

NOV 13 2013

FILED BY

IN THE NOOKSACK TRIBAL COURT
FOR THE NOOKSACK INDIAN TRIBE
DEMING, WASHINGTON

SONIA LOMELI; TERRY ST. GERMAIN;
NORMA ALDREDGE; RAENNA RABANG;
ROBLEY CARR, individually on behalf of his
minor son, LEE CARR, enrolled members of the
Nooksack Indian Tribe,

Plaintiffs,

vs.

ROBERT KELLY, RICK D. GEORGE,
AGRIPINA SMITH, BOB SOLOMON,
KATHERINE CANETE, LONA JOHNSON,
JEWELL JEFFERSON, AND ROY BAILEY

Defendants.

Case No.: 2013-CI-CL-001

**ORDER DENYING MOTION FOR ORDER
TO SHOW CAUSE**

THIS COURT held a hearing on November 5, 2013 on Plaintiff's *Motion for Order to Show Cause Re: Contempt*. The Plaintiffs argue that the Defendants are in violation of a March 20, 2013 Stipulation. Plaintiffs' attorneys Gabriel Galanda, Anthony Broadman, and Joseph Sexton appeared by telephone with Anthony Broadman arguing; Defendants' attorneys Tom Schlosser, Grett Hurley, Rickie Armstrong, and Adrienne DelCotto appeared in court, with Mr. Schlosser arguing.

Plaintiffs argue that the Defendants should be held in contempt of court for violating a March 20, 2013 *Stipulation* in this matter when they "automatically disenrolled" four individuals.

This matter is on appeal with the Nooksack Court of Appeals. As this Court and the parties have agreed in this case, if the Nooksack Tribal Code fails to direct the Court on appropriate civil procedure, the Court uses the Federal Rules of Civil Procedure. This Court has reviewed the filings by all of the parties and concluded it lacks jurisdiction to entertain the Plaintiffs' *Motion* because this matter is on appeal and jurisdiction lies with the Court of Appeals.

It is well settled law that when a matter is appealed, the trial court loses jurisdiction. "The filing of a notice of appeal is an event of jurisdictional significance-it confers jurisdiction on the court of appeals and divests the district court of its control over those aspects of the case involved in the appeal." *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982). The purpose of the rule is "to promote judicial economy and avoid the confusion that would ensue from having the same issue before two courts simultaneously." *Andrews v. Chevy Chase Bank*, 243 F.R.D. 313, 313

1 (2007). "Filing of a notice of appeal divests the district court of jurisdiction over the matters
2 appealed. There are certain exceptions for certain actions serving to preserve the status quo pending
3 the appeal or to assist the court of appeals in its determination." *Ced's Inc. v. U.S. E.P.A.*, 745 F.2d
4 1092, 1095 (7th Cir. 1984)(citations omitted). In *Ced's*, the Court further stated that "The parties to
5 an appeal are entitled to have a stable set of conclusions of law on which they can rely in preparing
6 their briefs."

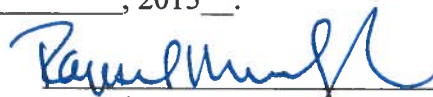
7 Plaintiffs argue that they are seeking to preserve the status quo by seeking a finding of
8 contempt from this Court. Initially, the Court considered that the exception to "preserve the status
9 quo" might apply in this matter. Upon detailed review of the *Motion*, the arguments and briefs on
10 both sides of this matter, and the relevant case law, the Court has concluded that issuing any findings
11 in this matter would require the Court to construe the March 20th, 2013 *Stipulation*. Doing so,
12 regardless of the conclusion the Court might reach, would require the Court to make further Findings
13 of Fact and Conclusions of Law that would have the potential to disrupt the record in this matter and
14 confuse the issues now on appeal with the Nooksack Court of Appeals.

15 The Nooksack Court of Appeals remanded one issue to this Court in its *Order Extending*
16 *Stay*, which the Court addressed in a separate order. The *Order Extending Stay* acknowledges the
17 issues in the *Stipulation* and ordered the Court to clarify the certain aspects of the *Stipulation* in this
18 case. The Court did so. Addressing the issues in this *Motion* requires the Court to analyze the effect
19 of the *Stipulation* beyond the limited remand the Court of Appeals directed this Court to undertake.
20 While the Court would be willing to do so, doing so without direction from the Court of Appeals
21 would confuse the issues and potentially lead to further complications regarding the appeal, for
22 which opening and reply briefs have already been filed.

23 Therefore, the Court declines to issue Findings of Fact and Conclusions of Law or otherwise
24 rule on this *Motion*. The Court will transmit this Order to the Court of Appeals and if the Court of
Appeals directs the Court to take further action as to the effect of the *Stipulation*, it will do so. (This
Order in no way intends to bar the Plaintiffs from seeking clarification, relief or other orders from
the Court of Appeals related to the *Stipulation* or *Order Extending Stay*.)

THEREFORE, THE MOTION FOR ORDER TO SHOW CAUSE IS DENIED.
IT IS SO ORDERED.

DATED this 13 day of Nov., 2013.



Raquel Montoya-Lewis
Chief Judge, Nooksack Tribal Court