

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

JUL 7 2011

MATTHEW J. DYKMAN
CLERK

Russell W. Chavez
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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

Russell W. Chavez C# 621,431

Pro Se Plaintiff / Petitioner,

vs.

The Navajo Nation Tribal Courts &
The Navajo Nation Tribe et.,al.

Defendant & Respondent

NO.:

11cv601-LFG-KBM

**CIVIL RIGHTS COMPLAINT
("JURY TRIAL DEMAND")
and Relief Sought by Plaintiff**
Original Complaint

Charges are as Follows :

1.) Discrimination
2.) Denial of Due Process
3.) Dereliction Of Duty
4.) Equitable Tolling Violation
5.) Breach in Duty and
6.) under The Freedom of
Expression Violation
7.) Improper Misconduct and
8.) A Deliberate Indifference
Standard & Custom

I Plaintiff Russell W. Chavez (Pro Se Status) am seeking to Appeal the two
previous decisions made by the Navajo Nation Tribal Courts in the following :

- A.) Russell W. Chavez v. The Arizona State Hospital et.,al.
A A -1.) Case No. : WR -CV - 217 - 10 (Navajo District Court Level)
A A - 2.) Case No. : SC - CV - 69 - 10 (Navajo Nation Supreme Court)

1 B.) Russell W. Chavez v. The United States Government et.,al.
 B B - 1.) Case No. : WR - CV - 218 - 10 (Navajo Nation District Court)
 2 B B - 2.) Case No. : SC - CV - 06 - 11 (Navajo Nation Supreme Court)

3
 4 PRELIMINARY STATEMENT

5 The Navajo Nation Tribe and The Navajo Nation Tribal Courts as exhibits,
 6 and documents attached shall present a Judiciary system / process that turns a
 7 "blinds eye" to governmental & judiciary corruption, against other Navajo Native
 8 Americans of the same class and / or try's to relinquish the protections / redress
 9 inherent to other specific Navajo Nation citizens, but denies judiciary access to
 10 Navajo Citizens (*of the same class*) that are recognized by and thru census
 11 affiliation of the same class, and under the same sovereignty status. Those
 12 Navajos that occupy these governmental & judiciary positions thats support to
 13 Protect its Navajo citizens / people / culture under The United States Constitutional
 14 Amendmends by sovereignty, have abandoned their post and have become willing
 15 participates in covering up judicial misconduct and torture of a Tribal member.
 16

17 Both the (above) cases were filed on July 6, 2010 with The Navajo Nation Tribal
 18 District Court (level) in Window Rock, Arizona. The (above) two cases were
 19 presided by The Honorable Judge Thomas Holgate at the Navajo Nation District
 20 Court Level. Then followed by The Appeals process conducted by The Navajo Nation
 21 Supreme Court, which was presided by The Honorable Chief Justice Yazzie, H. and
 22 The Honorable Associate Justice Shirley, E. the decisions / judgments of "Order
 23 Of Dismissals" was made in both case on March 9, 2011 and mailed March 16, 2011.
 24 The Plaintiff Russell W. Chavez (*Pro Se*) immediately filed a "Response Motion to
 25

1 "Orders Of Dismissals" on March 22, 2011, detailing "Why" the materials (docu -
2 ments and transcripts) were Not filed in these matters as alleged and descibed in the
3 Response Motions by Plaintiff Mr. Russell W Chavez (*pro se*)(exhibits C- C and D-D
4 are as attached), which now warrants this action against the (above)defendants.

5 Notice was given that the above named Russell W. Chavez (Petitioner / Pro Se
6 Plaintiff / Appellant / Complainant) is still presently appealing to The Navajo Nation
7 Supreme Court, the two judgments given by The Navajo Nation Tribal Courts in both
8 these Civil matters (Complaint Filed) and (Human Rights Complaint was filed with)
9 The Navajo Nation Human Rights Commission (NNHRC) under a Civil Rights Com-
10 plaint submission RE : **NNHRC - 10 - 122** to the NNHRC on August 20, 2009 and
11 faxed September 04, 2009 (exhibit E-E as attached).

12
13 The Appeals & Complaints were based on the reasons set forth in the attached
14 Memorandum of Points and Authorities. The Navajo Nation Supreme Court had two
15 previous rulings / decisions that are now coming into question under 7 N.N.C. 253(A)
16 (2) and in re: kee Yazzie Mann, No. A-CV-12-85, 5 Nav. Rep. 125 (Nav. Sup. Ct.1987).
17 The most recent judgments is in question under Russell Chavez v. The United States
18 Government et.,al. case no. SC-CV-06-11 in the "Order Denying Reconsideration and
19 The Order Of Remand" given May 27, 2011 and not mailed out until June 16, 2011 the
20 presiding judges were / are the Honorable Chief Justice Yazzie, H. and The Honorable
21 Associate Justice Shirley, E. of The Navajo Nation Supreme Court. (exhibit F- F as
22 attached). Next, item that has come into question also is Russell W. Chavez v. The
23 Arizona State Hospital et.,al. Case No.: SC - CV - 69 -10 has been given a "Order
24 GRANTING Reconsideration" (exhibit G -G as attached), which was given on May 27,
25
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2011 and **Not Mailed until June 21, 2011.**

JURISDICTION STATEMENT

The Navajo Nation Supreme Court had jurisdiction based on the two previously stated provisions of Law determined and entered by The Navajo Nation Supreme Court, which are now in question The first issue is 7 N.N.C. 253 (A)(2), Subject Matter Jurisdiction; including 7 N.N.C. 253a(B) and (C) defining Personal Jurisdiction. The second issue, determination is under The Navajo Nation Supreme Court and has acknowledged, that tribal members are subject to state laws when they leave the reservation stated under Law provision Hubbard v. Chinle School District, No. A - CV -19 - 82, 3 Nav. R. 167 (Ct. of Appeals 1982), citing Mescalero Apache Tribe v. Jones, 411 U.S. (1973).

A. JURISDICTION AND VENUE

This District Court of New Mexico has Jurisdiction over this action pursuant to :

28 U.S.C. 1343(a) : 42 U.S.C. 1983 and IN PERSONAM JURISDICTION Action

Venue is proper in this District due in Fact The Bureau Of Indian Affairs for the defendants: The Navajo Nation Tribe is located within this District and All the defendants are sued in their official capacity and their official places of business are located in close proximity to this Honorable District Court of New Mexico And The Navajo Nation Tribe reside both in Arizona & New Mexico giving dual jurisdictional status

MEMORANDUM Of POINTS and AUTHORITIES
for Russell W. Chavez v. The Arizona State Hospital et., al.
 Navajo District Court Case No. : WR - CV - 217 - 10
 Navajo Supreme Court Case No. : SC - CV - 69 - 10

- 1 I. On July 6, 2010 The Plaintiff Russell W. Chavez filed a Application / Petition for
2 Civil Rights Violations of Racial Profiling & Invasive Illegal Search & Conspiracy,
3 which is Case No. : **WR-CV-217-10** (attached **A - A -1** exhibit) ;
- 4 2 On August 6, 2010 The Arizona State Hospital et.,al. was served and accepted
5 from Valley - Wide Process Server in Phoenix, Arizona (attached exhibit **H - H**) ;
- 6 3. On September 14, 2010 Signed, but Not Submitted into the Window Rock Judicial
7 Court until September 20, 2010 was A Notice Of Appearance by Counsel Ms. Kellie
8 Peterson S.B.N. # 022417; included with Notice, was A Motion to Dismiss for Lack
9 of Jurisdiction stating the above under caption Jurisdiction (attached exhibit **I - I**) ;
- 10 4. On September 24, 2010 due to Plaintiff's / Petitioner's Physical, plus Financial Dis -
11 abilities filed a Affidavit Motion To Justify Personal Service against Named & Un -
12 named Defendants - and - Request for Expedited Ruling on All Addressed Issues
13 in Motion (attached exhibit **J - J**); also filed a Response Motion by Plaintiff, To
14 "Dismiss for Lack of Jurisdiction by Defendant" -and- Request Hearing for Argu -
15 ment if Necessary (attached with exhibit **J - J**); included within the Motion was
16 Signed and Submitted both to the Court and Defendant's Counsel Ms. Kellie
17 Peterson. In the Response Motion by Plaintiff; (attached in exhibit **J - J**) of this
18 motion requested from Plaintiff For "Special Damages" attached in Response
19 Motion by Plaintiff and Notice submitted to the Window Rock District Court on
20 page 24 line item 15 thru 18 stating " the Plaintiff is asking a mere **25 Million**
21 **in Damages / Assessment that shall be provided upon request** (meant by
22 the Court or Defendant The Arizona State Hospital et.,al. mentioned within The
23
24
25
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1 Response Motion provided by Plaintiff.) had the Navajo District Court Ordered a
2 Hearing to Proceed with the Default Rule 4 of The Navajo Nation Civil Procedures
3 (NNCP) and only to consider the Special Damages request (by *Pro Se Plaintiff*)
4 if on going litigation was in fact necessary;

- 5 5. September 29, 2010 at 5:03 p.m. date Valley - Wide Process Services mailed via
6 Certified Return Receipt Mail (per) "Declaration Of Delivery By Private Process
7 Server (exhibit K-K attached);
- 8 6. On October 5, 2010 a Notice of Association by Counsel Clyde P. Halstead signed,
9 but did Not Submit Notice to the Navajo Nation Tribal Court until a later date, the
10 Plaintiff Mr. Russell W. Chavez **Never Received a Court Stamped Copy**
11 (Counsel's admittance is still in question) included with the Official Notice (?) was
12 a State's Motion To Strike and also a Reply in Support of The Arizona State
13 Hospital's Motion To Dismiss (All attached exhibit L- L);
- 14 7. On October 18, 2010 The Plaintiff Russell W. Chavez received a **Notice of**
15 **Hearing** from The Navajo Nation Tribal District Court dated October 13, 2010
16 and setting a Hearing Date for November 17, 2010 (attached exhibit **M-M**)
- 17 8. On November 17, 2010 Arguments over Jurisdiction. (Attached are The Navajo
18 Nation Judicial District Court of Window Rock Transcripts exhibit **N-N**);
- 19 9. On November 18, 2010 a Judgement was entered in the matter by presiding
20 Honorable Navajo District Court Judge T. J. Holegate had entered a judgement/
21 decision of "Dismissal with prejudice; stating this case are moot and this docket
22 number is closed with the Court."(Direct Quote) (exhibit O-O attached);
- 23 10. On December 1, 2010 The Pro Se Plaintiff Mr. Russell W. Chavez faxed a
24
25

1 "Formal Request and Notice", requesting copies necessary to pursue a Appeals
2 Process agenda (attached exhibit **P-P**) ;

3 11. On December 15, 2010, and in accordance to Rule 9 (a) (b) "Notice Of Appeal"
4 was delivered to The Navajo Nation Tribal District Court plus The Navajo Nation
5 Supreme Court, which included The Motion for "Notice Of District Court Trans-
6 cript Delivery", on december 15, 2011. Only The Navajo Nation Supreme Court
7 Clerk (Mr. Michael Smith) **Refused** acceptance of the documents and Motions to
8 be taken into consideration by and thru The Navajo Nation Supreme Court. The
9 Plaintiff Mr. Russell W. Chavez (*Pro Se*) followed the "Directive" (by Supreme
10 Court Clerk) "Submit Materials to the Navajo Nation District Court, plus (District
11 Court) Transcript by which Plaintiff attempted to do as Instructed. (by Mr. Michael
12 Smith) The Navajo District clerk would only accept the Appeal's Notice and
13 acouple of District Court Transcript; neither court would accept documents
14 (motions & responses) of the record. (exhibit **Q-Q** attached)

16 12. On January 07, 2011 The Navajo Nation Tribal District Court in Window Rock;
17 Arizona submitted the "INDEX LISTING"; for District Court Proceeding Activity,
18 plus submitted this index listing under perjury to The Navajo Nation Supreme
19 Court under The NRCAP, Rule 9 (a)(1) created by Navajo District Court Clerk
20 Ms. Patricia Joe mailed to Plaintiff Russell Chavez (*Pro Se*) on Jan. 10, 2011;
21 (exhibit **R - R** attached);

23 13. On January 27, 2011 The Plaintiff / Appellant Russell Chavez had submitted
24 a Motion to Request Correction on "Index Listing" (created by Navajo Nation
25 District Court) and a Motion to "Suspend The Rules & Enact Rule 3 due to

1 Plaintiff's / Appellant's Physically Disabled condition and financial hardships;
2 After submission of above motions the Plaintiff Mr. Chavez waited for notice
3 from the Navajo Nation Supreme Court to submit Brief / The Motion with
4 Appeals Arguments, but the Notice to submit never came (again, directive
5 by The Navajo Nation Supreme Court Mr. Michael Smith: "To Wait") ;
6 (exhibit S-S attached)

7 14. Instead, a Notice of Ruling from The Navajo Nation Supreme Court was
8 made on March 9, 2011 and mailed on March 16, 2011. The reason for the
9 "ORDER OF DISMISSAL" stating, " The Appellant has the ultimate respons-
10 ibility to see that the Supreme Court has the complete record before it. See
11 *Tso v. Navajo Housing Auth.*, 8 Nav. R. 302 (nav. Sup. Ct. 2003). If the
12 appellant fails to timely transmit the transcript, the Supreme Court shall sum-
13 marily dismiss the appeal on its own motion. See N.R.C.A.P. Rule 10(c);
14 *Thomas v. Yazzie*, No. SC - CV - 21 - 06, slip op, at 4 (Nav. Sup.Ct. July 14,
15 2006) (Court has no option under NRCAP 10(c) but to dismiss)".(Dir. Quote)
16 (N.R.C.A.P. means The Navajo Rules Of Civil Appeals Procedure.)
17 (exhibit T-T attached);

18
19 15. Upon receiving this Notice The Appellant / Plaintiff Russell W. Chavez filed
20 a Motion " Plaintiff's Response to "Order Of Dismissal" & Notice Of District
21 Court Transcript Delivery, was "Completed" Plaintiff includes a Affidavit for
22 Evidence by Ms Regina Tsosie; on March 22, 2011 stating the Facts that
23 had transpired on December 15, 2010 within this motion and supporting
24 Affidavit given by witness. The Supreme Court clerk was not corroborative
25

1 The Plaintiff recorded the conversation between Plaintiff and Clerk sighting
2 Az. State Statute provision giving a individual the right to record as long as
3 their a party to the conversation under 13 - 3005 (if necessary for evidence)
4 (exhibit C - C attached previously mentioned); Clerk accepted Response ;
5

- 6 16. The Plaintiff mailed out via UPS Ground Commercial on March 24, 2011 the
7 Trk. # 1zR3158W0326040019 and Confirmation of Delivery and person
8 signing for all legal documents (exhibit V-V attached);

- 9 17. On June 24, 2011 The Plaintiff Russell W. Chavez (*Pro Se*) received in the
10 mail a lettter from The Navajo Nation Supreme Court, "ORDER GRANTING
11 RECONSIDERATION", cause given (states) : " Appellant demonstrates that
12 when he filed his *Notice of Appeal* on December 15, 2010, he attached a copy
13 of the transcript and that he was instructed by the clerk of the Supreme Court
14 to also file the transcript with the lower court ". . . . "A review of the lower court
15 records does show a transcript of the motion hearing conducted on November
16 17, 2010 was attached and received by this Court and the lower court on
17 december 15, 2010. The Court hereby finds that the *Notice of Appeal* and the
18 transcript were filed on December 15, 2010; therefore, the requirement of Rule
19 9 of the NRCAP was met." (Direct Quote) **Signed & Dated May 27, 2011,**
20 **but NOT Again Mailed until Jun. 21. 11** (WHY, mailed so late ?)
21 (exhibit G-G attached)
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MEMORANDUM OF POINTS and AUTHORITIES
for Russell W. Chavez v. The United States Government et.,al.
Navajo District Court Case No.: WR - CV - 218 - 10
Navajo Supreme Court Case No.: SC - CV - 06 - 11

1. On July 6, The Plaintiff Russell W. Chavez filed a Application / Petition Civil Rights Violation and Aid and Abet A Conspiracy, which is (above) Case No. : **WR - CV - 218 - 10** (exhibit **B- B- 1** attached);
2. On August 5, 2010 at 3:47 p.m. Valley - Wide Process Server located in Phoenix, Arizona had Delivered and **sent 30- Day Civil Summons & Civil Complaint** by / via Certified Return Receipt Requested mailed to : Solicitor Generals Office, U.S. Department of Justice ar 950 Pennsy- Ivania Ave. NorthWest in Washington D.C. (exhibit **W-W** attached);
3. No Response from Solicitor Generals Office, U.S. Department Of Justice;
4. Next on September 29, 2010. I the Plaintiff Russell W. Chavez (*pro se*) by Declaration Of Delivery (per) Valley - Wide Process Server at 1818 east Aire Libre Ave. Phoenix, Arizona 85022 Phone (602) 262 - 25555 **sent :** Justify Personal Service and Response Motion From Plaintiff to "**ENACT. DEFAULT**" Proceedings Against Named & Un - Named Defendants plus Motion from Plaintiff for "**Special Damages**" Request (exhibit **X - X** attached);
5. On December 14, 2010 in The Navajo Nation District Court located in Window Rock, Arizona and Honorable District Court Judge Thomas Holgate presiding "Order Of Dismissal" stating as follows : "*Petitioner's Application*

1
2 at 1. This Court cannot assert subject matter jurisdiction under statute, 7
3 N.N.C. 253, or any other Navajo common law over the Defendant to
4 examine the Petitioner's allegations of Civil Rights violations." (goes on
5 to say;) : "For the foregoing reasons the Court orders Plaintiff's *Application*
6 dismissed with prejudice. All subsequent filings in this case are moot and
7 this docket number is closed with the Court." (Direct Quote) This order
8 was mailed DEC 14 10 on envelope stamp; (exhibit Y-Y attached);
9

- 10 6. On January 13, 2011 at 1:22 PM The Plaintiff's Sister (native way) / Cousin
11 assisted in filing the "NOTICE OF APPEALS", due to the Plaintiff's Physical
12 Ailment took a toll plus the travel back and forth also causing more financial
13 hardship. For what ever reason the Plaintiff was unable to contact his Sister/
14 cousin whom lives within the reservation, and moved since the Plaintiff last
15 knew her where abouts. Although, the copies were unobtainable to Plaintiff
16 from the Navajo Supreme Court, but the plaintiff assumed that the copies
17 had been forwarded to the other parties of the Civil Action. The Plaintiff had
18 already prepared to meet the challenge of the appeal, only to find the copies
19 of the Notice Of Appeals had been mailed out later to the Plaintiff, which
20 should fall under "excusable neglect" due to the plaintiff's ailment and figured
21 the Appeals process had been completed. The Plaintiff waited for the "INDEX
22 LISTING" from the Navajo District Court to proven that the Appeal Process
23 was unnecessary and the ruling was not inaccordances to the NNCP Rules
24 and "DEFAULT" should of been the out come. Rather than a Appeal due to
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26

1 the reason given in the Dismissal Order, given by the Navajo District Court
2 Honorable Judge Mr. Thomas Holgate on December 14, 2010. Further noting
3 because The Plaintiff was treated with Great Scrutiny by Supreme Court
4 Clerk, the Plaintiff was unable to gain insight into "Notice Of Appeals" trans-
5 mission and acceptance. (exhibit Z - Z attached);
6

- 7 7. On and dated March 9th, 2011, but not mailed until March 16, 11(as per U.S.
8 postal stamp) The "ORDER OF DISMISSAL" had arrived from Supreme
9 Court of Navajo Nation. Again, stating as follows : "The lower court record
10 and transcript were due 30 days after the Appellant filed his notice of appeal,
11 or by February 12, 2011. To date, the transcripts and the record have yet to
12 be filed (sighting) See N.R.C.A.P. Rule 10(c); *Thomas v. Yazzie*, No.
13 SC - CV - 21- 06, slip op. at 4 (Nav. Sup. Ct. July 14, 2006) (Court has no
14 option under NRCAP 10(c) but to dismiss).(Dir. Quote)(exhibit 1-1 attached);
15
16 8. The Plaintiff / Appellant (*pro se*) did file a Motion / Response stating the Facts
17 that were already in existence and submitted a Affidavit by Regina Tsosie
18 Who had been a witness to The Navajo Nation Supreme Court giving the
19 Plaintiff directive to submit the documents (lower court record and motions)
20 to The Navajo Nation District Court and the Plaintiff waited for the summons
21 to submit, which never came. So the Plaintiff immediately,(which is no easy
22 task due to physical ailment and financial limitations) went to the Navajo
23 Nation Supreme Court and filed the "Response Motion to the "Order Of
24 Dismissal", due To No Transcript Provision, There are None, besides The
25

- 1 "Complaint" by Plaintiff includes Justify Personal Service and is Currently in
2 "Default" that was warranted due to The Navajo Nation Civil Procedures under
3 Rule 4 : **Process** states in Rule 4(b) (1) (G) this Response Motion by Plaintiff
4 (was filed March 22, 2011 in person and by recorder assistance ?) Included
5 with the Filing was another "NOTICE OF APPEALS" (marked beneath)
6 stipulating (only if necessary) if a Reconsideration was Not Possible (?)
7 (exhibit D - D attached previously mentioned) ;
8
9 9. The Plaintiff Russell W. Chavez (*pro se*) via UPS Ground Commercial, The
10 (above) Response Motion and new Notice Of Appeals (only if necessary) on
11 the date of March 23, 2011(Wednesday) Trk. # 1ZR3158W0359373063
12 Delivery and person signing for delivery attached :(Informaion of the delivery
13 exhibit 3 - 3 attached) ;
14 10. The Plaintiff Russell w. Chavez (*pro se*) contacted The Ninth Circuit Court
15 Of Appeals to find out the process, inwhich to Appeal The Navajo Nation
16 Supreme Court "Order Of Dismissal" judgment (above) on April 20, 2011
17 attn. : Ms. Molly Dwyer / (as per) Brad along with correspondence the
18 Plaintiff Russell W. Chavez (*pro se*) attached many documents and exhibits
19 and again awaited the response and /or summons from The Navajo Nation
20 Supreme Court on the above item # (8), not knowing if The Navajo Nation
21 Supreme Court would give a response. (exhibit 4 - 4 attached) ;
22
23 11. Next, followed the "**Only**" response, given by The Solicitor Generals Office
24 U.S. Department of Justice / Civil Rights Division dated **April 25, 2011**

1 Special Litigation section - PHB (168 - 08 - 0 / 367867 stating for the record,
 2 and as follows) " Thank you for your letter of **August 16, 2010**, the special
 3 Litigation Section of the Civil Rights Division, U.S. Department Of Justice is
 4 responsible for enforcing federal civil rights statutes in three major areas . .
 5 . . We have reviewed your letter carefully, and it does not appear that the
 6 issues (s) you raise fall within our areas of authority." (Direct Quote) By
 7 Jonathan M. Smith Chief and Andy Baxter Paralegal Special Litigation Section.
 8 (Post mark 04/27/ 2011 U.S. POSTAGE) (exhibit ? attached) ; The Plaintiff
 9 sent the First Civil Complaint / Petition to The Solicitor Generals Office (in
 10 General Form) and upon directive from The U.S. SUPREME COURT when
 11 asking, "To Whom should this Civil Matter be Address too?" (above was the
 12 Response given by The U.S Supreme Court & gave Plaintiff the address.)
 13 (exhibit 5 - 5 attached);

- 15 12. The Supreme Court Of The Navajo Nation made a second determination in
 16 this case **on May 27, 2011, and "NOT" mailed until JUN 16. 11** (as per
 17 Post Mark stamp U.S. Postal) Again, Why mailed so Late (?) Only, this
 18 second Ruling gave, "Order Denying Reconsideration and a "Order Of
 19 Remand" in case no. SC - CV - 06 - 11 (exhibit F- F attached);

21 **MEMORANDUM POINTS and AUTHORITIES**
 22 The Navajo Nation Tribal President : Mr. Ben Shelly Jr.
 23 and The Navajo Nation Human Rights Commission Dept.

- 24 1. On August 20, 2009 The Plaintiff filed a Official Complaint and started contact
 25 with The Office Of The Navajo Nation Human Rights Commission at which
 26

1 time spoken to Mr. Donovan Brown (Staff Attorney) about The Falsification of
2 Evidence by : Attorneys, Judicial Members, Law Enforcement; and Medical
3 Staff / Doctors alike plus Racial Discrimination and charges as in Complaint
4 including Preserving All evidence and / or All materials & documents alike for
5 future litigation in Civil Matters now and in future use. The actual Complaint
6 was faxed out on September 04, 2009. (exhibit E - E attached) ;

- 7 2. The Plaintiff further contacted The Native American Rights Fund for legal assist-
8 ance and finally just prior to Mr. Donovan Brown leaving the NNHRC, he did draft
9 a letter requesting assistance from The Native American Rights Fund (NARF),
10 which later "Declined", to represent Plaintiff Mr. Russell Chavez sighting "Conflict
11 Of Interest", stating, "Because The Navajo Nation President Mr. Joe Shirley Jr. was
12 a cousin of plaintiff and The Native American Rights Fund was pursuing Formal
13 Charges against the Navajo Nation Tribe and Mr. Joe Shirley Jr. they would be
14 unable to assist me. I Plaintiff Mr. Chavez (*pro se*) requested The NARF to please
15 put that in writing." Only when the correspondence came in, their NARF reasons
16 for "declining representation and assistance" stated, " do not have the available
17 resources." Dated June 2, 2010. This after Mr. Donovan Browns of FEB 19 2010
18 correspondence to NARF. The Plaintiff has to go by date on Envelope, letter had
19 No date mark (?), case was in review since August 20, 2009 and affirmed on the
20 Complaint on September 04, 2009 when faxed. (Dir. Quotes)(exhibits ~~6~~ ~~6~~
21 attached);
22
23 3. On April 6, 2010 The Plaintiff Mr. Russell Chavez delivered to The Navajo Nation
24 Human Rights Commission a stack of documents detailing as many of the events
25
26

1 and Documentation as was possible, being the La Paz County Adult Detention
2 Facility Sheriffs Members Assaulted me, then destroyed and prohibited as many
3 legal documents as they could without causing too much alarm to the other
4 detainees in the I.S.O. Unit. The Correspondence dated February 22, 2010, but
5 not delivered until April 6, 2010 due to ailment and no funds, all the documents
6 detailed in the 27 pages were hand delivered to the NNHRC, plus some not listed
7 which no one seems to know what happened to Them(?), the top page has the
8 signer of these materials, but would not (at the time) review them. (exhibit 7 - 7
9 attached);

10
11 4. On May 26, 2010 after months and months of repeated phone calls the NNHRC
12 mails a loan application, for a loan (?) in order to pursue the matters described
13 in the materials sent and described in Great Detail of The Judicial Corrupt that
14 had occurred over the course of 3 and half years. The NNHRC stated, again
15 they would review the materials. The Plaintiff Mr. Chavez explained, "Why, would
16 You (NNHRC) send a Disabled person, who's Unemployable a Loan Application?"
17 "What are the chances in that being passed?" Again, reviewing!

18
19 5. The Plaintiff finally set up a meeting to submit other documents / more evidence
20 that may have been misplaced, who knows (?) This meeting was set - up for
21 December 15, 2010 during the meeting the Plaintiff tried to submit the evidence
22 that was also submitted to The Navajo Nation Tribal District Court in Window
23 Rock, Arizona. Only now the NNHRC, declined to accept the documents and
24 stated, "They would only safeguard the materials that are described in the letter
25 sent December 28, 2010 (paragraph Three last sentence) stating," The NNHRC

has exhausted the available resources for your complaint." (Direct Quote)
(exhibit 8 - 8 attached);

6. The Plaintiff drafted and sent direct correspondence to The Navajo Nation Tribal President Mr. Ben Shelly Jr. with the materials / evidence that was refused acceptance on December 15, 2010. The Letter to The Navajo Nation Tribal President Mr. Ben Shelly Jr. dated February 17, 2011 (Thursday) 20 pages in all plus supporting documents attached. (correspondence exhibit 9 - 9 attached);

PARTIE / PARTIES :

INDIVIDUAL PLAINTIFF under (Pro Se Status)

Mr. Russell W. Chavez (pro se)

DEFENDANTS : The Navajo Nation Tribe &
The Navajo Nation Tribal Courts District & Supreme Court Levels

1.) Name of First Defendant Mr. Thomas Holgate The First Defendant is employed
as : District Court Judge at The Navajo Navajo Nation Distr. Crt., Window Rock, Az.
(Position and Title) (Institution)
2.) Name of Second Defendant Mr. Herb Yazzie The second defendant is employed
as : Chief Justice Judge at The Supreme Court of Navajo Nation, Window Rock, Az.
(Position and Title) (Institution)
3.) Name of Third defendant Mr. E. Shirley The third defendant is employed as :
Associate Justice Judge at The Supreme Court of Navajo Nation, Window Rock, Az.
(Position and Title) (Institution)

1 4.) Name of Fourth defendant Mr. Ben Shelly Jr. The fourth defendant is employed
 2 as : Navajo Tribal President at The Navajo Nation Tribe in Window Rock, Arizona, Az.
 3 (Position and Title) (Institution)

4 **I. Statement of FACTS & Arguments and Citations (included)**

5 On October 27, 2006 during a 404c Hearing held in La Paz County Superior
 6 Court in Parker, Arizona (On Reservation Territory) the Plaintiff / petitioner was held
 7 on various criminal charges that were later "Dismissed With Prejudice" on July 28,
 8 2009 , but under the second consecutive Case being No. CR 2006 - 0214 Russell
 9 W. Chavez v. The State of Arizona, participated in a unwarranted and by nonconsent
 10 of Petitioner Russell W.Chavez (defendant at the time) the La Paz County Superior
 11 Court sought a psychological examination under the Arizona Rules of Criminal Proce-
 12 dure (known as A.R.C.P.) under the Rule 11 Competency Provision, inwhich the La
 13 Paz County Superior Court intentionally and with criminal intent utilized fabricated
 14 circumstances; plus purjured testimony to violate the Rule 8 Speed Trial provision
 15 under the A.R.C.P. and Speedy Trial provision which is Guaranteed by and thru The
 16 Six Amendment, plus The Fourteenth Amendment to the United States Constitution
 17 under "Equal Protection of the Laws". Therefore, because the detention of the Plaintiff
 18 / Applant Russell W. Chavez was repeatedly detained (4 cases in all) in violation of
 19 the existing provisions of the Law and was **not** designated within A.R.C.P., inwhich
 20 does clearly state the Cheif Justice of the Arizona Supreme Court (at the time was)
 21 Ms. Ruth McGREGOR is required & mandated by Law to "approve" a Rule 8 violation,
 22 which **never happened**. This violation of Law by the La Paz County Superior Court
 23 (on reservation territory) created other unlawful actions to be committed against the
 24
 25
 26

1
2 Plaintiff / Appellant / Civil Petitioner Mr. Russell Chavez (pro se) who is a recognized
3 member of the Navajo Nation community by and thru census number and continued
4 close family relations, within the Navajo Nation and the Acoma Pueblo communities
5 that uphold the traditions; rituals ; spiritual practices; and cultural customs of being a
6 Navajo / Native American citizen were all violated. The Plaintiff / (Civil) Appellant
7 Mr. Russell W. Chavez should of been allowed to assess and determine where he
8 would prefer to address these violations and has grounds to pursue these matters in
9 both cases and in both regions under *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 62
10 (1978)(stating ICRA was an attempt to "protect tribal sovereignty from undue inter -
11 ference") (ICRA means Indian Civil Rights Act) and in "Tribal Law and Order Act of
12 2009, S. 797 304(b)(1)(B), inwhich the bill states "2 or more offenses may be con-
13 sidered separate offenses". Although, the Honorable Court may attempt to say the
14 offenses were committed prior to 2009, it still does not affect the Civil Complaint or
15 statute limitations due to concealed fraud under Tom Reed Gold Mines CO. v. United
16 Eastern Mining CO., 8 P.2d 449 / 39 Ariz. 533, 8 P.2d 449 (Cite as : 39 Ariz. 533, 8
17 P.2d 449). bars statute of limitations. In furtherance the Plaintiff / Appellant Mr. Chavez
18 (pro se) has attached the correspondence to The U.S. COURT OF APPEALS FOR
19 THE NINTH CIRCUIT, dated April 20, 2011 (Wednesday) (Court Stamped Received
20 **May 0 2 2011** by Molly C. Dwyer Clerk U.S. Court Of Appeals)(exhibit 4 -4 attached).
21
22

23 The Plaintiff / Appellant (Civil) Russell W. Chavez and (defendant then) 150 day
24 Speedy Trial period had ended on November 16, 2006, this is automatic in accordance
25 to the Rule 8 provision of law, both under Arizona Rules of Criminal Procedure 2005 -
26

1
2 2006, and is guaranteed by and thru the 6th Amendment of the U. S. Constitution.
3 On November 20, 2006 at a Pretrial Conference held in La Paz County Superior Court
4 the Plaintiff / Appellant / Petitioner Russell W. Chavez (then defendant) argued this
5 and other mandated points of Law during his pretrial. Yet, still on November 21, 2006
6 the (defendant) now Plaintiff / Petitioner Russell W. Chavez was transported to Yuma,
7 Arizona in order to (alleged) "decline this examination" in person as per the La Paz
8 County Sheriff's Officers whom came into contact with the Plaintiff Mr. Chavez. The
9 Plaintiff / Appellant "did decline any examination". (exhibit 10-10 attached) Only, on
10 December 11, 2006 Public Defender/Counsel Wm. Michael Smith after repeated
11 demands by the Plaintiff / Appellant Mr. Russell W. Chavez to NOT submit falsified
12 documents of a alleged evaluation that was never consented to, and **did not** occur.
13 The Plaintiff / Appellant Russell W. Chavez was implimented into a criminal offense
14 by Defense Counsel Wm. Michael Smith that prolong detention and created a
15 conspiracy that later caused permanent physical injury to the Complaint / Appellant /
16 Petitioner Mr Russell W. Chavez (*pro se*). These falsified documents / materials
17 even after repeated attempts to have them removed has left a on-going conspiracy.
18 and impact on Plaintiff / Appellant's Mr. Chavez Health Care needs and treatment.
19 Since, then the La Paz County Superior Court, (2 submission) Tri State Reporting
20 L.L.C. (1 submission); and The Arizona State County Attorneys Office; The Arizona
21 State Bar Association (7 to 8 Submissions), The Arizona State Supreme Court (2
22 submissions and a repeat)); The Arizona State Court of Appeals Division One (3
23 submissions); The Arizona State Commission Of Judicial Conduct (4 Submissions);
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25
26

1 plus The Arizona State Hospital; including The Arizona State Governors Office (under
2 Janet Napelitano); who may currently, Not be allowing for transparency. The Plaintiff /
3 Appellant Mr. Russell Chavez has ordered the Court Transcripts from Tri - State Re-
4 porting L.L.C. and the Courts actual / Factual records The La Paz County Superior
5 Courts should have provided factual, Not altered testimony the Plaintiff / Appellant
6 (Civil) Russell Chavez gave to the Court, which was removed and / or changed to
7 reflect different events, other than what really took place ["Covering Up Very Serious
8 Constitutional violations on Court documents] (Court Transcripts). The court trans-
9 cripts were re -ordered by Plaintiff / Appellant Mr. Russell Chavez for the Civil
10 matters that were being brought before the Navajo Nation Tribal Courts. The Court
11 transcripts should of provided evidence againsts All those Judiciary members stated
12 (above) All dealing with the Arizona Judiciary and Governmental agencies, plus
13 others not mentioned, due to Concealed Fraud. These transcripts were provided by
14 Tri - State Reporting L.L.C. (again) that depict other events and **not the actual**
15 **events that took place in Court (?)**, probably in a attempt to reflect judicial
16 compliancy.
17

18
19 On January 8, 2007 during a Pretrial Conference the Plaintiff / Appellant Mr.
20 Russell W. Chavez (*pro se*) did come forward with the **Facts** stating, "the evaluation
21 was perjured and asked to present a witness who would testify that **no examination**
22 happened. But instead of allowing the Plaintiff's witness to testify on his (plaintiff's)
23 behalf Mr. Chavez was sent for another Unwarranted and NonConsensual Phsycolo-
24 gical examination that determined Plaintiff Mr. Russell Chavez **did not** meet the pre-
25

1 requisites for entitlement for incompetency, (exhibit 11-11 attached), but was still com-
2 mitted to The Arizona State Hospital who also verified that both examinations given
3 were InFact Falsified, but never came forward with these findings. Because all the re-
4 ports submitted to the Courts under a Rule 11 Competency the reports were mis -
5 leading and in complete. During the Dismissal Hearing later held on October1, 2007;
6 a Dismissal without prejudice was ordered and given by La Paz County Superior
7 Court Judge Michael J. Burke. The State of Arizona La Paz County Attorney refiled
8 charges utilizing repeated perjured testimonies and improperly obtained DNA materials
9 stating there was a "Court Order" that was later discovered did not exist. The reason
10 the term alleged material evidence shall be utilized here, because the State Of Arizona
11 has been unable to produce the support factors that would substantiate admissibility
12 under United States v. Frye, 293 F. 1013 (D.C.Circuit 1923) due to the State Of
13 Arizona Department Of Public Safety (DPS) questionable inability to keep accurate
14 recordings of results, or traceability, including proper, plus required standard
15 operating / testing practices (?). Still, even if the State Of Arizona would have, or
16 could have one day substantiate some sort of accountability, they would then pro-
17 ceed to violate the (alleged accused) "Fourth Amendment United States Constit-
18 utional Right pursuant to and under ILLinois v. Rodriquez, 497 U.S. 117, 111 L.Ed.
19 2d 148, 110 S.Ct. 2793 (1990) from The Supreme Court of the United States
20 as follows :

21 "Evidence seized in violation of the Fourth Amendment may Not be introduced
22 on basis to trial courts mere Reasonable Belief", etc

23 The reason this becomes important is at the time, inwhich the Saliva (sample) was
24

1 taken from Plaintiff / Appellant Mr. Chavez asserted his right to have Counsel present.
 2 Only, the attendant (Samuel Verderman, State's Chief assistant at the time) affirmed
 3 verbally to Plaintiff Mr. Chavez the sample was subsequent to a "Court Order" was
 4 later discovered to be Non - Existant and both will established under Johnson v.
 5 Zerbst, 304 U.S. 458, 465, 58 S.Ct. 1019, 1023, 82 L.Ed.1461(1938); and Brewer v.
 6 Williams, 430 U.S. 387, 97 S.Ct. 1282, 51 L.Ed.2d 424 (1977) neither of which the
 7 Plaintiff / Appellant Mr. Chavez did (and would Never waive Fundamental protections).
 8 Although, it took 4 cases and three and half years later Barker v. Wingo, 407 U.S. 514,
 9 92 S.Ct. 2182, 33L.Ed.2d 101 (1972); United States v. Ingram, 446, F.3d 1332 (11th
 10 Cir. Fla. 2006); Doggett v. United States, 505 U.S. 647, 651-52, 112 S.Ct. 2686, 2690
 11 -91, 120 L.Ed.2d 520(1992). In effect, the State's failure to act and provide the mand-
 12 atory disclosure not only circumvented the simple rules, but were also willfull in nature
 13 as the State failed to follow the Court's directive, "Repeatedly". And in the case of
 14 Kuhn v. Smith, 154 Ariz. 24, 739 P.2d 1341 (1987) the Court stated :

15
 16
 17 "As for appellant's argument that even if Rule 2.4 was not complied with, we
 18 should reinstate the complaint because the rule is merely procedural and
 19 appelle did not show he was prejudiced, we agree with the superior court
 20 that when a complaint is filed without a showing of probable cause, we
 21 assume prejudice. Rule 2.4 is not merely procedural, It embodies the due
 22 process protections of the Fourth Amendment, Currier, supra ; see also
 23 Giordenello v. United States, 357 U.S. 480, 78 S.Ct. 1245, 2 L.Ed.2d 1503
 24 (1958) Appellee washeld to answer to criminal charges without due process
 25 of law and was thereby prejudice. Id. at 27, (emphasis added)"

26 including under the A.R.C.P. Rule 5.4 (c) Determination of Probable Cause states
 as follows : (c) evidence : The Finding of Probable Cause Shall Be Based on Sub-
 stantial Evidence; (2) Documentary evidence without foundation provided there is

1 substantial basis for Believing such Foundation will Be Available at Trial and the
2 documentation is otherwise admissible. (3) The testimony of a witness concerning
3 the declaration of another or others where such evidence is cumulative, or there is
4 reasonable ground to believe that the declaration will be personally available for Trial.
5 No, (alleged) witness's, or anything became available, except falsified / perjured or
6 inaccurate testimonies from supposed mental Health experts which states under
7 Arizona Statutes 13 - 4505 Appointment Of Expert (as Follows) : (E). A person who
8 is appointed as a mental health expert; or clinical liaison is entitled to "immunity";
9 **except** that the mental health expert, or clinical liaison maybe **liable** for intentional;
10 wanton or grossly negligent acts that are done in the performance of the expert's or
11 liaison's duties. (in the A.R.C.P.) and under Rule 11.3 Appointment Of Expert. Rule
12 11.3(e) Expert's Report says, "The Expert's Report shall Conform to A.R.S. 13 -
13 4509 (page 996 in A.R.C.P.) in going to 13 - 4509 Expert's Report (the Court shall
14 find) shall submit a written Report of the examination is completed. The Report
15 shall include at least the following information : 1.) The name of each **mental**
16 **health expert who examines the defendant** ; 2.) A description of the nature,
17 content, extent and results of the examination and **any tests conducted**; 3.) The
18 **Facts on Which the Findings are based**. There could be **No Facts**, the Plaintiff
19 "Declined / Gave **NO CONSENT** to Any examination, **not** to Ashley B. Hart and
20 surely **not** to Jack L. Pott's, nor as in the "evidence" (submitted to the Navajo
21 Nation District Court), to the Arizona State Hospital did not follow the Regulations
22 and Interpretive Guidelines for Hospitals under The States Operations Manuel as
23 stipulated in the Plaintiff's Civil action presented to The Navajo Nations District
24
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26

1 Court in the Motion (referred to by Response Motion by Plaintiff , to "Dismiss for
2 Lack of Jurisdiction" exhibit J - J) submitted on September 24, 2010. In the
3 furtherance of this issue The Arizona State Hospital is a governmental facility, which
4 should prohibit discrimination and by "refusing" to submit to the Navajo Tribal juris-
5 diction is a violation of State Policy, plus the Federal "Equal Protection of Laws".
6 (Additional charges may result more than likely shall be filed in The U.S. Federal
7 District Court of Arizona, but this shall have to be addressed at a later time, but
8 was mentioned in Response Motion by Plaintiff, if discrimination palyed a Role.)
9 During the course of these events Plaintiff / Appellant (Civil) Mr. Russell W. Chavez
10 was injured (repeatedly) first on August 10, 2007 causing physical injury and blood
11 poisoning, which should of never happened. Because there was no reason to hold
12 the plaintiff / appellant Mr. Chavez in continued detention. Depriving the Plaintiff /
13 Appellant Russell W. Chavez of proper medical treatment. Once medical treatment
14 was re-established Plaintiff Mr. Chavez came forward about the falsified materials
15 produced by badges of fraud Ashley B. Hart II and Jack L Potts provided to the court
16 for purpose solely to "disengage the 6th Amendment of The U.S. Constitutional viol-
17 ation (*speedy trial clause*); and supported by the Rule 8 provision of the A.R.C.P.
18 that is mandated by Law; included under Rule 15.2 Disclosure by defendant (a)
19 Physical Evidence (8) states as follows : (8) Submit to a reasonable physical or
20 medical inspection of his or her body, provided such inspection **does not** include
21 Psychiatric or Psychological examination (page 1009 of the A.R.C.P.) and under
22 Hines v. Sheahan, 845 F. Supp. 1265 states : (as follows)
23
24
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26

1 "[While] the Eight Amendment prohibits only cruel & unusual punishment, "the
2 Fourth Amendments " does **not allow jailers** to punish pretrial detainees **at all,**
3 **no matter how humane or common the punishment might be."** Salazar v.
4 City of Chicago , 940 F.2d 233, 239-240 (7th Cir.1991)

5 The alleged examinations repeatedly violated the Plaintiff's Mr. Russell Chavez
6 Native American sovereignty, because according to both Plaintiff's Mother (deceas-
7 ed) a Registered Nurse (RN), and Father a Educational Aid (also deceased) the
8 Plaintiff's Mr. Chavez cultural / spiritual beliefs and right (under the First Amend-
9 ment) is Not to participate in such medical examinations as in phsycological any-
10 thing (such as examinations). By doing these two (alleged) examinations **violated**
11 the Plaintiff's Mr. Chavez First Amendment Right & Privilege by and thru The United
12 States Constitutional Amendments. Instead, when such orientations are necessary
13 for the Plaintiff / Appellant Mr. Chavez is suppost to seek out a Elder, or a Medicine
14 Man / Spiritual Leader for these types of treatments and be counseled by these
15 Spiritual Advisors and keep what is mentioned "Very Private, and to Ourselves (this
16 is the Dine). So, the falsified evaluations and alleged examinations were reported to
17 Podiatry Dr. Roland Palmquest of The Colorado River Indian Medical Center in
18 Parker, Arizona. The treating physician for injuries caused by The La Paz County
19 Sheriff's Detention Facility and reported (repeatedly) (on reservation land) to The
20 Colorado River Medical Center. (Indian Medical Center) and The C.R.I.T. Tribal Court
21 the following day after the appointment, inwhich the incident came forward (at the
22 C.R.M.C.). Later, at the La Paz County Adult Detention Facility, Plaintiff / Appellant
23 Mr. Russell W. Chavez was removed from I.S.O. Unit (medical Unit) and assaulted
24 by The La Paz County Sheriff members, (assaulted with Mr. Chavez own crutches)
25

1 and not allowed medical treatment so evidence of wounds / injuries could not be
2 recorded on May 30, 2008 followed by the Plaintiff's legal documents and personal
3 items were destroyed. Upon release Plaintiff / Appellant Mr. Russell W. Chavez
4 sought medical treatment and found that The Arizona State Hospital can be found
5 liable and filed the above Civil Complaints (exhibit A - A & B - B attached), in order
6 to get these Court records released and expose the corruption.
7

8 MoreOver, Plaintiff / Appellant Mr. Chavez found case law that holds the United
9 State Government accountable also and disclosure materials that suggest The
10 Federal Bureau Of Investigation (known by F.B.I.) was the motivating force behind the
11 concealment and corruption. This is what the Navajo Nation Tribe is trying to assist in
12 concealing and preventing materials from coming forward by repeatedly delaying and
13 preventing materials (evidence) to be submitted. The same case law holds both
14 accountable under *see Selling v. Mcdaniel*, 591 F. Supp. 1090, 1109-10 (E.D.N.1984)
15 & *Slakan* , 737 F.2d at 376 states (as follows) :
16

17 " Recognizing that supervisory liability can extend "to the highest levels of
18 State Government, " we have noted that liability ultimately is determined "
19 by pinpointing the persons in the decisionmaking chain who deliberate in-
20 difference permitted the Constitutional abuses to Continue Unchecked."

21 The purpose in pursuing these matters in Tribal Court was the Plaintiff's Spiritual
22 Rights and Customs, plus sovereignty are forever affected and violated. And the
23 United States District Court of Arizona was, or would feel obligated to given Immunity;
24 which is NOT in accordance to Law under *Jones v. City of Chicago*, cite as 856, F.2d
25 985 (7th Cir. 1988) this principle led the Supreme Court in *Malley v. Briggs*, 475 U.S.

1 335 106 S. Ct. 1092, 89 L.Ed. 2d 271(1986), plus the Plaintiff's / Appellant's Russell
2 Chavez injuries has decreased his chances as being employable (hopeful only until
3 a medication can be found) and Plaintiff's / Appellant's medical treatment from
4 (AHCCCS) been revoked (exhibit 12-12 attached), inwhich the Plaintiff's / Appellant's
5 medicines and future treatment at the moment is are under trial & error stages in
6 trying to stablize the pain that is a direct result of the injuries that were intentional to
7 prevent judicial scrutiny. The Plaintiff / Appellant Russell Chavez attempted to work
8 with The Navajo Nation Human Rights Commission after filing a "Official Complaint"
9 (exhibt E -E above). The Plaintiff filed his own Motion to Preserve All Materials utilized
10 to detain Mr. Chavez with the La Paz County Superior Court via Faxe (exhibit 13-13
11 attached). This Motion (To Preserve) was faxed shortly after the "Dismissal With
12 Prejudice" judgment given by Superior Court Judge Richard Weiss (visiting judge of
13 Mohave County) and during this time requested The Navajo Nation Human Rights
14 Commission (NNHRC) to do the same. The Plaintiff made many phone calls to
15 Donavan Brown (Acting Attorney for the NNHRC at the time) and even gave written
16 directive to assist in obtaining materials needed for Civil Action. Mr. Brown (NNHRC)
17 agreed to draft a letter of intent, and send a letter to the La Paz County Superlor Court
18 to "Preserve" All items. Only instead, sent the letter to the U.S. Federal District Court
19 of Arizona. This made No Sense, because it was the La Paz County Who held the
20 evidence needed for examination (?). This same transaction happened with Ex -
21 Counsel / Attorney Samuel L. Sondgeroth which held back Case File Information and
22 materials used in argument for the "Dismissal with Prejudice", Ruling on July 28, 2009.
23 (The Plaintiff has attached a exhibit 19 -19, "requesting to pursue "Formal Charges.")
24
25
26

1 After months and months of requesting the Navajo Nation Human Rights Commission
2 (NNHRC) to make some sort of determination on when will they proceed with this
3 matter. I Plaintiff / Appellant Russell Chavez filed my own Civil Complaint with the
4 The Navajo Nation Tribal District Court, being the cost was only 35.00 dollars, being
5 more reasonable than the \$ 350.00 the U.S. Federal District Courts were expecting.

6 Expecially, since it was a governmental Courts / law enforcement agency who
7 impoverished the Plaintiff / Appellant Mr. Chavez without any means to Redress. So
8 now, Newly Discovered case law, inwhich the NNHRC so tactfully and unlawfully tried
9 to convience the Plaintiff / Appellant Russell Chavez there was "No Cause Of Action".

10 When the NNHRC declined representation after months and months of alleged
11 reviews and misguidance in order to prolong the time table to hold accountable judicial
12 corruption and conspiracy against All Rights And Privileges both The Navajo Nations
13 Sovereignty Right, plus The United States Constitutional Amended Rights & Privileges
14 as stated to the Navajo Nation Tribal President Mr. Ben Shelly Jr. in the correspond-
15 ence dated Feburay17, 2011 and sent on March 11, 2011 (exhibit 9 - 9 attached) and
16 mailed via Certified Mail Receipt, explaining my (Plaintiff's) position with the NNHRC.
17 (as a exhibit in the Correspondence sent to the Ninth Circuit Court Of Appeals exhibit
18 4 - 4 attached) the Plaintiff / Appellant (Civil) Mr. Russell W. Chavez (*pro se*) why I
19 was unable to respond to U.S. Federal District Court in Phoenix, Arizona due to the
20 Plaintiff's / Appellant's (Civil) Mr. Chavez ailment / sufferage known as Complex
21 Regional Pain Syndrome (CRPS) Nerve Damage (exhibit 14 -14 attached) dated Oct
22 28 2009 @12:18) and has been ongoing, and will remain so according to Dr. Dennis
23
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1 Pena of the Podiatry Clinic at the Phoenix Indian Medical Center, Arizona, including
2 Treating Pain Specialist Dr. Diane L. Pond of the Pain Clinic / Procedure - Room -
3 Procedures (PIMC) Clinic. The Plaintiff's / Appellant's Mr. Chavez impoverished situ-
4 ation is now dependent on Family & Friends in order to sustain his livelihood, plus
5 little if any Quality Of Life. Some of these members (assisting plaintiff) do reside on
6 reservation land / territory Affidavit from second eldest sister whom lives on the
7 Navajo Nation Tribal reservation allotted land 100, 856 supported by Auntie Ms.
8 Hellen Gishie which is called homesite lease, Ms. Patricia Slinkey census # 100,
9 853 (Patricia Slinkey) is a resident plus has been on reservation territory. Ms.
10 Patricia Slinkey has and continues to assist her brother the Plaintiff / Appellant
11 (Civil) Russell Chavez in providing funds (alters pre availability) for living expenses
12 & bills for the Plaintiff / Appellant (civil) Russell Chavez. And for the Navajo Nation
13 Tribe, and / or any other individual to state the Plaintiff's injuries doesn't affect the
14 members and / or territory boundaries of The Navajo Nation Tribe needs a reality
15 check. The second eldest sister's Ms. Patricia Slinkey mailing address and the
16 Affidavit (exhibit 15 -15 attached Plaintiff needs to get Affidavit Notarized and would
17 like to "Preserve" as late submission by sister.) Not Only, does affect the Navajo
18 Community the Plaintiff / Appellant (Civil matter) Russell Chavez has dual spiritual
19 customs being Mr. Michael P. Chavez of the Acoma Pueblo Tribe, located between
20 Laguna and Grants, New Mexico (better known as the "Sky City"), in which Plaintiff
21 / Appellant's Dad is a member of. Most recently the Plaintiff's / Appellant's (Civil)
22 Brother / Cousin given name Mr. Anthony Joe Joe Sparrow Garcia "passed away"
23 on June 9, 2011 and was buried in a traditional manner June 14, 2011 (Monday).
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1 But the Plaintiff / Appellant (Civil) Russell Chavez Could Not participate in the
2 proceedings as supported and affirmed by Affidavit from Anthony's eldest brother
3 Mr. Gordon Dennis Garcia (exhibit 16 - 16 attached). Due to Plaintiff's / Appellant's
4 (Civil) Mr. Chavez disabled condition and financial hardship's that has and shall
5 forever plagued him. The Non - Action and continued delays by The Navajo Nation
6 Tribal Courts and The Navajo Nation Tribal Governmental Agencies (NNHRC) has
7 prolonged judicial redress with the tactical attempts of misguidance stating " Per
8 the discussion at our last meeting, and giving a deadline for Monday December 20,
9 2010 for you to send the above documents before the NNHRC concluded whether,
10 or not it could investigate your complaint. The Plaintiff Mr. Chavez sights under
11 Constructional & Fiduciary or Confidential Fraud, see Morrison v. Action, cite as :
12 68 Ariz. 27, 198 P.2d 590 stating as follows :

14 "Constructive fraud" is a breach of legal or equitable duty which irrespective
15 of moral guilt or intent of the fraud feasor the law declares fraudulent and
16 neither actual dishonesty of purpose nor entent to deceive is an essantial
element and the fraud arises out of a fiduciary or confidential relationship."

17 goes on to say :

18 "Fraud and deceit may arise from silence where there is a duty to speak
19 the truth, as well as from speaking an untruth."

20 the NNHRC goes on to state the following : (in letter sent to the Plaintiff/ Appellant)

21 " To date, the NNHRC has not received any correspondence from you regarding
22 the documentation". (bottom fourth paragraph, continued on second page). But if
23 this U.S. Federal District Court Of New Mexico reviews the Affidavit given by plaintiff's
24 sister Ms. Regina Tsosie, this Honorable Court shall find the Plaintiff /Appellant (Civil)
25 Mr. Chavez did in fact try to submit the documents on December 15, 2011 and will

1 find the NNHRC **"REFUSED"** to review them. Furthermore, mentioned they (NNHRC)
2 would safeguard these material (evidence and materials stated in the letter dated
3 December 28, 2010), **but for No reason** Would they look at the Materials!" (Direct
4 Statement from the NNHRC.) As for the Court transcripts mentioned in this corres-
5 pondence, the Plaintiff / Appellant Russell Chavez already told the NNHRC that the
6 La Paz County Superior Court transcripts did arrive, but were altered to **remove the**
7 **Constitutional violations** and the proof that there was Never No Competency
8 Issue. I Plaintiff / Appellant Russell Chavez explained to the NNHRC, plaintiff was
9 sending them off (La Paz County Court transcripts in question) to Judicial Watch
10 in Washington D.C. (which deals in Judicial and Governmental Corruption), plus
11 the Plaintiff / Appellant Civil Mr. Chavez did mail the documentation on February 01,
12 2011 (exhibit 17-17 attached). The Arizona State Bar Associations unwillingness to
13 properly investigate such matters shall be brought up in other proceedings, along
14 with evidence, but the evidence shall be utilized here if Plaintiff feels it's necessary.
15 (The recordings are legally obtained thru Arizona Law Statute 13 - 3005 giving the
16 Plaintiff / Appellant Mr. Russell Chavez the right to record conversations as long as
17 he's a participate in the conversation.) Now, the reasons above did spark this civil
18 complaint, but so did the response from The Navajo Nation Supreme Court in these
19 two cases if the Court would do comparisons of exhibits T-T and 1-1, the Court
20 shall find that both "Orders Of Dismissals" are similar and for the same reason (?)
21 under the Sb 1070 Law of Arizona alot of the Priniciples are the same in nature. If
22 this U.S. Federal District Court Rules in favor of The Navajo Nation Tribal Courts
23 and The Navajo Nation Tribe it shall cause Navajo Nation Tribal members to deter
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1 from living , associating, worshiping and / or traveling off reservation land, which
2 already can't sustain proper employment, or redress thru the U.S. Federal District
3 Court system due to overbearing cost and making judicial corruption predominate
4 over any questions affecting Navajo Nation members, as did the Plaintiff in these
5 Civil matters. The message it would send to Up Hold to other Native Americans
6 that the judiciary process feels more compelled to advocate for ILLegal minorities
7 than for the orginators of this Country we All call America. The Plaintiff / Appellant
8 Russell Chavez (pro se) is a recognized member of the Navajo Nation by and
9 thru census afiliation as "required and Mandated" by Law. And for the Navajo
10 Nation Tribal Court and / or President to try and relinquish that acknowledgment
11 in order to Protect judicial corruption needs to be accountable in accordance to
12 under 42 U.S.C. 1983 See Monell , 436 U.S. at 694, 98 S.Ct. 2018 stating :

14 " However, a municipality may be held liable for the unconstitutional acts
15 of its officials or employees when those acts implement or execute an
16 unconstititutional municiple policy or custom. see *id*; see also Doe v.
17 Washington County, 150 F.3d 920, 922 (8th Cir.1998), For a Municipality
18 to be liable, a plaintiff must prove that a municipal policy or custom was
19 the moving force [behind] the constitution violation," *Monell*, 436 U.S. at
20 694, 98 S.Ct. 2018; see also *Board of Comm'rs v. Brown*, 520 U.S. 397,
21 400 , 117 S.Ct. 1382, 137 L.Ed.2d 626 (1997)(holding that only "delibrate"
22 action by a municipality can meet the "moving force" requirement)."

23 The sole reason the Navajo Nation Supreme Court did not "suspend the rules"
24 under Rule 3 of the NRCAP for the Plaintiff / Appellant Mr. Russell W. Chavez is
25 so the Court could utilize every provision possible to try and disage and / or
26 prevent the true judgment of Default, against the Defendants in both Civil cases
(noted above) and own up on how bad the situation in the judiciary system is,

1 when called into scrutiny. Now, had the Plaintiff / Appellant Mr. Russell Chavez
 2 been held in accordance to The Arizona Rules Of Criminal Procedures and with-
 3 out the many Constitutional violations / falsified materials as addressed above it
 4 still would not justify creating a social indifference, or as held in
 5

6 McMillian v. Svetanoff, 186, 189 (7th Cir. 1989) states :

7 "To establish a *prima facie* case [of racial discrimination under the four-
 8 teenth amendment] a plaintiff must show : 'that he or she is a member
 9 of a protected class, that he or she is otherwise similarly situated to
 members of the protected class, and that he or she was treated differ-
 ently from members of the unprotected class' "

10 (Quoting Collins v. State Of Illinois, 830 F.2d 692, 698 (7th Cir. 1987) that quoted
 11 in turn, Ramsey v. American Air Filter Co., 772 F.2d 1303, 1307 (7th Cir. 1986).

12 In addition the conspiracy charges are based on, The fact that some of the part -
 13 icipants might not have foreseen the exact nature of the deprivation is of no
 14 moment : (held)
 15

16 "A plaintiff seeking redress need not prove that each participant in a con-
 17 spiracy knew the "exact limits of the illegal plan or the identity of all the
 18 participants therein." Hoffman-LaRoche, Inc. [v. Greenberg], 447 F.2d
 19 [872] at 875 [(7th Cir.1971)]. An express agreement among all the con-
 20 spirators is not a necessary element of a civil conspiracy. The partici-
 21 pants in the conspiracy must share the general conspiratorial objective
 22 but they need to not know all the details of the plan designed to achieve
 23 the objective or possess the same motives for desiring the intended con-
 24 spiratorial result. To demonstrate the existence of a conspiratorial agree-
 25 ment it simply must be shown that there was "a single plan, the essential
 26 nature and scope of which [was] know to each person who is to' be held
 responsible for its consequences.' *Id.* and under Hampton v. Hanrahan,
 600 F.2d 600, 621 (7th Cir. 1979), *rev'd in part on other grounds*, 446 U.S.
 754, 100 S.Ct. 1987, 64 L.Ed.2d 670 (1980); see also Cameo Convales-
cent Ctr., 738 F.2d at 841. Frequently, a conspiracy must be proven with
 circumstantial evidence because '[r]arely . . . will there be direct evid -
 ence of an express agreement among the conspirators to conspire."
Bell v. City of Milwaukee, 746 F.2d 1205, 1260 (7th Cir.1984)

1 And by applying these standards this U.S. District Court of New Mexico will
2 find the Plaintiff's arguments sufficient circumstantial evidence from which a
3 trier of fact could conclude that these defendants and the defendants in All
4 the Plaintiff's Mr. Russell Chavez's Civil matters taken before any "proper
5 Court" shall find, including others Not Mentioned due to the Concealed Fraud
6 provision and Deprived the Plaintiff's Mr. Chavez (*Pro Se*) U.S. Constitutional &
7 Sovereignty Right both given by and thru The U.S. Constitutional Amendmets.
8 The Plaintiff (here in this Court) Mr. Russell Chavez has attached the document
9 the Navajo Nation is trying to prevent from being submitted, (the plaintiff as
10 blocked out the Alleged events and alleged testimonies due to the fact its Hearsay
11 and is not admissible by itself, but if this Court reads the last page of this "Supple-
12 mental Disclosure provided by The State Of Arizona. The La Paz County State
13 Attorneys Office (as Court Stamped **2009 JUN - 3 A M 10:39**) in the La Paz
14 County Superior Court given by Samuel E. Vederman (now County Attorney)
15 (exhibit 2-2 attached) three and a half years later mentions F.B.I. senior agent
16 Mr. Joe Stewart of the Federal Bureau of Investigation. The Plaintiff / Appellant
17 Mr. Chavez was detained on December 28, 2005; and never once seen; or re-
18 ceived, even heard of such materials from any of his Counsels / Attorneys.
19 Nor was this alleged Disclosure ever brought up in 3 previous cases that were
20 and consecutive refiles with falsified materials and alleged statements, (what the
21 Plaintiff / Appellant Mr. Russell Chavez understands was never given, or turned
22 over. What was presented to Plaintiff / Appellant (Civil) Mr. Chavez (*pro se*) was
23 the perjured or fabricated materials, but never this Disclosure, until the Plaintiff's
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1 / Appellant's (Civil) Mr. Chavez "Release" and not till after the "Dismissal with
2 Prejudice", Judgment made on July 28, 2009. Still Attorney Samuel L. Sondgeroth
3 removed materials and articles and left "Blank" envelopes were alleged materials
4 may have been kept, but never released to Plaintiff / Appellant Mr. Chavez (*pro se*)
5 (in general) Most recently, in Arizona just recently a individual was released due to
6 evidence planting (by said F.B.I.)where a defendant was just released, because of
7 evidence tampering / planting,also the Non Disclosure in the Bullet Projectory (Gun
8 Powder) Finger Print Issue. Still the Plaintiff / Appellant (Civil) Mr. Chavez (*pro se*)
9 brought these issues up with the NNHRC over the course of eighteen months and
10 after their correspondence dated December 28, 2010 the Plaintiff Mr. Chavez sent
11 a letter to the Navajo Nation Tribal President Mr. Ben Shelly Jr. . (Attached 9 - 9)
12 The Plaintiff / Appellant Mr. Chavez (*pro se*) has meant all the requirements in the
13 NNCP to give a Order / Judgment of Default againts the defendants in both cases
14 as stpiulated in The Navajo Nation Civil Procedures under Rule 4 ; Process (states
15 in) N.N.C.P., Rule 4 (b)(1)(G) provision as follows ;

17 "Notify defendant that in case of failure to answer the Complaint a judgment
18 by **Default may be entered against him . . .** "

19 The Plaintiff Mr. Russell Chavez has satified this provision / clause with the
20 direct submission of the Affidavit from private process server named as :
21 Valley - Wide Process Serever at 1818 East Aire Libre Ave. Phoenix, Arizona
22 and licensed in Maricopa County as a private process serever; dated being
23 served as being August 5, 2010. Next, under Rule 4(e)(2)(A) Personal Service Out
24 of The Navajo Nation (clause) which states (as follows) :

1 "Service out of the Navajo nation maybe made in the same manner provided
2 in Rule 4 (d)(1) - (4) by a person authorized to serve process under the law
3 of the jurisdiction where such service is made and the time for appearance
4 and answer shall begin to run at that time, provided that before any **Default**
5 maybe counsel justifying the use of personal service out of the Navajo Nation
6 and attaching an affidavit of the process server showing the service . . ."

7 and under Rule 4 (d) Who Maybe Served; How Personal Service is made. The
8 Made, The following persons or entit[i]es maybe served with : Rule 4 (d)(4)

9 Corporations : under Rule 4 (d)(4)(A) states as follows :

10 "Upon a corporation incorporated under Navajo Law, or foreign corporation
11 or upon a partnership, or unincorporated association which is subject to suit
12 under a common name : by delivering a copy of the summons and of the
13 complaint to a partner ; an officer, a managing or general agent ; or to any
14 other agent authorized by appointment by law to receive service and the law
15 so requires, byalso mailing to the defendant . . ."

16 including under provision / clause Rule 4 (e)(!) Who is subject to Alternative
17 Service under Rule 4(e)(1)(A) states the following:

18 "NONResidence of the Navajo Nation . . ."

19 As All stated in the Affidavit Motion To Justify Personal Service submitted on
20 September 24, 2010, also was the the following NNCP Rule 4(e)(1)(E) states:

21 "One Who is Concealing himself to Avoid service of Summons . . . " and a
22 request was made by Plaintiff / Appellant (Civil) Russell Chavez (*pro se*) under
23 NNCP Rule 9 (A) Capacity : (states)

24 "When a party raises an issue as to thelegal existence of any party
25 or the capacity of any party to sue, or be sued, he shall do so by
26 specific allegations stating supporting Facts which are within the
pleaders knowledge . . ."

which is supported Substance and procedure, however , are (as a doctrinal
matter anyway) distinct and separate. State law may define substantive rights,

1 but Federal Law defines the procedures that must accompany them; the process
 2 which states must provide, See Cleveland Board of Education v. Loudermill,
 3 470, U.S. 532, 105 S.Ct. 1487, 84 L.Ed.2d 494 (1985); Mathews v. Eldridge, 424
 4 U.S. 319, 96, S.Ct. 893, 47 L.Ed.2d 18 (1976) and accompanied by In the absence
 5 of a formal policy, McNabola must rely on *Monell's* authorizes the imposition of
 6 liability against a municipal entity "for constitutional deprivations visited pursuant
 7 to governmental "custom" even though *such customs has not received formal
 8 approval through the body's official decisionmaking channels; see also *Pembaur*,
 9 475 U.S. at 482 n. 10, 106 S.Ct. at 1300 n. 10. under : (stating)

10
 11 "We explained in *Cornfield* that a practice of unconstitutional conduct,
 12 although lacking formal approval, may provide a basis for municipality
 13 liability" if the plaintiff can establish that the policymaking authority
 14 acquiesced in a pattern of unconstitutional conduct, 991 F.2d at 1326;
 15 see also *Felton v. Board of Commissioners*, 5 F.3d 198, 203 (7th Cir.
 16 1993) A municipal "custom" may be established by proof of the know-
 17 ledge of policymaking officials and their acquiescence in the established
 18 practice, see *Fletcher v. O'Donnell*, 791, 793-94 (3d Cir.), cert. denied,
 492 U.S. 919, 109 S.Ct. 3244, 106, L.Ed.2d 591 (1989) The longstanding
 or widespread nature of a particular practice would support the inference
 that policymaking officials "must have known about it but failed to stop it."
Brown v. City of Fort Lauderdale, 923 F.2d 1474, 1481, (11th Cir.1991);
 see also *Thompson v. City of Los Angeles*, 885, F2d 1439, 1443-44
 (9th Cir. 1989)

19 The Plaintiff / Appellant can satisfy this requirement The Plaintiff / Appellant
 20 Mr. Russell Chavez (*pro se*) as (Stamped OCT 29 2008) BY The United States
 21 Department of The Interior, Bureau Of Indian Affairs, Washington, D.C. 20240
 22 Mailed as describe Spetember 9, 2008 (plaintiff) was requesting assistance in
 23 providing a referral for legal assistance. (On Top left Corner Tribal Government
 24 Services GNRL - 2008 - 003086. (exhibit **18-18** attached) The Plaintiff /Appellant
 25

1 Mr. Chavez found (example caselaw), stating, "city policymakers know to a moral
2 certainty their police officers will be required to arrest fleeing felons. The city has
3 armed its officers with firearms, in part to allow them to accomplish this task.
4 Thus, the need to train officers in the constitutional limitations on the use of
5 deadly force, see Tennessee v. Garner, 471, U.S. 1, 105 S.Ct. 1694, 85 L.Ed
6 2d 1 (1985), can be said to be "so obvious," that failure to do so could properly
7 be characterized as "deliberate indifference" to constitutional rights."

8 The sole reason the Navajo Nation Human Rights Commission was created
9 was to hold accountable Law Enforcement Agencies and Other Governmental
10 agencies from prejudicing against Navajo Nation members. And for them to say
11 that the Plaintiff does not meet the criteria is improper conduct and to know for
12 months sat on the Civil Rights Complaint and try to state, "The NNHRC has ex -
13 hausted the available resources for your complaint is a dereliction of Duty by
14 drafting two letters and certify mailing two letters the NNHRC has exhausted the
15 available resources for the a complaint. (two hours) is considered "available
16 resources", besides countless times stating the Civil Complaint is under review
17 and this given primarily by the phone attendant. The Plaintiff / Appellant (Civil)
18 brings forth the exhibits and documents hand delivered as previously stated
19 and signed for April 6, 2010 by Donovan D. Brown, these same documents
20 were submitted with The Civil Complaint filed with the Navajo Nation District
21 Court on July 6, 2009 and prior to the acceptance of both Civil Complaints the
22 Navajo Nation Judge reviewed these Civil Complaints, plus "Ordered" the Clerk
23 to admit Both Complaints exhibits A - A - 1 and B - B - 1 (above). It was Only
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1 when the defendants were found to be in "Default", that suddenly jurisdiction
2 then became a issue. The Plaintiff / Appellant (Civil) Russell Chavez (*pro se*)
3 would like the Court to closely review Katie Peterson is (Defendant's Attorney
4 for the Arizona State Hospital et. al.) Ms. Peterson never even showed up for
5 the hearing, the other Attorney Mr. Clyde P. Halstead did, No Notice was given
6 to the Plaintiff and had the Courts received the one the Plaintiff **never did**.
7 Only, after the default notation was already in progress "Notice appeared".
8 Next, the Navajo Nation Supreme Court stated on the second page, " Our
9 finding, however, is not to be taken that Appellant has a valid claim under the
10 law. Our only concern is whether the district court of the Navajo Nation, in its
11 decision, has throughly explained its decision through findings of facts and
12 conclusions of law, thereby ensuring parties a meaning appellant review."(?)
13 Theres No law any where that relinquishs Native America Soverieghty, and
14 expecially Navajo from another Navajo, wheither it be on reservation land or
15 not, But the Plaintiff / Appellant Mr. Russell W. Chavez was inadvertently on
16 reservation land La Paz County has dual jurisdictions one for Parker, Arizona
17 and only Parker, Arizona plus their residence and one for Native Americans
18 and according to the Bureau Of Indian Affairs, Phoenix Area Office the Navajo
19 Nation has joint ventures within these reservational lands, there by carries
20 jurisdictional liability and joint judicial authority. The Plaintiff / Appellant (civil)
21 Mr. Chavez already placed in his motions submitted to The Navajo Nation
22 District Court, there by incorporating all areas of law and equity in a meaning-
23 ful and respectful way. Therefore, seeks this Court for the purpose of redress
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1 and again incorporates all the motions, arguments, exhibites, documents;
2 previously submitted by Plaintiff / Appellant (civil) Mr. Russell W. Chavez
3 (*pro se*) as though fully set fourth herein plus therein (Navajo Nation Tribe).
4 One other issue that caught the Plaintiff's / Appellant's (civil) Mr. Chavez
5 attention in the "Order Denying Reconsideration and Order Of Remand"
6 under Russll Chavez v. The United States Government et.,al. states on the
7 second page of this Order as follows, : " Nevertheless, it was upon the
8 Appellant to ensure the district court filed the lower court record and transcript.
9 Our rule at Rule 9(a)(2) states the district court clerk is to transmit the record
10 to the Supreme Court ; however, the Appellant is responsible for the timely filing
11 of the trial transcript with the district court, *Burnside v. Thriftway*, 7 Nav.R. 152
12 (Nav. Sup. Ct. 1995) . . . Our finding, however, is not to be taken that Appellant
13 has a valid claim under the law" thereby ensuring parties a meaningful
14 appellant review."(Direct Quote) The Plaintiff's / Appellant's Mr. Chavez question(?)
15 What is the Navajo Supreme Court reviewing the Navajo Nations District Court
16 estoppel after the Motion to Justify Personal Service against named & unnamed due
17 to Concealment of Disclosure of the County District Courts and judiciary members
18 law enforcement agencies that aided the planting of evidence and / or enhancing
19 the fraud, plus close associates like Tri-State Reporting L.L.C. ,which stopped the
20 evidence that was going to used in both the Civil matters brought before the Navajo
21 Nation Tribal Court. And the Plaintiff / Appellant Mr. Chavez had a Court Order for
22 them to turn over those Court transcripts "UnTampered with" and they being the
23 La Paz County staff still altered and attempted to remove the U.S. Constitutional
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1 and State Declarational violations as well. That's when the Navajo Nation District
2 Court ruled a, "Order Of Dismissal", so the Plaintiff / Appellant couldn't get a sub-
3 peona Order with More Authority " that's How Corrupt the system is out there in
4 La Paz County District, and supported by apparently other questionable judiciary
5 members. The Plaintiff / Appellant recognizing case law as follows :

6
7 "Recognizing that supervisory liability can extend "to the highest levels of
8 state government, " we have noted that liability ultimately is determined "by
9 pinpointing the persons in the decisionmaking chain whose deliberate in -
10 difference permitted the constitutional abuses to continue unchecked."
11 *Slakan*, 737 F.2d at 376. See *Spell v. McDaniels*, 591 F.Supp. 1090, 1109
12 -10 E.D.N.C.1984) (determining issue on supervisory liability is whether
13 defendant proximately caused a violation of the Plaintiffs rights by doing
14 something or failing to do something he should have done.) We have also
15 noted that this issue is ordinarily one of fact, not law. *Id.* "

16 and in Title 42 U.S.C. 1983 provides , in relevant part, that;

17
18 "every person who, under color of any statute, ordinance, regulation, custom,
19 or usage . . . subjects , or causes to be subjected, any citizen of the United
20 States or other person within the jurisdiction thereof to the deprivation of any
21 rights, privileges, or immunities, secured by the Constitution and laws, shall
22 be liable to the party injured in an action at law, suit in equity, or other proper
23 proceeding for redress"

24
25 Now, the Plaintiff's / Appellant's (civil) Mr. Russell Chavez (*pro se*) is asking
26 this Court, where does that redress actually happen? Because right now I'm the
Only One In Pain Daily, and those that are alleged to be taking care of our way
of life; apparently is busy trying to figure out how to get out of this hole matter.
Meanwhile, the plaintiff's / appellant's children go without assistance from their dad
(plaintiff) and Plaintiff's family and friends has to give up their "quality of life" to make
sure the Plaintiff is provided for and getting his greatly needed medical attention,

1 does not allow the plaintiff to explore other possible treatments, or would need
2 months of approvals by medical provider, that is limited anyways and going broke.

3
4 **II. Statement Entitling Pleader to Relief**

5 The Navajo Nation Civil Procedures defines Default Proceedings in Rule 4 to
6 be 30 days upon receipt of Civil Complaint which falls on September 7, 2010, be -
7 cause both defendants in both cases were served with Civil Complaints (as above)
8 on the date of August 6, 2010. and affirmed by Affidavit of Process Server Valley -
9 Wide Located in Phoenix, Arizona (exhibit K-K & X-X as attached) But the plaintiff
10 / appellant (Civil) Mr. Russell W. Chavez (*pro se*) was unable to submit Affidavit
11 Motion to Justify Service provided by Valley - Wide Process Service certified thru
12 Maricopa County until September 24, 2010 due to physical and financial challenges
13 as described in the exhibits submitted under documents & exhibits within the original
14 Civil Complaint was filed (as above) on July 6, 2010, which gave the defendants
15 additional time, still they were in Default, or **didn't even Respond** (U.S. Gov.)
16 Next, the point in question under 7 N.N.C. 253 a(B) and (C) the statute that defines
17 personal jurisdiction as subject matter jurisdiction by giving the court jurisdiction over
18 certain matters. Now, had the Navajo Nation Tribe and The Navajo Nation Tribal Courts
19 properly implimented and stayed within the provision of their Statutes, Federal & State
20 Regulations plus Guidelines as indicated in the motions submitted to the Navajo Nation
21 Judicial District Court in Window Rock by Plaintiff / appellant (civil) Russell W. Chavez
22 as stated (above) the Navajo Nation Tribe must have policys and procedures in place
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1 to protect against abuse; prejudice; unlawful protection programs that complies with
2 Federal, State, and local laws and regulations. The Plaintiff / Appellant (civil) Mr. Russell
3 Chavez argues The Navajo Nation falls within the the federal law category and being the
4 Plaintiff / Appellant (civil) is of the Navajo Nation decent under Laws established for
5 Certification. Therefore, The Navajo Nation government can not prohibit discriminations
6 that falls within the action or inaction which causes injury, because this burden of pro-
7 longing litigation affects health, welfare, or safety of the Plaintiff / Appellant , but the
8 Navajo Nation or *any of its members located within the territorial jurisdiction* of the
9 Navajo Nation 7 N.N.C. 253a(C), emphasis added. Again, the Parker, Arizona area is
10 reservation and The Navajo Nation Government is of the Local laws and regulations.
11 MoreOver, when a member of the Navajo Nation being Russell W. Chavez is and
12 was unlawfully subjected to involuntary servitude and held in violation to Federal /State
13 statutes; provision of Law, how can a medical facility with unlimited power to relinquish
14 all rights and privileges of any form and not be scrutinized by any judiciary process.
15 The Plaintiff's / Appellant's Mr. Chavez cultural; traditional; and spiritual rituals were
16 repeatedly violated. The Navajo Nation Governmental Sovereignty was established,
17 exactly for these specific purpose and for The Navajo Nation to change or discriminate
18 against one of its own members, needs immediate address & redress. Again, the
19 La Paz County. Parker is Located on reservation, and by right can be held account-
20 able, and the Plaintiff has every legal right to seek redress on both plateaus, and for
21 the same reasons, if the plaintiff / appellant (civil) Mr.Chavez (and its Not considered
22 Double Jeopardy due to separation of orgin and criteria, involving native status.)
23 (Navajo District Court transcript page 4 - 8) According to the surrounding circum -
24

stances and unlawful means by which violated all rights against the Plaintiff / Appellant Russell W. Chavez, and other members of the Navajo Nation Community shall always be at risk. Meaning, if other individuals of the Navajo Nation Community were to attempt to work in a specialized field like Plaintiff / appellant Russell Chavez not provided within the territorial boundaries run the risk of improper, unlawful, criminal acts by Law Enforcement Agency and their corruptional purposes; without accountability to any Laws violating the Equal Protection of Laws guaranteed by and thru The United States Constitutional Amendments and a right to redress; and if one can't afford to do so, for sake of physical or financial challenges is subject to judicial, plus governmental corruption as the Plaintiff Russell W. Chavez was and is currently going through. The only thing the Plaintiff did repeatedly was try and stay within the provisions of Law that every other citizens is entitled to, but not if your a Native American with a Nation that prohibits the unlawful use of falsified materials to inhibit repeated and countless acts of deprivation of rights against one of it's members. Allowed to commit deprivation against Navajo Nation members is the message being sent if this issue is not addressed, leaving others without redress. The laws established within Jones v. CITY OF CHICAGO cite as 856 F.2d 985 (7th Cir. 1988) stipulates conspiracy and falsified materials can for No Reason be enforcable as to detain any individual under 42 U.S.C.A. 1983. And in furtherance of this argument The Fundamental laws of the Navajo People and the Navajo Nation Bill of Rights **require** the Navajo Nation courts to safeguard the Rights of Individuals. One Important right is the right to a jury trial, if necessary. There are other rights guaranteed to people by these Laws. The Plaintiff incorporates "All" the above laws mentioned in this Civil Complaint and

1 The laws repeated in the Motions submitted to the Navajo Nation Tribal Courts
2 and The Navajo Nation Civil Procedures, as well as The Navajo Rules of Civil
3 Appellate to be foregoing and are repeated and incorporated as though fully set
4 forth herein and Most Of All The United States Constitutional Amendments.

5 Further in *Cf. Pembaur v. City of Cincinnati*, 475 U.S. 469, 470, 108 S.Ct.
6 1292, 1293, 89 L.Ed.2d 452 (1986) ("Municipal Liability may be imposed for a
7 **single decision** by municipal policy makers under appropriate circumstances");
8 *Malak v. Associated Physicians, Inc.*, 784 F.2d 277, 284 (7th Cir.1986)(**single**
9 act of highlevel policy maker can render local government liable under section
10 1983) Further, in situations that call for procedures, rules, or regulations; the
11 failure to make policy itself may be actionable. See, e.g., *Avery v. County of*
12 *Burke*, 660 F.2d 111, 114 (4th Cir.1981); *Murray v. City of Chicago*, 634 F.2d 365,
13 366-67 (7th Cir. 1980)(failure of responsible officials to establish appropriate pro-
14 cedures for the prevention of serious malfunctions in the administration of justice
15 implicates dereliction of duty of constitutional dimension for which municipality
16 may be held liable under Section 1983), *cert. granted sub nom. Finley v. Murray*,
17 454 U.S. 962, 102 S.Ct. 501, 70 L.Ed.2d 377, *cert. dismissed*, 456 U.S. 604, 102
18 S.Ct. 2226, 72 L.Ed.2d 366. We take [*City of Oklahoma City v. Tuttle*] [471 U.S.
19 808, 105 S.Ct. 2427, 85 L. Ed.2d 791 (1985)] 'affirmative link' requirement to
20 mean that there must be some knowledge or awareness--actual or imputed--
21 of the custom and its consequences showing the municipality's approval,
22 acquiescence or encouragement, or the alleged unconstitutional violations.
23 Infurtherance, the quantum of evidence needed is considerably greater where
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1 , as here, the particular customs that appellants claim resulted in their injuries
 2 involve a course of municipal inaction that is a good deal removed from the
 3 constitutional deprivation alleged. A plaintiff that faults a municipality's inaction
 4 must show that there is an extreme high degree' of municipal culpability.
 5 *Lenard v. Argento*, 699 F.2d 874, 885 (7th Cir.1983), *cert. denied*, 464 U.S. 815,
 6 104 S.Ct. 69, 78 L.Ed.2d 84; *cf. Strauss v. City of Chicago*, 760 F.2d at 769
 7 (inaction that is 'significantly egregious' may render municipality liable for single
 8 injury under section 1983), as the district court stated below;

9
 10 'No municipality may be held liable for its indifference to the mere *possibility*
 11 of constitutional violations. Rather, the plaintiff must prove the municipality
 12 was aware either of actual deprivations of such a strong likelihood of
 imminent (though unrealized) deprivations that any reasonable person would
 have taken preventative measures.'

13 *Jones v. City of Chicago*, 608 F.Supp. [994, 1000 (N.D.Ill.1985)] (emphasis in
 14 original). Where the custom itself does not establish wrongdoing, there must be
 15 evidence of a course of events or circumstances that permits an inference of
 16 deliberate indifference or tacit authorization of the offense acts. *See Lenard v.*
 17 *argento*, 699 F.2d at 886." (Citation omitted)

18 This is the very reason why the Plaintiff / Appellaht Mr. Russell Chavez holds the
 19 Navajo Nation Tribe & The Navajo Nation Tribal Courts District & Supreme Court
 20 accountable for the estimated \$ 525 Million Dollars, if default requirement is Not
 21 Upheld Inaccordance to the Navajo Nation Civil Procedures that the Plaintiff /
 22 Appellant is estimated to receive had the defendants attempted to come into
 23 compliance both The Arizona State Hospital et.,al. and The United States
 24 Government et.,al., plus had the Plaintiff / Appellant (civil) Mr. Russell Chavez
 25

1 been allowed to seek out and hold accountable actions as any other Navajo
2 Citizen, being Plaintiff's detention and opportunity to redress been properly
3 proceeded upon and the Concealment of Cause of Action, plus deception
4 constituting fraud and Liability. Now, if The Navajo Nation Tribe decided to come
5 forward with What underlining Facts, the Plaintiff / Appellant Russell Chavez
6 may demand only a 3% interest of the over all amount of 525 Million Dollars
7 that is on a monthly bases; while The Plaintiff / Appellant is seeking ongoing
8 litigation. The estimated cost to The Navajo Nation Tribal Community is 15
9 million 750 Thousand dollars a month due to continued pain and sufferage that
10 has caused a great deal of unnecessary torment on the Plaintiff / Appellant
11 Mr. Russell Chavez (pro se); and close family members; plus friend members
12 and has strained his relations, including caused unmeasurable harm in the
13 spiritual cultural traditions that the Plaintiff / Appellant Mr. Chavez use to part-
14 icipate in and No Longer can; lost "Enjoyment & Quality Of Life", not excluding the
15 Fact that falsified medical reports used for the purpose of disengaging the Plaintiff's
16 Mr. Russell Chavez U.S. Constitutional Amended Rights & Privileges and ForeMost
17 Plaintiff's Native Sovereignty that has now taken a toll, by having to file this
18 discrimination Civil complaint against the Navajo Nation that continues to support
19 unlawful measures to deny "All" the Rights & Privileges as deccribed above and
20 allowing judicial Concealed / hidden agenda's from being transparent. Now, if
21 the Navajo Nation Court Up - Holds the 525 Million Dollars cuurently in Default and
22 prescribed by Law (NNCP) and Equity as other Navajo Citizens can, then the
23 Plaintiff / Appellant (civil) Mr. Russell Chavéz (*pro se*) "may" only hold the Navajo
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1 Nation.Tribe for the one time interest cost of 15 million, 750 Thousand Dollars in
2 the assessment of damages; as being a one time set amount, rather that the
3 monthly accrued amount, compounded until litigation is complete and All Damages
4 are paid in Full. No United States Judiciary System should conceal judicial & Law
5 enforcement corruption as if it were necessary.
6

7 **III. Conclusion**

8 MoreOver, when a tribal member is bound by profession and livelihood in
9 "order to sustain life", and must leave the boundaries of the reservation due to
10 limited financial resources, this individual shouldnt have to surrender their status or
11 server their inherent traditional customs; rituals; spiritual, and cultural protections by
12 corruptional law enforcement agencies and their co - conspirers. The Plaintiff's
13 physical challenges and medical treatment needs shall eventually impose the
14 burdens upon the Navajo Family and Friends plus others as it has been to provided
15 for the Plaintiff's / Appellant's (civil) Russell W. Chavez (*pro se*) and Not the actual
16 responsibility of the willing participates who determined to go outside all provisions
17 of Law. This burden is already felt by the family members who reside on the Navajo
18 Nation territorial boundaries, so should it be their accountability / responsibility that
19 is to be "deprived of a quality of life", so corruptional purpose can stay concealed ?
20 It does affect the Navajo Nation and its people. Expecially, when laws; plus violation
21 of laws are subvert intentionally by means of conspiracy and corruption.
22

23 **CAUSES OF ACTION**

24 **COUNT ONE**

25 (49 / 55 pages)
26

SUPREMACY CLAUSE; 42 U.S.C. 1983

1 The foregoing allegations are repeated and incorporated as though fully set
2 forth herein.

3 The Supremacy Clause, Artical VI, Section 2 of The U.S. Constitution provides:

4 This Constitution, and the Laws of the United States which shall be made
5 in Pursuance thereof; and all Treaties made, or which shall be made, under
6 the Authority of the United States shall be bound therby, any Thing in the
Constitution of Laws of any State to the Contrary notwithstanding.

7 The Supremacy Clause mandates that federal law preempts state law in any
8 area over which Congress expressly or impliedly has reserved exclusive authority
9 or which is constitutionally reserved to the federal government, or where state law
10 conflicts or interferes with federal Law;

11
12 **COUNT TWO**

13 **EQUAL PROTECTION ; 42 U.S.C 1983**

14 The foregoing allegations are repeated and incorporated as though fully as
15 forth herein.

16 The Fourteenth Amendment to the U.S. Constitution provides that "No State
17 shall . . . deny to any person within its jurisdiction the equal protection of the Laws;

18
19 **COUNT THREE**

20 **FIRST AMENDMENT ,; 42 U.S.C. 1983**

21 The foregoing allegaions are repeated and incorporated as though fully as
22 forth herein;

23 The First Amendment to the U.S. Constitution provides that "Congress shall
24 No Law respecting an establishment of religion or prohibit the free exercise
25 thereof; or abridging the freedom of speech, or of the press; or the right of
the people to peacably assemble, and to petition the Government for a
redress of Grievances."

1 The First Amendment's Guarantees are applied to the States through the
2 Fourteenth Amendments;

3 **COUNT FOUR**

4 **FOURTH AMENDMENT ; U.S.C. 1983**

5 The foregoing allegations are repeated and incorporated as though fully set
6 forth herein.

7 The Fourth Amendment to the U.S. Constitution prohibits "Unreasonable Search
8 and Seizures." shall Not be Violated , and no Warrants shall issue , but upon
9 probable cause, supported by Oathe or Affirmation, and particularly describing
the place to be searched , and the person or things to be seized."

10 The Fourth Amendment's guarantees are applied to the States through the
11 Fourteenth Amendment;

12 **COUNT FIVE**

13 **DUE PROCESS; 42 U.S.C. 1983**

14 The foregoing allegations are repeated and incorporated as though fully set
15 forth herein.

16 The Fourteenth Amendment to the U.S. Constitution provides;

17 " All persons born or naturalized in the United States, and subject to the
18 jurisdiction thereof, are citizens of the United States and of the State
19 wherein they reside, No State shall make ot enforce any law which shall
20 abridge the privileges or immunities of citizens of the United States, nor
21 shall any state deprive any person of life, liberty, or property, without due
process of law; nor deny to any person within its jurisdiction the Equal
Protection of the Laws;

22 **COUNT SIX**

23 **PRIVILEGES AND IMMUNITIES; RIGHT TO TRAVEL;42 U.S.C. 1983**

24 The foregoing allegations are repeated and incorporated as though fully set
25 forth herein.

1 The Privileges and immunity Clause of the U.S. Constitution , art. IV, 2, cl.
2 1, provides that "[t]he Citizens of each State shall be entitled to all Privileges
3 and Immunities of Citizens in the several States."

4 The Fourteenth Amendment to the U.S. Consttution provides that "[n]o Law
5 shall make or enforce any law which shall abridge the privileges or immunity of
6 Citizens of the untied States."

7 **COUNT SEVEN**

8 **SECTION 1981; 42 U.S.C. 1983**

9 The foregoing allegations are repeated and incorporated as though fully set
10 forth herein.

11 section 1981 of Title 42 of the United States Code guarantees that "[a]ll
12 persons within the jurrisdiction of the United States shall have the same right
13 in every state and Territory . . . to the Full and Equal benefit of all laws and
14 proceedings for the security of persons and property." Sections 1981 also
15 provides that all "shall be subject to like punishments, pains, penalties, taxes,
16 licences, and exaction of every kind, and to no other." Section 1981 prohibits
17 discrimination under color of state law on the basis of alienage, national
18 origin, and race.

19 **COUNT EIGHT**

20 **UNDER 42; U.S.C. 1983 ; ARTICLE 3**

21 The foregoing allegations are repeated and incorporated as though fully set
22 forth herein.

23 Article 3 ; Section 1 of the United States Constitution provides that :
24

1 " The judicial Power of the United States , shall be vested in one Supreme
2 Court, and in such inferior Courts as the Congress may time to time
3 ordain and establish. The Judges, both of the Supreme and inferior
4 Courts, shall hold their offices during Good behavior, and shall not be
5 diminished during their Continuance onOffice."

6 **COUNT NINE**

7 **EIGHT AMENDMENT 42; U.S.C. 1983;**

8 The foregoing allegations are repeated and incorporated as though fully set
9 fourth herein.

10 Article 7, Eight Amendment of the United States Constitution provides ;

11 " Excessive bail shall not be required, nor excessive fines imposed, nor
12 Cruel and Unusual Punishment Inflicted. "

13 **PRAYER FOR RELIEF**

14 **WHEREFORE, in light of the foregoing facts and arguments, Petitioner's**
15 **that the Court :**

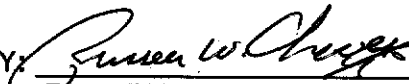
- 16 a. Grant Default if defendants / respondents are found to be
17 in violation in accordance to affidavit of Services filed on
18 by and thru the Navajo Nation Civil Procedures of Civil Law
19 September 24, 2010 ;(On Page 6 Navajo Court Transcript)
- 20 b. Assist in Granting the N.N.C.P. Rule 3 Suspension of Rules
21 provision allowing the jurisdiction of these matters to proceed
22 upon;
- 23 c. Expedite a Ruling due to the many prejudices and so medical
24 treatment can be sought for permanent physical injuries and
25 Plaintiff can seek out without the continued burden of judicial
26 *hardship of meeting time tables and limited funding issues;*
- d. Grant all the Prayers for Relief previously submitted, so they
are incorporated within these Prayers for relief and ;
- e. Allow Pages 61, 76, 77, 95, 98, 99, 100, 101, in the Motive by
Plaintiff in last motion submitted to the Navajo Nation Judicial

District Court in Window Rock, **unknown** to the Plaintiff Mr. Chavez these pages were missing during the submission of the Response Motion for Lack of Jurisdiction of this Motion, The "**cause**" was printer error, and Plaintiff/ Appellant never realized these pages were not attached, or mislocated; when additional copies were returned, after being produced;

- f. Excuse, any misspellings and the limited financial status by the Plaintiff / Appellant (civil), because he has to stop trial pain medications in order to proceed with response; (plaintiff does apologize to the Honorable Courts;
- g. Grant the damages for the Navajo Nation Tribe and The Navajo Nation Tribal Courts as stipulated as being the 15 Million and 750 Thousand Dollars, plus the additional request to maintain the 3 % interest to accrued monthly, while Plaintiff continues to proceed with ongoing litigation as a Result of Inaction by Navajo Nation Tribal Government and Navajo Nation Tribal Courts;
- h. and to remind the Honorable Court Plaintiff would like these Falsified / alleged medical reports by Ashley B. Hart II and the Jack L. Pott's to be removed from any history pertaining to Plaintiff, so they don't interfere with on going medical treatment in the past; present and future and foremost hold them all the defendants known and Unknown (do to concealment) "accountable" in such a fashion No One will ever try this, Again;
- i. The Plaintiff / Appellant requests that the Honorable Court Up - Hold the "Dismissal with Prejudiced Ruling" by Superior Court Judge Richard Weiss on July 28, 2009, which should of been done in the first case, after discovery of Falsified Materials

Thank You, this Honorable Court for redressing a very Troubling Issues.

RESPECTFULLY SUBMITTED this 5th day of July, 2011.

BY: 
Russell W. Chavez C.# 621,431
Pro Se Petitioner

c/c

1 c/c

2
3 Original of the foregoing,
4 Hand Delivered or Mailed as Indicated Below
this 6 day of July, 2011, to :

5 (Hand Delivered by Plaintiff / Appellant to Court)
6 District Court of the Navajo Nation
7 Attn.: Mr. Thomas Holgate (District Judge)
8 Window Rock Judicial District
P.O. BOX 5520
Window Rock, AZ. 86515

9 Supreme Court of The Navajo Nation
10 Attn.: Mr. Herb Yazzie (Chief Justice) &
11 Attn.: Ms. Eleanor Shirley (Associate Justice)
P.O. Box 520
Window Rock, Arizona 86515

12 Copy of the foregoing Via Certified Mailed
13 by The U.S. Postal Services,
14 this 8 day of July, 2011, to :

15 The Navajo Nation Tribe
16 Mr. Ben Shelly Jr. (President)
P.O. Box 7440
Window Rock, Arizona 86515