

EXHIBIT B

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December 11, 2009

Larry Romanelli
Tribal Ogema
Little River Band of Ottawa Indians
375 River Street
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Steve Parsons
Tribal Council
Little River Band of Ottawa Indians
375 River Street
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Dear Sirs:

Based upon the actions of the Little River Band of Ottawa Indians ("Tribe") and its Tribal Court, I am hereby submitting this Demand Letter ("Letter") in order to avoid proceeding to the United States District Court for the Western District of Michigan to resolve any and all claims against the Tribe based on my Contract and other issues. My assertions herein are based upon my own review and the review of experts across the country whom I have contacted (including friends on the federal bench to whom I have presented the facts in hypothetical form), all of whom agree that my duty to exhaust my tribal court remedies has been abrogated by the exception where an assertion of tribal jurisdiction "is motivated by a desire to harass or is conducted in bad faith," as espoused in *National Farmers Union Insurance Companies 27 v. Crow Tribe of Indians*, 471 U.S. 845 (1985), and its progeny, and thus continuing to proceed in Tribal Court is futile. In this instance, it's not even a close case.

First and foremost, it will be my contention that, by shortening the time-frame of payment from 60 days to 30 days for an alleged breach of the Contract in the absence of any provisions contained therein, the Tribe went outside the four corners of the Contract, outside of Tribal law in contravention of the Contract, and made a harmful legal determination outside of the Tribal Court system, which in itself is a further violation of my civil rights and a breach of the Tribe's separation of powers. It will also serve to show the Tribe took matters into its own hands by determining that a breach had occurred even

though there was a process already commenced in the court system to answer that very question. For the Tribe to then step into federal courts and argue that I am required to keep my remedies in Tribal Court will be laughable at best. I and others will be interested (and admittedly amused) to see the Tribe try to argue with a straight face that while I am duty- and legally-bound to strict adherence to the four corners of the Contract and to keep my remedies in the Tribal Court and that I am forbidden from citing Tribal laws such as the Legal Counsel Reform Act (which calls for a one-year period to obtain Michigan licensure), that the Tribe can simply cite any legal authority and act as it alone deems relevant outside of Tribal Court, all while I am prohibited from seeking relief in the federal courts.

The assertions are further based Article XIII of the Tribe's Constitution, which is deemed a waiver of Tribal Court jurisdiction and states:

ARTICLE XIII – SEVERABILITY

If for any reason any provision of this Constitution shall be held to be invalid or unconstitutional by the Tribal Court *or any federal court of competent jurisdiction*, the validity and effect of all other provisions shall not be affected thereby.

It will be my contention in federal court that, by allowing numerous lawsuits for money damages against the Tribe, including suits by at least one sitting member of the Tribal Council and a former contract attorney, and by allowing lawsuits against the Tribal Council as a body despite the fact that it is not allowed by Article XI, Section 2, again including suits by at least one sitting member of Tribal Council and the Tribal Ogema, the Tribal Court has judicially invalidated the sovereign immunity clause of the Tribe's Constitution, particularly as it relates to money damages, which is a jurisdictional issue ripe for federal review.

Finally, I will be arguing in good faith at the federal level that the entire court has been compromised and any assertions by the Tribe that I must allow the appellate court to weigh in before exhaustion occurs is thwarted by the fact that *there will be no trial court decisions upon which to mount an appeal and further no legally functioning appellate court*. As a named defendant in a case filed by me, Judge Sherigan has personal bias and cannot get anywhere near any of these cases. Also, Judge Bailey's use of the "Clarifying Order" in deciding that Judge Sherigan could continue on as the judge of record in the breach of contract case means that he as well cannot get near any of these cases, nor can he appoint an outside judge fairly and impartially because of his personal interest or bias in these cases. Similarly, the appellate court cannot legally or ethically appoint a trial court judge to any case where they will hold sway over that judge's decisions and/or orders. The federal court will be easily convinced that the Tribal Court clerks cannot be entrusted with such an important decision, especially in light of their recent conduct in handling these cases. And finally, when the federal court sees how dysfunctional and illegal the appellate court is vis-à-vis the continuing Ryan Champagne fiasco (whose removal was opposed by sitting members of Tribal Council because they "don't trust that Tribal Court" despite Justice Champagne's conviction of attempted fraud), it will agree that there really is no real chance of meaningful appeal, thus ensuring futility.

The Tribe has engaged in a series of tactics, the so-called Emergency Hearing on a Motion to Extend the Time to Answer (with the full unethical and possibly illegal cooperation of the Tribal Court) held on December 7, 2009, being the latest, in an effort to delay these cases and harass me. When David Giampetroni stated on the record that he requested in an *ex parte* manner over the phone to have an emergency hearing that was likely granted by a Court clerk in violation of every known canon of attorney and/or judicial ethics, it clearly showed that the Court is in cahoots with the defendants in these cases, which is not an outlandish claim considering that the Tribe already met in private with the Court and came away with a total change of an order in an already-decided and closed case without pleadings, a hearing, and a record of the proceedings.

To be sure, this was not the only episode by Mr. Giampetroni which shows bad faith by the Tribe. By opposing both Angela Sherigan's and Dan Bailey's disqualification as judges in these cases *based on instant reviews of the facts* and in light of blatant ethical violations by the judges, Mr. Giampetroni has showed that the Tribal Council is acting further in concert with the Tribal Court to violate my civil rights, has seriously weakened the Tribe's defense of exhaustion of tribal remedies, and has exposed the Tribe to federal court review. (According to experts I have consulted, by exposing his clients based on snap judgments to further and additional exposure in a different forum, Mr. Giampetroni's actions border on malpractice, if they are not in fact malpractice.)

Mr. Giampetroni has also claimed in his pleading that he "expects" a new scheduling order in the breach of contract case to be issued any day now. However, the Court staff said it has no knowledge of it happening, which shows that Mr. Giampetroni has been having more *ex parte* discussions with the judge of record in the case (who if she even sniffs in the direction of this case is inviting even more damaging action). And, that the Tribe has steadfastly refused to even discuss the possibility of negotiations seriously begs the question of the Tribe's motives in these cases (and to be sure, courts are not too friendly to parties who offer a blanket refusal to even discuss negotiations). Finally, in the civil rights case, Judge Sherigan had not even been properly served after 27 days, which is an egregious violation of my rights in proceeding with this case and which experts have said is unfathomable, especially since she is mere steps away from the police department offices.

However, let there be no mistake. The above defenses to any assertions are not exhaustive, and every assertion of tribal sovereignty and jurisdiction will be vigorously opposed by bringing out ALL facts in a forum and lawsuit where there can be no claims of attorney-client privilege and confidentiality. As I am sure your legal staff and Mr. Giampetroni have told you, in a breach of contract lawsuit between attorney and client, any and all claims of privilege and confidentiality are deemed waived, and therefore EVERYTHING I learned and/or advised the Tribe of during my tenure, including Commercial Fishing, the Casino, illegal payments to members, lawsuits, personnel, boundary disputes, etc., is fair game in any court of law. And, because of this Tribe's stunning failure to tamp down the staggering amount of information leaked to third parties by certain Tribal Council members and the Ogema, including legal advice, whether by e-mail to the Karol Ann Chabot's of the world and her followers or by other

means, all of that information is not privileged and/or confidential and can be shared with anybody at my discretion, including federal and state authorities, those opposing the Tribe's efforts in any venture, etc. By the way, a little word of advice: you might want to advise Mr. Giampetroni of all that is relevant and/or out there that you don't want let out before you ask for his advice. When asked, Mr. Giampetroni didn't even know that the Tribal Offices are not on trust land (which would have been one of my first questions) and are subject to concurrent tribal-state jurisdiction.

I can only presume that the Tribe desires to obfuscate the issues and delay, presumably in the thinking that if the Tribe delays long enough, I will go away. I can assure this Tribe that I will not go away, and my resolve is strengthening every single day. In any event, a 28 day extension of the time will not give the Tribe any defense to this lawsuit because it has no defense and everybody knows it, including the Tribe, all experts, John Wernet (with whom I met on November 12 and who, after presented with copies of the lawsuits, offered his own doubts about Muskegon), Jeff Davis, and soon Atty. General Eric Holder and my other close friends in the federal government to whom the Tribe will go to request a land-into-trust transfer.

However, even if we were to assume, *arguendo*, that some magic defense existed and that Mr. Giampetroni is the only person in the world who knows what it is, the reasoning given by Mr. Giampetroni in asking for the extension, that he was too busy and that he had conferences and family events to attend to, obviously did not come to light in the last few days before the deadline to respond and thus his protestations are highly specious in nature. He had to know of these things when he took on the case. If an attorney is too busy to take on a case, then he owes a duty to his prospective client, the opposing parties, and the court to decline taking the case. His duty is to the cases he takes, and not to conferences. In the meantime, the Ogema and Tribal Council both have in-house attorneys, and the defendants can point to no conflict whereby the in-house attorneys couldn't have taken on the cases and answered the complaint. It is therefore clear that this is just another tactic of delay and harassment by the defendants.

Also, if the Tribe thinks that I will not file in federal court in order to preserve my reputation in Indian Country because it's an "attack" on tribal sovereignty, it had better think again. I really don't care what others think, which is why my good friend and now Deputy Assistant Secretary Del Laverdure (who had me speak at conferences on numerous occasions) has repeatedly said, "that is why I like you so much; you say what the tribes need to hear, whether they like it or not." Further, as another friend at Interior has said, the rest of the tribes in the country will be circling the Tribe with their guns drawn and aimed at the Tribe's head instead "for the Tribe being so stupid to let it get this far" because of the possible legal ramifications to ALL tribes, not to mention the Administration.

In my opinion, the lawsuits speak for themselves, and I am 100% confident of prevailing in each of them, particularly after the interview with the FEPI on December 8, 2009. Needless to say, proceeding to a fact-finding conclusion will prove to be particularly damaging, legally and politically, to the Tribe, the State, and the federal government (in

part because of its funding of justice in Indian Country in a time of stricter scrutiny of where tax dollars are going), although the filing itself will be highly damaging as *all three cases will be filed since it will show acts by the Tribe in furtherance of the violation of civil rights*. This is especially true in the civil rights case (in Tribal and/or federal court), of which a friend I have on the federal bench said "the Tribe would get laughed right out of court" and (facetiously) "one wonders why tribal courts aren't taken seriously." The judge finally opined that even had Judge Sherigan not changed the rights of each party, but instead stated the same holding in a different way, it still would have resulted in a blatant violation of equal protection of the law and/or due process.

I also remind you that in federal court you will not be arguing before the likes of Dan Bailey or Angela Sherigan, and the Tribe will have to stick to the clear legal aspects and timelines of each case. Further, the federal court will not allow the Ogema and Tribal Council to share an attorney since a lawsuit between the two is one of the main issues in the case(s). It will matter little if the attorney advises the parties of possible conflicts as David Giampetroni should have done *in each and every case thus far*, and which I assert on information and belief he has not. This is also true since each party will be required to testify against each other and there exist competing claims, defenses, liabilities, settlement powers, constitutional powers, etc. The experts that I have spoken to have wondered in amazement whether in-house counsel had advised their respective clients of the need for separate counsel, and if not why their necks aren't on the chopping block.

Unfortunately for the Tribe, Mr. Giampetroni's assertions that this is one big happy Tribe don't hold water, and in the words of one federal judge, "don't even pass the smell test" because of the numerous lawsuits against each other on the issues in this case dating back to before my time with the Tribe. Additionally, because Mr. Giampetroni and his firm have had a hand in breaching the "Chinese wall" between the Ogema and Tribal Council in all three cases in tribal court, I can assure you that Kanji & Katzen WILL NOT be allowed to represent either party in federal court. It may not matter in any event because no matter the Tribe's decision in answering this Demand Letter, Mr. Giampetroni will be answering to the Michigan State Bar and will likely have to forego representing both parties no matter the forum. Finally, in federal court, all of my legal fees incurred, in tribal and federal court, will likely be awarded.

As an aside, if I were advising a tribe with its eyes on a second site, I would tell them that a lawsuit in federal court which has merit and shows not only the gross incompetence of certain tribal entities, but also possible corruption in its justice system, is the absolute last thing that it would want, and the reasoning is simple. What will it say when the tribe asks a state and federal government to put more of its non-native citizens under a jurisdiction that thinks nothing of breaching contracts with its employees, discharges those who report violations of law, and blatantly violates civil rights by denying equal protection of the laws and due process of law with the full cooperation of the tribal court (and is less than two years removed from giving out tens of millions of dollars in illegal payments to its members)? Further, this was done to a person who possesses expert knowledge of the law, not the class of average workers which will comprise the vast majority of workers subjected to the Tribe's jurisdiction by Tribal and State action. Finally, the simple act of

the filing of the suit is most damaging (and I have good faith arguments for doing so), and it matters not at all if the tribe asserts *legal* defenses for its actions (actually, some have opined that it is worse because the tribe would be saying that it can do all these things but you can't touch it, even in a federal court of law).

Additionally, if I were trying to unionize the tribe's existing casino, what better way than to show workers that if the tribe is going to blatantly violate the Whistleblower Protection Act by firing a person intimately familiar with the rule of law, what is the tribe willing to do with the average worker? And finally, when this filing gets out to the press, tribes and other entities opposing the tribe's plans for a second site, legislators in the state who will need to ratify any compact changes, unions, and members of Congress opposing any expansion of gaming, etc., the state and the feds will be backtracking from any second site talk in no time.

How do I know that these entities will be contacted in this case? The reason is simply that confidentiality at the Tribe is a joke, and I have already been contacted by persons connected to several entities whose interests don't exactly jibe with the State's and the Tribe's interests in Muskegon. They have urged me not to settle the cases, because win or lose on legal grounds the *facts* brought out in a filing in federal court will constitute pennies-on-the-dollar advertising against the Muskegon project and against federal and State approval, although with what is at stake, I would venture to say that it is *percentages* of pennies on the dollar. One person connected to an entity has stated that I may even get remuneration to continue the fight should I run short of funds. (If you're wondering how this can be accomplished legally and above board, so was I; but then I just figured that they could draft a contract for unnamed services commencing in September of 2011, and pay the money upon execution of the contract.)

Thus, based on all of the above and much, much more, in return for voluntarily dropping all lawsuits and a confidentiality agreement covering all knowledge, confidential or not, gained during the employment with the Tribe, the Tribe will agree to pay me the sum of \$225,000.00, will promise to work with the Tribal Court on serious and meaningful Tribal Court reform, and will allow me to collect all of my possessions it has been keeping from me (which, while it seems like a small detail, is huge in showing bad faith and harassment, and was reported to the FEPI as signifying the Tribe's harassment, bad faith, and malice towards me).

This demand is based on the fact that it is approximately what I am owed in salary alone on the balance of my contract and/or that it represents approximately one-half of the Tribe's exposure in this case (approx. \$300,000.00 in salary and benefits plus three counts at \$50,000.00 pursuant to the Whistleblower Protection Act, although a labor law expert has stated that the keeping of my personal belongings by the Tribe constitutes a fourth count, and another expert said that I could file a small, but highly embarrassing, lawsuit in state court, which would also severely test the Tribe's jurisdiction). This is a ridiculously low demand considering the idea that the Tribe may have hundreds of millions, if not billions, of dollars at stake in the long run.

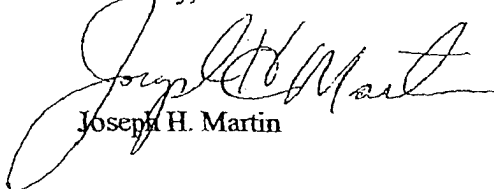
This demand is also based on a planned and yet-to-be-filed equity lawsuit based on Clause 6 of my contract, which all agree that, based on the tribal court's actions thus far, can be filed as an original action in federal court and in which the federal court can review de novo all related lawsuits. The Tribe will have no claims of sovereign immunity because of the arbitration-like process contained in Clause 6, and in all objective and expert minds the Demand represents the LEAST that I will get from a federal court (plus attorney's fees) for reasons including, but not limited to:

- 1) the Tribe's actions thus far in breaching my contract, terminating the contract after I reported violations of law by the Tribe (the federal court is not bound to follow the Tribe's Whistleblower Protection Act, and can find based on retaliation alone and in any amount), and the Tribe's egregious and illegal actions in violating my civil rights;
- 2) the fact that I accepted the Tribe's offer of employment and declined appointment to the constitutionally-protected, 4-year term position of Chief Judge of the Grand Traverse Band based on this Tribe's assertions that it wanted to "start to do things better;"
- 3) the fact that I voluntarily dismissed my first lawsuit based on the Tribe's assurances to work together to get the Muskegon Project passed; and
- 4) the fact that when asked in April in Santa Fe and May in Washington, D.C. by high-ranking persons in the Obama Administration of any interest in going to work with the Administration, I declined and cited the fact that, based on the promises and assurances of the Tribe to work together, I promised to do the job in #3 above for the good of the Tribe (in order to show damages, I will get affidavits from the Administration officials; naturally, they will want to see the lawsuits).

Please be advised that the Tribe has until COB on Wednesday, December 16, 2009, to accept this demand and until COB Friday, December 18, 2009, to negotiate and complete the entire transaction, that THE MONETARY AMOUNT ABOVE IS NOT NEGOTIABLE, and that, if declined, there will never be as low an offer to settle in the future. If the Tribe declines this demand, I will choose my law firm (several high-powered firms have expressed interest in bringing this case to federal court) and will proceed to file in federal court.

Thank you for your attention to this most important matter. Please feel free to contact me at joemartwi@yahoo.com or (989)600-5607 at your convenience should you have any questions or concerns.

Sincerely,



Joseph H. Martin

EXHIBIT C

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March 9, 2010

Meriel Coleman.
Illinois Attorney Registration and Disciplinary Commission
One Prudential Plaza
130 East Randolph Drive, Suite 1500
Chicago, IL 60601-6219

Re: No. 2010 IN 00568

Dear Ms. Coleman:

I am in receipt of your letter of your letter of February 17, 2010, and accompanying letter from the Little River Band of Ottawa Indians ("Tribe"), through its Tribal Council and Ogema, requesting an ethics investigation by the Illinois Attorney Registration and Disciplinary Commission ("IARDC"), , and by this letter and supporting documents, I hereby respond. Pursuant to the laws of the Tribe and the State of Michigan, I am submitting a copy of this letter to the Tribe and demanding a full retraction of the false and defamatory statements contained in the Tribe's letter, and will also be demanding a full retraction of the State of Michigan of assertions attributed to it in the Tribe's letter. Further, as stated herein, I will also be sending a copy to the State Bar of Michigan to investigate the participation of at least two of the Tribe's attorneys in sending patently false and absurd statements to a hearing board such as the IARDC. Thus, the IARDC need not worry about utilizing its discretion in releasing the contents of this letter to the Tribe.

The first allegation by the Tribe is that because I am somehow "unauthorized" to practice law *in the State of Michigan*, that I am engaged in the illegal practice of law in violation of the Michigan Compiled Laws ("MCL") and the Illinois Rules of Professional Conduct ("IRPC"). Unfortunately, the Tribe willingly and knowingly misstates the law regarding tribal representation quite simply because as a so-called "sovereign entity" enjoying "government-to-government relations with the United States and with state governments," as the Tribe so eloquently states in the first paragraph of its letter to the IARDC, its attorneys are not subject to the laws of the State of Michigan or any other state absent a tribal agreement to do so, which the Tribe cannot point to no matter how hard it tries. Thus, by not showing the nexus to the State of Michigan's laws and not being able to point to an agreement with the State, the Tribe argues against its own sovereignty in the argument it makes, which would in effect make the Tribe subservient to the laws of the State of Michigan.

Because I didn't practice for a "state" entity, nor did I practice under the jurisdiction of the State, I was not subject to the rules for "state" practice. The United States and states around the country have long recognized that tribes can set their own parameters as to who dispenses legal advice to tribes and in their dealings on a government-to-government basis with the states in which the tribes exist. Michigan is no different, as evidenced by its own laws for admission to practice without examination, which state:

5(Λ)(6)(a)-2. *Jurisdiction Where Admitted.*

The practice must have been in a jurisdiction where admitted. Practice in the federal courts in a state other than where admitted qualifies. *Practice in a Native American court system qualifies.* (emphasis added)

The above serves as an illustration that Michigan, like virtually all other states, fully recognizes that tribal courts are a distinct system under law, and that those who practice in tribal courts, *even those that practice in tribal courts in Michigan*, are not practicing under the jurisdiction of the State of Michigan. Further, all tribes have routinely and successfully argued that, absent federal law or an agreement with the State, neither of which exist here, they are not subject to any of the laws of the respective states or the jurisdiction of the court systems. To treat the Tribe's argument as true would be tantamount to requiring each and every attorney registered in the State of Michigan (or Illinois) to be members of the bars of the federal courts existing within the respective jurisdictions of the states.

One need look no further than the Tribes own legal system (which is similar to tribal systems around the nation) as an illustration of this fact. Like in Michigan and Illinois, the Tribal Court sets the rules for admission to practice within the Tribe's jurisdiction. The Tribal Court rules state that an attorney working within the jurisdiction of the Tribe must be licensed in the "State Bar of Michigan or *some other State.*" Further, there are countless instances in the Tribal Court rules referring to the State of Michigan as a "foreign" jurisdiction.

Also, the State of Michigan requires that all judges within its boundaries not only be law-trained, but licensed with the bar of the State of Michigan. However, in the Tribal Court, not only are three of the sitting judges not licensed with the bar, but they are not licensed with any bar, *nor have they even taken one law school class, let alone graduate from a law school.* If one were to take the Tribe's argument herein as true, then it is imperative that the Tribe is mandated to amend its Constitution to provide for the fact that its judges be licensed with the State of Michigan. Finally, like virtually all other tribal courts around the nation but contra to the laws of the State of Michigan, the LRBOI Tribal Court allows lay advocates to appear in court, even in the absence of state bar registration or legal training.

Finally, contrary to the Tribe's argument, as the *Chief Legislative Counsel*, I was not required to go into State court at all because that is an *extra-tribal* duty which falls under the Tribe's General Counsel, who is employed by the Executive of the Tribe, the Ogema.

However, even in the rare event that the General Counsel should have to appear in state court, the state court would in the normal course of business grant *pro hac vice* status, as it does virtually every day in every jurisdiction across the country.

As far as the Demand Letter of December 11, 2009, it speaks for itself and despite the Tribe's attempts to take snippets out and totally distort or outright lie about the intent of certain passages within, the letter is not unlike letters that go out every day from all circles, including from the highest levels of the federal government. Further, all statements about confidentiality in the letter are strictly within the context of a proposed federal lawsuit, and are in response to the Tribe's pleadings in my breach of contract case falsely claiming that I breached the contract before the Tribe did, and also from the Tribe's own letter of September 18, 2009, where the Tribe again falsely claimed that I breached the contract before it did and threatened me with a breach of contract action and "disgorgement" of monies paid to me if I did not dismiss all lawsuits against it. Thus, any confidential information disclosed would be in defending myself from accusations of wrongdoing (i.e. an initial breach) that the Tribe itself says in its letter to the IARDC is necessary before disclosing any information gained during my employment with the Tribe. Thus, the Tribe's attempt's to paint it as "extortion" is defamation *per se* and in accordance with my rights I am demanding of the Tribe a full retraction of any such statements pursuant to Michigan law.

Finally, an element in a claim of extortion is that what is allegedly sought must be found to be outside of what a reasonable person might think that he was legally entitled. In other words, if the existing lawsuits in question sought \$25,000.00 in damages, and I informed them that I demanded \$225,000.00 to not file in federal court, it *may* have been seen as extortion, although the fact that it allegedly did not threaten to do something illegal (but instead allegedly unethical) would similarly defeat any claims of extortion.

To attempt to accomplish its false and outrageous claims of attempts at extortion, the Tribe engages in a low and extremely thinly-veiled campaign of outright lies and/or distortions of my letter to them, many of which don't even pass the smell test simply because they are refuted by the letter itself and don't even require any extrinsic evidence to prove that they are patently false. Among the Tribe's outright lies and/or distortions:

- 1) Its reliance on *In re Whitney Dove Hardy*, which did not involve the client's threat to seek breach of contract against the attorney, and therefore unlike here the attorney was not defending himself from accusations of wrongdoing.

- 2) That I am "brandishing my willingness to disclose confidences." A simple reading of the letter suffices here, and shows that I did not initiate the contacts by persons who know of the lawsuits from leaks in the Tribe's confidentiality. Instead, it warns of the negative publicity that could come from the lawsuits. Further, as the Tribe already knows (or should know if their outside counsel told them), after an early hearing in the breach of contract case, in the presence of my attorney I disclosed to the Tribe's outside counsel that I was already contacted by persons from outside the Tribe with opposing interests to the Tribe, and that those persons possessed information about the Tribe's

positions on the breach of contract case that obviously came from closed session meetings of the Tribal Council. I made these disclosures voluntarily in the best interests of the Tribe, even though I had no duty to do so.

Further, in this argument, the Tribe shows the height of wordplay and by doing so insults the IARDC's intelligence. As for the first part of the statements it uses, it neglects to include the words "in any court of law" when used for confidential information in asserting my rights and defending against the Tribe's assertions of wrongdoing on my part, and in the second part, neglects to include the words "not privileged and/or confidential" in what I can share with others. When these words are added to these two statements, it is clear that the Tribe has no plausible argument.

3) The Tribe's assertion that I am going "far beyond the vindication of (my) legal rights to include harassment and malicious injury to the Tribe's interests" by implying "an ability to influence improperly influence any tribunal, legislative body, government agency, or official" is simply not true. It is clear from a simple reading of the letter that the assertion is patently false, and instead it is the *facts* that come forward from the potential federal lawsuit(s) that will influence one way or the other any decision on the Tribe's potential interests. If the Tribe feels that it has done no wrong (although they stand alone in this regard), then there should be no question that the federal officials will feel the same way.

As stated in the Demand Letter, the Tribe has no defenses for its actions (particularly the Ogema and Tribal Council conducting a lunch meeting in secret with a judge on my contract, only to have her change the outcome of a case affecting my rights the next day), and instead appears to be coming to this body in some vain attempt to try to get this body to say that I somehow can't pursue any redress in federal court (which, based on the Tribe's actions to date, appears will still happen) or that I must somehow, even in light of the numerous transgressions against me during this period by the Tribe (including changing the termination clause of the contract without my consent or judicial action, withholding my personal possessions from me, etc.), I am somehow required to play nice in pursuing my rights in these actions.

4) The Tribe's assertion that I *admit* that I have already "violated IRPC 1.6(a) and 1.9(a)(2) by disclosing the Tribe's confidential information to "several entities whose interests don't exactly jibe with the . . . Tribe's interests in Muskegon" is an outright lie. Again, the IARDC need not look to extrinsic evidence on this issue since a simple reading of the Demand Letter states that I was *contacted* by those entities and nothing more. I vehemently deny disclosing any information to those entities, confidential or not.

5) The Tribe's assertion that I disclosed confidential information to John Wernet is similarly an outright lie. I do admit that I visited Mr. Wernet at his office and presented him with copies of the lawsuits already filed in Tribal Court and discussed issues of a general and non-confidential nature relating to my representation of the Tribe, but I again vehemently deny that I discussed any confidential information. (Additionally,

before entering Mr. Wernet's office, I stated to him in no uncertain terms that I did not work for the Tribe anymore.) I do admit that I stated to him that which he already knew, which was that it was indeed I who talked the Tribe into not following the advice of their then- and current outside counsel of going to the Sixth Circuit to fight the Tribe's (and the Little Traverse Bay Bands of Ottawa Indians') gaming case against the State of Michigan, a disastrous move which would have surely killed any chance of the Tribe's interests in Muskegon. Hardly the elements of confidential information.

I also vehemently deny that my visit was "an attempt to persuade Mr. Wernet to withhold his support of the Tribe's economic development plans." Instead, as noted in my cover letter to him, I made clear the possible political ramifications of the State approving and/or partnering with a Tribe that thinks nothing of breaching contracts, firing whistleblowers, and depriving persons of civil rights by having *ex parte* conversations with judges, who then change court orders without notice, hearing(s), and/or a record of any conversations and/or agreements between the tribal government and a judge. I also stated that this was something that the State should be on top of, and he readily agreed. It was then that Mr. Wernet offered unsolicited thoughts as to the possibility of the Muskegon Project. Mr. Wernet asked bluntly at the end of our conversation what I wanted him to do, and I said that I couldn't tell him what to do.

6) The Tribe's assertion that "(i)t was an important part of Mr. Martin's duties as the Tribe's Chef Legislative Counsel to cultivate relationships . . . for the benefit of the Tribe" is laughable. What the Tribe doesn't tell this body, but which is included in the lawsuit for breach of contract, is that while the Tribe set aside over one million dollars in funds to support development of the Muskegon Project, I spent over \$4,000.00 of my own money trying to cultivate said relationships in furtherance of the project and in the Tribe's best interests, in reliance on the Tribe's promises to work together (for which I also voluntarily dismissed my initial lawsuit). My expenditures were necessary because the Tribe wiped out all training and travel money for the Legislative Counsel's Office, again in breach of the contract and as illustrated in the lawsuit.

7) Again, without qualification I absolutely and vehemently deny "angrily warning" anybody connected with the Tribe of any intention to "influence state and federal officials to oppose important economic plans of the Tribe" or that I "glared at employees through the window." I have looked into the offices while walking past and waved at people who work for the Tribe and with whom I am still friendly. However, I have also waved at and spoke to elected officials of the Tribe as well, not only on tribal property but in and about the city.

8) It is not denied that an "order" was issued by the Ogema (NOT the Tribe). However, the "order" has no weight in the law and violates numerous principles of the Tribe's Separation of Powers. Thus, while it is disappointing that the Tribal Council has signed on to this "order," ostensibly because the Tribal Council and Ogema supposedly have "the same interests" against me, it is not surprising that they would sign on to this obvious power grab by the Ogema (which coincidentally happens just about every time that the Ogema's attorney is in dire straits legally).

In the “order,” the Ogema cites Article V, Section 5(a)9, of the Tribe’s Constitution. The powers of the Ogema are delineated in Article V, Section 5, of the Constitution and state in pertinent part that:

- (a) Subject to any limitations contained in this Constitution, the Tribal Ogema of the Little River Band shall be invested with the executive powers of its inherent sovereignty including, but not limited to:
 - 9. To exclude from the lands of the Tribe persons, or other entities, *not legally entitled to be present thereon*. (emphasis added)

On the other hand, the powers of the Tribal Court are delineated in Article VI, Section 8, of the Constitution and state in pertinent part that:

- (a) The judicial powers of the Little River Band shall extend to all cases and matters in law and equity arising under this Constitution, the laws and ordinances of or applicable to the Little River Band including but not limited to:
 - 1. To adjudicate all civil and criminal matters arising within the jurisdiction of the Tribe or to which the Tribe or an enrolled member of the Tribe is a party.

Article VI, Section 9, further states that “(t)he Tribal Judiciary shall be independent from the legislative and executive functions of the tribal government and no person exercising powers of the legislative or executive functions shall exercise powers properly belonging to the judicial branch of government . . .”

On January 12, 2009, I went to the Tribal Justice Center to file documents in already-filed cases. At that time, I asked Tribal Court personnel Deborah Miller and Janeen Codden if they were aware of the Order and whether the Court had made a decision as to whether the court staff was under the supervision of or answered to the Ogema. Ms. Miller and Ms. Codden replied that neither the Chief Judge nor Chief Justice had made any decision and in their opinion the court staff was not under the supervision of the Ogema. On January 14, 2009, Plaintiff again went to the Tribal Justice Center to file more documents. Both encounters with the Court were without incident.

On January 18, 2009, the Ogema sent the subsequent letter to me, in which the Ogema stated that I somehow violated the “Barring Order” that was “entered” by the Ogema barring me from access to tribal properties. The letter further states:

“The December 16, 2009, Barring Order (copy attached) prohibits you from entering the Tribe’s Justice Center without first calling the Tribal Court Clerk to schedule an appointment, unless you are attending a scheduled hearing in a case in which you are involved. *This constraint* was placed upon you due to

your disorderly and threatening conduct in Tribal Court and elsewhere. As such it is a reasonable security arrangement aimed at maintaining public order and protecting tribal staff and yourself. Your repeated violation of this order highlights your disregard for tribal governmental authority and underlines the need to draw clear lines circumscribing your interaction with the Tribe.

This advises you that if you violate the Barring Order again the Tribe will request that you be taken into custody and *seek prosecution for trespass for each offense, including the two previous ones.*

We regret the necessity of this letter but wish to make our position perfectly clear to avoid any unintended result.” (emphasis added)

While it is still unclear who the “We” is that the letter cites, one thing is very clear: that in citing “the two previous ones,” the Ogema accused me of having committed criminal wrong-doing, even though there exists no basis in law, nor does he (or the Tribal Council, for that matter) possess the power for having made such a determination.

The reason is clear. The Constitution vests the power to make legal rulings solely in the Tribal Judiciary, and not in the Ogema or Tribal Council. To date, there has been nothing filed with the Tribal Court requesting relief against Plaintiff of the kind the Ogema has in his “Barring Order.” There is also nothing in Judge Bailey’s order of citation for contempt of court which purports to limit my access to the Tribal Court. Instead, the Ogema has taken it upon some authority that doesn’t exist (apparently with the full cooperation of the Tribal Council) to render a decision as to whether I am legally entitled to be on certain tribal lands, including the law enforcement center, which has its own security structure and procedures.

The Ogema’s “Barring Order” limits my liberty and substantially affects my rights, property and otherwise, by allowing the Ogema, who has competing interests with me by virtue of his being named as a defendant in at least three other lawsuits filed by me, to dictate when and how I may have access to the justice system, and does so in the absence of any finding by the Court that I am not legally entitled to be there.

Further, the Constitution is clear that the power of the Ogema to exclude persons from the lands of the Tribe only extends to those persons “not legally entitled to be present thereon” and thus the Constitution makes clear that there must be a legal determination *a priori* before the Ogema may act. Unlike a mere visitor to a tribal enterprise or a casual visitor to the tribal offices, both of which are considered privileges, all persons have equal access to the Tribe’s justice system absent a court order abrogating such right. The Ogema possesses no constitutional powers to determine whether a person is legally entitled to access to the justice system. Further, as noted above, by purporting to tell me how I may interact with the Tribal Court staff, the Ogema is also implicitly telling the Tribal Court staff how it may interact with me, which is an egregious breach of the separation of powers, thus rendering his own “order” illegal.

9) The Tribe's assertion that "the December 11, 2009, letter is replete with gratuitously disparaging remarks and broadside allegations of corrupt, unethical, and illegal conduct directed at the Tribal Judges and Tribal Courts" is thus violative of IRPC 8.2(a) is an absolutely wrong reading of the intent of the rule since the rule is intended to protect the courts, and the judges who serve on them, from public ridicule at the expense of attorneys. In this case, not only was such criticism conveyed to the Tribe in a private communication, but it was also conveyed to two governmental entities who have said much worse about the Tribal Court and its judges before the public in open meetings. I stand behind everything I said in the letter. However, a timeline (and the attached lawsuits and orders of the court) is instructive:

-In January of 2009, Judge Sherigan issued an Order in a case between the Ogema and Tribal Council stating that as sole signatory the Ogema had the power to terminate my contract with the Tribe; the order is silent as to any powers of the Tribal Council.

-On July 16, 2009, Judge Sherigan has lunch with the Ogema and Tribal Council in secret, after which she issues a new order stating that *based on the meeting with the parties*, both the Ogema and the Tribal Council have powers to terminate the contract; there is no notice to the public of any such meeting, no recording of the meeting, and no official record of what transpired at the lunch meeting.

-At an October 22, 2009, hearing to disqualify Judge Sherigan from hearing the breach of contract case, which she opposes even after being notified of not only her involvement, but also the impropriety of her actions in changing the Order concerning my contract, outside counsel for the Tribe also opposes after a mere two minutes of studying the issue.

-In a November 9, 2009, Order After Review per Court Rules which ruled on the denial of Judge Sherigan to disqualify herself from the Breach of Contract case, Chief Judge Bailey stated: "(b)ased on the record of this case, *and the order of the clarification from 08093GC*, the Chief Judge does not see any conflict" in Judge Sherigan continuing on with the case; the "clarification order" cited is the July order of Judge Sherigan after the lunch meeting with the Ogema and Tribal Council.

- On December 7, 2009, Judge Bailey appeared in the case in which he had already made a decision on the propriety of the actions constituting the sole issue in the case.

I admit to getting agitated during the hearing (and admitted to the Court on February 3, 2010, that it was likely that a reasonable person could have found me in contempt of court for my actions), and left in order to avoid an escalation of matters. I admit that my actions were wrong. Unfortunately, I was perturbed to begin with, mainly because the emergency hearing was granted on a Friday and was served on a Saturday (on which I had initially been scheduled to be out of town) to be in Court at 9:00AM on the following Monday. Further, the order granting the emergency hearing was not signed by Judge Bailey or any other court staff, nor did the order even have Judge Bailey's name anywhere on its face, the emergency hearing was further granted even though Mr.

Giampetroni had not requested it in writing but later admitted to *having requested it of the court clerk over the phone*.

Unfortunately for the Tribe's arguments, however, this does not reflect an ethical breach but instead reflects that which it is being dealt with at present, contempt of court (appealed on other grounds). If the IARDC were to have to sit in judgment on every claim of contempt of court involving an attorney, there would not be enough hours in the day to get its job done. Further, by taking this argument to the IARDC, the Tribe wants to take it out of the hands of the Tribal Court, further arguing against its own sovereignty and the abilities of the Tribal Court to deal with such a matter (and implicitly doing what it falsely argues that I have done, which is denigrating the Tribal Court, only this time to an outside entity such as the IARC). That the Tribe wants to bring this to the IARDC speaks volumes about the validity of the underling claims regarding my civil rights lawsuit against Judge Bailey, which on February 3, 2010, was turned into an appeal in the original case with no objections by the Tribe.

Finally, it should not be lost on the IARDC that the Demand Letter requests that the Tribe promise to engage in real and meaningful Tribal Court reform, which I consider to be as important as any other relief (and I take offense at the Tribe's characterizations of my suits as anything other than that which they are, requests for relief). As an attorney for the U.S. Dept. of Justice, a tribal court judge, the President of the National Native American Bar Association, and a board member of the National American Indian Court Judges Association, etc., I have consistently fought against the types of actions engaged in by the Tribal Court in conjunction with the Tribe, and will continue to fight such behavior in the future.

One example of the need for Tribal Court reform is illustrative. On February 3, 2010, during a hearing on a Motion for Default Judgment against Judge Sherigan for not having answered the Complaint in the case against her after almost three months, the Tribal Court (under appointed outside Judge Wilson D. Brott) agreed with my argument that Judge Sherigan should have been served pursuant to Tribal Law, which meant that the Court itself would perform the task.

Unfortunately, service never happened because of highly questionable actions by the court, including Judge Sherigan. In November, I asked whether Judge Sherigan had been served in the case. Court Clerk Deb Miller stated that Judge Sherigan was aware of the lawsuit, but that Judge Sherigan told the court staff that service wasn't accomplished and that I should know better "because Mr. Martin is an attorney;" (which also seriously begs the obvious question of why Judge Sherigan was even telling subordinate court staff how service was to be accomplished in a case where she was a named defendant). In December, I again asked Ms. Miller whether Judge Sherigan was served, and her response was that Judge Sherigan had received a copy of the lawsuit, had hired an attorney, and would file an answer shortly. After no answer from her on the case for almost three months, I filed the motion for default, which she promptly answered through her attorney that she wasn't properly served *under Michigan law* (which as noted above Judge Brott rejected), resulting in an irreparable delay in justice.

10) The Tribe's assertions that I somehow owed it a duty to get its consent before suing the Tribe based on a breach of an employment contract is false and patently absurd. I didn't need their consent to pursue my rights. (That the Tribe could make such an argument with a straight face in light of the fact that it thought nothing of conducting a secret lunch meeting with a judge and coerced her into changing an order in an already long-settled case affecting my rights would be laughable were it not so pathetic.) In any event, the Tribe engages in revisionist history with this claim, since in my earlier lawsuit, I gave members of the Tribal Council copies of the lawsuit against the Ogema. Not only did they not object, they encouraged it, although to be fair to them, this was at a time when the Tribal Council itself was suing the Ogema over the terms and provisions of my contract (the aforementioned lawsuit whereby the Tribal Council and the Ogema later conducted unethical and illegal meetings with the judge). Finally, instead of blaming me for the fact that their attorneys are involved to the point where they cannot participate in the actions I initiated in asserting my rights, it may possibly behoove the Tribe to take a long look at the actions of its existing attorneys which helped to give rise to these events.

11) As for the claims that I have told the Tribe's outside counsel that I believed that there exists a conflict of interest inherent in his representation of both the Tribal Council and the Ogema, I do not dispute that claim. However, as the Tribal Court record reflects, I decided against moving to have him disqualified from the case. I similarly decided not to report his activities to the Michigan state bar, for basically the same reason: that any claim should belong to his clients. Unfortunately, however, based on his actions (and Legislative Counsel Kim McGrath's) in this matter before the IARDC and the fact that the Tribe has taken it upon itself to make this an issue in this matter, it appears as though I have no choice but to refer this matter to the State of Michigan for an investigation of the respective actions in being decidedly less than candid to a body such as the IARDC.

As stated above, I do not agree that there exists no conflict of interest in representing the Tribal Council and the Ogema in the same matter, although in attempting to defend himself, Mr. Giampetroni engages in revisionist history at best and outright falsehoods at worst. I wish to apprise you of some rather disturbing practices being conducted by David Giampetroni whereby he is representing named defendants with patent and conflicting interests in the same case three different times, not only to the detriment of his clients but to justice in general, and possibly in furtherance of wrongdoing on the part of the clients. Further, Mr. Giampetroni has been engaging in *ex parte* communications with a court of law in efforts to further his clients' cases.

Michigan Rules of Professional Conduct are clear when it comes to the representation of multiple clients in the same case:

Rule: 1.7 Conflict of Interest: General Rule

(a) A lawyer shall not represent a client if the representation of that client will be directly adverse to another client, unless:

(1) the lawyer reasonably believes the representation will not adversely affect the relationship with the other client; and

(2) each client consents after consultation.

(b) A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third person, or by the lawyer's own interests, unless:

(1) the lawyer reasonably believes the representation will not be adversely affected; and

(2) the client consents after consultation. When representation of multiple clients in a single matter is undertaken, the consultation shall include explanation of the implications of the common representation and the advantages and risks involved.

CONSULTATION AND CONSENT

A client may consent to representation notwithstanding a conflict. However, as indicated in paragraph (a)(1) with respect to representation directly adverse to a client, and paragraph (b)(1) with respect to material limitations on representation of a client, *when a disinterested lawyer would conclude that the client should not agree to the representation under the circumstances, the lawyer involved cannot properly ask for such agreement or provide representation on the basis of the client's consent.*

When more than one client is involved, the question of conflict must be resolved as to each client. Moreover, there may be circumstances where it is impossible to make the disclosure necessary to obtain consent. For example, when the lawyer represents different clients in related matters and one of the clients refuses to consent to the disclosure necessary to permit the other client to make an informed decision, the lawyer cannot properly ask the latter to consent.

CONFLICTS IN LITIGATION

Paragraph (a) prohibits representation of opposing parties in litigation. Simultaneous representation of parties whose interests in litigation may conflict, such as coplaintiffs or codefendants, is governed by paragraph (b). An impermissible conflict may exist by reason of substantial discrepancy in the parties' testimony, incompatibility in positions in relation to an opposing party, or the fact that there are substantially different possibilities of settlement of the claims or liabilities in question.

Upon information and belief, Mr. Giampetroni had not explained the implications of the common representation in each and every instance in all three cases before agreeing to represent the parties, in plain violation of Rule 1.7(b)(2).

In *Joseph Henry Martin v. Tribal Ogema and the Tribal Council* ("Contract Case"), Mr. Giampetroni represents both defendants, even though the Tribal Council sued the Ogema over his termination of the contract at issue in the case, and vehemently opposed his authority to do so under the Tribe's Constitution. Members of the Tribal Council and the legislative staff will be called upon to testify and/or provide evidence against the Ogema and vice-versa. It is clear that Mr. Giampetroni has not taken these situations into consideration, and his continued representation will only serve to hinder the prosecution of this case because if the conflict rears its ugly head mid-litigation as the case will likely have to start over.

In *Joseph Henry Martin v. Tribal Ogema, Tribal Council, and Judge Angela Sherigan*, which deals with the parties acting in concert to violate my civil rights, the same issues of testifying against one another will also likely exist. Otherwise, Mr. Giampetroni will be put in the untenable position of saying each party had the same reason for going to Judge Sherigan, which would prove my assertion of them acting in concert. It would stand logic on its head to represent two parties who had not only different reasons for going to the meeting, but also where one party (the Ogema) would lose out in the process and the other gained. But that is precisely the case here, as the Tribal Council was granted rights previously only possessed by the Ogema.

Mr. Giampetroni's ability to represent his clients in any possible settlement discussions is severely compromised as well, not only to the detriment of at least one of his clients, but to my ability to prosecute my case. After a hearing, when Mr. Giampetroni was asked by my attorney about possible settlement discussions, Mr. Giampetroni stated that there was absolutely no possibility of them happening because members of the Tribal Council were extremely mad (and state of mind is also an aspect which Mr. Giampetroni should have taken into account when applying the Consultation and Consent rule). While an objective observer could take this to mean that the other client may have been amenable to such discussions, this further begs the question of Mr. Giampetroni's duty to that other client and his rights, liabilities, and interests in the case. What would happen in the future if one defendant wanted to settle and the other did not?

Mr. Giampetroni's actions and inactions in these cases has unfortunately spilled into his decision-making processes as he has twice taken positions that have put into question his motives. In the breach of contract case, when faced with the fact that Judge Sherigan not only had *ex parte* contact with the defendants in a case they had against each other regarding my contract, but issued a new order the next day without notice, pleadings, a hearing, and a record of the proceedings in violation of tribal and federal law (the basis for the violation of civil rights case), he opposed her removal from the case, a move an objective observer would take as harassment and delay in the proceedings. He has also implied the existence of *ex parte* communications with the Tribal Court, first when he states that he knew that a new scheduling order was forthcoming (which he could only have known had he talked with Judge Sherigan outside of the presence of me or my attorney), and second when he requested an emergency hearing over the phone, which was then granted by a court clerk.

Later, when shown that when Judge Bailey had used the unethical and illegal order in determining that Judge Sherigan could continue on with the case in violation of every canon of judicial ethics, Mr. Giampetroni not only opposed Judge Bailey's removal, but also encouraged Judge Bailey to issue another order in his favor, once again putting into question his motives in the case.

Further, Mr. Giampetroni has been continuing to issue defenses for both clients on a single pleading, meaning that he must gain agreement and/or compromise from each client before filing his pleadings, motions, etc., which is absolutely in violation of his duty to vigorously advocate for his client. Even if both clients have willingly and enthusiastically agreed to the defenses he has espoused in Court, it is easy to see by an objective observer where the interests of his clients would diverge, particularly since the Tribal Council will lose rights under the contract when verdict is found against the Tribal Council, the Ogema, and Judge Sherigan, which will beg the question whether Mr. Giampetroni should argue for appeal or not. Additionally, there will be the question after judgment in the civil rights case whether the Ogema's presence means that the confidentiality will have been breached by the separation of the respective parties' interests, not only in the court cases but as it concerns the closed sessions of Tribal Council's meetings (although it can easily be argued that they have both been breached already, an issue addressed with Tribal Council not only by me but at least one other tribal attorney). This will be an especially important aspect of the Whistleblower Protection Act case.

Finally, I vehemently dispute Mr. Giampetroni's version of the events during the call where I initially charged that he was violating ethical responsibilities. Mr. Giampetroni initially started out by giving a rather long-winded argument that no conflict existed. However, when I pointed out that I had posed this issue to ethics experts around the country, including law professors and federal judges, he immediately proceeded into a "Consultation and Consent" argument, and that he had indeed apprised the Tribal Council and Ogema of potential conflicts (upon information and belief, it is my assertion that he had not). His actions and arguments of that day beg several questions, the most obvious being that if he had already utilized the "Consultation and Consent" aspect of his duties to the Tribe, why would he initially argue that there existed no potential conflict?

In the end, I am confident that the Commission will agree with a close friend of mine who sits on a United States Court of Appeals. When told in hypothetical form of the facts of this case, the judge said that "this isn't even a close case," particularly since the breach of contract case involves two clients who engaged in litigation over the matter and will be called on to testify against each other, and the violation of civil rights case involves the very lawsuit at issue in the breach of contract case and where the parties will also be called upon by the plaintiff and possibly co-defendant Judge Sherigan to testify (regarding the facts of the lawsuit amongst the parties, the knowledge of the Ogema that Kim McGrath was violating the Tribe's own Legal Counsel Reform Act ("LCRA"), the Tribal Council's acquiescence and encouragement that nothing be done about the dichotomy of my contract terms and the LCRA, the Tribal Council's knowledge that the

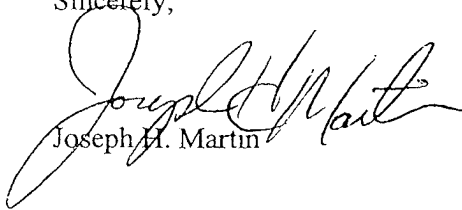
Ogema's attorney has been working during office hours on is own case in state court, etc.).

Finally, the assertion that Kanji & Katzen, PLLC, "has provided a photograph of Mr. Martin with a photograph of Mr. Martin to its receptionist with instructions to dial 911 should he pay a visit" is drama at its finest and apropos of nothing since I have never before paid them a visit (their office is over 250 hundred miles from my home), nor do I have any plans to do so in the future. The only interaction I have had and will continue to have with them is at the Tribal Court.

In conclusion, it has clearly been shown herein that the Tribe has no respect for its own rule of law (the failure to follow the LCRA is a big part of the breach of contract action on the parts of both the Tribal Council and the Ogema) or having a Tribal Court that operates in a truly legal and ethical manner (which is the biggest part of the civil rights case). It has further been shown that the Tribe thinks nothing of lying and outright distortions in an effort to somehow try to prevent me from seeking redress for my grievances, no matter how noble it attempts to sound in not begrudging me my right to seek remedy in the court(s) of law. As attorneys, we know that it only takes being caught in one lie or attempt at obfuscation to seriously damage anybody's credibility. It has been shown herein, again without *even having to look to extrinsic evidence*, that the Tribe's letter contains many such transgressions. Thus, the Tribe's motives should be perfectly clear to a reasonable observer: to attempt to accomplish that which it will not do in a court of law. Finally, virtually all of the Tribe's assertions about alleged transgressions on my part have little to do with ethical behavior and more to do with local *legal* remedies. Therefore, it is clear that the IARDC should not waste its time any further, and I respectfully request that the IARDC not pursue this matter.

Thank you for your generous attention to this most important matter. Please feel free to contact me at joemartwi@yahoo.com or (989)600-5607 at your convenience should you have any questions or concerns.

Sincerely,



Joseph H. Martin

EXHIBIT D

IN THE CIRCUIT COURT
FOR THE COUNTY OF MANISTEE

JOSEPH HENRY MARTIN,

Plaintiff,

v.

Case No. /0-13845-CZ

LRBOI TRIBAL COUNCIL, by and through:
STEVE PARSONS, Tribal Council Speaker,
individually and in his official capacity,
JANINE SAM, Tribal Council Recorder,
individually and in her official capacity,
ROBERT WHITELOON, Tribal Councilor,
individually and in his official capacity,
CANDACE CHAPMAN, Tribal Councilor,
individually and in her official capacity,
VIRGIL JOHNSON, Tribal Councilor,
individually and in his official capacity,
LORETTA BECARRIA, Tribal Councilor,
individually and in her official capacity,
PAT RUITER, Tribal Councilor,
individually and in her official capacity,
SANDRA MEZESKE, Tribal Councilor,
individually and in her official capacity,
LARRY ROMANELLI, Tribal Ogema,
individually and in his official capacity,
David Giampetroni, Esq.,
STATE OF MICHIGAN, by and through:
JENNIFER M. GRANHOLM, Governor of the
State of Michigan,
JOHN WERNET, Deputy Legal Counsel for the
Governor of the State of Michigan

Defendants.

Joseph H. Martin
Pro se
362 1st Street
Manistee, MI 49660
(989) 600-5607

THERE IS NO OTHER PENDING OR RESOLVED
CIVIL ACTION ARISING OUT OF THE SAME
TRANSACTION OR OCCURRENCE AS ALLEGED
IN THE COMPLAINT.

**Verified Complaint for Damages, Declaratory and Injunctive Relief
(INJUNCTIVE RELIEF SOUGHT)**

The Plaintiff, Joseph Henry Martin ("Plaintiff"), complains of the Defendants, and states the following:

1. This is a civil action for damages, declaratory and injunctive relief arising under Section 600.2911 of the Michigan Compiled Laws ("MCL"). This case concerns the publishing to third parties of defamatory statements by the above-named Defendants intended to disparage Plaintiff.

2. Plaintiff complains that the concerted actions of the Little River Band of Ottawa Indians ("LRBOI") Tribal Council ("Tribal Council"), individually and in their official capacities, LRBOI Tribal Ogema Larry Romanelli ("Ogema"), David Giampetroni ("Mr. Giampetroni"), and the Office of the Governor of the State of Michigan in the person of John Wernet ("Mr. Wernet") (collectively "Defendants"), in publishing false and defamatory statements to third parties including, but not limited to, the Illinois Attorney Registration and Disciplinary Commission ("IARDC"), accusing Plaintiff of committing or attempting to commit multiple crimes and/or engaging in other unethical, is violative of MCL Sec. 600.2911 in that they constitute defamation, and that false and defamatory statements of all Defendants herein directly contributed to the Defendant Little River Band of Ottawa Indians ("LRBOI") committing libel *per se*.

JURISDICTION

3. This action arises under Section 600.2911 of the MCL. This Court has subject matter jurisdiction under because the matter in controversy exceeds \$25,000.00. On information and belief, this Court has jurisdiction over the LRBOI, the State of Michigan, and all individually-named defendants so as to make jurisdiction proper in this court.

This Court possesses jurisdiction over the elected officials of the LRBOI for reasons including, but not limited to: 1) the LRBOI operates its government offices on land under the concurrent jurisdiction of the LRBOI and the State of Michigan; 2) the publishing to third parties of false and defamatory statements by the LRBOI were not traditional sovereign actions and were published in the State of Michigan and State of Illinois; 3) Plaintiff is not a tribal member of the LRBOI; and 4) Plaintiff and the LRBOI were not in a consensual relationship at the time of the defamatory statements, thus rendering any such actions *ultra vires* as beyond the scope of the LRBOI's authority and further rendering Plaintiff in the same stead as any other citizen of the State of Michigan not subject to the jurisdiction of the Tribe.

4. The jurisdiction of this Court over the claims arising under MCL 600.2911 comes under the Revised Judicature Act of 1961, MCL 600.701 *et seq.*

5. Venue in this case is proper in this judicial district because the LRBOI and the State of Michigan conduct business within the 19th Circuit as bodies politic, and upon information and belief, all individually-named defendants are natural persons, and resided or conducted business within the 19th Judicial Circuit of the State of Michigan during all relevant times of this action.

PARTIES

6. Plaintiff Joseph Henry Martin (“Plaintiff”) is a resident of Manistee, Manistee County, whose address is 362 1st Street, Manistee, Michigan 49660.

7. All Tribal Councilors (collectively “Tribal Council”) named herein are elected legislative representatives of the LRBOI, and as such reside within the State of Michigan and conduct their business, individually and collectively as a body politic, within the City of Manistee, Manistee County, Michigan.

8. Tribal Ogema Larry Romanelli (“Ogema”) is the elected executive representative of the LRBOI, and as such resides within the State of Michigan and conducts his business, individually and as a body politic, within the City of Manistee, Manistee County, Michigan.

9. David Giampetroni, Esq., is an attorney licensed with the State of Michigan and employed by the law firm of Kanji & Katzen, acting as outside counsel to the LRBOI and is counsel of record for the LRBOI Tribal Council and Ogema in all cases filed by Plaintiff against the LRBOI. Mr. Giampetroni’s office address is 101 North Main Street, Suite 555, Ann Arbor, Michigan.

10. Defendant John Wernet is Deputy Legal Counsel for Governor Jennifer Granholm. In that capacity, he provides legal advice to Governor Granholm. Additionally, Mr. Wernet is Governor Granholm’s “point person” on matters dealing with the several Indian tribes within the State’s boundaries, more specifically on Indian gaming issues. This injunctive action is brought against Mr. Wernet in his official capacity as legal counsel for the Governor. Jennifer M. Granholm is the Governor of the State of Michigan. As Governor, she is vested with the State’s “executive power” and must “take care that the laws be faithfully executed.” Michigan Constitution, Art. V, Secs. 1, 8.

Statutory Scheme

11. The Revised Judicature Act of 1961 (Act 236 of 1961) states in pertinent part:

600.2911 Action for libel or slander.

Sec. 2911.

(1) Words imputing a lack of chastity to any female or male are actionable in themselves and subject the person who uttered or published them to a civil action for the slander in the same manner as the uttering or publishing of words imputing the commission of a criminal offense.

(2)(a) Except as provided in subdivision (b), in actions based on libel or slander the plaintiff is entitled to recover only for the actual damages which he or she has suffered in respect to his or her property, business, trade, profession, occupation, or feelings.

(b) Exemplary and punitive damages shall not be recovered in actions for libel unless the plaintiff, before instituting his or her action, gives notice to the defendant to publish a retraction and allows a reasonable time to do so, and proof of the publication or correction shall be admissible in evidence under a denial on the question of the good faith of the defendant, and in mitigation and reduction of exemplary or punitive damages. For libel based on a radio or television broadcast, the retraction shall be made in the same manner and at the same time of the day as the original libel; for libel based on a publication, the retraction shall be published in the same size type, in the same editions and as far as practicable, in substantially the same position as the original libel; and for other libel, the retraction shall be published or communicated in substantially the same manner as the original libel.

(3) If the defendant in any action for slander or libel gives notice in a justification that the words spoken or published were true, this notice shall not be of itself proof of the malice charged in the complaint though not sustained by the evidence. In an action for slander or for publishing or broadcasting a libel even though the defendant has pleaded or attempted to prove a justification he or she may prove mitigating circumstances including the sources of his or her information and the ground for his or her belief. Damages shall not be awarded in a libel action for the publication or broadcast of a fair and true report of matters of public record, a public and official proceeding, or of a governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body, or for a heading of the report which is a fair and true headnote of the report. This privilege shall not apply to a libel which is contained in a matter added by a person concerned in the publication or contained in the report of anything said or done at the time and place of the public and official proceeding or governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body, which was not a part of the public and official proceeding or governmental notice, announcement, written or recorded report or record generally available to the public, or act or action of a public body.

(4) A person against whom a judgment is recovered for damages arising out of the authorship or publication of a libel is entitled to recover contribution in a civil action from all persons who were originally jointly liable for the libel with the defendant or defendants, whether joined as defendants or not, to the same extent as and with the same effect that joint sureties are liable to contribute to each other in cases where they are sureties on the same contract. If the libel has been published in a newspaper, magazine, or other periodical publication or by a radio or television broadcast, the servants and agents of the publisher or proprietor of the periodical or radio or television station or network, and the news agents and other persons who have been

connected with the libel only by selling or distributing the publication containing the libel and who have not acted maliciously in selling or publishing the libel, shall not be required to contribute and shall not be taken into account in determining the amount that any joint tortfeasor is required to contribute under the provisions of this section. If the author of the libel acted maliciously in composing or securing the printing or the publication of the libel and the printer, publisher, or distributor of the libel acted in good faith and without malice in printing and publishing the libel, the author of the libel is liable in a civil action to that printer, publisher, or distributor for the entire amount of the damages which are recovered against and paid by that printer, publisher, or distributor.

(5) In actions brought for the recovery of damages for libel in this state, it is competent for the defendant or defendants in the action to show in evidence upon the trial of the action that the plaintiff in the action has previously recovered a judgment for damages in an action for libel to the same or substantially the same purport or effect as the libel for the recovery of damages for which the action has been brought, or that the plaintiff in the action has previously brought an action for the libel or has received or agreed to receive compensation for the libel.

(6) An action for libel or slander shall not be brought based upon a communication involving public officials or public figures unless the claim is sustained by clear and convincing proof that the defamatory falsehood was published with knowledge that it was false or with reckless disregard of whether or not it was false.

(7) An action for libel or slander shall not be brought based upon a communication involving a private individual unless the defamatory falsehood concerns the private individual and was published negligently. Recovery under this provision shall be limited to economic damages including attorney fees.

(8) As used in this section, "libel" includes defamation by a radio or television broadcast.

GENERAL ALLEGATIONS

12. On or about August 17, 2009, Plaintiff filed a lawsuit in LRBOI Tribal Court alleging breach of contract by the Ogema and Tribal Council, marked Exhibit "A" and incorporated herein by reference.

13. On or about November 3, 2009, Plaintiff filed a civil rights lawsuit against the Ogema, Tribal Council, and Judge Angela Sherigan, based on allegations that all three acted in concert to deprive Plaintiff of due process and equal protection of the laws, marked Exhibit "B" and incorporated herein by reference.

14. On or about November 6, 2009, Plaintiff filed a third lawsuit, marked Exhibit "C" and incorporated herein by reference, alleging claims against the Ogema and Tribal Council of violations of the LBOI's Whistleblower Protection Act.

15. On or about December 11, 2009, Plaintiff sent a "demand letter" to the LRBOI, stating that if the LRBOI did not accede to a settlement of all lawsuits and also promise to

engage in meaningful Tribal Court reform, Plaintiff would proceed to file against the LRBOI in the U.S. District Court for the Western District of Michigan, marked Exhibit "D" and incorporated herein by reference.

16. On February 2, 2010, the LRBOI, per the signatures of the Ogema Larry Romancelli and Tribal Council Speaker Steve Parsons, sent a letter, marked Exhibit "E" and incorporated herein by reference, to the Illinois Attorney Registration and Disciplinary Commission ("IARDC") requesting an investigation ("Request for Investigation") into possible "unethical activities" by Plaintiff. In the Request for Investigation, the LRBOI knowingly and willingly published false claims that Plaintiff engaged in criminal conduct including, but not limited to, an "attempt at extortion" and criminal trespass, and that Plaintiff engaged in other illegal activities *inter alia*, that Plaintiff was engaged in the unauthorized and therefore illegal practice of law in the State of Michigan while being employed as Chief Legislative Counsel for the LRBOI.

17. Upon information and belief, Defendant David Giampetroni advised the LRBOI before, during, and after the publication of false and defamatory statements, and was directly involved in the submission of said false statements to the IARDC.

18. Defendant David Giampetroni supplied an affidavit, which itself included false and defamatory statements intended to paint Plaintiff as a menace to society, for use in the submission to the IARDC.

19. On or about March 2, 2010, Defendant David Giampetroni stated in no uncertain terms to Plaintiff that he, and only he, was to receive a copy of Plaintiff's response to the IARDC, even though he was not a signatory to the LRBOI's submission to the IARDC, nor did the matter have anything to do with Mr. Giampetroni's representation of the LRBOI.

20. The request for investigation includes on page 10 statements attributed to the State of Michigan through John Wernet which states that John Wernet conveyed to the LRBOI that Plaintiff "did disclose confidential information and discuss matters related to his representation of the Tribe in an attempt to persuade John Wernet to withhold his support of the Tribe's economic development plans."

21. As shown in Plaintiff's response to the IARDC, marked Exhibit "F" and incorporated herein by reference, Plaintiff admits that he did visit John Wernet and informed him before proceeding into his office that Plaintiff did not represent the LRBOI, but denies disclosing confidential information and also denies attempting to persuade Mr. Wernet to withhold support of the Tribe's economic development plans. Plaintiff also presented John Wernet with copies with the three lawsuits filed by Plaintiff against the LRBOI, and a cover letter, marked Exhibit "G", and incorporated herein by reference.

22. As shown in Plaintiff's response letter to the IARDC, dated March 9, 2010, Plaintiff clearly and convincingly refutes any criminal conduct, as well as any other conduct attributed to Plaintiff in the reckless and defamatory statements by the LRBOI, the State of Michigan through John Wernet, and David Giampetroni.

23. On or about March 9, 2010, Plaintiff sent a letter to the LRBOI demanding a full retraction of all false and/or defamatory statements submitted to the IARDC, marked Exhibit "H", and incorporated herein by reference. The March 9 Letter identified some of Defendant's false and defamatory statements and demanded that Defendant LRBOI take immediate action to retract such statements and agree to cease and desist from making these and similar false statements. Defendant LRBOI has failed to retract its statements and failed to agree to cease and desist from making these and similar false statements even though there have been at least five Tribal Council meetings during which closed sessions with the Ogema were conducted.

24. These statements defamed Plaintiff by falsely stating and implying that, *inter alia*, that Plaintiff engaged in an attempt at extortion, criminal trespass, the unauthorized and illegal practice of law, and that Plaintiff has supplied confidential information to persons and/or entities other than his former client.

25. Plaintiff has never engaged in any of the activities including, but not limited to, those enumerated in Paragraph 24, or any other activities included in the request for investigation. Any suggestion that Plaintiff is partially or wholly responsible for any such actions is false and defamatory.

COUNT I DEFAMATION PER SE

26. Plaintiff incorporates by reference paragraphs 1 – 25 above as though fully set forth herein.

27. Defendant LRBOI's false statements pertained to Plaintiff, harmed Plaintiff's reputation amongst the community, and deterred third persons from associating and dealing with Plaintiff.

28. Defendant LRBOI published these false statements to third parties in an unprivileged communication.

29. Defendant LRBOI's statements are classified as defamation per se by falsely charging the commission of crime(s).

30. Defendant LRBOI's statements were made with actual malice.

31. Defendant LRBOI has refused to make a complete, unequivocal retraction of its false statements.

32. There is no legal privilege or justification for Defendant LRBOI publishing its false statements.

33. Defendant LRBOI's false statements constitute defamation *per se* under Michigan law.

34. As a result of Defendant LRBOI's false statements, Plaintiff has suffered and continues to suffer special and general damages in an amount in excess of \$25,000.

35. Plaintiff cannot be fully or adequately compensated solely through monetary damages alone for the irreparable harm and damage caused by Defendant LRBOI's false statements.

COUNT II DEFAMATION

36. Plaintiff realleges and incorporates paragraphs 1 – 35 as though fully set forth herein.

37. Defendant LRBOI's false statements pertained to Plaintiff.

38. Defendant LRBOI's publication of its false statements was intended to cause pecuniary loss, and Defendant LRBOI reasonably should have recognized that the publication would result in pecuniary loss.

39. Defendant LRBOI knew that the statements it made were false, and Defendant LRBOI acted in reckless disregard of its falsity.

40. As a result of Defendant LRBOI's false statements, Plaintiff has suffered and continue to suffer pecuniary loss in an amount in excess of \$25,000.

41. Defendant LRBOI has refused to make a complete, unequivocal retraction of their false statements.

42. Plaintiff cannot be fully or adequately compensated solely through monetary damages for the irreparable harm and damage caused by Defendant's false statements.

COUNT III DEFAMATION (DAVID GIAMPETRONI)

43. Plaintiff realleges and incorporates paragraphs 1 – 42 as though fully set forth herein.

44. Defendant David Giampetroni published false and disparaging statements concerning Plaintiff.

45. Defendant David Giampetroni's publication of his false statements was intended to cause pecuniary loss, and Defendant David Giampetroni reasonably should have recognized that publication would result in pecuniary loss.

46. Defendant David Giampetroni knew that the statements he made were false, and Defendant David Giampetroni acted in reckless disregard of its falsity.

47. As a result of Defendant David Giampetroni's false statements, Plaintiff has suffered and continues to suffer pecuniary loss in an amount in excess of \$25,000.

48. Defendant David Giampetroni has refused to make a complete, unequivocal retraction of his false statements.

49. Defendant David Giampetroni's false statements constitute defamation under Michigan law.

50. Plaintiff cannot be fully or adequately compensated solely through monetary damages for the irreparable harm and damage caused by Defendant David Giampetroni's false statements.

COUNT IV DEFAMATION (STATE OF MICHIGAN)

51. Plaintiff incorporates by reference paragraphs 1 – 50 above as though fully set forth herein.

52. Defendant State of Michigan (through John Wernet) published false and disparaging statements concerning Plaintiff.

53. Defendant State of Michigan's publication of its false statements was intended to cause pecuniary loss, and Defendant State of Michigan reasonably should have recognized that publication would result in pecuniary loss.

54. Defendant State of Michigan knew that the statements he made were false, and Defendant State of Michigan acted in reckless disregard of its falsity.

55. As a result of Defendant State of Michigan's false statements, Plaintiff has suffered and continues to suffer pecuniary loss in an amount in excess of \$25,000.

56. Defendant State of Michigan's false statements constitute defamation under Michigan law.

57. Plaintiff cannot be fully or adequately compensated solely through monetary damages for the irreparable harm and damage caused by Defendant State of Michigan's false statements.

REQUESTED RELIEF

WHEREFORE, Plaintiff Joseph H. Martin requests a Final Award:

(a) Permanently enjoining all Defendants herein from making the false statements including, but not limited to, those identified above;

(b) Permanently enjoining all Defendants herein from disparaging Plaintiff, or otherwise engaging in activities injurious to Plaintiff's reputation;

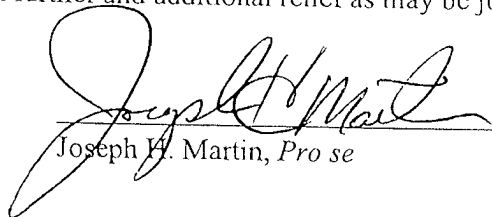
(c) Ordering all Defendants herein to unequivocally and publicly retract their false statements;

(d) Ordering Defendant LRBOI to pay Plaintiffs' damages;

(e) Ordering all Defendants herein to reimburse Plaintiffs for costs, fees and expenses in bringing this action; and

(f) Providing such further and additional relief as may be just and proper.

Date: 4/22/10



Joseph H. Martin, *Pro se*

VERIFICATION

I, Joseph Henry Martin, am the Plaintiff in the above-entitled action. I have read the foregoing and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein alleged on information and belief, and as to those matters, I believe it to be true.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed at Manistee, Michigan.

Date: 4/22/10

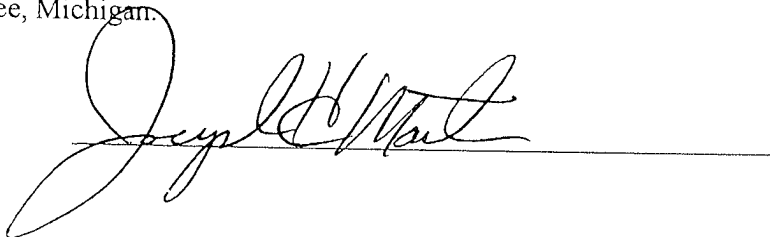


EXHIBIT E



ILCS S. Ct. Rule 775

Page 1

Formerly cited as IL ST CH 110A ¶ 775

C

Formerly cited as IL ST CH 110A ¶ 775

West's Smith-Hurd Illinois Compiled Statutes Annotated Currentness
Court Rules

Illinois Supreme Court Rules (Refs & Annos)

⌕ Article VII. Rules on Admission and Discipline of Attorneys (Refs & Annos)

⌕ Part B. Registration and Discipline of Attorneys (Refs & Annos)

→ Rule 775. Immunity

Any person who submits a claim to the Client Protection Program or who communicates a complaint concerning an attorney to the Attorney Registration and Disciplinary Commission, or its administrators, staff, investigators or any member of its boards, shall be immune from all civil liability which, except for this rule, might result from such communications or complaint. The grant of **immunity** provided by this rule shall apply only to those communications made by such persons to the Attorney Registration and Disciplinary Commission, its administrators, staff, investigators and members of its boards.

CREDIT(S)

Adopted eff. Oct. 13, 1989. Amended eff. March 28, 1994.

Formerly Ill.Rev.Stat.1991, ch. 110A, ¶ 775.

<Rules of the Attorney Registration and Disciplinary Commission, are set out following the Illinois Supreme Court Rules.>

HISTORICAL NOTES

The 1994 amendment, in the first sentence, inserted "submits a claim to the Client Protection Program or who".

LIBRARY REFERENCES

Libel and Slander ⚙ 39.

Westlaw Topic No. 237.

C.J.S. Libel and Slander; Injurious Falsehood §§ 57, 69 to 70, 100, 103.

RESEARCH REFERENCES

Encyclopedias

EXHIBIT F

**CONSTITUTION
OF THE
LITTLE RIVER BAND OF OTTAWA**

PREAMBLE

We, the Little River Ottawa people have asserted our sovereignty throughout history including in the Treaty of Chicago [August 29, 1821; 7 Stat 218], the Treaty of Washington [March 28, 1836; 7 Stat 491], and the Treaty of Detroit [July 31, 1855; 11 Stat 621].

Between the last treaty and the present day, the Grand River Ottawa people who became the Little River Band of Ottawa Indians were known and organized under several names, including members of "Indian Village" on the Manistee River, residents of the Pere Marquette Village or "Indian Town", Unit No. 7 of the Northern Michigan Ottawa Association, the Thornapple River Band, and finally the Little River Band of Ottawa Indians.

On September 21, 1994, Public Law 103-324 (108 Stat 2156) was enacted, reaffirming federal recognition of and confirming the sovereignty of the Grand River Bands comprising the Little River Band of Ottawa Indians (referred to as the Tribe or Little River Band).

As an exercise of our sovereign powers, in order to organize for our common good, to govern ourselves under our own laws, to maintain and foster our tribal culture, provide for the welfare and prosperity of our people, and to protect our homeland we adopt this constitution, in accordance with the Indian Reorganization Act of June 18, 1934, as amended, as the Little River Band of Ottawa Indians.

ARTICLE I. TERRITORY

Section 1 – Territory. The territory of the Little River Band of Ottawa Indians shall encompass all lands which are now or hereinafter owned by or reserved for the Tribe, including the Manistee Reservation in Manistee County (Michigan), Custer and Eden Townships in Mason County (Michigan) and all lands which are now or at a later date owned by the Tribe or held in trust for the Tribe or any member of the Tribe by the United States of America.

Section 2 - Jurisdiction Distinguished From Territory. The Tribe's jurisdiction over its members and territory shall be exercised to the fullest extent consistent with this Constitution, the sovereign powers of the Tribe, and federal law.

ARTICLE II – MEMBERSHIP

Section 1 - Eligibility for Membership. An individual is eligible for membership in the Tribe, if he/she possesses at least one-fourth (1/4) degree Indian blood, of which at least one-eighth (1/8) degree must be Grand River Ottawa or Michigan Ottawa blood and:

(a) Is a lineal descendant of a member of the historic Grand River Bands who resided in Manistee, Mason, Wexford or Lake Counties in the State of Michigan, who was listed on the schedule of Grand River Ottawa in the Durant Roll of 1908 as approved by the Secretary of the Interior on February 18, 1910; or,

(b) Is a lineal descendant of individuals listed on the 1870 Annuity Payrolls of Chippewas and Ottawas of Michigan listed under the following Ottawa Chiefs:

Kewacushkum	Pay-quo-tush	Me-tay-wis
Shaw-be-quo-ung	Penayse	Kaw-gay-gaw-bowe
Maw-gaw-ne-quong	Ching-gawa-she	Aken Bell; and,

(c) Is not currently enrolled in any other federally recognized Indian Tribe, band, or group.

Section 2 – Membership Rights of Children Who Have Been Adopted. Any child who is less than 18 years of age, who meets the membership criteria in Section 1, shall be eligible for membership, notwithstanding such adoption.

Section 3 - Dual Membership Prohibition. Any member of the Little River Band who applies for and is accepted as a member of another federally recognized Indian Tribe or band shall be subject to disenrollment in accordance with Section 4 of this Article.

Section 4 - Membership Procedure. The Tribal Council shall establish ordinances governing membership, including but not limited to enrollment and disenrollment; Provided that the Tribal Council shall not have the power to change or establish substantive requirements for membership in addition to those established in this Article.

Section 5 - Right of Appeal. Any person whose application for membership has been denied, or any member who has been disenrolled, shall have the right to appeal to the Tribal Court.

ARTICLE III - CONSTITUTIONAL RIGHTS

Section 1 - Civil Rights. The Little River Band in exercising the powers of self-government shall not:

- (a) Make or enforce any law prohibiting the free exercise of religion, or abridging the freedom of speech, or of the press, or of the right of the people peaceably to assemble and to petition for a redress of grievances;
- (b) Violate the right of the people to be secure in their persons, houses, papers, and effects against unreasonable search and seizures, nor issue warrants, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched and the person or thing to be seized;
- (c) Subject any person for the same offense to be twice put in jeopardy;
- (d) Compel any person in any criminal case to be a witness against himself;
- (e) Take any private property for a public use without just compensation;
- (f) Deny to any person in a criminal proceeding the right to a speedy and public trial, to be informed of the nature and cause of the accusation, to be confronted with the witnesses against him, to have compulsory process for obtaining witnesses in his favor, and at his own expense to have the assistance of counsel for his defense;
- (g) Require excessive bail, impose excessive fines, inflict cruel and unusual punishments, and in no event impose for conviction of any one offense any penalty or punishment greater than imprisonment for a term of one year or a fine of five thousand dollars (\$5000.00), or both, or the maximum penalty allowed under Federal law;
- (h) Deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law;
- (i) Pass any legislation, directed against a designated person, pronouncing him/her guilty of an alleged crime, without trial or conviction or ex post facto law, which retroactively changes the legality or consequences of a fact or action after the occurrence of that fact or commission of the act;
- (j) Deny to any person accused of an offense punishable by imprisonment the right, upon request, to a trial by jury of not less than six (6) persons;
- (k) Make or enforce any law unreasonably infringing the right of tribal members to keep and bear arms; or
- (l) The enumeration of rights in this Constitution shall not be construed to deny or disparage other rights retained by tribal members.

Section 2 - Access to Tribal Records. Subject to any express limitations contained in this Constitution, the laws of the United States, and individual Tribal members' and Tribal employees' rights to privacy, members of the Tribe shall be provided access to review the records of Tribe including, but not limited to: minutes of all meetings of the Tribal Council or other subdivisions of the Tribal government, Tribal budgets and financial reports of Tribal expenditures; provided that such review shall be conducted during normal office hours.

ARTICLE IV - TRIBAL COUNCIL

Section 1 - The legislative powers of the Little River Band shall be invested in the Tribal Council.

Section 2 - *Composition of the Tribal Council.*

(a) The Tribal Council shall consist of nine (9) persons, elected by popular vote of the registered voters of the Tribe in the manner described in this Section and Article IX.

(b) Tribal Council positions shall be elected by the membership from the following districts:

1. Six (6) of the nine (9) members of the Tribal Council shall be elected by the registered voters of the Tribe who reside in the following Counties in the State of Michigan: Kent, Lake, Manistee, Mason, Muskegon, Newago, Oceana, Ottawa and Wexford;
2. Two (2) of the nine (9) members of the Tribal Council shall be elected by all of the registered voters of the Tribe;
3. One (1) of the nine (9) members of the Tribal Council shall be elected by those registered voters of the Tribe residing outside the nine (9) county district defined in subsection 2(b)(1) of this Section.

(c) The Council shall select two (2) Council members, by majority vote of the Council, to serve as Council Officers: Speaker and Recorder. Officers terms shall be two years. A single Council member may not hold both Officer positions.

Section 3 - Qualifications. Any member of the Tribe who is twenty-one (21) years of age or older who has resided within the State of Michigan for at least six (6) months prior to the date of the next scheduled election may serve on the Tribal Council.

Section 4 - Terms of Office.

(a) Except as provided for in Section 1 of Article IX in this Constitution each Tribal Council member's term of office shall be four (4) years.

(b) Tribal Council members shall continue in office until their successors are sworn in by the Tribal Court, their office is deemed vacant, or they are removed from the Tribal Council.

(c) If any Tribal Council member ceases to be a member of the Tribe, he or she shall automatically forfeit his or her Council position.

(d) If any Tribal Council member ceases to be a resident of the State of Michigan, he or she shall automatically forfeit his or her Council position.

(e) There shall be no prohibition against continuous service.

Section 5 - Council Officers Duties.

(a) *Speaker.* The Speaker of the Council shall:

1. Preside at all meetings of the Tribal Council.
2. Call special meetings of the Council, when appropriate.
3. Receive reports from the committees or commissions and deliver such reports to the Council.
4. Perform the duties of the Tribal Ogema in the absence of or due to the inability of the Ogema to perform those duties.

(b) *Recorder*. The Recorder of the Council shall:

1. Submit a record of the minutes of all Tribal Council meetings, and make such reports available to the membership of the Tribe.
2. Keep the Members informed as to the status of the activities of the Council and all other matters affecting the Tribe and its members.
3. Maintain and protect the Tribal Seal.
4. Perform the duties of the Speaker if the Speaker is absent or unable to fulfill those duties.

Section 6 - Meetings of the Tribal Council.

(a) *Regular Meetings*. The Tribal Council shall meet in regular session at least once every month at a time and place to be set by the Tribal Council. The schedule of meetings for regular sessions of the Tribal Council for the next calendar year shall be set by resolution of the Tribal Council at the last regular session of each calendar year. The meeting schedule for each calendar year shall be published and made available to the General Membership.

(b) *Special Meetings*. A special meeting of the Tribal Council may be held under the following conditions:

1. A special meeting shall be called (i) upon written request of the Tribal Ogema submitted to the Council Recorder, (ii) upon written request, submitted to the Tribal Ogema or Council Recorder, by two (2) members of the Tribal Council, (iii) upon written request, submitted to the Tribal Ogema or Council Recorder, signed by at least ten percent (10%) of the Tribal Elders, fifty-five (55) years or older; or (iv) upon a petition of ten percent (10%) of the registered Tribal voters requesting a meeting submitted to the Tribal Ogema or Council Recorder.
2. There shall be at least seventy-two (72) hours written notice sent to the Council members at each member's designated regular mailing address. Notice shall also be posted in the Tribal Office or Governmental Center. No business may be transacted if proper notices have not been mailed and posted. The notice shall specify all business to be addressed, and no matter which is not included in the notice may be addressed at the meeting.

(c) *Emergency Meetings*. Emergency meetings of the Tribal Council may be called by the Tribal Ogema or Speaker upon less than seventy-two (72) hours written notice, if such meetings are necessary for the preservation or protection of the health, welfare, peace, safety or property of the Tribe. Efforts shall be made to ensure that each Tribal Council member receives notice of such meetings. Where practical, notice shall be posted at the Tribal Office or Governmental Center. Notices shall state the purpose, time and place of the meeting. No business other than that stated in the notice shall be transacted at such meetings.

(d) *Open Meetings; Closed Sessions*. All meetings of the Tribal Council shall be open to the Tribal Membership. However, the Council may meet in closed session for the following purposes:

1. Personnel Matters, provided the employee in question did not request a public meeting, or
2. Business matters involving consideration of bids or contracts which are privileged or confidential, or
3. Claims by and against the Tribe.

Minutes shall be maintained relating to all business conducted in open or closed session. The general reason for a determination to meet in closed session shall be placed on the record in open

session. The minutes of business conducted in closed session shall be maintained in a closed file in perpetuity; however, such minutes of closed sessions may be opened to the public upon a vote of the majority of the Tribal Council, upon final disposition of the matter concerned or upon order of the Tribal Judiciary. Upon conclusion of a closed session, announcement of the resumption of open session shall be made before adjournment.

(e) *Rules of the Tribal Council.* The Tribal Council shall determine its own rules of procedure for meetings of the Tribal Council, subject to any limitations imposed in this Constitution. Such rules and procedures shall provide for an opportunity for the General Membership to be heard on any question under consideration by the Tribal Council.

(f) *Quorum required to conduct business.*

1. A quorum of the Tribal Council shall consist of six (6) members, provided at least four (4) of the six (6) members present represent the nine (9) county district defined in subsection 2(b)(1) of Article IV.

2. When a Council Member has a personal interest in an issue or matter to be voted on by the Council, other than those common to all Tribal Members, which would require balancing personal interest against interests of the Tribe, such member shall abstain from voting on that matter due to conflict of interest and shall disclose the nature of the conflict.

3. The fact that a member may not vote on an issue due to conflict of interest shall not prevent that member from voting on other matters or from determining a quorum's existence.

4. Failure to disclose a potential conflict of interest is cause for removal, and where a matter of potential conflict has been disclosed, the Council shall determine by majority vote whether a member shall abstain from voting, although no member shall be compelled to vote regarding an issue as to which he or she believes a conflict exists.

(g) *Action by the Tribal Council.*

1. The Tribal Council shall act only by ordinance, resolution or motion.

2. Tribal Council action shall be determined by a majority of the quorum present and voting at the meeting, unless otherwise specified in this Constitution, and minutes shall identify each Council Member's vote on every issue.

Section 7 - Powers of the Tribal Council. The legislative powers of the Little River Band of Ottawa Indians shall be vested in the Tribal Council, subject to any express limitations contained in this Constitution. The Tribal Council shall have the power, including by way of illustration, but not by limitation:

(a) To exercise the inherent powers of the Little River Band by establishing laws through the enactment of ordinances and adoption of resolutions not inconsistent with this Constitution:

1. to govern the conduct of members of the Little River Band and other persons within its jurisdiction;

2. to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members;

3. to provide by ordinance for the jurisdiction of the Tribe over Indian Child Welfare matters, and all other domestic relations matters;

4. to provide for the manner of making, holding and revoking assignments of the Little River Band's land or interests therein;

- (b) To authorize and ratify agreements and contracts negotiated by the Tribal Ogema on behalf of the Little River Band with federal, state and local governments and other Indian tribes or their departments or political subdivisions, or with private persons on all matters within the authority of the Tribal Council;
- (c) To purchase, lease, take by gift, take by devise or bequest, or otherwise acquire land, interests in land, personal property or other assets which may be deemed beneficial to the Little River Band;
- (d) To approve or veto any sale, disposition, lease or encumbrance of Little River Band land, interests in land, personal property or other assets;
- (e) To employ legal counsel, subject to the approval of the Secretary of the Interior so long as such approval is required by Federal law;
- (f) To create by ordinance regulatory commissions or subordinate organizations and to delegate to such organizations the power to manage the affairs and enterprises of the Little River Band, provided that no such commission or subordinate organization shall exercise powers of the Tribal Council unless they are expressly delegated by the Tribal Council;
- (g) To establish rules and procedures to regulate all meetings of the Tribal Council, standing committees, special committees and such other regulatory commissions or subordinate organizations created by ordinance;
- (h) To approve appointments to the Tribal Court, regulatory commissions and heads of subordinate organizations created by ordinance;
- (i) To exercise the following fiscal powers:
 1. Subject to the veto of the Tribal Ogema, to adopt, approve or amend the annual budget presented by the Tribal Ogema and to authorize the expenditure of funds in accordance with such budgets;
 2. To manage any funds within the exclusive control of the Little River Band and to appropriate these funds for the benefit of the Tribe and its members. All expenditures of funds shall be pursuant to appropriations or budgets authorized by resolution or in accordance with ordinances of the Tribal Council;
 3. To levy duties, fees, taxes and assessments on any person, natural or corporate, residing or doing business within the territorial jurisdiction of the Little River Band;
 4. To borrow money or to issue temporary or long term evidence of indebtedness for public purposes and to secure the repayment thereof;
- (j) To take action, not inconsistent with this Constitution or Federal law, which shall be necessary and proper to carry out the sovereign legislative powers of the Tribe.

Section 10 - *Tribal Powers and Rights Not Limited.*

- (a) Any rights and powers heretofore vested in the Little River Band but not expressly referred to in this Constitution shall not be diminished, abridged, or divested by this Article.
- (b) The Tribal Council may exercise such additional powers as may be conferred upon the Tribe in the future by law, by the Secretary of the Interior, or by any other duly authorized official or agency of the federal government, state or local government, or by another Indian tribe.

ARTICLE V - TRIBAL OGEMA

Section 1 - The Executive powers of the Little River Band shall be invested in the Tribal Ogema.

Section 2 - *Qualifications.* Any member of the Tribe who is twenty-five (25) years of age or older, who has resided within the nine (9) county district defined in subsection 2(b)(1) of Article IV, for

at least six (6) months prior to the date of the next scheduled election may serve as Tribal Ogema.
Section 3 - Term of Office.

- (a) The Tribal Ogema's term of office shall be four (4) years.
- (b) The Tribal Ogema will continue in office until his/her successor is sworn in by the Tribal Court, the office is deemed vacant, or he/she is removed as the Tribal Ogema.
- (c) If the Ogema ceases to be a member of the Tribe, he/she will automatically forfeit the Ogema position.
- (d) If the Ogema ceases to reside in the nine (9) county district defined in subsection 2(b)(1) of Article IV, he/she will automatically forfeit the Ogema position.
- (e) There shall be no prohibition against continuous service.

Section 4 - Election of the Tribal Ogema. The Tribal Ogema shall be the candidate seeking the office who receives a majority of the tribal vote cast for that position. If no one (1) candidate receives a majority of the votes cast, a run-off election shall be held between the two (2) highest vote recipients.

Section 5 - Powers of the Ogema.

(a) Subject to any limitations contained in this Constitution, the Tribal Ogema of the Little River Band shall be invested with the executive powers of its inherent sovereignty including, but not limited to:

1. To enforce and execute the laws, ordinances and resolutions of the Tribal Council, consistent with this Constitution.
2. To oversee the administration and management of the Tribal government in accordance with the laws, resolutions, and motions adopted by the Tribal Council.
3. To consult, negotiate, and execute agreements and contracts on behalf of the Little River Band with federal, state, and local governments and other tribal governments, or with private persons or organizations. Agreements and contracts reached must be approved or ratified by Tribal Council to be effective.
4. With the approval of the Tribal Council, to appoint members to the Tribal Court, members of all regulatory commissions, and heads of subordinate organizations created by ordinance (Art. IV, Sec. 9(h)).
5. Timely prepare and present the annual Tribal Budget to the Tribal Council for approval or other action and to keep the Tribal Council fully advised as to the financial condition and needs of the Tribe, preparing monthly reports for the Council, and making quarterly reports available to the membership.
6. To have veto power over actions of the Tribal Council modifying the Tribal Budget or appropriations items as provided in subsection (c) of this Section 5.
7. To collect taxes or assessments against members, non-members and businesses.
8. To manage the economic affairs, enterprises, property (both real and personal) and other interests of the Tribe, consistent with ordinances and resolutions enacted by the Tribal Council.
9. To exclude from the lands of the Tribe persons, or other entities, not legally entitled to be present thereon.

(b) The Tribal Ogema shall receive for his/her services a compensation to be established by the Tribal Council, which shall not be diminished during his/her continuance in office.

(c) Every action taken by the Tribal Council, whether by ordinance, resolution or appropriation, which modifies the Tribal Budget submitted for approval by the Tribal Ogema, shall be presented to the Tribal Ogema for his/her approval and signature before it

becomes effective. The Tribal Ogema shall approve or disapprove of the action taken by the Tribal Council within seven (7) days after the item is submitted to the Tribal Ogema by the Tribal Council. If he/she disapproves of the action taken by the Tribal Council, he shall return it to the Tribal Council within the seven (7) days provided, specifying his/her objections. If after re-consideration, it again passes the Tribal Council by an affirmative vote of six (6) of the nine (9) Tribal Council members, it shall become law and he/she shall sign it notwithstanding his/her objections.

ARTICLE VI - TRIBAL COURT

Section 1 - The judicial power of the Little River Band shall be invested in a Tribal judiciary, which shall consist of the Tribal Court, a Court of Appeals, and such inferior courts as the Tribal Council may from time to time ordain and establish.

Section 2 - *Qualifications.*

(a) *Member of the Tribe.* Any member of Tribe may serve as a Tribal Judge provided he/she is twenty-five (25) years of age or older, is not a member of the Tribal Council or running for a seat on the Tribal Council, and has not been convicted of any crime of dishonesty, or moral turpitude, nor been convicted of a felony under Tribal, or State law within the seven (7) year period immediately preceding the date of the election, or, in the event of a vacancy under Article X, Section 4(a), his/her appointment.

(b) *Non-Member Qualifications.* A non-member of the Tribe may be appointed to or elected to serve as a Tribal judge if such individual possesses a Law degree and has practiced in Federal Indian law or as a tribal judge, and has not been convicted of any crime involving dishonesty, moral turpitude, nor been convicted of a felony under Federal, Tribal or State law within the seven (7) year period immediately preceding the date of the election, or, in the event of a vacancy under Article X, Section 4(a), his/her appointment.

Section 3 - *Composition of the Tribal Court System.*

(a) *Tribal Court.* The Tribal Court shall be a court of general jurisdiction and shall consist of one (1) judge and one (1) associate judge who shall meet as often as circumstances require.

(b) *Court of Appeals.* The Tribal Court of Appeals shall consist of three (3) judges. At least one (1) of the three (3) judges shall be an elder (age 55 years or older) in the Tribe, and at least one (1) of the three (3) judges shall be an attorney licensed to practice before the courts of a state in the United States.

Section 4 - *Appointment and Compensation.*

(a) Judges of the Tribal Court, including the Court of Appeals, shall be elected by the registered voters.

1. *Current Judges.* The current tribal judges as of adoption of these amendments shall identify the following:

A. Tribal Court judges shall determine staggered terms from amongst themselves and new terms shall be set at either two year or four years. Each term thereafter shall be set as set forth in Section 5(a).

B. Court of Appeals judges shall determine staggered terms from amongst themselves and new terms shall be set at either two years or four years. Each term thereafter shall be as set forth in Section 5(a).

2. *Declaration of Tribal Court or Court of Appeals Candidacy.* Candidates shall declare their intention to run for a position on the Tribal Court or the Court of

Appeals. Provided that, the Election Board shall identify positions on the Court of Appeals requiring specific qualifications as identified in Section 3(b). Where no candidate, at the conclusion of any deadlines set by the Election Board, declares for a position on the Court of Appeals requiring specific qualifications, the Tribal Ogema shall appoint, and the Tribal Council shall approve a judge for that vacancy.

(b) *Compensation.* The Tribal Council shall have the power to establish the level of compensation for each judge; provided that the compensation due to each individual judge shall not be diminished during the term of his/her appointment.

(c) Tribal Judges shall be sworn in by the Speaker of the Tribal Council.

Section 5 - Term of Office.

(a) Except as provided for in Section 6 of this Article VI, the term of office for all Tribal Judges shall be six (6) years.

(b) Tribal Judges will continue in office until a successor is sworn in.

(c) There shall be no prohibition against continuous service.

Section 6 - Resignation or Removal.

(a) *Resignation.* A Tribal Judge may resign his/her office at any time. Resignation is immediate upon a Judge submitting written notice to the Tribal Council of his/her resignation.

(b) *Removal.* A Tribal Judge may only be removed by a vote of seven (7) of the nine (9) Council Members following a recommendation of removal by a majority of the remaining Tribal Judges for the following reasons:

1. Unethical conduct, as defined by the Michigan Indian Judicial Association Model Code of Tribal Judicial Conduct;
2. Gross misconduct or malfeasance in office that is clearly prejudicial to the administration of justice;
3. Ineligibility, under Section 2 of this Article, to serve as a member of the Tribal Court;
4. Inability to fulfill the duties of the office due to mental or physical disability, to the extent that he or she is incapable of exercising judgment about or attending to the duties of the Tribal Court. Such determination shall be based upon or supported by competent medical evidence or opinion.

If a member of the Tribal judiciary obtains information which indicates that grounds exist for removal of another judge, he/she shall provide written notice of the charge and specify the facts supporting such charge to all Tribal Judges, including the accused. The Judge so charged shall be notified so he/she may answer the charges at a public hearing of all members of the Tribal Court held for that purpose. Such hearing shall be noticed at least ten (10) days prior to the hearing at which the Judge's referral for removal is to be considered. If a majority of the remaining of the Tribal Court vote to refer the Judge to the Tribal Council for removal, the grounds for removal shall be set forth with specificity and the Tribal Judge shall be suspended from office until the Tribal Council acts on the referral at a public meeting of the Tribal Council held to consider that referral. At least ten (10) days before the meeting of the Tribal Council at which the vote for removal will be taken, the affected judge shall be provided with a written notice of that meeting. Before any vote for removal is taken, the affected judge shall be provided with a reasonable opportunity to answer the charges at the Tribal Council meeting. If the Tribal Council, by affirmative vote of seven (7) of the nine (9) Council members, finds that grounds for removal as stated by the Tribal Court exist, the Tribal Council shall remove the judge from office. If the Tribal Council find that the grounds

for removal do not exist, the suspended judge shall be fully reinstated to the Tribal Court.

Section 7 - Vacancy. A vacancy in any Judicial position resulting from a Judge's death, resignation, removal, or recall shall be filled in the same manner as set forth in Article X, Section 4. The term of office for any Tribal Judge appointed under this Section shall be for the remainder of the vacant term.

Section 8 - Powers of the Tribal Court

(a) The judicial powers of the Little River Band shall extend to all cases and matters in law and equity arising under this Constitution, the laws and ordinances of or applicable to the Little River Band including but not limited to:

1. To adjudicate all civil and criminal matters arising within the jurisdiction of the Tribe or to which the Tribe or an enrolled member of the Tribe is a party.
2. To review ordinances and resolutions of the Tribal Council or General Membership to ensure they are consistent with this Constitution and rule void those ordinances and resolutions deemed inconsistent with this Constitution.
3. Hear cases based on ordinances and laws of the Tribe for purpose of determining innocence or guilt where trial by jury has been waived.
4. Assign fines and penalties as allowed for violations of Tribal law, as allowed by Tribal and Federal Law.
5. Grant warrants for search to enforcement officers when just cause is shown.
6. Grant warrants, writs, injunctions and orders no inconsistent with this Constitution.
7. Swear in Tribal Council members and the Tribal Ogema by administering the oath of office;
8. Establish, by general rules, the practice and procedures for all courts of the Little River Band.

Section 9 - Judicial Independence. The Tribal Judiciary shall be independent from the legislative and executive functions of the tribal government and no person exercising powers of the legislative or executive functions of government shall exercise powers properly belonging to the judicial branch of government; provided that the Tribal Council shall be empowered to function as the Tribal Court of the Little River Band until the judges prescribed by this Article have been appointed; provided further that the first Tribal Council and Tribal Ogema elected under this Constitution shall make appointments to its courts within ninety (90) days after its members are elected.

ARTICLE VII - GENERAL MEMBERSHIP POWERS

Section 1. General Membership Meetings.

(a) Meetings of the General Membership of the Little River Band shall be held twice a year; once in the spring, once in the fall, at a site suitable for such a meeting.

1. The chairperson for these meetings shall be the Tribal Ogema, who will officiate at these meetings.
2. At these meetings the membership will be informed as to the affairs and "state of the Tribe".
3. Subject to the express limitations contained in this Constitution, motions and ordinances adopted by the General Membership shall have the status of law and be binding on the Tribal Council, Tribal Ogema and Judiciary; provided at least thirty (30%) percent of the registered voters of the Tribe are present at such Membership Meeting, as verified by the Election Board.

4. Notice of a General Membership Meeting shall be given thirty (30) days prior to the meeting by mail to the last known address of each adult member of the Tribe, and by posting in the Tribal Office or Governmental Center.

Section 2 - Initiative. Members of the Tribe shall have the power to initiate ordinances or repeal or amend existing ordinances in the following manner:

- a. Initiative petitions shall explain the ordinance to be acted upon in language understood by the signatories.
- b. Petitions signed by twenty-five percent (25%) of the registered voters and verified by the Election Board shall be presented to the Tribal Council for action.
- c. Upon receipt of a verified petition, the Tribal Council may, within thirty (30) days, adopt the initiative measure by a majority vote without alteration. If the Tribal Council fails to adopt the measure, the Election Board shall call a special election for the purpose of allowing the General Membership to vote on the initiative measure.
- d. Initiative elections will be held not less than forty-five (45) days after verification and not more than ninety (90) days in accordance with applicable provisions of this Constitution, any applicable tribal ordinance and any rules and regulations issued by the Election Board.
- e. The decision of a majority of the voters in such an initiative election vote shall be binding on the Tribal Council, provided that thirty percent (30%) of the registered voters cast ballots. If less than thirty percent (30%) of the registered voters of the Tribe cast ballots in such election, the initiative shall be deemed defeated.
- f. The right of initiative does not extend beyond the subject of Tribal ordinances and may not be utilized to abrogate any rights of the Tribal judiciary or abrogate any rights guaranteed to any person under Article III, Section 1 of this Constitution.

Section 3 - Limitations on Membership Powers. The General Membership shall not have the power to take any of the following action under this Article:

- (a) Propose, adopt or amend the Tribal Budget;
- (b) Appropriate or expend Tribal revenues or funds;
- (c) Reverse, overturn or otherwise influence any judicial action of the Tribal Court;
- (d) Take any action which is otherwise in violation of this Constitution or a usurpation of individual rights as defined herein.

Section 4 - Referendum.

- (a) The Tribal Council shall, upon an affirmative vote of seven (7) Council Members, schedule a referendum election on any proposed or previously enacted ordinance by the membership.
- (b) The referendum election shall be held no sooner than thirty (30) days and no later than ninety (90) days from the date the proposed or existing ordinance is referred to the voters in accordance with applicable provisions of this Constitution, any applicable tribal ordinance and any rules and regulations issued by the Election Board. The date of the referendum election shall be set by the Tribal Council.
- (c) The vote of a majority of those actually voting shall be binding upon the Tribal Council, provided at least thirty percent (30%) of the registered voters of the Tribe cast ballots in the referendum election.

Section 5 - Time of Effect or Repeal.

- (a) Any action taken under this Article VII shall take effect ten (10) days after certification of election or vote by the Election Board.
- (b) Actions taken by the General Membership under this Article VII may only be repealed

by subsequent action of the General Membership and may not be repealed by action of the Tribal Council.

ARTICLE VIII - POWERS OF THE TRIBE NOT DIMINISHED

Section 1 - Any rights and powers heretofore vested in the Tribe but not expressly referred to in this Constitution shall not be diminished by this Constitution.

Section 2 - This Constitution, Tribal ordinances, regulations and judicial decisions shall govern all people subject to the Tribe's jurisdiction.

ARTICLE IX – ELECTION

Section 1 - *First Election.* The first election under this Constitution of the nine (9) members of the Tribal Council and the Tribal Ogema shall be conducted in accordance with Article IV, Section 2, Article V, Section 6 and this Article and shall be conducted no later than one hundred eighty (180) days after this Constitution is adopted. The date for the election shall be set by the Election Board appointed under subsection (e) of this Section. This election shall be conducted to implement a system of staggered terms of service by Tribal Council members and the Tribal Ogema as follows:

(a) Six positions on the Tribal Council will be elected by members residing in the nine (9) county district consisting of the Michigan Counties of Kent, Lake, Manistee, Mason, Muskegon, Newaygo, Oceana, Ottawa and Wexford. The terms of office for such Council members will be decided in the following manner:

1. The three (3) candidates receiving the highest number of votes shall each serve an approximate four (4) year term of office.

2. The three (3) candidates receiving the next highest number of votes shall serve an approximate two (2) year term of office.

(b) Two positions on the Tribal Council shall be elected by all of the members of the Tribe regardless of residency. The terms of office for such Council members will be decided in the following manner:

1. The candidate receiving the highest number of votes shall serve an approximate four (4) year term of office.

2. The candidate receiving the next highest number of votes shall serve an approximate two (2) year term of office.

(c) One position on the Tribal Council shall be elected by those members residing outside the nine (9) county district and shall serve an approximate two (2) year term of office.

(d) The candidate for the office of Tribal Ogema who receives the majority of votes cast shall serve an approximate four (4) year term of office. If no one (1) candidate receives a majority of the votes cast, a run-off election shall be held between the two (2) candidates who received the highest number of votes.

(e) The Tribal Council in office when this Constitution is adopted shall appoint an Election Board consisting of five (5) adult members of the Tribe. Such appointments shall be made no later than thirty (30) days after this Constitution is adopted.

(f) The service of the Election Board members appointed to conduct the first election shall expire immediately upon completion of their duties, in order that the first-elected Tribal Ogema and Tribal Council may make appointments to the Election Board.

(g) The Election Board shall issue such rules and regulations, consistent with this Constitution, as it deems necessary to properly conduct the first election. Such rules and regulations shall be issued no later than ninety (90) days after appointments are made to the

Election Board.

(h) The Election Board shall register eligible voters of the Tribe and provide for conducting the first election.

Section 2 - Election Methods.

(a) *Regular Elections.* After the first election, members of the Tribal Council and the Tribal Ogema shall be elected in the month of April, the date to be set by the Election Board. The conduct for all tribal elections, including registration requirements, shall be prescribed and provided for by the Election Board.

(b) *Special Elections.* Special elections shall be called by the Election Board, when appropriate or when required under this Constitution, to remove, recall, and fill vacancies of elected officials, and to submit initiatives and referenda to the Tribal membership.

Section 3 - Voting.

(a) Any duly enrolled member of the Little River Band of Ottawa, who is at least eighteen (18) years old, and is registered to vote on the date of any given tribal election shall be eligible to vote in that tribal election.

(b) Voting in tribal elections shall be by secret ballot cast at polls established by the Election Board; Provided however, that the membership may make advisory recommendations at General Membership meetings by voice vote or show of hands concerning matters to be decided by the Tribal Council.

(c) Absentee voting shall be permitted in accordance with such rules and procedures as shall be established by the Election Board.

(d) Each registered voter shall be entitled to cast one (1) vote for each vacancy on the Tribal Council in the district(s) in which such voter resides. No more than one (1) vote per candidate may be cast. The candidate(s) receiving the highest number of votes shall be elected to fill each vacancy according to the rank order of votes received. Each registered voter shall be entitled to cast one (1) vote for a candidate for the office of Tribal Ogema.

(e) In all other elections, a majority of those voting in the election shall constitute action by the Tribe and such vote shall be conclusive on the Tribe.

Section 4 - Election Board.

(a) The Election Board shall consist of five members to be elected by the registered voters.

1. *First Election of Members.* The first election shall be conducted by the Election Board currently seated and their terms of office shall be concluded when the newly elected Election Board members are sworn into office.

2. *First Election Date.* The first such election shall be conducted during the next general election of the Tribe.

3. *Staggered Terms.* Election Board candidates elected to these positions shall serve as follows:

A. The three (3) candidates receiving the highest number of votes shall serve a four-year term of office.

B. The two (2) candidates receiving the next highest number of votes shall serve a two-year term of office, and the term shall thereafter be as set forth in subsection (b).

(b) The term of office for an Election Board member shall be four (4) years.

(c) Allegations of impropriety by the Election Board shall be settled by the Tribal Judiciary.

(d) Tribal members who are holding elected office, or running for office, shall not be eligible to serve as an Election Board member.

- (e) The Election Board shall be authorized to issue such rules and procedures as may be necessary to carry out tribal elections and to provide for ongoing voter registration.
- (f) Candidates for tribal office may choose a representative to be present when the election ballots are counted by the Election Board.
- (g) A Tribal member shall have five (5) business days from the date of the election to file an election challenge.
- (h) A vacancy in any Election Board position resulting from death, resignation, removal, or recall shall be filled in the manner as set forth in Article X. Section 4.

ARTICLE X - RESIGNATION, RECALL, OR REMOVAL OF ELECTED OFFICIALS

Section 1 - Resignation. The Tribal Ogema or any member of the Tribal Council may resign from his/her elected position by submitting written notice of resignation to the Tribal Council. Such resignation is effective upon receipt by the Tribal Council.

Section 2 - Recall. The registered voters of the Tribe shall have the right to recall the Tribal Ogema, any member of the Tribal Council, or a Tribal Judge or Appellate Judge by filing a recall petition with the Election Board. The petition must be signed by at least twenty-five percent (25%) of the registered voters of the Tribe. The Election Board shall verify and approved/deny the petition within thirty (30) days of receipt. At least fifty percent (50%) of the verified signatures on the petition must be registered voters who are eligible to vote in the election of the Tribal Council member now subject to recall.

The Election Board shall conduct a recall election within ninety (90) days of the Election Board's verification and approval of the petition and its signatures. If the term of office for the Tribal Ogema or Tribal Council member being recalled will end within six (6) months of the date the Election Board verifies and approves the recall petition the issue will be held until the next regularly scheduled session.

Section 3 - Removal. The Tribal Ogema or any member of the Tribal Council may be subject to removal by a resolution in favor of removal supported by seven (7) of the nine (9) members of the Tribal Council for any of the following reasons:

- (a) Gross misconduct or malfeasance in office.
- (b) Conviction, while in office, of a felony under Federal, Tribal, or State law, or conviction of any other crime involving dishonesty or moral turpitude.
- (c) Inability to fulfill the duties of the office due to mental or physical disability, to the extent that he/she is incapable of exercising judgment about or attending to the business of his/her office.

At least ten (10) days before the meeting of the Tribal Council at which the vote for removal will be taken, the Tribal Ogema or Tribal Council member, shall be provided with a written notice of Tribal Council's intent to vote to remove, which notice shall set forth, with specificity, the alleged grounds for removal. Before any vote for removal is taken, the Tribal Ogema or Tribal Council member, shall be provided with a reasonable opportunity to answer the charges at the public meeting of the Tribal Council, held for that purpose. The decision of the Tribal Council shall be final.

Section 4 - Vacancies. A vacancy in the office of an elected official resulting from death, resignation, forfeiture, removal, or recall shall be filled as follows:

- (a) If less than eighteen (18) months remain in the term of office of an elected official, an individual shall be appointed to fill such vacant position at the next regular Tribal Council meeting, provided such appointment is approved by a majority vote of the Tribal Council. The Speaker of the Tribal Council shall nominate an individual to fill the vacancy in the

Office of the Tribal Ogema. The Tribal Ogema shall nominate an individual to fill any other vacancy of an elected official.

(b) If more than eighteen months remain in the term of office of an elected official, a special election shall be held within three (3) months after the vacancy occurs. When calling a special election to fill the vacancy of a Tribal Council member, the qualifications for candidates and registered voters entitled to participate shall be consistent with those applicable to the District in which such vacant seat exists and in regards to any other office the individual must meet the qualifications required in the vacant position.

(c) Any special election required to be held under this Section shall be conducted in accordance with applicable provisions of this Constitution, any applicable tribal ordinance and any rules and regulations issued by the Election Board.

(d) The elected official taking office under the provisions of this Section shall only serve until the term of office for the vacant office he/she is filling expires.

A vacancy occurring in the position of Speaker or Recorder of the Tribal Council shall be filled by majority voter of the Tribal Council.

ARTICLE XI - SOVEREIGN IMMUNITY

Section 1 - The Tribal Council shall not waive or limit the right of the Little River Band to be immune from suit, except as authorized by tribal ordinance or resolution or in furtherance of tribal business enterprises. Except as authorized by tribal ordinance or resolution, the provisions of Article III of this Constitution shall not be construed to waive or limit the right of the Little River Band to be immune from suit for damages.

Section 2 - Suits against the Little River Band in Tribal Courts Authorized.

(a) The Little River Band, its Tribal Council members, Tribal Ogema, and other Tribal officials, acting in their official capacities, shall be subject to suit for declaratory or injunctive relief in the Tribal Court system for the purpose of enforcing rights and duties established by this Constitution and by the ordinances and resolutions of the Tribe.

(b) Notwithstanding the authorization provided in subsection (a) of this Section, persons shall not be entitled to an award of damages, as a form of relief, against the Tribe, its Tribal Council members, the Tribal Ogema, or other Tribal officials acting in their official capacities; provided that the Tribal Council may by ordinance waive the right of the Tribe or Tribal officials to be immune from damages in such suits only in specified instances when such waiver would promote the best interests of the Band or the interests of justice.

(c) The Tribe, however, by this Article does not waive or limit any rights which it may have to be immune from suit in the courts of the United States or of any state.

ARTICLE XII - CONFLICT OF INTEREST

In carrying out the duties of tribal office, no tribal official, elected or appointed, shall make or participate in making decisions which involve balancing a personal financial interest, other than interests held in common by all tribal members, against the interests of the Tribe.

ARTICLE XIII – SEVERABILITY

If for any reason any provision of this Constitution shall be held to be invalid or unconstitutional by the Tribal Court or any federal court of competent jurisdiction, the validity and effect of all other provisions shall not be affected thereby.

ARTICLE XIV. AMENDMENTS

Section 1 - This Constitution may be amended by a majority vote of the qualified voters of the Little River Band voting in an election called for that purpose by the Secretary of the Interior or his authorized representative; provided at least thirty percent (30%) of those entitled to vote participate in such election.

Section 2 - It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment at the request of the Tribal Council or upon receipt of a petition, which has been verified by the Tribe's Election Board, signed by at least thirty percent (30%) of the eligible voters of the Little River Band.

ARTICLE XV – ADOPTION

This Constitution, when adopted by a majority vote of the qualified voters of the Little River Band voting at a special election called for such purpose by the Secretary of the Interior or his authorized representative, in which at least thirty percent (30%) of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval and shall be effective from the date of his approval.

CERTIFICATE OF RESULTS OF ELECTION

Pursuant to a Secretarial election authorized by the Deputy Commissioner of Indian Affairs on January 20, 1998, the attached Constitution of the Little River Band of Ottawa was submitted to the qualified voters of the Little River Band and on May 27, 1998, was duly adopted/~~rejected~~ by a vote of 553 for and 32 against and 3 cast ballots found spoiled or mutilated in an election in which at least 30 percent (30%) of the 833 members entitled to vote, cast their ballots in accordance with the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

/s/ Anne E. Bolton

Chairman, Election Board

/s/ Diane S. Lonn

Member, Election Board

/s/ Robert E. Hardenburgh

Member, Election Board

/s/ Jonnie J. Sam II

Member, Election Board

Date: May 27, 1998

CERTIFICATE OF RESULTS OF ELECTION (2004 AMENDMENTS)

Pursuant to an order issued by Larry Morrin, Midwest Regional Director, on October 27, 2003, this Proposed Amendment "A" was submitted to the qualified voters of the Little River Band of Ottawa on April 26, 2004, and was duly adopted/~~rejected~~ by a vote of 379 for, and 92 against, and 5 cast ballots found spoiled or mutilated, in an election in which at least thirty percent (30%) of the 997 entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

Pursuant to an order issued by Larry Morrin, Midwest Regional Director, on October 27, 2003, this Proposed Amendment "B" was submitted to the qualified voters of the Little River Band of Ottawa on April 26, 2004, and was duly adopted/~~rejected~~ by a vote of 375 for, and 94 against, and 7 cast ballots found spoiled or mutilated, in an election in which at least thirty percent (30%) of the 997 entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

Pursuant to an order issued by Larry Morrin, Midwest Regional Director, on October 27, 2003, this Proposed Amendment "C" was submitted to the qualified voters of the Little River Band of Ottawa on April 26, 2004, and was duly adopted/~~rejected~~ by a vote of 378 for, and 90 against, and 8 cast ballots found spoiled or mutilated, in an election in which at least thirty percent (30%) of the 997 entitled to vote cast their ballots in accordance with Section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended.

Gerald F. Parrish

Chairman, Election Board

John Ross

David Lilliberg

Kathleen Bowen

Susan A. Schultz

Date: April 26, 2004

CERTIFICATE OF APPROVAL

I, Hilda A. Manuel, Deputy Commissioner of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended, and delegated to me by Secretarial Order No. 3150 as extended by Secretarial Order No. 3177, as amended, do hereby approve the Constitution of the Little River Band of Ottawa. This Constitution is effective as of this date; PROVIDED, That nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

/s/ Hilda A. Manuel
Deputy Commissioner of Indian Affairs
Washington, D.C.

Date: Jul 10 1998

CERTIFICATE OF APPROVAL (2004 AMENDMENTS)

I, Terry L. Virden, Regional Director, Midwest Regional Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and further delegated to me by 3 IAM 4.4, do hereby approve Proposed Amendment "A" now designated as Amendment Number I to the Constitution of the Little River Band of Ottawa Indians. This amendment is effective as of this date: PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

I, Terry L. Virden, Regional Director, Midwest Regional Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and further delegated to me by 3 IAM 4.4, do hereby approve Proposed Amendment "B" now designated as Amendment Number II to the Constitution of the Little River Band of Ottawa Indians. This amendment is effective as of this date: PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

I, Terry L. Virden, Regional Director, Midwest Regional Office, Bureau of Indian Affairs, by virtue of the authority granted to the Secretary of the Interior by the Act of June 18, 1934 (48 Stat. 984), as amended, and further delegated to me by 3 IAM 4.4, do hereby approve Proposed Amendment "C" now designated as Amendment Number III to the Constitution of the Little River Band of Ottawa Indians. This amendment is effective as of this date: PROVIDED, that nothing in this approval shall be construed as authorizing any action under this document that would be contrary to Federal law.

Terrance L. Virden
Regional Director

Date: May 13, 2004

EXHIBIT G



BROOKS WILKINS SHARKEY & TURCO PLLC

JULIE LYONS KOSOVEC
248-971-1717
kosovec@bwst-law.com

May 20, 2010

Via First Class U.S. Mail

Mr. Joseph H. Martin
362 First Street
Manistee, Michigan 49660

Re: Little River Band of Ottawa Indians

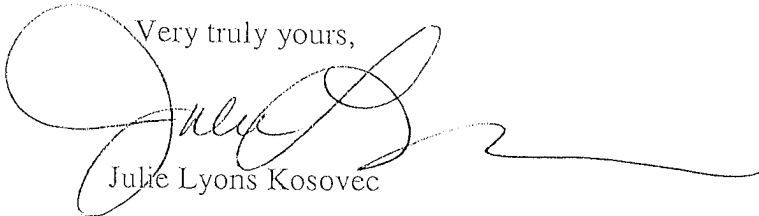
Dear Mr. Martin:

Please be advised that this law firm represents the interests of the Little River Band of Ottawa Indians ("LRBOI") Tribal Council, individually and in their official capacities, LRBOI Tribal Ogema, Larry Romanelli, and David Giampetroni in the above-captioned matter. The purpose of this letter is to seek your concurrence in a Motion for Summary Disposition pursuant to MCR 2.116(C)(7). The complaint alleges defamation per se and defamation against my clients arising out of the filing of a "Request for Investigation" with the Illinois Attorney Registration and Disciplinary Commission ("IARDC"). As you are surely aware, both the LRBOI tribe and its council are entitled to absolute immunity from all liability which might result from any and all communications to the IARDC. Moreover, given your past representation of the LRBOI tribe, you are likewise aware that suits against Indian tribes are barred by sovereign immunity. This immunity likewise extends to a tribe's attorney when acting as a representative of the tribe. Consequently, your lawsuit is improper and must be dismissed.

In the event that you refuse to dismiss the instant lawsuit with prejudice, we will have no choice but to pursue any and all sanctions allowable pursuant to MCL 600.2591 and MCR 2.114.

Thank you for your attention to this matter. I look forward to hearing from you soon.

Very truly yours,



Julie Lyons Kosovec

JLK/tms

cc: Kimberly G. McGrath, Esq.