

**FILED**

5/7/14 *MA*

**PASKENTA BAND OF NOMLAKI  
INDIANS TRIBAL COURT**

IN THE PASKENTA BAND OF NOMLAKI INDIANS  
TRIBAL COURT

GERALDINE FREEMAN and INES CROSBY,

Plaintiffs,

v.

ANDREW FREEMAN, AMBROSIA RICO,  
ANDREW ALEJANDRE, LATISHA MILLER,  
BRUCE THOMAS, CHUCK GOLFORD,  
TERRY CONTRERAS, JEFF REALANDER,  
GARY POYNER, DENNIS KINNEY, KATE  
GRISSOM, BOB CLOUD, DAN LARGENT,  
ART FELIX, LORI LAGRANDE, VICKY  
ROY, DEANNA DRAKE, DUSTIN WAYNE,  
DAVID CARTER, MARY SWEET, RUSSELL  
DENNIS, NOBADEL DAVIS, PAUL LAY,  
HAL HENSLEY, ANTHONY BOERNER,  
NATHAN PLATTE, SHERRY FREEMAN,  
AMY GONCZERUK, JOHN DOES 1-100,  
AND JANE DOES 1-100,

Defendants.

NO. PTCV-14-001

FIRST AMENDED COMPLAINT

**I. INTRODUCTION**

1. This is a Complaint seeking injunctive and declaratory relief against Andrew Freeman, Chairman of the Paskenta Band of Nomlaki Indians, in his personal and official

capacity and against other persons — named and unnamed Tribal members and nonmembers transacting business, threatening to and/or currently violating Tribal law, and otherwise having established minimum contacts with the Tribe. Each and every Defendant is acting in violation of Paskenta Tribal law and putting the Tribe and the entire Paskenta Membership in serious peril.

2. Together, the Chairman and these other Defendants — most of whom are non-Indian — have purported to effect an illegal, hostile takeover, using armed men to exclude the Tribe's lawful, federally-recognized governing body from Paskenta lands and operations, in violation of Tribal and federal law. Without any lawful authority, the Chairman and other Defendants have effectively turned Paskenta's lands into an armed camp, threatening the well-being of all, including Paskenta's citizens, guests, patrons and employees. This Complaint seeks immediate declaratory and injunctive relief to restore law and order to Paskenta Indian Country.

## II. PARTIES

3. Plaintiff Geraldine Freeman is a Paskenta Tribal member and the Tribe's elected Secretary and Tribal Councilwoman. Ms. Freeman also sits on the Board of Directors for the Rolling Hills Health Clinic and Dental Lab. Ms. Freeman brings this suit in her own personal and official capacity, and as *parens patriae* on behalf of the Paskenta Tribe's entire membership, to ensure compliance with Tribal law and to enjoin violations of Tribal law. Plaintiff Freeman, as Tribal Secretary and Rolling Hills Health Clinic and Dental Lab Board member, brings this action for equitable relief without waiver of immunity from suit or counterclaim.

4. Plaintiff Ines Crosby is a Paskenta Tribal member and Chair of the Board of Directors for the Rolling Hills Health Clinic and Dental Lab. Ms. Crosby brings this suit in her personal and official capacity, and as representative of all those similarly situated as it pertains to

1 her personal capacity, including those comprising the Lohse/Pata/Henthorn Family of Paskenta  
2 Tribal members.<sup>1</sup> Plaintiff Crosby, as Rolling Hills Health Clinic and Dental Lab Board  
3 Chairwoman, brings this action for equitable relief without waiver of immunity from suit or  
4 counterclaim.

5  
6 5. Defendant Andrew Freeman is the elected Chairman of the Tribe and a Tribal  
7 Council Member. Mr. Freeman is sued in both his official and personal capacity, for  
8 nonmonetary relief.

9 6. Defendants Bruce Thomas, Chuck Galford, Terry Contreras, Jeff Realandar, Gary  
10 Poyner, Dennis Kinney, Kate Grissom, Bob Cloud, Dan Largent, Art Felix, Lori LaGrande,  
11 Vicky Roy, Deanna Drake, Dustin Wayne, David Carter, Mary Sweet, Russell Dennis, Nobadel  
12 Davis, Paul Lay, Hal Hensley, Anthony Boerner, Nathan Platte, Sherry Freeman, and Amy  
13 Gonczerek are former employees of the Tribe and the subjects of Tribal Council Resolution No.  
14 2014-0424.

15  
16 7. Defendants Ambrosia Rico, Andrew Alejandre, Latisha Miller and Defendants  
17 John and Jane Does 1-100 are individual members and non-members of the Tribe who have  
18 transacted business, have violated or threaten to violate Tribal law, or have otherwise established  
19 minimum contacts with the Tribe.

### 20 III. JURISDICTION

21  
22 8. Because the controversies alleged in this suit occurred and continue to occur upon  
23 the lands described in Article I of the Tribe's Constitution, this Court possesses subject matter  
24 jurisdiction. P.T.C. § 3.1.

25  

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<sup>1</sup> Plaintiff Crosby reserves the right to plead a putative class of Lohse/Pata/Henthorn Family-Tribal members.

9. Because the Defendants in this suit are named and unnamed Tribal members and nonmembers transacting business, threatening to and/or currently violating Tribal law, and otherwise having established minimum contacts with the Tribe, this Court possesses personal jurisdiction over the Defendants. P.T.C. §§ 3.2.2-.3.

10. Because this suit is an action which Tribal law provides the rule of decision, this Court's jurisdiction is exclusive. P.T.C. § 3.5.2.

## IV. STATEMENT OF FACTS

11. On December 22, 2010, the Paskenta Band of Nomlaki Indians (“Tribe” or “Band”) confirmed with the U.S. Bureau of Indian Affairs (“BIA”) that the following officials had been elected into office: David Swearinger, Vice Chairman; Geraldine Freeman, Secretary; and Allen Swearinger, Member-at-Large. On January 12, 2011, the BIA responded to the Tribe, acknowledging that these officials represent the Tribe.

12. On October 25, 2012, the Tribe confirmed with the BIA that the following officials had been reelected into office: Andrew Freeman, Chairman; and Leslie Lohse, Treasurer. Per Article IV, Section 1 of the Band's Constitution, as amended in 2004, these Councilmembers were elected, and are entitled to, four-year terms. **These were the last undisputed officials presented to the BIA in regard to the Tribe's duly elected government.**

13. On Saturday, April 12, 2014, at 10:15 a.m., the Tribe conducted its Annual Meeting of the General Council at Carlino's Event Center at Rolling Hills Casino, as required by Article VII, Section 2(a) of its Constitution. All Councilmembers were present at this meeting. Prayers were given, and a roll call was conducted, which took about fifteen minutes to call. Immediately after the prayers and roll call, Rolling Hills Casino security officers, including

1 several who were not working their normal shifts, swarmed the meeting room.

2       14. According to witness statements, and the Annual Meeting minutes confirmed by  
3 four-fifths of the Tribal Council, at this point Chairman Freeman departed from the duly noted  
4 Annual Meeting agenda and attempted to order members of the Band with lineage to the  
5 Henthorn/Pata Family, including Plaintiff Crosby and Treasurer Lohse, to be removed from the  
6 Annual Meeting. Chairman Freeman then purported to exclude or banish them from all of the  
7 Band's tribal lands. None of the remaining Councilmembers were aware of the Chairman's  
8 unilateral proclamation, or understood the reasoning behind it; in shock, they objected.  
9 Chairman Freeman did not honor the objection of the four Council members or otherwise call  
10 the meeting to order, and pandemonium ensued.

11  
12       15. According to one witness statement: "Immediately along with regular security  
13 officers came many sheriffs [sic] officers and highway patrol officers also. Rolling Hills casino  
14 officers surrounded the back of the Tribal Council. I could see they [the Tribal Council] were  
15 being surrounded by the crowd and it didn't look safe up there for anyone. The first three rows  
16 stood up and began yelling loudly and became unruly. The cops tried to calm them down."

17  
18       16. In fear of violence and in concern for the safety of the Tribal Membership, Vice-  
19 Chairman Swearinger immediately made a motion to adjourn the meeting. According to a  
20 witness statement, belligerent Tribal members "yell[e]d you can't adjourn the meeting, that's  
21 when the police tried to calm them down. [When local police] tried to settle them down and  
22 walked up to them [and they] yelled I'm tribal and you cant [sic] touch me." Plaintiff-Secretary  
23 Freeman seconded the motion. Vice-Chairman Swearinger called for the question, but Chairman  
24 Freeman refused to call the vote. The Tribal Council agreed to adjourn the meeting, and Vice-  
25

1 Chairman Swearinger stated to the Tribal Council and General Council that the meeting was  
2 adjourned, between 10:30 a.m. and 10:50 a.m.

3 17. Local police reports indicate that, at the time of their arrival, approximately 10:48  
4 a.m., the Annual Meeting was adjourned; and that, by 10:58 a.m., all parties had dispersed from  
5 the Annual Meeting. The Meeting Minutes and Certification of Meeting Adjournment, which  
6 each confirm this adjournment are attached as **Appendices E and F.**<sup>2</sup> *See also Appendix G*  
7 (police report noting that AS OF 10:58 “ALL SUBJ[ECT]S HAVE DISBURSED” [sic]).  
8

9 18. Shortly thereafter, the Tribal Council was notified by the Tribe’s alarm system  
10 that there had been a break-in at the Tribal Office (headquarters) in Orland, California. Upon the  
11 Tribal Council’s arrival, it was discovered that Rolling Hills Casino security officers —  
12 including several Defendants — had broken into the Tribal Office. This would be the first of at  
13 least three break-ins, in a single week. Chairman Freeman was present. The City of Orland  
14 Police Department was called to the scene by 11:09 a.m. Before things got out of control, the  
15 Chairman and other duly elected Tribal Councilmembers agreed to have the locks changed and  
16 to give the key to Orland law enforcement for safekeeping until the situation could be mediated.  
17

18 19. Purported Annual Meeting Minutes fabricated by Defendants and signed by  
19 Defendant Andrew Alejandro falsely state that **in some relatively short span of time between**  
20 **approximately 10:30 a.m. and 11:00 a.m.:**  
21

22 (1) “[T]he Chairman stated that the persons who had left the meeting had abandoned  
23 their positions on the Tribal Council and should be removed immediately, thereby  
24 creating three vacancies”;

25 (2) “The General Council approved [the Chairman’s] resolution by acclamation”;

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<sup>2</sup> As it turned out, the Tehama County Sheriff’s Office received an anonymous 911 call from Rolling Hills Casino reporting a 50-person riot. Therefore, the Sheriff’s Office alerted its officers to respond immediately. Upon information and belief, particularly the timing and anonymity of the 911-call to local police, Defendants planned the General Council chaos and disruption in advance.

(3) “Ambrosia Rico was nominated to fill one of the vacated Tribal Council positions and appointed to the office of Tribal Council Treasurer . . . by acclamation”;

(4) “The Chairman then administered the oath of office to Ms. Rico”;

(5) “Andre Alejandre was then nominated to one of the vacated Tribal Council positions and appointed to the Tribal Secretary [and approved] by acclamation”;

(6) “The Chairman administered the oath of office to Mr. Alejandre”;

(7) “Latisha Miller was then nominated to one of the vacated Tribal Council positions and appointed to the Tribal Secretary [and approved] by acclamation”;

(8) “The Chairman administered the oath of office to Ms. Miller”;

(9) “Once the new Tribal Council members were seated, the Chairman stated that the next order of business was to consider whether the Henthorne/Pata [sic]<sup>3</sup> family members had met membership criteria . . .”;

(10) Dr. Dorothy Theodoratus “made a presentation” about the Henthorn/Pata Family’s genealogy;

(11) “The General Council then held **an extensive discussion** of whether members of the Henthorne/Pata [sic] family were properly enrolled as Members;

(12) “After **a thorough discussion and questions and comments**, and upon [sic] motion duly made, second and approved by a vote of 60-1, the General Council passed” as Resolution that “the Henthorn/Pata [sic] family shall be permanently removed from Membership of the Tribe” (emphasis added); and finally

(13) “[U]pon motion duly made, second and approved by unanimous acclamation, the Annual Meeting of the General Council was adjourned.”

It is inconceivable that all of this transpired, before an excited General Council, in such a short time span.<sup>4</sup> Of course, even if it had, it would be of no legal import, as the Annual Meeting had already adjourned. The fraudulent General Council Annual Meeting Minutes purportedly signed by Defendant Alejandre on April 12, 2014 are appended as **Appendix A**.

<sup>3</sup> The correct spelling is Henthorn, not Henthorne, as Defendants incorrectly spell the name.

<sup>4</sup> Even were it the case that a post-Annual Meeting Special General Council meeting were held, it was not held in compliance with the requirements of Article VII, Section 1 of the Constitution. There was no quorum present, nor was there proper notice; just to name two deficiencies

1           20.     On Monday, April 14, 2014, at approximately 1:20 p.m., Chairman Freeman went  
2 to the Orland Police Department and, misrepresenting that the situation had been mediated, was  
3 allowed to pick up the keys to the Tribal Office. Upon discovering that Chairman Freeman was  
4 at the Tribal Office, other members of the Tribal Council immediately went to the scene. The  
5 Orland Police Department was again called to keep the peace, and the Chairman and other  
6 members of Tribal Council agreed to “hold off” on occupying the Tribal Office until the BIA  
7 could determine whether Chairman Freeman possessed the authority to take these unilateral  
8 actions.  
9

10           21.     At approximately **2:00 a.m.** on Tuesday, April 15, 2014, Chairman Freeman  
11 called the Orland Police Department and requested that they assist him while he and certain  
12 Defendants — several of whom were armed with guns and held themselves out as Rolling Hills  
13 Casino security officers — removed Tribal property such as documents, file cabinets, and  
14 computers, from the Tribal Office. Vice Chairman David Swearinger arrived on the scene just in  
15 time to witness Chairman Freeman standing in the middle of the room, as people directed by him  
16 raided the Tribe’s government offices, shouting, **“I am the Tribal Council! I am the Tribal**  
17 **Council! I am the Tribal Council!”** Orland police maintained the peace, but took no action to  
18 stop the removal of the Tribe’s property. Defendant Art Felix has alleged under penalty of  
19 perjury under California law that Plaintiffs “verbally assaulted individuals who were attempting  
20 to secure Tribal records” and that a physical assault occurred too. This is untrue.<sup>5</sup>  
21

22     / / /

23     / / /

24     / / /

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<sup>5</sup> Video footage of the break-in can be viewed at:  
<https://drive.google.com/file/d/0BzqZ742MB3eeRjBXRfVsU293MEE/edit?usp=sharing>.



22. Chairman Freeman is here seen toting files away in a garbage bag:



Here, Defendant Nobadel Davis, a non-member, removes file drawers and other Tribal property:



1 Here, Defendant and purportedly appointed “Tribal Secretary” Andrew Alejandre (pictured  
2 below at center) helps to remove a file cabinet:



13 Here, Defendant Art Felix, a non-member and Rolling Hills Casino security officer (pictured at  
14 right), is shown manning the front door to the Tribal Office while it was ransacked:



1 Once the break-in was completed, Defendant Felix gave his accomplices a “thumbs up,” in the  
2 presence of Defendant Alejandre:



12 By **2:40 a.m.**, the stolen personal property of the Band was taken to the Rolling Hills Casino.

14 Defendants left the Tribal Office in shambles:







23. Fearing that Chairman Freeman and Defendants would next pilfer the Tribe's finances, the Tribal Council contacted Cornerstone Community Bank ("Cornerstone"), the Tribe's and casino's regular deposit bank, to apprise them of the situation. The Tribal Council also requested the BIA to issue a letter proclaiming to Cornerstone and the Orland Police Department the federally recognized leadership of the Tribe, and, more specifically, that a five-person Tribal Council including Chairman Freeman — but not any one single Tribal official, *i.e.* Chairman Freeman — possessed lawful authority as the governing body over the Band's governmental affairs.

24. Later on Tuesday, April 15, the BIA issued a letter stating: "Due to the recent notification of events that have occurred at the Paskenta Rancheria, we are sending the attached document, which is **the last Tribal Council Record at this Agency.**"<sup>6</sup> The "attached

<sup>6</sup> See *Alturas Indian Rancheria v. Acting Pacific Regional Director*, 54 IBIA 1, 8 (2011) (it is "well established that "when an intra-tribal dispute has not been resolved and the [BIA] must deal with the tribe for government-to-government purposes, the Department . . . recognize[s] . . . the last undisputed officials . . . as tribal officials . . .")

document” is the above-referenced January 12, 2011, letter from the BIA to the Tribe, which provides:

[T]he following individuals currently represent and serve as officials of the Paskenta Rancheria Tribal Council:

1. Andrew Freeman, Chairman
2. David Swearinger, Vice-Chairman
3. Leslie Lohse, Treasurer
4. Geraldine Freeman, Secretary
5. Allen Swearinger, Member At-Large

The BIA’s April 15, 2014 letter, and its attached January 12, 2011 letter, are attached hereto as **Appendix B.**

25. Ignoring the BIA’s letter, on April 16, 2014, Chairman Freeman attempted to call a Special Meeting of his new purported Tribal Council. According to minutes, in attendance were Defendants “Ambrosia Rico, Andre Alejandro [sic] and Latisha Miller.” As the only item of reported business, these Defendants approved the fabricated General Council Annual Meeting Minutes purportedly signed by Defendant Alejandro on April 12, 2014, certifying them as “true, accurate and complete,” even though they are untrue, inaccurate, and incomplete.

26. On Friday, April 18, 2014, the Tribal Council passed Resolution No. 2014-0418, disclaiming and disavowing any act taken by Chairman Freeman without Tribal Council approval as it relates to the Tribe’s financial assets or institutions with which it does business. It had at that time come to the Tribal Council’s attention that Chairman Freeman and/or certain Defendants had fabricated “Minutes and Resolutions” representing that the makeup of the Tribal Council had changed and that David Swearinger, Leslie Lohse, and Plaintiff Geraldine Freeman

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(quoting *Wasson v. Western Regional Director*, 42 IBIA 141, 158 (2006); *George v. Eastern Regional Director*, 49 IBIA 164, 190 (2009)). Pursuant to P.T.C. § 4.4, the Tribal Court takes consideration of prior judicial precedent in the following priority order: the Tribal Court; Federal Courts; and the courts of the State of California or other state or other jurisdictions.

1 had been replaced, via “election,” by Defendants “Ambrosia Rico, Andrew Alejandre, and  
2 Latisha Miller.” It had also come to the Tribal Council’s attention that Cornerstone was  
3 indicating a willingness to rely upon Defendants’ fabricated Annual Meeting Minutes in order to  
4 allow the imposter government to access the Tribe’s financial assets. According to Cornerstone,  
5 because it “was not in a position to validate Tribe election results,” it would honor Chairman  
6 Freeman’s requests. That same day, the Tribal Council learned that through Cornerstone,  
7 Chairman Freeman and certain Defendants acting at his direction had requested to draw down  
8 the entire remaining balance of the Tribe’s \$20 million line of credit.  
9

10 27. Over the **2:00 a.m.** hour of Easter Sunday, April 20, 2014, Chairman Freeman  
11 and certain of Defendants broke into the Tribal Office a third time. The Tribe’s security officers  
12 arrived at the Tribal Office to find an audible alarm going off, and those Defendants holding  
13 themselves out as Rolling Hills Casino security officers — brandishing firearms, but not wearing  
14 badges or other identification as required by California law — attempting to forcibly gain entry  
15 to the Office by drilling out the locks. The Tribe’s security officer stated that it was not the place  
16 of Rolling Hills Casino security officers to change the locks on any Tribal buildings, including  
17 the Tribal Office, to which Defendant Art Felix retorted, **“possession is nine points of the law,  
18 and we have the nine points.”** The Tribe’s security officer stated that he was in possession of  
19 BIA documentation stating that the Tribal Council group is “the last tribal council group on  
20 record” — *i.e.* the BIA’s April 15, 2014 letter and attachment — to which Defendant Felix  
21 responded, “the [BIA] is just a record keeper.” Defendants then proceeded to change the locks,  
22 and scraped off the printed “Paskenta Tribal Office” signage and insignia on the windows of the  
23 Tribal Office. Legitimate governments do not take such action in the dead of night, especially  
24  
25

1 through theft and vandalism.

2           28.     During daylight hours on that Easter Sunday, April 20, 2014, the Tribal Council  
3 enacted Resolution No. 2014-0419, which demanded and instructed that Wells Fargo Bank not  
4 “allow, authorize, or otherwise permit any draws of funding with respect to the Wells Fargo Line  
5 of Credit unless authorized in writing by at least a super-majority of four of the five Tribal  
6 Council members.” Wells Fargo has honored this “freeze” request. In turn, Chairman Freeman  
7 and certain Defendants have illegally advised Rolling Hills Casino employees to cash their  
8 paychecks at the casino cage. In addition, in violation of the Tribe’s casino regulations — not to  
9 mention the Tribe’s tribal-state gaming compact — Defendants have transported large amounts  
10 of cash out of the casino and into a white Sport Utility Vehicle each morning to an unknown and  
11 undisclosed place. Obviously, this is not how a legitimate government business is run.  
12

13           29.     On April 21, 2014, the National Indian Gaming Commission (“NIGC”) issued a  
14 letter to Chairman Freeman, indicating that **he and Defendants are not authorized to manage**  
15 **the Band’s gaming operation.** The NIGC letter stated the following, in relevant part:  
16

17           On April 15, 2014, [the BIA] sent a letter . . . listing the names of the individuals  
18 the BIA recognizes as the tribal government recognized by the BIA as the Band’s  
19 leadership. Based upon th[is] information . . . , **it appears that the tribal**  
20 **government recognized by the BIA is not in control of the Band’s gaming**  
21 **operation and remains excluded from the premises.**

22           I am concerned that the gaming at the Casino is not being conducted by the  
23 Band—that is, by the governmental authority recognized by the Secretary of  
24 Interior—or by an entity licensed by the tribal government pursuant to NIGC  
25 regulations. If true, the federally recognized tribal government is being deprived  
of the sole proprietary interest in and responsibility for the gaming operation. . . .

          I have initiated an investigation into this matter to determine whether or not to  
recommend to the [NIGC] Chairman that a Letter of Violation be issued.

The NIGC’s April 21, 2014 letter is attached hereto as **Appendix C**.

1           30.     Notwithstanding the NIGC's notice that Tribal Vice Chairman David Swearinger,  
2     Treasurer Leslie Lohse, and Plaintiff-Secretary Geraldine Freeman were being improperly  
3     "excluded from the premises" of the Rolling Hills Casino, the very next day, April 22, 2014,  
4     Chairman Freeman and Defendants wrote Tribal Vice Chairman David Swearinger, Treasurer  
5     Leslie Lohse, Plaintiff-Secretary Geraldine Freeman, and Plaintiff Ines Crosby to inform them  
6     that they were "barred from Tribal property, including the Clinic and locations" and the Casino.  
7     Of course, again, the Chairman has no constitutional authority to take this action on his own  
8     accord and, as such, it can be of no legal import. The Chairman's April 22, 2014 letter is  
9     attached hereto as **Appendix D**.

11           31.     The same day, Chairman Freeman and Defendants wrote Plaintiff Crosby and  
12     other members of the Henthorn/Pata family, indicating that on April 12, 2014, the General  
13     Council somehow voted to suspend "any rights and benefits" these persons possess as enrolled  
14     Tribal members. The fake General Council Annual Meeting Minutes signed by Defendant  
15     Alejandre, however, had represented that the Henthorn/Pata family was somehow already  
16     "permanently removed from Membership of the Tribe" — *i.e.* disenrolled. *See Appendix A*. In  
17     the end, though, none of this could have any legal effect because Chairman Freeman was acting  
18     outside the scope of his constitutional authority.

20           32.     On April 25, 2014, counsel for Chairman Freeman and other Defendants, Robert  
21     Rosette and Richard Verri of Rosette, LLP, called the Tribe's outside general counsel, Bradley  
22     Bledsoe Downes of Bledsoe Downes, PC. Through Rosette, Chairman Freeman and Defendants  
23     admitted that the actions they purportedly took during the Annual General Council Meeting on  
24     April 12, 2014, were illegal and required a proper meeting, notice, and due process if  
25



1 such activities were to be undertaken.

2 33. That same day, Chairman Freeman noticed a Special General Council meeting for  
3 May 10, 2014. He wrote:

4 Dear Tribal Members,

5 Enclosed please find your regular per capita check. . . . I am calling a Special  
6 General Council meeting in Carlinos [sic] Event Center at Rolling Hills Casino  
7 beginning at 10:00 a.m. on Saturday, May 10, 2014. The sole purpose of the  
8 meeting will be to reaffirm the General Council appointment of Tribal Members  
9 Ambrosia Rico (Treasurer), Andre Alejandre (Secretary), Latisha Miller (Vice  
10 Chair), which occurred at the previous April 12, 2014 General Council meeting.  
The Tribal Council will update you on the membership and all the recent changes.  
This is an important meeting. We hope to see you there.

11 34. On April 29, 2014, Chairman Freeman and Defendants left a document titled,  
12 “Paskenta Band of Nomlaki Indians Talking Points,” with U.S. Representative Doug LaMalfa  
13 during a visit to Washington, DC. Defendants’ “Talking Points” indicate:

14 *Chairman Freeman, true to his word, has scheduled a General Council*  
15 *Meeting for Saturday, May 10, 2014, to conduct the following business:*

- 16 • *Reaffirm actions taken by the General Council at its April 12, 2014*  
17 *Meeting;*
- 18 • *Enact an initiative allowing for the Henthorne-Pata [sic] families to*  
19 *receive due process and an opportunity for a Hearing regarding their*  
20 *Membership issues; and*
- 21 • *Authorize a federal mediator to either make a decision regarding the*  
22 *Membership issues or allow for a review of the Tribal process regarding*  
23 *the Membership issues* (emphasis in original).

24 Therefore, contrary to the Chairman’s statement in the April 25, 2014, Special General Council  
25 Meeting Notice to Tribal Membership, “the sole purpose of the meeting” is not merely to  
reaffirm the illegal “appointment of Tribal Members Ambrosia Rico (Treasurer), Andre  
Alejandre (Secretary), Latisha Miller (Vice Chair).” Instead, it is to further the **now-admittedly**

1 **illegal** removal, suspension, and disenrollment of Plaintiff Crosby and her family. Importantly,  
2 the document prepared by or on behalf of Chairman Freeman, and left with Congressman  
3 LaMalfa, effectively admits what any legal analysis will reveal: that **Chairman Freeman and**  
4 **his alleged “Tribal Council” have acted without lawful authority for the past two weeks**, the  
5 Chairman having purported to unilaterally disenroll certain members without the notice and due  
6 process and procedures that Tribal law requires to be effective — disenrollment that purported to  
7 include a duly elected member of the Tribe’s governing body. **Consistent with Chairman**  
8 **Freeman’s own lawyers’ admissions**, the document prepared by or on behalf of Chairman  
9 Freeman effectively admits this assertion of illegal authority, despite having taken iron control of  
10 Paskenta’s sovereign lands and operations, to the exclusion of the duly elected Tribal Council,  
11 the government that the BIA last recognized as empowered to act for the Paskenta people.  
12

13  
14 35. On May 2, 2014, Defendant Ambrosia Rico told a local newspaper “that a more  
15 recent letter from the [NIGC] said it is classifying the dispute as an internal tribal affair, and at  
16 this time will leave the problem for the tribe to rectify.” However, on May 4, 2014, NIGC  
17 General Council Eric Shepard confirmed in writing that “[t]here is no more recent letter” than  
18 the NIGC’s April 21, 2014 letter. Defendant Rico and Defendants have published numerous  
19 false and defamatory statements about Plaintiffs, the Tribe, and its members through various paid  
20 press releases.  
21

22 36. In light of the activities described above, on May 2, 2014, the Tribal Council  
23 passed Resolution No. 2014-0424, excluding from all lands over which the Tribe possesses legal  
24 or beneficial title, including the Tribe’s Rolling Hills Casino, the following non-member persons:  
25 Defendants Bruce Thomas, Chuck Galford, Terry Contreras, Jeff Realander, Gary Poyner,

1 Dennis Kinney, Kate Grissom, Bob Cloud, Dan Largent, Art Felix, Lori LaGrande, Vicky Roy,  
2 Deanna Drake, Dustin Wayne, David Carter, Mary Sweet, Russell Dennis, Nobadel Davis, Paul  
3 Lay, Hal Hensley, Anthony Boerner, Nathan Platte, Sherry Freeman, and Amy Gonczeruk.

4 37. Since April 13, 2014, Chairman Freeman has ignored multiple notices of special  
5 meetings and regular meetings issued by the Tribal Council. On May 2, 2014, Chairman  
6 Freeman missed his third consecutive regular meeting of the Tribal Council.  
7

8 38. On May 6, 2014, Chairman Freeman sent a letter to Vice-Chairman Swearinger  
9 ordering him to “immediately *cease and desist* from sending any further correspondence . . .  
10 under the cover or identity as a Tribal Council Member” and that the Vice Chairman’s  
11 “unwillingness to immediately adhere to” this so-called “**order** may trigger **grounds for**  
12 **suspension** [and] **termination**.” (emphasis in original). Of course, again, Chairman Freeman  
13 has no authority to take any of this action on his own and, at any rate, the Vice Chairman *is* the  
14 Vice Chairman — it is his *constitutional duty* to “discharge all of the responsibilities of the  
15 Tribal Chairperson” in the Chairman’s absence, and Chairman Freeman has been absent from the  
16 meetings of the Tribal Council for nearly three weeks now. Const., art. VIII, §2.  
17

18 **V. FIRST CAUSE OF ACTION**  
19 **(Declaratory Judgment)**

20 39. Plaintiffs incorporate and reallege the allegations contained above.

21 40. Chairman Freeman purportedly took various actions during the General Council  
22 Annual Meeting on April 12, 2014. On or around April 29, 2014, Chairman Freeman issued  
23 Notice of another General Council meeting for May 10, 2014.  
24  
25

1           41. Article VI of the Constitution delegates to a five-person Tribal Council the  
2 authority to take such acts as necessary to “promote the health . . . and general welfare of  
3 [Tribal] members,” to “regulate subordinate[s],” and to “effectively govern the affairs of the  
4 [Tribe].”

5           42. While Chairman Freeman does possess the constitutional authority to call special  
6 meetings of the General Council, Chairman Freeman’s actions are of no legal import unless  
7 voted on and approved by the five-person Tribal Council at a duly called and noticed meeting.  
8

9           43. Based upon the acts described above and the Tribal Council’s Article VI  
10 responsibilities, four members of the five-person Tribal Council have determined not to vote on  
11 or approve any of Chairman Freeman’s proposals until the governmental dispute can be resolved  
12 pursuant to existing Tribal law and processes.  
13

14           44. Plaintiffs seek a declaration that the acts purportedly taken by Chairman Freeman  
15 after the adjournment of the General Council Annual Meeting on April 12, 2014, were *ultra*  
16 *vires*, void *ab initio*, and as a consequence, of no legal effect. Likewise, without the five-person  
17 Tribal Council's vote on, and approval, at a duly noticed Tribal Council meeting, of any of the  
18 Chairman's proposals, any action on such proposals are *ultra vires*, void *ab initio*, and of no legal  
19 import to the extent they are taken up and presented for a vote at the meeting of the General  
20 Council of May 10, 2014, that the Chairman has purported to schedule.  
21

22                           **VI. SECOND CAUSE OF ACTION**  
23                           **(Preliminary/Permanent Injunction)**

24           45. Plaintiffs incorporate and reallege the allegations contained above.  
25

1           46.     Upon information and belief, Chairman Freeman has purported to take action on  
2 behalf of the Tribe without the necessary approval of the five-person Tribal Council at a duly  
3 called and noticed meeting, and as such, any such action is *ultra vires*, void *ab initio*, and of no  
4 legal import.

5           47.     Upon information and belief, Defendants, most notably Ambrosia Rico, Andre  
6 Alejandro, Latisha Miller, and Bruce Thomas, as well as John Does 1-100 and Jane Does 1-100,  
7 are purporting to act on behalf of the Tribe pursuant to the void *ab initio* actions of Chairman  
8 Freeman. Among other actions, these individuals have taken steps to exclude the duly elected,  
9 federally recognized leadership from the Tribe's lands and operations, in violation of both Tribal  
10 and federal law.

11           48.     Plaintiffs seek an injunction to prevent Defendants Ambrosia Rico, Andre  
12 Alejandro, Latisha Miller, and Bruce Thomas, as well as John Does 1-100 and Jane Does 1-100,  
13 from taking acts in furtherance of Chairman Freeman's *ultra vires* and void *ab initio* orders.  
14 This includes, without limitation, the armed men attempting to implement the Chairman's hostile  
15 takeover; now-terminated Rolling Hills Casino employees secretly diverting funds in violation of  
16 tribal and federal law; and the persons representing that they have somehow been "appointed" as  
17 Tribal Council members.

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19  
20                   **VII.   THIRD CAUSE OF ACTION**  
21                   **(Preliminary/Permanent Injunction)**

22           49.     Plaintiffs incorporate and reallege the allegations contained above.

23           50.     On May 2, 2014, the Tribal Council passed Resolution No. 2014-0424,  
24 terminating any employment relationship with, and excluding from all of the Tribe's fee and  
25

1 trust property Defendants Bruce Thomas, Chuck Galford, Terry Contreras, Jeff Realander, Gary  
2 Poyner, Dennis Kinney, Kate Grissom, Bob Cloud, Dan Largent, Art Felix, Lori LaGrande,  
3 Vicky Roy, Deanna Drake, Dustin Wayne, David Carter, Mary Sweet, Russell Dennis, Nobadel  
4 Davis, Paul Lay, Hal Hensley, Anthony Boerner, Nathan Platte, Sherry Freeman, and Amy  
5 Gonczeruk.

6  
7 51. Pursuant to P.T.C. § 8.6<sup>7</sup> and the Tribal Council's fundamental power to exclude  
8 unwanted persons from its sovereign lands, Plaintiffs seek to enjoin these individuals from  
9 entering the Tribe's properties, in accordance with Tribal Council Resolution No. 2014-0424.

10 **VIII. FOURTH CAUSE OF ACTION**  
11 **(Declaratory Judgment)**

12 52. Plaintiffs incorporate and reallege the allegations contained above.

13 53. Upon information and belief, Chairman Freeman has purported to appoint a new  
14 Tribal Council, to suspend or disenroll various Tribal members, and to take actions on behalf of  
15 the Tribe pursuant to resolutions and other acts approved by his own appointed Tribal Council.

16 54. Plaintiffs seek a declaration that the actions taken by Chairman Freeman and the  
17 Tribal Council he purported to appoint, in violation of Tribal law and process, namely  
18 Defendants Ambrosia Rico, Andre Alejandre, and Latisha Miller, were and remain *ultra vires*,  
19 and thus void *ab initio*, having no legal significance or effect.

20  
21 55. This includes, but is not limited to: (1) Chairman Freeman's purported removal of  
22 Vice Chairman Allen Swearingen, Treasurer Leslie Lohse, and Plaintiff-Secretary Geraldine  
23 Freeman from the Tribal Council, and (2) the Chairman Freeman's directive that members of the  
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<sup>7</sup> Although generally the Tribal Council and its agents are responsible for issuing a citation, civilly detaining, removing, excluding, and/or citing a trespasser into Tribal Court for violation of a Tribal Council Resolution, *see* P.T.C. § 8.5, P.T.C. § 8.6 specifically grants to private parties the authority to commence a citizen suit against trespassers, P.T.C. § 8.5 notwithstanding.

1 duly elected Tribal Council, as well as persons who remain members of the Tribe under Tribal  
2 law, be barred from the Tribal property, including the Rolling Hills Health Clinic and Dental  
3 Lab, the Rolling Hills Casino, and all other Tribal property. These acts were taken without  
4 lawful authority, were *ultra vires*, and thus, void *ab initio* without legal significance or effect.

5  
6 **IX. RELIEF REQUESTED**

7 56. Injunctive relief, including a temporary restraining order, preliminary injunction,  
8 and permanent injunction;

9 57. Declaratory judgment;

10 58. Attorney's fees and costs; and

11 59. Such other relief as the Tribal Court may deem just and equitable.

12 DATED this 7th day of May, 2014.

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14   
15 \_\_\_\_\_  
16 Gabriel S. Galanda  
17 Scott Wheat  
18 Anthony S. Broadman  
19 Ryan D. Dreveskracht  
20 Attorneys for Plaintiffs<sup>8</sup>  
21 GALANDA BROADMAN, PLLC  
22 Email: ryan@galandabroadman.com  
23 Email: anthony@galandabroadman.com  
24 Email: gabe@galandabroadman.com  
25 Email: scott@galandabroadman.com

<sup>8</sup> Paskenta Tribal Bar admission pending; a signed Spokesperson's Oath accompanies this amended complaint.