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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

PASKENTA BAND OF NOMLAKI INDIANS; and **PASKENTA ENTERPRISES CORPORATION**,

Plaintiffs,

v.

INES CROSBY; **JOHN CROSBY**; **LESLIE LOHSE**; **LARRY LOHSE**; **TED PATA**; **JUAN PATA**; **CHRIS PATA**; **SHERRY MYERS**; **FRANK JAMES**; **UMPQUA BANK**; **UMPQUA HOLDINGS CORPORATION**; **CORNERSTONE COMMUNITY BANK**; **CORNERSTONE COMMUNITY BANCORP**; **JEFFERY FINCK**; **GARTH MOORE**; **GARTH MOORE INSURANCE AND FINANCIAL SERVICES, INC.**; **ASSOCIATED PENSION CONSULTANTS, INC.**; **HANESS & ASSOCIATES, LLC**; **ROBERT M. HANESS**; **THE PATRIOT GOLD & SILVER EXCHANGE, INC.**; and **NORMAN R. RYAN**,

Defendants,

QUICKEN LOANS, INC.; **CRP 111 WEST 141ST LLC**; **CASTELLAN MANAGING MEMBER LLC**; **CRP WEST 168TH STREET LLC**; and **CRP SHERMAN AVENUE LLC**,

Nominal Defendants.

Case No. 15-cv-00538-GEB-CMK

REPLY IN SUPPORT OF TRIBAL DEFENDANTS' MOTION TO DISMISS PURSUANT TO FRCP 12(B)(1) FOR LACK OF SUBJECT MATTER JURISDICTION

Date: July 27, 2015
Time: 9:00 a.m.
Courtroom: 10
Hon. Garland E. Burrell, Jr.

The Freeman Council's brief in opposition to the Memorandum of Points and Authorities In Support of Tribal Defendants' Motion To Dismiss Pursuant to FRCP 12(B)(1) For Lack of Subject Matter Jurisdiction (hereinafter the "Lohse Memorandum") fails to properly ascertain the issues raised in the Lohse Memorandum, and therefore its reasoning is largely irrelevant to the issues at hand. The crux of the Lohse Memorandum is that the allegations in the First Amended Complaint ("FAC"), although couched in federal and state causes of action, do not arise under federal law. Rather, they are inextricably intertwined with contested issues of Paskenta Tribal law, which do not give rise to federal subject matter jurisdiction.[1] As discussed below, the Freeman Council dedicates its opposition to discussing issues of tribal sovereign immunity from suit, which was never raised in the Lohse Memorandum.

I. THE FREEMAN COUNCIL'S ENTIRE OPPOSITION IS INAPPOSITE BECAUSE IT IS PREMISED ON SOVEREIGN IMMUNITY WHICH IS NOT AT ISSUE IN THIS MOTION

The Freeman Council premises its opposition on the assumption that the federal court enjoys subject matter jurisdiction and is not free to disregard it. Dkt 73 at 22 ("[t]he RICO Defendants do not, and cannot, dispute that the Tribe's claims meet the requirements for federal subject matter jurisdiction under [28 U.S.C. §§ 1331 (federal question), 1362 (jurisdiction over federal question claims brought by Indian tribes), 1367 (ancillary jurisdiction), or 18 U.S.C. § 1964(a), (c) (pertaining to civil remedies under RICO)). Thus, the Freeman Council ignores the entire legal issue raised by the Lohse Administration: that the facts alleged in the FAC do not give rise to federal jurisdiction in the first instance.

Instead, the Freeman Council mistakenly asserts that the Lohse Administration is asserting sovereign immunity as a doctrine under which this Court should disregard its jurisdiction. That is simply not the case. In fact, the Lohse Administration does not raise the doctrine of sovereign immunity at all. Furthermore, the Lohse Administration cites cases showing that this Court lacks

[1] The Freeman Council also asks this Court to give weight to the idea that the Lohse Memorandum "***do[es] not challenge the sufficiency of the Tribe's allegations against them under any of the several different provisions of federal law*** under which the Tribe brings claims against them[.]" Dkt 73 at 23. Such an argument is baffling, because subject matter jurisdiction goes to the essence of this Court's jurisdiction to hear the case in the first instance and surely cannot stand as support for the veracity or propriety of the Freeman Council's claims.

subject matter jurisdiction over this case in the first instance because the claims do not arise under federal law, but instead arise under Paskenta Tribal law.

Whatever the thrust of the Freeman Council's argument, it fails to address the issues raised in the Lohse Memorandum. Instead, the Freeman Council employs a classic straw man argument. Specifically, the Freeman Council mischaracterizes the Lohse Council's argument as one grounded in sovereign immunity, which it is not. The Freeman Council then attempts to show that sovereign immunity is not a bar to the case here because, *inter alia*, "sovereign immunity belongs to the sovereign," (dkt 73 at 23, fn. 6), "the [Lohse Administration] cannot invoke the sovereign immunity of the Tribe," (*id.*), and "[t]he Tribe . . . controls whether or not its immunity is invoked," (*id.*). There is one problem: nowhere does the Lohse Council argue sovereign immunity as a basis for its motion.

This misunderstanding as to the issues raised in the Lohse Memorandum also apparently informs much of the remainder of the Freeman Council's opposition. For example, the Freeman Council asserts that the Lohse Council "tellingly avoid[s] citation to *Lewis* and even avoid using the term 'tribal immunity' to describe the doctrine on which their argument is based." Dkt 73 at 24. The Freeman Council even goes so far as to characterize the Lohse Administration's failure in this regard as a "dereliction of duty to the court." Dkt 73 at 24 (citing *Southern Pacific Trans. Co. v. Public Utilities Comm'n*, 716 F.2d 1285, 1291 (9th Cir. 1983). To be clear, the Lohse Administration does not use the term 'tribal immunity' or cite to *Lewis* because its argument is not based on sovereign immunity at all.

Moreover, nearly all of the cases cited by the Freeman Council address the doctrine of tribal sovereign immunity from suit and are therefore inapplicable here. For that reason, the Lohse Administration will conserve the Court's time by omitting discussion of those cases. *See e.g.*, Dkt 73 **at 26** (citing *Cook v. AVI Casino Enterprises*, 548 F.3d 718, 725 (9th Cir. 2008); *Alvarado v. Table Mtn. Rancheria*, 509 F.3d 1008, 1015 (9th Cir. 2007); *Lewis v. Norton*, 424 F.3d 959 (9th Cir. 2005)); **at 27** (*Alvarez v. Tracy*, 773 F.3d 1011 (9th Cir. 2014); *McClendon v. United States*, 885 F.2d 627 (9th Cir. 1989)); **at 28** (*United States v. Wheeler*, 435 U.S. 313 (1978); *Altheimer & Gray v. Sioux Mfg. Corp.*, 983 F.2d 803 (7th Cir. 1993)); and **at 29** (*Three Affiliated Tribes of Ft. Berthold Reservation v. Wold Engineering*, 467 U.S. 138 (1984)). Furthermore, discussion is also omitted of

issues related to principles underlying sovereign immunity (and the waiver thereof) such as forum selection (Dkt 73 at 29), waiver (Dkt 73 at 30), and principles of self-governance (Dkt at 29-30).

The Freeman Council also fails to address the jurisdictional issue head on. It instead plucks reasoning from cases addressing issues of sovereign immunity (*Lewis v. Norton*, 424 F.3d 959 (9th Cir. 2005), federal court jurisdiction over claims under the Administrative Procedure Act, 5 U.S.C. § 701 (*Alto v. Black*, 738 F.3d 1111 (9th Cir. 2013), and exhaustion of tribal remedies (*Altheimer & Gray v. Sioux Mfg. Corp.*, 983 F.2d 803 (7th Cir. 1993). It then cites that reasoning for the proposition that this Court enjoys subject matter jurisdiction over the obviously internal and contested issues of Paskenta Tribal law asserted in the FAC. Notwithstanding, the principles set out in *Miccosukee*, *Sac & Fox*, and *Smith* remain undisturbed and still instruct that this Court lacks subject matter jurisdiction over the claims alleged in the FAC because they arise under Paskenta Tribal law and not federal law.

II. THE CASES CITED BY THE FREEMAN COUNCIL DO NOT DISPLACE MICCOSUKEE

The Freeman Council attempts to avoid the principles of *Miccosukee* by arguing it is wrongly decided and inconsistent with Ninth Circuit law.

First, Plaintiffs misapprehend the holding in *Miccosukee*. The Freeman Council mischaracterizes *Miccosukee* as holding "that a federal court is free to disregard its federal question jurisdiction" in certain circumstances. Dkt 73 at 39 (underline added for emphasis). But *Miccosukee* does no such thing. Instead, *Miccosukee* held that the federal court lacked subject matter jurisdiction in the first instance because the claims alleged there related to a dispute as to whether the chief of the Miccosukee Tribe exceeded his authority through his use of the Miccosukee Tribe's financial accounts. 975 F.Supp.2d 1298, 1308. *Miccosukee* did not decide whether the court was free to *disregard* jurisdiction it already possessed; rather it concluded it did not have jurisdiction in the first instance. In this regard, Plaintiff confuses *Miccosukee* and its relevance to this case.

Second, the Freeman Council attempts to distinguish *Miccosukee* using an apples-to-oranges comparison. Plaintiffs cite *Lewis* and *Alto* to show that *Micosukee* was wrongly decided and is

inconsistent with Ninth Circuit law. The problem is that *Lewis* and *Alto* are not relevant to the issues in this case, or the issues in *Miccosukee*.

Alto is a case dealing with federal court jurisdiction under the APA to review final agency action of the Bureau of Indian Affairs. Specifically at issue in *Alto* was "whether the district court had jurisdiction to enjoin preliminarily the enforcement of a BIA order upholding the Band's decision to disenroll descendants . . . and whether such injunctive relief [could] issue in the Band's absence." 738 F.3d at 1115. Importantly, in *Alto*, "the tribe's own governing documents vest[ed] the United States Department of Interior, Bureau of Indian Affairs . . . with ultimate authority over membership decisions." *Id*. Thus, "[t]he issues in [the] case center[ed] on whether, and to what degree, this circumstance varie[d] the usual judicial 'hands off' policy for tribal membership decisions." *Id.* The *Alto* court held that the BIA order upholding the tribe's decision to disenroll certain members was final agency action and thus reviewable under the Administrative Procedure Act ("APA"). *Id.* at 1124. Unlike *Alto*, this case was not brought under the APA, and the reasoning plucked from *Alto* is inapposite. To be sure, *Alto* cannot be the basis for arguing that *Miccosukee* was wrongly decided.

Similarly inapplicable is *Lewis v. Norton*, 424 F.3d 959 (9th Cir. 2005), which the Freeman Council argues defines the circumstances where tribal sovereign immunity "has no application." Dkt 73 at 24. Because sovereign immunity was not raised as a bar to this Court's jurisdiction, *Lewis* and similar cases have no relevance and do not bear on the issue at hand. They certainly do not undermine the principles set forth in *Miccosukee*, which compel the conclusion that this Court lacks subject matter jurisdiction over the claims in the FAC.[2]

[2] *Miccosukee* is not an outlier or wrong, and is suggested in the opposition. A California *Trial* Court has similarly interpreted the principles upon which it relies. In *Ione Band of Miwok Indians v. Franklin*, Case No. 34-2014-00164169-CU-MC-GDS, Sacramento Sup. Ct., June 14, 2014, the plaintiff Ione Band of Miwok Indians brought suit against its former chairman for $205,729.22 in allegedly unauthorized personal charges to the tribe's credit card. Minute Order, August 14, 2014 at 1. In dismissing the suit, the court reasoned: "The Court agrees with Defendant that the motion [to dismiss] must be granted because [the case] involves a non-justiciable internal tribal matter which would require the Court to interpret tribal law, custom and practice to determine whether the credit card charges at issue were proper." *Id.* at 2. The Court concluded, "The Tribe should be making the determinations based on tribal law and policies as to whether [the defendant] engaged in improper

III. THE FREEMAN COUNCIL'S ARGUMENT THAT THERE IS NO "LIVE" DISPUTE IS IRRELEVANT BUT ALSO INCORRECT

The Freeman Council incorrectly asserts that the well-established prohibition on federal courts adjudicating matters of internal Tribal law, governance, and membership applies only during the temporal period during which an intra-tribal dispute itself is "live," or otherwise ongoing. First, as discussed above, *Miccosukee* did not involve an intra-tribal dispute, and therefore its application does not rely on the existence of an intra-tribal dispute, ongoing or otherwise. Rather, *Miccosukee*'s holding applies to cases where the relief sought by a Plaintiff requires the Court to determine the scope of a Tribal official's authority under tribal law, regardless of whether an intra-tribal dispute exists.

This is the exact scenario at issue in the instant case. Like in *Miccosukee*, no one questions that the Lohse Administration legitimately held their positions within the Paskenta Tribe. Also alike, the Freeman Council is challenging whether the scope of Tribal law justified the actions taken by the Lohse Administration pursuant to their legitimately held Tribal positions. As *Miccosukee* undisputedly held, the federal court jurisdiction does not reach such a challenge.

Even where an intra-tribal dispute does exist, none of the cases cited by Freeman Council creates or supports the arbitrary rule posited by the Freeman Council that issues regarding internal tribal matters must be resolved during the timeframe the dispute existed. In fact, case law supports the Lohse Administration's argument that the federal courts lack jurisdiction over issues concerning whether actions by a previous tribal government official was authorized by Tribal law, well beyond the existence of an intra-tribal dispute.

For example, *Attorney's Process & Investigation Services v. Sac & Fox Tribe of the Mississippi in Iowa*, 609 F.3d 927 (8th Cir. 2010) concerned an intra-tribal dispute that existed "[d]uring the spring and summer of 2003." *Id.* at 931. Years later, litigation arose concerning the validity of actions taken by purported tribal leaders during the several-month long dispute. Nearly

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conduct, not the Court." *Id.* While *Ione* is not published in California, it bears on the arguments in the opposition that *Miccosukee* is wrong. *Ione* is attached.

seven years after the intra-tribal dispute concluded, in July 2010, the Eighth Circuit held, "It is plain, then, that whether [the former Tribal Chair] . . . had general authority to act on behalf of the Tribe in a governmental capacity are pure questions of tribal law, beyond the purview of the federal agencies and the federal courts." *Id.* at 943. The Eighth Circuit further held a former Tribal official's authority to take specific actions, specifically to enter into a contract on behalf of the Tribe in *Attorney's Process*, was beyond the jurisdiction of the federal courts. *Id.* at 944 (BIA recognition at the time of the former tribal chairman "was not to say that [he] could do whatever he thought necessary"). Accordingly, contrary to Plaintiffs' argument, the resolution of an intra-tribal dispute does not confer jurisdiction to the federal courts over matters governed by tribal law.

IV. THE FREEMAN COUNCIL IS NOT NOW FREE TO DISREGARD THE FACTUAL ALLEGATIONS IN ITS FIRST AMENDED COMPLAINT WHICH SQUARELY CALL UPON THIS COURT TO RESOLVE CONTESTED ISSUES OF TRIBAL LAW

The face of the FAC belies the Freeman Council's attempt to recast the allegations in the FAC as only incidentally touching upon contested issues of Paskenta Tribal law. *See* Dkt 73 at 39 ("This case is fundamentally about four senior employees of the Tribe who took advantage of their positions of trust with the Tribe . . . to defraud the Tribe out of millions of dollars"). The FAC alleges much more. The essence of the FAC is that the Lohse Administration improperly gained membership into, and political power within, the Tribe through feigned volunteerism and surreptitious enrollment, maintained that power by intimidating Tribal members and denying them access to information and Tribal laws; leveraged that power to create political allegiances throughout the Tribe and Casino by, among other things, appointing political allies; and ultimately leveraged that power to make ill-advised investments, unauthorized purchases, and self-serving compensation and benefits, all in violation of the Tribe's laws and Constitution. These issues are inextricably intertwined with contested issues of Paskenta Tribal law which this Court would have to resolve in order to reach the causes of action alleged in the FAC.

The Freeman Council erroneously relies upon *Alto* for the proposition that this Court may resolve contested issues of tribal law without divesting itself of subject matter jurisdiction. Dkt 73 at 37. *Alto*, as discussed above, is a case under the APA and does not involve the same issues at hand.

Namely, under the APA, the court had jurisdiction to determine whether the Secretary of the Interior's actions affirming a tribal disenrollment were arbitrary, capricious, or otherwise not in accordance with law. To make that determination, *Alto* held, the court could look to tribal law because tribal law was the law which the Secretary applied in making its decision. This case is unlike *Alto*; it does not arise under the APA, nor does it involve review of agency action under federal statute. Instead, the federal court is being asked to determine whether the allegations in the FAC contravened Paskenta Tribal law. The courts, including *Miccosukee*, hold this court does not.

CONCLUSION

For the foregoing reasons, this Court should dismiss this case pursuant to FRCP 12(b)(1) for lack of subject matter jurisdiction.

Respectfully submitted,

July 13, 2015

LIBERTY LAW, A.P.C.

/s/ John M. Murray
JOHN M. MURRAY
ATTORNEYS FOR
Defendants Ines Crosby, John Crosby, Leslie Lohse, Larry Lohse, Ted Pata, Juan Pata; Chris Pata, Sherry Myers, Frank James, The Patriot Gold And Silver Exchange, Inc. and Norman R. Ryan

SUPERIOR COURT OF CALIFORNIA,
COUNTY OF SACRAMENTO
GORDON D SCHABER COURTHOUSE

MINUTE ORDER

DATE: 08/14/2014 TIME: 02:00:00 PM DEPT: 53

JUDICIAL OFFICER PRESIDING: David Brown
CLERK: E. Brown
REPORTER/ERM: S. Adams CSR# 12554
BAILIFF/COURT ATTENDANT: J. Green, T. Elder

CASE NO: **34-2014-00164169-CU-MC-GDS** CASE INIT.DATE: 05/30/2014
CASE TITLE: **Ione Band of Miwok Indians vs. Franklin**
CASE CATEGORY: Civil - Unlimited

EVENT ID/DOCUMENT ID: ,11577282

EVENT TYPE: Motion to Quash Service of Summons - Civil Law and Motion
MOVING PARTY: Matthew Franklin
CAUSAL DOCUMENT/DATE FILED: Motion to Quash Service of Summons, 07/18/2014

APPEARANCES
Jack Duran, Jr, counsel, present for Defendant(s).
Tim Evans, counsel present for plaintiff

Nature of Proceeding: Motion to Quash Service of Summons

TENTATIVE RULING

Specially appearing Defendant Matthew Franklin's motion to quash is granted.

Defendant's request for judicial notice of the complaint in this action is granted.

In this action, Plaintiff Ione Band of Miwok Indians brought suit against Defendant and defendant Johnny Jamerson for money had and received and account stated based on allegations that they used credit cards as Plaintiff's employees which were not intended for personal use. Plaintiff alleges that in violation of the agreed use of the credit card Defendant incurred $205,749.22 in unauthorized personal charges which Plaintiff was forced to pay.

Defendant moves to quash pursuant to CCP § 418.10 on the basis that this Court lacks jurisdiction over him on the basis that as a former Tribal Chairman of Plaintiff, he is entitled to sovereign immunity from suit as the action involves conduct which occurred while he was the Tribal Chairman.

Plaintiff's Constitution provides that "[w]hen acting within the scope of their authority, the members of the Tribal Council; tribal employees; tribal agents; tribal departments and agencies; and tribal members acting in an official capacity are immune from unconsented suit. Such immunity shall extend beyond the term of office or employment for actions taken during said term or employment." (Art. XIV-Sovereign Immunity)

The applicable law in this regard is conclusive and undisputed. Jurisdiction to resolve internal tribal disputes and interpret tribal constitutions and laws lies with Indian tribes. (See *United States v. Wheeler* (1978) 435 U.S. 313, 323-36 (noting that Indian tribes are "unique aggregations possessing attributes of sovereignty over both their members and their territory" (citing *United States v. Mazurie* (1975) 419 U.S. 544, 557); *Turner v. United States*(1919) 248 U.S. 354, 354-355; and *Cherokee Nation v. Georgia*(1831) 30 U.S. 1, 16-17; *Runs After v. United States*, 766 F.2d 347, 352 (8th Cir. 1985) (holding that the district

court lacked jurisdiction to resolve "disputes involving questions of interpretation of the tribal constitution and tribal law" (citations omitted)); *Smith v. Babbitt*, 100 F.3d 556, 559 (8th Cir. 1996) (holding that the district court lacked jurisdiction to hear what, in effect, was an appeal by individuals from an adverse tribal membership determination by a tribe). Generally, Indian tribes enjoy sovereign immunity from suit in state or federal court. (*Santa Clara Pueblo v. Martinez* (1978) 436 U.S. 49, 58.) A tribe's sovereign immunity extends to tribal officials when they act in their official capacity and within the scope of their authority. (*Trudgeon v. Fantasy Springs Casino*, (1999) 71 Cal.App.4th 632, 643; *Imperial Granite Company v. Pala Band of Mission Indians* (9th Cir. 1991) 940 F.2d 1269, 1271.) However, "when such officials act beyond their authority, they lose their entitlement to the immunity of the sovereign." (*Id.*) Defendant recognizes that the complaint should allege such facts that the official acted outside his or her authority but argues that no such allegations in the instant complaint exist. (*Id.*)

Defendant first argues that the complaint does not sufficiently allege that he acted outside the scope of his authority as a tribal official in incurring the subject credit card charges. The Court need not resolve that issue as it agrees with Defendant that the matter presents a non-justiciable intra-tribal dispute.

The Court agrees with Defendant that the motion must be granted because it involves a non-justiciable internal tribal matter which would require the Court to interpret tribal law, custom and practice to determine whether the credit card charges at issue were proper. Internal tribal disputes are generally held to be non-justiciable. (*Longie v. Spirit Lake Tribe* (8th Cir. 2005) 400 F.3d 586, 589.) "A dispute over the meaning of tribal law does not 'arise under the Constitution, laws, or treaties of the United States...this is the essential point of opinions holding that a federal court has no jurisdiction over an intra-tribal dispute." (*Kaw Nation v. Lujan* (10th Cir. 2004) 378 F.3d 1139, 1143.) A recent non-binding case from the Alaska Supreme Court confirmed in a matter involving a lawsuit relating to a tribal election dispute that a "state has no interest in determining the outcome of this internal tribal dispute, the tribal election and membership dispute in this case remains within the tribe's retained inherent sovereign powers. We therefore conclude that the state court lacks subject matter jurisdiction in this case because the state lacks an interest, and the exercise of jurisdiction would require the state court to apply tribal law to determine the outcome of a tribal dispute and issues of tribal membership." (*Healy Lake Village v. Mt. McKinley Bank* (2014) 322 P.3d 866, 875.)

Here, while the complaint asserts a cause of action for common counts, the matter is a purely intra-tribal dispute between Plaintiff and its former tribal council chair regarding credit card charges he made while he was the tribal council chair. Patently, he performed some type of high-level or governing role within the tribe. See, e.g. *Baugus v. Brunson* (E.D.Cal. 1995) 890 F. Supp. 908, 911-912. While the matter ostensibly presents issues of state law as it relates to common counts, in order to determine whether Defendant made any improper charges, this Court would be called upon to determine Plaintiff's tribal law, custom and practice. Indeed, Plaintiff essentially confirms this in its opposition as it submitted a declaration from the current tribal chair who classifies the charges at issue as "unauthorized diversion[s] of Tribal assets," "misuse of Tribe's money" and even states that she is familiar with the laws, rules and actions of the Tribe and **know of no provisions in the Tribe's laws or records that authorize such expenditures**..." (Miller Decl. ¶¶ 2-5, 8.) This confirms that to resolve the instant lawsuit, the Court would be required to determine what Plaintiff's laws, policies and customs allow or do not allow with respect to credit cards issued to tribal officials and confirms that this is a purely intra-tribal dispute in which this State has no interest. Plaintiff's constitution expressly provides a forum in which to resolve this tribal dispute. (Def. Decl. Exh. 1 (Plaintiff's Constitution, Art. VIII.) The Tribe should be making the determinations based on tribal law and policies as to whether Defendant engaged in improper conduct, not the Court.

Plaintiff's argument that the dispute is justiciable is not persuasive. Plaintiff does not really dispute that this is an intra-tribal dispute. Rather, it argues that the cases cited by Defendant involve purely internal political matters regarding tribal elections, or property rights on reservations and not matters brought by

a tribe against a former tribe member involving simple common count causes of action. Plaintiff cites no legal authority for its argument that a dispute between a tribe and a tribal council official regarding whether the official properly incurred credit charges in connection with a credit card issued by a tribe is a justiciable dispute. Further, as discussed above, Plaintiff itself has confirmed that the instant dispute is purely intra-tribal and will necessarily involve the application of tribal law, custom and practice. As the United States Supreme Court has stated, "[e]ven in matters involving commercial and domestic relations, we have recognized that '[subjecting] a dispute arising on the reservation among reservation Indians to a forum other than the one they have established for themselves,' [citations omitted] may 'undermine the authority of the tribal [court]...and hence...infringe on the right of the Indians to govern themselves." (*Santa Clara Pueblo*, *supra*, 436 U.S. at 59-60.) As a result, the motion to quash is granted. This Court lacks jurisdiction over this purely intra-tribal dispute which would undoubtedly call for the Court to apply tribal law to resolve the dispute between Plaintiff and Defendant. This is a matter in which the State has no interest and for which a tribal forum exists .

The motion is granted.

Defendant shall prepare a formal order pursuant to CRC Rule 3.1312.

COURT RULING

The matter was argued and submitted.

The Court affirmed the tentative ruling.