

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ALASKA**

KPMG LLP, a Delaware Limited Liability Partnership

Plaintiff,

v.

KURT KANAM, individually and as Tribal Attorney for the Native Village of Karluk, and ORBIE MULLINS, individually and as Village of Karluk Tribal Court Judge for the Karluk Tribal Court for the Native Village of Karluk,

Defendants.

Case No. 3:15-cv-00129-SLG

**ORDER RE NOTICE OF REMOVAL AND MOTION TO DISMISS**

Defendants filed a Notice of Removal and Motion to Dismiss at Docket 30, to which Plaintiff responded at Docket 31. Defendants seek to transfer this action to the Karluk Tribal Court, citing 28 U.S.C. § 1441. But 28 U.S.C. § 1441 accords to the district court removal jurisdiction over “civil actions brought in a State court of which the district courts of the United States have original jurisdiction.” It does not permit or authorize the transfer of a district court case to a tribal court.

Defendants also request that this action be dismissed based on Defendants’ allegation that that this court case is “an attempt to conceal [a] crime of accounting fraud.”<sup>1</sup> But clearly Plaintiff disputes that fact, and the Court has entered a Preliminary Injunction

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<sup>1</sup> Docket 30-1 at 2.

that does adopt Defendants' assertions.<sup>22</sup> Regardless, the presence of material factual disputes precludes the entry of a motion to dismiss on this basis. See *generally* Civil Rule 12(b).

For the foregoing reasons, the Notice of Removal and Motion to Dismiss at Docket 30 are DENIED.

DATED this 5<sup>th</sup> day of October, 2015 at Anchorage, Alaska.

/s/ Sharon L. Gleason

UNITED STATES DISTRICT JUDGE

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<sup>22</sup> See Docket 29. Defendants have filed an interlocutory appeal of that order. See Docket 32.