

IN THE NOOKSACK TRIBAL COURT OF APPEALS
NOOKSACK INDIAN TRIBE
DEMING, WASHINGTON

In re: Gabriel S. Galanda, pro se, Anthony S.
Broadman, pro se, and Ryan D. Dreveskracht,

Petitioners,

v.

Nooksack Tribal Court,

Respondent.

Court No. 2016-CI-CL-002

**DECLARATION OF RYAN D.
DREVESKRACHT**

I, Ryan D. Dreveskracht, declare as follows:

1. Attached as **Exhibit A** is a true and correct copy of Petitioners March 24, 2016, Complaint in the Nooksack Tribal Court, naming the Tribal Court Clerks in their official capacity and seeking to enjoin them from enforcing Resolution Nos. 16-27 and 16-28 and the Tribe's "unlawful business license policy".

2. Attached as **Exhibits B and C** is a true and correct copy of Petitioners Motion for Injunctive and Declaratory Relief.

3. Attached as **Exhibit D** is a true and correct copy of, Respondents letter rejecting Appellants' filings, dated April 1, 2016.

4. Attached as **Exhibit E** are true and correct copies of correspondence of Petitioners requesting to be notified when their "Complaint has been filed" and their "Motion for Injunctive and Declaratory Relief, dated April 25 though May 9, 2016.

5. Attached as **Exhibit F** is a true and correct copy of a May 9, 2016, unsigned letter from the Nooksack Tribal Court indicating that they still refuse to accept and file Petitioner's pleadings.

The foregoing statement is made under penalty of perjury and under the laws of the Nooksack Tribe and the State of Washington and is true and correct.

Signed this 17th day of May, 2016.



Ryan D. Dreveskracht, *pro se*

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Office of Tribal Attorney
Nooksack Indian Tribe

by personal svc.

03-24-16A10:39 RCVD

Betty Leathers

IN THE NOOKSACK TRIBAL COURT

GABRIEL S. GALANDA, ANTHONY S.
BROADMAN, and RYAN D.
DREVESKRACHT,

Pro Se Plaintiffs,

v.

CHARITY BERNARD, BETTY LEATHERS,
and JOHN and JANE DOES NOS. 1-5, in their
official capacities,

Defendants.

NO. 2016-CI-CL- 001

COMPLAINT

I. INTRODUCTION

1. Defendants are violating and will violate the Indian Civil Rights Act, the Nooksack Indian Tribe's ("Tribe") Constitution, and other laws of the Tribe. Defendants have attempted to bar or disbar Plaintiffs pursuant to unlawful Tribal Council Resolutions, and, by doing so, Defendants are acting unlawfully. Defendants have also attempted to exclude or expel Plaintiffs from conducting business on the Tribe's lands by acting and threatening to act in furtherance of an unlawful business licensure policy, and, by doing so, Defendants are acting unlawfully. Plaintiffs have been denied, and are being denied, due process. Plaintiffs have been harmed, and continue to be harmed. Unless and until Defendants are enjoined from acting unlawfully and declaratory relief is issued, Plaintiffs will continue to be harmed.

EXHIBIT A

COMPLAINT - 1

2. Nothing in this Complaint should be construed as the practice of law before the Nooksack Tribal Court or the transaction of business on the Tribe's lands, or consent or stipulation to the jurisdiction of the Tribe beyond what is necessary to bring this particular civil suit. Plaintiffs each appear only on their own behalf, without counsel.

II. JURISDICTION

3. This civil matter arose from the Tribe's lands, and concerns the function of the Tribe's government. This Court possesses jurisdiction per the Tribe's Constitution and N.T.C. §§ 10.00.050, 10.00.90, and 10.00.100(b), which waives any sovereign immunity of certain officers/employees of the Tribe for official capacity suits. *See also Lomeli v. Kelly*, No. 2013-CI-APL-002 at 11, 13-14 (Nooksack Ct. App. Jan. 15, 2013). Plaintiffs have named Defendants in their official capacities. Plaintiffs have not named the Nooksack Tribal Council, Chairman, Vice Chairman, Treasurer, or Secretary. Plaintiffs are not seeking the expenditure of tribal funds or a temporary or preliminary restraining order; Plaintiffs are seeking declaratory relief and/or prospective injunctive relief.

III. PARTIES

4. Defendants are employees and officers of the Tribe who are each sued in their respective ***official capacities only*** (collectively “Defendants”). Plaintiffs do not, in other words, “seek to impose personal liability” upon these government officials. *Kentucky v. Graham*, 473 U.S. 159, 165 (1985).

5. Defendant BETTY LEATHERS is the Tribe's official tasked with regulating who is and who is not allowed to practice law before this Court. Upon information and belief, Ms. Leathers is an enrolled member of the Tribe.

6. Defendant CHARITY BERNARD is the Tribe's official tasked with enforcement of the Tribe's business licensure policy. Upon information and belief, Ms. Bernard is non-Indian.

7. Defendants JOHN AND JANE DOES are officers and employees of the Tribe that have been tasked with regulation of who is and who is not allowed: (1) onto the Tribe's lands, (2) to practice law in this Court, and/or (3) to conduct business on the Tribe's lands. Their identities are unknown at this time and will be named as discovery progresses.

8. Plaintiff GABRIEL S. GALANDA is a Washington State Bar Association-licensed lawyer (WSBA #30331) who has been certified by this Court as qualified to appear and practice law, per N.T.C. § 10.02 *et seq.* Mr. Galanda is an enrolled member of the Round Valley Indian Tribes.

9. Plaintiff ANTHONY S. BROADMAN is a Washington and Oregon State Bar Association-licensed lawyer (WSBA #39508; OSB #112417) who has been certified by this Court as qualified to appear and practice law, per N.T.C. § 10.02 *et seq.* Mr. Broadman is non-Indian; he stipulates to bring this particular civil action before this Court.

10. Plaintiff RYAN D. DREVESKRACHT is a Washington State Bar Association-licensed lawyer (WSBA #42593) who has been certified by this Court as qualified to appear and practice law, per N.T.C. § 10.02 *et seq.* Mr. Dreveskracht is non-Indian; he stipulates to bring this particular civil action before this Court.

IV. FACTS

A. Plaintiff Gabriel S. Galanda

11. On March 8, 2013, Mr. Galanda was admitted to practice law in the Nooksack Tribal Court, per N.T.C. § 10.02 *et seq.* Mr. Galanda is also admitted to practice law in the State of Washington, the U.S. Supreme Court, and at least 17 other federal or tribal courts.

1 12. Mr. Galanda has never been sanctioned, penalized, subject to disciplinary
2 proceedings, or otherwise disciplined by any of these tribunals.

3 13. In the past three years, Mr. Galanda has filed and argued at least six actions
4 before this Court. Mr. Galanda has never been sanctioned, penalized, subject to disciplinary
5 proceedings, or otherwise disciplined by this Court.

6 **B. Plaintiff Ryan D. Dreveskracht**

7 14. On March 8, 2013, Mr. Dreveskracht was admitted to practice law in the
8 Nooksack Tribal Court, per N.T.C. § 10.02 *et seq.*

9 15. Mr. Dreveskracht is also admitted to practice law in the State of Washington and
10 at least 12 other federal or tribal courts. Mr. Dreveskracht has never been sanctioned, penalized,
11 subject to disciplinary proceedings, or otherwise disciplined by any of these tribunals.

12 16. In the past three years, Mr. Dreveskracht has filed and argued no less than six
13 actions before this Court. Mr. Dreveskracht has never been sanctioned, penalized, subject to
14 disciplinary proceedings, or otherwise disciplined by this Court.

15 17. Although Mr. Dreveskracht does represent nearly 300 enrolled members of the
16 Tribe who are proposed for disenrollment, Mr. Dreveskracht has not appeared before this Court
17 for over a year—since February 23, 2015.

18 **C. Plaintiff Anthony S. Broadman**

19 18. Mr. Broadman has been admitted to practice law in the Nooksack Tribal Court,
20 per N.T.C. § 10.02 *et seq.*, since at least September of 2014.

21 19. Mr. Broadman is also admitted to practice law in the states of Washington and
22 Oregon and 12 other federal or tribal courts. Mr. Broadman has never been sanctioned,
23 penalized, subject to disciplinary proceedings, or otherwise disciplined by any of these tribunals.

1 20. In the past two years, Mr. Broadman has filed no less than four actions before this
2 Court. Mr. Broadman has never been sanctioned, penalized, subject to disciplinary proceedings,
3 or otherwise disciplined by this Court.

4 21. Although Mr. Broadman does represent nearly 300 enrolled members of the Tribe
5 who are proposed for disenrollment, Mr. Broadman has not appeared before this Court for over
6 two years.

7 **D. Facts Common To All Plaintiffs**

8 22. On February 24, 2016, the Nooksack Tribal Council enacted Resolution No. 16-
9 27, amending N.T.C. § 10.02.070 and adopting an “Advocates Code of Conduct” provision. The
10 Tribal Council thereby withdrew the authority to discipline advocates representing parties in this
11 Court. The authority was, at all material times prior, delegated to the Tribal Court exclusively.

12 23. The “Advocates Code of Conduct” added to N.T.C. § 10.02.070 is
13 unconstitutionally vague because is “fails to provide a person of ordinary intelligence fair notice
14 of what is prohibited” and “is so standardless that it authorizes or encourages seriously
15 discriminatory enforcement.” *United States v. Williams*, 553 U.S. 285, 304 (2008).

16 24. Upon information and belief, on February 24, 2016, the Nooksack Tribal Council
17 enacted Resolution No. 16-28, barring Gabriel Galanda and other attorneys “in the Galanda
18 Broadman law firm” from practicing law in this Court, including Mr. Dreveskracht and Mr.
19 Broadman.

20 25. Plaintiffs were given no notice, hearing, or opportunity to present evidence in
21 opposition to their being barred or disbarred, which apparently became final through the issuance
22 of Resolution No. 16-28. Despite repeated requests, Plaintiffs have yet to see Resolution No. 16-
23 28.

1 26. Indeed, as of on February 24, 2016 when Resolution No. 16-28 was apparently
2 passed, Plaintiffs had no knowledge whatsoever that proceedings to bar or disbar them were
3 being conducted. Were it not for this Court's March 7, 2016, Order in *Belmont v. Kelly*, No.
4 2014-CI-CL-007, Plaintiffs would not have known that Resolution No. 16-28 even existed.

5 27. Due to Washington State Court Rules, Plaintiffs had a duty to report the
6 Nooksack Tribal Council's disbarment proceedings to the Washington State Bar Association.
7 WA. ST. R. ENFORCEMENT LAW. COND., § 9.2(a). Mr. Broadman also had a duty to report the
8 Tribal Council's disbarment proceedings to the Oregon State Bar Association. The Washington
9 State Supreme Court will likely now order Plaintiffs "to show cause . . . why it should not
10 impose the identical discipline or disability inactive status." *Id.* at § 9.2(c); *see e.g. In re: Mark*
11 *Gene Boert*, No. 201, 100-4 (Wash. Jan. 10, 2013).

12 28. Upon information and belief, Resolution No. 16-28 was based upon false
13 statements that Plaintiffs cited a "void opinion as precedence [sic]" in a pleading filed with this
14 Court and otherwise "either intentionally or negligently ma[de] misleading statements to the
15 Court and knowingly ma[de] false accusations in a pleading against opposing counsel." These
16 statements are false and defamatory.¹ Plaintiffs did no such thing.

17 29. Upon information and belief, Defendants Leathers and/or Bernard are tasked with
18 regulating who is and who is not allowed to practice law before this Court.

19 30. Upon information and belief, Defendant Leathers and/or Bernard have
20 determined that Plaintiffs are no longer admitted to practice law before this Court, apparently
21 pursuant to Resolution No. 16-28. *See* Appendixes A-B.

22
23 ¹ Other defamatory statements regarding Plaintiffs were made or published by non-parties, beyond Nooksack lands,
24 and are not the subject of this particular civil action.

1 31. Resolution No. 16-28 is unlawful and unconstitutional, however, because it
2 violates the Indian Civil Rights Act, 25 U.S.C. § 1302(a)(8), insofar as Plaintiffs were not given
3 any process whatsoever—let alone due process—prior to its issuance.

4 32. As applied here, the Tribe’s enforcement of Resolution No. 16-27, too, is
5 unlawful and unconstitutional because it violates the equal protection provision of the Indian
6 Civil Rights Act, 25 U.S.C. § 1302(a)(8), in that it was selectively enforced against Plaintiffs in
7 retaliation for their clients’ exercise of a constitutional right and because Plaintiffs are
8 representing a vulnerable group. *Wayte v. United States*, 470 U.S. 598, 607-08 (1985).

9 33. Thus, Defendants Leathers and Bernard must be enjoined from acting in
10 furtherance of Resolution Nos. 16-27 or 16-28. *See e.g. Roberts v. Kelly*, No. 2013-CI-CL-003
11 (Nooksack Ct. App. Mar. 18, 2014).

12 34. Upon information and belief, Defendant Bernard is also tasked with regulating
13 who is and who is not allowed to conduct business at the Tribe.

14 35. Upon information and belief, Defendant Bernard has determined that Plaintiffs
15 do not possess and cannot obtain a license to conduct business on the Nooksack Indian
16 Reservation, pursuant to the Tribe’s official business licensure policy.

17 36. As applied here, the Tribe’s business licensure policy is unlawful and
18 unconstitutional, however, because it violates the equal protection provision of the Indian Civil
19 Rights Act, 25 U.S.C. § 1302(a)(8), in that it was selectively enforced against Plaintiffs in
20 retaliation for their clients’ exercise of a constitutional right and because Plaintiffs are
21 representing a vulnerable group. *Wayte*, 470 U.S. at 607-08.

22 37. The Tribe’s business licensure policy is also unlawful and unconstitutional
23 because it violates the due process provision of the Indian Civil Rights Act, 25 U.S.C. §
24 1302(a)(8), in that the licensing authority (1) does not give an applicant adequate notice of the

standards one must satisfy to obtain a license, and (2) does not accord the applicant due process in the application of those standards. *Hornsby v. Allan*, 326 F.2d 605, 608 (5th Cir. 1964).

38. Thus, Defendant Bernard must also be enjoined from acting in furtherance of the Tribe's unlawful business licensure policy. *See e.g. Roberts*, No. 2013-CI-CL-003.

**V. FIRST CAUSE OF ACTION
(Injunction – Violation of the Indian Civil Rights Act)**

39. Plaintiffs incorporate and reallege the foregoing allegations.

40. Plaintiffs have clear legal or equitable rights and a well-grounded fear of immediate invasion of those rights. The relative equities of the parties favor granting injunctive relief. Defendants have acted and are continuing to act in excess of their *lawful* authority in this matter.

41. If not enjoined by order of the Court, Defendants will continue to enforce unconstitutional and otherwise illegal laws and policy, including, without limitation, Resolution Nos. 16-27 and 16-28, and the Tribe's unlawful business licensure policy, and Plaintiffs will continue to suffer further irreparable injury. Plaintiffs do not have a plain, speedy, and adequate remedy in the ordinary course of law.

42. An actual controversy exists between the Parties concerning the issues identified above. A judicial determination resolving this actual controversy is necessary and appropriate at this time.

**VI. SECOND CAUSE OF ACTION
(Declaratory Relief – Violation of the Indian Civil Rights Act)**

43. Plaintiffs incorporate and reallege the foregoing allegations.

44. Defendants continue to enforce illegal laws and policy, including, without limitation, Resolution Nos. 16-27 and 16-28, and the Tribe's unlawful business licensure policy, and Plaintiffs have suffered and will continue to suffer irreparable injury as a result.

45. Plaintiffs are entitled to a declaratory judgment from this Court affirming that such laws and policy are unlawful.

46. An actual controversy exists between the Parties concerning the issues identified above. A judicial determination resolving this actual controversy is necessary and appropriate at this time.

VII. RELIEF REQUESTED

WHEREFORE, Plaintiffs pray for relief as follows:

- A. For injunctive relief;
- B. For declaratory judgment;
- C. For *Pro se* fees and costs; and
- D. For such other relief as the Tribal Court may deem just and equitable.

Plaintiffs reserve the right to freely amend this Complaint.

DATED this 24th day of March, 2016.

Mr. Paul

Gabriel S. Galanda, *Pro se*
 Email: gabe@galandabroadman.com



Anthony S. Broadman, *Pro se*
Email: anthony@galandabroadman.com

Ryan T. Moore

Ryan D. Dreveskracht, *Pro se*
 Email: ryan@galandabroadman.com

Attorneys, Advocates/ Spokesperson's that are admitted to the Nooksack Tribal Bar

1. **Grett Hurley** entered into Bar on **October 20, 2010**
2. **Sharon DeGrave** entered into Bar on **March 25, 2011**
3. **Kristen Cavanaugh – Reid** entered into Bar **February 25, 2011**
4. **Michelle Hull** entered into Bar on **May 11, 2011**
5. **Mary L. Dickenson** entered into Bar **August 26, 2011**
6. **Danyal Zapata** entered into Bar on **December 14, 2011**
7. **Rickie Armstrong** entered into Bar on **December 21, 2011**
8. **Thomas Manning** entered into Bar on **January 11, 2012**
9. **Charity Bernard** entered into Bar on **February 8, 2012**
10. **Matt Peach** entered into Bar on **April 17, 2012**
11. **Lori Smith** entered into Bar on **May 15, 2012**
12. **Carl Munson** entered into Bar on **May 16, 2012**
13. **Bernard P. Haggerty** entered into Bar on **June 6, 2012**
14. **Constance S. M. Martin** entered into Bar on **August 22, 2012**
15. **John R. Guardi** entered into Bar on **December 12, 2012**
16. **Gabriel Galanda** entered into Bar on **March 8, 2013**
17. **Ryan D. Dreveskracht** entered into Bar on **March 8, 2013**
18. **Anthony S. Broadman** (Pending)
19. **Thomas Schlosser** entered into Bar on **March 28, 2013**
20. **Adrienne DelCotto** entered into Bar on **June 6, 2013**
21. **Eric Nielsen** entered into Bar on **August 20, 2013**
22. **Mark Pouley** entered into Bar on **August 20, 2013**
23. **Randy Doucet** entered into Bar on **August 20, 2013**
24. **Douglas Nash** entered into Bar on **August 20, 2013**
25. **Gregory Silverman** entered into Bar on **August 20, 2013**
26. **Rebecca Jackson** entered into Bar on **September 4, 2013**
27. **Amber Penn – Row** entered into Bar on **April 9, 2014**
28. **Millie Kennedy** entered into Bar on **April 23, 2014**
29. **Andrew D. Peach** entered into Bar on **June 11, 2014**
30. **Jennifer Yogi** entered into Bar on **July 23, 2014**

- 31. **Sue Gearhart** entered into Bar on **February 23, 2015**
- 32. **Jared Miller** entered into Bar on **February 23, 2015**
- 33. **Dana HALBERT** entered into Bar on **June 17, 2015**
- 34. **William Johnston** entered into Bar on **June 17, 2015**
- 35. **Raymond Dodge Jr.** entered into Bar on **September 23, 2015**
- 36. **Michael Brodsky** entered into Bar on **November 18, 2015**
- 37. **Matthew Deming** entered into Bar on **November 18, 2015**

Attorneys, Advocates/ Spokesperson's that are admitted to the Nooksack Tribal Bar

1. **Grett Hurley** entered into Bar on **October 20, 2010**
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Nooksack Indian Tribe

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Betty Leathers

IN THE NOOKSACK TRIBAL COURT

GABRIEL S. GALANDA, ANTHONY S.
BROADMAN, and RYAN D.
DREVESKRACHT,

Pro Se Plaintiffs,

v.

CHARITY BERNARD, BETTY LEATHERS,
and JOHN and JANE DOES No. 1-5, in their
official capacities,

Defendants.

NO. 2016-CI-CL- 002 ^{BS}

NOTE FOR MOTION

TO: HONORABLE CHIEF JUDGE

AND TO: NOOKSACK TRIBAL COURT CLERK;

AND TO: RAYMOND DODGE; RICKIE ARMSTRONG; THOMAS SCHLOSSER;
REBECCA JACKSON

PLEASE TAKE NOTICE, that Plaintiffs' Motion for Injunctive and Declaratory Relief
in this case will be heard on the date and time set below and the Clerk is requested to note this
issue on the calendar below.

DATE: April 1, 2016

TIME: 10:00 a.m.

DAY OF WEEK: Friday

NATURE OF HEARING: Motion for Injunctive and Declaratory Relief

NOTE FOR MOTION - 1

EXHIBIT B

1 The time and date for this hearing was scheduled in advance by contacting the Court.
2 Plaintiffs urge the Court to decide this matter on an expedited manner, without oral
3 argument. Reasonable, good faith efforts to coordinate the scheduling of this hearing with
4 opposing counsel have been made in compliance with NTC 10.05.050(e)(1).

5 SIGNED this 24th day of March, 2016.

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Gabriel S. Galanda, *Pro se*
Email: gabe@galandabroadman.com
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12 _____
Anthony S. Broadman, *Pro se*
Email: anthony@galandabroadman.com
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Ryan D. Dreveskracht, *Pro se*
Email: ryan@galandabroadman.com
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Office of Tribal Attorney
Nooksack Indian Tribe

by personal sec.

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Betty Leathers

IN THE NOOKSACK TRIBAL COURT

GABRIEL S. GALANDA, ANTHONY S.
BROADMAN, and RYAN D.
DREVESKRACHT,

Pro Se Plaintiffs,

v.

CHARITY BERNARD, BETTY LEATHERS,
and JOHN and JANE DOES NOS. 1-5, in their
official capacities,

Defendants.

NO. 2016-CI-CL- 002⁸³

MOTION FOR INJUNCTIVE AND
DECLARATORY RELIEF

I. INTRODUCTION

Defendants are violating and will violate the Indian Civil Rights Act, the Nooksack Indian Tribe's Constitution, and other Nooksack and federal laws. Defendants have attempted to bar or disbar Plaintiffs pursuant to an unlawful Tribal Council Resolution, and, by doing so, Defendants are acting unlawfully. Defendants have also attempted to exclude or expel Plaintiffs from conducting business at Nooksack by acting and threatening to act in furtherance of an unlawful business licensure policy, and, by doing so, Defendants are also acting unlawfully. Plaintiffs have been denied, and are being denied, due process and equal protection. Plaintiffs have been harmed, and continue to be harmed. Unless and until Defendants are enjoined from acting unlawfully and declaratory relief is issued, Plaintiffs will continue to be harmed.

II. FACTUAL SUMMARY¹

The operative facts in this matter have been reviewed elsewhere, and the Court and the Parties are well aware of the details surrounding this dispute. To summarize:

- **February 24, 2016:** The Nooksack Tribal Council enacted Resolution No. 16-28, titled: “BARRING GABRIEL GALANDA and ANY OTHER ATTORNEYS WORKING AT THE FIRM OF GALANDA BROADMAN, WHO ADMITTED [sic] AND PRACTICE IN THE NOOKSACK TRIBAL COURT FROM (1) ENGAGING IN BUSINESS ACTIVITIES WITHIN THE NOOKSACK TRIBAL LAND and (2) PRACTICING IN THE TRIBAL COURT.”² Moments later, the Nooksack Tribal Council enacted Resolution No. 16-27, adding the following text to N.T.C. § 10.02.070:

Whenever the Tribal Council becomes aware that any advocates’ behavior and/or practices reflect so poorly upon the proper administration of justice before the Nooksack Tribal Court of the Nooksack Indian Tribe, the Tribal Council may revoke any privileges provided to such person(s) and bar them from further practice in any administrative tribunal before the Nooksack Indian Tribe or proceeding before the Nooksack Tribal Court. Tribal Council may hold such hearings necessary to ensure that such behavior and/or practices are proven; or, as may be necessary to correct past behavior and/or practices.³

- **February 25, 2016:** Defendant Bernard sent a memorandum to the Court stating that “no person is to be admitted to the Tribal Bar as an advocate without a Nooksack Indian Tribe Business License unless they are an employee of the Tribal government or if this person is

¹ Plaintiffs also incorporate the facts as laid out in this Court’s March 7, 2016, Case Management Order; the Orders issued on March 21, 2016; and the Complaint and its Appendixes in this action.

² Plaintiffs have yet to be provided a copy of Resolution No. 16-28. Complaint, at 5. From what they have been learned from published opinions and Orders of this Court, as well as evidence informally provided by clients and various media outlets, however, Plaintiffs have gleaned enough to be sure that it (a) does exist, and (b) violates the law.

³ “In a facial challenge, a statute is unconstitutionally vague if it ‘fails to provide a person of ordinary intelligence fair notice of what is prohibited, or is so standardless that it authorizes or encourages seriously discriminatory enforcement.’” *United States v. Harris*, 705 F.3d 929, 932 (9th Cir. 2013) (quoting *United States v. Williams*, 553 U.S. 285, 304 (2008)). In addition to this Resolution No. 16-27 being enacted under suspicious circumstances—circumstances that reek of equal protection violations, a prime example of a provision that “encourages seriously discriminatory enforcement”—it is unconstitutionally vague as enacted and must be declared unconstitutional. *Id.*

1 contracted with the Tribal government.” Thereafter, Defendant Bernard and Defendant Leathers
2 removed Plaintiffs, and Plaintiffs only, from the list of advocates admitted to practice in this
3 Court.⁴

4 • **February 26, 2016:** Having informally learned that they had been barred or
5 disbarred, Plaintiffs sought to obtain a business license, and remitted a \$100.00 check for any
6 license fee, so that they might “remain in good standing at Nooksack.”⁵

7 • **March 2, 2016:** Plaintiffs received a letter from Joseph P. Mace, the Tribe’s
8 Chief Financial Officer, returning the \$100.00 check stating that the Tribe is “not able to issue
9 the requested license,” with no further explanation.⁶

10 • **March 7, 2016:** This Court acknowledged that by operation of Resolution No. 16-
11 27, Plaintiffs have been (1) barred or disbarred from practicing law in the Nooksack Tribal
12 Court, and (2) excluded from engaging in business at Nooksack.⁷

13 • **March 8, 2016 - Present:** Plaintiffs remain barred or disbarred from practicing
14 law at Nooksack, and are deprived of their business relationship with nearly 300 clients, who
15 remain unrepresented at Nooksack.⁸ Plaintiffs have reported the Nooksack Tribal Council’s
16 disbarment proceedings to the Washington and Oregon State Bar Associations and their
17 insurance carrier.⁹ Plaintiffs are harmed, and continue to be harmed, economically and
18
19

20 ⁴ Complaint, Appendixes A-B; *Belmont v. Kelly*, No. 2014-CI-CL-007, at 4 (Nooksack Tribal Ct., Mar. 21, 2016)
21 [hereinafter “Mar. 21 Order”] (“Following the February 25th memorandum, Ms. Bernard assisted the Court Clerk to
winnow the list down to a handful of advocates.”).

22 ⁵ *Belmont v. Kelly*, No. 2014-CI-CL-007, Fourth Declaration of Michelle Roberts (Mar. 4, 2016), Ex.A.

⁶ *Id.*

⁷ *Belmont v. Kelly*, No. 2014-CI-CL-007, at 1-2 (Nooksack Tribal Ct. Mar. 7, 2016) [hereinafter “Mar. 7 Order”].

⁸ *Id.*; see also Mar. 21 Order.

23 ⁹ The Washington State Supreme Court will likely now order Plaintiffs “to show cause . . . why it should not impose
24 the identical discipline or disability inactive status.” WASH. ST. ENFORCEMENT. L. COND., § 9.2(c); see e.g. *In re:*
Mark Gene Boert, No. 201, 100-4 (Wash. Jan. 10, 2013).

reputationally due to Resolution No. 16-28 and the false and defamatory public statements made in relation to its issuance.¹⁰

III. LAW AND ARGUMENT

A. Standard For Issuance Of A Permanent Injunction

The standard for granting a permanent injunction is essentially the same as for granting a preliminary injunction, except that a party seeking a permanent injunction must prove actual success on the merits as opposed to merely showing a likelihood of success on the merits. *Amoco Prod. Co. v. Village of Gambell*, 480 U.S. 531, 546 n.12 (1987). Therefore, a plaintiff seeking a permanent injunction must demonstrate:

(1) that it has suffered an irreparable injury; (2) that remedies available at law, such as monetary damages, are inadequate to compensate for that injury; (3) that, considering the balance of hardships between the plaintiff and defendant, a remedy in equity is warranted; and (4) that the public interest would not be disserved by a permanent injunction.

eBay Inc. v. MercExchange, LLC, 547 U.S. 388, 391 (2006); *see also Geertson Seed Farms v. Johanns*, 570 F.3d 1130, 1136 (9th Cir. 2009) (applying the four-part test for permanent injunctive relief). “The decision to grant or deny permanent injunctive relief is an act of equitable discretion by the district court.” *eBay Inc.*, 547 U.S. at 391.

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¹⁰ See e.g. *Belmont v. Kelly*, No. 2014-CI-CL-007, Declaration of Sue Gearhart, at 1-7 (Mar. 11, 2015) (replete with false ethical accusations); Andrew Westney, *Tribe Disbarred Firm As Move In Membership Row, Atty Says*, LAW 360, Mar. 9, 2016, available at <http://www.law360.com/articles/769568/tribe-disbarred-firm-as-move-in-membership-row-atty-says>; Samantha Wohlfeil, *Nooksack Tribe Bars Lawyer for ‘306’ Facing Disenrollment*, BELLINGHAM HERALD, Mar. 8, 2016, available at <http://www.bellinghamherald.com/news/local/article64889637.html> (stating that Plaintiffs cited a “void opinion as precedence [sic]” in a pleading filed with this Court and otherwise “either intentionally or negligently ma[de] misleading statements to the Court and knowingly ma[de] false accusations in a pleading against opposing counsel”). These statements are false and defamatory. Insofar as such statements were made or published beyond Nooksack lands, they will be redressed elsewhere. *Powell v. Farris*, 94 Wn.2d 782, 787 (Wash. 1980); *Maxa v. Yakima Petroleum*, 83 Wn. App. 763, 769-70 (Wash. App. 1996).

B. Plaintiffs Have Suffered Irreparable Injury.

1. Resolution No. 16-28 Is Unconstitutional Because Plaintiffs' Disbarment Lacked Any Semblance Of Procedural Due Process.

Section 1302 of the Indian Civil Rights Act ("ICRA") states, in relevant part: "No Indian tribe in exercising powers of self-government shall . . . deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law" 25 U.S.C. § 1302 (emphasis added).

Here, Plaintiffs have been deprived of "property without due process of law." *Id.* Where the law "bestow[s] a right that cannot properly be eliminated except for cause, that right constitutes property protected by procedural due process." *Plaza Health Laboratories v. Perales*, 878 F.2d 577, 581 (2d Cir. 1989). This includes the right to practice law. As this Court has expressed:

Disbarment, designed to protect the public, is a punishment or penalty imposed on the lawyer. He is accordingly entitled to procedural due process, which includes fair notice of the charge. It was said in *Randall v. Brigham*, 7 Wall. 523, 540, that when proceedings for disbarment are "not taken for matters occurring in open court, in the presence of the judges, notice should be given to the attorney of the charges made and opportunity afforded him for explanation and defence."

Mar. 7 Order, at 4 (quoting *In re Ruffalo*, 390 U.S. 544, 550 (1968); citing additional authority).

The Court of Appeals for the D.C. Circuit has stated likewise:

The privilege of practicing law is not a matter of grace and favor; on the contrary, . . . we have always viewed an attorneys license to practice as a right which cannot lightly or capriciously be taken from him. We have, too, remained advertent to the Supreme Court's admonition that the power to withdraw that right ought always to be exercised with great caution; and ought never to be exercised except in clear cases of misconduct, which affect the standing and character of the party as an attorney.

Charlton v. F.T.C., 543 F.2d 903, 906 (D.C. Cir. 1976) (quotation omitted).

Here, as this Court has already correctly concluded, Plaintiffs were "not afforded due process of any kind in connection with enactment of Resolution #16-28." Mar. 21 Order, at 4;

1 *see also id.* at 12 (the Tribal Council delegated to itself “authority for disciplining advocates in
2 the Tribal Court and then, without providing notice and opportunity to be heard, they disbarred
3 attorneys representing their adversaries in litigation”). Indeed, Plaintiffs were afforded no
4 process whatsoever.¹¹ There can be no doubt: Resolution No. 16-28 has deprived Plaintiffs of
5 property without due process of law, in violation of the ICRA.

6 2. Resolution No. 16-28 Is Unconstitutional Because Plaintiffs’ Exclusion Lacked
7 Any Semblance Of Procedural Due Process.

8 As noted above, Section 1302 of the ICRA prohibits the Tribe from “deny[ing] to any
9 person within its jurisdiction the equal protection of its laws” 25 U.S.C. § 1302 (emphasis
10 added). Equal protection in the context of law enforcement means that a decision to enforce a
11 particular statute “may not be deliberately based upon an unjustifiable standard such as race,
12 religion, or other arbitrary classification, including the exercise of protected statutory and
13 constitutional rights.” *Wayte v. United States*, 470 U.S. 598, 608 (1985). This requires a
14 showing that (1) “the passive enforcement system had a discriminatory effect,” and (2) “that it
15 was motivated by a discriminatory purpose.” *Id.* As to (1):

16 To show discriminatory effect, a defendant must show that similarly situated
17 individuals were not prosecuted. A “similarly situated” person for selective
18 prosecution purposes is one who engaged in the same type of conduct, which
19 means that the comparator committed the same basic crime in substantially the
20 same manner as the defendant—so that any prosecution of that individual would
21 have the same deterrence value and would be related in the same way to the
22 Government’s enforcement priorities and enforcement plan—and against whom
23 the evidence was as strong or stronger than that against the defendant.

24 *United States v. Brown*, 862 F. Supp. 2d 1276, 1286 (N.D. Ala. 2012), *aff’d*, 516 F. App’x 872
25 (11th Cir. 2013) (citing *Wayte*, 470 U.S. 598). As to (2): “To show discriminatory purpose, a
26 plaintiff must establish that the decision-maker selected or reaffirmed a particular course of

27 ¹¹ See generally n.7, *supra*, and accompanying text.

1 action at least in part because of, not merely in spite of, its adverse effect” on the targeted person
2 or persons. *Rosenbaum v. San Francisco*, 484 F.3d 1142, 1153 (9th Cir. 2007).

3 Here, Plaintiffs clearly prevail on both elements. As noted by this Court: “historically,”
4 the Tribe’s business license requirement “has not been enforced against advocates.” March 21
5 Order, at 10. In fact, to Plaintiffs’ knowledge, none of the attorneys on the list of advocates
6 admitted to practice in this Court have *ever* been in possession of a Nooksack business license.
7 ¹²Yet Plaintiffs, and Plaintiffs only, have been removed from that list because of their lack of
8 business license. The only reason for this is that the Tribal Council, who ordered Plaintiffs’
9 removal from that list vis-à-vis Resolution No. 16-28, are “plainly biased” against Plaintiffs and
10 their clients. *Id.* at 8. No other attorneys have been removed from the list of advocates allowed
11 to practice law at Nooksack; no other attorneys have been excluded from conducting business at
12 Nooksack; and no other attorneys have been targeted by the Tribal Council by way of a Tribal
13 Council Resolution.

14 3. Plaintiffs’ Injuries Are Irreparable.

15 As this Court foresaw, Plaintiffs have “face[d] significant jeopardy in their legal practice
16 and careers as a result of Resolution #16-28.” Mar. 21 Order, at 5. Plaintiffs have been
17 disbarred from practicing law at Nooksack and have been partially deprived of their business
18 relationship with nearly 300 clients. Plaintiffs have had to report the Nooksack Tribal Council’s
19 disbarment proceedings to the Washington and Oregon State Bar Associations and their
20 insurance carrier. Plaintiffs’ reputations and goodwill have been harmed.

21 All all such harm is irreparable. *See e.g. Medicine Shoppe Intern., Inc. v. S.B.S. Pill Dr.,*
22 *Inc.*, 336 F.3d 801, 805 (8th Cir.2003) (“Loss of intangible assets such as reputation and

23
24 ¹² See Complaint, Appendix B.

1 goodwill can constitute irreparable injury.”); *Pappan Enters., Inc. v. Hardee's Food Sys., Inc.*,
2 143 F.3d 800, 805 (3d Cir. 1998) (“Grounds for irreparable injury include loss of control of
3 reputation, loss of trade, and loss of goodwill.”); *Atl. City Coin & Slot Serv. Co. v. IGT*, 14 F.
4 Supp. 2d 644, 667 (D.N.J. 1998) (“termination of a long-standing business relationship can result
5 in irreparable harm.”) (citing *Semmes Motors, Inc. v. Ford Motor Co.*, 429 F.2d 1197 (2d Cir.
6 1970)).

7 **C. Plaintiffs Do Not Have An Adequate Remedy At Law.**

8 “Although considered distinct factors, the inquiries into irreparable injury and inadequate
9 remedy are closely related” *C & N Corp. v. Kane*, No. 12-C-0257, 2013 WL 6001074, at
10 *3 (E.D. Wis. Nov. 12, 2013), *aff’d sub nom.*, 756 F.3d 1024 (7th Cir. 2014). This is because,
11 generally, when “irreparable injury to Plaintiffs’ character and reputation” are at issue “money
12 damages cannot adequately compensate” the harm inflicted. *Oakley, Inc. v. McWilliams*, 890 F.
13 Supp. 2d 1240, 1242 (C.D. Cal. 2012). Here, that is surely the case. Plaintiffs do not have an
14 adequate remedy at law. Resolution No. 16-28 has permanently and irreparably harmed them.

15 **D. Considering The Balance Of Hardships Between Plaintiffs And Defendants, A**
16 **Remedy In Equity Is Warranted—The Public Interest Would Not Be Disserved By**
17 **A Permanent Injunction.**

18 As this Court has noted, the disbarring of lawyers is “designed to protect the public, the
19 courts and the legal profession, to maintain high professional standards, and to preserve public
20 trust in the legal profession.” *In re Stanley*, 917 F.2d 28 (9th Cir. 1990); Mar. 7 Order, at 4.
21 While surely there is surely a public interest in disbarment for those purposes, “[t]he public’s
22 interest in prompt, fair, and accurate accrediting information is not served if the accrediting
23 agency does not observe a [lawyer]’s due process rights” *W. State Univ. of S. California v.*
24 *Am. Bar Ass’n*, 301 F. Supp. 2d 1129, 1138 (C.D. Cal. 2004). On the other hand, as discussed

1 above, “loss of reputation and good will resulting from the loss of accreditation could be very
2 damaging” to an attorney. *Id.*

3 While “courts are free to adopt their own local rules defining grounds for disbarment and
4 suspension and the procedures to be followed[,] these rules must meet the essential requirements
5 of due process.” *In re Ming*, 469 F.2d 1352, 1355 (7th Cir. 1972). Here, Plaintiffs were “not
6 afforded due process of any kind in connection with enactment of Resolution #16-28.” Mar. 21
7 Order, at 4. The public has no interest in such haphazard and arbitrary application of law.

8 IV. CONCLUSION

9 Plaintiffs respectfully request that this Court: (1) issue a permanent injunction barring
10 Defendants, in their official capacities, from acting in furtherance of Resolution Nos. 16-27 and
11 16-28; (2) issue a judgment declaring Resolution Nos. 16-27 and 16-28 null and void; (3) award
12 Plaintiffs reasonable *pro se* fees and costs for having to bring this action and the instant motion;
13 and (4) issue such other relief as the Court may deem just and equitable.

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1 DATED this 24th day of March, 2016.

2
3 

4
5 _____
6 Gabriel S. Galanda, *Pro se*
7 Email: gabe@galandabroadman.com

8 

9
10 _____
11 Anthony S. Broadman, *Pro se*
12 Email: anthony@galandabroadman.com

13 

14
15 _____
16 Ryan D. Dreveskracht, *Pro se*
17 Email: ryan@galandabroadman.com



Nooksack Indian Tribe

Nooksack Tribal Court
5016 Deming Rd.
Deming, WA 98244

April 1, 2016

Gabriel S. Galanda
Anthony S. Broadman
Ryan D. Dreveskracht
PO Box 15146
Seattle, WA 98115

Re: *Galanda, et. al. v. Bernard, et. al.*, Case No. 2016-CI-CL-001 [sic]
Galanda, et. al. v. Bernard, et. al., Case No. 2016-CI-CL-002

Gentlemen:

Enclosed are your original Complaint and Motion for Injunctive and Declaratory Relief. These documents, which were filed on the day before a Court holiday, are rejected for the following reasons:

1. The motion and the complaint should not have had two different cause numbers, because they are the same matter.
2. Because they are the same matter, the time limits established in NTC 10.05.040 apply. Your Motion was therefore improperly noted and will not be set for hearing. Pursuant to NTC 10.05.030(c), the Court Clerk is charged with setting hearings. For a complaint filed against the Nooksack Indian Tribe or its officers, employees or agents, the answer shall be due within 60 days, exclusive of the day of service, and no hearing may be set until 14 days after the deadline for filing the answer. NTC 10.05.040(b)(i), 10.05.040(f). The earliest a motion could be heard, if the Complaint had not been rejected, is 74 days after the date of service of the Complaint on the Tribal employees/agents.
3. You have captioned this matter, and are appearing as, "pro se plaintiffs." However, you also assert in your complaint that each of you are admitted to the practice of law in Washington. The Clerk's Office has sought the advice of legal counsel regarding whether a lawyer who is acting pro se is "practicing in tribal court," prohibited by Resolution #16-28. In the interim, or until such time as the Nooksack Tribal Council takes further action, the Tribal Court is bound by Resolution #16-28 barring you from practicing in Nooksack Tribal Court.

A refund of the filing fees will be processed shortly.

EXHIBIT D



Ryan Dreveskracht <ryan@galandabroadman.com>

FW: APPEALS: Galanda v. Nooksack, Order Re: Petition for Writ

Gabe Galanda <gabe@galandabroadman.com>

Fri, May 6, 2016 at 10:50 AM

To: "BLEathers@nooksack-nsn.gov" <BLEathers@nooksack-nsn.gov>, Deanna Francis <DFrancis@nooksack-nsn.gov>

Cc: Ray Dodge <rdodge@nooksack-nsn.gov>, "Rickie W. Armstrong" <rarmstrong@nooksack-nsn.gov>, AB <anthony@galandabroadman.com>, Ryan Dreveskracht <ryan@galandabroadman.com>

Clerk Leathers, Francis?

Gabriel S. Galanda

Attorney at Law

Galanda Broadman, PLLC

m: 206.300.7801

gabe@galandabroadman.com

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On Tue, May 3, 2016 at 8:56 AM, Gabe Galanda <gabe@galandabroadman.com> wrote:

Clerks Leathers & Francis:

We await your reply to first two our inquiries; the third has been handled. As you may appreciate, the Appeals Court Judges basically directed you to administer justice in a non-discriminatory way. Please do so, and please advise.

Gabriel S. Galanda

Attorney at Law

Galanda Broadman, PLLC

m: 206.300.7801

gabe@galandabroadman.com

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On Tue, Apr 26, 2016 at 3:16 PM, Gabe Galanda <gabe@galandabroadman.com> wrote:

Clerks Leathers & Francis:

Please confirm when our Complaint has been filed in keeping with the Appellate Court's ruling and when our Motion for Injunctive and Declaratory Relief, which has now been pending for a month, has been set for

EXHIBIT E

hearing.

Also, is there currently any sitting Nooksack Judge? We have seen the Craigslist advertisement for a new Chief Judge, but heard Hon. Randy Doucet may be serving as Nooksack Judge Pro Tem. Please advise.

Finally, is there yet an established process for lawyer or law firm business licensure? Our own lawyers have emailed Tribal staff over the last several weeks, but not yet received the courtesy of any reply. Please let us know.

Thank you.

Messrs. Dodge & Armstrong:

Please refrain from any further ex parte communication with the Court Clerks regarding our pro se lawsuit or motion , especially by way of ghostwriting correspondence for them. It is per se unethical.

This email is not intended to be nor should be construed as the practice of law or transaction of business at Nooksack.

Gabriel S. Galanda
Pro Se

Anthony S. Broadman
Pro Se

Ryan D. Dreveskracht
Pro Se

----- Forwarded message -----

From: **Katie Nicoara** <katien@nics.ws>

Date: Tue, Apr 26, 2016 at 11:45 AM

Subject: FW: APPEALS: Galanda v. Nooksack, Order Re: Petition for Writ

To: "Gabe Galanda (gabe@galandabroadman.com)" <gabe@galandabroadman.com>, "Anthony Broadman (anthony@galandabroadman.com)" <anthony@galandabroadman.com>, "Ryan Dreveskracht (ryan@galandabroadman.com)" <ryan@galandabroadman.com>

Attached is the Court of Appeals' Order re: Petition for Writ of Mandamus. Thank you.

From: Katie Nicoara

Sent: Tuesday, April 26, 2016 11:37 AM

To: Betty Leathers

Subject: APPEALS: Galanda v. Nooksack, Order Re: Petition for Writ

Hello Betty,

Please find the attached Court of Appeals' Order regarding the Petition for Writ of Mandamus in the Galanda v. Nooksack matter. Please return a filed stamped copy to me. I'll email the Petitioner's a copy of the Order. Please let me know if you have any questions. Thank you.

Katie Nicoara

Northwest Intertribal Court System

Assistant to Executive Director Dan Kamkoff

20818 - 44th Avenue West, Suite 120, Lynnwood, WA 98036-7709

Ph: (425) 774-5808, ext. 115/ Fx: (425) 744-7704

<http://www.nics.ws/>

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Nooksack Indian Tribe

Nooksack Tribal Court
Office of the Tribal Court Clerk
5016 Deming Rd.
Deming, WA 98244

May 9, 2016

RECEIVED

MAY 11 2016

Galanda Broadman PLLC

Gabe Galanda
Anthony S. Broadman
Ryan D. Dreveskracht
Galanda Broadman
PO Box 15146
Seattle, WA 98115

Re: *Galanda, et. al. v. Bernard, et. al.*, Case No. 2016-CI-CL-001 [sic]
Galanda, et. al. v. Bernard, et. al., Case No. 2016-CI-CL-002
In re Galanda v. Nooksack Tribal Court and Nooksack Indian Tribe, Court of
Appeals Case No. _____

Dear Counsel:

This letter responds to your numerous and repeated inquiries via e-mail and telephone regarding the status of these matters. The Nooksack Tribal Court of Appeals issued an *Order re: Petition for Writ of Mandamus* on April 25, 2016. The Order provided, in pertinent part:

[W]e hereby order (1) that the Court Clerk of the Nooksack Tribal Court shall either accept and file Petitioners [sic] complaints and related motions **or file an answer to the Petition for Writ of Mandamus with this Court on or before May 16, 2016**, and (2) that the NICS administrator serve a copy of the petition together with this order by mail on the Court Clerk. [emphasis added]

Without conceding that the Nooksack Tribal Court of Appeals has the authority to take the actions that it took, the Court Clerk and the Nooksack Indian Tribe each have until May 16, 2016 to take such action as each of them deem appropriate.

The Clerk's office reminds attorneys Galanda, Dreveskracht and Broadman that until such time as the Nooksack Tribal Council takes further action, Nooksack Tribal Courts are bound by Resolution #16-28 barring you from practicing in Nooksack Tribal Court. Under Washington's

EXHIBIT F

Rules of Professional Conduct, a lawyer who is acting pro se is “representing a client.” *In re Discipline of Haley*, 156 Wn.2d 324, 338, 126 P.3d 1262 (2006). Thus, as practicing lawyers, you are each “representing a client” in the *Galanda v. Bernard* and *In re Galanda v. Nooksack Tribal Court and Nooksack Indian Tribe* matters. Your appearance on your own behalf constitutes conduct prohibited by Resolution #16-28.

cc: Rickie Armstrong, Office of Tribal Attorney