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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

THE LAS VEGAS TRIBE OF PAIUTE
INDIANS, a federally recognized Indian tribe,

Plaintiff,

vs.

CHRISTOPHER W. PHEBUS, an individual,

Defendant.

CASE NO.:

**COMPLAINT FOR
DECLARATORY RELIEF**

The Las Vegas Tribe of Paiute Indians (the Tribe), as and for its Complaint for Declaratory Relief against Christopher W. Phebus (Phebus), complains and alleges as follows:

PARTIES AND JURISDICTION

1. The Tribe is a federally recognized Indian tribe that was organized pursuant to the Indian Reorganization Act, 25 U.S.C. §§ 461 *et seq.*, and a Tribal Constitution approved by the Tribe on June 24, 1970.

2. Phebus is a citizen of the State of Nevada, a former member of the Tribe, and a resident on the Las Vegas Paiute Colony, located near downtown Las Vegas, Nevada.

GENERAL ALLEGATIONS

1 10. In January 2013, Phebus filed a motion in the Tribal Court, wherein he requested
2 that the sitting Tribal Court judge recuse himself from all future matters involving Phebus. The
3 Tribal Court treated the motion as a notice of appeal from the judgment of conviction.

4 11. Pursuant to the Tribal Code, the Tribe convened a three-member panel of judges
5 (the Tribal Court of Appeals) for purposes of hearing Phebus' appeal. The judges included a
6 former California state court and tribal judge, a Wyoming tribal judge, and a Utah appellate court
7 judge. All of the judges had significant experience adjudicating legal matters involving Indians.

8 12. Following a hearing at which Phebus and the Tribe presented their respective
9 arguments regarding the sufficiency of conviction and the appropriateness of the sentence, the
10 Tribal Court of Appeals issued a written decision wherein it concluded that the Tribal Court did
11 not have criminal jurisdiction over Phebus because he is not a member of the Tribe, nor is he
12 enrolled in any other federally recognized Indian tribe. A copy of the decision is attached as
13 Exhibit 1.

14 13. The Tribal Court of Appeals is the court of last resort for criminal legal matters
15 that are initiated in the Tribal Court; neither the Tribal Constitution nor the Tribal Code provides
16 for an appeal or other review of a decision of the Tribal Court of Appeals in such matters.

17 14. The Tribe has exhausted all available Tribal remedies.

18 **FIRST CLAIM FOR RELIEF**
19 **Declaratory Relief**

20 15. The Tribe repeats, realleges, and incorporates by reference all of the allegations
21 contained in paragraphs 1- 15 above, as though set forth in full and at length.

22 16. An actual, ripe, and justiciable controversy exists between the parties regarding the
23 Tribal Court's criminal jurisdiction over Phebus and other individuals who are not enrolled in any
24 federally recognized tribe, but who satisfy the definition of "Indian" under the Indian Civil Rights
25 Act, 25 U.S.C. §§ 1301, *et seq.*


26 WHEREFORE, the Tribe prays for relief as follows:

27 1. For a declaration that the Tribal Court has criminal jurisdiction over Phebus and all
28 other individuals who satisfy the definition of "Indian" under the Indian Civil Rights Act; and

1 2. For such other and further relief as the Court deems just and proper.

2 Dated: October 30, 2013.

3 McDONALD CARANO WILSON LLP

4 By: 
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8 *Attorneys for the Las Vegas Tribe of Paiute Indians*

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