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**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA**

CHEMEHUEVI INDIAN TRIBE, on its  
own behalf and on behalf of its members  
parens patrie, CHELSEA LYNN BUNIM,  
TOMMIE ROBERT OCHOA, JASMINE  
SANSOUCIE, and NAOMI LOPEZ,

Plaintiffs,

v.

JOHN McMAHON, in his official  
capacity as Sheriff of San Bernardino  
County, RONALD SINDELAR, in his  
official capacity as deputy sheriff for San  
Bernardino County, MICHAEL  
RAMOS, in his official capacity as the  
District Attorney of San Bernardino  
County, JEAN RENE BASLE, in his  
official capacity as County Counsel for  
San Bernardino County, and MILES  
KOWALSKI, in his official capacity as  
Deputy County Counsel for San  
Bernardino County,

Defendants.

Case No.

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF AND FOR  
MONEY DAMAGES**

[42 U.S.C. § 1983]

**INTRODUCTION**

This is action brought by the Chemehuevi Indian Tribe (“Tribe”) and various  
members of the Tribe (“Indians”) to permanently enjoin the Sheriff (“Sheriff”) of San  
Bernardino County (“County”) and Deputy Sheriffs of the County from racially

1 profiling, arresting and issuing citations for violations of the California Motor Vehicle  
2 Code to members of the Tribe while driving vehicles on fee and trust land within the  
3 boundaries of the Chemehuevi Indian Reservation (“Reservation”). Similarly, the Tribe  
4 and the Indians seek to enjoin the Sheriff, District Attorney (“DA”) and County Counsel  
5 (“County Counsel”) of the County and all persons acting in concert with them from  
6 prosecuting the Indians or any members of the Tribe for said violations.  
7

8  
9 The conduct of the Sheriff, DA, and County Counsel (collectively “County  
10 Officials”) constitutes racial discrimination in direct violation of 42 U.S.C. § 1983, and  
11 the Equal Protection Clause of the Fourteenth Amendment to the United States  
12 Constitution. In addition, the County Officials’ conduct violates federal common law  
13 that prohibits the enforcement of state law against Indians while on their reservation  
14 absent a Congressional statute that authorizes such enforcement, as no such federal  
15 statute exists in this case.  
16  
17

## 18 **JURISDICTION**

19  
20 1. This Court’s jurisdiction over the Tribe’s and Indians’ claims is based  
21 upon the following:

22 (a) 28 U.S.C § 1331, in that this action arises under the Constitution and laws  
23 of the United States, specifically Art. I, § 8, cl. 3 (Indian Commerce Clause), the 5<sup>th</sup>  
24 Amendment (Due Process Clause), the 14<sup>th</sup> Amendment (Equal Protection Clause), 42  
25 U.S.C. § 1983 (Civil Rights Statute) and 28 U.S.C. § 1651 (All Writs Act), and  
26  
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28

1 (b) 28 U.S.C. § 1362, in that the Tribe is a federally recognized Indian tribe  
2 asserting that the County Officials' actions or omissions violate the Constitution and  
3 laws of the United States, including federal common law.  
4

5 **VENUE**

6 2. Venue is proper in this Court, pursuant to 28 U.S.C. § 1391, in that the  
7 Tribe, the Indians and all the County Officials reside in the Central District of California  
8 and all of the claims of the Tribe and Indians against the County Officials arose within  
9 the Central District.  
10

11 **PARTIES**

12 3. The Chemehuevi Indian Tribe is a federally recognized Indian tribe,  
13 organized under the provisions of the Indian Reorganization Act, 25 U.S.C. § 476,  
14 under a written Constitution which has been approved by the Secretary of the Interior  
15 ("Secretary") and which designates the Chemehuevi Tribal Council as the governing  
16 body of the Tribe.  
17

18 4. Chelsea Lynn Bunim, Tommie Robert Ocha, Naomi Lopez and Jasmine  
19 Sansoucie are American Indians and enrolled members of the Tribe who reside part time  
20 or full time on the Reservation and drive vehicles within the exterior boundaries of the  
21 Reservation.  
22

23 5. John McMahon is the Sheriff of the County, Michael Ramos is the District  
24 Attorney for the County, Jean Rene Basle is the County Counsel for the County, Miles  
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1 Kowalski, is a deputy County Counsel for the County and Ronald Sindelar is a Deputy  
2 Sheriff for the County. All of the County Officials are sued in their official capacities.  
3

4 **GENERAL ALLEGATION**

5 6. Since time immemorial, the Tribe has occupied and used the lands within  
6 and adjacent to the Chemehuevi Valley, including all of the lands located within the  
7 boundaries of the Reservation.  
8

9 7. Prior to 1853, the Tribe held title to the lands located within the boundaries  
10 of the Reservation by aboriginal title, a right of use and occupancy, which could only be  
11 extinguished with the express consent of the Congress of the United States, pursuant to  
12 25 U.S.C § 177.  
13

14 8. On March 3, 1853, Congress created the Chemehuevi Indian Reservation,  
15 by enacting the Act of March 3, 1853, 10 Stat. 244, ("1853 Act"). The 1853 Act  
16 specifically withdrew from settlement and protected from white encroachment all lands  
17 in the occupation or possession of any Indian tribe, including the Chemehuevi Tribe.  
18 The 1853 Act did not, however, establish the boundaries of the Reservation but left that  
19 for future action by Congress or the Executive Branch of government.  
20

21 9. The 1853 Act also conveyed to the State of California ("State") all Sections  
22 36 within the State for school purposes, except those Sections 36 used and occupied by  
23 Indian tribes, including Township 5N, Range 24E, SBM, Section 36 ("Section 36").  
24

25 10. Because Section 36 was set aside for Indian purposes by the 1853 Act,  
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1 California had the right to select lands on the public domain in lieu of Section 36, and to  
2 sell the in lieu lands and use the proceeds from the sale to purchase other land within the  
3 State of California to build schools. The State, however, never selected any lands within  
4 the State in lieu of Section 36.  
5

6 11. On July 23, 1866, Congress enacted the Act of July 23, 1866, 14 Stat. 218,  
7 (“1866 Statute”) for the purpose of quieting title to all lands within the State that had  
8 been conveyed to the State of California by operation of law in the 1853 Act. In the  
9 1866 Statute, Congress made it clear that the State of California did not acquire title to  
10 any lands within the State from the United States that had been set aside for Indian  
11 purposes, including the lands held by the Tribe under aboriginal title, as confirmed by  
12 Congress, pursuant to the 1853 Act.  
13  
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15

16 12. On January 12, 1891, Congress enacted the Mission Indian Relief Act, 26  
17 Stat. 712 (“MIRA”). Under the MIRA, Congress established a commission “to select  
18 reservations for each band or village of the Mission Indians residing within” the State.  
19 By omission, the Commission failed, however, to select the lands already occupied by  
20 the Tribe, as reserved and set aside for the Tribe by Congress under the 1853 Act.  
21  
22

23 13. On or about March 3, 1905, pursuant to the Act of March 3, 1905, 33 Stat.  
24 1048, 1058, C.E. Kelsey, a San Jose attorney and officer of the Northern California  
25 Indian Association, was appointed special agent to the Commissioner of Indian Affairs  
26 for the purpose of reporting to the Commissioner on the condition of American Indians  
27  
28

1 within the State of California.

2 14. On December 27, 1906 and January 31, 1907, Special Agent Kelsey issued  
3 his reports on the condition of the members of the Chemehuevi Indian Tribe, who  
4 resided on the lands in the Chemehuevi Valley along the Colorado River that currently  
5 comprise the Reservation. In those reports, Kelsey recommended that the lands  
6 occupied by the Tribe and reserved to the Tribe by the 1853 Act, be added to the  
7 Colorado River Indian Reservation or, alternatively, be set aside and officially  
8 proclaimed as a separate reservation for the Tribe upon passage of a bill amending the  
9 MIRA.  
10  
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12

13 15. On January 31, 1907, pursuant to Kelsey's reports, the Acting  
14 Commissioner of Indian Affairs wrote to the Secretary of the Interior requesting that he  
15 withdraw certain lands from settlement and entry for the use and occupancy of 12  
16 separate bands of Mission Indians, including the Chemehuevi Indian Tribe. In his letter  
17 the Commissioner wrote:  
18  
19

20 Referring to office letter of January 28, transmitting reports of  
21 Special Agent C.E. Kelsey on the condition of the Mission  
22 Indian Reservations in California, and the draft of a proposed  
23 bill for the betterment of their condition [Act of March 1, 1907  
24 "An Act Amending Section 3 of the Act of January 12, 1891,  
25 An Act for the Relief of the Mission Indians in the State of  
26 California"], I have the honor to transmit herewith certain  
27 descriptions of lands which he recommends be withdrawn  
28 from all forms of settlement and entry pending action by  
Congress whereby they may be added to several reservations.  
The proposed additions are as follows:

\* \* \*

Chemehuevi Valley. Fractional townships 4 N., R. 25 E., T. 4  
N., R. 26 E., T. 5 N., 25 E., 6 N., 25 E.; the E/2 of 5 N., R. 24  
E, and Secs. 25, 26, 35 and 36, T. 6 N., R. 24 E, S.B.M.

1           16. On February 2, 1907, the Secretary, pursuant to the Commissioner's  
2 recommendation, issued an order ("Secretarial Order") to the General Land Office  
3 directing that the lands be withdrawn from settlement and entry. In his order the  
4 Secretary stated:  
5

6           In view of the recommendation of the Indian office, I have to  
7 direct that the lands referred to be withdrawn from all form of  
8 settlement or entry until further notice, also that the local land  
9 officers of the District in which the said lands are located, be  
10 advised of such withdrawal. In this connection you are  
11 advised that the Department on the 31st ultimo forwarded to  
12 Congress, with favorable recommendation, the draft of a bill  
to authorize the addition of certain lands to the Mission Indian  
Reservation.

13 By issuing the Secretarial Order, the Secretary officially established the boundaries of  
14 the Reservation created in 1853 and included within those boundaries Section 36.  
15

16           17. On March 1, 1907, Congress passed an "Act Making Appropriations for  
17 the Current and Contingent Expenses of the Indian Department, for Fulfilling Treaty  
18 Stipulations with Various Indian Tribes, and for Other Purposes, for the Fiscal Year  
19 Ending June 13, 1908." 34 Stat. 1022-1023 ("MIRA Amendment"). The MIRA  
20 Amendment provided:  
21

22           ...Section 3 of the Act approved January 12, 1891, entitled  
23 "An Act for the Relief of the Mission Indians in the State of  
24 California", be, and the same is hereby, so amended as to  
25 authorize the Secretary of the Interior to select, set apart, and  
26 cause to be patented to the Mission Indians such tracts of the  
27 public lands of the United States, in the State of California, as  
28 he shall find upon investigation to have been in the  
occupation and possession of the several bands or villages of  
Mission Indians, and are required and needed by them, and  
which were not selected for them by the Commissioner as  
contemplated by Section 2 of said Act,...

1           18. On June 28, 2010, pursuant to MIRA Amendment, the Secretary, acting  
2 through the Acting State Director for the California Office of the United States  
3 Department of the Interior, Bureau of Land Management, issued a trust patent to the  
4 Tribe for the lands that the United States of America held title to in trust for the Tribe  
5 within the boundaries of the Reservation. In issuing the patent, the United States  
6 excluded Section 36 from the trust patent, “subject to any existing valid rights” that the  
7 Tribe may have pursuant to its aboriginal title, the 1853 Act and the 1866 Statute.  
8

9  
10           19. On February 23, 2015, Defendant Deputy Sheriff Ronald Sindelar stopped  
11 Plaintiff Bunim, who was driving a white, 4 door Toyota Rav4 (“Toyota”) on Havasu  
12 Lake Road within Section 36.  
13

14           20. Bunim is an enrolled member of the Chemehuevi Indian Tribe. She lives  
15 part time with her mother Lee Ann Potts (“Ms. Potts”) on the Reservation.  
16

17           21. At the time that Deputy Sindelar stopped Bunim, he informed her that he  
18 stopped her for driving a motor vehicle with an expired registration.  
19

20           22. Deputy Sindelar then issued Mr. Bunim a citation (“Citation”) for violating  
21 California Vehicle Code § 4000 (a) (I), driving a vehicle without a valid registration.  
22 When cited, Ms. Bunim informed Deputy Sindelar that the Toyota was owned by her  
23 mother, Lee Ann Potts (“Ms. Potts”). Ms. Potts is an enrolled member of the Tribe who  
24 resides on the Reservation.  
25

26           23. At the time that he issued the Citation, Deputy Sindelar required Ms.  
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1 Bunim to exit the Toyota. Sindelar had the Toyota impounded and towed by the  
2 company “A Toe Truck Service” approximately (40) miles away to the City of Needles,  
3 leaving Ms. Bunim alone on the roadside.  
4

5 24. In order to regain possession of her vehicle, Ms. Potts was compelled to  
6 travel to Needles, California, and pay Five hundred, twenty-one dollars and forty cents  
7 (\$521.40) to get her Toyota out of impound.  
8

9 25. The Citation was subsequently filed in the Superior Court of California,  
10 County of San Bernardino, Joshua Tree District (Superior Court”) in the case of *People*  
11 *of the State of California v. Chelsea Lynn Bunim*, Citation No. 3457605CB (“Citation”).  
12

13 26. On April 20, 2015, Ms. Bunim filed a motion to dismiss the Citation. On  
14 May 18, 2015, Deputy County Counsel Mike Kowalski, acting on behalf of County  
15 Counsel Jean-Rene Basle, filed an opposition to Ms. Bunim’s motion to dismiss.  
16

17 27. On July 10, 2015, Deputy District Attorney, Michelle Bergey, acting on  
18 behalf of District Attorney Michael Ramos and undersigned counsel agreed to a  
19 continuance of the hearing on Ms. Bunim’s motion to dismiss to allow Ms. Bunim to  
20 file the instant lawsuit and make application to this Court for an injunction enjoining the  
21 DA from further prosecuting the Citation in the Superior Court. The Superior Court  
22 Citation is still pending against Ms. Bunim.  
23  
24

25 28. On April 27, 2015, Ms. Potts filed an administrative tort claim with the  
26 County, pursuant to California Government Code Section 905 et seq., seeking  
27  
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1 compensation in the amount of \$521.40 for the release of the Toyota from impound, and  
2 one thousand, eight hundred, seventy-eight dollars and sixty-nine cents (\$1,878.69) for  
3 the legal fees she incurred to date to defend the Citation issued to Ms. Bunim by Deputy  
4 Sindelar. The cost of the impound fees is a debt that Ms. Bunim now owes to her  
5 mother, Ms. Potts.  
6

7  
8 29. On June 9, 2015, the County, through its Department of Risk Management,  
9 sent written notice (“Notice”) to Ms. Potts that her administrative claim filed with the  
10 County had been rejected. A true and correct copy of the Notice is hereby incorporated  
11 by this reference and is attached hereto as **Exhibit A**.  
12

13 30. On February 14, 2015, Deputy Sindelar stopped Plaintiff, Tommie Robert  
14 Ochoa, while he was driving a motor vehicle with an expired registration at the  
15 intersection of Havasu Lake Road and Smith Road, Havasu Lake, California, on trust  
16 land within the Chemehuevi Indian Reservation, but not within Section 36.  
17

18 31. Mr. Ochoa is an enrolled member of the Chemehuevi Indian Tribe. He  
19 lives on the Reservation.  
20

21 32. After stopping Mr. Ochoa, Deputy Sindelar issued Mr. Ochoa a Citation  
22 (“Citation 2”) for violating California Vehicle Code Section 4000 (A) (I), driving a  
23 motor vehicle with an expired registration and California Vehicle Code Section 16028  
24 (A), failure to provide evidence of financial responsibility. Deputy Sindelar had Mr.  
25 Ochoa exit the vehicle and had “A Toe Truck Service” tow the vehicle to Needles,  
26  
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1 California, leaving Mr. Ochoa on foot, stranded on the side of the road.

2       33. The vehicle Mr. Ochoa was driving was owned by Debra Savage, an  
3 enrolled member of the Tribe who also resides on the Reservation. At the time that  
4 Deputy Sindelar stopped Mr. Ochoa, Mr. Ochoa told Deputy Sindelar that he did not  
5 own the vehicle but simply had received permission from Debra Savage to use it.  
6 Despite the fact that Mr. Ochoa was not the owner of the vehicle, Deputy Sindelar  
7 issued Mr. Ochoa Citation 2.  
8

9       34. Citation 2 was subsequently filed in the Superior Court for San Bernardino  
10 County. Mr. Ochoa appeared in the Superior Court at the initial hearing in San  
11 Bernardino on Citation 2 and he plead not guilty. Believing that undersigned Counsel  
12 was going to appear for Mr. Ochoa at his next hearing on Citation 2, Mr. Ochoa failed  
13 to appear at his next hearing and the Superior Court found him guilty of both violations  
14 alleged in Citation 2.  
15

16       35. Mr. Ochoa is in the process of filing a motion with the Superior Court to  
17 set aside the judgment of conviction entered against him for lack of subject matter  
18 jurisdiction.  
19

20       36. On February 21, 2015, Deputy Sindelar stopped Plaintiff, Jasmine  
21 Sansoucie, while she was driving a motor vehicle at the intersection of Havasu Lake  
22 Road and Roan Drive, Havasu Lake, California, within Section 36 of the Chemehuevi  
23 Indian Reservation.  
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1           37. Ms. Sansoucie is an enrolled member of the Tribe and lives on the  
2 Reservation.

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4           38. At the time that Deputy Sindelar stopped Ms. Sansoucie, he informed Ms.  
5 Sansoucie that he had stopped her because the car she was driving had an out-of-state  
6 license plate. At the time of the stop, the car was properly registered in the State of  
7  
8 Arizona by Sansoucie, the owner.

9           39. There is no California law that prohibits people from driving a vehicle in  
10 the State of California that is registered in another state. Deputy Sindelar, thus, had no  
11 probable cause to stop Ms. Sansoucie.

12  
13           40. Only after he had stopped Ms. Sansoucie did Deputy Sindelar discover that  
14 Ms. Sansoucie's driver's license had been suspended.

15  
16           41. Deputy Sindelar issued Ms. Sansoucie a Misdemeanor Citation  
17 ("Misdemeanor Citation") for a violation of California Vehicle Code Section  
18 14601.1(A), driving a motor vehicle with a suspended license.

19  
20           42. At the time that the Misdemeanor Citation was issued, Ms. Sansoucie was  
21 unaware that her license had been suspended, as she had forgotten to pay a fine for a  
22 speeding ticket she had received in the State of Nevada until Deputy Sindelar issued her  
23 the Misdemeanor Citation.

24  
25           43. Shortly after the issuance of the Misdemeanor Citation, Defendant Ramos,  
26 by and through Deputy District Attorney Thomas Perkins, filed a criminal complaint  
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28

1 against Ms. Sansoucie in the Superior Court for San Bernardino County, Victorville  
2 Division, titled *People v. Sansoucie*, Case No. 3457604JS, formally charging Ms.  
3 Sansoucie with a misdemeanor, driving on a suspended license in violation of Vehicle  
4 Code Section 14601.1 (A).  
5

6 44. On April 17, 2015, Ms. Sansoucie filed a motion to dismiss the  
7 Misdemeanor Citation on the grounds that the Defendants had no jurisdiction to issue  
8 the Misdemeanor Citation to Ms. Sansoucie for driving on land within the exterior  
9 boundaries of the Reservation.  
10  
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12 45. Prior to the hearing on the motion to dismiss, Ms. Sansoucie requested that  
13 District Attorney Ramos, acting through Deputy District Attorney Thomas Perkins,  
14 voluntarily dismiss the Misdemeanor Citation. After reviewing the memorandum of  
15 points and authorities (“MPA”) filed by Ms. Sansoucie in support of her motion, District  
16 Attorney Ramos, acting through Deputy District Attorney Perkins, refused to dismiss  
17 the Misdemeanor Citation. A true and correct copy of the MPA filed by Ms. Sansoucie  
18 in *People v. Sansoucie*, Case No. 3457604JS, is hereby incorporated by this reference  
19 and attached hereto as **Exhibit B**.  
20  
21

22 46. On May 29, 2015, the Honorable Lisa M. Rogan, Judge of the Superior  
23 Court of California, County of San Bernardino, granted Ms. Sansoucie’s motion and  
24 dismissed the Misdemeanor Citation on the grounds that the Superior Court lacked  
25 jurisdiction over the case. A true and correct copy of Judge Rogan’s May 29, 2015  
26  
27  
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1 minute order is hereby incorporated by this reference and attached hereto as **Exhibit C**.

2           47. On March 15, 2015, Deputy Sheriff J. Wagner stopped Plaintiff, Naomi  
3 Lopez while she was driving a motor vehicle at the intersection of Mills Drive and  
4 Havasu Lake Road, Havasu Lake, California, on trust land within the Chemehuevi  
5 Indian Reservation, but not within Section 36.  
6

7           48. When he stopped Ms. Lopez, Deputy Wagner informed Ms. Lopez that he  
8 had stopped her because she was speeding. After stopping Ms. Lopez, Deputy Wagner  
9 asked Ms. Lopez if she lived in California, and if so, for how long. When Ms. Lopez  
10 told Deputy Wagner that she had been living in California on the Reservation for a  
11 number of years Deputy Wagner told Ms. Lopez that he was going to issue her a citation  
12 (“Citation 3”) because she lacked a valid California registration. Ms. Lopez then told  
13 Deputy Wagner that the vehicle was owned by her mother, Barbara Vasquez, and was  
14 properly registered in the State of Nevada where Ms. Vasquez lived. She further told  
15 Deputy Wagner that she was just using her mother’s car until her car got repaired.  
16 Deputy Wagner told Ms. Lopez he was issuing her Citation 3, for no registration  
17 anyway, because Ms. Lopez should have registered the vehicle in California, since she  
18 was living and using the vehicle in California.  
19

20           49. At the time of the stop, the car was properly registered in the State of  
21 Nevada by the owner of the car, Ms. Lopez’s mother, Barbara Vasquez, who lives in  
22 Las Vegas, Nevada.  
23  
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1           50. There is no California law that prohibits a person from driving a vehicle in  
2 the State of California that is registered in another state by the owner who resides in  
3 another state.  
4

5           51. During the traffic stop, Ms. Lopez repeatedly stated to Deputy Wagner that  
6 the vehicle did not belong to her and that the vehicle had been properly registered in  
7 Nevada by her mother. Deputy Wagner, nevertheless, issued Ms. Lopez Citation 3 for a  
8 violation of California Vehicle Code Section 4000 (A) (I), driving without a valid  
9 registration.  
10  
11

12           52. Citation 3 issued to Ms. Lopez was filed in the San Bernardino County  
13 Superior Court. A hearing on Citation 3 was held in the Superior Court before the  
14 Honorable Judge Swift. Ms. Lopez, represented herself at the hearing and told Judge  
15 Swift that the vehicle was owned by her mother and properly registered in the State of  
16 Nevada. She further told Judge Swift that her mother let her use the vehicle until Ms.  
17 Lopez's car could be fixed.  
18  
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20           53. After hearing the testimony offered by Ms. Lopez, Judge Swift dismissed  
21 the charges against Ms. Lopez.  
22

23           54. Despite the fact that the Superior Court dismissed the charges against Ms.  
24 Lopez and against Ms. Sansoucie on the grounds that the County Officials lacked  
25 jurisdiction to issue citations for Vehicle Code violations within the exterior boundaries  
26 of the Reservation, Defendants have continued to issue citations to Chemehuevi Tribal  
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1 members for violations of the Vehicle Code on the Reservation, including within  
2 Section 36 and to prosecute those citations in State Court.

3  
4 55. After the citations were dismissed against Ms. Sansoucie and Ms. Lopez,  
5 the Tribe's attorney, Lester Marston, called both District Attorney Ramos and Deputy  
6 County Counsel Kowalski to see if the County Officials were going to continue to issue  
7 and prosecute violations of the California Vehicle Code against the members of the  
8 Tribe on the Reservation. District Attorney Ramos never returned Mr. Marston's call.  
9 Deputy County Counsel Kowalski called and spoke with Mr. Marston and advised him  
10 that the Sheriff would continue to issue citations and the District Attorney and County  
11 Counsel would continue to prosecute the Indians whose cases were still pending in State  
12 Court and in the future against members of the Tribe while driving on the Reservation  
13 for violations of the California Vehicle Code, specifically: (a) driving on a suspended  
14 license, (b) driving with expired registration, (c) driving without proof of insurance, (d)  
15 driving without use of seat belts, and (e) driving without valid license plates.  
16  
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19

20 **FIRST CAUSE OF ACTION**  
21 **(Violation of P.L. 280 – Issuing Citations without Jurisdiction on Reservation**  
22 **Land)**

23 56. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 through  
24 55 above, and by this reference incorporate each allegation herein as if set forth here in  
25 full.  
26

27 57. Indian tribes retain attributes of sovereignty over both their members and  
28



1 their territory, and tribal sovereignty depends on and is subordinate only to the United  
2 States. Congress can expressly provide that state laws be applicable to Indian persons  
3 residing on their reservations. But except for two specific federal statutes, no statutory  
4 authority exists granting the State of California or any of its political subdivisions  
5 jurisdiction over Indian persons within the exterior boundaries of any Indian reservation  
6 within the State.  
7  
8

9         58. Congress granted the State of California limited criminal jurisdiction over  
10 offenses committed in “Indian country” pursuant to 18 U.S.C. § 1162. Congress granted  
11 the State of California limited civil jurisdiction over “Indian country” pursuant to 28  
12 U.S.C. § 1360. That grant of civil jurisdiction, however, is limited to private litigation  
13 involving individual Indian residents of reservations in state court proceedings and  
14 applies only to laws of general application within the State of California.  
15  
16

17         59. 18 U.S.C. § 1151(a) defines “Indian country” as: “[A]ll land within the  
18 limits of any Indian reservation under the jurisdiction of the United States Government,  
19 notwithstanding the issuance of any patent, and, including rights-of-way running  
20 through the reservation[.]”  
21

22         60. When a state seeks to enforce its laws against an Indian person residing  
23 within a reservation under the authority of either 18 U.S.C. Section 1162 or 28 U.S.C.  
24 Section 1360, a court must determine whether the law is a criminal statute of statewide  
25 application, and thus fully applicable to Indian residents of the reservation, or civil in  
26  
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1 nature, and thus applicable only as between private state court litigants. In making its  
2 determination, courts apply a criminal/prohibitory and civil/regulatory distinction test.  
3

4 61. This test is sometimes referred to as “the public policy test.” The ‘public  
5 policy test’ holds that Public Law 280 gives states power over Indian lands only if the  
6 state law in question prohibits, rather than regulates, conduct.  
7

8 62. Here, the State does not prohibit the conduct at issue: driving an  
9 automobile. Instead, the State allows people to drive motor vehicles provided that the  
10 vehicle is registered with the California Department of Motor Vehicles (“DMV”) and  
11 each driver has a license to do so. The requirements set forth in California Vehicle Code  
12 Sections 4000(A) (1), 14601.1(A), and 16028(A), thus, are not prohibitory and,  
13 therefore, are not criminal statutes. They are, rather, a civil/regulatory requirement and,  
14 therefore, they do not apply to Indian persons driving on their reservations within Indian  
15 country. Thus, California Vehicle Code Sections 4000(a)(1), 14601.1(A) (collectively  
16 “Vehicle Code Sections”) and 16028 (A) cannot be enforced against Plaintiffs Bunim,  
17 Ochoa, Sansoucie, or Lopez when they are on the Reservation and Deputy Sindelar and  
18 Martinez lacked jurisdiction to cite Plaintiffs Bunim, Ochoa, Sansoucie, or Lopez for  
19 violations of those sections of the Vehicle Code. Likewise, Defendants Ramos, Basle  
20 and Kowalski have no authority to prosecute Plaintiffs Bunim, Ochoa, Sansoucie, or  
21 Lopez in State Court for violations of the Vehicle Code Sections.  
22  
23  
24  
25  
26

27 63. An actual controversy now exists between the Plaintiffs and Defendants, in  
28

1 that the Tribe and the Indians contend that Public Law 280, 28 U.S.C. § 1360, and 18  
2 U.S.C § 1161 did not grant to the State of California the authority to enforce its  
3 civil/regulatory laws against Indian persons within Indian country, that the Vehicle  
4 Code Sections of the State of California are civil/regulatory in nature, and that,  
5 therefore, the Defendants, the County Officials, have no jurisdiction to issue or enforce  
6 the citations at issue in this case, whereas County Officials contend that they have  
7 jurisdiction to issue and enforce the citations.  
8  
9

10 64. Unless this Court issues an order declaring that the County Officials have  
11 no jurisdiction to issue or enforce citations for violations of the Vehicle Code Sections  
12 by the Indians and other Chemehuevi tribal members within the boundaries of the  
13 Reservation, the County Officials will continue to issue and enforce such citations  
14 against tribal members driving within the boundaries of the Reservation.  
15  
16

17 65. Unless the County Officials, their officers, agents and employees are  
18 provisionally and permanently restrained and enjoined from issuing such citations and  
19 prosecuting the Indians and the members of the Tribe for violations of the Vehicle Code  
20 Sections, the Tribe, on its own behalf and on behalf of its members, the Indians will  
21 suffer severe and irreparable harm for which Plaintiffs have no plain, speedy or  
22 adequate remedy at law, in that the Plaintiffs will be subjected to State civil regulatory  
23 laws while on their Reservation, will be subject to prosecution in State courts, and will  
24 be deprived of their federally protected right to be free of State regulation and control.  
25  
26  
27  
28

1           66. By reason of the acts of the County Officials, Plaintiffs have already been  
2 damaged in an amount exceeding \$10,000.00 for the costs incurred to obtain the release  
3 of various vehicles from impound and for the cost of defending the State court  
4 prosecutions, and Plaintiffs will continue to suffer additional damages of a nature and in  
5 amounts which will be proven at trial.  
6

7  
8           WHEREFORE, the Plaintiffs pray as hereinafter set forth.

9                               **SECOND CAUSE OF ACTION**  
10                              **(Interference with Tribal Self-Government)**

11           67. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 through  
12 66 above, and by this reference incorporate each allegation herein as if set forth here in  
13 full.  
14

15           68. It is a fundamental principle of federal law that Indian tribes retain  
16 attributes of sovereignty over both their members and their territory.  
17

18           69. Federal common law provides that state laws do not apply to reservation  
19 Indians while engaging in conduct on the Indians' own reservation, absent federal law  
20 that expressly grants a state the authority to enforce its laws against Indians on their  
21 reservation. In this case, no federal law grants the State of California the authority to  
22 enforce the Vehicle Code Sections against the Plaintiffs on their Reservation.  
23

24           70. Federal common law also provides that tribes, including the Tribe, have the  
25 right to enact their own laws and be governed by them, and state laws that interfere  
26 with the ability of a tribe to govern itself on its reservation are unenforceable.  
27  
28

1           71. The enforcement of the Vehicle Code Sections impermissibly interferes  
2 with the ability of the Tribe to enact its own laws regulating the operation of motor  
3 vehicles on its Reservation and to be governed by those laws.  
4

5           72. By entering the exterior boundaries of the Reservation, racially profiling,  
6 and discriminatorily issuing citations to tribal members, including stopping tribal  
7 members without probable cause and seizing tribal members' property for minor  
8 offenses, the County Officials' actions are intimidating tribal members and making  
9 them feel unsafe on their own Reservation. By taking these actions, the County  
10 Officials are interfering with the Tribe's ability to govern itself and its members by  
11 preventing the Tribe from determining to what extent and under what conditions, if any,  
12 Tribal members will be able to operate motor vehicles on the Reservation to maintain  
13 public safety.  
14  
15  
16

17           73. An actual controversy now exists between the Plaintiffs and the  
18 Defendants, in that the Tribe and the Indians contend that the County Officials'  
19 enforcement of the Vehicle Code Sections impermissibly interferes with the ability of  
20 the Tribe and the Indians to govern themselves on their Reservation, while the County  
21 Officials contend that their actions do not constitute an impermissible interference with  
22 the Tribal self-government of the Tribe.  
23  
24

25           74. Unless the County Officials, their officers, agents and employees, are  
26 provisionally and permanently restrained and enjoined from enforcing the provisions of  
27  
28

1 the Vehicle Code Sections against the Plaintiffs, the Tribe, its members, and the Indians  
2 will be deprived of their right to govern themselves on their Reservation, free of state  
3 regulation and control, and will suffer severe and irreparable injury for which the  
4 Plaintiffs have no plain, speedy or adequate remedy at law, in that the enforcement of  
5 the provisions of the Vehicle Code Sections will constitute an impermissible  
6 interference with the right of the Plaintiffs to govern themselves and the efforts of the  
7 Tribe to exercise its powers of self-government will be thwarted.  
8  
9

10 WHEREFORE, Plaintiffs pray as hereinafter set forth.  
11

12 **THIRD CAUSE OF ACTION**  
13 **(Preemption)**

14 75. Plaintiffs reallege each of the allegations contained in Paragraphs 1-74  
15 above and incorporate each such allegation herein as if set forth here in full.  
16

17 76. Under the Indian Commerce Clause, Article I, § 8, cl. 3 of the Constitution  
18 of the United States, exclusive jurisdiction to regulate commerce with Indian tribes is  
19 vested in Congress. Pursuant to this authority, Congress has enacted a comprehensive  
20 statutory scheme for the creation of Indian reservations in California and in particular  
21 for the creation of the Chemehuevi Indian Reservation.  
22

23 77. Pursuant to the authority granted to it under the Indian Commerce Clause,  
24 Congress enacted the 1853 Act, MIRA and the Amendments to the MIRA creating the  
25 Reservation. Pursuant to the authority granted to the Secretary by the MIRA and the  
26  
27  
28

1 Amendments to the MIRA, the Secretary issued the 1907 Secretarial Order establishing  
2 the boundaries of the Reservation and including within its boundaries Section 36.

3  
4 78. Pursuant to the Indian Commerce Clause, Congress enacted 18 U.S.C. §  
5 1151 defining “Indian Country” as all lands within the boundaries of any Indian  
6 reservation, including any fee patented lands and rights of way located within a  
7 reservation.  
8

9 79. The creation of the Reservation by Congress and the establishment of the  
10 boundaries of the Reservation preempt the authority of the State of California to enforce  
11 any of its laws against any members of the Tribe, while within the boundaries of the  
12 Reservation, absent a federal statute expressly granting the State such authority.  
13

14 80. Congress has not enacted any law that grants the State of California any  
15 jurisdiction or authority to enforce the Vehicle Code Sections against members of the  
16 Tribe, including the Indians, while driving vehicles on their Reservation.  
17

18 81. It is also the policy of the United States that Indian tribes and reservation  
19 Indians be allowed to govern themselves on their reservations free of state regulation  
20 and control.  
21

22 82. The County Officials’ assertion of jurisdiction to enforce the Vehicle Code  
23 Sections against the Plaintiffs within the Reservation, and the actions of the County  
24 Officials to seize and hold the Indians’ property until towing and other impound fees are  
25 paid by the Indians, constitutes regulation and/or interference with the commerce of the  
26  
27  
28

1 Tribe and the Indians, consent to which has not been given by Congress, in direct  
2 violation of the Indian Commerce Clause, the federal statutes reserving, setting aside  
3 and creating the Reservation, the federal policies promoting tribal self-government and  
4 the Supremacy Clause of the United States Constitution, Article VI, cl.2., all of which  
5 preempt the authority of the State to enforce the Vehicle Code Sections against the  
6 Plaintiffs on the Reservation.  
7  
8

9       83. An actual controversy exists between the Plaintiffs and the County  
10 Officials, in that the Plaintiffs contend that the County Officials' assertion of authority  
11 to enforce the Vehicle Code Sections against the Plaintiffs within the Plaintiffs' "Indian  
12 country" has not been preempted by nor is it inconsistent with the Constitution, federal  
13 statutes and policies, while Plaintiffs contend that the County Officials' assertion of  
14 such authority over Plaintiffs and their property has been preempted by and is  
15 inconsistent with the Indian Commerce Clause, the federal statutes reserving, setting  
16 aside and creating the Reservation, and the federal policies promoting tribal self-  
17 government and self-determination, all of which are in direct violation of the  
18 Supremacy Clause of the United States Constitution.  
19  
20  
21

22       84. Unless the County Officials, their officers, employees and agents are  
23 provisionally and permanently restrained and enjoined from enforcing the Vehicle Code  
24 Sections against the Plaintiffs on the Reservation and from seizing or threaten to seize  
25 the Indians' and tribal members' vehicles, while driving on the Reservation, and from  
26  
27  
28



1 otherwise regulating, interfering with, or prohibiting commerce with Plaintiffs,  
2 Plaintiffs will suffer severe and irreparable injury for which Plaintiffs have no plain,  
3 speedy or adequate remedy at law, in that the Indian Commerce Clause, federal statutes  
4 reserving, setting aside and creating the Reservation and the federal policies promoting  
5 the Tribe's self-government and self-determination enacted and followed to protect  
6 commerce with the Tribe and right of the Tribe to govern itself on its Reservation free  
7 of State regulation and control will be violated and the efforts of the Tribe to exercise its  
8 powers of self-government, and thereby benefit all the members of the Tribe, will be  
9 thwarted.  
10  
11  
12

13 85. By reason of the acts of the County Officials of which complaint is made  
14 herein, the Plaintiffs already have been damaged in an amount exceeding \$10,000.00,  
15 and Plaintiffs will continue to suffer additional damage of a nature and in an amount to  
16 be proven at trial.  
17

18 **FOURTH CLAIM**  
19 **(Civil Rights Violation)**  
20

21 86. Plaintiffs re-allege each of the allegations set forth in Paragraph 1 through  
22 85 above, and by this reference incorporate each allegation herein as if set forth here in  
23 full.  
24

25 87. By creating the Reservation, recognizing the Tribe as a government, and  
26 carrying on a government-to-government relationship with the Tribe, the United States,  
27 as a matter of federal law, has granted and guaranteed to the Plaintiffs and in particular  
28

1 the Indians, the right to live on, work at and visit the Reservation free of State regulation  
2 and control.

3  
4 88. The State therefore, has no authority or jurisdiction under federal law to  
5 enforce the Vehicle Code Sections against the Indians while driving vehicles on the  
6 Reservation.

7  
8 89. The County Officials, acting under the authority granted to them, allegedly  
9 by the Constitution and laws of the State of California, have and will continue in the  
10 future, to stop, seize the vehicles of, cite, arrest and prosecute the Indians and other  
11 tribal members while driving vehicles on the Reservation, if the driving of said vehicles  
12 is not done in conformity with the Vehicle Code Sections.

13  
14 90. By stopping, seizing the vehicles of, citing, arresting and prosecuting the  
15 Indians in State Court under the authority of state law for violations of the Vehicle Code  
16 Sections, the County Officials have deprived the Indians and the members of the Tribe  
17 of rights guaranteed to them under federal law, specifically the right to be free of State  
18 regulation and control while engaging in conduct on the Reservation.

19  
20 91. An actual controversy now exists between the Plaintiffs and County  
21 Officials, in that the County Officials assert that they have the authority under state law  
22 to cite, arrest, seize the property of and prosecute the Indians and any members of the  
23 Tribe for violating the Vehicle Code Sections while driving vehicles on the Reservation,  
24 whereas the Plaintiffs assert that federal law prohibits the County Officials from doing  
25  
26  
27  
28

1 so.

2 92. Unless the County Officials, their officers, employees and agents, are  
3 provisionally and permanently restrained and enjoined from enforcing the Vehicle Code  
4 Sections against the Plaintiffs while driving vehicles on the Reservation, the Plaintiffs  
5 will suffer severe and irreparable injury for which they have no plain, speedy or  
6 adequate remedy at law, in that the Plaintiffs will be deprived of their right to be free of  
7 state regulation and control while driving vehicles on the Reservation, they shall be  
8 subject to arrest and prosecution in State Court, and their property will be subject to  
9 seizure in direct violation of the Fifth and Fourteenth Amendments to the United States  
10 Constitution, the Indian Commerce Clause, the federal statutes creating the Reservation,  
11 federal common law and 42 U.S.C. § 1983.

12 92. By seizing and impounding the Indians' vehicles, issuing citations to the  
13 Indians, prosecuting the Indians in State Court and threatening to cite, arrest, impound the  
14 vehicles of and prosecute the members of the Tribe in the future, if they drive a vehicle  
15 on the Reservation in violation of the Vehicle Code Sections, the Plaintiffs have  
16 suffered and will continue to suffer money damages in excess of \$10,000 and will suffer  
17 such other damages and losses to be proven at trial.

18 WHEREFORE, Plaintiffs pray as hereinafter set forth.

19 **PRAYER FOR RELIEF**

20 Pursuant to its claims and causes of action alleged herein, the Plaintiffs pray as

1 follows:

2 **Pursuant to its First Claim**

3  
4 1. That the Court enter judgment declaring that the Plaintiffs are not subject to  
5 the Vehicle Code Sections while driving their vehicles on the Reservation pursuant to  
6 18 U.S.C. § 1360; and  
7

8 2. That the Court enter judgment permanently restraining and enjoining the  
9 Defendants, and each of them, their officers, agents and employees from citing,  
10 arresting, seizing the vehicles of or prosecuting the Indians or any members of the Tribe  
11 in State Court for driving their vehicles on the Reservation in violation of the Vehicle  
12 Code Sections.  
13

14 **Pursuant to its Second Claim**

15  
16 1. That the Court enter judgment declaring that the defendants, and each of  
17 them, their officers, agents and employees are without authority or jurisdiction to  
18 enforce the Vehicles Code Sections against the Indians and Tribal members while  
19 driving vehicles on the Reservation, because to do so would interfere with the ability of  
20 the Tribe and the Indians to govern themselves on the Reservation;  
21

22 2. That the Court enter judgment permanently enjoining the Defendants and  
23 each of them, their officers, agents and employees from enforcing the Vehicle Code  
24 Sections against the Indians and members of the Tribe while driving vehicles on the  
25 Reservation; and  
26  
27  
28

1           3.     That the Court enter judgment against the Defendants, and each of them,  
2 jointly and severally, awarding Plaintiffs damages in excess of \$10,000, plus interest  
3 and such other amounts as may be proven at trial.  
4

5                               **Pursuant to its Third Claim**

6           1.     That the Court declare that Defendants' attempt to enforce the Vehicle  
7 Code Sections against the Plaintiffs is void, as an impermissible intrusion into the field  
8 of regulation of Indian commerce, which Congress has so thoroughly and  
9 comprehensively regulated and preempted as to leave no room at all for additional  
10 regulation by the State of California;  
11

12           2.     That the Court preliminarily and permanently enjoin the Defendants and  
13 each of them, their officers, agents and employees, from enforcing and attempting to  
14 enforce the Vehicle Code Sections against Tribal members while driving on the  
15 Reservation and from seizing or threatening to seize plaintiffs vehicles in efforts to  
16 enforce the Vehicle Code Sections against Tribal members on the Reservation; and  
17

18           3.     That the court award the plaintiffs damages from the defendants, jointly  
19 and severally, in an amount in excess of \$10,000, plus interest and such other amounts  
20 as may be proven at trial.  
21  
22  
23

24                               **Pursuant to its Fourth Claim**

25           1.     That the Court declare that Defendants' attempt to enforce the Vehicle  
26 Code Sections now and in the future against the Plaintiffs, deprives the Indians and all  
27  
28

1 other Tribal members of rights, privileges and immunities guaranteed to them by the  
2 United States Constitution and federal law in direct violation of 42 U.S.C. § 1983;  
3

4 2. That the Court preliminarily and permanently restrain and enjoin the  
5 Defendants, and each of them, their officers, agents and employees, from enforcing and  
6 attempting to enforce the Vehicle Code Sections against Indians and the other members  
7 of the Tribe, now and in the future, while driving vehicles on the Reservation; and  
8

9 3. That the Court award, to the Indians, money damages from the Defendants,  
10 and each of them, jointly and severally, in an amount in excess of \$10,000, plus interest  
11 and such other and further amount of damages as the Indians may incur and prove at  
12 trial.  
13

14 **Pursuant to all Claims**  
15

16 1. That Plaintiffs be awarded costs and reasonable attorneys' fees; and

17 2. That the Court grant such other relief as may be deemed appropriate.  
18  
19

20 DATED: July 30, 2015

Respectfully Submitted,

21 RAPPORT AND MARSTON  
22

23 By: /s/ Lester J. Marston  
24 LESTER J. MARSTON  
25 Attorney for the Plaintiffs  
26  
27  
28