino, the tribal  
16 center, other tribal facilities, and some of the Tribe's finances.

17 In April, 2003, the Walker Council filed a declaratory judgment suit in the United States  
18 District Court for the Northern District of Iowa, asking the court to determine whether the Bear  
19 Council or the Walker Council was authorized to govern the Tribe and control the casino. On April  
20 15, 2003, the district court dismissed the action, concluding that it lacked subject matter  
21 jurisdiction to decide an intra-tribal dispute. Sac & Fox Tribe of the Mississippi in Iowa v. Bear,  
22 258 F.Supp.2d 938 (N.D. Iowa 2003).

1        Sac & Fox was not an action predicated on the ICRA. However, since Santa Clara Pueblo  
2 federal courts have held that where “the relief requested by [i]ndividual [p]laintiffs, concerning  
3 rights to vote in future tribal elections and hold tribal office, if granted, would run against the Tribe  
4 itself, the Tribe's sovereign immunity protects these defendants in their official capacities.”  
5 Fletcher v. United States, 116 F.3d 1315, 1324 (10th Cir.1997).

6        In the Fletcher case, plaintiffs brought suit in federal district court alleging that restrictions  
7 on the right to vote in tribal elections violated the Due Process Clause of the Fifth Amendment and  
8 Title II of the Civil Rights Act of 1968. Fletcher, 116 F.3d at 1320. Although the Tribe itself was  
9 not a named party to the suit, four individuals of Osage ancestry brought suit to challenge the  
10 validity of a franchise restriction and for a declaration on the validity of the Osage Constitution of  
11 1881. Rather than reaching the merits of the complaint, the district court ordered (1) the formation  
12 of a constitutional commission to rework the form of the Osage government, (2) an expansion of  
13 the franchise to all lineal descendants of the 1908 Osage roll, and (3) a referendum in which the  
14 expanded electorate adopted a new Osage constitution. The Tenth Circuit reversed because the  
15 district court proceeded without subject matter jurisdiction in light of the Osage Tribe's sovereign  
16 immunity.

17        Similarly, in Wopsock v. Natchees, 2005 WL 1503425 (D.Utah,2005),<sup>6</sup> plaintiffs  
18 complained of actions that resulted in the expulsion of plaintiffs Wopsock and Duncan and the  
19 passage of Ute tribal Ordinances 03-002 and 03-004 as a matter of federal law and not Ute tribal  
20

21        <sup>6</sup> See companion case In re Sac & Fox Tribe of Mississippi in Iowa/Meskwaki Casino Litigation,  
22 340 F.3d 749 C.A.8 (Iowa), 2003, where, in separate actions, Indian tribe's elected tribal council  
sought declaratory and injunctive relief following appointment of rival council which had taken  
control of tribal facilities, and appointed a council to challenge the National Indian Gaming  
Commission (NIGC) order closing tribal casino.

1 law. The relief requested was brought as a claim under the IRA (Indian Reorganization Act). There  
2 were also allegations of ICRA violations (i.e., Indian Civil Rights Act - violation of equal  
3 protection). However, the court found that the complaint really asked for a decision as to which  
4 Tribal Council (of two) was properly in place under the Tribe's Constitution. The district court  
5 found that, despite plaintiffs' efforts to characterize this action as one based on federal question  
6 jurisdiction, the leadership dispute was an intra-tribal issues. Thus, the Court was without  
7 jurisdiction to resolve intra-tribal disputes. *See also* cases cited in Goodface v. Grassrope, 708 F.2d  
8 335, 339 (8th Cir.1983) (holding that where tribe has a "functioning tribal court, which the parties  
9 recognize as a court of competent jurisdiction to resolve tribal election disputes ... [it] is essential  
10 that the parties seek a tribal remedy ... [because] substantial doubt exists that federal courts can  
11 intervene under any circumstances to determine the rights of the contestants in a tribal election  
12 dispute."); Runs After v. United States, 766 F.2d 347, 352 (8th Cir.1985) (affirming district court's  
13 holding that "resolution of ... disputes involving questions of interpretation of the tribal  
14 constitution and tribal law is not within the jurisdiction of the district court"); Smith v. Babbitt,  
15 100 F.3d 556, 559 (8th Cir.1996) (holding that federal courts do not have jurisdiction over intra-  
16 tribal disputes); Ordinance 59 Ass'n v. Babbitt, 970 F.Supp. 914, 927 (D.Wyo.1997) ("unless  
17 expressly waived or affected by Congressional enactment, [Indian tribes] have sovereign immunity  
18 over intra-tribal disputes such as those involving tribal government and membership").

19 In sum, Petitioners cannot dispute a tribal election in the guise of a ICRA claim against the  
20 Tribal Council and General Membership, especially an election where Petitioners were present but  
21 refused to participate. Indian sovereignty prohibits it.  
22

1           **b. Snoqualmie Sovereignty In Its Membership Determinations.**

2           Likewise, Petitioners cannot bring an ICRA lawsuit because they dispute the membership  
3 decisions of the Snoqualmie Tribe. As noted above, “Indian tribes have long been recognized as  
4 sovereign entities, ‘possessing attributes of sovereignty over both their members and their  
5 territory.’ ” Babbitt Ford, Inc. v. Navajo Indian Tribe, 710 F.2d 587, 591 (9th Cir.1983) (quoting  
6 United States v. Wheeler, 435 U.S. 313, 323, 98 S.Ct. 1079, 55 L.Ed.2d 303 (1978) (quoting  
7 United States v. Mazurie, 419 U.S. 544, 557, 95 S.Ct. 710, 42 L.Ed.2d 706 (1975))).

8           The basis for Snoqualmie Tribal sovereignty and jurisdiction, like all tribes, is the Tribe’s  
9 inherent need to define the terms for enrollment, to determine the continuing status of their  
10 members, and to regulate relations among their members. Strate v. A-1 Contractors, 520 U.S. 438,  
11 459, 117 S.Ct. 1404, 137 L.Ed.2d 661 (1997); Montana v. United States, 450 U.S. 544, 563-564,  
12 101 S.Ct. 1245, 67 L.Ed.2d 493 (1981). (“...In addition to the power to punish tribal offenders, the  
13 Indian tribes retain their inherent power to determine tribal membership, to regulate domestic  
14 relations among members, and to prescribe rules of inheritance for members.”)

15           There are cases where disgruntled members of a tribe protest membership determinations.  
16 In Ordinance 59 Ass’n v. Babbitt, 970 F.Supp. 914 (D.Wyo., 1997), dissident members of the  
17 Eastern Shoshone Tribe attempted to litigate enrollment. An organization composed of 43  
18 individuals (the “Ordinance 59 Association”) applied for membership in the Eastern Shoshone  
19 Tribe under an ordinance enacted in 1988 and repealed in 1989.

20           The association contended that defendant Eastern Shoshone Tribal Business Council, the  
21 individual council members and the Bureau of Indian Affairs (“BIA”), had all improperly failed to  
22 enroll its members as members of the Eastern Shoshone Tribe pursuant to the repealed enrollment



1 ordinance. The association further contended that the failure to enroll was in violation of its  
2 members' rights under a duly enacted ordinance of the Tribe and under the orders of the Tribal  
3 Courts, which ordered that the Shoshone Business Council enroll plaintiff's members and later  
4 declared that plaintiff's members were enrolled members of the Tribe.

5 Plaintiff requested that the court compel either the Eastern Shoshone Tribe Business  
6 Council or the BIA to enroll its members pursuant to enrollment ordinance under a mandatory  
7 injunction or by a declaration of the court that plaintiff's members were enrolled members of the  
8 Eastern Shoshone Tribe. Ordinance Ass'n 59, 970 F.Supp. at 917. The tribal defendants, on the  
9 other hand, moved to dismiss under Fed.R.Civ.P. 12(b) contending that the court lacked personal  
10 and subject matter jurisdiction and that plaintiff failed to state a cause of action for which relief can  
11 be granted. Defendants further moved to dismiss under Fed.R.Civ.P.12(b) for lack of subject  
12 matter jurisdiction over all claims, failure to state a claim upon which relief can be granted and  
13 lack of standing.

14 The association amended the complaint to allege violations of the Indian Civil Rights Act  
15 (ICRA) - i.e., denying the plaintiff's members equal protection of the laws of the Tribe. The case  
16 was dismissed because:

17 Tribal sovereign immunity is immunity from suit in federal court. (cite omitted). A  
18 conception of immunity from suit which leaves a tribe nonetheless vulnerable to a court's  
own program of alternative dispute resolution accords no meaningful immunity.

19 Ordinance 59 Ass'n, 970 F.Supp. at 917. (citing Fletcher, 116 F.3d at 1326).

20 Thus, individual members who sue a tribe's council over enrollment is necessarily denied  
21 subject matter jurisdiction in state and/or federal court. In Ackerman v. Edwards, 121 Cal.App.4th  
22 946, 17 Cal.Rptr.3d 517 (Cal.App. 3 Dist., 2004), individuals who claimed to be members of an



1 Indian tribe filed a petition for a writ of mandate against members of the Rancheria tribal council  
2 claiming that the council's resolution for hearings on reconsideration of a member's enrollment  
3 violated the individuals' rights under the tribe's constitution and the Indian Civil Rights Act  
4 (ICRA). The Rancheria Tribe had a constitution which stated: "The rights of the Redding  
5 Rancheria members are those which are guaranteed by the Indian Civil Rights Act of 1968." The  
6 constitution also stated that the council, in exercising powers of self-government, shall not violate  
7 the rights enumerated in the ICRA. The Rancheria constitution also vested the tribal council with  
8 power to adopt an enrollment ordinance that is "reasonable, fair, and just and ... reflects the will of  
9 the people." The court found that "Nothing in this language creates a private right of action in state  
10 court to enforce those rights." *Id.* Bill Sweet and the other Petitioners have no private right to  
11 enforce rights they claim they have.

12 Another case, Boe v. Fort Belknap Indian Community of Ft. Belknap Reservation, 455  
13 F.Supp. 462 (D.C.Mont.,1978), involved persons who had been elected to a tribal community  
14 council who brought an action challenging, on constitutional grounds, a tribal court order which set  
15 aside the election. The district court held that: (1) the Indian tribe was immune from suit, and (2)  
16 the court could not exercise federal question or civil rights jurisdiction over the suit insofar as it  
17 named individual Indians as the defendants.

18 This case is like Ordinance 59 Ass.'n, Ackerman, Boe, and other cases where petitioners  
19 complain about elections or membership. The Tribe controls those matters and Petitioners cannot  
20 overcome the Tribe's sovereign immunity to enforce civil rights they say have been violated.

1           **c. Failure To Exhaust Remedies.**

2           Petitioners' habeas claims against the Respondent Snoqualmie Tribal Council, also fails  
3 because Petitioners have failed to exhaust their tribal remedies. United States v. Tsosie, 92 F.3d  
4 1037 (10<sup>th</sup> Cir.1996) (plaintiffs' have obligation to exhaust tribal remedies); *see also* Iowa Mut.  
5 Ins. Co. v. LaPlante, 480 U.S. 9, 17 (1987); Davis v. Mille Lacs Band of Chippewa Indians, 193  
6 F.3d 990, 991, 992 (8<sup>th</sup> Cir.1999). Petitioners have not attempted to resolve their differences or  
7 even approach the Snoqualmie General Membership for reinstatement and, therefore, did not  
8 exhaust tribal remedies.

9           As stated in the somewhat recent decision of Quair & Berna v. Sisco et. al, WL 1490571  
10 (E.D.Cal., 2007) (only Westlaw cite available):

11           Section 1303 grants federal courts jurisdiction to review the "legality of [petitioner's]  
12 detention" and not penalties that, while harsh, do not constitute detention. Therefore,  
the court finds that § 1303 is simply inapplicable to the disenrollment of petitioners.

13           Quair, WL 1490571 at 6.

14           While the General Council has executive, legislative, and judicial functions, petitioners  
15 argue that the General Council was acting as a legislative body when it banished them  
16 because it denied them all the protections of a judicial trial. But petitioners refer to  
17 protections common to Anglo-American judicial systems and which ICRA may not  
18 require of Indian tribes that follow a different model of adjudication. And here, the  
court has yet to decide what protections ICRA guarantees petitioners under *Randall*. By  
contending that the General Council is acting in its legislative capacity only because it  
failed to provide these protections, petitioners simply recycle their due process  
arguments that they are per se entitled to these protections.

19           Quair, WL 1490571 at 6.

20           In this case, Petitioners request protections common to Anglo-American judicial systems  
21 and which the ICRA does not require of Indian tribes that follow a different model of  
22 adjudication.

1           **d. Habeas Does Not Apply In This Case.**

2           Respondents assert that Petitioners' banishment does not qualify as detention under  
3 "ICRA" (25 U.S.C. §1303). For the purposes of habeas corpus, a person is in detention or custody  
4 when severe restraints are imposed upon the person's liberty. Hensley v. Municipal Court, 411 U.S.  
5 345, 351 93 S.Ct. 1571, 36 L.Ed.2d 294 (1973). Over the years, courts have expanded the scope of  
6 the term "custody" to cover "circumstances [that] fall outside conventional notions of physical  
7 custody." Edmunds v. Won Bae Chang, 509 F.2d 39, 40 (9<sup>th</sup> Cir. 1975); see also Hensley, 411 U.S.  
8 at 351 (extending habeas corpus relief to petitioner who was released on his own recognizance  
9 because the state could restrict his freedom at any time); Jones v. Cunningham, 371 U.S. 236, 242-  
10 243, 83 S.Ct. 373, 9 L.Ed.2d 285 (1963) (finding parolee entitled to habeas corpus relief because  
11 his liberty of movement was subject to various restraints imposed by the parole board).

12           But no court has applied habeas corpus review in cases where the purported restraint does  
13 not limit the petitioner's geographic movement. For example, a person cannot invoke habeas  
14 corpus relief to challenge a fine. Moore v. Nelson, 270 F.3d 789, 791 (9<sup>th</sup> Cir. 2001) (finding that a  
15 petitioner cannot challenge an \$18,000 fine levied by a tribe in federal court under the §1303;  
16 Edmunds v. Won Bae Chang, 509 F.2d 39, 41 (9<sup>th</sup> Cir. 1975) (finding that petitioner could not  
17 invoke habeas corpus relief solely on the basis of a \$25 fine). Although some courts have found  
18 that the denial of United States citizenship is subject to federal habeas corpus review, the  
19 petitioners in those cases faced deportation upon losing their citizenship. *See, e.g.,* Ng Fung Ho v.  
20 White, 259 U.S. 276, 284, 42 S.Ct. 492, 66 L.Ed. 938 (1922); Espino v. Wixon, 136 F.2d 96, 98  
21 (9<sup>th</sup> Cir. 1943). Accordingly, the court may review the banishment of petitioners under §1303 only  
22 if it affects their geographic movement.

1           Petitioners has cited Poodry v. Tonawanda Band of Seneca Indians, 85 F.3d 874, 879-80,  
2   890-91 (2d Cir.1996) in its *Petition* for the proposition that the ICRA applies to banishment. (also  
3   referenced in 06/17/08 *Motion To Dismiss For Failure To Join*). However, in the later case of  
4   Shenandoah v. U.S. Dept. of Interior, 159 F.3d 708 (C.A.2, 1998), the Poodry approach failed in  
5   the same Circuit. In Shenandoah, the plaintiffs' complained that one or more of the six plaintiffs  
6   were suspended or terminated from employment positions, lost their "voice[s]" within the Nation's  
7   governing bodies, lost health insurance, were denied admittance into the Nation's health center, lost  
8   quarterly distributions paid to all Nation members, were banned from various businesses and  
9   recreational facilities such as the casino, the gym, and the bingo hall, were stricken from Nation  
10   membership rolls, were prohibited from speaking with a few other Nation members, and were not  
11   sent Nation mailings. The complaint also alleged that one member of the governing Men's Council  
12   threw a large rock at one of the plaintiffs and grabbed that plaintiff through a car window.  
13   Shennadoah, 159 F.3d at 713: The court found that: "Although the alleged misconduct, if true, is  
14   serious, it is insufficient to bring plaintiffs within ICRA's habeas provision."

15           One noted author on Indian law has concluded that "Enforcement of most of the rights  
16   incorporated into the Indian Civil Rights Act is therefore left entirely to tribal courts." William C.  
17   Canby, Jr. (Sr. Judge Ninth Circuit), *American Indian Law*, 4. *Indians and Tribes*, b. *The Indian*  
18   *Civil Rights Act of 1968*, pp. 362-363 (Thompson\*West (4th ed.), 2004). This former professor  
19   of law at Arizona State University, considered Poodry and Shenandoah in reaching his conclusion.

20           In this case, Petitioners have failed to show that banishment restricts their physical freedom  
21   in any way. The banishment does not affect Petitioners' geographic movement and, thus, their  
22   allegations do not support their allegations. Petitioners were given due process.

E. CONCLUSION

For the reasons and facts stated above, the court should dismiss this action. This motion is made pursuant to Fed.R.Civ.P. 12(b) for lack of subject matter jurisdiction and for failure to state a claim upon which relief can be granted.

DATED this 9<sup>th</sup> day of July, 2008.

  
PETE CONNICK - # 12560  
Attorney for Respondents

CERTIFICATE OF MAILING

On this day the undersigned sent to the attorney of record for Petitioners Attorney Rob Roy Smith, Ater Wynne LLP, 601 Union Street, #1501, Seattle, WA 98101-2341), a copy of this document by e-mail and U.S. Mail Postage prepaid or by attorneys' messenger services.

I certify under penalty of perjury under the laws of the State of Washington that the above statements are true and correct.

  
PETE CONNICK  
Attorney for Respondents

## **ADDENDUM A**

**Relevant Tribal Constitutional sections on the Tribal Council, General  
membership, elections, recall and referendum**

## Article II - Membership

Section 3. Snoqualmie Tribal membership is a privilege that may be revoked by the General Council for cause as determined by the acts and resolutions of the tribe. The General Council may impose a penalty of full or partial banishment against any enrolled tribal member for good cause in accord with Snoqualmie Tribal tradition or the acts and resolutions of the tribe.

Section 5. The Tribal Council or the General Council shall be the sole determinate of who is and who is not a member of the Snoqualmie Indian Tribe. Questions regarding membership, benefits of membership and banishment actions are matters within the exclusive internal sovereignty of the Snoqualmie Indian Tribe and not justiciable in any court of law. The requirements of this Article may be implemented through appropriate acts and resolutions of the Tribal Council.

## Article III – General Council

Section 2. *Voting.* Members of the General Council age 18 years or older, who present at the appointed time and place of elections, shall be permitted to vote in General Council meetings.

## Article IV – Governing Body

Section 1. The governing Body of the Snoqualmie Indian Tribe shall be known as the Snoqualmie Tribal Council.

Section 2. *Membership.* The Tribal Council shall consist of nine (9) members duly elected to serve four year staggered terms and a separately elected Tribal Chairperson who shall also serve a four year term. There shall also be a permanent lifetime position on the Tribal Council known as the Tribal Elder. The Tribal Elder serves as an advisory member of the Tribal Council with full rights to participate in deliberations of the Tribal Council but the Tribal Elder shall not vote as a member of the Tribal Council.

## Article VII – Vacancies And Removal From Office

Section 3. *Recall.* Upon a petition of at least one-third (1/3) of the eligible voters of the Snoqualmie Indian Tribe, it shall be the duty of the Tribal Council to call a special meeting of the General Council to consider the recall of a member or members of the Council named in such petition. If a majority of those voting at the meeting favor a recall from office, the office shall be declared vacant and an election shall be held to fill the vacancy in accordance with tribal election law and procedures. No recall petition shall be submitted with-in six (6) months after the election of the member named in the petition.



## Article XII – Referendum

### Section 1 General Referendum

Within thirty (30) days of the receipt of a petition of thirty-five (35) or more of the eligible voters, or at the written request of the majority of the members of the Tribal Council, the Chairman shall call a special meeting of the eligible voters, to consider whether any proposed resolution or ordinance or other action shall thereafter remain in effect, provided that forty (40) or more eligible voters shall vote on such a referendum. This Article may be further implemented by legislation, but this referendum power is subject to the prohibition in Article XI, Section 1(9) on impairment of Contracts.

<sup>1</sup> “ICRA” - 25 U.S.C. §§ 1321- 1322; 25 U.S.C. §1303 (2006) provides: “The privilege of the writ of habeas corpus shall be available to any persons, in a court of the United States, to test the legality of his detention by order of an Indian tribe.”

<sup>1</sup> The Tribe expressly assert its sovereignty in its Constitution:

## Article I – Name And Sovereignty

Section 1. *Name*. The legal name of the tribal organization created by this Constitution shall be the Snoqualmie Indian Tribe.

Section 2. *Sovereignty*. The aboriginal and inherent sovereign power of the Snoqualmie Indian Tribe is vested in the Snoqualmie Tribal Council and limited only as expressly and unambiguously provided by federal law

Section 3. *Sovereign immunity*. The Snoqualmie Indian Tribe is immune from suit except to the extent that the Tribal Council expressly and unambiguously waives its sovereign

## Attachments List

Fed.R.Civ.P. 12(b) Motion

- Attachment #1 - 07/01/4 *Minute Order* from Ronald Lauzon v. Andy De Los Angles, Katherine M. Barker, Mary Anne Hinzman, Arlene Ventura, Shelly Burch, Leona Eddy, M. Arlene Mullen, Tina Barber, and the Snoqualmie Tribal Council, U.S. West. District # C94-0062
- Attachment #1A - 01/12/94 *Complaint For Injunctive And Declaratory Relief – R. Lauzon v. Andy De Los Angles, et al.*, U.S. West. District # C94-0062
- Attachment #2 - 06/17/08 Affidavit of Pat Barker, Chief's Council
- Attachment#3 - 06/16/08 Affidavit of Josephine Irene Moses, Tribal member;
- Attachment #4 - 06/16/08 Affidavit of Peter Reisert, Tribal Security;
- Attachment #5 - 06/16/08 Affidavit of Steven Mullen, Tribal Member;
- Attachment #6 - 06/16/08 Affidavit of Arlene Ventura, Tribal Secretary;
- Attachment #7 - 06/16/08 Affidavit of Andrea Rodgers Harris, In-house-Counsel;
- Attachment #8 - 06/16/08 Affidavit of Kanium Ventura;
- Attachment #9 - 06/16/08 Affidavit of Marvin Kempf, Tribal Member;
- Attachment #10 - 06/16/08 Affidavit of Michelle Buchanan– General Facilitator
- Attachment #11 - 06/17/08 Affidavit of Jennifer Repin, Tribal Member.
- Attachment #12 - 06/16/08 Affidavit of Cheryl Mullen, Director of Enrollment
- Attachment #13 - 06/19/08 Affidavit of Jennifer Davis, Tribal Member

## Attachment #1

88 7/5/94  
FILED ENTERED  
LODGED RECEIVED

JUL 01 1994

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

RONALD R. LAUZON,

Plaintiff,

v.

ANDY DE LOS ANGELES, et al.,

Defendants.

NO. C94-62Z

MINUTE ORDER

The following Minute Order is made by direction of the Court, the Honorable Thomas S. Zilly, U. S. District Judge:

(1) Defendants' motion to dismiss, docket no. 17, is GRANTED. This Court has no federal subject matter jurisdiction because the Snoqualmie Tribe has not been accorded final "recognition" by the Department of Interior. Western Shoshone Business Council v. Babbitt, 1 F.3d 1052 (10th Cir. 1993). Further, even if the Snoqualmie Tribe was recognized as a tribe, the Court would nevertheless have no jurisdiction because of the doctrine of sovereign immunity. Santa Clara Pueblo v. Martinez, 436 U.S. 49, 56 L.Ed.2d 106 (1978). Santa Clara Pueblo forecloses any civil action in federal court under the Indian Civil Rights Act, 25 U.S.C. § 1301-1341 for relief other than habeas petitions. R.J. Williams Co. v. Fort Belknap Housing Authority, 719 F.2d 979, 981 (9th Cir. 1983), cert. denied 472 U.S. 1016 (1985). Further, the Indian Civil Rights Act does not authorize action against either a tribe or its officers. Santa Clara Pueblo, 436 U.S. at 72. Thus, defendants' motion must be granted.

(2) The Clerk is directed to enter final judgment dismissing plaintiff's complaint with prejudice and with costs.

35

1 (3) The Clerk of the Court is directed to send a copy  
of this Minute Order to all counsel of record.

2 Filed and entered this 18<sup>th</sup> day of July, 1994.

3 BRUCE RIFKIN, Clerk

4  
5 By Casey Condon  
6 Casey Condon  
Deputy Clerk

**Attachment #1 A**

FILED ENTERED  
LODGED RECEIVED

JAN 12 1994

Samuel J. Stiltner  
STILTNER & ASSOCIATES  
505 Madison St., Suite 201  
Seattle, WA 98104  
(206) 292-2101

AT SEATTLE  
CLERK U.S. DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
BY DEPUTY

IN THE UNITED STATES COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

RONALD R. LAUZON,  
Plaintiff,

vs.

ANDY DE LOS ANGELES, KATHERINE)  
M. BARKER, MARY ANNE HINZMAN, )  
ARLENE VENTURA, SHELLY BURCH, )  
LEONA EDDY, M. ARLENE MULLEN, )  
TINA BARBER, and THE )  
SNOQUALMIE TRIBAL COUNCIL, )  
Defendants. )

NO. C94-0062

COMPLAINT FOR INJUNCTIVE AND  
DECLARATORY RELIEF

For cause of action against the defendants, plaintiff avers as  
set forth below:

I.

PLAINTIFF

1. Plaintiff is a resident of Aberdeen, Grays Harbor County,  
in the Western District of Washington at all times relevant hereto.  
Plaintiff is an enrolled member of the Snoqualmie Indian Tribe and  
is eligible to vote in tribal elections.

II.

FEDERAL QUESTION JURISDICTION

COPY



2. This court has jurisdiction pursuant to 28 U.S.C. § 1331.

### III.

## DEFENDANTS

3. The individual defendants are all residents of the Western District of Washington at all times relevant hereto and are named in their individual and official capacities as members of the Snoqualmie Tribal Council.

4. Defendant ANDY DE LOS ANGELES is the chairperson of the defendant SNOQUALMIE TRIBAL COUNCIL and resides in King County, Washington, within the Western District of this Court.

5. Defendant KATHERINE M. BARKER is the secretary of the defendant SNOQUALMIE TRIBAL COUNCIL and resides in Snohomish County, Washington, within the Eastern District of this Court.

6. Defendant MARY ANNE HINZMAN is a member of the defendant SNOQUALMIE TRIBAL COUNCIL and resides in Okanogan County, Washington, within the Eastern District of this Court.

7. Defendant ARLENE VENTURA is a member of the defendant SNOQUALMIE TRIBAL COUNCIL and resides in King County, Washington, within the Western District of this Court.

8. Defendant SHELLY BURCH is the vice chairperson of the defendant SNOQUALMIE TRIBAL COUNCIL and resides in Snohomish County, Washington, within the Western District of this Court.

9. Defendant LEONA EDDY is a member of the defendant SNOQUALMIE TRIBAL COUNCIL and resides in King County, Washington, within the Western District of this Court.

10. Defendant M. ARLENE MULLEN is a member of the defendant SNOQUALMIE TRIBAL COUNCIL and resides in King County, Washington.

1 within the Western District of this Court.

2 11. Defendant TINA BARBER is the member of the defendant  
3 SNOQUALMIE TRIBAL COUNCIL and resides in King County, Washington,  
4 within the Western District of this Court.

5 12. The defendant SNOQUALMIE TRIBAL COUNCIL is the governing  
6 body of the Snoqualmie Indian Tribe pursuant to the Constitution  
7 and Bylaws of the Snoqualmie Indian Tribe (hereinafter referred to  
8 as "Tribal Constitution"). A true and correct copy of the  
9 Snoqualmie Constitution and Bylaws is attached hereto as Exhibit A  
10 and incorporated by this reference as if fully set forth herein.

11 IV.

12 FIRST CAUSE OF ACTION

13 13. Under the provisions of Article III, Sections 1 and 2 of  
14 the Tribal Constitution, all tribal members are members of the  
15 General Council, and all members who have attained the age of  
16 eighteen years are eligible to vote in tribal elections when  
17 present at regular or special meetings of the General Council. The  
18 members of the Tribal Council are elected by the members of the  
19 Tribe voting at the regular General Council meetings in May of each  
20 year pursuant to Article III, Section 3 of the Tribal Constitution.

21 14. Tribal election procedures are specified in the Tribal  
22 Constitution, Article VI, but there are no procedures in the Tribal  
23 Constitution governing election disputes. The Tribal Constitution,  
24 Article VI, Section 3, imposes a duty upon the Tribal Council to  
25 enact rules governing settlement of election disputes but the  
26 Tribal Council has never done so. There is no tribal court,  
27 although the Tribal Council is authorized by Article VIII, Section  
28

1 1(k) to establish a tribal court and to provide for procedures  
2 governing its operation and the selection of judges.

3 15. Tribal Council elections were held at the regular General  
4 Council meeting in May, 1993. These elections were disputed and  
5 controversial. Some tribal members charged that tribal officials  
6 controlling the election procedures were responsible for election  
7 irregularities and for improperly determining the outcome of the  
8 elections, including specifically:

- 9 a) the substitution of improper ballots for ballots  
10 which had been prepared and approved on the eve of  
11 the election;
- 12 b) harassment of tribal members at the polls when they  
13 attempted to exercise their voting privileges;
- 14 c) preventing eligible tribal members from voting by  
15 falsely challenging their eligibility to vote;
- 16 d) allowing individuals to vote who were not tribal  
17 members or otherwise not qualified to vote;
- 18 e) counting ballots in a closed room in secrecy  
19 contrary to prior approved procedures.

20 16. Several tribal members, including the plaintiff herein,  
21 specifically and formally notified the Tribal Council of the  
22 charges of election misconduct alleged in ¶ 15, above, and  
23 repeatedly and formally called upon the Tribal Council to enact  
24 election dispute procedures as required by Article VI, Section 3 of  
25 the Tribal Constitution, so that the ongoing disputes regarding the  
26 May, 1993, election could be aired and resolved as contemplated by  
27 the Tribal Constitution. Despite these repeated requests, the  
28

1 Tribal Council failed and refused to take any action regarding  
2 either the election misconduct charges or the adoption of election  
3 dispute procedures.

4 17. Defendants De Los Angeles, Ventura and Barber were  
5 elected to their positions on the Tribal Council in the disputed  
6 elections of May, 1993, alleged above.

7 18. Under Article III, Sections 3(b) and (c) and Article XII  
8 of the Tribal Constitution, tribal members have the right to call  
9 special meetings of the General Council, and to present initiative  
10 measures for vote by the General Council, by presenting petitions  
11 with the requisite number of signatures of eligible tribal members.  
12 The Chairman of the Tribal Council has a duty under Article XII of  
13 the Tribal Constitution to schedule a special meeting of the  
14 General Council within 30 days of receiving the petition for the  
15 purpose of voting on the initiative measure.

16 19. On or about July 16, 1993, members of the Tribe,  
17 including the plaintiff herein, presented to the Tribal Council  
18 sufficient and proper petitions for an initiative measure for the  
19 adoption of election challenge procedures. A true and correct copy  
20 of the petition form is attached hereto as Exhibit B and  
21 incorporated by this reference as if set forth fully herein.

22 20. Despite the repeated demands of the plaintiff and other  
23 tribal members, the defendants have failed and refused to call a  
24 special meeting of the General Council in response to the petitions  
25 alleged in ¶ 19, above, to consider the initiative measure adopting  
26 election dispute procedures, as required by the Tribal  
27 Constitution, Article XII.

28

21. The failure and refusal of the defendants to schedule a special meeting of the General Council, as alleged in ¶ 20, above, to consider the initiative measure for the adoption of election dispute procedures, violates plaintiff's rights to due process of law and equal protection of the laws guaranteed by the Indian Civil Rights Act, 25 U.S.C. 1302 (8).

V.

## SECOND CAUSE OF ACTION

22. Plaintiff realleges and incorporates herein ¶¶ 13 through 21 of this Complaint.

23. Because of plaintiff's efforts to enforce his rights and the rights of other tribal members under the Tribal Constitution, as alleged in ¶¶ 13 through 21, above, defendants have caused and perpetrated retaliatory actions against the plaintiff, including unlawful attempts to "banish" plaintiff from the Snoqualmie Tribe, and specifically scheduling a special meeting of the General Council for January 15, 1994, for the purpose of voting on the "banishment" of plaintiff proposed by defendants, without any specification of charges against plaintiff to support the proposed "banishment," and without any authority for such action in the Tribal Constitution.

24. The defendants' retaliatory actions alleged in ¶ 23 above violate the rights guaranteed to plaintiff by the Indian Civil Rights Act, 25 U.S.C §§ 1302 (1), (8).

WHEREFORE, plaintiff prays for relief against the defendants,  
and each of them, as set forth below:

1. For temporary and permanent injunctive relief requiring

1 defendants to call and properly conduct a special general council  
2 meeting to consider the initiative petition for the settlement of  
3 election disputes alleged above.

4 2. For a temporary and permanent order restraining  
5 defendants, and all those acting in active concert with defendants  
6 with notice of the order, from causing, effecting or taking action  
7 against plaintiff in retaliation for the exercise by plaintiff of  
8 rights guaranteed to him by the Indian Civil Rights Act.

9 2. For declaratory relief.

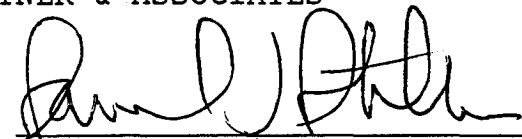
10 3. For attorney fees and costs of action.

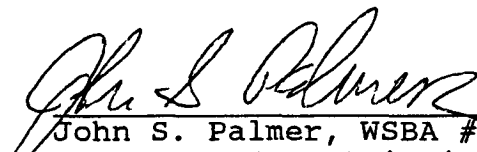
11 4. For such and other further relief as the court deems just  
12 and equitable.

13 DATED this 12th day of January, 1994.

14 STILTNER & ASSOCIATES

15  
16 By:

  
Samuel J. Stiltner, WSBA #7765

17  
18   
19 John S. Palmer, WSBA #20377  
20 Attorneys for Plaintiff





## Attachment #2

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET, and  
CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET MULLEN,  
KATHERINE M. BARKER,  
FRANCES DE LOS ANGELES,  
ROBERT HINZMAN, NINA REPIN,  
KANIAM VENTURA, JOANNE  
DOMINICK, JERRY ENICK,  
NATHAN "PAT" BARKER, and  
STACI MOSES,

Respondents.

Case No. CV-00844JLR

AFFIDAVIT OF  
NATHAN PATRICK BARKER

---

NATHAN PATRICK BARKER, being first duly sworn upon under oath,  
deposes and states as follows:

1. I am an enrolled member of the Snoqualmie Indian Tribe. I am also a duly elected member of the Snoqualmie Tribal Council and have been on and off since approximately 1982. I was most recently re-elected in 2004. In 1986, I was appointed by the general membership to be one of the five chiefs of the Snoqualmie Tribe.
2. On August 16, 2007 former Tribal Chairman, Joe Mullen, on behalf of Head Chief Jerry Enick, presented the Tribal Council with two petitions signed by a large number of the Tribe's General Membership. I understood that one petition was about problems that occurred with the election in May, 2007 and doing it over (at another General Membership meeting). The second petition was to recall the seated Tribal Chairman, Bill Sweet, for improperly running the May elections (e.g. not recognizing members who wanted to nominate other members, not hearing from members on procedures, etc.).
3. Head Chief Jerry Enick has a responsibility to represent the people and Chief Enick's decision to bring these petitions to Council was appropriate and within his traditional authority because the people wanted him to do it.
4. Sharon Frelinger and Carolyn Lubenau e-mailed me repeatedly after the August 16, 2007 Tribal Council meeting. They complained that they were not properly suspended and that they had a right to participate on Tribal Council. I just told them that a large portion of the membership had spoken through the petitions and that the issue needed to be worked out at a General Membership meeting.
5. On September 8, 2008 I attended a Snoqualmie General Membership meeting at the Long House in Monroe, Washington. There were clearly more people at the September 8 meeting than there was at the meeting where they held the elections in May, 2007.
6. Katherine Barker, a Tribal elder, chaired the meeting since the Chairman was suspended (Katherine is also an honorary life-long member of the Tribal Council). I started the meeting by explaining to the General Membership that two petitions had been filed.

7. I had to do a roll call of the Council members, but the only people I called were those five whose authority was not called into question and who were seated before the May, 2007 elections and whose seats were not up for re-election. Those five Council members would constitute a quorum to conduct Tribal business, including holding a valid General Membership meeting.

8. There was a discussion on the floor as to whether the May 2007 election was held properly or improperly. A vote was taken on the issue and the General Membership voted to void the May 2007 elections.

9. Then there was a lot of discussion about filling the vacancies on the Tribal Council and the need to have a full Council positions. The situation was considered an emergency situation and a motion was made for immediate elections. It was seconded and voted upon by the General Membership. The General Membership voted to have the elections that day.

10. After the vote, members of the Sweet family were extremely angry. They complained that the election was unfair and that there was no notice. However, I saw members of the Sweet family, including Carolyn Lubenau, Sharon Frelinger, Lois Sweet Dorman, and Linda Sweet Baxter, get up and leave the Long House without participating.

11. Before they left, I told the Sweet people (Petitioners) that they could still nominate the same people and vote and that by leaving they are giving up their right to vote. They left anyway. Nominations were taken from the floor and the elections were held to fill the vacant Tribal Council positions. The elections were conducted in the manner in which they are typically conducted.

12. Sometime after the first of the year, Bill Sweet telephoned me and informed me of an emergency Council meeting being held at the Bellevue Library. I received telephone calls from other Tribal Council members who had received the same phone call.

13. As a chief of the Tribe, I decided to go to the meeting and listen to their concerns. I attended the meeting with my mother, Katherine Barker, a Tribal elder, Shelly Burch, another Tribal member (also my sister), and my wife. Upon arriving at the meeting, the first thing I said was that I am not there as their

Council member, but rather as a Chief of the Tribe. I told them that they are still members and have a right to be heard.

14. Present at the meeting were Bill Sweet, Carolyn Lubenau, Sharon Frelinger, Vyonda Rose, Linda Baxter, Vyonda Rose, Marilee Mai and her brother. We discussed the sequence of events from the May 2007 elections to date. I told them that it appeared that they came into Council predetermined to take over key positions of Tribal leadership. They made several belittling comments about previous Tribal Council members and how uneducated the membership was and that the Council was unable to properly conduct Tribal business. They told me that they believed they were still properly seated Council members and that Bill Sweet was still the Chairman.

15. They told me their plan was to call three consecutive Council meetings and any non-attending Council members would be removed for non attendance. They told me that the BIA said that Bill Sweet was still the Tribal Chairman. They then pressured me whether I thought he was still Tribal Chairman and I reserved the right not to comment until after I spoke with the BIA myself.

16. The next day, I spoke with Judy Joseph, BIA Superintendent (located in Everett, WA), on the telephone. She informed me that members of the Sweet family had approached her about Tribal business and their recognition as leaders of the Tribe. She asked for a statement from Tribal Council that Bill Sweet had been suspended. She also requested a list of current members of the Tribal Council.

17. At the next Tribal Council meeting (i.e. the Respondents), I reported the events of the last few days and relayed Judy Joseph's requests. We then hand-delivered a letter to Judy Joseph at her office in Everett stating who the Tribal government is. I went with Chief Jerry Enick and his niece and nephew, and the following Council members: Arlene Ventura, Margaret Mullen, Ray Mullen, Cheryl Mullen, Mary Anne Hinzman, and Alternate Councilmember JoAnne Dominick. The Tribe's General Counsel, Pete Connick, and Trial Administrator, Matt Mattson, also met with Judy Joseph. There were other people who I cannot recall.

18. Judy Joseph discussed her meeting with Bill Sweet, his followers and their lawyer. Attorney Pete Connick asked for a copy of the Sweet's group written complaint and Judy Joseph provided a business card of the attorney who was representing Bill Sweet and his followers so that he could discuss the problems with the attorney (Attorney Rob Roy Smith). Judy Joseph encouraged the Tribe to resolve its intra-tribal complaints within the Tribe. Attorney Connick agreed and indicated that he would try to resolve the matter. Attorney Connick had the support of the Tribal Council to meet and try to resolve the Petitioners' complaints.

19. After this meeting with Judy Joseph the Tribe's General Counsel, Attorney Connick, contacted Petitioners' attorney and got a copy of the complaint the Sweet group filed with the BIA. From what I understand, Connick suggested a meeting between the Tribal Council and the Sweet group (i.e. Petitioners). Instead of trying to work things out with the Tribe, Bill Sweet and his followers tried to take over Tribal bank accounts and went to Tribal Administrator Matt Mattson's residence and informed him not to come to work. They also sent me a letter stating that I was terminated from my Council position. The Sweet group also attempted to physically take over the Tribe's administrative offices and otherwise shut-down the Tribe's administration. They caused chaos. The Tribal offices had to be shut down and armed security hired.

20. On April 27, 2008, I attended a General Membership meeting at the Hilton Garden Inn in Issaquah, Washington. The subject was what action to take with respect to Petitioners' actions to shut down the Tribe. Traditionally, banishment is one way to stop the harmful action of the disgruntled members. It was considered by the General Membership. The meeting was held at the Issaquah Hilton Garden Hotel.

21. In the drive outside of the lobby to the hotel, I saw Lois Sweet Dorman, Ben Sweet, Linda Sweet Baxter, Bill Sweet, Carolyn Lubenau, and Sharon Frelinger. I saw a newspaper photographer with the Sweet family.

22. Council member/Tribal elder, Mary Anne Hinzman, called the meeting to order. The floor of the April 27, 2008 General Membership meeting then opened to discussion about the nine individuals and what should be done. There was discussion about whether we should allow the nine individuals to come in on an

23. individual basis and answer questions about their actions. After a long discussion, it was agreed by the General Membership that I should go outside to get Bill Sweet to be the first to come into the meeting and talk to the General Membership.

24. I went outside and looked in the lobby, walked around the building and the parking lot, but I could not located Bill Sweet or any of the other nine individuals. I went back into the meeting and announced that the nine individuals were not present. Someone stated that they heard Sweet group say they were leaving to go to IHOP (International House of Pancakes).

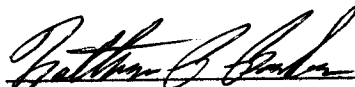
25. There was discussion as to whether we should have the vote. A vote was then held. We then did a roll call vote and the vast majority voted in favor of banishing the nine individuals. We voted on Bill Sweet, Sharon Frelinger, Carolyn Lubenau and Marilee Mai individually. I believe Lois, Linda, Chuck, Vyonda and Ben were voted on as a group.

26. I voted to banish the nine individuals because they chose to put their names on a list of individuals proclaiming themselves to be the Tribal government, even though they were not chosen by the Snoqualmie General Membership. In addition, they tried to take over Tribal affairs, and looked into halting funding for Tribal programs, including social services assistance for Tribal elders.

27. The actions of the General Membership were consistent with traditional practices of the Tribe to protect itself from harm from dissatisfied members. These matters are regarded as Tribal matters.

I swear under penalty of perjury under the laws of the State of Washington that the above statements are true and correct.

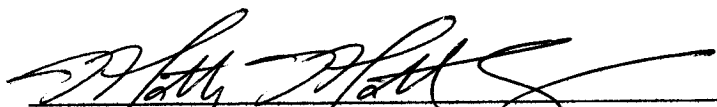
DATED this 17 day of June, 2008



NATHAN PATRICK BARKER

Signed at Snoqualmie, Washington

SUBSCRIBED AND SWORN to before me this 17<sup>th</sup> day of June, 2008



NOTARY PUBLIC in and for the  
State of Washington, residing at: SEATTLE, WA  
Commission expires: 4-9-09







## Attachment #3

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET, and  
CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET MULLEN,  
KATHERINE M. BARKER,  
FRANCES DE LOS ANGELES,  
ROBERT HINZMAN, NINA REPIN,  
KANIAM VENTURA, JOANNE  
DOMINICK, JERRY ENICK,  
NATHAN "PAT" BARKER, and  
STACI MOSES,

Respondents.

Case No. CV-00844JLR

AFFIDAVIT OF  
JOSEPHINE IRENE MOSES

---

JOSEPHINE IRENE MOSES, being first duly sworn upon under oath,  
deposes and states as follows:

1. I am an enrolled member of the Snoqualmie Indian Tribe. I am also an Assistant Enrollment Officer for the Snoqualmie Tribe.
2. On September 8, 2007, I attended a General Membership meeting at the Long House in Monroe, Washington. There was discussion about the May, 2007 elections being invalid. A lot of people wanted to re-do the election.
3. The General Membership voted to invalidate the May 2007 election and have a new election immediately.
4. Around 12-15 people opposed an immediate election. Rather than participate in the election, these members left. The people leaving were some or all of the Petitioners in this case.
5. I got on the microphone and asked the people who left to come back in and vote. I told them not to give up their vote. Nobody came back in. I also heard Michelle Buchanan ask them to come back in over the microphone.
6. A vote was held and new Council members were elected. The people who went outside said they were going to draft a petition to declare the General Membership's election invalid.
7. On or around April 13 or 14, 2008, I received notice of an emergency membership meeting in the mail. The notice said the meeting was in regards to banishment.
8. On April 27, 2008, I attended an emergency Snoqualmie General Council meeting at the Hilton Garden Inn in Issaquah, Washington.
9. I volunteered to stand at the front door and check to make sure that those entering the meeting had valid voting cards. I then cross-referenced the individual's name on their identification card with their name on a list of eligible voters prepared by Cheryl Mullen, the Tribe's Enrollment Director.

10. Robert and Earl Noonan, who are related to the Sweet family, tried to enter the meeting. They were not eligible to come into the meeting because their names were not on the list of eligible voting members. I told them they could not come into the meeting, but that they will have an opportunity to speak to the membership later on.
11. During the meeting I went outside for a break with Michelle Buchanan, Marvin Kempf and Jason Mullen. When we were out front of the hotel, Lois Sweet Dorman approached us, began speaking to Michelle saying that the situation was unfair. I heard Michelle tell her that she will have an opportunity to say her piece to the membership. Michelle told Lois to wait and that she would get a chance to speak. Lois began to yell at her.
12. Lois Sweet Dorman said that they were not going to sit there forever. Bill Sweet walked by and said "screw this, I'm going to get some pancakes." Lois agreed and said, "yes, pancakes sounds good." Lois then shook all of our hands and left with Bill.
13. The General Membership wanted to her from the Petitioners. Since they left we felt that they did not want to speak to us.
14. We discussed whether to socially banish the people, or to completely banish the people. The membership felt that complete banishment was appropriate.
15. I recall that Chief Enick did not want to banish Bill Sweet and that he wanted to give him a second chance. He stated this sentiment to the membership.
16. The membership overwhelmingly supported banishment. We felt we had to do something to stop Petitioners continuing attacks on the Tribe's government. It was disrupting the Tribe's ability to conduct business and came close to closing the Tribe's offices.

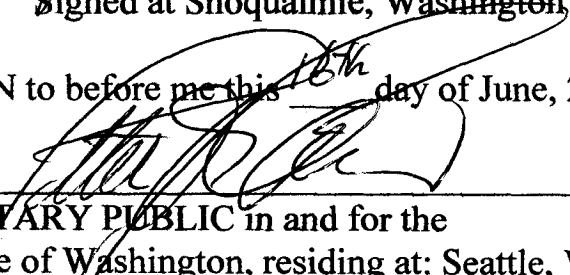
I swear under penalty of perjury under the laws of the State of Washington that the above statements are true and correct.



DATED this 16 day of June, 2008

  
\_\_\_\_\_  
JOSEPHINE IRENE MOSES  
Signed at Snoqualmie, Washington

SUBSCRIBED AND SWORN to before me this 16<sup>th</sup> day of June, 2008

  
\_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of Washington, residing at: Seattle, WA  
Commission expires: 08/02/09



**Attachment #4**



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET, and  
CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET MULLEN,  
KATHERINE M. BARKER,  
FRANCES DE LOS ANGELES,  
ROBERT HINZMAN, NINA REPIN,  
KANIAM VENTURA, JOANNE  
DOMINICK, JERRY ENICK,  
NATHAN "PAT" BARKER, and  
STACI MOSES,

Respondents.

Case No. CV-00844JLR

DECLARATION OF  
PETER REISERT

---

PETER REISERT, being first duly sworn upon under oath, deposes and  
states as follows:

1. I am an employee of the Snoqualmie Indian Tribe and have been since April 2007. Part of my job description is security for the Tribe. I am not a member of the Snoqualmie Indian Tribe.
2. On April 27, 2008, upon the request of the Snoqualmie Tribal Council, I attended a Snoqualmie General Membership meeting in Issaquah, Washington at the Hilton Garden Inn.
3. I was asked by Cheryl Mullen, the Tribe's Enrollment Director and Josephine Moses, Assistant Enrollment Officer, to check-in enrolled members for the General Membership meeting. I was told to verify Tribal identification cards and ensure that the individual appeared on the list of enrolled members who are eligible to vote. I admitted people with the required identification card and on the list of eligible voters.
4. I also had members sign in on an admission sheet. If a Tribal member did not have the required Tribal identification card I checked their driver's license, and if their name was on the list, I gave them their Tribal identification card that allowed them to sign in.
5. Approximately four individuals came to check in, but they were not on the list, so that were not allowed in. They went to speak with Nina Repin, a Council member. Nina advised me that they were long-time Tribal members but that they did not have the 1/8<sup>th</sup> Snoqualmie blood quantum to vote. The four stayed in the hallway so they could listen to the meeting (they did not vote).
6. One person approached the security table who I believe to be a female with a last name of Sweet. She did not have the required Tribal identification card for voting and her name was not on the list. I informed her that she could not enter the meeting at this time. She got very upset and I told her that the Sweets would have an opportunity to speak at the meeting a little later on. She started ranting and raving and then walked out.

I swear under penalty of perjury under the laws of the State of Washington  
that the above statements are true and correct.



DATED this 16 day of June, 2008

Peter Reisert

PETER REISERT

Signed at Snoqualmie, Washington

SUBSCRIBED AND SWORN to before me this 16th day of June, 2008

[Signature]

NOTARY PUBLIC in and for the  
State of Washington, residing at: Seattle, WA  
Commission expires: 08/02/09



## Attachment #5

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET, and  
CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET MULLEN,  
KATHERINE M. BARKER,  
FRANCES DE LOS ANGELES,  
ROBERT HINZMAN, NINA REPIN,  
KANIAM VENTURA, JOANNE  
DOMINICK, JERRY ENICK,  
NATHAN "PAT" BARKER, and  
STACI MOSES,

Respondents.

Case No. CV-00844JLR

AFFIDAVIT OF  
STEVEN MULLEN

---

STEVEN MULLEN, being first duly sworn upon under oath, deposes and  
states as follows:

1. I am an enrolled Snoqualmie tribal member.
2. On April 27, 2008, I attended a Snoqualmie General Membership meeting in Issaquah, Washington at the Hilton Garden Inn. In the hotel parking lot as I was entering the meeting, I saw Ben Sweet standing to the left of the entrance to the hotel. Ben Sweet was standing near Bill Sweet.
3. The meeting began with lively discussion about the nine individuals who were disrupting the Tribe's government. The General Membership definitely wanted the nine people to come in and talk with us. The Tribal Council told us the plan was to allow the nine people to come in individually to address the General Membership. There was not intention to "grill" anyone. The General Membership wanted them to come in and speak to their people.
4. Nathan Pat Barker went outside to get Bill Sweet, and he came back in and said he could not locate any of the nine individuals.
5. We began to discuss the banishment and many people believed that since they weren't willing to come talk to the membership, that meant they did not care about the banishment. The people who left were at the hotel and chose to leave when they could have been heard.
6. The voting was then held. We voted on Bill first, using a roll call of each member in the meeting. The name of each person was called out and a vote was taken on banishment.
7. After the vote, there was discussion about how the Tribe was going to retrieve the Tribal documents that the nine individuals claimed that they had and wrongfully withheld from the Tribe.

I declare under penalty of perjury under the laws of the State of Washington  
that the foregoing is true and correct to the best of my knowledge.

DATED this 16<sup>th</sup> day of June, 2008



*Steven Mullen*

*615-cc*

STEVEN MULLEN Enrollment Number  
Signed at Snoqualmie, Washington

SUBSCRIBED AND SWORN to before me this 16<sup>th</sup> day of June, 2008

*[Signature]*  
\_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of Washington, residing at: Seattle, WA  
Commission expires: *08/02/09*





## Attachment #6

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET, and  
CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET MULLEN,  
KATHERINE M. BARKER,  
FRANCES DE LOS ANGELES,  
ROBERT HINZMAN, NINA REPIN,  
KANIAM VENTURA, JOANNE  
DOMINICK, JERRY ENICK,  
NATHAN "PAT" BARKER, and  
STACI MOSES,

Respondents.

Case No. CV-00844JLR

AFFIDAVIT OF  
ARLENE VENTURA

ARLENE VENTURA, being first duly sworn upon under oath, deposes and states as follows:

1. I am an enrolled member of the Snoqualmie Indian Tribe.
2. I am an elected member of the Snoqualmie Tribal Council since 1993. I was most recently re-elected in May, 2004. I am the Tribal Secretary and Tribal

Council Secretary. I am also a Tribal elder and send out official notices of General Council meetings to the General Membership.

3. On or about August 10 - 11, 2007, I sent a notice of a General Council meeting scheduled for September 8, 2007 to the General Membership (i.e. to members who are eligible to vote).

4. On September 8, 2007, seventy-eight (78) Tribal members signed into the membership meeting, including Carolyn Lubenau, Sharon Frelinger, Chuck Willoughby, Bill Sweet, Marilee Mai, Linda Sweet Baxter, Vyonda Rose, Lois Sweet Dorman. Ben Sweet was at the meeting but did not sign in. The September 8, 2007 General Membership meeting was to consider complaints about irregularities in the May, 2007 elections of some Tribal Council members and whether to hold new elections. The General Membership voted to redo the May, 2007 elections and elected new members to the Tribal Council.

5. On April 14, 2008, I sent a notice of an emergency General Council meeting scheduled April 27, 2008. The Tribal Council approved an emergency meeting because Bill Sweet and his group were attempting to take over the Tribe's government and business affairs. They were demanding control of the government, trying to terminate employees, making demands on the general manager of the casino, attempting to access bank accounts, and physically take over the Tribe's offices. The only issue on the agenda was to consider the banishment.

6. On April 27, 2008, eighty-three (83) Tribal members signed into the General Membership meeting. This was a strong showing of members.

7. After hours of discussion by the General Membership and an attempt to have Bill Sweet and his group appear and address the General Membership, a vote was held on banishment. I recorded the votes in favor of and against banishment. The membership voted to banish Bill Sweet:

Bill Sweet	73 in favor, 3 against;
Carolyn Lubenau	73 in favor, 3 against;
Sharon Frelinger:	73 in favor, 3 against;

Marilee Mai:	74 in favor, 2 against;
Lois Sweet Dorman:	73 in favor, 3 against;
Linda Sweet Baxter:	73 in favor, 3 against;
Ben Sweet:	73 in favor, 3 against;
Chuck Willoughby:	74 in favor, 2 against;
Vyonda Rose:	73 in favor, 3 against.

9. The Tribe has always had banishment as a tradition to respond to members who harm and threaten to injure the Tribe. The General Membership response varies depending on the individual member and the problems the person causes. Members have been banished in the past and then allowed back in. This is a matter for the General Membership though, not the Tribal Council. None of the people listed above have asked the General Membership to be allowed back. Again, this is a matter for the Tribe, not the federal courts.

I swear under penalty of perjury under the laws of the State of Washington

that the above statements are true and correct.

DATED this 16<sup>th</sup> day of June, 2008

Arlene Ventura 113 -  
ARLENE VENTURA Enrollment Number  
Signed at Snoqualmie, WA



SUBSCRIBED AND SWORN to before me this 16<sup>th</sup> day of June, 2008

[Signature]  
NOTARY PUBLIC in and for the  
State of Washington, residing at: SEATTLE, WA  
Commission Expires: 08/02/09



**Attachment #7**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET, and  
CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET MULLEN,  
KATHERINE M. BARKER,  
FRANCES DE LOS ANGELES,  
ROBERT HINZMAN, NINA REPIN,  
KANIAM VENTURA, JOANNE  
DOMINICK, JERRY ENICK,  
NATHAN "PAT" BARKER, and  
STACI MOSES,

Respondents.

Case No. CV-00844JLR

DECLARATION OF  
ANDREA RODGERS HARRIS

ANDREA RODGERS HARRIS, being first duly sworn upon under oath,  
deposes and states as follows:



1. I am the In-House Legal Counsel for the Snoqualmie Indian Tribe and I have held that position since June 2006.
2. On August 16, 2007 I attended the Snoqualmie Tribal Council meeting at the Tribe's administrative offices in Snoqualmie, Washington.
3. At that meeting, Joe Mullen, a Snoqualmie Tribal member, presented two documents with lists of signatures to the Tribal Council. He read a statement on behalf of Chief Jerry Enick suspending Chairman Bill T. Sweet and the Council members who were elected in May 2007 until a general membership meeting could be held to have new elections. The first document was entitled "Petition of Members to Declare May 12, 2007 Tribal Elections Invalid" and the second was entitled "Recall of Snoqualmie Tribal Chairman Bill T. Sweet."
4. To the best of my recollection, Council member Nina Repin got the two documents submitted by Joe Mullen and brought them into my office. Ms. Repin asked me to keep the documents locked in my file cabinet for safe keeping and I complied with her instructions.
5. The next day, Nina Repin and her mother, Frances de los Angeles, came into my office to stamp the original petitions and signature pages with an "original" stamp.
6. On August 17, 2007, the Tribal Administrator and I agreed that I should count and verify the signatures on each document to ascertain whether they complied with Tribal constitutional requirements.
7. On or about August 17, 2007, I obtained a list of enrolled Tribal members from Cheryl Mullen, the Tribe's Enrollment Director, in order to verify whether the individuals who signed the documents were enrolled Tribal members and whether they had voting rights. Several members on the enrollment list were listed as having "unknown" voting status, and I asked Cheryl Mullen, the Tribe's Enrollment Director, to clarify whether or not these individuals were eligible voters.

8. I completed the count of signatures on the Petition to Declare the Elections Invalid on August 22, 2007. I found some duplicate signatures and some signatures from individuals that were either not listed or were listed as not eligible to vote based upon the list provided to me by Cheryl Mullen. I omitted these signatures from the count. I concluded that there were 122 Tribal member signatures on the Petition to Declare the May 12, 2007 Election Invalid.

9. I was not able to immediately verify whether the Recall of Chairman Bill T. Sweet had the constitutionally required number of signatures because the Enrollment Department was working on finalizing the list of eligible voters to be presented to Tribal Council. Some individuals on the enrollment list that I was originally given listed individuals with a voting status of "unknown" and their status had to be clarified.

10. On August 23, 2007, Tribal Administrator Matt Mattson and I drafted a memorandum to the Tribal Council entitled "Staff Recommendations To Resolve Inter-Tribal Dispute."

11. On August 29, 2007, Tribal Administrator Matt Mattson and I drafted a second memorandum to Tribal Council entitled "List of Potential Mediators."

12. On September 11, 2007, Carolyn Lubenau personally delivered to me three referendums addressed to Snoqualmie Tribal Council. The cover letter stated: "please be aware that we are continuing to collect signatures and will submit final petitions on these matters within the 30 days permitted to us by our Constitutional rights."

13. The referendums were signed by forty-four individuals. Later that same day, five tribal members: Jennifer Repin, Francis De Los Angeles, Jeff Repin, Merrilda Waller and Angela Zambrano submitted a signed statement removing their names from the three referendums submitted by Ms. Lubenau. Without the signatures of those five individuals, the three referendums submitted by Ms. Lubenau did not have the constitutionally required number of signatures to go forward.


14. I am not aware of any additional signatures or "final petitions" having been submitted to the Tribal Council by Ms. Lubenau.

15. The issue of how many Snoqualmie Tribal members are eligible to vote was not resolved until November 1, 2007. On that day, Cheryl Mullen presented a list of eligible voters to the Tribal Council, who then voted to accept the list as the final list of eligible voters. At that time, the Tribal Council accepted the Petition to Recall Bill T. Sweet after confirming that a sufficient number of signatures had been signed as required by the Tribe's Constitution. A letter was then sent to Bill Sweet informing him of this fact.

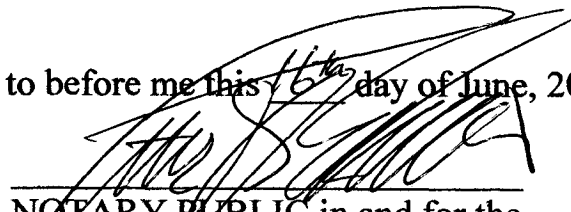
I swear under penalty of perjury under the laws of the State of Washington that the above statements are true and correct.

DATED this 16<sup>th</sup> day of June, 2008



  
ANDREA K. RODGERS HARRIS  
Signed at Snoqualmie, WA

SUBSCRIBED AND SWORN to before me this 16<sup>th</sup> day of June, 2008

  
NOTARY PUBLIC in and for the  
State of Washington, residing at: SEATTLE, WA  
Commission expires: 08/02/09



## Attachment #8

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET, and  
CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET MULLEN,  
KATHERINE M. BARKER,  
FRANCES DE LOS ANGELES,  
ROBERT HINZMAN, NINA REPIN,  
KANIAM VENTURA, JOANNE  
DOMINICK, JERRY ENICK,  
NATHAN "PAT" BARKER, and  
STACI MOSES,

Respondents.

CASE NO. CV-00844-JLR

DECLARATION OF  
KANIAM VENTURA

I, KANIAM VENTURA, being first duly sworn upon oath, deposes and  
states as follows:

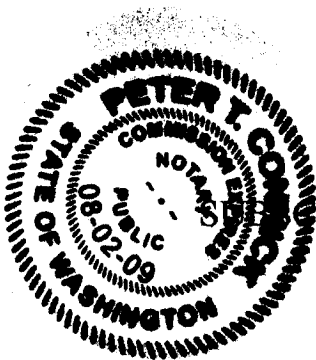
1. I am an enrolled Snoqualmie tribal member. I also sit on the Tribal Council of the Snoqualmie Tribe. The General Membership elects members of the Tribal Council every year to sit in staggered terms.
2. On September 8, 2007 I was elected to the Snoqualmie Tribal Council after the General Membership voted to invalidate the May, 2007 elections for irregularities. I believe most if not all the Petitioners listed above were at this election.
3. On April 27, 2008, I also attended a Snoqualmie General Membership meeting in Issaquah, Washington at the Hilton Garden Inn. The General Membership was there to discuss and take remedial action against the Petitioners for interfering and disrupting the Tribe's government. The General Membership voted on banishment which is our tradition.
4. When I was entering the Issaquah Hilton and again when I was having a cigarette in the parking lot I saw Carolyn Lubenau, Sharon Frelinger, Bill Sweet and Lois Sweet Dorman. Most if not all of the Petitioners were at the Hilton. I received notice of the General Membership meeting as did other tribal members. The Petitioners attracted the media attention they wanted but left the Hilton rather than appear and talk to the General Membership (we went out to get them so they could defend themselves).
5. Between the September 8, 2007 and April 27, 2008 General Membership meetings, Petitioners demanded control of the Tribe's government and contacted outside agencies (banks, BIA, etc.) in an effort to interfere, disrupt and shut-down the Tribe's government. They refused to meet with the Tribal Council as suggested by the BIA. They refused to meet with the General Membership.
6. The General Membership was left with total disruption of Tribal government and affairs by Petitioners' actions. Attempts were made to resolve matters with them by the Tribal Council and then the General Membership without success. Petitioners deliberately left both the September 8, 2007 and April 27, 2008 General Membership meetings without voting (although they could have) and addressing the General Membership (although they could have). Petitioners chose to attack the Tribal Council and the General Membership.

7. Destructive actions by members of the Tribe are traditionally dealt with by banishment especially when the disgruntled members are trying to take over and hobble the Tribe's government. The General Membership took action on April 27, 2008 to prevent further attack on the Tribe.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 16 day of June, 2008

Kanium Ventura  
KANIAM VENTURA Enrollment Number  
Signed at Snoqualmie, WA



SUBSCRIBED AND SWORN to before me this 16th day of June, 2008

[Signature]  
NOTARY PUBLIC in and for the  
State of Washington, residing at: SEATTLE, WA  
Commission Expires: 08/02/09





## Attachment #9

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET,  
and CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET  
MULLEN, KATHERINE M.  
BARKER, FRANCES DE LOS  
ANGELES, ROBERT HINZMAN,  
NINA REPIN, KANIUM  
VENTURA, JOANNE DOMINICK,  
JERRY ENICK, NATHAN "PAT"  
BARKER, and STACI MOSES,

Respondents.

CASE NO. CV8-00844JLR

DECLARATOIN OF  
MARVIN KEMPF

I, MARVIN KEMPF, being first duly sworn upon oath, deposes and states  
as follows:

1. I am an enrolled member of the Snoqualmie Indian Tribe.
2. On September 8, 2008 I attended the General Membership meeting at  
the Snoqualmie Long House in Monroe, Washington.

3. At that meeting the Tribe decided to have new elections because of a petition that had been filed concerning irregularities in the Tribe's May elections.
4. The membership decided to have new elections (I voted for new elections myself).
5. At this September 8, 2007 General Membership meeting, I saw Ben Sweet, Lois Sweet Dorman, and Chuck Willoughby and members of their family. They participated in General Membership discussions on new elections (they were opposed to new elections). When the vote didn't go their way they got up and left the Long House.
6. I told Bill Sweet not to leave, but he said he was leaving because there would not be enough people to have a quorum in order to vote. I then asked Lois Sweet Dorman not to leave and she said something about suing the Tribe and she was very upset.
7. On or about the second week of April 2008, I received notice of a Snoqualmie General Council meeting to consider the banishment of nine Tribal members in the mail.
8. On April 27, 2008, I attended the General Membership meeting at the Hilton Garden Inn in Issaquah, Washington.
9. During that meeting, Mary Anne Hinzman asked the General Membership if it wanted the Sweet family in the meeting to plead their case. Mary Ann Hinzman and the General Membership wanted to hear from the people being considered for banishment.
10. I went outside to speak with the nine members being considered for banishment, including Bill Sweet and Lois Sweet Dorman and I asked them not to leave. I told them the Tribe was getting ready to call them into the meeting. I told them that now was the time to plead their case to the tribal membership. Bill said "no", they are going to eat pancakes. I tried to convince him that it was his time to explain his case

to the membership, but he said he was going to IHOP. I pleaded with Bill to stay and present his case and show what facts they have.

11. After the Sweet family left (i.e. the Petitioners), I went back into the meeting and I told the membership that they were leaving. I told them that they were going to eat pancakes. At that time everyone got upset that Bill said they were going to eat pancakes.
12. The membership tried to hear the Petitioners side of the story about disrupting and harming the Tribe's affairs. They refused to meet with the membership. The membership decided that the Sweet family (i.e. Petitioners) could not disrupt the Tribe's affairs. The membership voted to banish them. Since the Sweet family would not stop their disruption and interference with the Tribe's affairs, the membership felt it had to banish them.
13. I was upset that I had driven an hour and half to the meeting with the expectation that I would hear from the Sweet family, but they refused.

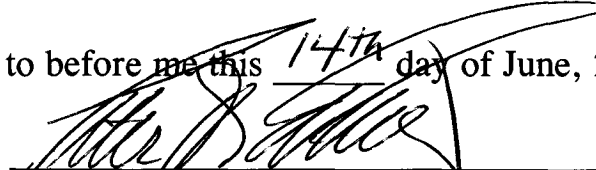
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 14 day of June, 2008

  
MARVIN KEMPF Enrollment

Number

SUBSCRIBED AND SWORN to before me this 14th day of June, 2008

  
NOTARY PUBLIC in and for the  
State of Washington, residing at: Seattle, WA  
Commission Expires: 08/02/09



## Attachment #10

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET,  
and CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET  
MULLEN, KATHERINE M.  
BARKER, FRANCES DE LOS  
ANGELES, ROBERT HINZMAN,  
NINA REPIN, KANIUM  
VENTURA, JOANNE DOMINICK,  
JERRY ENICK, NATHAN "PAT"  
BARKER, and STACI MOSES,

Respondents.

CASE NO. CV-00844-JLR

DECLARATION OF MICHELLE  
BUCHANAN

I, MICHELLE BUCHANAN, being first duly sworn upon oath, deposes  
and states as follows:

1. I am a traditional Native American and am a descendant of the Snoqualmie Indian Tribe, but I am not an enrolled member of the Snoqualmie Indian Tribe.
2. Katherine Barker, a Snoqualmie Tribal Elder, called me and asked me to be at the September 8, 2007 General Council meeting to facilitate the proceeding.



Katherine was concerned about tension at the meeting because of two documents that were submitted to Tribal Council on August 16, 2008. She informed me that there would be a Sergeant of Arms and a police officer at the meeting. It is my understanding that Katherine called me and asked me to serve as a facilitator because I was not biased in regards to the on-going Tribal disputes about May, 2007 elections of which I was generally aware.

3. On September 8, 2008, I attended a Snoqualmie General Council meeting and served as the facilitator. I called on people to speak, held speakers to a five minute time limit, and tried to keep the meeting civil and orderly.

4. At the meeting, the General Membership discussed whether the Tribe should hold new elections. A motion was made on the floor as to whether the May 12, 2007 elections were valid or whether irregularities made them invalid. The General Membership voted that the elections were invalid and that a new election should be held.

5. There was considerable discussion as to whether to have the vote today, or sometime in the future. Mary Anne Hinzman, Tribal elder and long-standing Council member, stood up and said, "let's resolve this now." The discussion got very heated about whether to vote now or sometime in the future. There was a vote to have the election at that time.

6. Lois Sweet Dorman said she was going to leave the meeting. I told her that this is her Tribe and that she should not leave the meeting. At that point, I remember Lois Sweet Dorman, Bill Sweet, Ben Sweet, Linda Sweet Baxter, Sharon Frelinger, and Vyonda Rose leaving the meeting, along with other members of their family whose names I cannot recall.

7. Then there was a vote to elect some new Tribal Council members. As the vote was happening I went outside to get Lois Sweet Dorman and her family to come back in to vote. They refused.

8. It was clear that there were sufficient Tribal members at the September 8, 2007 meeting to hold the elections. After the meeting, it was my understanding that the Tribe had elected some new Tribal Council members.

9. After the September 8, 2007 meeting I spoke with Bill Sweet on the telephone. He called my residence several times after the September meeting. He told me that he didn't want anything to do with the Tribe. I encouraged him to talk to Tribal members and work it out with the Tribe but he wasn't interested in the issues in regards to his being Chairman of the Tribe.

10. In either February or March 2008, Bill Sweet called me on the telephone and informed me that the Tribe threatening to dis-enroll sixty members. He said that the BIA told him that he is the Chairman and that he is supposed to take over the Tribe. He said that Matt Mattson was behind all of the action and were not to be trusted, as well as Chief Kanium who does not have a position other than cultural.

11. On April 27, 2008 I attended a Snoqualmie General Council meeting at the Hilton Garden Inn in Issaquah, Washington. Outside the hotel, I saw, Bill Sweet, Lois Sweet Dorman, and other members of their family.

12. At the meeting, Tribal members spoke about the actions of the Sweet group in disrupting and interfering with Tribal government and affairs and how it had affected the Tribe and the Tribal people. The General Membership also discussed the importance of having at least 1/8<sup>th</sup> Snoqualmie blood quantum to preserve the identity, integrity, culture and traditions of the Snoqualmie Nation. I spoke about water and the Tribe's interconnectedness with water and who the Tribe is.

13. At the April 27, 2008 meeting Mary Anne Hinzman asked Marvin Kempf to go get Bill Sweet to come in and address the membership. I went outside with Marvin, and I heard Marvin tell Bill Sweet that it was time for him to come into the meeting. I heard Bill Sweet say that he was not coming in because they were going to IHOP (International House of Pancakes). Bill Sweet said he had what they wanted, "the press."

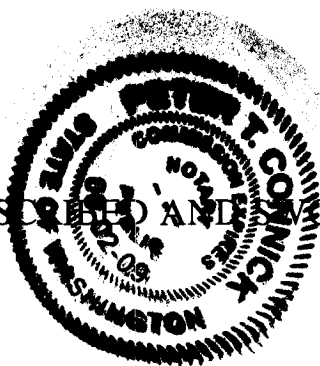
14. I told Lois Sweet Dorman to come into the meeting because people love her and people need to hear her side of the situation. She said "no". Josie Moses, a tribal member, told me that I had handled the situation well.

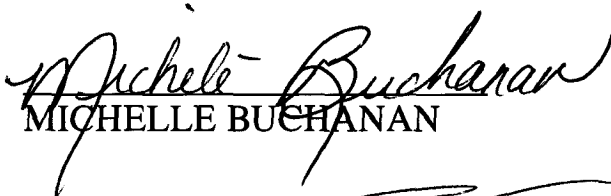
15. I then went back into the meeting and I told the membership what had happened and that the Sweet family had gone to IHOP.

16. After a lot of discussion, the membership voted to banish the nine Petitioners.

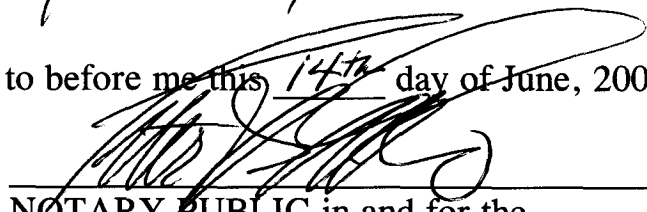
I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 14 day of June, 2008



  
MICHELLE BUCHANAN

SUBSCRIBED AND SWORN to before me this 14<sup>th</sup> day of June, 2008

  
\_\_\_\_\_  
NOTARY PUBLIC in and for the  
State of Washington, residing at: SEATTLE, WA  
Commission Expires: 08/02/09



Attachment #11

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET, and  
CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET MULLEN,  
KATHERINE M. BARKER,  
FRANCES DE LOS ANGELES,  
ROBERT HINZMAN, NINA REPIN,  
KANIAM VENTURA, JOANNE  
DOMINICK, JERRY ENICK,  
NATHAN "PAT" BARKER, and  
STACI MOSES,

Respondents.

Case No. CV-00844-JLR

DECLARATION OF  
JENNIFER REPIN

---

I, JENNIFER REPIN, being first duly sworn upon oath, deposes and states  
as follows:

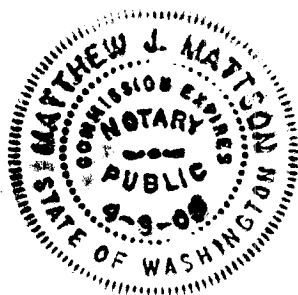
1. I am an enrolled Snoqualmie tribal member.
2. Sometime in April, 2008, I received a general membership notice of a General Membership meeting scheduled for Sunday, April 27, 2008. I knew the General Membership meeting was called to consider what action the General Membership could take to stop the actions of the Sweet group from interfering with the Tribe's government and affairs. Banishment was a possibility.
3. On April 27, 2008, I attended a Snoqualmie General Membership meeting in Issaquah, Washington at the Hilton Garden Inn. As I was entering the meeting, I saw Carolyn Lubenau, Sharon Frelinger, Bill Sweet, Lois Sweet Dorman, Linda Sweet Baxter and a large group of other people standing to the left of the entrance on the sidewalk.
4. During the meeting, there was an open discussion about everyone's opinion about the banishment. The membership discussed what kind of behavior warranted banishment and what different kinds of banishment there are.
5. Notice and opportunity to be heard was discussed – i.e. due process. The General Membership wanted to hear the Sweet family's side of the story. The General Council agreed to bring in each of the individuals one at a time for five minutes each so that they could give their side of the story and talk to the membership.
6. I remember Nathan Pat Barker, Kanium Ventura and Marvin Kempf exit the building so that they could go outside and tell the nine individuals that they could come in and address the membership one at a time. They went to get Bill Sweet to come in first.
7. Nathan Pat Barker said he searched the whole area and that he could not find any of the nine people. The General Council then decided to proceed with the banishment. The Sweet family squandered their opportunity to be heard for pancakes.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

DATED this 17<sup>th</sup> day of June, 2008

Jennifer Repin 625-02  
JENNIFER REPIN Enrollment Number  
Signed at Snoqualmie, WA

SUBSCRIBED AND SWORN to before me this 17<sup>th</sup> day of June, 2008



[Signature]  
NOTARY PUBLIC in and for the  
State of Washington, residing at: SEATTLE, WA  
Commission expires: 4-9-09





## Attachment #12

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET, and  
CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET MULLEN,  
KATHERINE M. BARKER,  
FRANCES DE LOS ANGELES,  
ROBERT HINZMAN, NINA REPIN,  
KANIAM VENTURA, JOANNE  
DOMINICK, JERRY ENICK,  
NATHAN "PAT" BARKER, and  
STACI MOSES,

Respondents.

Case No. CV-00844JLR

AFFIDAVIT OF  
CHERYL MULLEN

CHERYL MULLEN, being first duly sworn upon under oath, deposes and states  
as follows:

1. I am an enrolled member of the Snoqualmie Indian tribe. I am the Tribe's Enrollment Director and have held this position since March, 2000.
2. On January 10, 2008, the Snoqualmie Tribal Council passed a resolution (Resolution Number 07-2008) reaffirming the Snoqualmie Tribal Constitutional requirement that members must meet a 1/8<sup>th</sup> Snoqualmie blood quantum.
3. On January 31, 2008, I submitted a list of forty-three (43) individuals that did not meet the 1/8<sup>th</sup> blood quantum requirement based upon information in their membership file. The Tribal Council instructed me to send letters to the forty-three (43) individuals informing them that they did not meet the 1/8<sup>th</sup> blood quantum requirement. This did not disqualify any of the forty-three members from certain benefits but disallowed voting and holding office in the Tribe.
4. Around the week of April 7, 2008, I issued new Tribal identification cards for all eligible tribal voters upon direction of the Tribal Council. The new Tribal identification cards have a gold logo on the back.
5. Before the April 27, 2008 General Membership meeting, the Petitioners were protesting the September 7, 2007 elections the General Membership held. The Petitioners Bill Sweet, Lois Sweet Dorman, Ben Sweet, Linda Sweet Baxter, Marilee Mai, Carolyn Lubenau, Sharon Frelinger, Vyonda Rose and Chuck Willoughby demanded control of the Tribe's government and its business interests including bank accounts and the Tribe's casino.
6. There was a General Membership meeting held April 27, 2008 to discuss the problems Petitioners were causing the Tribe. Notice was sent out to the tribal members. Before the General Membership meeting took place, I showed Peter Reisert the list of voting members. Mr. Reisert admitted tribal members eligible to vote.
7. A lot of tribal members showed up to discuss the disruption and interference of the Petitioners with tribal government and the Tribe's affairs. Bill Sweet and the others were invited in to speak to the General Membership. They

refused and left the area. They voiced their complaints to the press but would not address the General Membership.

8. I voted for banishment as did an overwhelming majority of the General Membership. We believed that banishment was the only way to stop the interference and disruption of the Tribe's government and affairs. The manner in which banishment was achieved was consistent with Snoqualmie tradition and has happened before. Petitioners were given notice and an opportunity to be heard consistent with Snoqualmie tradition. They chose to have pancakes.

I swear under penalty of perjury under the laws of the State of Washington that the foregoing is true and correct to the best of my knowledge.



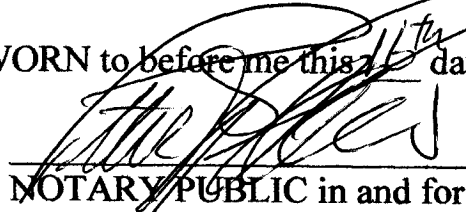
DATED this 16 day of June, 2008



CHERYL MULLEN Enrollment Number

Signed at Snoqualmie, Washington

SUBSCRIBED AND SWORN to before me this 16 day of June, 2008

  
NOTARY PUBLIC in and for the  
State of Washington, residing at: SEATTLE, WA  
Commission expires: 08/02/09



## **Attachment #13**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

BILL T. SWEET, CAROLYN  
LUBENAU, SHARON FRELINGER,  
MARILEE MAI, VYONDA ROSE,  
LOIS SWEET DORMAN, LINDA  
SWEET BAXTER, BEN SWEET,  
and CHARLES "CHUCK"  
WILLOUGHBY,

Petitioners,

v.

MARYANNE HINZMAN, ARLENE  
VENTURA, MARGARET  
MULLEN, KATHERINE M.  
BARKER, FRANCES DE LOS  
ANGELES, ROBERT HINZMAN,  
NINA REPIN, KANIUM  
VENTURA, JOANNE DOMINICK,  
JERRY ENICK, NATHAN "PAT"  
BARKER, and STACI MOSES,

Respondents.

Case No. CV-00844JLR

AFFIDAVIT OF  
JENNIFER DAVIS


JENNIFER DAVIS, being first duly sworn upon under oath, deposes and states  
as follows:



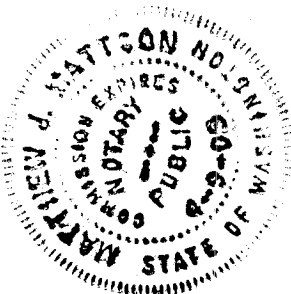
1. I am an enrolled member of the Snoqualmie Indian Tribe.
2. I work as a waitress at the International House of Pancakes ("IHOP") in Issaquah, Washington.
3. I was working at IHOP on April 27, 2008. I was aware that there was a General Membership meeting going on at the Issaquah Hilton Gardens. I was generally aware that the General Membership was discussing the Sweet family's interference and disruption of the Tribe's government and affairs.
4. In the afternoon of April 27, 2008, between 1:00 and 3:00 pm, I waited on a table of about fourteen or fifteen people who I recognized to be Bill Sweet and other members of his family.
5. I later found out that the General Membership meeting was taking place as Bill Sweet and his family sat and ate.

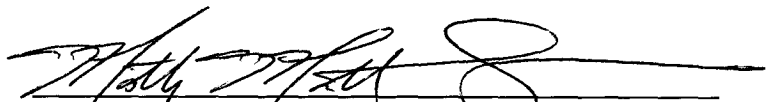
I swear under penalty of perjury under the laws of the State of Washington that the above statements are true and correct.

DATED this 19 day of June, 2008

  
JENNIFER DAVIS Enrollment Number 921-07  
Signed at Snoqualmie, Washington

SUBSCRIBED AND SWORN to before me this 19th day of June, 2008



  
NOTARY PUBLIC in and for the  
State of Washington, residing at: SEATTLE, WA  
Commission Expires: 4/12/09