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Betty [Signature]

IN THE NOOKSACK TRIBAL COURT

NO. 2016- CI- CL- 001

COMPLAINT

ELEANOR J. BELMONT; OLIVE T.
OSHIRO, enrolled members of the Nooksack
Indian Tribe; and FRANCINE ADAMS;
ANTHONY ADAMS; BRINA ALDREDGE;
BRITTANY ALDREDGE; NORMA
ALDREDGE; ANGELITA AURE; DOE
AURE; CHELSEA BAKER; KELSEA
BAKER; PRICILLA BAKER; JERIC BAKER;
FLORENTINO BARRIL; CALEB BARRIL-
BOTHELL; CATHALINA BARRILL; BILLIE
BARTLE; ADAM BELLO; EILEEN BELLO;
PATRICK BELLO JR.; ELIZABETH BELLO;
PATRICK BELLO; ELPIDO BELLO JR.;
EUGENA BELLO; JOSEPH BELLO; LUCAS
BELLO; NICHOLAS ELPEDIO BELLO;
DOMINIC BELLO; RICHARD BELLO;
DIONNE BENNETT; OLIVA BOTHELL;
KIRK BROWN; CHRISTINA BUMATAY;
ANDREA BUMATAY; ROBERT
BUMATAY; ANDREW BUMATAY; JAMES
BUMATAY; JONATHAN BUMATAY;
BARTON BUMATAY; ANGELA
BUMATAY; NOELANI BUMATAY-
JEFFERSON; MARIAH BUMATAY-
JEFFERSON; CAROL CAILING; DONNA
CAILING; KEITH CAILING; NEVEAH
CAILING; ANITA CAMPBELL;
ALEXANDREA CARR; LEE CARR;
PRICILLA CARR; ROBLEY CARR; ANNA
CARR; QUOLIA CARR; VANESSA
CASIMIR; CHRISSA CASONO; NINA
CHOW; KYLE COBLE; LISA COBLE;
STEVE COBLE; SEAN COLEMAN; GILDA
CORPUZ; PEDRO CORPUZ; VICTORINO
CORPUZ; CHRISTINA CORPUZ-PEATO;
JORDAN CRAIN; ROLAND CUATERO;

COMPLAINT - 1

Galanda Broadman PLLC
8606 35th Avenue NE, Ste. L1
Mailing: P.O. Box 15146
Seattle, WA 98115
(206) 557-7509

1 NARCISCO CUNANAN; DONALD
2 EDWARDS; BRIONNA ERICKSON; SETH
3 ERICKSON; TERESA ERICKSON;
4 MICHAEL FAULKS; VICTORIA FRANZ;
5 ROMA FURUTA; ELEANOR GABRIEL;
6 JESSICA GABRIEL; ZARIA GABRIEL;
7 AVRILYN GABRIEL; REGINALD
8 GABRIEL; AYL A GARDIPE; DANCHO
9 GARDIPE; DAVID GARDIPE; DONNA
10 GASPAS; GUADALUPE GASPAS; JADE
11 GASPAS; JESUS GASPAS; ASIA GILYARD;
12 LEONARD GLADSTONE; LOIS
13 GLADSTONE; MIKALA GLADSTONE;
14 RICHARD GLADSTONE; TYRONE
15 GLADSTONE; MAILE GOMEZ-RABANG;
16 MALAKAI GRIFFETH; MALIA GRIFFETH;
17 MARIE HADDOW; MIRANDA HADDOW;
18 DOLLY HADDOW; TINA HANCOCK;
19 AMYA HART; ANITA HART; CHARLOTTE
20 HART; DESTINE HART; EDARAY HART;
21 JENNIFER HART; KIANA HART; LINDA
22 HART; PHILLIP L. HART; TAYSHUAN
23 HART; ROSE HERNANDEZ; KIMBERLY
24 ISEDA; AUNDREA JAHR; KAYLEENA-
RAY JAHR; JUANITA JAVIER; MANUEL
JAVIER; SATURNINO JAVIER; ANDREW
JEFFERSON; JOSEPH JEFFERSON;
KALEIOLANI JEFFERSON; JOHNNY
JENSEN; MAXIMO KAUFFMAN; MARC
ANTHONY KAUFFMAN; CAMERON
LAWRENCE; SONIA LOMIELI; ADRIAN
LOPEZ JR.; ADRIAN LOPEZ SR.; ARSENIO
LOPEZ; BERTA LOPEZ (RABANG); TRINA
LOPEZ (HARO); TRENT LOUGHNANE;
KIYOMIE MARSHALL; CARLOS MIGUEL;
LAWRENCE MIGUEL; MATIAS MIGUEL;
RONALD MIGUEL III; RONALD MIGUEL
JR.; TONI MIGUEL; JUSTIN MUNDEN;
ANGELINE NARTE; DANTE NARTE;
FRAZER NARTE; JAIME NARTE; JENAIA
NARTE; KAILEE NARTE; MARIO NARTE
JR.; MARIO NARTE; MICAH NARTE;
RUBY NARTE; ANTONIO NARTE JR.;
PHILLIP D. NARTE; ANTONIO NARTE;
CALEB NARTE; CODY NARTE; ELISAH
NARTE; ANDREW NICOL; TERIA ANN
NICOL; ROY NICOL; ALEXANDER NICOL-

1 MILLS; DUSTIN OSHIRO; ELIZABETH
2 OSHIRO; KIYOSHI OSHIRO; MATTHEW
3 OSHIRO; OLIVIA OSHIRO; TIANA
4 OSHIRO; STEVEN PARK; EDMUND PARK;
5 ADELINA PARKER; MALIA PEATO;
6 PATELESIO PEATO; SOFIA PEATO;
7 KUAIKA PELETI; RENE PELETI; TINO
8 PELETI; MORENO PERALTA; ARIEL
9 PHILLIPS; JOSHUA PHILLIPS; SAMSON
10 PHILLIPS; AILINA RABANG; SELIA
11 RABANG; SHALENE RABANG; CLARA
12 RABANG; LEONARD RABANG; MAXINA
13 RABANG; MIANA RABANG; REANNA
14 RABANG; TYRONE RABANG JR.; TYRONE
15 RABANG; WILLIAM RABANG; ANGEL
16 RABANG; ANGELITA RABANG;
17 ANTHONY RABANG; BRIANNA RABANG;
18 DOMINGO A. RABANG SR.; DOMINGO F.
19 RABANG; FRANCISCA L.G. RABANG;
20 FRANCISCA S. RABANG; FRANCISCO A.
21 RABANG; FRANCISCO D.G. RABANG;
22 FRANCISCO RABANG JR.; GINA RABANG;
23 JAMES RABANG; LAJUNE RABANG;
24 MARTINO RABANG; MICHAEL RABANG;
25 QUI-SEENUM RABANG; RACHEL
RABANG; ROBERT JAMES RABANG III;
ROBERT JAMES RABANG JR.; ROBERT
JAMES RABANG SR.; SANTANA RABANG;
TIERRA RABANG; TINA RABANG;
CARCIONE RABANG; SUNSIE RABANG;
WILLIAM RABANG JR.; SHARON
RABANG-BROWN; ALEXINA RABANG-
COLEMAN; ALLEN RAPADA; ANDREW
RAPADA; BART RAPADA; CALVIN
RAPADA; DANIEL FRED RAPADA;
DANIEL FELIX RAPADA; DARRELL
RAPADA; EMILY RAPADA; GERALD
RAPADA; HONORATO RAPADA III;
HONORATO RAPADA; JAMES RAPADA;
KIMBERLY RAPADA; MELISSA RAPADA;
MILDRED RAPADA; RECONAR RAPADA;
RECONAR G.B. RAPADA; SONIA
RAPADA; TIERRA RAPADA; ZACK
RAPADA; NADINE RAPADA; ANGELA
RAPADA; BETSIEBO RAPADA; CATALINA
RENTERIA; MARCELLINA RENTERIA;
SYLVIA RENTERIA; VINCENT RENTERIA;

1 ALLEN RICHAMIRE; VERONICA
2 RICHMIRE; ANGELO RITUALO; DIANA
(MONA) RITUALO; FELIPE RITUALO;
3 TERESA RITUALO; BRITTINIE ROBERTS;
MICHELLE JOAN ROBERTS; RAFFINAND
4 ROBERTS; DEANNA ROMERO; RUDY
ROMERO; EMMANUAL ROMERO-
5 DANCEL; KRISTOFFER SILVA; SEVINA
SILVA; TYLER SILVA; ENZO SIOSON;
6 JULIETTE SIOSON; ROCCO SIOSON;
DEBBIE SMITH (NARTE); ALEX ST.
7 GERMAIN; BREANNA ST. GERMAIN;
RUDY ST. GERMAIN; TAYLOR ST.
8 GERMAIN; TERRY ST. GERMAIN JR.;
ROSE TOVAR; AND JOCELYN TOVAR;
9 CHERYL TRAINOR; KRISTAL TRAINOR,
individually and on behalf of their minor
10 children, enrolled members of the Nooksack
Indian Tribe,

11 Plaintiffs,

12 v.

13 ROBERT KELLY, Chairman of the Nooksack
Tribal Council; RICK D. GEORGE, Vice-
14 Chairman of the Nooksack Tribal Council;
AGRIPINA SMITH, Treasurer of the Nooksack
15 Tribal Council; BOB SOLOMON,
Councilmember of the Nooksack Tribal
16 Council; KATHERINE CANETE,
Councilmember of the Nooksack Tribal Council
17 and Nooksack General Manager; AGRIPINA
"LONA" JOHNSON, Councilmember of the
18 Nooksack Tribal Council; ELIZABETH KING
GEORGE, Enrollment officer of the Nooksack
19 Tribal Council; ROY BAILEY, Enrollment
officer of the Nooksack Tribal Council, in their
20 personal and official capacities,

21 Defendants.

22 I. INTRODUCTION

23 1. Defendants are violating or will violate the Nooksack Constitution and laws.
24 Defendants are attempting or will attempt to cancel and indefinitely postpone the Nooksack

1 Tribal Council Primary Election and General Election mandated by the Nooksack Constitution
2 and Tribal Election Ordinance.

3 II. JURISDICTION

4 2. Plaintiffs, enrolled members of the Nooksack Indian Tribe,¹ bring this action
5 against Defendants, who are officers, employees, or agents of the Tribe, acting in their official
6 and personal capacities.

7 3. Because Plaintiffs allege that the laws and policies that Defendants, in their
8 official capacities, are enforcing or threatening to enforce are unconstitutional and otherwise
9 illegal, and because Plaintiffs seek nonmonetary declaratory and injunctive relief, the Court has
10 jurisdiction pursuant to *Lomeli v. Kelly*, No. 2013-CI-APL-002, at 14 (Nooksack Ct. App. Jan.
11 15, 2013).

12 4. Because Plaintiffs allege that Defendants, in their personal capacities, have acted
13 “outside the scope of [their] authority” in that their actions were “done in any way other than by
14 the proper procedures” required by Nooksack law, this Court has jurisdiction. *Cline v. Cunanan*,
15 No. NOO-CIV-02/08-5 (Nooksack Ct. App. Jan. 12, 2009).

16 III. PARTIES

17 6. Defendants are members of the Nooksack Tribal Council (“Tribal Councilperson
18 Defendants”) and employees of the Tribe who are each sued in their respective official and
19 personal capacities (collectively “Defendants”).

20 7. Plaintiffs are enrolled members of the Tribe.

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¹ Plaintiffs include those persons set forth on the May 5, 2013, Galanda Broadman representation list on file with
24 this Court in *Lomeli v. Kelly*.

IV. FACTS

8. On March 31, 2014, this Court issued an Order Enjoining Disenrollment Proceedings, under a Nooksack Court of Appeals ruling that a set of disenrollment rules promulgated by Defendants pursuant to Nooksack Tribal Council Resolution No. 13-11 were unconstitutional for want of approval by the Secretary of U.S. Department of the Interior. *Roberts v. Kelly*, No. 2013-CI-CL-003 (Nooksack Tr. Ct. Mar. 31, 2014) (citing *Roberts v. Kelly*, No. 2013-CI-CL-003, at 5 (Nooksack Ct. App. Mar. 18, 2014)).

9. Defendants have not since issued rules governing disenrollment proceedings, nor had any rules approved by the Secretary of Interior.

10. On June 12, 2014, this Court issued a preliminary injunction, finding that the Secretary of U.S. Department of the Interior had yet to approve any rules governing disenrollment proceedings. As Defendants admit, "The Court's Order retains the status quo to this day."

11. Also on December 18, 2015, Defendants amended Title 62, the Nooksack Tribal Election Ordinance ("Election Ordinance") to gerrymander the February 20, 2016 Primary Election and March 19, 2016 General Election for Tribal Councilperson Defendants' four open seats.

12. On January 5, 2016, Tribal Councilperson Defendants announced at a Nooksack Community Council meeting that they had cancelled the February 20, 2016 Primary Election and March 19, 2016 General Election for Tribal Councilperson Defendants Rick D. George, Agripina Smith, Katherine Canete and Agripina "Lona" Johnson's open seats and postponed any election for those seats until after disenrollment proceedings against Plaintiffs finally conclude.

V. CAUSE OF ACTION
(Injunction/Writ of Mandamus – Violations of Nooksack Constitution)

13. Plaintiffs incorporate and reallege the foregoing allegations.

14. Plaintiffs are not requesting affirmative action to the extent that such relief cannot be granted by a writ of mandamus. *Lomeli*, No. 2013-CI-APL-002, at 12 (this Court possesses a “constitutional grant of jurisdiction to authorize the issuance of a writ of mandamus to compel Tribal Council officers to perform constitutionally required non-discretionary duties.”).

15. The Nooksack Constitution and Election Ordinance require the February 20, 2016 Primary Election and March 19, 2016 General Election for Tribal Councilperson Defendants Rick D. George, Agripina Smith, Katherine Canete and Agripina “Lona” Johnson’s four open seats. Const., art. III, §§ 3-4; Nooksack Tribal Code §§ 62.02.020-030.

16. Tribal Councilperson Defendants have attempted to unconstitutionally cancel the February 20, 2016 Primary Election and March 19, 2016 General Election for Tribal Councilperson Defendants Rick D. George, Agripina Smith, Katherine Canete and Agripina “Lona” Johnson’s open seats and postpone any election for those seats until after disenrollment proceedings against Plaintiffs finally conclude.

17. The right to equal protection protected by Title X of the Nooksack Constitution directs that all persons similarly situated should be treated alike. Where an act or omission of the Tribe substantially burdens fundamental rights, such as the right to vote, “strict scrutiny applies” and the Tribe’s act or omission will be enjoined unless the Tribe “can show that the statute is narrowly drawn to serve a compelling state interest.” *Green v. City of Tucson*, 340 F.3d 891, 896 (9th Cir. 2003) (citing *Kramer v. Union Free Sch. Dist. No. 15*, 395 U.S. 621, 627-28 (1969)).

18. The decision to cancel the February 20, 2016, Primary Election and March 19, 2016, General Election is intended to deny Plaintiffs the right to vote. This does not pass equal

1 protection muster because it does not pass the strict scrutiny standard applicable to the Plaintiffs
2 right to vote. Indeed, it would not even pass the rational basis standard.

3 19. Preventing Plaintiffs from voting is not a compelling state interest. Plaintiffs are
4 enrolled Nooksacks. They have not been disenrolled. They are entitled to vote. Unless or until
5 they are disenrolled, this cannot change. Defendants must be enjoined from acting in furtherance
6 of any government policy that targets Plaintiffs and unlawfully restricts their constitutional right
7 to vote.

8 20. Plaintiffs have clear legal or equitable rights and a well-grounded fear of
9 immediate invasion of those rights. The relative equities of the parties favor granting injunctive
10 relief. Defendants have acted and are continuing to act in excess of their constitutional authority
11 in this matter. If not enjoined by order of the Court, Defendants will continue to enforce
12 unconstitutional statutes and Resolutions, and Plaintiffs will suffer irreparable injury. Plaintiffs
13 do not have a plain, speedy, and adequate remedy in the ordinary course of law.

14 21. An actual controversy exists between the parties concerning the issues identified
15 above.

16 22. A judicial determination resolving this actual controversy is necessary and
17 appropriate at this time.

18 VI. RELIEF REQUESTED

19 WHEREFORE, Plaintiffs pray for relief as follows:

- 20 A. For injunctive relief;
- 21 B. For declaratory judgment;
- 22 C. For writ of mandamus;
- 23 D. For attorneys' fees and costs; and
- 24 E. For such other relief as the Tribal Court may deem just and equitable.

1 Plaintiffs reserve the right to further amend their Complaint.

2 DATED this 14 day of January, 2016.

3 GALANDA BROADMAN PLLC

4 

5 Gabriel S. Galanda, WSBA #30331
6 Anthony S. Broadman, WSBA #39508
7 Ryan D. Dreveskracht, WSBA #42593
8 8606 35th Ave NE, Ste. L1
9 P.O. Box 15146
10 Seattle, WA 98115
11 Phone: 206-557-7509
12 gabe@galandabroadman.com
13 anthony@galandabroadman.com
14 ryan@galandabroadman.com

15 *Attorneys for Plaintiffs*