

JS 44 (Rev. 12/12)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Richard Knight

DEFENDANTS

Darren Vondal

(b) County of Residence of First Listed Plaintiff **Clay County, MN**

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant **Rolette**

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Reed A. Soderstrom, PO Box 1000, Minot, ND 58702-1000,
701-852-0381

Attorneys (If Known)

Craig M. Richie, PO Box 2172, Fargo, ND 58107
701-235-5513**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input checked="" type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input checked="" type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. sections 1651, 2201, 1331, 1391

Brief description of cause:

Tribal jurisdiction of state LLP, assets and dissolution

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

75,000.00 +

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☒ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

Reed A. Soderstrom

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION

Richard Knight,)	
Plaintiff,)	Case No. 4:13-CV-0004
)	
vs.)	COMPLAINT FOR DECLARATORY
Darren Vondal,)	JUDGMENT
Defendant.)	

Plaintiff, Richard Knight , by and through his attorney, Reed A. Soderstrom, of the law firm of Pringle & Herigstad, P.C., for his Complaint alleges as follows:

PARTIES

I.

Plaintiff is a Minnesota resident, non-Indian, and co-owner of a business, Plains Mechanical, LLP, a North Dakota limited liability partnership.

II.

Defendant is an enrolled member of the Turtle Mountain Band of Chippewa Indians and a co-owner of Plains Mechanical, LLP.

III.

During and prior to the formation of Plains Mechanical, LLP Defendant was living in various locals, outside the state of North Dakota, and Parshall, ND as well as the oil patch area of North Dakota.

JURISDICTION AND VENUE

IV.

Plaintiff brings this action for declaratory and injunctive relief pursuant to 28 U.S.C. §§ 1651, 2201 (because it involves an actual controversy) and 2202 and Rules

57, 65, and 70 of the Federal Rules of Civil Procedure.

V.

This court has jurisdiction pursuant to Title 28 U.S.C. § 1331 because the issue of tribal court jurisdiction over a non-enrolled person who is not a member of the tribe and owns property that has been taken and held within the confines of an Indian reservation is a federal question arising under the Constitution, laws and treaties of the United States. *National Farmers Union Ins. Cos. v. Crow Tribe*, 471 U.S. 845 (1985). Further, this action involves a controversy that exceeds the sum \$75,000.00, exclusive of costs.

VI.

Venue is proper in the District of North Dakota pursuant to 28 U.S.C. § 1391 because the events giving rise to this claim occurred in this judicial district and the parties are residents of this judicial district.

FACTS

VII.

The parties formed Plains Mechanical L.L.P. on January 25, 2012, submitting to the Secretary of State for the State of North Dakota and to the laws of the State of North Dakota.

VIII.

The partnership's registered agent is Defendant, who has a P.O. Box in Belcourt, ND.

IX.

The partnership provides welding services to contractors in the Bakken region of

North Dakota.

X.

Plaintiff invested 100% of the capital, over \$100,000.00, primarily to purchase a Ford F-350 truck and welding equipment and to cover 100% of partnership expenses. Defendant did not invest any of his money but was to work in the oil patch and the parties were to split profits intending to build a business, service debt and make money. After approximately three months of work, Defendant became disgruntled and took the truck to the Turtle Mountain Indian Reservation and obtained an injunction/restraining order (Exhibit A) on June 25, 2012. The truck has presumably sat on the Turtle Mountain Reservation since that time. Despite repeated and continuous attempts to address the matter, the Turtle Mountain Tribal Court has refused to address what Plaintiff contends is the wrongful taking of an asset. Tribal Court refuses to set hearings or deal with any jurisdictional decrees or merits of any ownership claims.

XI.

Typically, Tribal Court jurisdiction must be determined through the exhaustion of Tribal Court remedies. However, exceptions to the exhaustion requirement occur in instances where an assertion of Tribal Court jurisdiction was "motivated by a desire to harass or is conducted in bad faith" or where the action was "patently violative of express jurisdictional prohibitions, or exhaustion would be futile because of the lack of an adequate opportunity to challenge the Court's jurisdiction." *See, Nat'l Farmers Union Ins. Co. v. Crow Tribe of Indians of Montana*, 471 U.S. 845, 856; 105 S. Ct. 2447, 85 L.Ed. 2d 818. Plaintiff asserts that the taking of all partnership assets onto a jurisdiction that did not hold any work contracts nor have any significant contacts with the business

at hand is conducted and motivated in bad faith with the desire to harass. The exhaustion requirements discussed in *Nat'l Farmers Union and Iowa Mut. Ins. Co. V. LaPlante*, 480 U.S. 9 (1987) "do not expand or stand apart from *Montana's* instruction on 'the inherent sovereign powers of an Indian tribe' and federal courts 'have authority to determine as a matter 'arising under' federal law...whether a tribal court has exceeded the limits of its jurisdiction'". *Strate v. A-1 Contractors*, 520 U.S. 438, 448 (1997).

XII.

Most recently the Defendant submitted to a deposition, admitting that he had received and paid himself \$20,000.00 in revenue from the business and not advanced Plaintiff any of the \$60,000.00 in estimated revenues.

FIRST CLAIM FOR RELIEF
Declaratory Judgment
28 U.S.C. § 2201 et. seq.

XIII.

Plaintiff incorporate by reference as if fully stated herein the allegations contained in paragraphs I-VIII.

XIV.

This case presents an actual controversy between the parties in interest within the meaning of 28 U.S.C. § 2201 and Plaintiff seeks a declaration of his rights and legal relations concerning whether he is subject to a frivolous tribal court order without subsequent follow up or further proceedings and whether the Defendant operates in bad faith.

XV.

Plaintiff requests immediate dissolution of the partnership, adjudication and finalization of any monetary sums owed by one party to the other to be finally and fully determined.

XVI.

Plaintiff requests the enforcement of this Court's decision to be done with the authority of the U.S. Marshall's office because previous Turtle Mountain Tribal Court orders have not been enforced by either the BIA or Tribal police; that this be done, if necessary by and through a writ of assistance.

SECOND CLAIM FOR RELIEF
Petition for Writ of Assistance

XVII.

Plaintiff incorporates by reference as if fully stated herein the allegations contained in paragraphs I-XIV.

XVIII.

As set forth above, Plaintiff is the sole investor in a limited liability company named Plains Mechanical LLP. The capital invested is primarily a Ford F-350 and welding equipment and supplies. Plaintiff is entitled to dissolution of the partnership and is entitled to exclusive possession of his property. The U.S. Marshall or the Bureau of Indian Affairs will be needed in delivering and vesting the property to the Plaintiff.

WHEREFORE, the Plaintiff requests judgment of the Court as follows:

1. A declaration that the Defendant has no personal and/or subject matter jurisdiction over Plaintiff in regards to the cause of action brought in the

Turtle Mountain Tribal Court.

2. That the property at issue, namely the F-350 Ford pickup and the welding equipment and supplies of Plains Mechanical LLP be delivered to the Plaintiff.
3. For attorney's fees, costs and disbursements incurred herein.
4. That Plaintiff be allowed to dissolve the North Dakota limited liability corporation under the laws of North Dakota.

Dated this 3 day of January, 2012.

PRINGLE & HERIGSTAD, P.C.

By: 

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