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*Attorneys for the Paskenta Band of Nomlaki Indians*

**TRIBAL COURT  
OF THE  
PASKENTA BAND OF NOMLAKI INDIANS**

**PASKENTA BAND OF NOMLAKI INDIANS**, a federally recognized Indian tribe; **ANDREW FREEMAN; LATISHA MILLER; AMBROSIA RICO; ANDREW ALEJANDRE**, and **NATASHA MARANGA**, each in their official capacities as Tribal Council members,

Plaintiffs,

v.

**DAVID SWEARINGER; LESLIE LOHSE; GERALDINE FREEMAN; and ALLEN SWEARINGER**, each in their individual capacities;

and

**JOHN DOES 1-100**, certain unidentified individuals,

and

**XYZ ENTITIES 1-100**, certain unidentified entities,

Defendants.

Case No.:

**PLAINTIFF'S NOTICE OF AND EX PARTE EMERGENCY APPLICATION AND MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE PRELIMINARY INJUNCTION**

(Filed Concurrently with Plaintiffs' Complaint, Memorandum of Points and Authorities in Support of Ex Parte Emergency Application and Motion for TRO and OSC re Preliminary Injunction; (proposed) Temporary Restraining Order; and Supportive Affidavits)

Date:

Time:

Dept:

1 The Paskenta Band of Nomlaki Indians (“Plaintiff” or the “Tribe”), Andrew Freeman,  
2 Latisha Miller, Ambrosia Rico, Andrew Alejandre, and Natasha Maranga, each in their official  
3 capacities as members of the Tribal Council, hereby make application to, and move this  
4 Honorable Court for, the immediate entry of a Temporary Restraining Order and a Preliminary  
5 Injunction to restrain and enjoin Defendants Leslie Lohse, David Swearinger, Geraldine Freeman,  
6 and Allen Swearinger, along with John Does 1-100 and XYZ entities 1-100 as unnamed and  
7 heretofore unidentified Defendants (“Defendants”) whose identities will be identified through  
8 discovery, and their agents, employees, officers, directors, attorneys, and any and all persons  
9 acting by or through any of them (collectively herein referred to as “Defendants”) from directly or  
10 indirectly taking any action that conducts business on behalf of the Tribe or that exercises any  
11 control over any tribal assets. Unless the relief sought is hereby granted, great and irreparable  
12 injury will result to Plaintiffs.

13 For the reasons stated in Plaintiff’s Complaint for Injunctive and Declaratory Relief filed  
14 concurrently herewith and upon review of Plaintiff’s Memorandum of Points and Authorities in  
15 Support of this Application and Motion, the Defendants must be restrained and enjoined because:

- 16 1. Plaintiffs can demonstrate a strong likelihood of success on the merits of their  
17 claims;
- 18 2. Plaintiffs are likely to suffer irreparable harm in the absence of the preliminary  
19 relief requested;
- 20 3. The balance of equities tips in favor of Plaintiffs and their requests for relief;
- 21 4. Issuance of an injunction under the circumstances of this case serves the public  
22 interest;
- 23 5. Plaintiffs have no adequate remedy at law;
- 24 6. The Court has jurisdiction to issue the orders as requested because Plaintiffs’  
25 claims arise out of tribal law and are related to actions taken within the territorial jurisdiction of  
26 the Tribe; and
- 27 7. Defendants’ actions and threatened actions are illegal because, pursuant to their  
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1 lawful removal under the Tribe's Constitution, Defendants have no legitimate basis to continue to  
2 claim that they comprise the Tribal Council.

3 Prompt injunctive relief will avoid irreparable harm to Plaintiffs, including but not limited  
4 to the following harm:

- 5 1. The Defendants have already established what they call a tribal council but which is in  
6 reality a shadow, illegal rogue faction attempting to exert control over the Tribe and its  
7 assets, resources, and membership;
- 8 2. The Defendants have, to date, refused to acknowledge the authority of the lawful  
9 Tribal Council and have refused to follow its directives set forth in cease and desist  
10 letters issued to Defendants demanding that they immediately terminate all efforts to  
11 exert unlawful authority and control over the Tribe, its resources, and its membership;
- 12 3. There is real, significant, and immediate risk that if a temporary restraining order and  
13 injunction are not issued, millions of dollars of Casino revenue will be disbursed  
14 without authority to persons or entities that are not recognized by the United States  
15 government and, as such, will be lost forever.
- 16 4. A balancing of the relative hardships favors the entry of immediate injunctive relief as  
17 Plaintiffs will suffer the above-stated harm if injunctive relief is not granted and  
18 Defendants will suffer no harm if the requested injunctive relief is granted; and
- 19 5. The public interest is advanced by the issuance of a temporary restraining order to  
20 prohibit the distribution of Plaintiff's assets to persons or entities that are not  
21 recognized by the Tribe and applicable law as the lawful governing body and officers  
22 of the Tribe.

23 WHEREFORE, Plaintiffs respectfully request that this Court enter judgment against  
24 Defendants as follows:

- 25 1. In the form of the proposed order attached hereto as Exhibit "A" (and separately  
26 lodged concurrently with this Ex Parte Emergency Application and Motion for Temporary  
27 Restraining Order and Order to Show Cause regarding Preliminary Injunction), immediately grant  
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1 a Temporary Restraining Order restraining Defendants, their officers, agents, servants,  
2 employees, and attorneys, and all persons acting by, through, under, or in concert with  
3 Defendants from directly or indirectly taking any action that conducts business on behalf of the  
4 Tribe or that exercises any control over any tribal assets;

5 2. Declare that Defendants are no longer on the Tribal Council and enjoin Defendants  
6 from making any representations whatsoever that they are members of the Tribal Council or  
7 otherwise empowered to conduct business on behalf of the Tribe, including any and all acts of  
8 their shadow tribal court;

9 3. Enjoin Defendants from exercising control over any tribal assets, including, but  
10 not limited, to bank accounts containing funds rightfully belonging to the Tribe, automobiles,  
11 private jets or fractional interests in planes and aviation services, and silver and gold bullion.

12 4. Order Defendants to turn over to Plaintiffs any tribal assets of every kind now in  
13 their possession or that of their officers, agents, servants, employees, and attorneys, and all  
14 persons acting by, through, under, or in concert with Defendants;

15 5. Award Plaintiffs their costs of suit and reasonable attorneys' fees; and

16 6. Issue other relief that this Court deems just and proper.

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18 Respectfully submitted,  
19 ROSETTE, LLP  
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21 Dated: May 16, 2014

22 By: /s/ Robert A. Rosette  
23 Robert A. Rosette  
24 Attorney for Plaintiffs  
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