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STUDENT EDUCATION, INC. (R.I.S.E.)

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RESOURCES FOR INDIAN
STUDENT EDUCATION, INC. (RISE),

Plaintiff,

v.

CEDARVILLE RANCHERIA OF
NORTHERN PAIUTE INDIANS;
CEDARVILLE RANCHERIA TRIBAL
COURT; PATRICIA R. LENZI, in her
capacity as Chief Judge of the Cedarville
Rancheria Tribal Court,

Defendants.

CASE NO. _____

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

COMES NOW RESOURCES FOR INDIAN STUDENT EDUCATION, INC.
(hereinafter "RISE"), and presents this Complaint seeking declaratory judgment and
injunctive relief against Defendants CEDARVILLE RANCHERIA OF NORTHERN
PAIUTE INDIANS; CEDARVILLE RANCHERIA TRIBAL COURT; PATRICIA R.
LENZI, in her capacity as Chief Judge of the Cedarville Rancheria Tribal Court
(hereinafter "Defendants") in the above captioned action, and hereby alleges as follows:

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NATURE OF THE CASE

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2
3 1. Because Defendants are improperly permitting a lawsuit against RISE to
4 proceed in the CEDARVILLE RANCHERIA OF NORTHERN PAIUTE INDIANS
5 (hereinafter "Tribe") CEDARVILLE RANCHERIA TRIBAL COURT (hereinafter
6 "Tribal Court"), RISE brings this action seeking a declaratory judgment that the Tribal
7 Court lacks personal and subject matter jurisdiction over claims arising from the
8 Complaint for Damages filed by the Tribe against RISE in the Tribal Court, a true and
9 correct copy of which, and incorporated herein by this reference, is attached as exhibit
10 "A". Furthermore, RISE seeks an injunction prohibiting Defendants from adjudicating
11 the subject action and subjecting RISE to litigation on a forum that has no jurisdiction.

THE PARTIES

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13
14 2. Plaintiff RISE is a California non-profit corporation providing charity
15 services.

16 3. Plaintiff is informed and believes and therein alleges that the Tribe is a
17 federally recognized Indian Tribe, with an Administrative Office located in Alturas,
18 California. The Tribe's Reservation, housing, Travel Center and Community Center are
19 located in Cedarville, California.

20 4. Plaintiff is informed and believes and therein alleges that the Tribal Court is
21 a specially created Court by Tribal ordinance 13-07 on December 14, 2013.

22 5. Plaintiff is informed and believes and therein alleges that PATRICIA R.
23 LENZI is an individual and the Chief Judge of the Tribal Court. She is named in this suit
24 in her official capacity only.

JURISDICTION AND VENUE

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27 6. This is an action for a declaratory judgment under 28 U.S.C. 2201 and
28 injunctive relief pursuant to Fed.R.Civ.P. 65.

7. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. 1331 as it concerns a matter arising from the Constitution, laws, or treaties of the United States. *See, Plains Commerce Bank v. Long Family Land & Cattle Co.*, 554 US 316, 324 (2008) [“whether a tribal court has adjudicative authority over nonmembers is a federal question.”]; *Nat’l Farmers Union Ins. Companies v. Crow Tribe of Indians*, 471 U.S. 845, 852, (1985) [“In all of these cases, the governing rule of decision has been provided by federal law. In this case the petitioners contend that the Tribal Court has no power to enter a judgment against them.”]

8. Defendants’ unlawful exercise of Tribal Court jurisdiction is an actionable violation of federal common law, *Ex Parte Young* 209 US 123 (1908). Because their actions exceed the Tribe’s legal authority, this suit against the individual defendant in her official capacity is appropriate. *See, Michigan v. Bay Mills Indian Community*, 134 S. Ct. 2024, 2035 (2014).

9. The Court further has subject matter jurisdiction because RISE is not required to exhaust all available Tribal Court remedies because (1) the assertion of tribal court jurisdiction is “motivated by a desire to harass or is conducted in bad faith;” (2) the tribal court action is “patently violative of express jurisdictional prohibitions;” (3) “exhaustion would be futile because of the lack of an adequate opportunity to challenge the tribal court’s jurisdiction;” and (4) it is “plain” that tribal court jurisdiction is lacking, so that the exhaustion requirement “would serve no purpose other than delay.” *Elliott v. White Mountain Apache Tribal Court*, 566 F.3d 842, 847 (9th Cir. 2009)

9. Venue is appropriate pursuant to 28 USC 1391(b) as Defendants reside in California and the acts complained of occurred in the District.

10. The Court has personal jurisdiction over Defendants, each of whom is a California resident.

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GENERAL ALLEGATIONS

The Tribal Court Complaint and Procedural Background

11. On or about October 2, 2014, the Tribe filed a Complaint for Damages in the Tribal Court against RISE, Duanna Knighton and Oppenheimer Funds, Inc, a true and correct copy is attached, and incorporated herein by this reference, hereto as exhibit "A". The lawsuit is captioned *Cedarville Rancheria of Northern Paiute Indians v. Duanna Knighton, et al.*, CED-CI-2014-00002 (hereinafter "Tribal Court Complaint").

12. The Tribal Court Complaint alleges eight causes of action relating to the compensation and benefits paid to Duanna Knighton while she was employed by the Tribe as a Tribal Administrator and finance director. Furthermore, it alleges certain poor investments that Duanna Knighton made with Tribe funds while she was employed by the Tribe. Duanna Knighton was a concurrent employee of RISE.

13. RISE is not a member of the Tribe, does not reside upon or own property on the Tribe's grounds, does not operate a business on the Tribe's grounds, has not submitted to the jurisdiction of the Tribal Court, and does not benefit from the laws of the Tribal Court. Other than general allegations of tribal jurisdiction of the Tribal Court over RISE, the Tribe has not provided any factual allegations to support a claim of personal or subject matter jurisdiction by the Tribal Court over RISE.

14. On or about December 18, 2013, RISE received a letter on behalf of the Tribe demanding reimbursement of the amount of \$29,925 which was paid to RISE via check No. 11620 for the alleged "benefits and insurance premiums" for Duanna Knighton. When she resigned her position with the Tribe, it was agreed via a severance agreement between the Tribe and Duanna Knighton that she was owed the sum of \$29,925, which represented accrued but unused 665 hours of sick leave. It was understood that the sum would be paid to RISE in order to maintain health insurance coverage for Duanna Knighton with Anthem Blue Cross. Since payment of that amount, a significant portion of the sum has been expended in making monthly premium payments in the range of approximately \$900.

1 15. The Tribal Court was brought into existence by Tribal Ordinance on
2 December 14, 2013. Plaintiff is informed and believes, as can be seen by the Tribal Court
3 case number, this filing is only the second case filed with the Court, the first being an
4 eviction proceeding which led to the "Cedarville Tragedy" as alleged in the Tribal
5 Complaint. As alleged in the Tribal Complaint, following the shooting, there was a
6 change in tribal leadership and council makeup which directly led to the filing of the
7 Tribal Complaint in the Tribal Court.

8 16. In addition to filing the Tribal Complaint, the Tribe also filed an Ex Parte
9 Application for a Temporary Restraining Order against RISE and the other Defendants in
10 the Tribal Complaint. The Order was granted by the Tribal Court without providing an
11 opportunity for any of the Defendants, including RISE, with prior notice of the
12 Application or a chance to be heard. A true and correct copy of the Order, and
13 incorporated by this reference, is attached hereto as exhibit "B".

14 17. In addition to not providing timely notice of the pending Application or a
15 chance to be heard prior to the issuing of the Temporary Restraining Order, the Tribal
16 Court unilaterally ruled that it has subject matter jurisdiction over the action pursuant to
17 the Tribal Court Code and because the "matter involves nonmember Defendants who
18 engaged in 'consensual relationships' with the Tribe and its members."

19 18. In order to represent RISE in the Tribal Court, attorneys must obtain a license
20 to practice before the Tribal Court. This requires the payment of a license fee. Further, it
21 requires the taking of an oath to "support the Constitution and By-Laws of the Cedarville
22 Rancheria." A true and correct copy of the Cedarville Judicial Code, and incorporated by
23 this reference, is attached as exhibit "C".

24 19. Furthermore, the Application to for Admission to practice before the Tribal
25 Court requires a Certification that the applicant consents "to represent defendants in cases
26 assigned by the Cedarville Rancheria Tribal Court. Additionally, I consent to perform
27 legal services in the public interest of the Cedarville Rancheria upon request by the Court
28 ..." A true and correct copy of the "Application for Admission to Practice Law before the

1 Cedarville Rancheria Tribal Court,” and incorporated by this reference, is attached as
2 exhibit “D”.

3
4 **FIRST CAUSE OF ACTION FOR DECLARATORY JUDGMENT**

5 20. Plaintiff incorporates by reference all preceding paragraphs as if fully set
6 forth herein.

7 21. The Federal Declaratory Judgment Act, 28 U.S.C. 2201, *et seq.*, empowers
8 the Court to “declare the rights and other legal relations of any interested party seeking
9 such declaration, whether or not further relief is or could be sought.”

10 22. An actual and justiciable controversy has arisen and now exists between
11 Plaintiff and Defendants concerning the respective rights and obligations, in that the
12 Defendants contend that they have both personal and subject-matter jurisdiction over
13 Plaintiff with regards to the Tribal Court Complaint.

14 23. Plaintiff desires a judicial determination of the Defendant’s rights and the
15 Plaintiff’s obligations to litigate the Tribe’s claims, as set forth in the lawsuit captioned
16 *Cedarville Rancheria of Northern Paiute Indians v. Duanna Knighton, et al.*,
17 CED-CI-2014-00002 before the Tribal Court as opposed to the instant Court.

18 24. On the face of the Tribal Court Complaint, the Tribal Court lacks personal
19 and subject matter jurisdiction over RISE, and the purported claims are within the
20 exclusive purview of the federal government and this Court.

21 25. Furthermore, since the Tribal Court lacks jurisdiction over RISE, RISE need
22 not exhaust its remedies in the Tribal Court, especially given the fact that the Tribal Court
23 has already asserted, unilaterally, that it has both personal jurisdiction over RISE and
24 subject matter jurisdiction over the Tribal Court Complaint.

25 26. Defendant PATRICIA R. LENZI, acting in her capacity as Chief Judge of the
26 Tribal Court, has permitted the Tribal Court Complaint to proceed even though the Tribal
27 Court lacks both personal jurisdiction over RISE and subject matter jurisdiction.

28 // // //

27. By taking the following actions, Defendants have acted outside of the scope of their authority and permitted the Tribe to prosecute its claims in the Tribal Court in violation of federal law.

28. A judicial determination is necessary and appropriate at this time and under the present circumstances to allow Plaintiff to ascertain its rights to prevent (1) forcing RISE to participate in legal proceedings in a forum that lacks jurisdiction in violation of RISE's constitutional rights; (2) exposing RISE to the possibility of multiple and duplicative lawsuits and/or motions with the further possibility of inconsistent results; and (3) causing RISE to expend substantial money and resources to establish the lack of the Tribal Court's jurisdiction in this matter by exhausting Tribal Court remedies where (1) the assertion of tribal court jurisdiction is "motivated by a desire to harass or is conducted in bad faith;" (2) the tribal court action is "patently violative of express jurisdictional prohibitions;" (3) "exhaustion would be futile because of the lack of an adequate opportunity to challenge the tribal court's jurisdiction;" and (4) it is "plain" that tribal court jurisdiction is lacking, so that the exhaustion requirement "would serve no purpose other than delay." *Elliott v. White Mountain Apache Tribal Court*, 566 F.3d 842, 847 (9th Cir. 2009).

SECOND CAUSE OF ACTION FOR PERMANENT INJUNCTION

29. Plaintiff incorporates by reference all preceding paragraphs as if fully set forth herein.

30. Defendants' conduct has caused and, unless restrained and enjoined by the Court, will continue to cause irreparable harm, damage, and injury to RISE, including, but not limited to: (1) forcing RISE to participate in legal proceedings in a forum that lacks jurisdiction in violation of RISE's constitutional rights; (2) exposing RISE to the possibility of multiple and duplicative lawsuits and/or motions with the further possibility of inconsistent results; and (3) causing RISE to expend substantial money and resources to establish the lack of the Tribal Court's jurisdiction in this matter by exhausting Tribal

1 Court remedies where: (1) the assertion of tribal court jurisdiction is “motivated by a
 2 desire to harass or is conducted in bad faith;” (2) the tribal court action is “patently
 3 violative of express jurisdictional prohibitions;” (3) “exhaustion would be futile because
 4 of the lack of an adequate opportunity to challenge the tribal court’s jurisdiction” and (4)
 5 it is “plain” that tribal court jurisdiction is lacking, so that the exhaustion requirement
 6 “would serve no purpose other than delay.” *Elliott v. White Mountain Apache Tribal*
 7 *Court*, 566 F.3d 842, 847 (9th Cir. 2009).

8 31. A Permanent Injunction will not result in injury to The Tribe as they will
 9 have a full opportunity to litigate their claims in the United State District Court. Thus, the
 10 balance of harms weighs in favor of injunctive relief.

11 32. RISE has no other adequate remedy at law.

12 PRAYER FOR RELIEF

13 WHEREFORE, in the light of the foregoing, Plaintiff RISE respectfully requests
 14 that the Court enter judgment in its favor and against Defendants on each claim for relief
 15 as set forth herein, and issue the following relief:
 16

17 1. For declaratory relief, decreeing that the Tribal Court lack personal
 18 jurisdiction over RISE with regards to the lawsuit captioned *Cedarville Rancheria of*
 19 *Northern Paiute Indians v. Duanna Knighton, et al.*, CED-CI-2014-00002;

20 2. For declaratory relief, decreeing that the Tribal Court lack subject-matter
 21 jurisdiction with regards to the lawsuit captioned *Cedarville Rancheria of Northern Paiute*
 22 *Indians v. Duanna Knighton, et al.*, CED-CI-2014-00002;

23 3. For permanent injunctive relief, precluding Defendants or anyone acting in
 24 concert with or on behalf of Defendants from adjudicating the claims set forth in the
 25 lawsuit captioned *Cedarville Rancheria of Northern Paiute Indians v. Duanna Knighton,*
 26 *et al.*, CED-CI-2014-00002; and

27 // // //

28 // // //

4. For any further, necessary, or proper relief that the Court deems appropriate.

DATED: October 29, 2014

CIHIGOYENETCHE, GROSSBERG & CLOUSE

By:



RICHARD R. CLOUSE

ANTHONY C. FERGUSON

Attorneys for Petitioner

RESOURCES FOR INDIAN STUDENT
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EXHIBIT "A"

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9 RANCHERIA OF NORTHERN PAIUTE INDIANS

10 CEDARVILLE RANCHERIA OF NORTHERN PAIUTE INDIANS
11 TRIBAL COURT

12 CEDARVILLE RANCHERIA OF NORTHERN
13 PAIUTE INDIANS,

14 Plaintiff,

15 v.

16 DUANNA KNIGHTON; RESOURCES FOR
17 INDIAN STUDENT EDUCATION, INC.
18 (R.I.S.E.); OPPENHEIMER FUNDS, INC; AND
19 DOES 1-10, INCLUSIVE,

20 Defendants.

Case No.:

COMPLAINT FOR DAMAGES

1. FRAUD AND DECEIT
2. RECOVERY OF PENSION PAYMENTS
3. RECOVERY OF INVESTMENT LOSSES
4. BREACH OF FIDUCIARY DUTY
5. AIDING AND ABETTING BREACH OF FIDUCIARY DUTY
6. UNJUST ENRICHMENT
7. COMMON COUNTS-ACCOUNT STATED
8. COMMON COUNTS-MONEY HAD AND RECEIVED

HON. JUDGE PATRICIA LENZI

21 PLAINTIFF alleges as follows:

PARTIES

22 1. PLAINTIFF CEDARVILLE RANCHERIA OF NORTHERN PAIUTE INDIANS

23 ("Tribe") is, and was at all times herein mentioned, a federally recognized Indian Tribe, with
24 approximately twelve (12) voting members, with an Administrative Office located in Alturas,
25 California. The Tribe's Reservation, housing, Travel Center and Community Center are located in
26 Cedarville, California.
27
28

FILED

Cedarville Rancheria
Tribal Court

Date 10/21/14

By Court Clerk
NM

4. PLAINTIFF is informed and believes OPPENHEIMER FUNDS, INC., doing business as OPPENHEIMER FUNDS, is a New York based financial fund manager that currently holds funds, at issue in this matter, on deposit from the Tribe for the benefit of DEFENDANT KNIGHTON.

6. PLAINTIFF is informed and believes and thereon alleges that at all times herein mentioned DEFENDANTS, DOES 1 through 10, were the agents and employees of each of the remaining Defendants and were acting within the scope of said representative capacity and agency. PLAINTIFF is further informed and believes and thereon alleges that each Defendant, including those identified as DOES, ratified each and every act of all remaining Defendants, including those identified as DOES.

7. This Court has subject matter jurisdiction over this action pursuant to Tribal Court Code §201 et seq., enacted via Ordinance 13-07 on December 14, 2013.

GENERAL ALLEGATIONS

10. On information and belief, on about July 1996, Defendant DUANNA KNIGHTON was hired by the Tribe as an office assistant. At the time of hiring, KNIGHTON had no previous experience working for an Indian Tribe, nor had she had any experience with the duties and responsibilities of a Tribal Administrator as outlined in the Tribe's Tribal Administrator Job Description.

12. On or about April 1, 1998, KNIGHTON is alleged to have received a pay raise from \$15.00 per hour to \$18.50 per hour, and was allegedly, now working up to thirty (30) hours per week for the Tribe.

14. Between the years of 1999 and 2003 (over four years), KNIGHTON's salary rose from \$31,320 to \$54,600.00, including benefits -- an increase in excess of forty (40) percent of her starting 1999 salary.

COMPLAINT FOR DAMAGES

1 week for the Tribe which allegedly included work for the Tribe's Indian Housing Program (IHP) and
2 Environmental Protection Agency (EPA), allegedly funded with federal grant funds, which
3 increased her salary by \$2,500.00 (IHP) and \$15,000.00 (EPA), respectively, annually.

4 **THE TRIBE'S INVESTMENT LOSSES**

5 16. During the period of KNIGHTON's employment, KNIGHTON made various
6 investment decisions on behalf of the Tribe via several financial institutions. According to a 2006
7 Audit report, at the time of the report, the Tribe had in excess of \$2.1 million dollars invested. The
8 2007 Audit reported \$3.07 million dollars invested at the end of 2007. By the end of 2008, the
9 Tribe's investments had lost in excess of \$1.2 million dollars, a portion of which included funds
10 allocated to the Tribe's children. Subsequent to KNIGHTON'S resignation, it was discovered that
11 the Tribe's investments, at the direction of KNIGHTON, were invested in high-risk investments. A
12 review of KNIGHTON's resume submitted at the time of her employment with the Tribe shows she
13 did not have any previous training concerning financial investments or investment portfolios.

14 17. The funds allocated to the Tribe's children were co-mingled with funds invested on
15 behalf of the Tribe's adults and were not properly protected from taxation. A reading of the Tribe's
16 Audit Reports, starting with the 2006 report, includes a finding of the Tribe's lack of adoption of an
17 investment policy. KNIGHTON never recommended the implementation of this policy, despite the
18 auditors' recommendations. KNIGHTON hid the audit reports from the Tribe's General
19 Membership. In sum, the Tribe's General Membership only became aware of the 2008 \$1.2. million
20 dollar investment losses **after** KNIGHTON resigned.

21 **THE TRIBE'S PURCHASE OF THE R.I.S.E PROPERTY**

22 18. In January 2009, the Tribe's leadership changed, with the installation of Cherie Lash
23 Rhoades, as Tribal Chairperson. By June of 2009, the Tribe thereafter purchased a property from
24 R.I.S.E., allegedly for \$300,000. KNIGHTON is alleged to have been either an employee or a
25 Director of R.I.S.E., at the time of the Tribe's purchase of the building, with KNIGHTON having
26 negotiated the purchase of the building on behalf of the Tribe. KNIGHTON initially recommended
27 a purchase price of \$350,000. In support of the purchase, KNIGHTON represented that the Tribe
28 could recoup its investment with rents from R.I.S.E. occupying a portion of the building. After the

1 Tribe turned down KNIGHTON'S recommendation to purchase the building at \$350,000, the Tribe
2 counter-offered at \$300,000, which R.I.S.E. accepted. Subsequent to the purchase neither the
3 building itself nor the \$300,000 building purchase price ever showed up on the R.I.S.E. Inc.,
4 corporate filings. After the purchase, it was discovered that KNIGHTON made her recommendation
5 to purchase the R.I.S.E. building without a professional appraisal. R.I.S.E. also moved its operations
6 within twelve (12) months of the Tribe's purchase of the building. After KNIGHTON'S resignation
7 from the Tribe, the Tribe discovered that at the time KNIGHTON made the recommendation to
8 purchase the R.I.S.E. property, R.I.S.E. was in a desperate financial position, bordering on
9 insolvency.

10 **KNIGHTON'S RESIGNATION**

11 19. On information and belief, in March 2013, KNIGHTON resigned her position as
12 Tribal Administrator. In the months leading up to her resignation, the Tribe's Executive Council
13 commented, during Executive Session, that KNIGHTON, over the last year, did not show up for
14 work and appeared to be working more on R.I.S.E. matters when she was supposed to be working
15 for the Tribe.

16 20. On information and belief, prior to her resignation, KNIGHTON requested she cash
17 out her vacation pay even though the Tribe's policies and procedures forbade it. KNIGHTON
18 attempted to have Tribal Administrator, Jack Conovalov, sign off on her request, but he refused.
19 KNIGHTON then went to the Tribal Vice-Chairman, who unknowingly signed the authorization
20 based upon KNIGHTON's representation that the cash-out had been approved by Tribal
21 Chairperson, Cherie Lash Rhoades. A check in excess of \$29,000 was paid by the Tribe to RISE on
22 behalf of KNIGHTON. This \$29,000 cash out was against the Tribe's policies and procedures.

23 21. When KNIGHTON resigned, she took all files, including the Tribe's files, room
24 furnishings and a computer, representing to the Tribe that the property removed was the property of
25 R.I.S.E.

26 22. In late 2013, the Tribe wrote to both R.I.S.E. and KINGHTON, demanding the return
27 of the vacation pay cash-out (\$29,995.00) and any and all tribal property, including the computer.
28 Both R.I.S.E and KNIGHTON denied the Tribe's request through their legal counsel. (See Exhibit

1 Both R.I.S.E and KNIGHTON denied the Tribe's request through their legal counsel. (See Exhibit
2 "A".)

3 THE CEDARVILLE TRAGEDY

4 23. On February 20, 2014, during a Tribal meeting, former Tribal Chairperson, Cherie
5 Lash Rhoades, allegedly shot five members of the Tribe and the Tribe's Tribal Administrator. Four
6 persons, including three Cedarville tribal members, one of which was Chairman Rurik Davis, Cherie
7 Lash Rhoades' brother and a vocal critic of KNIGHTON'S handling of the Tribe's finances, were
8 killed.

9 THE TRIBE'S AUDIT FINDINGS

10 24. After the tragedy in February 2014, the Tribe conducted a forensic accounting of the
11 Tribe's financial position. It was discovered through a review of the Tribe's annual audit reports
12 (2005-Present) that the auditors made various "Internal Control" findings specifically "Material
13 Weaknesses" which included, but are not limited to the following:

- 14 • General Ledger deficiencies, requiring additional training for the Tribe's
15 Administrator, lack of GAAP accounting; lack of council minutes; bank accounts
16 being reconciled by the same person; incorrect transfer recording; pension
17 contributions, including employee matches not being calculated correctly;
- 18 • Lack of financial policies and procedures;
- 19 • Lack of an investment policy; and
- 20 • Sick pay miscalculations.

21 KNIGHTON is alleged to have concealed the audit findings from the Tribe. None of the
22 audit findings were ever implemented by KNIGHTON, the Tribe's Administrator.

23 FIRST CAUSE OF ACTION

24 FRAUD AND DECEIT

25 (Defendant KNIGHTON)

26
27 25. PLAINTIFF incorporates by reference Paragraphs 1 through 24 as though fully set
28 forth herein.

1 26. On information and belief, KNIGHTON is alleged to have manipulated the Tribe's
2 policies and procedures to provide her fringe benefits, including a pension, and sick days in excess
3 of what would normally be paid to a Tribal Administrator for a like-sized Tribe. The Tribe is
4 informed and believes that it overpaid its statutory share of pension and sick pay on behalf of
5 KNIGHTON. KNIGHTON who was in charge of the benefit payments, refused to advise, or failed
6 to advise, the Tribe of pension plan overpayments when the payments were due, each year, of her
7 employment. The overpayments of pension benefits were placed in trust by PLAINTIFF at the
8 direction of KNIGHTON with OPPENHEIMERFUND, INC.

9 27. On information and belief, KNIGHTON is alleged to have manipulated the Tribe's
10 policy for vacation hours. At some point, KNIGHTON is alleged to have accumulated in excess of
11 one-hundred and eight two (182) hours of vacation pay, an extraordinary amount of vacation leave,
12 for an employee working less than forty hours a week. After KNIGHTON resigned from the Tribe's
13 employment, the Tribe, in an Executive Council meeting, commented that KNIGHTON was
14 frequently absent from work and that she complained of being "over worked" at less than forty-
15 hours per week. Moreover, the Executive Council alleged that the work KNIGHTON was doing
16 while employed with PLAINTIFF Tribe related to her work for R.I.S.E., and not PLAINTIFF.

17 28. The policy manipulations made by KNIGHTON were in fact false, and made to her
18 sole advantage, with the sole intent of personal financial gain and with the intent to harm the Tribe.
19 The true facts were that like-sized Tribes paid far less in salary and benefits to Tribal
20 Administrators, and PLAINTIFF overpaid KNIGHTON. PLAINTIFF rarely received income from
21 grant funds unless PLAINTIFF was trained in the specific grant fund category. KNIGHTON had
22 neither the training nor the experience with Indian Housing or Tribal Environmental Protection
23 Agency grant programs she is alleged to have received payments from.

24 29. When KNIGHTON made these policy manipulations and representations concerning
25 her salary, sick pay and vacation pay, she knew these statements were false. She made these
26 representations with the intent to defraud and deceive PLAINTIFF and with the intent to induce
27 PLAINTIFF to act in detrimental reliance on those misrepresentations, which caused PLAINTIFF
28 damage in the form of uncalled for salary and fringe benefits. At the time KNIGHTON made these

1 misrepresentations, KNIGHTON knew they were false.

2 30. PLAINTIFF, at the time these representations were made by KNIGHTON, and at the
3 time PLAINTIFF approved of such salary, and benefits, was ignorant of the falsity of KNIGHTON's
4 misrepresentations and believed them to be true.

5 31. In reliance on KNIGHTON's misrepresentations, the Tribe was induced to and did
6 increase her pay and paid excessive benefits. If PLAINTIFF had known of the actual intention of
7 KNIGHTON, PLAINTIFF would not have taken such action, which it did to its detrimental reliance.
8 PLAINTIFF's reliance on KNIGHTON's representations was justified because KNIGHTON as the
9 Tribe's administrator, the person responsible for handling the Tribe's day-to-day government, and
10 payment of its employees, was in a position of trust.

11 32. As a proximate result of KNIGHTON's fraud and deceit and the facts herein alleged,
12 PLAINTIFF was damaged in the sum of the amount of overpaid salary and fringe benefits, which it
13 shall calculate with precision once discovery is conducted in this matter.

14 33. In doing the acts herein alleged, KNIGHTON acted with oppression, fraud, and
15 malice, and PLAINTIFF is entitled to punitive damages in the sum to be determined at Trial.

16
17 **SECOND CAUSE OF ACTION**

18 **RECOVERY OF UNAUTHORIZED AND EXCESSIVE PENSION PAYMENTS**

19 (Defendant KNIGHTON)

20 34. PLAINTIFF incorporates by reference Paragraphs 1 through 33 as though fully set
21 forth herein. As a result of the allegations herein, PLAINTIFF is entitled to recover the unauthorized
22 and excessive pension payments paid to KNIGHTON at an amount to be ascertained with precision
23 via discovery in this matter.

24
25 **THIRD CAUSE OF ACTION**

26 **RECOVERY OF UNAUTHORIZED INVESTMENT LOSSES**

27 (Defendant KNIGHTON)

28 35. PLAINTIFF incorporates by reference Paragraphs 1 through 34 as though fully set

1 forth herein. As a result of the allegations herein, PLAINTIFF is entitled to recover the unauthorized
2 investment losses as ascertained with precision via discovery in this matter.

3
4 **FOURTH CAUSE OF ACTION**
5 **BREACH OF FIDUCIARY DUTY**
6 (Defendant KNIGHTON)

7 36. PLAINTIFF incorporates by reference Paragraphs 1 through 35 as though fully set
8 forth herein.

9 37. KNIGHTON at all times was under a fiduciary duty of loyalty, due care and good
10 faith to PLAINTIFF, wherein she was to avoid:

- 11 A. Participating in any transaction where her loyalty was divided;
12 B. Participating in any transaction where her financial benefit exceeded the
13 financial benefit of PLAINTIFF;
14 C. Unjustly enriching herself to the detriment of PLAINTIFF.

15 38. On information and belief PLAINTIFF alleges that KNIGHTON violated her
16 fiduciary duties of loyalty, due care and good faith to PLAINTIFF.

17 39. On information and belief, KNIGHTON violated her fiduciary duty to PLAINTIFF
18 by failing to perform her employment responsibilities on behalf of the Tribe and in particular by
19 increasing her salary and benefits beyond what would be paid to an employee of a like-sized tribe,
20 and instead, received a financial benefit, above and beyond the benefit received by the Tribe, in
21 work performed.

22 40. On information and belief, KNIGHTON violated her fiduciary duties to PLAINTIFF
23 in investing the Tribe's money without the appropriate authority, concealing investment documents
24 and audit reports from the Tribe to hide investment losses and by attempting to enter financial
25 agreements without the appropriate authorization or waivers of tribal sovereign immunity.

26 41. As demonstrated by the allegations above KNIGHTON failed to exercise the care
27 required and breached her duty of loyalty, due care, and good faith by not receiving the appropriate
28 Tribal authorizations and making unreasonable risky investments, leading to the investment losses,

1 excess transaction fees and state and federal tax exposure.

2 42. As a direct and proximate result of KNIGHTON's breaches, PLAINTIFF has been
3 damaged in an amount to be determined at trial.

4
5 **FIFTH CAUSE OF ACTION**

6 **AIDING AND ABETTING BREACH OF FIDUCIARY DUTY**

7 (Defendants KNIGHTON and R.I.S.E.)

8 43. PLAINTIFF incorporates by reference Paragraphs 1 through 42 as though fully set
9 forth herein.

10 44. Defendant R.I.S.E. was aware that Defendant KNIGHTON owed Plaintiff a fiduciary
11 duty.

12 45. Defendant R.I.S.E. knowingly provided substantial assistance and encouragement to
13 Defendant KNIGHTON in her breaches of fiduciary duties.

14 46. Defendant R.I.S.E. ultimately failed to honor, and without excuse, breached the
15 agreements by performing substandard and incorrect accounting and auditing work, as set forth
16 above, yet demanded and accepted payment for services claimed to have been rendered.

17 47. Defendant R.I.S.E. therefore aided and abetted Defendant KNIGHTON in her
18 breaches of fiduciary duties to PLAINTIFF. As a result DEFENDANTS are jointly responsible for
19 the damages resulting from the fiduciary breaches alleged herein and PLAINTIFF has been damaged
20 in an amount to be determined at trial.

21
22 **SIXTH CAUSE OF ACTION**

23 **UNJUST ENRICHMENT**

24 (Defendants KNIGHTON and R.I.S.E.)

25 48. PLAINTIFF incorporates by reference Paragraphs 1 through 47 as though fully set
26 forth herein.

27 49. On information and belief, Defendants KNIGHTON and R.I.S.E. are alleged to have
28 manipulated PLAINTIFF into the purchase of an administrative building that was constructed by

1 R.I.S.E. for \$300,000. At the time of the purchase, Defendant KNIGHTON was the PLAINTIFF'S
2 Tribal Administrator and an officer or agent of Defendant R.I.S.E. Defendant KNIGHTON, as both
3 the Tribe's Administrator and a R.I.S.E. officer or agent was in a conflict of interest in
4 recommending and negotiating the sale of the R.I.S.E. building to PLAINTIFF. At the time of the
5 purchase of the R.I.S.E. building, Defendant KNIGHTON failed to inform PLAINTIFF of her
6 conflict of interest and withdraw from further action concerning the sale. At the time of the sale,
7 Defendant KNIGHTON failed to disclose to the PLAINTIFF that R.I.S.E. was in poor financial
8 health and that the R.I.S.E. building did not appear on R.I.S.E.'s tax filings. At no time prior to the
9 sale did Defendant KNIGHTON disclose to PLAINTIFF that it should or could have obtained an
10 appraisal on the building to determine whether PLAINTIFF was realizing the benefit of its bargain.

11 50. On information and belief, Defendant KNIGHTON is alleged to have manipulated
12 PLAINTIFF into the purchase of the R.I.S.E. building by telling PLAINTIFF before purchase that it
13 was purchasing the building below market rate and that after the purchase, PLAINTIFF could pay
14 off the building loan within five (5) years after purchase and that R.I.S.E. would pay rent to
15 PLAINTIFF until the note on the building was paid off.

16 51. The manipulations made by Defendant KNIGHTON were in fact false, and made to
17 her and R.I.S.E.'s sole advantage, with the sole intent of personal financial gain and with the intent
18 to harm PLAINTIFF. The true facts were: that the building was not sold below market rate, but
19 \$150,000 above market rate, that R.I.S.E. would not remain a tenant of PLAINTIFF, R.I.S.E. would
20 leave within twelve (12) months of the purchase and that the note was not paid off within five (5)
21 years as represented. Moreover, Defendant KNIGHTON failed to disclose to PLAINTIFF that after
22 paying off the building loan, KNIGHTON and R.I.S.E. would split the proceeds of the building sale.

23 52. When Defendant KNIGHTON made these misrepresentations, she knew them to be
24 false, and they were made with the intent to defraud and deceive PLAINTIFF and with the intent to
25 induce PLAINTIFF to act in the manner herein alleged. At the time Defendant KNIGHTON made
26 the aforementioned promises to PLAINTIFF, she had no intention of performing them.

27 53. PLAINTIFF, at the time these representations were made by Defendant KNIGHTON
28 and at the time PLAINTIFF approved of such salary, and benefits, was ignorant of the falsity of the

1 misrepresentations and believed them to be true.

2 54. Further, in reliance on Defendant KNIGHTON's misrepresentations, PLAINTIFF
3 was induced to and did purchase the R.I.S.E. building. If PLAINTIFF had known of the actual
4 intention of Defendant KNIGHTON, PLAINTIFF would not have taken such action. PLAINTIFF's
5 reliance on Defendant KNIGHTON's representations was justified because Defendant KNIGHTON
6 as the PLAINTIFF's administrator, was in a position of trust.

7 55. As a proximate result of Defendants' fraud and deceit and the facts herein alleged,
8 PLAINTIFF paid twice the value of the R.I.S.E. building by reason of which PLAINTIFF has been
9 damaged in the sum of \$150,000, plus interest.

10 56. In doing the acts herein alleged, Defendants acted with oppression, fraud, and malice,
11 and PLAINTIFF is entitled to punitive damages in the sum to be determined at Trial.

12
13 **SEVENTH CAUSE OF ACTION**

14 **COMMON COUNT-ACCOUNT STATED**

15 (Defendants KNIGHTON and R.I.S.E.)

16 57. PLAINTIFF incorporates by reference Paragraphs 1 through 56 as though fully set
17 forth herein.

18 58. Whereas, within the last year, PLAINTIFF provided the full account stated to
19 Defendants KNIGHTON and R.I.S.E., for the return of the **\$29,925.00** unauthorized benefit
20 payment and defendants, both of them, have refused to pay PLAINTIFF upon request.

21 59. Wherein, PLAINTIFF prays for relief as set forth below.

22
23 **EIGHTH CAUSE OF ACTION**

24 **COMMON COUNT- MONEY HAD AND RECEIVED**

25 (Defendants KNIGHTON and R.I.S.E.)

26 60. PLAINTIFF incorporates by reference Paragraphs 1 through 59 as though fully set
27 forth herein.

28 61. Defendants KNIGHTON and R.I.S.E., have failed to reimburse PLAINTIFF the

1 amount of **\$29,925.00**, requested by PLAINTIFF via a written statement, the amount of
2 unauthorized payment of sick pay cashed out by Defendant KNIGHTON and forwarded to
3 Defendant R.I.S.E. on her behalf.

4 62. Wherein, PLAINTIFF prays for relief as set forth below.

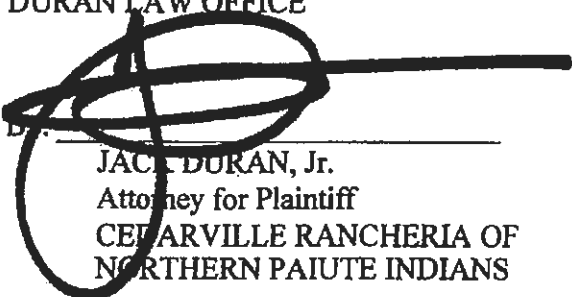
5
6 **PRAYER FOR RELIEF**

7 WHEREFORE PLAINTIFF prays for judgment as follows:

- 8 1. For judgment in favor of PLAINTIFF and against Defendant KNIGHTON according
9 to proof as to Causes of Actions One through Eight (1-8) and as against Defendant R.I.S.E as to
10 Causes of Actions Five through Eight (5-8);
- 11 2. For general and special damages against DEFENDANTS according to proof;
- 12 3. For prejudgment and post judgment interest;
- 13 4. For punitive damages;
- 14 5. For costs of suit incurred herein;
- 15 6. For such other and further award the Court deems just and proper.

16
17 Dated: 9/25/14

DURAN LAW OFFICE

18
19 
20 JACK DURAN, Jr.
21 Attorney for Plaintiff
22 CEDARVILLE RANCHERIA OF
23 NORTHERN PAIUTE INDIANS
24
25
26
27
28

EX. A



DURAN LAW OFFICE

Jack Duran, Esq.

SENT VIA REGISTERED MAIL RETURN RECEIPT AND FACSMILE (909) 483-1840

February 10, 2014

CGCLaw
8038 Have Ave, Suite E
Rancho Cucamonga, CA 91730
Attn: Richard Clouse, Esq.

Re: **Demand Letter: Cedarville Rancheria of Northern Paiute Indians Check #11620 \$29,925.00**

Dear Mr. Clouse:

Duran Law Office serves as the General Counsel to the Cedarville Rancheria of Northern Paiute Indians (Tribe). It has been nearly a month since your correspondence, dated January 16, 2014, indicated that you were *analyzing and consulting* concerning the reimbursement issue. Again, the Tribe demands the portion of funds presently possessed by RISE. If I do not hear from you within five (5) days concerning whether your client will return the funds, my client will be compelled to file suit to recover the funds. If compelled to file suit the likelihood costs and expenses related to the filing and prosecuting the claim will likely exceed the amount retained by your client.

The Tribe hereby demands the immediate return of the funds, the transaction of which was paid by Bank of America, on or before February 15, 2014, via certified check, or the Tribe will pursue any and all legal means to recoup the funds.

Your immediate review of this matter is requested. I look forward to receipt of the funds on or before February 15, 2014. If you fail to respond to this demand within the time provided, the Tribe has authorized me to immediately commence legal action to recover these funds.

Very truly yours,

/JD/

Duran Law Office
Owner

cc: Cedarville Rancheria of Northern Paiute Indians, Tribal Council

4010 Foothills Blvd, Suite 103, No. 98
Roseville, CA 95747
(916) 779-3316 (Office)
(916) 520-3526 (Fax)



February 13, 2014

Jack Duran, Esq.
Law Offices of Jack Duran
4010 Foothills Blvd, Suite 103, No. 98
Roseville, CA 95747
duranlaw@yahoo.com

Re: Cedarville Rancheria of Northern Paiute Indians v. RISE
Date of Loss: February 28, 2013

Dear Mr. Duran:

Since our previous correspondence to you we have had an opportunity to more fully analyze the propriety of your demand for reimbursement of the sum of \$29,925 which was paid to RISE as a result of a severance agreement entered into between the Cedarville Rancheria of Northern Paiute Indians (hereinafter "CRNPI") to their outgoing Finance Director, Duanna Knighton.

Ms. Knighton was an employee of both CRNPI, as well as RISE. Her health benefits were paid by CRNPI through reimbursement to RISE for a group policy maintained by RISE, which we understand was an agreed upon arrangement previously utilized for persons who were employed by CRNPI. The sum in question was owed by CRNPI to Ms. Knighton for accrued but unused sick leave amounting to approximately 665 hours.

This sum was paid to RISE in order to maintain Ms. Knighton's health care benefits. Records maintained by RISE indicate that this sum was deposited into a separate account on or about March 5, 2013, and that there have been regular disbursements made on a monthly basis solely for the purpose of paying the insurance premiums for Ms. Knighton's Anthem/Blue Cross coverage.

Clearly, therefore, at no time did RISE ever intend to exercise beneficial ownership over these funds. Rather, it has clearly maintained and disbursed funds from this account in furtherance of what appears to be a clear intent of CRNPI and Ms. Knighton in negotiating her severance agreement from CRNPI. This has had the effect of creating a "resulting trust."

Jack Duran, Esq.
Law Offices of Jack Duran
Re: Cedarville Rancheria of Northern Paiute Indians v. RISE
February 13, 2014
Page 2

A "resulting trust" is often called an "intention-enforcing trust" (citations omitted) ... arising by implication of law in order to enforce the inferred intent of parties to a transaction. (*Calistoga Civic Club v. City of Calistoga* [1983] 143 Cal.App.3d 111, 117-118). The resulting trust is a creature of equity and need not be evidenced in writing or even by express declaration (*Id.* at 118).

The severance agreement was negotiated between Ms. Knighton and the then Tribal Council, which included former Tribal Administrator Jack Conovolaff. We understand that in the ensuing months following the negotiation of the severance agreement involving Ms. Knighton, there has been a change in tribal leadership. We are informed and believe that the change in tribal leadership included the removal of both Mr. Conovolaff and others on the Tribal Council.

We understand that current Tribal leadership includes an individual who had previously made overtures toward Ms. Knighton, and which were rebuffed by Ms. Knighton. It is disconcerting to consider that the current demand to rescind the severance agreement, which appears to have been entered into in good faith by Ms. Knighton, is nothing more than a retaliatory act arising from quid pro quo harassment.

Irrespective of the motivation behind CRNPI's demand for reimbursement, the fact is that the funds in question are in trust for Ms. Knighton; it is her property. It is not within RISE's authority to now return the funds in question to CRNPI. We must decline your demand for return of any of the funds paid.

Very truly yours,

CHIGOYENETCHE, GROSSBERG & CLOUSE



RICHARD R. CLOUSE

RRC/glc

EXHIBIT "B"

CEDARVILLE RANCHERIA OF NORTHERN PAIUTE INDIANS
TRIBAL COURT

CEDARVILLE RANCHERIA OF NORTHERN
PAIUTE INDIANS,

Plaintiff,

v.

DUANNA KNIGHTON; RESOURCES FOR
INDIAN STUDENT EDUCATION, INC.
(R.I.S.E.); OPPENHEIMER FUNDS, INC; AND
DOES 1-10, INCLUSIVE,

Defendants.

Case No.: CED-CI-2014-00002

**ORDER GRANTING EX PARTE
APPLICATION FOR TEMPORARY
RESTRAINING ORDER AGAINST
DUANNA KNIGHTON, RISE,
OPPENHEIMER FUND, INC., AND DOES
1-10; AND SETTING HEARING FOR
ORDER TO SHOW CAUSE RE:
PRELIMINARY INJUNCTION**

Hearing Date: October 14, 2014
Time: 9:00 am
TELEPHONIC for All parties

HON. JUDGE PATRICIA LENZI

Plaintiff, CEDARVILLE RANCHERIA OF NORTHERN PAIUTE INDIANS
("TRIBE"), having filed a Complaint for Injunctive Relief, Application for Ex Parte Temporary
Restraining Order, the Court finds as follows:

1. This Court has subject matter jurisdiction over this action pursuant to Tribal Court Code
§201 et seq., and jurisdiction over this matter because this matter involves nonmember Defendants
who engaged in "consensual relationships" with the Tribe and its members.

2. Plaintiffs have made a sufficient showing that neither written nor oral prior notice need
be given to Defendant's KNIGHTON, OPPENHEIMER, R.I.S.E., and Does 1-10, certain as yet
unidentified persons, (collectively the "Defendants"), because it is likely that immediate and
irreparable injury, loss or damage will result to the Plaintiffs before the adverse party or their
attorney can be heard in opposition. Notice shall not be required before this Order is entered as
Defendants may attempt to accept, transfer, encumber, conceal, move, or otherwise dispose of any
funds held by Defendant OPPENHEIMER that are in dispute in the above-entitled action, until a
time at which it can be determined which funds, if any, belong to Defendant KNIGHTON and/or

Madalica Alturas

- 1 -

ORDER GRANTING EX PARTE APPLICATION FOR TEMPORARY RESTRAINING ORDER AGAINST DUANNA KNIGHTON, RISE,
OPPENHEIMER FUND, INC., AND DOES 1-10; AND SETTING HEARING FOR ORDER TO SHOW CAUSE RE: PRELIMINARY
INJUNCTION

1 Plaintiff TRIBE, if Defendants are given advance notice of the TRIBE's intention to obtain this
2 Order.

3 3. There is good cause to believe that Defendants, if not restrained will withdraw, transfer,
4 conceal, encumber, dispose of, and/or continue to work to maintain control of the funds to the
5 disadvantage of the Tribe.

6 IT IS HEREBY ORDERED that Defendants, its officers, agents, employees and attorneys
7 and upon those persons in active concert or participation with them who receive actual notice of the
8 order by personal service or otherwise, be and hereby are temporarily restrained directly or
9 indirectly from aiding and abetting the concealment of, transfer of, or making of any material
10 changes in position to, the funds on deposit with OPPENHEIMER.

11 IT IS FURTHER ORDERED that Defendants, its officers, agents, employees and attorneys
12 and upon those persons in active concert or participation with them who receive actual notice of the
13 order by personal service or otherwise, shall hereby freeze all accounts in the name of Defendant
14 KNIGHTON that are currently on deposit with Defendant OPPENHEIMER, and Defendant
15 OPPENHEIMER shall contact this Court and Plaintiff to confirm the accounts are indeed blocked;
16 and

17 IT IS FURTHER ORDERED that Defendants, its officers, agents, employees and attorneys
18 and upon those persons in active concert or participation with them who receive actual notice of the
19 order by personal service or otherwise, shall turn over to Plaintiffs copies of all documents related to
20 any accounts held by the Defendant OPPENHEIMER in the name of the Defendant KNIGHTON
21 including, but not limited to, bank statements, transaction histories, and written communications to
22 the TRIBE's Chairwoman, Brandi Penn.

23 IT IS FURTHER ORDERED that the Plaintiffs shall forthwith file this Temporary
24 Restraining Order with the Clerk of the Court and serve copies of said Order on Defendants; and

25 IT IS FURTHER ORDERED that Defendants served with a copy of this Order shall
26 forthwith give actual notice of this Order to each of said Defendants' officers, agents, attorneys and
27 to each person acting in active concert or participation with them; and,
28

1 (i) That unless this Court rules otherwise, a Hearing to Show Cause as to why this
2 Temporary Restraining Order should not remain in effect shall take place on the _14th_ day of
3 October, 2014, at 9:00 a.m., as a telephonic hearing before this Court. The Court Clerk shall notify
4 all parties of the call-in number for this hearing as soon as practicable, and shall do so prior to the
5 date and time set for hearing; and

6 (ii) That Defendants shall file any responsive pleadings no later than the _10th_ day of
7 October, 2014 by close of business in this Court; and

8 (iii) As a Tribal Government and Tribal Government Enterprise, Plaintiffs are not required
9 to post a bond prior to issuance of this Temporary Restraining Order.

10
11 IT IS HEREBY FURTHER ORDERED THAT parties affected by the Proposed Order can
12 apply to the Court for modification or dissolution on two (2) days' notice or such shorter notice as
13 the Court may allow.

14
15 DATED this 1st day of October, 2014.

16
17
18
19 
Honorable Patricia Lenzi, Chief Judge
Cedarville Rancheria Tribal Court
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28

EXHIBIT "C"

**CEDARVILLE RANCHERIA
JUDICIAL CODE**

PREAMBLE

This Code of the Cedarville Rancheria is enacted for the purpose of protecting and promoting tribal sovereignty, strengthening tribal self-government, providing for the judicial needs of the Cedarville Rancheria, and thereby assuring the protection of tribal resources and the rights of the members of the Cedarville Rancheria and all others within its jurisdiction.

TITLE I: COURTS

**PART I: ESTABLISHMENT AND OPERATION OF THE
CEDARVILLE RANCHERIA TRIBAL COURT**

Section 101. Establishment of Tribal Court.

There is hereby established a tribal court of general jurisdiction as a Court of record. The Cedarville Rancheria Tribal Court "Tribal Court" or "Court" shall consist of a Trial Division and an Appellate Division.

Section 102. Tribal Designation.

Wherever the formal designation "Tribe," "Tribal" or "Rancheria" appears in this Code, such designation shall refer to the Cedarville Rancheria unless specifically designated otherwise.

Section 103. Appropriations and Funding.

- A. The Community Council of the Rancheria shall appropriate and authorize the expenditure of tribal funds for the operation of the Tribal Court. The amounts to be appropriated shall be consistent with the needs of the Tribal Court for proper administration of justice within the Reservation and for the Rancheria as determined by the Community Council.
- B. To assist the Community Council in making appropriations for operation of the Court, the Tribal Administrator, in consultation with the Chief Judge shall submit proposed budgets and reports of expenses and expenditures at such intervals and in such form as may be prescribed by the Community Council.
- C. The Community Council may prescribe a system of accounting for funds received from any source by the court and the Tribal Administrator.

Section 104. Conflict with Other Laws.

- A. Tribal Laws.

To the extent that this Code may conflict with tribal laws or ordinances which have been enacted to comply with statutes or regulations of any agency of the United States, such tribal laws or ordinances shall govern over the provisions of this Code if they have specific applicability and are clearly in conflict with the provisions of this Code.

B. Federal Laws.

Where a conflict may appear between this Code and any statute, regulation or agreement of the United States, the federal law shall govern if it has specific applicability and if it clearly is in conflict with the provisions of this Code.

C. State Laws.

To the extent that the laws of any state may be applicable to the subject matter of this Code, such laws shall be read to be advisory and not directly binding and shall not govern the relations of the parties.

PART II: JURISDICTION

Section 201. Cedarville Rancheria Tribal Court Jurisdiction

A. Territory.

The jurisdiction of the Tribal Court and the effective area of this Code shall extend to disputes arising within or concerning all territory within the Cedarville Rancheria boundaries, including, but not limited to, trust lands, fee patent lands, allotments, assignments, roads, waters, bridges and existing and future lands outside the boundaries owned or controlled by the Rancheria for its benefit, the benefit of its members and the benefit of other Indian persons.

B. Subject Matter.

The jurisdiction of the Tribal Court shall extend to:

1. All persons who reside or are found within the territorial jurisdiction of the Rancheria and are: Tribal members or eligible for membership in the Rancheria; members of other federally recognized Indian tribes; or Indians who are recognized as such by an Indian community or by the federal government for any purpose.
2. All persons described in Subdivision B.1., wherever located, while exercising tribal rights pursuant to federal, state or tribal law.
3. All persons outside the exterior boundaries of the Cedarville Rancheria Reservation, as defined herein, within the jurisdiction of the Rancheria pursuant

to federal or tribal law, including all persons whose activity on or off reservation threatens the Rancheria, government or its membership.

4. All other persons whose actions involve or affect the Rancheria, or its members, through commercial dealings, contracts, leases or other arrangements. For purposes of this Code, person shall mean all natural persons, corporations, joint ventures, partnerships, trust, trust funds, public or private organizations or any business entity of whatever kind.

C. Actions.

The judicial power of the Tribal Court shall extend to:

1. All matters and actions within the power and authority of the Cedarville Rancheria including controversies arising out of the Constitution and By-Laws of the Cedarville Rancheria, statutes, ordinances, resolutions and codes enacted by the Cedarville Rancheria; and such other matters arising under enactments of the Cedarville Rancheria or the customs and traditions of the Cedarville Rancheria.
2. All civil causes of action arising at common law including, without limitation, all contract claims (whether the contract at issue is written or oral or existing at law), all tort claims (regardless of the nature), all property claims (regardless of the nature), all insurance claims, and all claims based on commercial dealing with the Band, its agencies, sub-entities, and corporations chartered pursuant to its laws, and all nuisance claims. The court shall have original jurisdiction whether the common law cause of action is one which has been defined as Band common law, or is one which exists at common law in another jurisdiction and which is brought before the Tribal Court based upon reference to the law of that other jurisdiction. For the purposes of this Code, "common law" shall mean the body of those principles and rules of action, relating to the government and security of persons and property, which derive their authority solely from the usages and customs, or from the judgments and decrees of courts recognizing and affirming such usages and customs, and as is generally distinguished from statutory law.
3. Other actions arising under the laws of the Rancheria as provided in those laws.
4. Limitation of Actions.

No complaint shall be filed in a civil action unless the events shall have occurred within a six (6) year period prior to the date of filing the complaint; provided, that this general statute of limitations shall not apply to suits filed to recover public money or public property intentionally or erroneously misspent, misappropriated or misused in any way; and further provided that this general statute of limitations shall not apply to any debt owed the Rancheria or any of its agencies, arms or instrumentalities, whether organized or not under tribal law.

D. Concurrent Jurisdiction.

The jurisdiction invoked by this Code over any person, cause of action or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this code does not recognize, grant, or cede jurisdiction to any state or other political or governmental entity which jurisdiction does not otherwise exist in law.

Inclusion of language, definitions, procedure or other statutory or administrative provisions of the state of California or other state or federal entities in this Code shall not be deemed an adoption of that law by the Cedarville Rancheria and shall not be deemed an action deferring to state or federal jurisdiction within the Cedarville Rancheria where such state or federal jurisdiction may be concurrent or does not otherwise exist.

Section 202. Suits Against the Band.

A. Sovereign Immunity of Band.

The sovereign immunity from suit of the Band and every elected Executive Council member or tribal official with respect to any action taken in an official capacity or in the exercise of the official powers of any such office, in any court, federal, state or tribal is hereby affirmed; nothing in this Code shall constitute a waiver of the Rancheria's sovereign immunity. The Tribal Court shall have no jurisdiction over any suit brought against the Rancheria in the absence of unequivocally expressed waiver of that immunity of the Community Council.

B. Tribal Action Not a Waiver of Sovereign Immunity.

No enforcement action taken pursuant to this Code, including the filing of an action by the Rancheria or any agency of the Rancheria in the Tribal Court, shall constitute a waiver of sovereign immunity from suit of the Rancheria, or any elected Executive Council member or tribal official with respect to any action taken in an official capacity, or in the exercise of the official powers of any such office, either as to any counterclaim, regardless of whether the counterclaim arises out of the same transaction or occurrence, or in any other respect.

C. Resolution Required for Waiver of Sovereign Immunity.

The sovereign immunity of the Rancheria and any elected Executive Council member or tribal official with respect to any action taken in an official capacity, or in the exercise of the official powers of any such office, in any action filed in the Tribal Court with respect thereto, may only be waived by a formal resolution of the Community Council of the Cedarville Rancheria. All waivers shall be unequivocally expressed in such resolution. No waiver of the Rancheria's sovereign immunity from suit may be implied from any action or document. Waivers of sovereign immunity shall not be general, but shall be specific and limited as to the jurisdiction or forum within which an action may be heard,

duration, grantee, action and property or funds, if any of the Rancheria or any agency, subdivision or governmental or commercial entity of the Rancheria subject thereto. No express waiver of sovereign immunity by resolution of the Community Council of the Cedarville Rancheria shall be deemed consent to the levy of any judgment, lien or attachment upon property of the Rancheria or any agency, subdivision or governmental or commercial entity of the Rancheria other than property specifically pledged or assigned therein.

Section 203. Amendments and Revisions.

This Code may be amended by action of the Executive Committee or Community Council of the Cedarville Rancheria. Amendments, additions and deletions to this Code shall become a part hereof for all purposes and shall be codified and incorporated herein in a manner consistent with its numbering and organization. Other than actions regarding procedural issues, no enactment, ordinance, resolution, or otherwise, shall apply to any pending cases before the Tribal Court at the time action is taken by the Community Council of the Cedarville Rancheria.

Section 204. Code Revisor.

A. Appointment.

The Tribal Administrator is hereby appointed Code Revisor for the Cedarville Rancheria. The Community Council, Executive Committee, tribal officials or the Chief Judge may submit for review and approval all codes, ordinances and statutory law contemplated for application and use by the Court. The Community Council shall review and vote on the Ordinance. The Ordinance shall be effective upon an affirmative vote of the Community Council. All Court Ordinances are subject to periodic revision and amendment with the consent of the Executive Committee or Community Council. Court operation policies and procedures are not subject to Community Council review and approval. However, any policies and procedures shall be provided to the Executive Committee for review and comment. Court policies and procedures shall also be made available upon request.

B. Duties of Revisor.

The Revisor shall carry out all duties assigned under this Section, including, but not limited to:

1. Certify, by signature and date, any and all amendments, corrections, revisions, updates, and expansions to this Code, and other Codes, ordinances and statutory laws enacted by the Community Council of the Cedarville Rancheria. Provided however, the Revisor's actions shall be ministerial in nature and the Revisor shall not be empowered to determine whether an action is necessary or sufficient for the lawful enactment into law of any amendment, correction, revision, update or expansion of this Code or other tribal laws.
2. Keep an official indexed and written record, which shall be public, of all Certifications made by the Revisor under this section.

3. Provide copies of all certified revisions of the Code to any person or agency requesting such copies. The Reviser may establish a reasonable cost for such copies.

C. Certification to Code Reviser.

Upon adoption of any and all amendments, corrections, revisions, updates or expansions of the Code by the Executive Committee or the Community Council of the Cedarville Rancheria, the Secretary of the Executive Committee shall convey a copy of the amendment, correction, revision, update or expansion of the Code, together with a copy of the resolution adopting it, to the Reviser.

D. Effective Date of Revisions.

Upon receipt of all the necessary documents from the Secretary of the Executive Committee, the Reviser shall make a written and dated Certification of Amendment, which shall be permanently attached to the said documents and kept in the permanent files of the Reviser. All revisions of the Code shall be effective on the date of the written certification required by this Section, and not before.

E. Distribution.

Distribution of the new Code provisions shall be at the discretion of the Reviser and may be at a cost established by him/her.

PART III: JUDGES

Section 301. Trial Division.

The judiciary of the Tribal Court, Trial Division, shall consist of a Chief Judge and may also include one or more Associate Judges.

The Executive Committee of the Cedarville Rancheria, or the Chief Judge by order, may appoint additional persons to serve as deputy/special judges or justices. Each such appointment of a deputy/special judge or justice shall be personal and shall not create an office which survives the death, resignation or removal of the appointee. The appointment of a deputy/special judge or justice may be for the performance of such specific duties or cases as may be assigned him/her by the Chief Judge or by the Executive Committee of the Cedarville Rancheria, and she/he shall serve until the cases or duties specifically assigned have been completed, or pursuant to the terms of any contract.

A deputy judge shall perform the duties and functions of a judge of the Tribal Court as may be designated by his/her appointment or contract subject to any restrictions or limitations imposed by law, by resolution of the Community Council of the Cedarville Rancheria, or the Chief Judge, as the case may be. The findings, rulings, opinions and orders of a deputy judge or justice shall

be signed "Judge" or "Justice," as appropriate to the case and shall have the same force and effect as if made by a regular judge or justice of the court.

Section 302. Appellate Division.

In any appeal from a final decision of a trial judge, whether Chief, Associate, or Deputy/Special, an appeals tribunal of three justices shall be appointed by the Community Council of the Cedarville Rancheria. Such justices of an appeal tribunal shall serve until cases specially assigned them have been completed. A justice of an appeals tribunal may only be removed prior to completion of assigned matters by the Community Council of the Cedarville Rancheria pursuant to the provisions of this Code for the removal of a judge of the Tribal Court.

Section 303. Qualifications.

- A. Any person Twenty-Five (25) years or older shall be eligible to serve as a Judge or Justice of the Tribal Court, except the following:
 - 1. The Tribal Administrator, Assistant Clerks and members of the Executive Council.
 - 2. Those who have been convicted by a court of the United States or of any state of the United States for a felony, as a felony is defined by the laws of that jurisdiction or a gross misdemeanor within one year immediately preceding the proposed appointment as judge or justice.
- B. All judges or justices of the Tribal Court, whether Chief, Associate or Deputy/Special, shall be lawyers experienced in the practice of tribal and federal Indian law and licensed to practice in the highest court of any state.

Section 304. Evaluation and Selection.

Candidates for the positions of the Chief Judge and Justices shall be screened by the Executive Committee and the Tribal Administrator. The Screening Committee shall submit its recommendations for appointments to the Community Council of the Cedarville Rancheria who shall make a final decision. Associate Judges shall be selected in the same manner except that the Chief Judge shall participate on the screening committee.

Section 305. Appointment, Terms, Compensation.

The Chief Judge, Associate Judges and Justices shall be appointed by the Community Council of the Cedarville Rancheria to two (2) year terms under written contracts specifying the compensation and other terms and conditions of the employment of the judge. Ninety (90) days prior to the expiration of the term of office of each Judge or Justice, the Community Council of the Cedarville Rancheria shall consider whether to renew the contract of employment of each Judge/Justice for an additional term. If the Community Council of the Cedarville Rancheria determines to not renew the contract, it shall so notify the Judge/Justice, in writing, at least thirty

(30) days prior to the expiration of the Judge/Justice's current term. Failure of the Community Council to take affirmative action to non-renew the Judge/Justice's contract as provided herein shall result in an automatic appointment for an additional three (3) year term and renewal of the existing contract of employment. The compensation of any Judge/Justice shall not be reduced during his/her term of office.

Section 306. Removal of Judges/Justice.

The Community Council of the Cedarville Rancheria may remove any Judge or Justice of the Tribal Court during the term of his/her office only for cause based upon any of the following grounds:

1. Serious misconduct or incompetence in the performance of her/his duties as Judge/Justice.
2. Personal conduct involving moral turpitude, whether or not related to judicial duties, or conduct which brings the prestige of her/his office or that of the Tribe into public disrepute.
3. Habitual neglect of her/his duties as Judge or Justice.
4. Persistent illness or other disability which renders her/him incapable or otherwise unable to regularly perform her/his duties as Judge or Justice.

Such removal shall be by an affirmative vote of two-thirds of the Community Council of the Cedarville Rancheria at a valid meeting called for the purpose of considering such removal, provided that the subject Judge or Justice shall be given a full hearing and fair opportunity to present testimony and evidence in her/his behalf, and to cross-examine and rebut all witness and evidence considered by the Community Council in support of removal. The subject Judge or justice shall be given not less than twenty (20) days written notice in advance of the hearing, which notice shall include an itemization of the charges or grounds for removal which are to be considered. Such notice shall be served by registered or certified mail, or delivered personally to her/him by a party duly authorized by the Community Council of the Cedarville Rancheria.

Section 307. Conflicts of Interest.

No Judge or Appellate Justice shall officiate in any proceedings in which her/his impartiality might reasonably be questioned, in which she/he has any personal bias or prejudice concerning any party, she/he has any personal knowledge of any disputed evidentiary facts, she/he has any personal interest, or in which any party, witness or counsel is related to her/him by blood, adoption or marriage, within the third degree, or in which any party, witness or counsel stands in relationship to the Judge or Appellate Justice as a current ward, attorney, client, employer, employee, landlord, tenant, business associate, creditor or debtor.

Prior relationship of the sort listed above may constitute a conflict of interest, and parties may raise the issue. The Judge or Appellate Justice may or may not grant the motion for a conflict for

prior relationships. For this purpose; however, the service of Judge or Appellate Justice for the Rancheria shall not disqualify the Judge or Appellate Justice by virtue of said employment by the Rancheria.

Any party may bring a motion for disqualification of a judge or appellate justice on the grounds set forth herein or on the grounds of personal bias or prejudice towards any party to the proceeding. A motion for disqualification shall be supported by an affidavit of the party bringing the motion setting forth the grounds therefore. If the judge grants the motion she/he shall appoint another judge to preside over the case. If the judge denies the motion, she/he shall do so by written order setting forth the reasons for denial.

A conflict of interest may be waived if all parties have entered a waiver, in writing, to the conflict of interest, and agreed to proceed before the Judge or Appellate Justice, irrespective of the conflict of interest.

Section 308. Oath of Office.

Prior to assuming any judicial office of the Tribal Court, the appointee shall take the following oath:

I swear (or affirm" that I will support and defend the Constitution and By-Laws of the Cedarville Rancheria, and the laws of the Cedarville Rancheria, that I will faithfully and diligently perform the duties of (Chief Judge, Associate Judge, Deputy Judge, Appellate Judge, as applicable) of the Tribal Court, to the utmost of my ability, with impartiality and without improper favor, to the end that justice may be fully served.

The Chief Judge and Associate Judge shall take the prescribed oath before the Chairperson of the Cedarville Rancheria. Deputy Judges and Justices may take the prescribed oath by affidavit, before the Chief Judge, or before any member of the Executive Committee of the Cedarville Rancheria.

PART IV: COURT ADMINISTRATOR

Section 401. Appointment.

The Court Administrator shall be Cedarville Rancheria's Tribal Administrator. The Court Administrator may appoint such clerks and assistants that may be needed for operation of the court. Any person serving as the clerk or as an assistant may be discharged from that position.

Wherever the formal designation "Clerk" or "Clerk of Court" appears in this Code, such designation shall also refer to the Court Administrator. The terms Clerk of Court and Court Administrator shall be interchangeable.

Section 402. Duties.

The Court Administrator shall be responsible for the administration of the Tribal Court, and for such other administrative and ministerial duties as may be prescribed by this Code or assigned to her/him by the Community Council of the Cedarville Rancheria or the Chief Judge. The duties of the Court Administrator shall include but shall not be limited to the following:

1. Maintaining records of all court proceedings to include identification of the title and nature of all cases; the name of the judge; the names and addresses of the parties, attorneys, lay advocates and witnesses; the substance of the complaints; the dates of hearings and trials; all hearings and trials; all court rulings and decisions, findings, orders and judgments; the preservation of testimony for perpetual memory by electronic recording, or otherwise; and any other facts or circumstances decided by the judges or deemed of importance by the Court Administrator. Unless specifically excepted by this Code, the records of the Court shall be sealed.
2. Maintaining all pleadings, documents and other materials filed with the Court.
3. Maintaining all evidentiary materials, transcripts and records of testimony filed with the court.
4. Collecting and accounting for fines, fees and other monies and properties taken into custody by the Tribal Court, and transmitting them to the accounting department by the Tribe. Funds received from the office of the Court Administrator by the accounting department shall be designated as Tribal Court funds and shall be used only for expenses incurred by the Tribal Court, or for training of Cedarville Rancheria police officers, at the discretion of the Court Administrator with the approval of the Chief Judge.
5. Preparation of and service of notices, summons, subpoenas, warrants, rulings, findings, opinions and orders as prescribed by this Code and as may be designated by the Judges of the Court.
6. Assisting persons in the drafting and execution of complaints, petitions, answers, motions and other pleadings and documents for Tribal Court proceedings; provided, however, the Clerk and her/his assistants shall not give advice on questions of law, nor shall they appear or act on behalf of any person in any Tribal Court proceedings.
7. Administering oaths and witnessing execution of documents.
8. Maintaining a supply of blank forms to the prescribed by the Tribal Court for use by all persons having business before the Tribal Court.
9. Other duties necessary to ensure the effective operations of the Tribal Court.

PART V: COUNSEL

Section 501. Legal Representation.

Any person who is a party in any trial or other proceedings before the court may represent himself or herself, or be represented by lay counsel, or a professional attorney, who is licensed to practice law before the Tribal Court.

Section 502. Licensing of Professional Attorneys.

Professional attorneys may appear on behalf of any party in any proceedings before the Tribal Court, provided they are licensed to practice. A license to practice may be issued by the Tribal court upon compliance with the following:

1. Filing with the Court Administrator an affidavit attesting that the applicant is licensed to practice law before the highest court of any state. A photocopy of said license shall be submitted with the affidavit.
2. Filing an affidavit that the applicant has studied and is familiar with the Constitution and By-Laws of the Cedarville Rancheria, the Cedarville Rancheria, this Code, all other ordinances or codes of the Tribe, Title 25 of the United States Code and Title 25 of the Code of Federal Regulations.
3. Paying an annual license fee of one hundred dollars (\$100). The annual license fee may be reduced to twenty-five dollars (\$25) in the discretion of the Chief Judge for any attorney who is employed by a not-for-profit legal services program or otherwise seeks to represent clients on a pro-bono or reduced fee basis. The annual license fee shall be waived for any attorney employed by the Cedarville Rancheria.
4. Taking the following oath before the Court Administrator or the Chief Judge, by affidavit or in person:

"I do solemnly swear (or affirm) that I will support the Constitution and By-Laws of the Cedarville Rancheria;

I will maintain the respect due to the Tribal Court and its judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly valid or debatable under the law; I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and I will never seek to mislead any judge or jury by any artifice, or by false statement or misrepresentation of fact or law;

I will employ in the conduct of my duties the highest degree of ethics and moral standards with which my profession is charged, and I will be guided at all times by the quest for truth in justice;

In the conduct of my duties as an attorney, I will not impugn the morals,

character, honesty, good faith, or competence of any person, nor advance any fact prejudicial to the honor or reputation of any person, unless required by the justice of the cause with which I am charged.”

Section 503. Licensing of Advocates.

A member of the Tribe or a member of another Indian Tribe may be licensed to practice in the Tribal Court. To qualify for licensure as an advocate, the applicant must be at least twenty-one (21) years old; of good moral character; have never been convicted of a felony and not had her/his civil rights restored; have never been convicted of a crime against the Tribe or any other Indian tribe; and must be familiar with the Constitution and By-Laws of the Cedarville Rancheria; and the codes, statutes, ordinances of the Cedarville Rancheria.

No fee shall be assessed for licensing as an advocate.

An applicant seeking licensure as an advocate shall subscribe to the oath set forth in Section 2 for professional attorneys, substituting the term “advocate” for “attorney” therein.

Section 504. Revocation or Suspension of License.

A license issued pursuant to this Part V may be revoked or suspended by the Tribal Court. Such action may be taken on its own motion or upon sworn complaint by any member of the Cedarville Rancheria or on motion of the Court. Revocation or suspension shall be ordered only after written notice to the licensee of the motion or complaint and after a hearing before all judges of the Court unless a conflict of interest prohibits such participation. Following a hearing, the court may revoke or suspend the license upon a finding that the licensee has been disbarred or suspended from the practice of law by any court of the United States, any state, or a tribal court or has filed a false affidavit to obtain her/his license, or has violated her/his oath, or has engaged in misconduct or unethical behavior in the performance of her/his duties as an attorney or lay advocate or has been found in contempt of court by the Tribal Court.

Section 505. Implied Consent to Jurisdiction of the Court.

Any person who submits an application for licensure as a professional attorney under this Code gives implied consent to the assertion of jurisdiction of the Court over her/him for all purposes relating to her/his practice of law before the Court, whether or not, the Court would otherwise have such jurisdiction.

PART VI: CONTEMPT OF COURT

Section 601. Definition.

Willful behavior by any person which disrupts, obstructs, or otherwise interferes with the conduct of any proceeding by the Court, which obstructs or interferes with the administration of justice, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of the Tribal Court shall constitute

contempt. The willful failure of a party to comply with the terms of a judgment directed against her/him, with which she/he is able to comply, shall be contempt of court which shall be punished in the manner prescribed by this Code.

Section 602. Contempt in Presence of Court.

When contempt of court is committed in the presence of a Tribal Judge, it may be punished summarily by that judge. In such case, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment therefore in accordance with Section 604 of this Part. Failure to appear in response to any citation of an enforcement officer of the Tribe on any matter, or to a subpoena, summons, order or other notice, duly issued by the Court, shall constitute contempt in the presence of the court and may be summarily punished by the court without further notice.

Section 603. Contempt Outside Presence of Court.

When it appears to the Court that a contempt may have been committed out of the presence of the Court, it may issue a summons to the person so charged directing her/him to appear at a time and place designated for a hearing and show cause why she/he should not be held in contempt. If such person served with the summons fails to appear at the time and place so designated, the Tribal Court shall conduct a hearing, and if it finds her/him guilty of contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment therefore in accord with Section 604 of this Part VI.

Section 604. Punishment for Contempt.

Any person found in contempt of court shall be subject to a fine not to exceed five hundred dollars (\$500) and/or imprisonment not to exceed ninety (90) days, as may be determined by a judge of the court. The person charged or found in contempt shall be notified of the finding of the Court and the prescribed punishment by any means permitted in this Code for service of process and the penalty may be enforced by the means provided in this section or for the execution and enforcement of judgments as provided in Title 2 of this Code.

If the Court determines to impose a penalty of imprisonment, it is authorized to issue a warrant commanding a law enforcement officer of the Cedarville Rancheria to arrest the person and detain her/him pending a hearing before the Tribal Court. The warrant issued shall provide for release on case bail in an amount set by the Court not to exceed the amount of fines or restitution for any underlying offense(s) together with the contempt penalty which has been or could be imposed.

PART VII: GENERAL COURT PROCEDURES

Section 701. Assignment of Cases.

The Chief Judge shall be responsible for assignment of cases and other matters for determination or disposition to the respective judges or justices of the Court.

Section 702. Court Rules and Procedures.

The Chief Judge of the Court may promulgate rules of procedures for the conduct of its proceedings which are not inconsistent with this Code or other governing and applicable law. Tribal Court proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure and Rules of Evidence.

The Chief Judge shall rule on all matters of law and motion, discovery, and issue minute orders and all other Court documents, unless delegated to a Special Judge or Special Master.

Section 703. Sessions of Court.

The Tribal court may hold such sessions of court as deemed necessary, commencing at such time as designated by the Court Administrator in consultation with presiding judges for a particular case. Special sessions of the Tribal Court may be called by the Chief Judge at any time, or, in her/his presence by an Associate/Special Judge. Judges may conduct trials or other proceedings for individual cases assigned to them at such times as they may designate, and such trials or proceedings may be recessed and reconvened from time to time until they are completed.

Section 704. Filing Timelines.

All personal injury or property damage cases shall be filed within one-hundred and eighty (180) days of the alleged injury, occurrence, action or nonfeasance, unless the cause of action is subject to an alternate timeline enumerated in a document executed by the Tribe's Community Council or its authorized representative. Contract cases shall be filed according to appropriate tribal, federal or state timelines. The Court may extend a timeline in the interest of justice.

Section 705. Time for Hearing.

All cases shall be heard within one-hundred and eighty (180) days of the filing date, unless the Court finds, after proper inquiry, and presentation of evidence, justice demands a reasonable extension of time.

Section 706. Jury Trials.

All cases before the Tribal Court shall be tried to a judge sitting without a jury, unless a jury trial is otherwise required by applicable law.

Section 707. Awards.

At the conclusion of hearing, the Court shall issue a written opinion within ninety (90) days.

If an award is favorable to the Claimant against the Rancheria against the Rancheria, the Rancheria's insurer shall pay the award, if applicable, within ninety (90) days of the publication of the Court's opinion.

Section 708. Limitation on Awards.

- A. All awards are limited to the Rancheria or tribal entities policy limits under their policy of insurance.
- B. Tribal funds or property shall not be subject to any award, encumbrance or liquidation.
- C. The Court shall not issue an award for attorneys or expert witness fees or exemplary or punitive damages.
- D. The Court shall not issue an award based on any theory of strict products liability or strict liability.
- E. The Court shall not issue an award as against the Rancheria or a tribal defendant caused by the negligence of a non-tribal third party.
- F. The Court shall not issue an award based on alleged conduct outside the scope of official conduct, illegal conduct or conduct criminal in nature.
- G. No award shall include damages which are the result of the acts or inactions of a non-tribal third party.

Section 709. Confidentiality.

All Tribal Court matters shall remain confidential. All pleadings, documents, depositions, etc., shall remain confidential and shall not be used outside the jurisdiction of the Rancheria unless a request for a release of said court documents is presented by a majority of the Rancheria's Community Council. Upon presentation of a request for release, any release shall be made by Court order and subject to any limitations deemed necessary by the Court.

Prior to the release of Court awarded funds, the Court shall approve a "release" executed by the prevailing party, restating the requirement of confidentiality, unless the Court has previously authorized the release of the opinion, award, etc.

Section 710. Court Immunity from Suit.

This Court shall be immune from suit, unless the Rancheria's sovereign immunity is clearly, expressly and properly waived by the Community Council. Nothing in the Code shall be construed as consent of the Court to be sued or authorizes the Court to waive the Rancheria's immunity.

Section 711. Means to Carry Jurisdiction Into Effect.

Where jurisdiction over any matter is vested in the Tribal court, all the means necessary to carry such jurisdiction into effect are also included; and in the exercise of its jurisdiction, if the means

are not specified in this Code or the rules promulgated by the Court, the Court may adopt any suitable process or mode of processing which appears to the Court to be fair and just and most consistent with the spirit of tribal law.

Section 712. Law Applicable in Civil Actions.

- A. In all civil actions, the Court shall first apply such written laws of the Rancheria which have been enacted by the Cedarville Rancheria Community Council.
- B. Where there are no superseding written laws the Court shall apply tribal customary and traditional law if such exists. Tribal customary or traditional law shall mean those traditional values and practices of the Cedarville Rancheria handed down, through the generations, either orally or through writing. In the event, any doubt arises as to the customs and usages of the Tribe, the Court may request the advice and assistance of elders who are knowledgeable about such matters.
- C. Where an issue arises in an action which is not addressed by written laws or custom and traditional law, the court may apply the laws of any tribe, the federal government, or any state. Application of such law shall not be deemed an adoption of such law or deference to the jurisdiction from which that law originates.

Section 713. Bureau of Indian Affairs Relations.

No employee of the Bureau of Indian Affairs, or the Department of Interior shall obstruct, interfere with, or control the function of the court, nor shall she/he seek to influence such functions in any manner.

EXHIBIT "D"

Office Use Only: Date of Application: _____
Date of Admission to
Practice before the CRTC: _____

**APPLICATION FOR ADMISSION TO PRACTICE LAW
BEFORE THE CEDARVILLE RANCHERIA TRIBAL COURT**

I. BASIC INFORMATION:

Full Name: _____ DOB: _____

Mailing Address: _____

Home Phone: _____ Work Phone: _____

Fax Number: _____ Cellular Phone: _____

State/federal License Number: _____

Date admitted to state/federal bar: _____

States where admitted to practice: _____

Present Employment: _____

II. EDUCATION:

Name of Institution	Location	Date Admitted	Degree Earned

III. INFORMATION:

A. Have you, the applicant, ever been convicted of a felony in any federal or state court of competent jurisdiction? _____ If yes, please explain where, when and the circumstances.

B. Are you, the applicant, a member of the Cedarville Rancheria? _____

C. Are you, the applicant, an enrolled member of a federally recognized tribe? _____

If yes, please state the name of your tribe. _____

Enrollment Number (Please provide copy): _____

D. Are you, the applicant, an employee of the United States or the State of California? _____

E. Are you, the applicant, willing to accept court appointment on a pro bono basis? _____

F. Are you, the applicant, applying to practice as a lay advocate? _____ If yes, please list your qualifications for the practice of law in tribal court. _____

G. Do you, the applicant, speak the Paiute language? _____ Do you, the applicant, read and/or write the Paiute language? _____ Briefly describe your knowledge of the Paiute language. _____

H. Describe your knowledge of the Constitution, By-Laws, Codes, Ordinances and Policies of the Cedarville Rancheria. _____

I. Briefly describe your knowledge and experience of Title 25 of the United States Code and Title 25 of the Code of Federal Regulations. _____

J. Briefly describe your knowledge of 18 U.S.C. 1162 and 28 U.S.C. 1360 to Public Law 280, and the application to the Indian tribes and their individual Rancheria members. _____

IV. CERTIFICATION:

I, _____, hereby consent to represent defendants in cases assigned by the Cedarville Rancheria Tribal Court. Additionally, I consent to perform legal services in the public interest of the Cedarville Rancheria upon request by the Court and will comply with all laws of the Cedarville Rancheria Tribal Court and all judicial orders and rules of the Court. I certify that all information in this application is true and correct to the best of my knowledge.

Date: _____ Signature of Applicant _____

Received by Clerk of Court on _____ Initialized: _____

Office Use Only: Fee Paid: _____ Amount: _____ Date Paid: _____