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11 *Indians*

12 **TRIBAL COURT**

13 **OF THE**

14 **PASKENTA BAND OF NOMLAKI INDIANS**

15 **PASKENTA BAND OF NOMLAKI**
16 **INDIANS**, a federally recognized Indian tribe;
17 **ANDREW FREEMAN; LATISHA**
18 **MILLER; AMBROSIA RICO; ANDREW**
19 **ALEJANDRE; and NATASHA MAGANA,**
20 each in their official capacities as Tribal
21 Council members,

22 Plaintiffs,

23 v.

24 **DAVID SWEARINGER; LESLIE LOHSE;**
25 **GERALDINE FREEMAN; and ALLEN**
26 **SWEARINGER** each in their individual
27 capacities;

28 and

JOHN DOES 1-100, certain unidentified
individuals,

and

XYZ ENTITIES 1-100, certain unidentified
entities,

Defendants.

Case No. *CV 2014-0001*

**[PROPOSED] ORDER GRANTING
APPLICATION AND MOTION FOR
TEMPORARY RESTRAINING
ORDER
AND ORDER TO SHOW CAUSE
WHY A PRELIMINARY
INJUNCTION SHOULD NOT ISSUE**

Date:
Time:
Dept:

[PROPOSED] ORDER GRANTING APPLICATION AND MOTION FOR TRO AND OSC

1 Plaintiffs the Paskenta Band of Nomlaki Indians, a federally recognized Indian Tribe (the
2 "Tribe"), and Andrew Freeman; Latisha Miller; Ambrosia Rico; Andrew Alejandre; and Natasha
3 Magana, each in their official capacities as Tribal Council Members (collectively, the "Tribal Council"
4 and, together with the Tribe, the "Plaintiffs"), having filed an application and motion for a temporary
5 restraining order and order to show cause why a preliminary injunction should not issue came before
6 this court for consideration on May 16, 2014 accompanied by the Plaintiffs' Complaint for Declaratory
7 and Injunctive Relief, the Affidavit of Chairman Andrew Freeman, and the associated filings therewith,
8 and having reviewed such filings and considered them pursuant to the Tribe's laws and this Court's
9 governing procedure, the Court finds as follows:

10 1. This Court has jurisdiction over this case and controversy pursuant to the Tribal Court
11 Ordinance, Sections 4 and 5.

12 2. Plaintiffs have made a sufficient showing that the General Council, at a duly-called
13 Special Meeting suspended and removed Defendants from having any status, authority, and power as
14 members of the Tribe's Tribal Council.

15 3. Plaintiffs have made a sufficient showing that it is likely that immediate and irreparable
16 injury, loss, or damage will result to Plaintiffs before the adverse parties or their attorney can be heard in
17 opposition to Plaintiff's emergency filing. Notice shall not be required before this Order is entered
18 because the Defendants may continue to make illegal attempts to seize control of the Tribe's
19 government, which attempts may include, but may not be limited to, the seizing of tribal bank accounts
20 and the continued diversion, conversion, and loss of the Tribe's money and property if the Defendants
21 are given advance notice of the Tribe's intention to obtain this Order.

22 4. There is good cause to believe that the Defendants will take actions in their continued
23 attempts to assert themselves as the duly authorized governing body of the Tribe, which actions include
24 but are not limited to attempts to maintain and/or seize control of Tribal funds, the unlawful enactment
25 of legislation, the creation of an unauthorized and unlawful "tribal court," and the seizure of Tribal
26 records and property in violation of Tribal law.

5. Plaintiffs have made a sufficient showing that they have no adequate remedy at law and therefore an emergency temporary restraining order is necessary to prevent further unlawful acts which include but are not limited to attempts to maintain and/or seize control of Tribal funds, the unlawful enactment of legislation, the creation of an unauthorized and unlawful "tribal court," and the seizure of Tribal records and property in violation of Tribal law.

6. The balance of hardships tips sharply in Plaintiff's favor. The balance of equities strongly favors Plaintiffs because Defendants have no lawful authority to exert any authority over the Tribe, its Enterprises, Departments, agents, officers, employees, attorneys, and assigns, and any further attempt or act in effort to exercise such authority will harm Plaintiffs because the assets of the Tribe are being disbursed to persons and entities that are not recognized as the Tribe's Tribal council and, once disbursed, those assets and resources cannot be recovered.

7. Plaintiffs have demonstrated irreparable harm and that a temporary restraining order is in the public's interest.

8. The Court finds that no bond is necessary.

IT IS HEREBY ORDERED that:

1. Plaintiffs' Ex Parte Emergency Application and Motion for a Temporary Restraining Order and Order to Show Cause regarding Preliminary Injunction is **GRANTED**.

2. Consistent with the Constitution of the Paskenta Band of Nomlaki Indians ("the Constitution"), Art. VIII, § 6(sic) and Art. V § 1, and until this Court can further consider this matter in reference to any preliminary or permanent injunction, the following five individuals are currently **RECOGNIZED** by the General Council of the Tribe as the rightful and legitimate elected officials comprising the governing body of the Tribe:

- Andrew Freeman – Chairman
- Latisha Miller, Vice Chairperson
- Ambrosia Rico – Interim Treasurer
- Andrew Alejandro – Secretary
- Natasha Magana – Member-at-Large

3. David Swearingner, Leslie Lohse, Geraldine Freeman, and Allen Swearingner are hereby **RESTRAINED** from interfering in Paskenta Tribal governmental or business affairs including, but not limited to, purporting to hold themselves out, or purporting to take action, as members of the Tribal Council.

4. Defendants are hereby **RESTRAINED** from entering and being present in any manner upon any of the lands described in Article I of the Constitution, including but not limited to:

(1) The Rolling Hills Casino outbuildings, parking lots, and grounds located at 2655 Everett Freeman Way, Corning, California; (2) the golf course, clubhouse, parking lot, related facilities at the Rolling Hills Casino known as "Sevillano Links;" (3) the hunting and fishing club, clubhouse and facilities located to the West of the golf course operating under the name of "Clear Creek Sports Club at Rolling Hills," which includes 1,400 acres of hunting ground, a clubhouse and lodging facilities, a firearms range, and a pond; (4) two hotels that are immediately adjacent to the Casino, known as The Lodge Vagabond Inn and the Inn at Rolling Hills; (5) an RV park located next to the Casino known as the "RV Park at Rolling Hills;" (6) a Chevron gas station located next to the Rolling Hills Casino; (7) a truck stop facility located next to the Rolling Hills Casino; (8) an equestrian facility, parking lots, and related buildings and improvement also located on the Casino grounds; (9) the MD Barnmaster offices, sales and display yard located at 3489 South Highway 99 West, Corning, CA; (10) and office located at 1012 South Street, Orland, California; (11) the Rolling Hills Medical Clinic located at 2540 Sister Mary Columbia Drive, Red Bluff, California; and (12) the Rolling Hills Medical Clinic consisting of two separate buildings located at 740 Solano

1 Street and 705 East Street, Corning, California, except that Defendant Geraldine Freeman
2 shall be permitted to continue to access the Rolling Hills Medical Clinic for the limited
3 purpose of receiving medication and health care services and *not* to conduct any
4 unauthorized business purportedly on behalf of the Tribe.

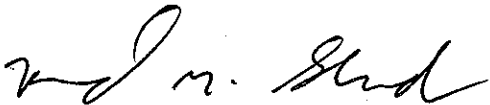
5 Said Defendants are also **RESTRAINED** from interfering in any and all Paskenta Tribal
6 governmental or business affairs, including, but not limited to, purporting to hold themselves out, or
7 purporting to take action as agents of the Tribe or its subordinate entities.

8 5. Because this suit is an action which Tribal law provides the rule of decision, this Court's
9 jurisdiction is exclusive and not concurrent with any other federal or state court's
10 adjudicatory or legislative powers; provided, any such other court shall not be foreclosed
11 from extending comity or full faith and credit to this Order. *(is served on Defendants*
14.5 by Plaintiffs' counsel)

12 IT IS FURTHER ORDERED that, within three (3) ~~business~~ days from the date ~~of~~ this order,
13 Defendants shall serve and file an affidavit verifying that they have complied with this order and
14 detailing what steps, if any, they have taken to do so.

15 IT IS FURTHER ORDERED that Plaintiffs' papers filed in support of their application and
16 motion for a temporary restraining order shall be treated as Plaintiffs' moving papers for a preliminary
17 injunction and the Court will within ten (10) days from the date of this Order schedule a telephonic
18 status conference at which time the court will schedule a preliminary injunction hearing and
19 related briefing. Until then, Defendants are **RESTRAINED** as outlined above.

20
21 DATED this 17 day of May, 2014.

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24 
25 Honorable Howard Shanker
26 Chief Tribal Court Judge
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