

Robert A. Rosette (CA SBN 224437)
Geoffrey M. Hash (CA SBN 227223)
Nicole St. Germain (CA SBN 265361)
ROSETTE, LLP
193 Blue Ravine Rd., Suite 255
Folsom, California 95630
(916) 353-1084 (Office)
(916) 353-1085 (Fax)
rosette@rosettela.com
ghash@rosettela.com

Attorneys for Specially-Appearing Proposed
Intervenor Defendant, the Picayune Rancheria of the
Chukchansi Indians, a federally recognized Indian
tribe

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

THE PICAYUNE RANCHERIA OF
CHUKCHANSI INDIANS,

Plaintiff,

vs.

RABOBANK, a national banking
association, REGGIE LEWIS, CARL
BUSHMAN, and CHANCE ALBERTA,

Defendants,

Case No.: 1:13-CV-00609-LJO-MJS

**SPECIALLY APPEARING PROPOSED
INTERVENOR DEFENDANT'S
OPPOSITION TO PLAINTIFF'S
MOTION FOR A TEMPORARY
RESTRAINING ORDER**

Date: --, 2013
Time: -- a.m.
Courtroom: 4, 7th Fl.

Honorable Lawrence J. O'Neill

Case No.: 1:13-CV-00609-LJO-MJS

SPECIALLY APPEARING PROPOSED INTERVENOR DEFENDANT'S OPPOSITION TO PLAINTIFFS MOTION FOR A TEMPORARY
RESTRAINING ORDER

TABLE OF CONTENTS

I.	INTRODUCTION	1
II.	FACTS	3
A.	Events Leading Up To the Ayala Faction’s February 21, 2013 Attempted Take Over.	3
1.	The Composition of the Tribe and Operation of The Tribal Council and the Chukchansi Economic Development Authority.....	3
2.	The December 2012 Tribal Council Election and the January Suspensions by Tribal Council’s Unanimous Vote	3
B.	The Ayala Faction’s February 21, 2013 Attempted Take Over and Inconsistent Subsequent Actions.....	4
1.	The Ayala Faction Attempts To Achieve Via An Illegal Referendum What It Failed to Achieve In Its Prior Federal Lawsuit.	4
a.	The U.S. District Court for the Northern District of California Rejects the Notion of a Tribe of 46 Ramirez and Wyatt Family Members.....	4
b.	The Ayala Faction Disregards the Federal Court Ruling and Initiates a Takeover of the Tribal Government.	6
2.	The Changing Composition of the Tribal Council Seated by the Ayala Faction.	8
3.	The Ayala Faction Creates an Unauthorized and Illegitimate Tribal Court and Sues Rabobank to Gain Control Over Casino Funds.	9
C.	Rabobank Refuses to Recognize The Ayala Faction	10
D.	The Ayala Faction Begins to Hoard Cash in the Casino Cage In Violation of the Contract It Claims Rabobank Breached.....	11
E.	Rabobank Flags The Ayala Faction’s Role In Fraudulent Casino Transactions	11
F.	The Tribe’s General Council Affirms the Current Composition of the Tribal Council.	11
G.	Following Their Own Independent Review, USB and Premier Refuse to Recognize The Ayala Faction	13
H.	Plaintiff’s Consistent Rejections of the Tribe’s invitation to Submit to Binding Arbitration Have Prevented A Final, Peaceful and Swift Resolution of the Very “Emergencies” That Plaintiff Now Seeks to “Correct” With This Court’s Assistance.....	14

1	III. ARGUMENT	14
2	A. This Court Should Deny Plaintiff’s Request for a Temporary Restraining Order.	14
3	1. Plaintiff Has No Likelihood of Success on the Merits and Only Seeks to Have This	
4	Court Resolve An Internal Tribal Leadership Dispute Through Emergency	
5	Relief.	14
6	2. The Equities Weigh Against Granting the TRO Given That The Tribe, Not the	
7	Ayala Faction, Will Suffer Irreparable Injury If This Court Grants It.	16
8	3. The Equities Weigh Further Against A TRO, Given The Ayala Faction’s Unclean	
9	Hands.	17
10	4. Plaintiff’s Request for a TRO is Procedurally Improper.	18
11	IV. CONCLUSION	19

TABLE OF AUTHORITIES

Cases

<i>Caplan v. Fellheimer Eichen Braverman & Kaskey</i> 68 F.3d 828, 839 (3 rd Cir. 1995)	17
<i>Dahl v. HEM Pharm. Corp.</i> 7 F.3d 1399, 140 (9 th Cir. 1993)	15
<i>Johnson v. California State Bd. Of Accountancy</i> 72 F.3d 1427, 1430 (9 th Cir. 1995)	15
<i>Lac Du Flambeau Band of Lake Superior Chippewa Indians v. Norton</i> , 327 F. Supp.2d 995 (W.D. Wisc. 2004).....	15
<i>Liegmann v. California Teachers Ass’n</i> , 395 F. Supp.2d 922, 925 (N.D. Cal. 2005)	15
<i>Mazurek v. Armstrong</i> , 520 U.S. 968, 972 (1997)	15
<i>Save Our Sonoran v. Flowers</i> 408 F.3d 1113, 1120 (9 th Cir. 2005)	15
<i>Scotts Co. v. United Industries Corp.</i> 315 F.3d 264, 284 (4 th Cir. 2002)	16
<i>St. Pierre v. Norton</i> 498 F.Supp.2d 214 (D.C. Cir 2007)	16
<i>Stanley v. University of Southern California</i> 13 F.3d 1313, 1320 (9 th Cir. 1994)	15
<i>Tillie Hardwick, et al., v. U.S.</i> , Case No. 5:79-cv-1710-JFT	4,5
<i>Vann v. Kempthorne</i> , 467 F.Supp 2d 56 (D.D.C. 2006)	1
<i>Winter v. Natural Res. Def. Council, Inc.</i> , 555 U.S. 7, 20 (2008)	2

Statutes

*25 U.S.C. § 2701, et seq.....	4
*E.D. CA L.R. 231(b)	18

I. INTRODUCTION

The Picayune Rancheria of the Chukchansi Indians, a federally recognized Indian tribe (the “Tribe”)¹, previously requested leave from this Court to specially appear and intervene in the above-captioned case as a defendant as a matter of right, or in the alternative, with this Court’s permission.² Though the Court has not yet heard that motion, the Tribe respectfully submits this Opposition to Plaintiff’s Motion for a Temporary Restraining Order (“Opposition”). While Defendant Rabobank has most recently set forth much of the factual basis and legal argument that provide multiple basis on which this Court should deny Plaintiff’s Motion for a Temporary Restraining Order (“TRO Motion”), the Tribe has additional unique arguments based upon its interests relating to the resolution of this matter. Like Plaintiff’s Complaint, its most recent TRO Motion is nothing more than another attempt to have this Court resolve an internal Tribal leadership dispute over which Plaintiff admits this court has no jurisdiction.³

For the reasons set forth below, there is no likelihood of Plaintiff’s success on the merits of its TRO Motion. In summary, Plaintiff presents its TRO Motion to this Court with unclean hands. The purported “emergency” Plaintiff now alleges is neither an emergency, nor the result of any action other than those actions that Plaintiff has taken to date and continues to take in its admitted refusal to deposit what it claims as more than \$7 million in checks with the appropriate deposit accounts held at Rabobank. More fundamentally, granting the emergency relief Plaintiff now seeks would constitute recognition of a group that has never been recognized by anyone

¹ See Declaration of Geoffrey M. Hash in Support of Specially-Appearing Proposed Intervenor Defendant The Picayune Rancheria of The Chukchansi Indian’s Motion To Intervene (FRCP 24) (“Hash Decl.”), Dkt. No. 10, **Exhibit LL**, Dkt. No. 10-4.

² The Tribe specially appeared to seek leave to intervene solely for the limited purpose of filing and prosecuting its motion to dismiss, and has not waived its sovereign immunity from suit or consent to be sued with regard to any issue or claim now or hereafter presented in this case or otherwise, and expressly reserves its sovereign immunity from suit. See *Lac Du Flambeau Band of Lake Superior Chippewa Indians v. Norton*, 327 F. Supp.2d 995, 1000 (W.D. Wisc. 2004) (explaining that sovereign “entities may intervene for a limited purpose such as moving to dismiss the lawsuit for failure to join an indispensable party without waiving their sovereign immunity.”); see also *Vann v. Kempthorne*, 467 F.Supp 2d 56, 60 (D.D.C. 2006); and, *Miami Tribe of Oklahoma v. Walden*, 206 F.R.D. 238, 240 (S.D. Ill 2001). The hearing on this motion is presently scheduled to occur on June 7, 2013 before Magistrate Judge Seng. See Notice of Motion and Motion to Intervene (FRCP 24) (Dkt. No. 8); May 8, 2013 Minute Order (Dkt. No. 12).

³ See Plaintiff’s Opposition to the Proposed Intervenor Defendant’s Motion to Intervene, Dkt. No. 13, page 2:13-5:17.

1 other than itself and its own sham tribal court. Such recognition is beyond this Court's
 2 jurisdictional reach. In addition, such recognition would contradict the findings reached by each
 3 and every entity that has considered the facts to date, and it would also contradict the will of the
 4 Tribe's membership as expressed recently via a Tribal Referendum.

5 The Complaint – which Plaintiff improperly filed in the Tribe's name – seeks recognition,
 6 comity and enforcement of purported decisions made by an unauthorized, illegally formed tribal
 7 court established by a group of individual Tribal members (collectively referred to herein as the
 8 “Ayala Faction”) in an attempt to justify actions that violated Tribal law, all as discussed in detail
 9 below. Those purported decisions by the Ayala Faction's tribal court directly conflict with
 10 decisions issued by the Tribe's legitimate Tribal Court.⁴

11 Moreover, there is no basis in law or fact supporting the issuance of a preliminary
 12 injunction pursuant to the Ayala Faction's pending request. Quite simply, the Ayala Faction
 13 cannot establish any one, let alone all four, of the applicable standards required under *Winter v.*
 14 *Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). For example, as demonstrated below, the
 15 Ayala Faction cannot establish that it is likely to succeed on the merits of its Complaint. Indeed
 16 the United States District Court for the Northern District of California along with at least three
 17 financial institutions and the General Council of the Tribe have already refused to recognize the
 18 Ayala Faction's authority, the very recognition it now seeks in the Complaint as well as
 19 Plaintiff's TRO. Similarly, there can be no threat of “irreparable harm,” given that the Ayala
 20 Faction has no authority to act on behalf of the Tribe in the first instance. And, in light of that
 21 same lack of authority, there are neither any equitable factors that tip in favor of the Ayala
 22 Faction nor any public interest at stake for this Court to issue such an injunction. Indeed, granting
 23 such an injunction would be contrary to the public interest and fundamental principles of Tribal
 24 sovereignty as set forth below.

25 _____
 26 ⁴ See Reply in Support of Specially Appearing Proposed Intervenor Defendant's Motion to Intervene (FRCP 24)
 27 (“Intervention Reply”), Dkt. No. 15, page 4 lines 7-24 and page 6, fn. 5; see also Supplemental Declaration of
 Geoffrey M. Hash In Support of Specially Appearing Proposed Intervenor Defendant The Picayune Rancheria of the
 Chukchansi Indian's Motion to Intervene (FRCP 24), Dkt. No.16 and Exhibit A attached thereto, Dkt. No. 15-1.

II. FACTS

A. Events Leading Up To the Ayala Faction's February 21, 2013 Attempted Take Over

1. The Composition of the Tribe and Its Governance Structure.

The Tribe's current enrollment consists of 902 Tribal members. *See* Declaration of Elena Sanders, attached as **Exhibit A** to the Hash Decl, Dkt. No. 10-1. The Tribe's governance system is established by and operates under the authority of the Tribe's Constitution, approved by the United States Bureau of Indian Affairs ("BIA") in 1988. *See* Constitution of the Picayune Reservation ("Constitution"), attached as **Exhibit B** to the Hash Decl, Dkt. No. 10-1. The General Council, which consists of all Tribal members who are 18 years or older ("General Council"), elects, pursuant to the Tribe's Election Ordinance, the seven members of the Tribal Council. *See id.*, Article IV, Section 1. Upon election, the Tribal Council is the day-to-day "Governing Body" of the Tribe, and has the authority to conduct and oversee all Tribal affairs. *See id.*, Article IV, Section 2 and Article V. However, the Tribal Council may take action as the Tribe's Governing Body only when at least a quorum of four (4) members is present at a properly-convened meeting. *See id.*, Section 2.

2. The December 2012 Tribal Council Election and the January Suspensions by the Uncontested Tribal Council's Unanimous Vote.

In December 2012, the three open Tribal Council seats were filled by vote of the General Council. The Tribe submitted the certified results to the BIA, listing the following duly-elected Tribal Council Members: Nancy Ayala, Reggie Lewis, Chance Alberta, Carl Bushman, Charles Sargosa, Tracy Brechbuehl, and Karen Wynn. *See* the Tribe's letter to Troy Burdick of the BIA dated January 7, 2013, attached to the Hash Decl. as **Exhibit K**, Dkt. No. 10-2.

At the January 24, 2013 duly-noticed Tribal Council meeting, the uncontested Tribal Council as it existed on that date unanimously voted to suspend Tribal Council Members Tracy Brechbuehl and Karen Wynn for alleged financial improprieties in violation of the Tribe's

Amended Ethics Ordinance.⁵ See Hash Decl., **Exhibits L** (Dkt. No. 10-2), **M** and **N**, Dkt. No. 10-2); See also Hash Decl. **Exhibit O** for a true and correct copy of the Tribe's Amended Ethics Ordinance, Dkt. No. 10-2. Accordingly, as of January 24, 2013, and based on the unanimous vote by the eligible and uncontested Tribal Council members (including Ayala and Sargosa), the duly-elected Tribal Council consisted of the following members: Nancy Ayala (Active); Reggie Lewis (Active); Chance Alberta (Active); Carl Bushman (Active); Charles Sargosa (Active); Tracy Brechbuehl (Suspended by unanimous Tribal Council Resolution on January 24, 2013); and Karen Wynn (Suspended by unanimous Tribal Council Resolution on January 24, 2013). Following these suspensions, the Tribal Council continued to conduct business as usual with its quorum of five members (Chairwoman Ayala, Vice-Chairman Lewis, and Members-at-Large Alberta, Bushman, and Sargosa).

B. The Ayala Faction's February 21, 2013 Attempted Take Over and Inconsistent, Illegal, Subsequent Actions.

1. The Ayala Faction Attempts To Achieve Via An Illegal Referendum What It Failed to Achieve In Its Prior Federal Lawsuit.

- a. The U.S. District Court for the Northern District of California Rejects the Notion of a Tribe of 46 Ramirez and Wyatt Family Members.

On June 7, 2012, the same individuals who now seek to illegally oust the duly-elected governing body of the Tribe brought a motion in federal court attempting to enforce their interpretation of a judgment that had been entered in the *Tillie Hardwick* action some 30 years before (the "Motion to Enforce Judgment"). See *Tillie Hardwick, et al., v. U.S.*, Case No. 5:79-cv-1710-JFT.⁶ In brief, the members of the Ayala Faction sought to persuade the federal district

⁵ In summary, on January 24, 2013, Chairwoman Ayala received a report of suspected violations of the Tribe's Ethics Ordinance committed by Tribal Council Secretary Tracey Brechbuehl and Tribal Council Treasurer Karen Wynn in connection with their involvement in the purchase of furniture for the Casino from a vendor who was not authorized as required under the Tribe's Gaming Ordinance, Tribal-State Compact, and federal Minimum Internal Control Standards ("MICS") adopted pursuant to the Indian Gaming Regulatory Act. See 25 U.S.C. § 2701 et seq. The five remaining members of the Tribal Council unanimously voted to immediately suspend Brechbuehl and Wynn pending further investigation. Independent investigators were hired shortly thereafter.

⁶ By way of background, the initial *Tillie Hardwick* action was filed in 1979 by individuals from a number of terminated tribes, including the Tribe, seeking restoration of their status as Indians and entitlement to federal benefits, as well as the right to reestablish their tribes as formal government entities. The litigation resulted in a stipulated judgment (the "Stipulation") between the United States and seventeen tribes, including the Tribe.

1 court that the Tribe was comprised of only 46 members, all from the Ramirez and Wyatt families,
 2 and that the Ramirez and Wyatt family members were the only individuals with authority to
 3 formally organize the Picayune Rancheria. *See* Memorandum of Points and Authorities in
 4 Support of Plaintiffs’ Motion for Enforcement of Judgment filed in *Tillie Hardwick, et al., v.*
 5 *U.S.*, Case No. 5:79-cv-1710-JFT. Nancy Ayala is a member of the Wyatt family.

6 Both the Tribe and the United States opposed the Ayala Faction’s Motion to Enforce
 7 Judgment. In its opposition brief, the United States explained that the Ayala Faction’s delay in
 8 pursuing such an outcome prejudiced the United States because the federal government had
 9 “worked with the [fully-constituted] Tribe as a federally-recognized Indian entity and had a
 10 government-to-government relationship with the Tribe since the Tribe’s organization in 1988.”
 11 *See* Federal Defendant’s Opposition to Plaintiffs’ Motion for Enforcement of Judgment, at p.11,
 12 attached to the Hash Decl. as **Exhibit P**, Dkt. No. 10-3. The United States explained that it had
 13 “a uniquely important interest in dealing on a government-to-government basis with the properly
 14 constituted tribal government, and had a wide range of governmental interaction with the tribe
 15 over the years, including the conferral and disbursement of federal services and benefits.” *Id.*, at
 16 pages 11-12. The United States also made clear that, in its view, the Ayala Faction did not
 17 constitute the entire Tribe and they were not the sole individuals authorized to serve as the Tribe’s
 18 leadership. *See Id.*, at 17.

19 On December 13, 2012, after oral argument, the United States District Court for the
 20 Northern District of California entered its order denying the Motion to Enforce Judgment
 21 (“Order” or “Federal Court Order”). In the Order, the Court recognized that the Ayala Faction
 22 sought “to unwind more than twenty years of tribal governance by asserting that [. . .] the terms of
 23 the [Stipulation], restored recognition to only” those individuals in possession of Indian lands at
 24 the time of the Stipulation. *See Tillie Hardwick, et al., v. U.S.*, Case No. 5:79-cv-1710-JFT
 25 (Order, dated December 13, 2012), attached to the Hash Decl. as **Exhibit Q**, Dkt. No. 10-3. In
 26 rejecting the Motion to Enforce Judgment, the Court also expressly rejected its claim that only the
 27

1 Ramirez and Wyatt families comprised the entire Tribe and that the entire Tribal membership
 2 consisted of a mere 46 individuals. Instead, the Court acknowledged that “the BIA has
 3 recognized and dealt with the Tribe’s governing body since 1989,” which demonstrated decades
 4 of government-to-government dealings between the fully-constituted Tribe and the United States.
 5 The Court also recognized that the governing body of the Tribe and the federal government had
 6 through the years entered into numerous contracts and undertaken other official governmental
 7 activities.⁷

8 At no time after the District Court denied the Motion to Enforce Judgment did the Ayala
 9 Faction seek a stay of the Order. Nor did the Ayala Faction appeal the Order to the Ninth Circuit
 10 Court of Appeal. Thus, the Order is a final and nonappealable Federal Court Order ruling on the
 11 Ayala Faction’s unfounded contentions regarding limitations on Tribal membership and
 12 limitations on the composition of the governing body of the Tribe.

13 b. The Ayala Faction Disregards the Federal Court Ruling And Initiates a
 14 Takeover of the Tribal Government.

15 Having lost in Federal Court, the Ayala Faction attempted to overthrow the Tribe’s
 16 legitimate governing body at the duly-called Tribal Council Business Meeting on February 21,
 17 2013. At the beginning of the meeting, then-Chairperson Ayala approved a last minute addition
 18 to the agenda, adding an unverified petition and referendum to “new business.” Thereafter, the
 19 Ayala Faction introduced the referendum containing a mere 14 signatures that purported to
 20 remove all members of the Tribal Council who were not members of the Wyatt or Ramirez
 21 families – or all Tribal Council members save and except Ayala. *See* Hash Decl., **Exhibit T**, Dkt.
 22 No. 10-3. In short, the referendum sought removal of all Tribal Council members except Ayala, a
 23 member of the Wyatt family. Based on their bald assertion that the Tribe’s membership consists
 24 of only the 46 members of the Wyatt and Ramirez families, the Ayala Faction took the position
 25

26 ⁷ The most recent Tribal resolutions authorizing such federal contract submissions occurred on January 3, 2013 and
 27 February 7, 2013, and were executed by (then) Tribal Council Chairperson Nancy Ayala (just days prior to the hostile
 28 takeover events of February 21, 2013, discussed below). *See* Resolutions #2013-04 and #2013-15, attached to the
 Hash Decl., collectively, as **Exhibit R**, Dkt. No. 10-3.

1 that the 14 signatures appearing on the referendum were sufficient to meet the Constitutional
2 requirement that a referendum be approved by at least 30% of the Tribal membership.⁸

3 Ayala, in violation of her oath of office and the Tribal Council bylaws, unilaterally
4 accepted the petition, seconded a motion to call the referendum for a vote, and then determined
5 that the referendum had passed with sufficient votes, even though three of the five active Tribal
6 Council members voted “no” – in other words, the referendum was “passed” without a quorum of
7 the Tribal Council voting in favor of the same. *See* Affidavit of Reggie Lewis, attached to the
8 Hash Decl. as **Exhibit S**, Dkt. No. 10-3. Fearing for their safety among the meeting heavily
9 attended by members of the Ayala Faction, Tribal Council members Lewis, Alberta, Bushman
10 and Sargosa – the three members who voted “no” on the referendum – left the Tribal Council
11 meeting room and the building, and attempted to reconvene outside. *See id.*

12 While Tribal Council members Lewis, Bushman, and Alberta were prohibited from
13 entering the Tribal government complex following their exit from the meeting, Ayala and
14 members of the Ayala Faction met late into the night of February 21 and into February 22. The
15 Ayala Faction purported to pass numerous “resolutions” and take various actions in the name of
16 the Tribal Council, including (1) “appointing” six new Tribal Council members – all of whom
17 were members of the Ramirez and Wyatt families (including Ayala’s mother and sister); (2)
18 sending notification to the BIA regarding the new council members;⁹ (3) passing countless invalid
19 resolutions purporting to recognize the Ayala Faction and its supporters in various capacities in
20 Tribal government and at the Chukchansi Gold Resort & Casino (“Casino”) an entity wholly
21 owned and operated by the Tribe, lift a disenrollment freeze, terminate agreements, fire legal
22 counsel and retain new legal counsel (who, incidentally, is not a member of any state or federal
23 bar in the United States); and (4) attempt to take control over the Tribe’s various bank accounts,
24 including those held by Defendants United Securities Bank (“USB”) and Premier Valley Bank
25 (“Premier”), but not at issue in this case. *See, e.g.*, Hash Decl. **Exhibit Y** thereto, Dkt. 10-4; *see*

26 ⁸ As shown above, the Ayala Faction’s contention is directly contrary to the Federal Court Order, which held that the
27 Tribe’s membership was not comprised of 46 individuals, but rather, was comprised of over 900 Tribal members
(adult and minor).

28 ⁹ *See* Hash Decl., **Exhibits V and W**, Dkt. No. 10-4.

1 also **Exhibit U** attached to the Hash Decl. for a true and correct copy of the March 1, 2013
 2 Second Affidavit of Leland McGee, detailing the events of the Ayala Faction's council meeting
 3 on February 21, 2013, Dkt. No. 10-3.

4 On February 22, 2013, an attorney for the Tribe met with the BIA Regional
 5 Superintendent Troy Burdick to discuss the Ayala Faction's hostile takeover attempt. *See*
 6 February 24, 2013 Declaration of Nicole St. Germain, attached to the Hash Decl. **Exhibit X**, Dkt.
 7 No. 10-4. At the meeting, Mr. Burdick stated that the actions of the Ayala Faction appeared to be
 8 exactly what the Ayala Faction attempted to do through the prior District Court action – namely,
 9 erase thirty years of Tribal governance to give complete control of the Tribe to two families. *See*
 10 *id.*, at 6. Mr. Burdick also stated that, in light of her suspension by the other Tribal Council
 11 members following her actions on February 21, 2013, he understood that Nancy Ayala no longer
 12 had governing authority as a member of the Tribal Council. *See Id.* at 9.

13 2. The Changing Composition of the Tribal Council Seated by the Ayala Faction.

14 As described above, and basing its actions on the 14 signatures presented on the
 15 referendum at the February 21, 2013 Business Meeting, the Ayala Faction illegally purportedly
 16 removed from the Tribal Council Vice Chairman Reggie Lewis, Secretary Tracey Brechbuehl,
 17 Treasurer Karen Wynn, and Members-at-Large Chance Alberta, Carl “Buzz” Bushman, and
 18 Charles Sargosa. It then proceeded to “self-appoint” a new, never-elected governing body – in
 19 direct contravention of the Tribe's Constitution and Election Ordinance. The tribal council
 20 created by the Ayala Faction was comprised of Nancy Ayala, Mona Bragdon, Amanda Ramirez,
 21 Antone Ramirez, Mike Ramirez, Holly Wyatt, and Jane Wyatt (all members of either the Ramirez
 22 or Wyatt families) (the “Faction Council #1”).

23 Shortly thereafter, and in a patently remedial effort to regain a quorum of the legitimate
 24 Tribal Council, the composition of Faction Council #1 changed again. Specifically, according to
 25 a resolution generated by the Faction, new council members were seated on February 23, 2013.
 26 By Sunday, February 24, 2013, through unexplained maneuvering, Tracey Brechbuehl, Karen
 27 Wynn, and Charles Sargosa had been “re-seated” as members of the Ayala Faction's Tribal
 28

Council. *See* **Exhibit Z** to the Hash Declaration, Dkt. No. 10-4. Thus, as of February 24, 2013, the Ayala Faction's tribal council consisted of: Nancy Ayala, Jane Wyatt, Tracey Brechbuehl, Karen Wynn, Charles Sargosa, Mona Bragdon and Amanda Ramirez (the "Faction Council #2").

Following the Ayala Faction's retention of new/additional legal counsel, the Ayala Faction's Council #2 inexplicably morphed again, back to the original seven members of the Tribal Council, as it was before the February 21 Business Meeting, but with Brechbuehl and Wynn active, and Lewis, Alberta, and Bushman suspended ("Faction Council #3").¹⁰ *See* **Exhibit AA** to the Hash Decl, Dkt. No. 10-4.

3. The Ayala Faction Creates an Unauthorized and Illegitimate Tribal Court and Sues Rabobank, USB and Premier to Gain Control Over Tribal Funds.

Following the actions described above, and following Rabobank's¹¹ refusal to recognize the Ayala Faction as described below, the Ayala Faction introduced its "Law and Order Code," purportedly Tribal law passed by the Ayala Faction establishing a tribal court. *See* March 26, 2013 email from Les Marston, counsel for the Ayala Faction, attached as **Exhibit BB** to Hash Decl. (without attachments), Dkt. No. 10-4. The Ayala Faction then initiated a series of complaints before its newly-created court. In one such action, the Ayala Faction sued Rabobank for refusing to grant the Ayala Faction access to Tribal bank accounts holding Casino funds. In doing so, the Ayala Faction disregarded the terms of the contracts governing the re-financing of Casino, the already-enacted Tribal Court Ordinance establishing the legitimate Chukchansi Tribal Court, and Tribal law that categorically exempted such disputes from the jurisdiction of the Chukchansi Tribal Court. *See* Hash Decl, **Exhibit J**, Dkt. No. 10-2.¹² In another action initiated

¹⁰ Ayala and Sargosa were the other two council members.

¹¹ As described below and as described in the Tribe's Memorandum of Points and Authorities in Support of Motion to Intervene (FRCP 24) in Case No. 1:13-CV-00609 (docket No. 9, page 2 lines 18-26 and Exhibits D and E referenced therein), Dkt. Nos. 10 and 10-1, Rabobank is the "Depository Bank," or the bank into which all Tribal Casino revenues are to be deposited and from which all Casino bills are to be paid. Thus, it plays a significant role in the handling and processing of Tribal assets.

¹² The Ayala Faction then sought this Court's recognition of the decision issued by the illegitimate tribal court in the action against Rabobank in the United States District Court for the Eastern District of California, via Case No. 1:13-CV-00609-LJO-MJS ("Rabobank Matter"). The Tribe has sought intervention in the Rabobank Matter for many of the same reasons articulated in this present Motion.

1 by the Ayala Faction in its hastily created and illegitimate tribal court, the Ayala Faction sued
 2 USB because, like Rabobank, USB refused to grant the Ayala Faction access to Tribal bank
 3 accounts. As demonstrated in the Complaint here, the Ayala Faction's court issued a preliminary
 4 injunction that, in essence, purportedly (1) required USB to recognize the Ayala Faction's
 5 authority; and (2) prohibited USB from recognizing the legitimate Tribal Council vis-à-vis USB
 6 accounts holding Tribal assets.¹³

7 **C. Rabobank Refuses to Recognize The Ayala Faction.**

8 On February 28, 2013, following its review of legal memoranda submitted by the Tribe
 9 and the Ayala Faction, Rabobank issued a letter to the Tribe and the Ayala Faction's legal
 10 counsel. *See* Hash Decl., **Exhibit CC**, Dkt. No. 10-4. In the letter, Rabobank stated its
 11 understanding that, pursuant to Tribal law and the materials presented by the Tribe and the Ayala
 12 Faction, the Tribal Council consisted of the following individuals: Chance Alberta, Charles
 13 Sargosa, Carl Buzz Bushman, Reggie Lewis, Nancy Ayala, Tracey Brechbuehl and Karen Wynn.
 14 *See id.* Rabobank further recognized that both Ms. Brechbuehl and Ms. Wynn were on
 15 suspension in light of events prior to February 21, 2013, and, therefore, lacked authority to access
 16 the Tribe's accounts held at Rabobank. *See id.*

17 The Tribe and the Ayala Faction continued to submit legal memoranda to, and meet with,
 18 Rabobank in early March 2013. Following the same, Rabobank issued further correspondence to
 19 the Tribe and the Ayala Faction on March 7, 2013, stating the bank's recognition of the
 20 aforementioned seven Tribal Council members, as well as the suspended status of Nancy Ayala,
 21 Tracey Brechbuehl and Karen Wynn. In its letter, Rabobank recognized that:

22
 23 Ms. Ayala's position keeps changing- thereby undermining her own
 24 arguments. In light of her changing position, the bank finds Ms.
 25 Ayala's arguments as unpersuasive. Therefore, Bank finds in
 26 support of Mr. Lewis and thus recognizes the Council's suspension
 27 of Ms. Ayala.

28 ¹³ As set forth in the Intervention Reply, Dkt. No. 15, page 4 lines 7-24 and page 6, fn. 5, and as articulated in Rabobank's Opposition to Plaintiff's TRO, Dkt. No. 17, page 9, lines 4-15, such decisions directly conflict with decisions issued by the legitimate Tribal Court.

1 See Hash Decl., **Exhibit AA**, Dkt. No. 10-4.

2 **D. The Ayala Faction Begins to Hoard Cash in the Casino Cage.**

3 Presumably anticipating that it would not be recognized by Rabobank, the Ayala Faction
4 began hoarding cash in the Casino cage, and refusing to deposit any funds in Rabobank, as early
5 as February 28, 2013. See February 28, 2013 email from T. Attard to Giffen Tan, attached to the
6 Hash Decl. as **Exhibit DD**, Dkt. No 10-4. This action was a clear violation of the Tribe's
7 Gaming Commission regulations and various contracts relating to the Casino's refinancing. On
8 March 14, 2013, Rabobank sent correspondence to the Tribe and the Ayala Faction confirming
9 the fact that the Casino "management" had been instructed by the Ayala Faction "to not deposit
10 cash at Rabobank, but rather, to hold the funds in the cage." See Hash Decl., **Exhibit EE**, Dkt.
11 No. 10-4.

12 **E. Rabobank Flags The Ayala Faction's Role In Fraudulent Casino**
13 **Transactions.**

14 On April 3, 2013, Rabobank sent correspondence to the Tribe and the Ayala Faction,
15 directly accusing the Ayala Faction of criminal behavior. See Hash Decl., **Exhibit FF**, Dkt. No.
16 10-4. Rabobank supported these allegations with detailed documentation, informing the Tribe
17 and the Ayala Faction of the applicable chronology and reasoning that led the bank to believe that
18 the Ayala Faction had knowingly engaged in fraudulent activity by writing checks against an
19 account for which it knew it had no signatory authority.¹⁴ See *id.* Rabobank confirmed that such
20 fraudulent activity had resulted in "well over \$100,000.00 worth of bad checks being deposited
21 into the Rabobank account." Rabobank further stated that "[n]ot only are both banks being
22 harmed by this activity, but the Casino is also being defrauded out of thousands of dollars by
23 forcing Casino employees to cash bad checks which the owners know will not be honored." *Id.*

24 **F. The Tribe's General Council Affirms the Current Composition of the Tribal**
25 **Council.**

26 Pursuant to Article XI of the Tribe's Constitution, "[u]pon presentation to the Tribal

27 ¹⁴ Indeed, the payees were specifically instructed by the Faction to cash these checks at the Casino cage because the
28 same would not be honored by Rabobank.

1 Council of a petition signed by 30% of the qualified voters, the Tribal Council shall either (1)
 2 adopt the provisions of the petition . . . or (2) call an election at which the issue presented by the
 3 petition may be voted on . . .” Hash Decl., **Exhibit B** at page 5, Dkt. No. 10-1. On or about April
 4 2, 2013, Tribal members circulated a referendum aimed at restoring order to the Tribe and all of
 5 its operations, including the Casino, entitled “Referendum of the General Council to Affirm By
 6 Resolution The Composition of the Tribe’s Current Governing Body and Recent Efforts to
 7 Restore An Effective Tribal Government” (“Referendum”). *See* Hash Decl., **Exhibit GG**, Dkt.
 8 No. 10-4. At the recommendation of the BIA, the Tribe retained a respected third party entity,
 9 Indian Dispute Resolution Services, Inc. (“IDRS”), to coordinate issuance and collection of
 10 signatures on the Referendum, as well as verification and tabulation of the signatures.

11 As of April 18, 2013, IDRS confirmed receipt of 334 petitions signed by qualified voters
 12 of the Tribe, far exceeding the 225 qualified voter signatures required for a referendum to be
 13 effective.¹⁵ *See* Hash Decl., **Exhibit HH**, Dkt. No. 10-4. Upon receipt of confirmation that at
 14 least the 30% threshold was satisfied, and pursuant to the Tribe’s Constitution, the Tribal Council
 15 approved Resolution 2013-63, formally adopting this Referendum. More recently, on April 29,
 16 2013, IDRS formally certified the results of the Referendum, stating that it had received the
 17 required number of signed petitions from qualified Tribal voters in support of the Referendum,
 18 and further stating that additional Tribal members had signed and it had now actually received
 19 signed petitions representing approval of the Referendum from 53% of the qualified voters of the
 20 Tribe. *See* Hash Decl, **Exhibit II**, Dkt. No. 10-4.

21 Thus, pursuant to the Referendum and as a matter of Tribal Law, the General Council had
 22 confirmed as of April 18, 2013 that (1) Charles Sargosa had forfeited all rights as a Tribal
 23 Council member for having “absented himself from three successive meetings without being
 24 excused for cause”; (2) Irene Waltz, as the next highest vote-receiver in the December 1, 2012
 25 Tribal Council Election, was to fill the Tribal Council position forfeited by Mr. Sargosa; and (3)
 26 the current composition of the Tribal Council is: (i) Reggie Lewis, Acting Chairman (active

27 ¹⁵ There are currently approximately 750 qualified voters in the Tribe. Thus at least 225 qualified voter signatures
 28 were required in order to reach the 30% threshold required for a referendum. Case No.: 1:13-CV-00609-LJO-MJS

1 member); (ii) Chance Alberta, Acting Secretary/Treasurer (active member); (iii) Carl “Buzz”
 2 Bushman, Member-at-Large (active member); (iv) Irene Waltz, Member-at-Large (active
 3 member); (v) Karen Wynn (suspended member); (vi) Tracey Brechbuehl (suspended member);
 4 (vii) Nancy Ayala (suspended member). *See* Hash Decl. **Exhibit JJ**, Dkt. No. 10-4.

5 **G. Following Their Own Independent Review, USB and Premier Refuse to**
 6 **Recognize the Ayala Faction.**

7 Like Rabobank, USB and Premier both undertook independent reviews with the guidance
 8 of legal counsel to determine who is, and is not, authorized to act on behalf of the Tribe. In fact,
 9 USB’s review of materials, including legal memoranda and related documentation, began on or
 10 about February 22, 2013, the very first day following the Ayala Faction’s attempted takeover.
 11 *See* Declaration of Geoffrey M. Hash In Support of Specially-Appearing Proposed Intervenor
 12 Defendant The Picayune Rancheria of the Chukchansi Indians’ Opposition to Plaintiff’s Motion
 13 for a Temporary Restraining Order (“Hash Opposition Decl.”), ¶ 5, filed herewith. Premier’s
 14 review of such materials began just days later, on or about February 25, 2013. *See* Hash
 15 Opposition Decl., ¶ 7 After literally several months’ review and conferring with both the Ayala
 16 Faction’s and the Tribe’s legal counsel, both institutions reached a definitive conclusion on this
 17 key issue. Specifically, Timothy Jones¹⁶ stated on behalf of both USB and Premier as follows:

18 Faced with demands from competing sides in this dispute, the Bank
 19 has asked each side to submit the arguments in favor of their
 20 position. Having reviewed those arguments, and the supporting
 21 documents with which we have been provided, we are ready to
 22 advise that the Bank has concluded that **the Lewis/Alberta faction**
 23 **remains in control of the Tribal Council at the present time** and,
 24 therefore, has the right under the Constitution of the Tribe and the
 25 Bylaws of the Tribal Council to control the Tribe’s accounts at the
 26 Bank.

27 *See* Hash Opposition Decl., **Exhibits A and B** (emphasis added). In other words, both USB and
 28 Premier refused to recognize the Ayala Faction, and instead recognized the Tribal Council
 already recognized by Rabobank and, more importantly, affirmed by the General Council of the

¹⁶ Mr. Jones is an attorney with Wanger, Jones Helsley PC, legal counsel to both USB and Premier. *See* Hash Decl.,
 ¶4.

1 Tribe as discussed above. In denial of the fact that no entity (other than its own sham tribal court)
 2 has recognized the Ayala Faction, and in denial of the facts that (1) the United States District
 3 Court for the Northern District of California, (2) at least three financial institutions, and (3) the
 4 General Council of the Tribe have all already rejected the Ayala Faction's authority, the Ayala
 5 Faction now looks to this Court in a desperate plea for recognition. As set forth below, there is no
 6 factual or legal basis to recognize the Ayala Faction as having any authority to act on behalf of
 7 the Tribe.

8 **H. Plaintiff's Consistent Rejections of the Tribe's Invitation to Submit to**
 9 **Binding Arbitration Have Prevented A Final, Peaceful and Swift Resolution**
 10 **of the Very "Emergencies" That Plaintiff Now Seeks to "Correct" With This**
 11 **Court's Assistance.**

12 Over a period of several months, the Tribe has attempted to bring a swift, final, and peaceful
 13 resolution to the present internal leadership dispute by offering to participate with the Ayala
 14 Faction in a binding arbitration process. Hash Opposition Decl. ¶ 9. These efforts began initially
 15 in the context of assertions of signatory authority over various Tribal accounts held by Rabobank,
 16 USB, and Premier. *Id.* Various entities have actively worked with both the Tribe and the Ayala
 17 Faction to facilitate the same, including Rabobank, the trustee's legal counsel, and representatives
 18 from federal agencies. *Id.*

19 The Tribal Council engaged in such efforts at arbitration because, even though it firmly
 20 believes it has complied with all applicable law, it wanted to avoid the very issues that we now
 21 have, *i.e.*, two tribal courts issuing conflicting decisions that put vendors and other contractors in
 22 a legal Hobson's choice, with the losing side seeking assistance from a federal court in resolving
 23 an internal leadership issue, where that federal court has no jurisdiction to address it. *Id.*, ¶ 10.
 24 Most recently, the proposed binding arbitration process has been one that would be supervised by
 25 the Federal government and funded by the BIA. *Id.*, ¶ 11.

26 **III. ARGUMENT**

27 **A. This Court Should Deny Plaintiff's Request for A Temporary Restraining**
 28 **Order.**

The emergency relief Plaintiff seeks here is "an extraordinary and drastic remedy, one that

1 should not be granted unless the movant, *by a clear showing*, carries the burden of persuasion.”
 2 *Mazurek v. Armstrong*, 520 U.S. 968, 972 (1997) (emphasis in original). The standard for
 3 granting a TRO is the same as for a preliminary injunction. *See Liegmann v. California Teachers*
 4 *Ass’n*, 395 F. Supp. 2d 922, 925 (N.D. Cal. 2005). The “traditional” criteria for preliminary
 5 injunctive relief requires the Plaintiff to show (1) a strong likelihood of success on the merits, (2)
 6 the possibility of irreparable injury to Plaintiff if preliminary relief is not granted, (3) a balance of
 7 hardships favoring the Plaintiff, and (4) advancement of the public interest (in certain cases). *Save*
 8 *Our Sonoran v. Flowers*, 408 F.3d 1113, 1120 (9th Cir. 2005) (citations omitted). Alternatively, a
 9 court may grant the injunction if the plaintiff demonstrates either a combination of probable
 10 success on the merits and the possibility of irreparable injury or that serious questions are raised
 11 and the balance of hardships tips sharply in his favor. *Id.*

12 In any event, a plaintiff cannot succeed absent a fair likelihood of success on the merits.
 13 *See Johnson v. California State Bd. of Accountancy*, 72 F.3d 1427, 1430 (9th Cir. 1995). Further,
 14 pursuant to *Dahl v. HEM Pharm. Corp.*, 7 F.3d 1399, 140 (9th Cir. 1993), a “mandatory”
 15 injunction (i.e., one which requires affirmative action by the party enjoined, rather than
 16 maintaining the status quo) should be denied “unless the facts and law clearly favor the moving
 17 party.” *Stanley v. University of Southern California*, 13 F.3d 1313, 1320 (9th Cir.1994) (citations
 18 omitted).

19 Plaintiff clearly seeks a mandatory injunction here, but fails to even begin to meet these
 20 applicable standards.

21 **1. Plaintiff Has No Likelihood of Success on the Merits and Only Seeks to**
 22 **Have This Court Resolve An Internal Tribal Leadership Dispute**
 23 **Through Emergency Relief.**

24 As set forth above, and in the face of the Tillie Hardwick Decision and Order along with
 25 the refusal of Rabobank, USB and Premier to recognize Plaintiff’s authority, Plaintiff now
 26 desperately attempts to gain never-before granted recognition of Plaintiff’s authority and uses this
 27 Court in that effort. It now disguises this effort in the context of a TRO, claiming an emergency

1 despite the facts that: (1) Plaintiff alone created the “emergency”; and (2) Plaintiff alone has the
 2 ability to correct the “emergency” by depositing the purported \$7 million in checks reflecting
 3 accounts receivable into the only accounts that are designated, and available, to receive such
 4 funds. It has set up its own tribal court system, in the context of this dispute, in order to issue
 5 orders and seek comity of the same. Those orders, in addition to conflicting with legitimate
 6 Tribal Court orders, were issued in the context of a court that lacked personal and subject matter
 7 jurisdiction over the affected parties and wholly failed to provide due process under any law, let
 8 alone the law recognized by this Court.

9 **2. The Equities Weigh Against Granting the TRO Given That The Tribe,**
 10 **Not the Ayala Faction, Will Suffer Irreparable Injury If This Court**
 11 **Grants It.**

12 In this context, any effort to balance of hardships must consider “the degree of harm that
 13 will be suffered by the plaintiff or defendant if the injunction is improperly granted or denied.”
 14 *Scotts Co. v. United Industries Corp.*, 315 F.3d 264, 284 (4th Cir. 2002) (emphasis omitted).

15 The Tribe will suffer great irreparable harm if this Court grants Plaintiff’s TRO. To
 16 begin, a grant of such relief would effectively constitute recognition of Plaintiff’s authority,
 17 where no legitimate entity has ever afforded Plaintiff such recognition, all in direct contravention
 18 of the Tribe’s right, as a sovereign nation, to self-determination and in direct contravention of the
 19 Tribe’s will, as expressed in the recent Referendum. *St. Pierre v. Norton*, 498 F.Supp. 2d 214
 20 (D.C. Cir 2007) (citing *Smith v. Babbitt*, 875 F.Supp. at 1370).

21 Further, there can be no doubt that Plaintiff will use such funds for purposes other than
 22 those it states in its moving papers. Such a conclusion is no stretch of logic in light of the fact
 23 that Plaintiff, as led by Nancy Ayala and Charles Sargosa, have been directly accused – by a
 24 neutral third party – of engaging in a scheme to defraud the Tribe and multiple banks. Hash
 25 Decl., Exhibit FF, Dkt. No. 10-4.

26 In contrast, Plaintiff has no basis to argue that it will suffer any injury if this Court refuses
 27 to acknowledge Plaintiff’s authority in rejecting Plaintiff’s TRO. As set forth herein, no such
 28 authority has ever either existed or been recognized by anyone other than Plaintiff itself and the

1 entities it has created in the context of this dispute in a patent effort to legitimize its own actions.

2 **3. The Equities Weigh Further Against A TRO, Given The Ayala**
 3 **Faction's Unclean Hands.**

4 Harm that is self-inflicted does not qualify as irreparable for the basis for emergency
 5 relief. *See e.g. Caplan v. Fellheimer Eichen Braverman & Kaskey*, 68 F3d 828, 839 (3rd Cir.
 6 1995) ("Because defendants have acted to permit the outcome which they find unacceptable . . .
 7 such outcome is not an irreparable injury." Here, the outcome alleged by Plaintiff is entirely in
 8 Plaintiff's hands to correct.

9 The Ayala Faction has been in physical possession and control of the Casino since
 10 February 22, 2013. As demonstrated herein, it has unilaterally opted to stop all cash deposits, and
 11 instead hoard the cash in the Casino Cash Cage, paying vendors and employees in cash and/or
 12 vouchers to be exchanged for cash at the Cash Cage. *See* Hash Decl., Exhibit DD, Dkt. No. 10-4.
 13 As detailed herein, in the Tribe's Motion to Intervene, and Rabobank's Opposition papers, the
 14 Ayala Faction's conduct is a direct violation of the DACA, the only "agreement" between the
 15 Tribe and Rabobank. Plaintiff now alleges it is without cash because it has nowhere to deposit
 16 more than \$7 million in checks issued to it as part of accounts receivable. This argument is
 17 disingenuous as Rabobank remains available, as it has always been, to receive the funds that are
 18 required to be deposited by the Casino pursuant to the terms of the DACA.

19 The only reason that Plaintiff refused to deposit such checks is that it fears it will not be
 20 able to issue checks drawn on such accounts. Plaintiff's fear is well placed in light of the fact that
 21 Plaintiff, led by Nancy Ayala and Charles Sargosa, has engaged in repeated acts of fraud against
 22 the Tribe and the Bank, involving accounts held at various banks. *See* Hash Decl., Exhibit FF,
 23 Dkt. No. 10-4.

24 The legitimate Tribal Council has no intention of refusing to pay legitimate operational
 25 expenses as agreed to in the DACA, or using any funds that become available in such accounts
 26 for anything other than the legitimate contractually designated purposes. The only thing holding
 27 up the issuance of such payment is Plaintiff's refusal to deposit the purported \$7 million in checks

1 it currently possesses. In other words, Plaintiff's failure to comply with the DACA, the very
 2 agreement it wrongfully accuses Rabobank of violating, is the only cause for the purported
 3 emergency basis for Plaintiff's TRO. Plaintiff alone has the ability to immediately correct all
 4 causes of its "emergency," and it can do so without involving this Court or inviting this Court to
 5 resolve the internal Tribal issues that lie beyond its jurisdiction.

6 Moreover, as described herein, the Tribe has repeatedly and consistently sought to engage
 7 Plaintiff in binding arbitration as part of the Tribe's efforts to, without involving this Court,
 8 resolve these internal disputes in a manner that is equally final, speedy, and peaceful. Plaintiff
 9 has flatly refused such overtures. Hash Opposition Decl., ¶¶ 9-11.

10 **4. Plaintiff's Request for a TRO is Procedurally Improper**

11 Plaintiff's present request for a TRO is procedurally improper on several grounds. To
 12 begin, given that Plaintiff seeks to change the status quo, any relief should have been sought
 13 pursuant to a declaratory action, with the benefits of a full briefing and hearing schedule, not on
 14 an expedited emergency basis.

15 In addition, local rules establish that this Court may deny Plaintiff's request where there
 16 has been delay in seeking a TRO. *See* E.D. CA L.R. 231(b). Plaintiff has been hoarding cash in
 17 the Casino Cage since late February. It has not had signatory authority over the Rabobank
 18 accounts now at issue since early March. Its own sham tribal court issued the orders now at issue
 19 over one month before Plaintiff sought any federal court assistance in enforcing the same.
 20 Clearly, Plaintiff has delayed in bringing this TRO. Such a procedural defect is grounds alone to
 21 deny Plaintiff's TRO. *See* E.D. CA L.R. 231(b).

22 Finally, at 29 pages, Plaintiff's Memorandum of Points and Authorities In Support of
 23 Motion for Temporary Restraining Order far exceeds the maximum page limit set pursuant to the
 24 Standing Order of this Court. It appears Plaintiff obtained no advance approval of a longer brief,
 25 as also required pursuant to the Standing Order of this Court. Thus, and again pursuant to the
 26 Standing Order, this Court may elect to refuse consideration of the papers.

1 **IV. CONCLUSION**

2 As set forth fully above, the Picayune Rancheria of the Chukchansi Indians respectfully
3 submits that this Court should deny Plaintiff's request for a temporary restraining order.

4 RESPECTFULLY SUBMITTED this 4th day of June, 2013.

5
6 ROSETTE, LLP

7 By: /s/ Geoffrey M. Hash

8 Geoffrey M. Hash

9 Attorneys for Specially-Appearing
10 Proposed Intervenor Defendant, the
11 Picayune Rancheria of the Chukchansi
12 Indians
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28