



IN THE PASKENTA BAND OF NOMLAKI INDIANS
TRIBAL COURT

GERALDINE FREEMAN and INES CROSBY,

Plaintiffs,

v.

ANDREW FREEMAN, et al.,

Defendants.

NO. PTCV-14-001

SECOND DECLARATION OF
GERALDINE FREEMAN

I, Geraldine Freeman, say:

1. I am member of the Paskenta Band of Nomlaki Indians, a federally recognized Indian tribe ("Tribe").

2. I am the Tribe's elected Tribal Council Secretary, and a member of the Board of Directors for the Rolling Hills Health Clinic and Dental Lab.

3. I am over eighteen years of age, I am competent to testify, and I have personal knowledge of the facts set forth herein.

4. With respect, I offer this Declaration without waiving my sovereign immunity protection as a Tribal member and without consenting myself or the Tribe or any Tribal entity to the jurisdiction of the Court. Neither I, nor the Tribe, nor any Tribal entity consents to

SECOND DECLARATION OF GERALDINE FREEMAN - 1

Galanda Broadman, PLLC
8606 35th Ave. NE, Suite L1
Mail: PO Box 15146
Seattle, Washington 98115
(206) 557-7509

1 discovery, suit, examination, or any other court or administrative process. I offer this declaration
2 for the benefit of the Court only.

3 5. Tribal Councilpersons David Swearinger, Leslie Lohse, Allen Swearinger and I
4 continue to be excluded from the Rolling Hills Casino and other Tribal properties, as we have
5 been for the last six weeks. In addition, Tribal Police Chief and retired Tehama County Sheriff
6 Clay Parker has been excluded from the Casino.
7

8 6. Attached as **Exhibit A**, is a true and correct copy of a photograph taken on May
9 10, 2014, at Carlino's Event Center at Rolling Hills Casino.

10 7. Attached as **Exhibit B**, is a true and correct copy of the "minutes" promulgated
11 by Defendants in the above-captioned action in furtherance of their attempt to create legitimacy
12 of their purported "General Council Meeting" where Defendants gathered on May 10, 2014, at
13 Carlino's Event Center at Rolling Hills Casino in violation of an Order of this Court.
14

15 8. Attached as **Exhibit C**, is a true and correct copy of email correspondence, with
16 attachments, from Leigh Wink, paralegal at Rosette Law, LLP, on May 20, 2014.

17 9. Attached as **Exhibit D**, is a true and correct copy of correspondence sent to the
18 FAA Aircraft Registration Branch by Plaintiffs on May 14, 2014, regarding Defendant Chuck
19 Galford and his attempt to transfer title of a jet owned by Paskenta Enterprises Corp. into an
20 entity known only as "N611MP, LLC."
21


22 10. Attached as **Exhibits E**, is a true and correct copy of correspondence sent on May
23 14, 2014, to Dennis Joyce by Defendants' attorney, Rob Rosette.

24 11. Attached as **Exhibit F**, is a true and correct copy of Tribal Council Resolution
25 No. 2004-0435.

12. Attached as **Exhibit G**, is a true and correct copy of the Notice of Rolling Hills Casino Closure, of May 16, 2014.

13. Attached as **Exhibit H**, is a true and correct copy of the Paskenta Band of Nomlaki Indians Tribal Gaming Commission's facility license revocation letter dated May 15, 2014.

DATED this 27th day of May, 2014.


Geraldine Freeman, Secretary



**MINUTES OF THE GENERAL COUNCIL MEETING
OF THE PASKENTA BAND OF NOMLAKI INDIANS
April 12, 2014**

The regularly scheduled General Council meeting of the Paskenta Band of Nomlaki Indians was held at Rolling Hills Casino on Saturday, April 12, 2014.

The sign-in roll call indicated that 103 Members were in attendance. The Secretary noted that a quorum was present, and the General Meeting could proceed.

The Chairman stated that it had come to his attention that the members of the Henthorne/Pata family did not meet the requirements for membership in the Tribe at the time of the Tribe's restoration as a federally recognized Indian tribe.

At that point, Tribal Council members David Swearinger, Geraldine Freeman and Leslie Lohse left the meeting. The Chairman warned that, under the Tribal Constitution, those Tribal Council members leaving the meeting were abandoning their positions. Members of the Henthorne/Pata family also left the meeting. After David Swearinger, Geraldine Freeman and Leslie Lohse had left the meeting, the Chairman stated that the persons who had left the meeting had abandoned their positions on the Tribal Council and should be removed immediately, thereby creating three vacancies. The General Council approved this resolution by acclamation.

Ambrosia Rico was nominated to fill one of the vacated Tribal Council positions and appointed to the office of Tribal Council Treasurer. The General Council approved of this action by acclamation, as did Tribal Council members Andrew Freeman and Allen Swearinger. The Chairman then administered the oath of office to Ms. Rico.

Once the new Tribal Council members were seated, the Chairman stated that the next order of business was to consider whether the Henthorne/Pata family members had met the membership criteria under Article II of the Tribe's Constitution for the original enrollment in the Tribe. Dr. Dorothy Theodoratus the expert who had conducted the original anthropologic and genealogy investigations and documentation for the Tribe's restoration made a presentation. Dr. Theodoratus stated that she had repeatedly told Inez Crosby at that time that she and her relatives did not meet the criteria for Tribal membership and could not be legally enrolled in the Tribe. She said that she also asked an expert at the Bureau of Indian Affairs to review this issue, and the BIA reported that the Henthorne/Pata family did not meet the criteria for enrollment. Dr. Theodoratus stated that she did "not know how this family got into the Tribe."

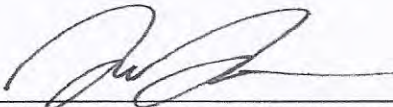
Andrew Alejandre was then nominated to one of the vacated Tribal Council positions and appointed to the office of Tribal Council Secretary. The General Council approved this appointment by acclamation, as did Tribal Council members Andrew Freeman, Allen Swearinger and Ambrosia Rico. The Chairman administered the oath of office to Mr. Alejandre.

Latisha Miller was then nominated to the last of the vacated Tribal Council positions and appointed to the position of Vice-Chairman. The General Council approved this appointment by acclamation, as did Tribal Council members Andrew Freeman, Allen Swearinger, Ambrosia Rico and Andrew Alejandre. The Chairman administered the oath of office to Ms. Miller.

The General Council Members then held an extensive discussion of whether the members of the Henthorne/Pata family were properly enrolled as Members. After a thorough discussion and questions and comments, and upon motion duly made, seconded and approved by a vote of 60-1, the General Council passed the following resolution:

RESOLVED, all persons enrolled as Members in the Tribe by virtue of their membership in or descent from the Henthorne/Pata family shall be permanently removed from Membership in the Tribe.

There being no further business, and upon motion duly made, seconded and approved by unanimous acclamation vote, the Annual Meeting of the General Council was adjourned.



Andrew Alejandre, Tribal Secretary

Date: April 12, 2014

**MINUTES OF A SPECIAL MEETING
OF THE PASKENTA BAND OF NOMLAKI INDIANS
TRIBAL COUNCIL**

April 16, 2014

A special meeting of the Paskenta Band of Nomlaki Indians Tribal Council called by the Tribal Chairman Andrew Freeman was held in Corning, California on April 16, 2014 beginning at 9:30 am.

The following Tribal Council members attended the meeting: Andrew Freeman, Ambrosia Rico, Andrew Alejandro and Latisha Miller.

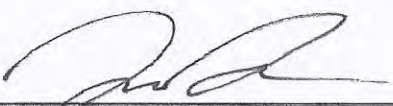
The Chairman commenced the meeting by noting that a quorum of the Tribal Council was present and that the Tribal Council could proceed to conduct the business of the meeting.

The Chairman stated that the purpose of this meeting was to review the minutes of the General Council meeting held on April 12, 2014. The Chairman distributed copies of the minutes to the Tribal Council members.

After everyone had read the minutes, after discussion by the Tribal Council, and upon motion duly made, seconded and unanimously approved, the Tribal Council passed the following resolution:

RESOLVED, that the minutes of the April 12 General Council meeting attached hereto as Attachment A are hereby approved and certified as true, accurate and complete.

There being no further business, and upon motion made, duly seconded and unanimously approved, the Special Meeting of the Tribal Council adjourned.



Andrew Alejandro, Secretary

4/16/14

Date



From: **Leigh Wink** <LWink@rosettela.com>
Date: Tue, May 20, 2014 at 11:43 AM
Subject: Paskenta Band of Nomlaki Indians et al. v. David Swearingen, et al.
To: "gabe@galandabroadman.com" <gabe@galandabroadman.com>
Cc: Richard Verri <RVerri@rosettela.com>, David Osterfeld <DOsterfeld@rosettela.com>, Saba Bazzazieh <sbazzazieh@rosettela.com>

Good morning, Mr. Galanda:

As you may be aware, on May 16, 2014, a lawsuit was initiated against your clients in Tribal Court for the Paskenta Band of Nomlaki Indians. Attached are courtesy copies of the initial filings seeking declaratory and injunctive relief.

Should you have any questions, please do not hesitate to contact attorney David Osterfeld at [480-889-8990](tel:480-889-8990). Thank you very much.



Leigh Wink, Paralegal

Rosette, LLP – Attorneys at Law

G Freeman Declaration Exhibit C

565 W. Chandler Blvd., Suite 212

Chandler, AZ 85225

[\(480\) 889-8990](tel:(480)889-8990) – Office

[\(480\) 889-8997](tel:(480)889-8997) – Facsimile

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7 attachments



2014 05 16 CONFORMED Order Granting TRO.pdf
528K



2014 05 16 CONFORMED Complaint.pdf
1309K



2014 05 16 CONFORMED Summons.pdf
152K



2014 05 16 CONFORMED Ex Parte Emergency App for TRO.pdf
433K



2014 05 16 CONFORMED Dec of Andrew Freeman in Support of Ex Parte App.pdf
826K



2014 05 16 CONFORMED MPA in Support of Ex Parte App.pdf
1330K



2014 05 16 CONFORMED Aff of RAR in Support of TRO.pdf
297K

FILED
Within the
Paskenta Band of Nomlaki Tribal Court
Date: May 16, 2014
By: R. Jones
Clerk of the Court

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David M. Osterfeld (AZ No. 019238)
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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.: CV2014-0001
SUMMONS

1 TO THE DEFENDANTS: Leslie Lohse, David Swearinger, Geraldine Freeman, Allen
2 Swearinger, John Does 1-100 and XYZ Entities 1-100,

3 A lawsuit has been commenced against you in the above-titled Court by the PASKENTA
4 BAND OF NOMLAKI INDIANS, ANDREW FREEMAN, AMBROSIA RICO, ANDREW
5 ALEJANDRE and NATASHA MARANGA ("Plaintiffs"). Plaintiffs' claim is stated in the
6 written complaint, a copy of which is served upon you with this summons.

7 In order to defend against this lawsuit, you must respond to the complaint by stating your
8 defense in writing, filing with the court and serving a copy upon the person signing this summons
9 within 30 days after service of this summons, excluding the day of service, or a default judgment
10 may be entered against you without notice. A default judgment is one where a plaintiff is entitled
11 to the relief sought against you because you have not responded. If you serve a notice of
12 appearance on the undersigned person, you are entitled to notice before a default judgment may
13 be entered.

14 If you wish to seek the advice of an attorney in this matter, you should do so promptly so
15 that your written response, if any, may be served on time.

16 This Summons is issued pursuant to Section 22 of the Tribal Court Ordinance.

17 DATED this 16th day of May, 2014.

Rosemary Torres, Clerk
Court Clerk

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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. 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.

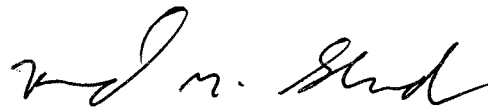
5 Said Defendants are also **RESTRAINED** from interfering in any and all Paskenta Tribal
6 governmental or business affairs, including, but not limited to, purporting to hold themselves out, or
7 purporting to take action as agents of the Tribe or its subordinate entities.

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*

12 IT IS FURTHER ORDERED that, within three (3) *U.S. by Plaintiffs' counsel* 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.

22
23
24 

25 Honorable Howard Shanker
26 Chief Tribal Court Judge
27
28

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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.: CV 2014-0001

MEMORANDUM OF POINTS AND
AUTHORITIES IN SUPPORT OF
PLAINTIFFS' EX PARTE
EMERGENCY APPLICATION AND
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION

Date:
Time:
Dept:

MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF PLAINTIFFS' EX PARTE EMERGENCY
APPLICATION AND MOTION FOR TEMPORARY RESTRAINING ORDER AND ORDER TO SHOW CAUSE RE
PRELIMINARY INJUNCTION

1 Pursuant to Federal Rule of Civil Procedure 65, the Paskenta Band of Nomlaki Indians, a
2 federally recognized Indian Tribe (the "Tribe"), Tribal Council Chairman Andrew Freeman, Tribal
3 Treasurer Ambrosia Rico, Tribal Vice Chairperson Latisha Miller, Tribal Secretary Andrew Alejandre,
4 and Tribal Council Member-at-Large Natasha Magana (collectively "Plaintiffs"), hereby move this
5 Court to issue, Ex Parte, a Temporary Restraining Order restraining and enjoining Leslie Lohse, David
6 Swearinger, Geraldine Freeman and Allen Swearinger (collectively "Defendants"), individually or
7 collectively, from acting on behalf of the Tribe as the Tribal Council, from exercising control over any
8 tribal assets, from using a shadow tribal court to issue any orders against Plaintiffs, and from otherwise
9 interfering with Tribal governance.

10 In support of this Ex Parte Application and Motion, Plaintiffs rely upon the attached
11 Memorandum of Points and Authorities, the Declaration of Chairman Andrew Freeman filed
12 concurrently herewith, and all other pleadings and papers on file herein. If Defendants are not restrained
13 immediately, it is believed that they will, in violation of the Tribe's laws, continue to act on behalf of the
14 Tribe, permanently dispose of tribal assets, disrupt the tribal government, and cause great and
15 irreparable harm to the Tribe and its membership. A proposed order is attached for this Court's
16 convenience.

17 Dated: May 16, 2014

RESPECTFULLY SUBMITTED,

ROSETTE, LLP

/s/ Robert A. Rosette

Robert A. Rosette

565 West Chandler Blvd., Suite 212

Chandler, Arizona 85225

(480) 889-8990

(480) 889-8997

Attorneys for Plaintiffs

1 **I. INTRODUCTION**

2 On April 12, 2014, the General Council of the Tribe held a duly called and noticed meeting at the
3 Rolling Hills Casino. Three members of the Tribal Council walked out of the meeting and, as a result,
4 were deemed to have abandoned their positions and their seats were filled. At a subsequent General
5 Council meeting held on May 10, a fourth Tribal Council member refused to attend, and he was
6 removed and replaced as well. Despite their lawful removal from the Tribal Council, these four former
7 Tribal Council members, now Defendants in this action, have continued to act as if they represent the
8 Tribe. To prevent great and irreparable harm to the Tribe and its membership, Plaintiffs request this
9 Court's entry of a temporary restraining order directing Defendants to stop their illegal conduct.

10 **II. STATEMENT OF FACTS**

11 On April 12, 2014, the General Council of Tribe, which is comprised of all tribal members
12 eighteen years of age or older, held a duly called and noticed meeting at the Rolling Hills Casino. *See*
13 Decl. of A. Freeman, ¶¶ 4, 6; Constitution of the Paskenta Band of Nomlaki Indians, Art. III, § 2. There
14 were 103 enrolled members in attendance out of a total of 216, thus constituting a quorum. *See* Freeman
15 Decl., ¶¶ 4, 6; Art. VII, § 2(c) ("A quorum of the General Council shall consist of thirty per cent (30%)
16 of its members . . ."). After then-Secretary Geraldine Freeman established that a quorum was present,
17 Chairman Andrew Freeman proceeded to lead the meeting. Freeman Decl., ¶ 7.

18 The Chairman explained that it had come to his attention that members of the Pata family did not
19 meet the constitutional requirements for Tribal membership. *Id.* Upon hearing that the General Council
20 would consider this matter, Leslie Lohse (then-Treasurer) immediately instructed David Swearinger
21 (then-Vice Chairperson) and Geraldine Freeman (then-Secretary) to end the meeting. *Id.* Leslie Lohse
22 is a member of the Pata family and presumably did not want the membership issue to be addressed. *See*
23 *id.* Out of order, David Swearinger made a motion to adjourn and Geraldine Freeman seconded the
24 motion. *Id.* The General Council did not vote on the motion and the Chairman informed the three
25 former Tribal Council members that they had no authority to end the General Council meeting and
26 warned that if they left the meeting they would be deemed to have abandoned their positions on the
27 ...

1 Tribal Council, thus requiring their immediate removal from the Tribal Council and their replacement
2 pursuant to the Constitution. *Id.* at ¶ 8.

3 Notwithstanding the Chairman's warning, Leslie Lohse, David Swearinger, and Geraldine
4 Freeman walked out of the meeting. *Id.* at ¶ 9. The General Council voted by acclamation to remove
5 Leslie Lohse, David Swearinger, and Geraldine Freeman from office for having abandoned their Tribal
6 council positions. *Id.* To fill their seats, the Tribal Council appointed Ambrosia Rico as Treasurer,
7 Latisha Miller as Vice Chairperson, and Andrew Alejandro as Secretary. *Id.* at ¶ 11. Allen Swearinger,
8 the Member-at-Large, remained at the meeting but abstained from voting on all three appointments; as a
9 result, Chairman Freeman voted alone. *Id.* at ¶ 11. David Swearinger's and Geraldine Freeman's terms
10 of office were set to expire in September 2014, while Leslie Lohse's was set to expire in September
11 2016. *Id.* at ¶ 10. Normally, an office with a term of more than twelve months remaining is filled by a
12 special election, but the General Council deemed an immediate appointment to be necessary until the
13 special election could be held. *Id.* at ¶ 11. Accordingly, Ambrosia Rico was appointed on a provisional
14 basis. *Id.* The Chairman then swore all three appointees into office. *Id.*

15 These above-stated facts have been grossly mischaracterized by Leslie Lohse, who has proved to
16 have considerable political connections in the White House, the Bureau of Indian Affairs ("BIA"), the
17 National Indian Gaming Commission ("NIGC"), the National Congress of American Indians ("NCAI"),
18 as well as in the United States Congress. *Id.* at ¶¶ 12–13. In fact, she is directly related to Jackie
19 Johnson-Pata, the Executive Director of NCAI. *Id.* at ¶ 12. She has used these political connections to
20 obtain letters from the BIA and NIGC expressing concerns about the General Council actions of April
21 12, 2014. *Id.* at ¶ 13.

22 Through a series of subsequent meetings with the BIA and NIGC, Chairman Freeman learned
23 that those agencies were questioning whether the actions taken on April 12 were truly the will of the
24 Tribe or whether it was the Chairman acting alone. *Id.* at ¶ 14. Based upon the concerns of the BIA and
25 NIGC, and with the full confidence of the Tribal Council and the General Council, on April 28, 2014,
26 the Chairman and the Tribal Council distributed to the membership a "Notice of a Special Meeting of

1 the General Council to be Held on May 10, 2014 to Start Initiative Process and Conduct Other
2 Business.” *Id.* at ¶ 15 & Ex. A attached thereto. The Notice of the May 10, 2014 Meeting explains that
3 a special meeting of the General Council was being called so that the General Council could affirm its
4 position on the issues that were the subject of the April 12, 2014 meeting. *Id.* at ¶ 16 & Ex. A. This
5 included the removal of Leslie Lohse, David Swearingner, and Geraldine Freeman and the appointment
6 of replacement Tribal Council members. *Id.* at ¶ 16.

7 Though the General Council’s and Chairman Freeman’s actions taken April 12 were completely
8 consistent with tribal law, the Tribal Council believed that it would be beneficial for the General Council
9 to reaffirm those actions at a special General Council meeting in order to assure the BIA, NIGC, and any
10 other outside parties that Leslie Lohse, David Swearingner, and Geraldine Freeman no longer served on
11 the Tribal Council. *See id.* at ¶ 16. Essentially, the General Council meeting was planned so that the
12 General Council can assure outside parties that its actions constitute to true will of the Tribe, not the
13 unilateral actions of Chairman Freeman. *See id.*

14 A reaffirmation of the April 12 actions was deemed to be in the best interests of the tribal
15 membership, as since April 12, Leslie Lohse, David Swearingner, and Geraldine Freeman have refused to
16 accept that they no longer represent the Tribe. Indeed, Leslie Lohse has organized the group as a rogue
17 tribal council; this illegal faction has made, and continues to make, representations to the general
18 membership and to outside parties that it is in fact the governing body of the Tribe. *Id.* at ¶ 30.
19 Additionally, though he was not formally removed from office on April 12, almost immediately after the
20 April 12 meeting Allen Swearingner began working together with Leslie Lohse, David Swearingner, and
21 Geraldine Freeman as part of their illegal faction. *Id.* at ¶ 19. On May 6, 2014, Plaintiff sent letters to
22 the illegal faction ordering that they cease and desist holding themselves out as having any authority to
23 act on the Tribe’s behalf or otherwise making representations that they are the lawful governing body of
24 the Tribe. *Id.* at ¶¶ 18–19 and Ex. B attached thereto.

25 The orders to cease and desist have been utterly disregarded. Despite their complete lack of
26 authority, Defendants continue to act as if they are Tribal Council members and in fact are exercising

1 control over a variety of tribal assets, including bank accounts, a private jet and/or fractional interests in
2 aviation services, cars, and silver and gold bullion. *Id.* at ¶ 29. Further, on May 8, 2014, the illegal
3 faction filed suit in its own illegal shadow “tribal court” seeking a temporary restraining order against
4 Chairman Freeman, Ambrosia Rico, Andrew Alejandre, Latisha Miller, and a number of other
5 individuals. *Id.* at ¶ 20 & Ex. C attached thereto. As relief, the illegal faction sought (1) a declaration
6 that Andrew Freeman was no longer the Chairman due to a “Tribal Council Resolution” passed by the
7 illegal faction the day before they filed the lawsuit; (2) an injunction preventing Chairman Freeman,
8 Ambrosia Rico, Andrew Alejandre, and Latisha Miller from “interfering in Paskenta Tribal
9 governmental or business affairs”; (3) an injunction preventing twenty-four other individuals from
10 entering tribal lands or “interfering in any and all Paskenta Tribal governmental or business affairs”; and
11 (4) an injunction preventing the Chairman Freeman, Ambrosia Rico, Andrew Alejandre, Latisha Miller,
12 and all other named defendants from “gathering at Carlino’s Event Center at Rolling Hills Casino on
13 May 10, 2014.” *See id.* at ¶ 21 & Ex. C.

14 Although Defendants’ Motion for a Temporary Restraining Order was granted, because their
15 shadow tribal court has no legal authority, Plaintiffs attended the May 10, 2014 General Council
16 meeting at Rolling Hills Casino. *Id.* at ¶ 24. There were 115 General Council members in attendance,
17 thus constituting a quorum. *Id.* at ¶ 23. Allen Swearinger, however, was not in attendance. *Id.* at ¶ 24.
18 As stated above, non-attendance of a General Council meeting is grounds for immediate removal under
19 Article VIII, Section 6 Attendance at General Council Meetings, of the Constitution. On this basis, the
20 General Council voted overwhelmingly—108 in favor, 5 against—to remove Allen Swearinger from
21 office. *Id.* at ¶ 25. The Tribal Council used its appointment power under Article V, § 1 to appoint
22 Natasha Magana as a Member-at-Large to serve the remainder of Allen’s term, which was scheduled to
23 expire in September 2014. *Id.*

24 Next, the General Council proceeded to vote on four initiatives. *Id.* at ¶ 26. The first of those—
25 and the only one relevant to the relief sought in this lawsuit—was Initiative #2014-01, reaffirming the
26 General Council’s actions from April 12, 2014 and recognizing the lawful composition of the Tribal

1 Council. The Initiative expressly recognized that Leslie Lohse, David Swearinger, and Geraldine
2 Freeman were removed from office on April 12 for their intentional non-attendance at the General
3 Council meeting, and that the Tribal Council lawfully appointed Ambrosia Rico, Latisha Miller, and
4 Geraldine Freeman to replace them (with Ambrosia's appointment on an interim basis). *See id.*, Ex. D
5 attached thereto. Further, the Initiative expressly recognized that Allen Swearinger had been likewise
6 removed from office for his failure to attend the General Council meeting that day and recognized that
7 the Tribal Council had lawfully appointed Natasha Magana to take his place. *Id.* The General Council
8 overwhelmingly approved Initiative #2014-01 with 104 voting in favor, 5 against, and 6 abstaining. *Id.*

9 On May 12, 2014, pursuant to Article IX, the Tribal Council ratified the initiatives that the
10 General Council passed on May 10. *Id.* at ¶ 28. Initiative #2014-01 was ratified by a unanimous vote.
11 *Id.*

12 **III. ARGUMENT**

13 **A. Standard For Emergency Temporary Restraining Order**

14 Absent a specific provision to the contrary, the Paskenta Tribal Court follows the Federal Rules
15 of Civil Procedure. Tribal Court Ordinance § 22. The Tribal Court Ordinance clearly gives this Court
16 the authority to issue a temporary restraining order, *see* § 5.1 (giving the Court the power to issue all
17 "relief in equity"); however, there is no specific provision governing the standard applicable for issuing
18 a temporary restraining order. Thus, this Court should refer to Federal Rule 65(b)(1)(A), which permits
19 a federal court to issue a temporary restraining order "only if ... specific facts in an affidavit or a
20 verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the
21 movant before the adverse party can be heard in opposition." Accordingly, the Court may only grant a
22 temporary restraining order "upon a clear showing that the plaintiff is entitled to such relief." *Winter v.*
23 *Natural Res. Def. Council, Inc.*, 555 U.S. 7, 23 (2008). To prevail, the moving party must show: (1) a
24 likelihood of success on the merits; (2) a likelihood that the moving party will suffer irreparable harm
25 absent preliminary injunctive relief; (3) that the balance of equities tips in the moving party's favor; and
26 (4) that preliminary injunctive relief is in the public interest. *Id.* at 20. In considering the four factors,

1 the Court “must balance the competing claims of injury and must consider the effect on each party of the
2 granting or withholding of the requested relief.” *Id.* at 23.

3 **B. Plaintiffs Are Likely To Succeed On The Merits.**

4 Plaintiffs submit that there is a strong likelihood that they will succeed on the merits of their
5 claim. The merits of their claim is that Leslie Lohse, David Swearinger, Geraldine Freeman, and Allen
6 Swearinger are no longer members of the Tribal Council, and thus have no authority to conduct business
7 or otherwise act on the Tribe’s behalf. This claim is fully supported by the actions taken on April 12
8 and May 10, 2014 and the governing tribal law.

9 The Tribe’s supreme law is its Constitution. Article VIII of the Constitution prescribes a number
10 of duties to the Tribal Council members, including the duty to attend all meetings of the General
11 Council. Specifically, Section 6, Attendance at General Council Meetings, provides:

12 All members of the Tribal Council **shall attend all General Council meetings . . .**
13 **Failure of any Council member to attend a General Council meeting**, except for
14 illness, the death of a member of the Tribal Council member’s immediate family (i.e.,
15 spouse, grandparents, parents, uncles, aunts, siblings, first cousins, children or
16 grandchildren), the serious illness of a Council member’s immediate family or recognized
17 and official Tribal business **shall be grounds for immediate removal. The removal of**
18 **a Council member under this section shall be decided by a majority vote of the**
19 **members of the General Council** in attendance, provided that the quorum requirements
20 of Article VII(2)(c) are met.

21 This case presents a clear instance of dereliction of constitutional duties under Article VIII. On
22 April 12, 2014, after a quorum of the General Council was established, Leslie Lohse, David Swearinger,
23 and Geraldine Freeman purposefully left. They were warned that by leaving the meeting, they would be
24 violating their constitutional duties, would be deemed to have abandoned their Tribal Council positions,
25 and would thus be subject to immediate removal. Despite full awareness of the consequences, they
26 walked out. The General Council is given the authority in Article VIII to “immediately remov[e]”
27 Tribal Council members that fail to attend a General Council meeting; therefore, with a quorum
28 established, the General Council acted entirely within its constitutional authority in immediately
removing Leslie Lohse, David Swearinger, and Geraldine Freeman from office. Similarly, Allen

1 Swearinger failed to attend the May 10, 2014 General Council meeting and therefore the General
2 Council was fully empowered to immediately remove him from office.

3 Having been lawfully removed from tribal office pursuant to Article VIII and replaced through
4 Tribal Council appointments under Article V, Defendants have no legitimate basis to claim that they
5 have authority to represent the Tribe, to exercise control over tribal assets, or to establish a tribal court
6 and use that court to issue orders and injunctions against the lawful Tribal Council. In sum, Plaintiffs
7 have clearly demonstrated a likelihood of success on the merits of their claim.

8 **C. Plaintiffs Will Suffer Irreparable Harm Absent Preliminary Injunctive Relief.**

9 If this Court does not issue injunctive relief, Defendants will continue to make
10 misrepresentations that they can act on behalf of the tribe, including by controlling tribal assets and by
11 establishing shadow tribal courts. Assets currently being held by Defendants are at a great risk of being
12 permanently disposed or destroyed; e.g., once bank accounts held by Defendants are depleted, it will
13 likely be impossible to trace and recover the funds. This, of course, would be irreparable.

14 Plaintiffs have no equally plain, speedy or adequate remedy to prevent the irreparable harm
15 caused by the unlawful control of tribal assets and the misrepresentations of Defendants that they are the
16 Tribal Council. This Court is the only forum equipped to interpret Tribal law and to grant emergency
17 injunctive relief to prevent a violation of that law.

18 **D. The Balance of Equities Tips In Plaintiffs' Favor.**

19 As shown above, Defendants have no right to take any action on behalf of the Tribe. In
20 determining whether to grant a temporary restraining order and a preliminary injunction, this Court must
21 determine whether the balance of hardships in issuing such an order would tip in favor of the party
22 seeking the restraint, here the Plaintiffs, or tip otherwise in favor of Defendants. *See Winter*, 555 U.S. at
23 23. In this case, there is ample evidence that the balance undeniably tips in Plaintiffs' favor.

24 As a result of the actions taken by the General Council on April 12 and May 10, 2014,
25 Defendants have no right to exercise any authority reserved for Tribal Council members of the Tribe.
26 Without this Court's grant of an ex parte temporary restraining order, Plaintiffs are left to simply watch

1 as unauthorized individuals unlawfully act on behalf of the Tribe, control tribal assets, establish shadow
2 tribal courts, and otherwise disrupt the Tribe's government to the detriment of all tribal members.

3 **E. Preliminary Injunctive Relief Is In The Public Interest.**

4 The final *Winter* factor that this Court must examine is whether a temporary restraining order
5 would serve the public interest. *See Winter*, 555 U.S. at 24. In this case, such relief would clearly serve
6 the public interest of the Tribe's members. This is true because a majority of the General Council—i.e.,
7 the membership—at the April 12 and May 10 General Council meetings, has already declared that
8 Defendants have no authority to act on behalf of the Tribe in any capacity.

9 Moreover, ultimately, Defendants' illegal control of tribal assets, their shadow government,
10 shadow court, and their rogue actions destroys the Tribe's credibility and public image. This will
11 severely damage the Tribe's financial position and therefore its ability to provide important social
12 services to tribal members not to mention interfere with and likely irreparably damage its ability to meet
13 its contractual obligations to third-parties, employees, and others. Allowing Defendants to continue to
14 exercise control over those assets and to otherwise continue to act as if they represent the Tribe would
15 not serve the public interest at all and would instead cause the Tribe, its members, and its business
16 partners to suffer irreparable harm.

17 **F. Plaintiffs Are Exempt From Having to Post A Bond.**

18 Absent a specific tribal rule to the contrary, this Court applies the Federal Rules of Civil
19 Procedure for civil actions under its consideration. According to Rule 65(c), the representative
20 government, the United States, is exempt from having to post a bond when seeking a temporary
21 restraining order. There is no contrary tribal rule, so coordinately, because Plaintiffs are the lawful
22 Tribal Council, and they appear in their official capacities, they are exempt from having to post bond
23 when seeking a temporary restraining order in this Court.

24 ...

25 ...

26 ...

1 **IV. CONCLUSION**

2 For all of the foregoing reasons, Plaintiffs pray that this Court will issue a temporary
3 restraining order granting the relief that Plaintiffs have requested in this Motion.

4
5 Respectfully submitted,

6
7 ROSETTE, LLP

8
9 Dated: May 16, 2014

By: /s/ Robert A. Rosette
Robert A. Rosette
Attorney for Plaintiffs

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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.: CV2014-0001

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
28

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

28

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.

17
18 Respectfully submitted,
19 ROSETTE, LLP
20

21 Dated: May 16, 2014

By: /s/ Robert A. Rosette

22 Robert A. Rosette
23 Attorney for Plaintiffs
24
25
26
27
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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.: CV 2014-0001

DECLARATION OF ANDREW FREEMAN IN SUPPORT OF EX PARTE APPLICATION FOR EMERGENCY INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT

DECLARATION OF ANDREW FREEMAN IN SUPPORT OF EX PARTE APPLICATION FOR EMERGENCY INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT

1 I, Andrew Freeman, declare the following under penalty of perjury:

2 1. I am over eighteen years of age, I am competent to testify, and I have personal
3 knowledge of the facts set forth herein.

4 2. I am a member of the Paskenta Band of Nomlaki Indians, a federally recognized
5 Indian tribe ("Tribe").

6 3. I currently serve as the Chairperson of the Tribal Council and have served in the
7 role of Chairperson or Vice-Chairperson for the past eight years.

8 4. The Tribe ratified its Constitution on April 18, 1998 and operates its government
9 pursuant to its Constitution, ordinances, regulations, policies, customs, traditions and bylaws. It
10 has a five-member Tribal Council with broad governing authority as is necessary to carry out its
11 powers. Prior to April 12, 2014, the Tribe had approximately 216 enrolled adult members.

12 5. The Tribe's Constitution gives concurrent authority to the Tribal Council and the
13 General Council to enact legislation on behalf of the Tribe. *See* Constitution of the Paskenta
14 Band of Indians, Art. IX (initiatives). The General Council of the Tribe is comprised of all
15 members of the Tribe that are eighteen years of age or older. Art. III, § 2. Legislation enacted
16 through the General Council initiative process has the force of law pursuant to the Tribe's
17 Constitution, custom, and practice.

18 **The April 12, 2014 General Council Meeting**

19 6. On April 12, 2014, the General Council met at a duly called, noticed, and
20 convened annual meeting at the Rolling Hills Casino on the Tribe's Rancheria. One hundred and
21 three tribal members were present, thus constituting a quorum. *See* Art. VII, § 2(c).

22 7. After the quorum of the General Council was announced by then-Secretary of the
23 Tribe Geraldine Freeman, I explained that it had come to my attention that the Pata family did not
24 meet the constitutional requirements for membership in the Tribe. Upon hearing this, then-
25 Treasurer Leslie Lohse, a member of the Pata family, immediately instructed then-Vice
26 Chairperson David Swearinger to end the meeting—a procedure that is not allowed by the Tribe's
27 laws, custom, or tradition. David Swearinger made the motion to adjourn and then-Secretary

1 Geraldine Freeman seconded that motion even though they were out of order and the motion was
2 therefore not recognized by the Chairman.

3 8. The General Council did not vote on David Swearinger's motion to adjourn and I
4 informed David Swearinger, Leslie Lohse, and Geraldine Freeman that they had no authority to
5 end the General Council meeting and further advised that if they left the meeting, they would be
6 deemed to have abandoned their positions on the Tribal Council, thus subjecting themselves to
7 immediate removal from the Tribal Council and replacement pursuant to Article VIII, § 6 of the
8 Constitution.

9 9. Notwithstanding my warning, Leslie Lohse, David Swearinger, and Geraldine
10 Freeman purposefully walked out of the General Council meeting. Shortly thereafter, the General
11 Council voted by acclamation to immediately remove Leslie Lohse, David Swearinger, and
12 Geraldine Freeman from office.

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

16 11. Exercising my powers as a Tribal Council member under Article V, I then voted to
17 appoint Latisha Miller as Vice-Chairperson to replace David Swearinger, Andrew Alejandre as
18 Secretary to replace Geraldine Freeman, and—on a provisional basis—appointed Ambrosia Rico
19 to replace Leslie Lohse until a special election could be held. Normally a vacant position is filled
20 by special election when there is greater than twelve months remaining in the term, but the
21 General Council deemed it necessary to appoint an Interim Treasurer. Allen Swearinger, the
22 then-Member-at-Large, abstained. Thus, my vote constituted a majority vote of the Tribal
23 Council sufficient to make these appointments under Article V. I then swore all appointees into
24 office.

25 **Events Subsequent to the April 12 Meeting**

26 12. Leslie Lohse has extensive political contacts in the White House administration,
27 the Bureau of Indian Affairs ("BIA"), the National Indian Gaming Commission ("NIGC"), and

1 the United States Congress, and is a relative of Jackie Johnson-Pata, the Executive Director of the
2 National Congress of American Indians ("NCAI").

3 13. Leslie Lohse has grossly mischaracterized the events of April 12, 2014, and has
4 used her political influence to obtain letters from the BIA and NIGC expressing concerns about
5 the General Council's actions of April 12, 2014.

6 14. Through a series of meetings with the BIA and NIGC, I learned that the BIA and
7 NIGC were questioning whether the Tribe really intended to take such actions on April 12, 2014,
8 or whether I acted alone to remove Leslie Lohse, David Swearinger, and Geraldine Freeman.

9 15. Based on the concerns of the BIA and NIGC, on April 28, 2014, I exercised my
10 powers as Chairman of the Tribe pursuant to the Constitution, Article VII, § 2 (b) and distributed
11 to the membership of the Tribe a "Notice of a Special Meeting of the General Council to be Held
12 on May 10, 2014 to Start Initiative Process and Conduct Other Business." Attached as **Exhibit A**
13 is a true and correct copy of the Notice of the Special Meeting of the General Council sent to one
14 of the tribal members.

15 16. The Notice of the May 10, 2014 Meeting explains that a special meeting of the
16 General Council is being called so that the General Council can vote again on the issues that were
17 the subject of the April 12, 2014 meeting. This includes the removal of Leslie Lohse, David
18 Swearinger, and Geraldine Freeman and the appointment of replacement Tribal Council
19 members. Although the General Council's actions on April 12 were entirely consistent with the
20 Tribe's laws and thus binding on all parties, in light of Leslie Lohse's accusations and gross
21 mischaracterization of the facts, the Tribe deemed reassurance of the actions taken on April 12 to
22 be in the best interests of the membership as a whole.

23 17. Leslie Lohse has organized her group as a rogue tribal council. This illegal
24 council has made, and continues to make, representations to the general membership and to
25 outside parties that it is in fact the governing body of the Tribe. It has even created its own
26 shadow "tribal court."

1 18. On May 6, 2014, the Tribe sent cease and desist letters to the illegal faction
2 ordering that they cease working together as a "Tribal Council" or otherwise making
3 representations that they are the lawful governing body of the Tribe. Attached as **Exhibit B** is the
4 letter sent to David Swearinger on May 6, 2014.

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

9 20. As stated above, sometime between April 28 and May 8, 2014, the illegal faction
10 created an entirely unauthorized shadow tribal court, and on May 8, 2014, the illegal faction filed
11 suit in this shadow court in an action identified as "Case No. PCTV-14-001," seeking a temporary
12 restraining order against myself, Ambrosia Rico, Andrew Alejandre, Latisha Miller, and a
13 number of other individuals. Attached as **Exhibit C** is a true and correct copy of the "lawsuit"
14 filed against the Tribal Council on May 8, 2014.

15 21. As relief in their lawsuit, the illegal faction sought: (1) a declaration that I am no
16 longer the Chairman due to a "Tribal Council Resolution" passed by the illegal faction the day
17 before they filed the lawsuit; (2) an injunction preventing myself, Ambrosia Rico, Andrew
18 Alejandre, and Latisha Miller from "interfering in Paskenta Tribal governmental or business
19 affairs"; (3) an injunction preventing twenty-four other individuals from entering tribal lands or
20 "interfering in any and all Paskenta Tribal governmental or business affairs"; and (4) an
21 injunction preventing myself, Ambrosia Rico, Andrew Alejandre, Latisha Miller, and all other
22 named defendants from "gathering at Carlino's Event Center at Rolling Hills Casino on May 10,
23 2014." *See id.*, Motion for TRO at 22-23 & n.54. The judge of the shadow tribal court granted
24 the illegal faction's motion. *Id.*

25 22. By establishing a shadow tribal court and obtaining a judgment from that illegal
26 court, the illegal faction took concerted steps to prevent the Tribal Council from attending the
27 General Council meeting at the Rolling Hills Casino on May 10, 2014, in an attempt to prevent

1 the General Council from upholding its decision to remove the members of such faction from any
2 authority or influence over the Tribe and its assets.

3 **The May 10, 2014 General Council Meeting**

4 23. On May 10, 2014, the General Council held a special meeting at the Rolling Hills
5 Casino. There were 115 members present, thus constituting a quorum.

6 24. Because the shadow tribal court created by Leslie Lohse has no authority, the
7 injunction issued by that "court" had no legal significance and did not restrain my activities. I
8 attended the May 10 meeting along with fellow Tribal Council members Latisha Miller,
9 Ambrosia Rico, and Andrew Alejandre. The illegal faction did not attend the meeting or attempt
10 to enforce the unlawful ex parte order that their shadow court issued. Allen Swearingen—who, at
11 the time, was still a Tribal Council member—did not attend the May 10 meeting.

12 25. After the quorum was announced, one of the first matters undertaken by the
13 General Council was to address Allen Swearingen's failure to attend the meeting. An
14 overwhelming majority of the General Council—108 of the 115 present—voted to remove Allen
15 Swearingen from the Tribal Council. The Tribal Council then voted unanimously to appoint
16 Natasha Magana complete Allen's term on the Tribal Council, such term ending in September
17 2014. The General Council approved this appointment.

18 26. At the May 10 meeting, the General Council approved four initiatives.

19 27. The first initiative, #2014-01, reaffirmed the General Council's actions from April
20 12, 2014. It explained that David Swearingen, Leslie Lohse, and Geraldine Freeman all
21 intentionally left the April 12, 2014 General Council meeting and that the General Council
22 removed them from office pursuant to Article VIII, § 6. It further explained that the Tribal
23 Council lawfully appointed Latisha Miller and Andrew Alejandre to fill the remainder of their
24 successors' terms and that Ambrosia Rico was lawfully appointed on an interim basis until a
25 special election could be held. Finally, the Initiative explained that because Allen Swearingen did
26 not attend the May 10 meeting he was thereby removed from Tribal Council and that the Tribal
27

28. Council lawfully appointed Natasha Magana as his replacement. Initiative #2014-01 passed by a vote of 104 for, 5 against, 6 abstaining, and 0 not voting.

29. On May 12, 2014, Initiative #2014-01 was unanimously approved by the Tribal Council pursuant to Article IX, § 2 and is now enforceable law. Attached as **Exhibit D** is a true and correct copy of the Tribal Council resolution adopting Initiative #2014-01, with the Initiative attached thereto.

30. The illegal faction, along with individuals not yet known but which will become known through discovery, have, and upon information and belief continue to unlawfully exercise control over several assets rightfully belonging to the Tribe, including bank accounts, a private jet, cars, and silver and gold bullion.

31. The illegal faction continues to make representations to the general membership and local, state, and federal regulators and law enforcement that it is the lawful governing body of the Tribe.

32. It is critical that the Tribe's assets be recovered immediately and that this Court issue an order enjoining the illegal faction from further posing as tribal officials to obtain any additional tribal assets. The Tribe needs these assets to be able to provide its members with important social welfare services and to meet its contractual obligations to employees and outside parties.

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

DATED this 16th day of May 2014.

Andrew Freeman

Andrew Freeman, Chairperson

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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.: CV2014-0001

COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF AND DECLARATORY JUDGMENT

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

16 INTRODUCTION

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

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

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

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

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

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

27 7. Defendant David Swearinger is the former Vice-Chairperson of the Tribe who
28

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

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

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

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

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

14 23. Upon information and belief, Leslie Lohse, has extensive political contacts in the
15 White House administration, the Bureau of Indian Affairs ("BIA"), the National Congress of
16 Indians ("NCAI"), the National Indian Gaming Commission ("NIGC"), and the United States
17 Congress, and is in fact a relative of Jackie Johnson-Pata, the Executive Director of NCAI. *Id.* at
18 ¶ 12.

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

22 25. Through a series of meetings with the BIA and NIGC, Plaintiffs learned that the
23 BIA and NIGC were questioning whether the Tribe really intended to take such actions on April
24 12, 2014, or whether Chairman Freeman acted alone to remove Leslie Lohse, David Swearinger,
25 and Geraldine Freeman. *Id.*

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

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 Swearingner, Geraldine Freeman, and Allen
6 Swearingner. 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 Swearingner, and Geraldine Freeman from their
23 former Tribal Council positions and the lawful appointment of Plaintiffs Ambrosia Rico, Latisha
24 Miller, and Andrew Alejandre as their replacements, respectively.

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

28

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

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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. CV 2014-0001

**AFFIDAVIT OF ROBERT
ROSETTE REGARDING
NOTICE OF EX PARTE
EMERGENCY APPLICATION
AND MOTION FOR
TEMPORARY RESTRAINING
ORDER AND ORDER TO
SHOW CAUSE RE
PRELIMINARY INJUNCTION**

Date:
Time:
Dept:

1 I, ROBERT ROSETTE, hereby declare as follows:

2 1. I am over the age of eighteen, am competent and of sound mind, have personal
3 knowledge of the facts set forth below and, if called as a witness, I can and will testify truthfully to each
4 of the following.

5 2. I represent the Paskenta Band of Nomlaki Indians, a federally recognized Indian tribe
6 ("Tribe"), and its lawful Tribal Council identified as Chairperson Andrew Freeman, Vice-Chairperson
7 Latisha Miller, interim Treasurer Ambrosia Rico, Secretary Andrew Alejandre, and Member-at-Large
8 Natasha Magana, as well as the Tribe's numerous Enterprises, Departments, and economic ventures.

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

16 4. Plaintiffs have reason to believe that Defendants plan, at any time, to seize control over
17 any and all resources and assets of the Tribe that they can in effort to continue their past practice of using
18 such resources and assets to their own personal advantage. For example, I am aware that Defendants
19 have recently attempted to access the Tribe's revenue on deposit with AmericanWest Bank, have
20 attempted to restrain the lawful Tribal Council from acting on behalf of the Tribe, and upon information
21 and belief we have suspicion that Defendants or their agents have recently attempted to interrupt the
22 continued operations of the Rolling Hills Casino through a cyber-attack that was engineered to
23 completely shut down the Casino's operations.

24 5. Unless Defendants are enjoined from having any access at all to the Tribe's numerous
25 Enterprises, Departments, and economic ventures, including the Rolling Hills Casino, Plaintiffs will lose
26 the assets of the Tribe to an unrecognized entity and, once disbursed, those assets cannot be recovered.

1 6. There is good cause to believe that if an emergency temporary restraining order is not
2 issued forthwith, a real, significant and immediate risk exists that millions of dollars of the Tribe's
3 revenue will be disbursed without authority and, as such, will be lost forever, and vitally important
4 resources and services that are required to properly serve the Tribe and its members will be lost,
5 mismanaged, or expended only to a select group of individuals friendly to Defendants.

6 7. Emergency relief, in the form of a temporary restraining order, is necessary and must not
7 be delayed for any period of time because there is good cause to believe that any further delay in
8 granting this requested emergency relief will accelerate Defendants' illegal conduct.

9 I declare under penalty of perjury under the laws of the State of California that the foregoing is
10 true and correct. Executed on this 16th day of May 2014, in Chandler, Arizona.

11
12 Dated: May 16, 2014.

RESPECTFULLY SUBMITTED,
ROSETTE, LLP

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16 Robert A. Rosette
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GALANDA BROADMAN

An Indian Country Law Firm

May 14, 2014

VIA CERTIFIED MAIL

FAA Aircraft Registration Branch, AFS-750
P.O. Box 25504
Oklahoma City, OK 73125-0504

Re: Attempted Aircraft Bill of Sale/Registration Transfer
Titleholder/Registrant: Paskenta Enterprises Corp.

To Whom It May Concern:

Our office represents the Paskenta Band of Nomlaki Indians, a federally recognized tribal government situated in Northern California, and the sole owner and operator of Paskenta Enterprises Corp., which in turn owns an aircraft registered by the FAA. Title to the aircraft is in the name of Paskenta Enterprises Corp., and registration in the name of John Crosby, the President of Paskenta Enterprises Corp. It has come to our attention that Chuck Galford, a former Paskenta employee, claims that he is the President of Paskenta Enterprises Corp., in attempt to have the FAA acknowledge a bill of sale that would transfer title to the aircraft to some new entity known as N611MP, LLC.

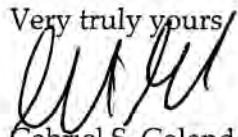
Please be advised that no bill of sale or any related transaction or action has been authorized by the Paskenta Band of Nomlaki Indians or Paskenta Enterprises Corp. The aircraft remains the possession of Paskenta Enterprises Corp., and no person is authorized to transfer title or registration to the aircraft in any way, shape or form.

Please be further advised that Mr. Galford was terminated from his employment with Paskenta on May 2, 2014 pursuant to the enclosed Tribal Council Resolution No. 2004-0424 (*see* Appendix A thereto); and pursuant to the enclosed Paskenta Tribal Court Temporary Restraining Order entered against Mr. Galford on May 9, 2014, he has been enjoined "from interfering in any and all Paskenta Tribal governmental or business affairs, including, but not limited to, purporting to hold [himself] out, or purporting to take action, as agent[] of the Tribe or its subordinate entities." *See* Paragraph 4. We will arrange to have the Tribal Court directly provide you a certified copy of its Temporary Restraining Order, per the request of "Monica" of your office, who I spoke with this morning.

In all, Mr. Galford's efforts to affect a bill of sale and to transfer title to the aircraft are unlawful. He lacks actual authority to conduct any business on behalf of the Paskenta Band of Nomlaki Indians or Paskenta Enterprises Corp. Further, N611MP, LLC, is not an entity that has been authorized for formation by the Paskenta Band of Nomlaki Indians or Paskenta Enterprises Corp. Please refrain from transferring title or registration to the aircraft at issue, and please contact me if the agency has any questions or concerns in this regard.

G Freeman Declaration Exhibit D

Very truly yours/



Gabriel S. Galanda

Attorney at Law

gabe@galandabroadman.com

Enclosures

cc w/ encls.: Client

The Paskenta Band of Nomlaki Indians of California

RESOLUTION OF THE TRIBAL COUNCIL OF THE PASKENTA BAND OF
NOMLAKI INDIANS

Resolution No. 2014-0424

Date: May 2, 2014

Subject: TO TERMINATE, REMOVE AND EXCLUDE UNAUTHORIZED
ROLLING HILLS CASINO MANAGERS, ARMED GUARDS AND
OTHER PURPORTED EMPLOYEES; AND TO TERMINATE
PURPORTED GAMING COMMISSIONERS

Andrew Freeman
Chairman

David Swearinger
Vice Chairman

Leslie Lohse
Treasurer

Geraldine Freeman
Secretary

Allen Swearinger
Member at Large

WHEREAS: The Paskenta Band of Nomlaki Indians (the "Tribe") is a federally
recognized Indian tribe; and

WHEREAS: The Tribe is governed by a Constitution (the "Tribal Constitution")
approved by the members of the Tribe on April 18, 1998, approved by
the Secretary of the Interior on May 15, 1998, and amended by the
members of the Tribe on April 17, 2004; and

WHEREAS: Article III, Section 1 of the Tribal Constitution provides that the
governing body of the Tribe is the Tribal Council; and

WHEREAS: Article VI, Section 1(a) of the Tribal Constitution provides that the
Tribal Council is authorized to negotiate contracts and conclude
agreements with federal, state, local and tribal governments, private
entities and individuals on behalf of the Tribe; and

WHEREAS: Article VI, Section 1(b) of the Tribal Constitution mandates that the
Tribal Council promote the health, education, general welfare of the
Tribe and its members; and

WHEREAS: Article VI, Section 1(g) of the Tribal Constitution provides that the
Tribal Council is authorized to administer any funds or property
within the control of the Tribe; and

WHEREAS: Article VI, Section 1(i) of the Tribal Constitution provides that the
Tribal Council is authorized to initiate such administrative
proceedings and/or legal actions on behalf of the Tribe and its
members; and

WHEREAS: Article VI, Section 1(k) of the Tribal Constitution provides that the
Tribal Council is authorized to regulate subordinate organizations, to
delegate to such organizations the power to take official action, and to
review and rescind any action taken under such delegation; and

WHEREAS: Article VIII, Section 6 of the Tribal Constitution provides that the acts and omissions of all appointed officials are subject to the review and approval of the Tribal Council; and

WHEREAS: Non-member gaming personnel, including purported management, unauthorized armed guards, and other purported employees have infiltrated the Rolling Hills Casino

WHEREAS: Purported Tribal Gaming Commissioners have failed to take action and thereby placed the health, welfare, and economic security of the Tribe in serious peril; and

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby excludes from the Rolling Hills Casino and all other Tribal properties, and all lands described in Article I of the Tribal Constitution, the people listed on Appendix A to this Resolution; and

NOW, THEREFORE, BE IT RESOLVED that, to the extent any employment relationship exists or existed between the Tribe and the people listed on Appendix A, it is terminated; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Tribal Police Department shall immediately serve the attached Notice upon the people listed on Appendix A, and remove and exclude them from the Rolling Hills Casino and all other Tribal properties, and all lands described in Article I of the Tribal Constitution. Should any such person resist their removal and exclusion, Tribal Police Officers are hereby authorized to civilly detain, remove and exclude such person and/or cite them into Tribal Court for applicable violations of Tribal law, including disorderly conduct or trespass (or into the Tribal Council, if the Tribal Court is not yet established). Said citation of such person may include civil fines of up to \$10,000 per trespass or disorderly conduct offense. Any such person who is detained, removed, excluded or cited shall be afforded the rights secured by Article X of the Tribe's Constitution; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that, to the extent any Tribal Gaming Commissioner appointment or employment relationship exists or existed between the Tribe and any "John Doe" or "Jane Doe" Gaming Commissioners, who are unbeknownst to the Tribal Council, any such appointment or employment is terminated.

CERTIFICATION

This will certify that the foregoing resolution was considered at a meeting of the Tribal Council of the Paskenta Band of Nomlaki Indians of California duly called and held on the 2 day of May, 2014, and was adopted by a vote of 9 for, 0 against and 0 abstentions. A quorum of 4 was present.

Dated this 2 day of May, 2014.

Andrew Freeman
Chairman

Geraldine Freeman
Geraldine Freeman
Secretary

Allen Swearinger
Allen Swearinger
Member-at-Large

David Swearinger
David Swearinger
Vice-Chairman

Leslie Lohse
Leslie Lohse
Treasurer

Appendix A

Bruce Thomas
Chuck Galford
Terry Contreras
Jeff Realander
Gary Poyner
Dennis Barnes
Lynda Braeger
Maria Duby
Gretchen Allen
Dennis Kinney
Kate Grissom
Bob Cloud
Dan Largent
Art Felix
Lori LaGrande
Vicky Roy
Deana Drake
Dustin Wayne
David Carter
Mary Sweet
Russell Dennis
Nobadel Davis
Paul Lay
Hal Hensley
Anthony Boerner
Nathan Platte
Sherry Freeman
Amy Gonezerik
"John Doe" Armed Guards
"Jane Doe" Armed Guards

The Paskenta Band of Nomlaki Indians of California

Notice of Exclusion

The Paskenta Band of Nomlaki Indians ("Tribe") hereby serves this Notice to advise that you, _____, are hereby excluded from all lands upon which the Tribe possesses legal or beneficial title, including, but not limited to, the Rolling Hills Casino.

Upon reasonable suspicion, the Tribe finds that you have:

- ☐ committed the civil infraction of disorderly conduct;
- ☐ committed the civil infraction of trespass;
- ☐ committed the civil infraction of trespass with intent to commit a crime;
- ☐ committed the infraction of _____;
- ☐ been excluded from tribal lands pursuant to Tribal Council Resolution.

If you do not voluntarily vacate the lands described above, Tribal Police may issue a citation, detain, remove, exclude, and/or cite you into Tribal Court. In addition, in the discretion of the citing Tribal Police Officer, the Officer may seize such personal property in your possession as the officer deems reasonably necessary to secure payment of any fine, which may be levied upon you upon conviction of the infraction.

If you disagree with this Notice you have a right to request a hearing before the Tribal Court. Your request for a hearing must be received by the Tribal Court Clerk within ten (10) calendar days of service of this Notice. **The hearing will be granted only if the you submit a written request to the Tribal Court Clerk within ten (10) calendar days of service of this Notice.** You are welcome to call the Tribal Police for information about the Tribal Court or to obtain a copy of the Tribe's Law and Order Code.

While your request is pending and until the Tribal Court issues a final judgment, you shall not enter the lands described above, except to attend your hearing. Entrance upon any Tribal lands in violation of this Notice will be deemed a trespass in violation of Section 8.3 of the Tribe's Law and Order Code.

Consistent with the rules of the Tribal Court and Article X of the Tribe's Constitution you may be represented by any person admitted to the Tribal Court Bar.

Tribal Police Officer/Tribal Councilmember

Date

Hon. Leona Colegrove

FILED

5/9/14 AA

**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
GALFORD, TERRY CONTRERAS, JEFF
REALANDER, GARY POYNDR, 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 GONEZERIK, JOHN DOES 1-100,
AND JANE DOES 1-100,

Defendants.

NO. PTCV-14-001

TEMPORARY RESTRAINING
ORDER

BEFORE the Tribal Court is Plaintiffs' Motion for Temporary Restraining Order ("TRO"). Present for the telephonic hearing on the Motion were Plaintiffs, by and through their counsel of record, Galanda Broadman, PLLC. Defendant's failed to appear after having been provided electronic notification. Having reviewed said Motion

1 and the file and pleadings therein, and considered oral argument during a telephonic
2 hearing, the Tribal Court deems itself otherwise fully advised in the premises.
3 Accordingly, Plaintiffs' Motion is **GRANTED**.

4 The Tribal Court **FINDS** and **CONCLUDES** that (1) this Court has exclusive
5 subject matter and personal jurisdiction in this matter (2) there are serious questions
6 going to the merits of Plaintiffs' claims; (3) Plaintiffs would suffer irreparable injury
7 absent the issuance of this TRO; (4) granting the TRO will not harm Defendants; and
8 (4) issuing the TRO serves the public interest.
9

10 **IT IS THEREFORE ORDERED THAT:**

11 1. Consistent with Resolution No. 2004-0433 and the April 15, 2014, letter
12 from the Acting Superintendent of the federal Bureau of Indian Affairs to the City of
13 Orland Police Department and Cornerstone Community Bank, and until this Court can
14 further consider this matter in reference to any permanent injunction, the following four
15 individuals are currently **RECOGNIZED** as the rightful and legitimate elected officials of
16 the Paskenta Rancheria Tribal Council in accordance with Article VI, Section 1 of the
17 Tribe's Constitution:
18

- 19 1. David Swearinger, Vice-Chairman
20 2. Leslie Lohse, Treasurer
21 3. Geraldine Freeman, Secretary
22 4. Allen Swearinger, Member At-Large

23 Per Resolution No. 2004-0433, the position of Tribal Chairperson is currently vacant.

24 2. Andrew Freeman, Ambrosia Rico, Andrew Alejandre, and Latisha Miller
25 are hereby **ENJOINED** 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.

1
2
3 3. Bruce Thomas, Chuck Galford, Terry Contreras, Jeff Realander, Gary
4 Poyner, Dennis Kinney, Kate Grissom, Bob Cloud, Dan Largent, Art Felix, Lori
5 LaGrande, Vicky Roy, Deanna Drake, Dustin Wayne, David Carter, Mary Sweet,
6 Russell Dennis, Nobadel Davis, Paul Lay, Hal Hensley, Anthony Boerner, Nathan
7 Platte, Sherry Freeman, Amy Gonczerek, Dennis Barnes, Lynda Braeger, Maria Duby
8 and Gretchen Allen, are hereby **ENJOINED** from entering or being present in any
9 manner upon any of the lands described in Article I of the Tribe's Constitution, including,
10 but not limited to:

- 11
12 (1) The Rolling Hills Casino outbuildings, parking lots, and grounds located at
13 2655 Everett Freeman Way, Coming California; (2) the golf course,
14 clubhouse, parking lot, related facilities at the Rolling Hills Casino known as
15 "Sevillano Links"; (3) the hunting and fishing club, clubhouse and facilities
16 located to the west of Golf Course operating under the name of "Clear Creek
17 Sports Club at Rolling Hills," which includes 1,400 acres of hunting ground, a
18 clubhouse and lodging facilities, a trap rang firearms range, and a pond; (4)
19 two hotels that are attached to immediately adjacent to the Casino, known as
20 The Lodge Vagabond Inn and the Inn at Rolling Hills; (5) an RV park located
21 next to the Casino known as the "RV Park at Rolling Hills"; (6) a Chevron gas
22 station located next to the Rolling Hills Casino; (7) a truck stop facility located
23 next to the Rolling Hills Casino; (8) an equestrian facility, parking lots, and
24 related buildings and improvement also located on the Casino grounds; (9)
25

1 the MD Barnmaster offices, sales, and display yard located at 3489 South
2 Highway 99 West, Corning,

3
4 California; (10) an office located at 1012 South Street, Orland, California; (11)
5 the Rolling Hills Medical Clinic located at 2540 Sister Mary Columbia Drive,
6 Red Bluff, California; and (12) the Rolling Hills Medical Clinic consisting of
7 two separate buildings located at 740 Solano Street and 705 East Street,
8 Corning, California.
9

10 Said Defendants are also **ENJOINED** from interfering in any and all Paskenta Tribal
11 governmental or business affairs, including, but not limited to, purporting to hold
12 themselves out, or purporting to take action, as agents of the Tribe or its subordinate
13 entities.
14

15 6. Pursuant to Resolution No. 2004-0433, the May 10, 2014, General
16 Council Special Meeting has been canceled. Plaintiffs have proven by a
17 preponderance of the evidence that the health, safety, and welfare of the Tribal
18 membership will be put in jeopardy if Defendants are allowed to gather at Carlino's
19 Event Center at Rolling Hills Casino on May 10, 2014 and purport to hold a General
20 Council meeting. Defendants are thus hereby **ENJOINED** from gathering at Carlino's
21 Event Center at Rolling Hills Casino on May 10, 2014.
22

23 7. Because this suit is an action which Tribal law provides the rule of
24 decision, this Court's jurisdiction is exclusive and not concurrent with any other federal,
25 state or court's adjudicatory or legislative powers (P.T.C. § 3.5.2); provided, any such
other court shall not be foreclosed from extending comity or full faith and credit to this

1 Order.

2 The Court hereby schedules a telephonic status conference for May 19th, 2014 at 9:00
3 AM, to schedule a permanent injunction hearing and related briefing. TO

4 **PARTICIPATE IN THE HEARING THE PARTIES SHALL**

- 5
- 6 1. Five minutes before the hearing dial this number: 1-866-877-5147
 - 7 2. When prompted, enter this access code plus the # key: 433157#
 - 8 3. Wait for the hearing to start. If you are the first person on the call be patient, even
9 if you experience a silence or are placed on "music-on-hold", as the Clerk will join
10 the call in due course. Until your hearing starts, refrain from speaking other than
11 with the Clerk.
12

13 The Judge will call the hearing to order once the "recording" alarm signals.

14 Until then, Defendants are **ENJOINED** as outlined above.

15 SIGNED and ISSUED this 9th day of May, 2014.

16
17
18 
19 HON. LEONA COLEGROVE

May 14, 2014

VIA FAX (916) 983-0592,
EMAIL (djoyce1961@hotmail.com),
AND FIRST-CLASS MAIL

Dennis Joyce Investigations
Attn: Dennis Joyce
705-2 East Bidwell St., Ste 334
Folsom, CA 95630

**Re: Cease and Desist From Contacting Rolling Hills Casino Employees and the
Paskenta Gaming Commission**

Dear Mr. Joyce:

This law firm represents the Paskenta Band of Nomlaki Indians, a federally recognized Indian Tribe (the "Tribe") and the Paskenta Gaming Commission ("Commission"). The Tribe operates and regulates the Rolling Hills Casino (the "Casino") in Corning, California. It has come to our attention that you have recently made unsolicited and harassing phone calls to Casino personnel, including the Casino's cage manager, Mary Fox, requesting that she contact you or John Crosby for purposes of providing sensitive and confidential information regarding the Tribe and/or the Casino. The purpose of this letter is to demand that you **immediately cease and desist** from any further communications with Casino or Tribal Gaming Commission employees including, but not limited to, harassing phone calls and requests for communication.

Please be advised that, on April 12, 2014, the General Council of the Tribe removed then-Council Members Leslie Lohse, David Swearinger, and Geraldine Freeman (the "Faction") from the Tribal Council for abandoning their positions, and the Tribal Council appointed those individuals' replacements pursuant to the Tribe's Constitution. Moreover, on May 10, 2014, the General Council passed initiatives reaffirming their actions at the April 12, 2014 meeting, including the removal of the aforementioned individuals from the Tribal Council and the appointment of their replacements, and the Tribal Council adopted these initiatives via resolution on May 12, 2014. Accordingly, the Tribe's General Council and Tribal Council have lawfully issued an affirmation of the Tribe's governing body and a resounding rejection of the Faction.

Unfortunately, since April 12, 2014, the Faction has refused to accept that they no longer represent the Tribe and have organized their group as a rogue "tribal council." This illegal faction has made, and continues to make, representations to the Tribe's general membership and to outside parties that it is the governing body of the Tribe. This is wholly inconsistent, however, with the above-referenced General Council initiatives and Tribal Council ratifications of those



initiatives, which formally resolve that this rogue Faction has no authority whatsoever to act on the Tribe's behalf. We have reason to believe that John Crosby, an associate of the Faction, has hired you in some capacity to conduct an investigation on the Faction's behalf with regard to sensitive and confidential issues relating to the Tribe and the Casino. **Please be advised that any authority under which you purport to act does not exist, as evidenced by the recent actions taken by the Tribe in accordance with the Tribe's Constitutional process.**

Once again, the Tribe hereby demands that you **immediately cease and desist** from contacting, in any manner whatsoever, and attempting to solicit, extort, threaten, coerce, annoy, embarrass, or harass the Tribe, the Casino, or the Tribal Gaming Commission, its officers, agents, employees, vendors, or customers. **Your failure to comply with this demand will result in the Tribe exercising any and all available courses of action to protect the Tribe, the Commission and the Casino, its employees and vendors, and any legal and economic interests related thereto**, which may include a demand for attorneys' fees and damages for the harm suffered by the Tribe, the Casino, and/or the Tribal Gaming Commission as a result of your disruptive and harassing actions. Please also let this letter make clear, in no uncertain terms, that the Tribe does not now, and will not in the future, maintain any type of employer/employee or independent contractor relationship with you and/or your company for investigative or other services in any capacity whatsoever.

Please direct any future communication regarding this matter to my attention at the telephone number provided herein.

Nothing contained herein is intended as, or shall be construed as, an admission or waiver of any rights that the Tribe and the Casino have, all of which are expressly reserved.

Sincerely,

ROSETTE, LLP

Alex Lozada, Esq.

cc: Tribal Council
Paskenta Gaming Commission
GM, Rolling Hills Casino
Mary Fox
Eric Schalansky, National Indian Gaming Commission
Corning Police Department
Tehama County District Attorney's Office



The Paskenta Band of Nomlaki Indians of California

RESOLUTION OF THE TRIBAL COUNCIL OF THE PASKENTA BAND OF
NOMLAKI INDIANS

Resolution No. 2014- 0435

Date: May 9, 2014

Subject: ADOPTING EMERGENCY SECURITY AND SAFETY
MEASURES

Andrew Freeman
Chairman

David Swearingner
Vice Chairman

Leslie Lohse
Treasurer

Geraldine Freeman
Secretary

Allen Swearingner
Member at Large

WHEREAS: The Paskenta Band of Nomlaki Indians (the "Tribe") is a federally recognized Indian tribe; and

WHEREAS: The Tribe is governed by a Constitution (the "Tribal Constitution") approved by the members of the Tribe on April 18, 1998, approved by the Secretary of the Interior on May 15, 1998, and amended by the members of the Tribe on April 17, 2004; and

WHEREAS: Article III, Section 1 of the Tribal Constitution provides that the governing body of the Tribe is the Tribal Council; and

WHEREAS: Since April 12, 2014, health, welfare, security, and safety of the Tribe and the entire Paskenta membership has been placed in serious peril, particularly through hostile statements and actions, and threats of physical violence, including those made against the Tribal Council and their family members; and such statements, actions and threats have been reported and documented by Tribal authorities and local police officer; and

WHEREAS: Under the Indian Gaming Regulatory Act, 25 U.S.C. 2701 et seq. ("IGRA"), tribal government must have sole proprietary interest in Indian gaming operations and must be the primary beneficiaries of tribal gaming revenues; and

WHEREAS: Under IGRA, the Tribe's Class III Gaming Compact with the State of California, and the Tribe's Gaming Ordinance, the Tribe's gaming activities are regulated by the Paskenta Tribal Gaming Commission; and

WHEREAS: On April 12, 2014, certain individuals illegally seized control of Rolling Hills Casino Operations; and

WHEREAS: Since April 12, 2014 those individuals in illegal control of Rolling Hills Casino Operations have, in violation of Tribal and federal law:

- Caused four cashier's checks totaling approximately \$357,000 to be issued from the Tribe's local bank depository, Cornerstone Community Bank, on April 16, 2014;

G Freeman Declaration Exhibit F

- Attempted to draw down the balance of the Tribe's \$20,000,000 line of credit with Wells Fargo Bank, on April 18, 2014;
- Advised Rolling Hills Casino employees to cash their paychecks at the casino cage.
- Diverted gross gaming revenues from the Rolling Hills Casino; and
- Excluded two of the three members of the Paskenta Tribal Gaming Commission from the premises of the Rolling Hills Casino; and

WHEREAS: The Tribal Council adopted Tribal Council Resolutions 2014-0419 and 2014-0420 by April 20, 2014, in an attempt to stem such illegal cash financial transactions; and

WHEREAS: On April 21, 2014, Douglas Hatfield, Director of Compliance for the National Indian Gaming Commission, sent a letter to Andrew Freeman in his former capacity as Chairman of the Tribe, conveying his concern that gaming occurring at the Rolling Hills Casino "is not being conduct by the Band—that is, by the governmental authority recognized by the Secretary of the Interior—or by an entity licensed by the tribal government pursuant to NIGC regulations"; and

WHEREAS: Since shortly after April 12, 2014, the Loomis armored car transport service, which for several prior years the Tribe used to transport cash deposits from the Rolling Hills Casino to secure financial repositories, has been suspended; and

WHEREAS: During that same time span, agents of the Tribal Council have witnessed persons at Rolling Hills Casino transport large amounts of cash out of the casino and into a white Sport Utility Vehicle on several mornings at approximately 4:00 a.m., to an off-site location where the cash transferred to other persons; and

WHEREAS: The Tribe Council believes the integrity of the Paskenta Tribal gaming operation, and control of cash at the Rolling Hills Casino, is at serious risk with monies being illegally diverted to an unknown location; and

WHEREAS: The National Indian Gaming Commission is currently conducting an investigation into the activities surrounding the illegal takeover at the Rolling Hills Casino, and this investigation remains ongoing; and

WHEREAS: With each day that has passed without on-site federal, state or local regulatory or law enforcement agency intercession since April 12, 2014, Paskenta public safety and gaming financial security issues have only grown worse; and

WHEREAS: In a similar situation involving the Sac & Fox Tribe of Mississippi in Iowa/Meskwaki Nation, the National Indian Gaming Commission held that, when the governance of an Indian tribe is thrown into disarray, there is danger to the integrity of gaming; and

WHEREAS: The Tribal Council has been fully advised on and has fully discussed the need to protect Paskenta Tribal assets by remotely shutting down server-based computers and related systems associated with Class III gaming activities at Rolling Hills Casino; and

NOW, THEREFORE, BE IT RESOLVED that the Tribal Council hereby directs the remote shut down of all server-based computers and related systems associated with Class III gaming activities at Rolling Hills Casino, effective as of May 9, 2014, and to remain in effect until Paskenta public safety is protected, and the financial security and integrity of the Tribe's gaming operation can be restored; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Tribal Council will resume the operation of such computers and related systems upon some agreement or resolution that will cause: (1) a third-party accounting and audit of gross and net gaming revenues from Rolling Hills Casino and related Tribal enterprises dating back to at least April 12, 2014; (2) the verifiable identification of the whereabouts of any such revenues that have been illegally transported or transferred away from the Rolling Hills Casino; and (3) the Tribal Council's satisfaction that, in consultation with the National Indian Gaming Commission, appropriate remedial measures have been taken to ensure public safety and restore financial integrity and security to the Rolling Hills Casino and in Paskenta Indian Country; and

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Tribal Council hereby immediately authorizes an internal investigation into all allegations of illegal behavior in connection with the Rolling Hills Casino and related Tribal enterprises and activities, to be conducted by Thomas LaFreniere and Dynasec International,

Inc., the findings of which shall be reported to the Tribal Council as soon as is practically possible; and

NOW, THEREFORE, BE IT FINALLY RESOLVED that the Tribal Council, in concern for their own personal safety and that of their family members, hereby immediately authorizes California Special Investigations and Protective Services to provide personal security services to each Councilperson and their families, and to other Paskenta Tribal members to be approved by the Tribal Council on an as-needed basis.

CERTIFICATION

This will certify that the foregoing resolution was considered at a meeting of the Tribal Council of the Paskenta Band of Nomlaki Indians of California duly called and held on the 9th day of May 2014, and was adopted by a vote of 3 for, 0 against and 0 abstentions. A quorum of 4 was present.

Dated this 9 day of May 2014.

[VACANT]
Chairperson

David Swearinger
David Swearinger
Vice-Chairman

Geraldine Freeman
Geraldine Freeman
Secretary

Leslie Lohse
Leslie Lohse
Treasurer

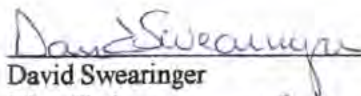
Allen Swearinger
Allen Swearinger
Member-at-Large

NOTICE OF ROLLING HILLS CASINO CLOSURE

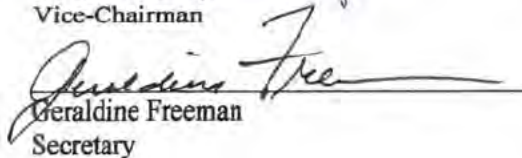
Pursuant to Paskenta Band of Nomlaki Indians Tribal Council Resolution No. 2004-0435 dated May 9, 2014, and the letter of Rolling Hills Casino facility license revocation by the Paskenta Band of Nomlaki Indians Tribal Gaming Commission dated May 15, 2014, please be advised that the Rolling Hills Casino is closed.

Any person who enters or remains at the Rolling Hills Casino is subject to:

- Civil citation for trespass;
- Exclusion from the casino and all other Paskenta Indian country lands and properties;
- Paskenta Tribal law enforcement physical detention and removal, assessment of civil fines, seizure of security, and citation into the Paskenta Band of Nomlaki Indians Tribal Court; and
- Referral to United States and California state authorities for arrest and criminal prosecution.



David Swearingner
Vice-Chairman



Geraldine Freeman
Secretary



Leslie Lohse
Treasurer



Allen Swearingner
Member-at-Large

G Freeman Declaration Exhibit G