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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 MAGANA**, 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.:

**COMPLAINT FOR EMERGENCY  
INJUNCTIVE RELIEF AND  
DECLARATORY JUDGMENT**

The Paskenta Band of Nomlaki Indians, a federally recognized Indian Tribe (the “Tribe”), and Andrew Freeman; Latisha Miller; Ambrosia Rico; Andrew Alejandro; and Natasha Maranga, each in their official capacities as Tribal Council Members (collectively, the “Tribal Council” and, together with the Tribe, “Plaintiffs”), hereby present this Complaint, along with an Ex Parte Application for Temporary Restraining Order and Motion for Preliminary Injunction and Emergency Injunctive Relief, and Memorandum of Points and Authorities in support thereof, asking that this Court immediately issue (1) an order enjoining David Swearinger, Leslie Lohse, Geraldine Freeman, and Allen Swearinger (collectively, “Defendants”) from holding themselves out as Tribal Council members or otherwise representing to any individual, company, agency or other entity that they have authority to act on behalf of the Tribe; (2) an injunction preventing Defendants from exercising control over any tribal assets and ordering them to immediately relinquish to Plaintiffs any tribal assets currently in their possession or control; and (3) a declaratory judgment that the purported “tribal court” that Defendants recently created, and any purported court orders which might be issued by said “tribal court” are void and have no legal authority. Plaintiffs hereby allege as follows:

## INTRODUCTION

1. Plaintiff, the Paskenta Band of Nomlaki Indians (the “Tribe”) is a federally recognized Indian tribe possessing all rights of sovereignty and self-governance as a nation that predates the United States and the United States Constitution.

2. Plaintiff Andrew Freeman is the Chairman of the Tribe and has served as either Chairman or Vice Chairman for the last eight years.

3. Plaintiff Latisha Miller is the Vice-Chairperson of the Tribe.

4. Plaintiff Ambrosia Rico is the interim Treasurer of the Tribe pending special election.

5. Plaintiff Andrew Alejandro is the Secretary of the Tribe.

6. Plaintiff Natasha Magana is the Tribal Council Member-at-Large.

7. Defendant David Swearinger is the former Vice-Chairperson of the Tribe who

1 abandoned his seat on April 12, 2014 and was thereafter removed by the General Council, yet still  
2 holds himself out as being a member of the Tribal Council and thus having the right and authority  
3 to act on the Tribe's behalf and exercise control over the Tribe's assets.

4 8. Defendant Leslie Lohse is the former Treasurer of the Tribe who abandoned her  
5 seat on April 12, 2014 and was thereafter removed by the General Council, yet still holds herself  
6 out as being a member of the Tribal Council and thus having the right and authority to act on the  
7 Tribe's behalf and exercise control over the Tribe's assets.

8 9. Defendant Geraldine Freeman is the former Secretary of the Tribe who abandoned  
9 her seat on April 12, 2014 and was thereafter removed by the General Council, yet still holds  
10 herself out as being a member of the Tribal Council and thus having the right and authority to act  
11 on the Tribe's behalf and exercise control over the Tribe's assets.

12 10. Defendant Allen Swearinger is the former Tribal Council Member-at-Large who  
13 was removed from his position on May 10, 2014, yet still holds himself out as being a member of  
14 the Tribal Council and thus having the right and authority to act on the Tribe's behalf and  
15 exercise control over the Tribe's assets.

16 11. Defendants John Doe 1-100 are individuals not yet known but which may become  
17 known through discovery.

18 12. Defendants XYZ entities 1-100 are entities not yet known but which may become  
19 known through discovery.

## 20 GENERAL ALLEGATIONS

21 13. The Tribe ratified its Constitution on April 18, 1998 and operates its government  
22 pursuant to its Constitution, ordinances, regulations, policies, customs, traditions and bylaws. *See*  
23 Declaration of Andrew Freeman ("Freeman Decl."), a copy of which is attached hereto, at ¶ 4.

24 14. The Tribe has a five-member Tribal Council with broad governing authority as is  
25 necessary to carry out its powers. *See* Constitution of the Paskenta Band of Indians ("Const."),  
26 Art. VI, § 1.

27 ...

28

1           15.     Additionally, the Constitution gives concurrent authority to the General Council to  
2 enact legislation on behalf of the Tribe and to exercise its otherwise reserved powers. Art. III,  
3 § 2; *see* Art. IX. The General Council is comprised of all members of the Tribe that are eighteen  
4 years of age or older. Art. III, § 2. Legislation enacted through the General Council initiative  
5 process has the force of law pursuant to the Tribe's Constitution, custom and practice. Freeman  
6 Decl., ¶ 5.

7           16.     Prior to April 12, 2014, the Tribe had approximately 216 enrolled adult members.  
8 *Id.* at ¶ 4.

9           17.     On April 12, 2014, the General Council met at a duly called, noticed, and  
10 convened annual meeting at the Rolling Hills Casino on the Tribe's Rancheria. One hundred and  
11 three tribal members were present, thus constituting a quorum. *Id.* at ¶ 6; *see* Const., Art. VII, §  
12 2(c).

13           18.     After the quorum of the General Council was announced by then-Secretary of the  
14 Tribe Geraldine Freeman, Chairman Andrew Freeman, pursuant to the Tribe's custom and  
15 tradition as the headman of the Tribe, presided over the assembly and began to explain that it had  
16 come to his attention that the Pata family did not meet the constitutional requirements for  
17 membership in the Tribe. Upon hearing this, then-Treasurer Leslie Lohse, a member of the Pata  
18 family, immediately instructed then-Vice-Chairperson David Swearinger to end to meeting—a  
19 procedure that is not allowed by the Tribe's laws, custom or tradition. David Swearinger made  
20 the motion to adjourn, and then-Secretary Geraldine Freeman seconded even though they were  
21 out of order and it was not recognized by the Chairman. *See* Freeman Decl. at ¶ 7.

22           19.     The General Council did not vote on David Swearinger's motion to adjourn, and  
23 the Chairman informed David Swearinger, Leslie Lohse, and Geraldine Freeman that the three  
24 Tribal Council members had no authority to end the General Council meeting. The Chairman  
25 advised that if they left the meeting, they would be deemed to have abandoned their positions on  
26 the Tribal Council, thus subjecting themselves to immediate removal from the Tribal Council and  
27 replacement pursuant to Constitution. *See id.* at ¶ 8; Art. VIII, § 6, Attendance at General  
28

Council Meetings (Section numbers in this article were misnumbered at the time the Constitution was adopted and there are two sections number six; this citation refers to the second section six.).

20. Notwithstanding the Chairman's warning, Leslie Lohse, David Swearinger, and Geraldine Freeman walked out of the meeting. Following their intentional departure from the General Council meeting, the General Council voted to immediately remove Leslie Lohse, David Swearinger, and Geraldine Freeman from office. Freeman Decl. at ¶ 9.

21. Of the three removed council members, David Swearinger and Geraldine Freeman both had less than twelve months remaining in their terms of office, while Leslie Lohse had greater than twelve months left in her term of office. *Id.* at ¶ 10.

22. The Tribal Council, through its appointment power under Article V, appointed Latisha Miller as Vice-Chairperson to replace David Swearinger, Andrew Alejandre as Secretary to replace Geraldine Freeman, and on an interim basis appointed Ambrosia Rico, as Treasurer, to replace Leslie Lohse until a special election could be held. *Id.* at ¶ 11.

23. Upon information and belief, Leslie Lohse, has extensive political contacts in the White House administration, the Bureau of Indian Affairs ("BIA"), the National Congress of Indians ("NCAI"), the National Indian Gaming Commission ("NIGC"), and the United States Congress, and is in fact a relative of Jackie Johnson-Pata, the Executive Director of NCAI. *Id.* at ¶ 12.

24. Upon information and belief, Leslie Lohse has grossly mischaracterized the events of April 12, 2014, and has used her political influence to obtain letters from the BIA and NIGC expressing concerns about the General Council's actions of April 12, 2014. *Id.* at ¶ 13.

25. Through a series of meetings with the BIA and NIGC, Plaintiffs learned that the BIA and NIGC were questioning whether the Tribe really intended to take such actions on April 12, 2014, or whether Chairman Freeman acted alone to remove Leslie Lohse, David Swearinger, and Geraldine Freeman. *Id.*

26. In order to assuage any concerns raised by the BIA and NIGC, on April 28, 2014, the Chairman of the Tribe, pursuant to the Constitution, Article, VII, § 2 (b), distributed to the

1 membership of the Tribe a “Notice of a Special Meeting of the General Council to be Held on  
2 May 10, 2014 to Start Initiative Process and Conduct Other Business.” *See* Freeman Decl. at ¶  
3 15 & Ex. A attached thereto.

4 27. The Notice of the May 10, 2014 Meeting explained that a special meeting of the  
5 General Council was being called so that the General Council could affirm its vote on the issues  
6 that were the subject of the April 12, 2014 meeting. Those issues included the removal of Leslie  
7 Lohse, David Swearinger, and Geraldine Freeman and the appointment of replacement Tribal  
8 Council members. *See* Freeman Decl. at ¶ 16 & Ex. A attached thereto.

9 28. Upon information and belief, Leslie Lohse has organized her group as a rogue  
10 tribal council and has even created her own “tribal court.” This illegal faction has made, and  
11 continues to make, representations to the general membership and to outside parties that it is in  
12 fact the governing body of the Tribe. Freeman Decl. at ¶ 17.

13 29. On May 6, 2014, Plaintiffs sent cease and desist letters to the illegal faction  
14 ordering that they cease working together as a “Tribal Council” or otherwise making  
15 representations that they are the lawful governing body of the Tribe. Freeman Decl. at ¶ 18 & Ex.  
16 B attached thereto.

17 30. Although he had not been formally removed from office on April 12, 2014, almost  
18 immediately after the April 12 General Council meeting, Allen Swearinger, the then-Member-at-  
19 Large of the Tribal Council, started working together with Leslie Lohse, David Swearinger, and  
20 Geraldine Freeman as part of their illegal faction.

21 31. Sometime between April 28 and May 8, 2014, Defendants’ illegal faction created  
22 an entirely unauthorized shadow tribal court, and on May 8, 2014, the illegal faction filed suit in  
23 this shadow court, “Case No. PCTV-14-001,” seeking a temporary restraining order against  
24 Chairman Freeman, Ambrosia Rico, Andrew Alejandre, Latisha Miller, and a number of other  
25 individuals. Freeman Decl. at ¶ 20 & Ex. C attached thereto.

26 32. As relief in their lawsuit, the illegal faction sought (1) a declaration that Andrew  
27 Freeman is no longer the Chairman due to a “Tribal Council Resolution” passed by the illegal  
28

1 faction the day before they filed the lawsuit; (2) an injunction preventing Chairman Freeman,  
2 Ambrosia Rico, Andrew Alejandre, and Latisha Miller from “interfering in Paskenta Tribal  
3 governmental or business affairs”; (3) an injunction preventing twenty-four other individuals  
4 from entering tribal lands or “interfering in any and all Paskenta Tribal governmental or business  
5 affairs”; and (4) an injunction preventing Chairman Freeman, Ambrosia Rico, Andrew Alejandre,  
6 Latisha Miller, and all other named defendants from “gathering at Carlino’s Event Center at  
7 Rolling Hills Casino on May 10, 2014.” *See* Ex. C attached to Freeman Decl., Motion for TRO at  
8 22–23 & n.54.

9 33. On information and belief, by seeking an injunction to prevent the Tribal Council  
10 from attending the General Council meeting at the Rolling Hills Casino on May 10, 2014, the  
11 illegal faction sought the opportunity to present a one-sided mischaracterization of the facts to the  
12 General Council or use it as an opportunity to wrest away control of the Tribe and its assets.  
13 Freeman Decl. at ¶ 22.

14 34. On May 10, 2014, the General Council held a special meeting at the Rolling Hills  
15 Casino. There were 115 members present, thus constituting a quorum. *Id.* at ¶ 23.

16 35. Because Defendants’ shadow court injunction had no legal significance, Plaintiffs  
17 attended the May 10 meeting, and Defendants did not attend the meeting or attempt to enforce the  
18 unlawful ex parte order issued by their shadow court. Allen Swearinger—who, at the time, was  
19 technically still a Tribal Council member—did not attend. *Id.* at ¶ 24.

20 36. After the quorum was announced, one of the first matters undertaken by the  
21 General Council was the issue of Allen Swearinger’s non-attendance. It was decided by an  
22 overwhelming majority that Allen Swearinger should be immediately removed. The Tribal  
23 Council then voted unanimously to appoint Natasha Magana to the Tribal Council to complete  
24 Allen’s term, which was scheduled to end in September 2014. The General Council approved of  
25 this appointment. *Id.* at ¶ 25.

26 37. At the May 10 meeting, the General Council approved several initiatives. *Id.* at  
27 ¶ 26.

38. The first initiative, #2014-01, reaffirmed the General Council's actions from April 12, 2014. It explains that David Swearingen, Leslie Lohse, and Geraldine Freeman all intentionally left the April 12, 2014, General Council meeting and were thus removed from office pursuant to Article VIII, § 6. It further explains that the Tribal Council lawfully appointed Latisha Miller and Andrew Alejandro to fill the remainder of their successors' terms, and that Ambrosia Rico was lawfully appointed on an interim basis until a special election can be held. Finally, the Initiative explains that because Allen Swearingen did not attend the May 10 meeting, he is thereby removed from Tribal Council, and that the Tribal Council lawfully appointed Natasha Magana as his replacement. Initiative #2014-01 passed by a vote of 104 for, 5 against, and 6 abstaining. *Id.* at ¶ 27 & Ex. D attached thereto.

39. On May 10, 2014, Initiative #2014-01 was approved by the Tribal Council pursuant to Article IX, § 2. Hence, the initiative is now tribal law. Freeman Decl. at ¶ 28.

40. On information and belief, the illegal faction, along with individuals and entities not yet known but which will become known through discovery, unlawfully exercise control over several assets rightfully belonging to the Tribe, including bank accounts, a private jet, cars, and silver and gold bullion. *Id.* at ¶ 29.

41. The Tribal Council must have access to tribal assets in order to administer social welfare programs for tribal members and to ensure that the Tribe meets its contractual obligations to employees and outside parties. *Id.* at ¶ 31.

42. On information and belief, the illegal faction continues to make representations to the general membership as well as local, state, and federal regulators and law enforcement that it is the lawful governing body of the Tribe. *Id.* at ¶ 30.

## JURISDICTION AND VENUE

43. This Court has subject matter jurisdiction over this action pursuant to Tribal Court Ordinance §§ 4 and 5.

44. Venue is proper in this Court pursuant to Tribal Court Ordinance §§ 4 and 5.2.

...



1           45.     Venue is also proper here because the property, parties, and legal issues that are  
2 the subject of this action are located in and inextricably tied with the Tribe and Tribal entities.

3                           **NECESSITY OF EMERGENCY INJUNCTIVE RELIEF**

4           46.     An actual controversy has arisen and now exists between the Tribal Council on  
5 one hand, and Defendants Leslie Lohse, David Swearinger, Geraldine Freeman, and Allen  
6 Swearinger. Defendants have made it clear that they do not recognize the authority of Tribal law  
7 or of the General Council and its actions taken on April 12, 2014.

8           47.     Upon information and belief, Defendants are attempting to pose as the Tribal  
9 Council in order to obtain control over tribal assets. Indeed, Defendants are already in control of  
10 certain tribal assets, including, but not limited to, bank accounts, a private jet and fractional shares  
11 of a jet and/or aviation services, automobiles, and gold and silver bullion. These assets may be  
12 spent, disposed of, moved to an untraceable location, or otherwise permanently lost at any time  
13 unless this Court grants injunctive relief restricting such access. Thus, it is critical that the tribal  
14 assets be recovered immediately and that Defendants be enjoined from posing as tribal officials to  
15 obtain any additional tribal assets.

16   **FIRST CAUSE OF ACTION**

17           **Emergency Injunctive Relief Enjoining Defendants from Representing Themselves as the**  
18                           **Governing Body of the Tribe**

19           48.     Plaintiffs incorporate by reference paragraphs 1 through 47 above as if fully  
20 rewritten herein.

21           49.     The actions taken at the April 12, 2014 meeting clearly resulted in the lawful  
22 removal of Defendants Leslie Lohse, David Swearinger, and Geraldine Freeman from their  
23 former Tribal Council positions and the lawful appointment of Plaintiffs Ambrosia Rico, Latisha  
24 Miller, and Andrew Alejandro as their replacements, respectively.

25           50.     For his failure to attend the General Council meeting on May 10, Defendant Allen  
26 Swearinger was lawfully removed from office by the General Council, and the Tribal Council  
27 lawfully appointed Natasha Magana to take his place.

51. Defendants, by acting as if they are still part of the Tribal Council despite being lawfully removed on April 12 and May 10, 2014, are violating tribal law.

52. If an injunction does not issue preventing Defendants from making representations that they are the governing body of the Tribe, the Tribe will suffer an immediate and irreparable injury. Defendants will attempt to fraudulently obtain possession and control of tribal assets and otherwise put the Tribe's welfare at risk.

53. As a result of the foregoing, Plaintiffs are entitled to emergency injunctive relief directing that Defendants refrain from making any representations that they have authority to act on behalf of the Tribe.

## SECOND CAUSE OF ACTION

## Injunction ordering the release of all tribal assets

54. Plaintiffs incorporate by reference paragraphs 1 through 53 above as if fully rewritten herein.

55. Only lawfully elected or appointed tribal officials have the authority to exercise control over tribal assets.

56. Defendants have been lawfully removed from their Tribal Council positions, yet they continue to exercise control over a variety of tribal assets despite their clear lack of authority to act on behalf of the Tribe.

57. If an injunction ordering Defendants to release all tribal assets to Plaintiffs does not issue, the Tribe will suffer great and irreparable harm and the possible permanent loss or destruction of tribal assets.

58. As a result of the foregoing, Plaintiffs are entitled to emergency injunctive relief ordering that Defendants turn over all tribal assets in their possession.

### THIRD CAUSE OF ACTION

## Declaratory Judgment that the Illegal Faction's Tribal Court has no Judicial Power

59. Plaintiffs incorporate by reference paragraphs 1 through 58 above as if fully rewritten herein.

...

60. Because they are not the lawful governing body of the Tribe, Defendants have no power to establish any forum empowered under the Tribe's laws to resolve disputes, such as this Tribal Court is so empowered and authorized.

61. Despite having no power to establish any lawful Tribal Court, Defendants have issued what they claim is an “order” of their unlawful tribal court and have attempted to gain recognition of such “order” from local and state law enforcement agencies and local banking and financial institutions, all in effort to gain exclusive access to the Tribe’s resources. These actions will, if left unrestricted, place the Tribe’s membership and resources at great risk.

62. As a result of the foregoing, Plaintiffs are entitled to declaratory judgment declaring that any “Tribal Court” established by the illegal faction has no authority to exercise the judicial power of the Tribe, and that no document, much less one named an “order” issued from that improper forum can lawfully exercise jurisdiction over any person or entity, let alone restrain any act of the Tribe, its Tribal Council, and its Membership.

## PRAYER FOR RELIEF

WHEREFORE, Plaintiffs request that this Court grant the following relief:

1. Injunctive relief enjoining all Defendants, their attorneys, agents, and employees from taking any action, direct or indirect, in facilitation, cooperation, or otherwise, that would directly or by implication convey that they are part of the Tribal Council or otherwise acting on behalf of the Tribe; and

2. Declaratory relief finding that on April 12, 2014, the General Council, in compliance with the Tribe's Constitution, properly suspended Defendants from their former positions on the Tribe's Tribal Council, and that on May 10, 2014, the General Council lawfully removed Defendants from their positions and approved their replacements as follows: Latisha Miller as Vice-Chairperson to replace David Swearinger, Andrew Alejandre as Secretary to replace Geraldine Freeman, Ambrosia Rico, as Treasurer, on an interim basis to replace Leslie Lohse until a special election could be held; and Natasha Magana to replace Allen Swearinger, Member-at-Large; and

1           3.       Declaratory relief finding that the “Tribal Court” established by Defendants has no  
2 judicial power and thus cannot lawfully order anyone to do anything, including the action recently  
3 filed in the shadow Court in “Case No. PCTV-14-001”; and

4           4.       Relief ordering that Defendants shall release to Plaintiffs all tribal assets under  
5 their control or in their possession whether currently titled to the Tribe or having been converted  
6 from title in the tribe to that of the Defendant(s) or agents and entities under their direction; and

7           5.       Relief awarding Plaintiffs their costs of suit and reasonable attorneys’ fees; and

8           6.       All other costs and further relief that this Court deems equitable and just.

9                               Respectfully submitted,  
10                              ROSETTE, LLP

11  
12       Dated: May 16, 2014

13                              By: /s/ Robert A. Rosette  
14                                       Robert Rosette  
15                                       Attorney for Plaintiffs