

IN THE TRIBAL COURT OF THE NOOKSACK TRIBE OF INDIANS FOR THE NOOKSACK INDIAN TRIBE

BELMONT, et al.,

Plaintiff-Appellees,

12 || v.

13 KELLY, et al.,

Defendant-Appellants.

BELMONT, et al.

Case No. 2014-CI-CL-007

COA NO:

AMENDED NOTICE OF APPEAL 80.03.010

## ORIGINAL

The Nooksack Indian Tribe, pursuant to Nooksack Code of Laws, Title 80.03.010, seeks review by the Tribal Court of Appeals of the ORDER RE. RESOLUTION #16-28 AND DUE PROCESS; ORDER GRANTING MOTION FOR JUDICIAL NOTICE FILED BY PRO SE PLAINTIFF MICHELLE JOAN ROBERTS; ORDER RE. NOOKSACK BUSINESS LICENSE, dated March 21, 2016 (hereinafter "Order"). A copy of the Order is appended hereto.

### I. THE PARTIES

The parties are represented by the following counsel (or pro se):

| NOTICE OF APPEAL | NOOKSACK INDIAN TRIBE                   |
|------------------|---|
| PAGE 1 of 3      | OFFICE OF TRIBAL ATTORNEY               |
|                  | P.O. BOX 63                             |
|                  | DEMING, WA 98244                        |
|                  | PH: (360) 592-4158, FAX: (360) 592-2227 |

Raymond Dodge
Rickie W. Armstrong
Office of Tribal Attorney
Nooksack Indian Tribe
5047 Mt. Baker Hwy
PO Box 63
Deming, WA 98244
Attorney for Appellant
Nooksack Indian Tribe

Michelle Roberts<sup>1</sup> Pro Se 4732 False Creek Deming, WA 98244

### II. REVIEWABLE PARTS OF DECISION

The Order granted Plaintiff Roberts' Motion for Judicial Notice of four distinct documents: Roberts' Motion sought judicial notice of:

- 1. "[a]ny Resolutions or other laws passed on February 23, 24, or March 2, 2016 to ban, exclude, or expel Plaintiffs' counsel of record, Galanda Broadman, PLLC";
- 2. Resolution #16-26;
- 3. Resolution #16-27; and
- 4. Resolution #16-28.

The Court granted Plaintiff Roberts request. As the order found sovereign immunity inapplicable, the Order is subject to the Collateral Order Doctrine. *See*, *Breakthrough Management Group v. Chukchansi Gold Casino and Resort*, 629 F.3d 1173 (10<sup>th</sup> Circ., 2010).

#### III. ERROR OF FACT, LAW OR PROCEDURE

The Order contained the following errors:

A. Error of Law:

 $^{1}$  To date, Pro se Plaintiff Roberts has not filed a Notice of Appearance nor provided Defendants with a record address. Defendants believe the address listed is correct pursuant to inquiry with the Nooksack Enrollment Department.

NOTICE OF APPEAL
PAGE 2 of 3
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- 1. The Court disregarded the Tribe's invocation of its sovereign immunity which will result in Resolution No. 16-28 being provided which is outside scope of Plaintiffs' Complaint;
- 2. The Court disregarded the Tribe's Record Policy which will result in Resolution No. 16-28 being provided which is outside scope of Plaintiffs' Complaint;
- 3. The Court erroneously applied the Judicial Notice Doctrine which will result in Resolution No. 16-28 being provided which is outside scope of Plaintiffs' Complaint: and
- The Court directed or granted relief not requested in the Complaint and for which the Tribe has not waived immunity (Business Licensing requirements) which will result in the providing documents that are outside the scope of the motion.

#### B. Error of Fact:

1. The Court made a factual determination regarding exhaustion of administrative remedies without any facts being presented by the moving party which will result in Resolution No. 16-28 being provided which is outside scope of Plaintiffs' Complaint.

RESPECTFULLY SUBMITTED this 30 day of March, 2016.

NOOKSACK INDIAN TRIBE OFFICE OF TRIBAL ATTORNEY

Raymond Dodge, WSBA # 16020

Rickie W. Armstrong, WSBA #34099

Attorneys for Appellant

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5047 Mt. Baker Hwy

Deming, WA 98244

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**NOOKSACK TRIBAL COURT NOOKSACK INDIAN TRIBE** MAR 3 0 2016 1. LID AM / PM FILED BY: CLERK:

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I Declare:

and correct.

KELLY, et al.

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Sue Gearhart, Legal Assistant Office of Tribal Attorney Nooksack Indian Tribe

DECLARATION OF SERVICE – Page 1 of 1

## IN THE TRIBAL COURT OF THE NOOKSACK TRIBE OF INDIANS FOR THE **NOOKSACK INDIAN TRIBE**

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**DECLARATION OF SERVICE** 

Case No. 2014-CI-CL-007

COA NO:

# ORIGINAL

That I am over the age of 18 years and competent to be a witness.

On March 30, 2016, I duly mailed by first class mail, a copy of the Amended Notice of Appeal and this

Declaration of Service to: Michelle Joan Roberts, 4732 False Creek Ln., Deming WA 98244.

Also, on March 30, 2016, I emailed Michelle Joan Roberts at michelle.roberts3012@gmail.com

courtesy copy of the above-referenced document.

I declare under the penalty of perjury, under the laws of Nooksack Indian Tribe, that the foregoing is true

Signed at Deming, Washington on March 30, 2016.

karhart