

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

9 NOOKSACK INDIAN TRIBE,

No. 2016-CI-CL-006

10 Plaintiffs,

DECLARATION OF KATHERINE
CANETE, AS ACTING COURT
ADMINISTRATOR

11 v.

12 NORTHWEST INTERTRIBAL COURTS
SYSTEM, a Washington non-profit
13 corporation; and DAN KAMKOFF, its
Executive Director,

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14 Defendants.

15 I, Katherine Canete, am above the age of eighteen (18), of sound mind, and otherwise
16 competent to testify as to all matters herein and declare under penalty of perjury under the laws
17 of the Nooksack Indian Tribe and the State of Washington that the following is true and accurate
18 to the best of my knowledge.

- 19
- 20 1. I am the General Manager of the Nooksack Indian Tribe, and fulfill the duties of the
21 Acting Court Administrator in the absence of a full time employee. The job duties of the
22 Court Administrator are included on the attached job description, **Exhibit A**.
- 23 2. As part of these job duties and responsibilities, the Court Administrator is the Custodian
24 of Records for the Nooksack Indian Tribe's Tribal Court, and ensure the retention and
25

NOOKSACK TRIBAL COURT
NOOKSACK INDIAN TRIBE
SEP 30 2018
FILED BY: _____
TIME: _____ AM/PM

COPY

1 maintenance of all Court records, including existing court cases and new court filings, in
2 the usual course of business.

3 3. I have reviewed the Tribal Court records since 2016, and found no evidence of a properly
4 filed document in the case captioned *Galanda v. Bernard*. The Court's records indicate
5 that numerous pleadings were rejected for non-payment of filing fees and non-payment of
6 motion fees. The records show no evidence of any case being presented to the Tribal
7 Court judge for consideration. Further, the Court's records show no evidence of a
8 "notice of appeal", being forwarded from the Tribal Court to the Defendant.

9 4. I have reviewed Tribal Court records since 2016, and have find no evidence of the
10 existence of any Court case opened under the name of *Gabriel Galanda v. Nooksack*
11 *Tribal Court*. The Court's records indicate that numerous pleadings were rejected for
12 non-payment of filing fees and non-payment of motion fees. Further, the Court's records
13 show no evidence of a "notice of appeal", being forwarded from the Tribal Court to the
14 Defendant.

15 5. In late March 2016, an individual acting on behalf of Gabriel Galanda, Anthony
16 Broadman, and Ryan Dreveskracht ("Third Party") attempted to file a Complaint and
17 various other documents in *Galanda v. Bernard*. On April 1, 2016, these filings were
18 rejected for failure to comply with tribal law. A true and accurate copy of the rejection
19 letter is attached hereto as **Exhibit B**.

20 6. Thereafter, the Defendants began accepting filings from Third Party in violation of the
21 Agreement and tribal law.
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- 1 a. On April 6, 2016, the Defendants received and accepted for filing, a Petition for
2 Writ of Mandamus, from Third Party. A true and accurate copy of this
3 “electronic filing” in violation of tribal law is attached hereto as **Exhibit C**.
- 4 b. On April 6, 2016, the Tribal Court informed the Defendants, in writing, that the
5 Tribe had not received a proper filing fee as required by tribal law, for the
6 proposed “electronic filing.” A true and accurate copy of this notice is attached
7 hereto as **Exhibit D**.
- 8 c. On April 14, 2016, the Defendants received and accepted for filing, a Declaration,
9 from Third Party. A true and accurate copy of this “electronic filing” in violation
10 of tribal law is attached hereto as **Exhibit E**.
- 11 d. On April 22, 2016, the Defendants received and accepted for filing, a Second
12 Declaration, from Third Party. A true and accurate copy of this “electronic filing”
13 in violation of tribal law is attached hereto as **Exhibit F**.
- 14
- 15 7. As a result of the Defendants accepting filings, on April 25, 2016, the Defendants began
16 issuing orders in violation of the Agreement. A true and accurate copy of Order Re:
17 Petition for Writ of Mandamus (“Order 1”), is attached hereto as **Exhibit G**.
- 18 8. Following the Defendants issuance of Order 1, the Defendant continued to accept filings of
19 Third Party.
- 20 a. On May 17, 2016, the Defendants received and accepted for filing, a Motion and
21 associated pleadings, from Third Party. A true and accurate copy of this
22 “electronic filing” in violation of tribal law is attached hereto as **Exhibit H**.
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1 b. On May 23, 2016, the Defendants received and accepted for filing, an Errata,
2 from Third Party. A true and accurate copy of this “electronic filing” in violation
3 of tribal law is attached hereto as **Exhibit I**.

4 8. As a result of the Defendants accepting filings, on May 24, 2016, the Defendants issued
5 another order in violation of the Agreement. A true and accurate copy of Order Re:
6 Written Responses to April 25, 2016 Order on Petition for Writ of Mandamus (“Order
7 2”), is attached hereto as **Exhibit J**.

8 9. Following the Defendants issuance of Order 2, the Defendant continued to accept filings
9 of Third Party.

10 a. On May 25, 2016, the Defendants received and accepted for filing, a Second
11 Petition, from Third Party. A true and accurate copy of this “electronic filing” in
12 violation of tribal law is attached hereto as **Exhibit K**.

13 10. As a result of the Defendants accepting filings, on May 27, 2016, the Defendants issued
14 another order in violation of the Agreement. A true and accurate copy of Order Re:
15 Second Petition for Writ of Mandamus (“Order 3”), is attached hereto as **Exhibit L**.

16 11. Following the Defendants issuance of Order 3, the Defendant continued to accept filings
17 of Third Party.

18 a. On June 3, 2016, the Defendants received and accepted for filing, a Response and
19 associated pleadings, from Third Party. A true and accurate copy of this
20 “electronic filing” in violation of tribal law is attached hereto as **Exhibit M**.

21 b. On June 15, 2016, the Defendants received and accepted for filing, a Fourth
22 Declaration, from Third Party. A true and accurate copy of this “electronic filing”
23 in violation of tribal law is attached hereto as **Exhibit N**.
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1 c. On June 16, 2016, the Defendants received and accepted for filing, another
2 declaration and motion with associated pleadings, from Third Party. A true and
3 accurate copy of this "electronic filing" in violation of tribal law is attached
4 hereto as **Exhibit O**.

5 d. On June 20, 2016, the Defendants received and accepted for filing, a Fifth
6 Declaration, from Third Party. A true and accurate copy of this "electronic filing"
7 in violation of tribal law is attached hereto as **Exhibit P**.

8 12. As a result of the Defendants accepting filings, on June 28, 2016, the Defendants issued
9 another order in violation of the Agreement. A true and accurate copy of Order Finding
10 Betty Leathers in Contempt ("Order 4"), is attached hereto as **Exhibit Q**.

11 13. Following the Defendants issuance of Order 4, the Defendant continued to accept filings
12 of Third Party.

13 a. On July 11, 2016, the Defendants received and accepted for filing, another
14 Motion and associated pleadings, from Third Party. A true and accurate copy of
15 this "electronic filing" in violation of tribal law is attached hereto as **Exhibit R**
16 **and S** respectively.

17 14. As a result of the Defendants accepting filings, on July 25, 2016, the Defendants issued
18 another order in violation of the Agreement. A true and accurate copy of Order on
19 Motion to Enforce Contempt Order ("Order 5"), is attached hereto as **Exhibit T**.

20 15. Following the Defendants issuance of Order 5, the Defendant continued to accept filings
21 of Third Party.
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1 a. On August 3, 2016, the Defendants received and accepted for filing, another
2 Response and associated pleadings, from Third Party. A true and accurate copy
3 of this "electronic filing" in violation of tribal law is attached hereto as **Exhibit U**.

4 16. As a result of the Defendants accepting filings, on August 15, 2016, the Defendants
5 issued another order in violation of the Agreement. A true and accurate copy of another
6 Order on Motion to Enforce Contempt Order ("Order 6"), is attached hereto as **Exhibit**
7 **V**.

8 17. Following the Defendants issuance of Order 6, the Defendant continued to accept filings
9 of Third Party.

10 a. On August 18, 2016, the Defendants received and accepted for filing, another
11 Declaration, from Third Party. A true and accurate copy of this "electronic filing"
12 in violation of tribal law is attached hereto as **Exhibit W**.

13 b. On August 22, 2016, the Defendants received and accepted for filing, another
14 Errata, from Third Party. A true and accurate copy of this "electronic filing" in
15 violation of tribal law is attached hereto as **Exhibit X**.

16 18. As a result of the Defendants accepting filings, on September 2, 2016, the Defendants
17 issued another order in violation of the Agreement. A true and accurate copy of Order on
18 Cost Accounting ("Order 7"), is attached hereto as **Exhibit Y**.

19 19. Following the Defendants issuance of Order 7, the Defendant continued to accept filings
20 of Third Party.


21 a. On September 7, 2016, the Defendants received and accepted for filing, another
22 Declaration, from Third Party. A true and accurate copy of this "electronic filing"
23 in violation of tribal law is attached hereto as **Exhibit Z**.

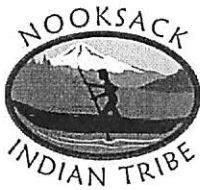
b. On September 12, 2016, the Defendants received and accepted for filing, another Motion and associated pleadings, from Third Party. A true and accurate copy of this “electronic filing” in violation of tribal law is attached hereto as **Exhibit AA**.

20. As a result of the Defendants accepting filings, on September 21, 2016, the Defendants issued two additional orders in violation of the Agreement. A true and accurate copy of the Order Regarding Plaintiffs' Second Motion for Show Cause Order Re: Partial Summary Judgment, Contempt, or Mandamus ("Order 8"), is attached hereto as **Exhibit BB** and a true and accurate copy of the Order and Judgment Awarding Costs ("Order 9"), is attached hereto as **Exhibit CC**.

21. In addition to the pleadings accepted by Defendants from Third Party, the Defendants have accepted numerous pleadings from another non-party to this case, and the Defendants have issued several orders under a separate “electronically filed” case in violation of the Agreement and tribal law.

DECLARED THIS 29 DAY OF Sept 2016.


Katherine Canete, General Manager
Acting Court Administrator
Nooksack Indian Tribe



Nooksack Indian Tribe Job Description

Job Title: Court Administrator
Department: Court
Reports To: Chief Judge
Job Status: Regular Full Time
Type: Exempt (Salary)
Grade: J

JOB SUMMARY:

Under the general guidance and administrative control of the Chief Judge, employee performs the overall planning, execution, and evaluation of services within the court and completes work in compliance with applicable tribal and federal laws, policies, procedures, and regulations.

This position performs a variety of complex management and administrative functions. Will provide essential governmental services to the public; there is a heavy emphasis on strong customer service skills to work with the public and other tribal offices.

MAJOR TASKS AND RESPONSIBILITIES:

1. Supervise maintenance of records of all Court proceedings, including but not limited to, identification of title and nature of the case, names of the parties, substance of the complaint, names and addresses of all witnesses, date of hearing and trials; all Court rulings, findings, orders and judgements and any other facts of circumstances designated by the Chief Judge or the Court.
2. Supervise maintenance of all evidentiary materials, transcripts, and records of testimony, pleading, documents and other materials filed with the Court.
3. Supervise preparation and service of notices, summons, subpoenas, warrants, rulings, findings, orders, opinions, and other papers of the Courts as directed.
4. Prepares and monitors budgets for the Tribal Court from various component funding sources, including preparation and submission of statistical and narrative reports to appropriate tribal departments and various funding sources.
5. Responsible for developing, establishing, and meeting short-term and long-term goals and objectives of the Tribal Court. Develop and implement work plans and procedures regarding those goals.
6. Monitors the accounting of money collected or paid to the court for fines, fees, costs, restitution, bail and judgements, in coordination with the Tribal Accounting department.

7. Develops guideline manual for the standardization of various court administrative and support process, and monitors and oversees compliance with the guidelines.
8. Oversees the scheduling of the Tribal Court calendar.
9. Develop and administer a juror and witness tracking system to insure the on-time and consistent scheduling of jurors and witnesses as required by the Court.
10. Responsible for insuring the physical security and confidentiality of Court records and Court facility through appropriate measures and actions.
11. Conducts monthly case audits to ensure compliance with court clerical processes, policies and procedures, and reporting/accounting requirements.
12. Prepares and submits requests for purchase orders, office supplies, equipment and other expenditures requests.
13. Responsible for the administrative supervision of Tribal Court staff members consistent with the Nooksack Tribal personnel policies, procedures, and generally accepted practices. That supervision includes but is not limited to: annual performance evaluations, timekeeping, developing training programs as needed, insuring adequate staffing, and distribution of work, etc.

OTHER DUTIES:

Because of the Tribe's commitment to community service and the well-being of its members, each employee may be expected to perform a wide range of office and field duties from time to time. Such duties may or may not be related to their regular responsibilities.

PREFERENCE:

- Indian Preference Policy applies to this and all positions with the Nooksack Indian Tribe.

MINIMUM QUALIFICATIONS

The following qualifications are required for the incumbent to have, in order to be considered for the position.

REQUIRED EDUCATION, EXPERIENCE AND TRAINING FOR POSITION:

- BA/BS Degree from an accredited College or University in Public Administration, Business Administration, Justice Studies, Social Services or related field, and two (2) years of work experience in court and supervisory position

OR

- An equivalent combination six (6) years of education and experience which satisfactorily demonstrates the knowledge, skill, and ability to perform the job duties

may be considered in lieu of degree, with a minimum of two (2) years of experience gained in a court or legal setting.

- **Copy of degree or transcripts must be submitted with application, if you want it to be considered.**
- Minimum of two (2) years supervisory experience.
- Candidates must be able to demonstrate knowledge of or experience in Native cultures, programs or affairs with a minimum of two (2) years' experience working directly with Native people in a Native community or reservation setting.

REQUIRED SKILLS/KNOWLEDGE/ABILITIES POSITION:

- Intermediate proficiency using word processing (e.g. Microsoft Word), spreadsheet (Excel), and other database programs (Microsoft Outlook, etc.)
- Working knowledge of principles and practices of Court administration.
- Thorough knowledge of the organization, functions, responsibilities and limitations of a court system.
- Thorough knowledge of court procedures, legal documents, and applicable tribal, state and federal laws pertaining to tribal courts.
- Demonstrated experience/knowledge in tribal justice system development, evaluation, and tribal sovereignty.
- Demonstrated experience in budget administration, including budget preparation, monitoring, and reporting.
- Must have strong organizational skills and ability to work on multi-projects at any given time.
- Must be able to accept confidentiality as a strict condition of employment.
- Must be able to communicate effectively, both verbally and in writing at various levels of interaction ranging from individuals, community based organizations to government entities.

REQUIRED CONDITIONS OF EMPLOYMENT:

- Must pass alcohol/drug test at time of hire and throughout employment.
- Must pass criminal background check at time of hire and periodically thereafter.

REQUIRED LICENSES OR CERTIFICATIONS:

- Must have and maintain throughout employment a valid Washington State Driver's License and meet the insurability requirements of the Tribe. **(Must Provide Driving Abstract at time of hire).**

- Valid Notary Public Status in the State of Washington. If not a valid notary public in the State of Washington, must obtain notary public status within 90-days of employment.

PHYSICAL REQUIREMENTS *(The physical demands described here are representative of those that must be met by an employee to successfully perform the essential functions of this job.):*

- The standard work week is 8:30-5:00 Monday through Friday (occasionally may have to work evenings)
- While performing the duties of this job, the employee is regularly required to sit for long periods and frequently required to talk and listen.
- Sitting for extended periods while at a desk or in meetings.
- Manual dexterity to operate a keyboard, calculator, and telephone system
- Ability to lift up to 20+ pounds without assistance occasionally.
- Typical office setting with environmentally controlled conditions.
- Read, write, speak and understand English
- Ability to listen, understands customers, and has the ability to translate rules, regulations, and policies to clients so they understand the issues/problems.
- Operate in mentally and physically stressful situations with composure.
- May have to walk/drive between office locations under a variety of conditions.
- Must be able to bend, reach, kneel, twist, and grip from assigned work areas.

DESIRED SKILLS/KNOWLEDGE/ABILITIES POSITION

The following qualifications are preferred/helpful for the incumbent who has these skills/knowledge or abilities for this position.

- Prefer Tribal Court Experience

I have read and understand the position requirements as stated above I further, understand that occasionally I may be instructed to perform duties that are not listed above but are relative to my position.

The Tribe hopes that the employment relationship will be long and productive, however the Tribe is an employer at-will therefore you may terminate the employment relationship at any time and likewise the Tribe may terminate the employment relationship at any time. Neither you nor the Tribe needs to provide a reason for a decision to terminate the employment relationship. This job description does not change or modify the at-will relationship.

Employee's Signature

Date

Supervisor's Signature

Date



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.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

On Wed, Apr 6, 2016 at 10:41 AM, Gabe Galanda <gabe@galandabroadman.com> wrote:

Appellate Chief Judge Nielsen, Ms. Nicoara:

Given the rather unusual circumstances set forth in the attached Pro Se Petition for Writ of Mandamus and its Appendices, we are submitting this email and attachment to you directly. It is also being filed today in the normal course with the Nooksack Tribal Court Clerk and served upon defense counsel, or at least we are attempting to accomplish those things.

Neither this email nor the filing of the Petition are intended to be and should not be construed to be the practice of law or transaction of business within the Nooksack Tribe's jurisdiction. It is all being done by myself and Messrs. Broadman and Dreveskracht pro se, per the now former Nooksack Tribal Court Chief Judge's last Order in Belmont v. Kelly, as discussed in the Petition.

Thank you for your understanding of the most unusual posture we find ourselves in, and thus the need for us to proceed in this way.

Gabriel S. Galanda, Pro Se

Anthony S. Broadman, Pro Se

Ryan D. Dreveskracht, Pro Se

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Katie Nicoara [<mailto:katien@nics.ws>]
Sent: Thursday, April 07, 2016 9:50 AM
To: Deanna Francis <DFrancis@nooksack-nsn.gov>
Subject: RE: Galanda (Pro Se) v. Bernard: Petition for Writ of Mandamus

Hello Deanna,

I've notified the panel of judges with the issues you've listed below. Thank you.

Katie

From: Deanna Francis [<mailto:DFrancis@nooksack-nsn.gov>]
Sent: Wednesday, April 06, 2016 2:44 PM
To: Katie Nicoara
Subject: Galanda (Pro Se) v. Bernard: Petition for Writ of Mandamus

Good afternoon, Katie Nicoara;

I would like to state there are problems with Galanda's attempt to file an appeal.

1. did not pay the Appeal fee \$35.00.
2. Listed different parties.
3. Used the same case number.

If it is being filed as an appeal the name would remain Galanda v. Bernard and the case number would be 2016-CI-APL-003.

Sincerely,

DEANNA FRANCIS
Nooksack Indian Tribe
Tribal Court Clerk
PO Box #157, 4971 Deming Road, Deming, WA 98244
Phone: (360) 306-5125
Fax: (360) 306-5108
dfrancis@nooksack-nsn.gov

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Gabe Galanda [mailto:gabe@galandabroadman.com]

Sent: Thursday, April 14, 2016 4:19 PM

To: Katie Nicoara <katien@nics.ws>

[REDACTED]

Subject: Re: Galanda (Pro Se) v. Bernard: Petition for Writ of Mandamus

Ms. Nicoara:

Please see my attached Declaration in support of our pro se Petition for Writ of Mandamus.

We will also attempt to file the Declaration in person, through a third person, at the Tribal Court in Deming.

This email is not intended to be the practice of law or transaction of business within the Nooksack Tribe's jurisdiction.

Thank you kindly,

Gabriel S. Galanda , Pro Se

Anthony S. Broadman, Pro Se

Ryan D. Dreveskracht, Pro Se

On Wed, Apr 6, 2016 at 10:45 AM, Anthony Broadman <anthony@galandabroadman.com> wrote:

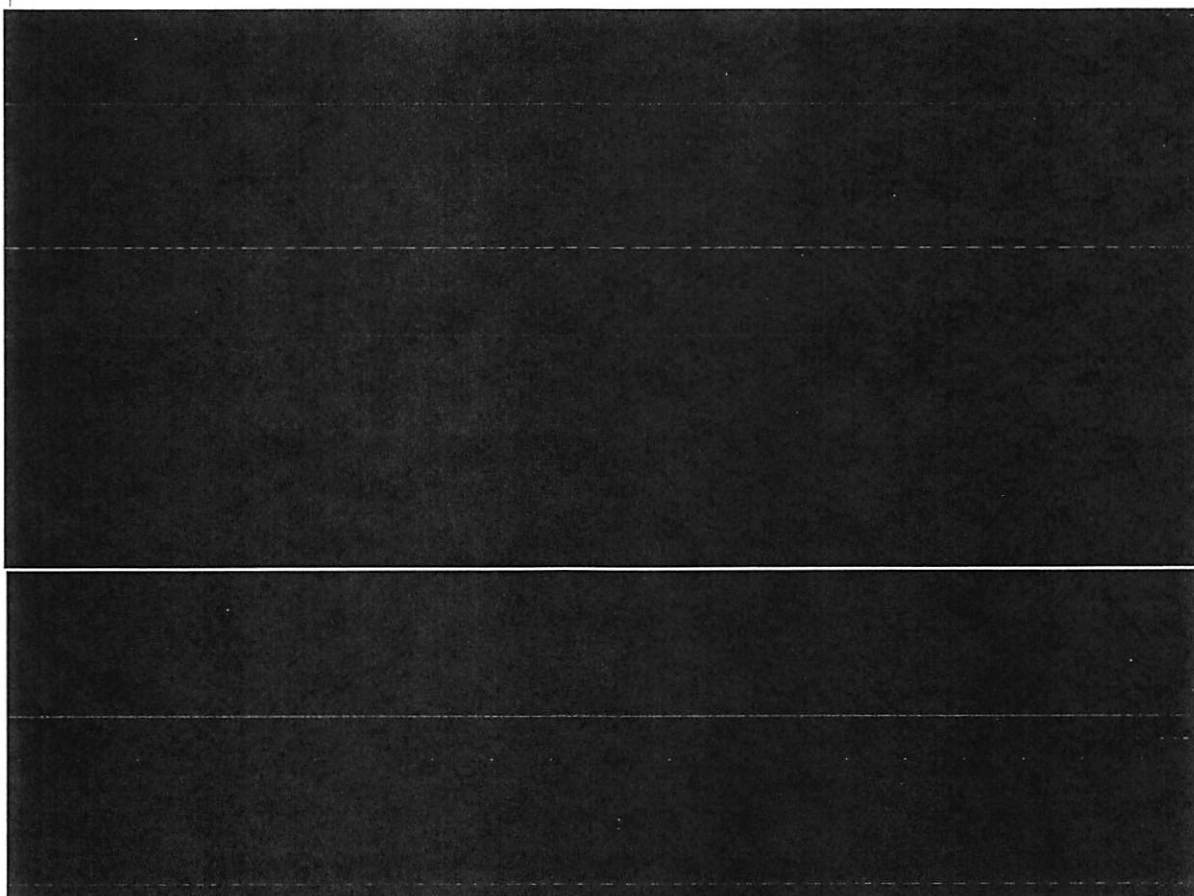
Please find the referenced Petition attached here.

Thank you,

Gabriel S. Galanda, Pro Se

Anthony S. Broadman, Pro Se

Ryan D. Dreveskracht, Pro Se



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Molly Jones [<mailto:molly@galandabroadman.com>]

Sent: Friday, April 22, 2016 4:31 PM

To: Katie Nicoara <katien@nics.ws>

[REDACTED]

Subject: Galanda (Pro Se) v. Bernard: Declaration in Support of Writ of Mandamus

Ms. Nicoara:

Please see attached Second Declaration of Gabriel S. Galanda in support of our pro se Petition for Writ of Mandamus.

We will file the attached via US Mail with the Nooksack Tribal Court of Appeals.

Hard copy to follow via US mail.

This email is not intended to be the practice of law or transaction of business within the Nooksack Tribe's jurisdiction.

Thank you kindly,

Molly Jones, on behalf of

Gabriel S. Galanda , Pro Se

Anthony S. Broadman, Pro Se

Ryan D. Dreveskracht, Pro Se

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

RECEIVED

APR 26 2016

Office of Tribal Attorney
Nooksack Indian Tribe

email - COA to Court

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

Order Re: Petition for Writ of
Mandamus

Petitioners request that this Court issue a *writ of mandamus*. A *writ of mandamus* "is a writ issuing from a court of competent jurisdiction, commanding an inferior tribunal, board, corporation, or person to perform a purely ministerial duty imposed by law." *Nebel v. Nebel*, 241 N.C. 491, 499, 85 S.E.2d 876, 882 (1955).

Here, the Petitioners request a *writ of mandamus* directed to the Clerk of the Nooksack Tribal Court that commands her to accept and file their complaint, and related motion, challenging their disbarment by a recent ordinance of the Nooksack Tribal Council. Petitioners aver the Court Clerk refused to accept and file their complaints. Attached to the writ is an April 1, 2016 letter from the Court Clerk rejecting their complaints for filing and advising Petitioners that because they were disbarred and no longer entitled to practice law in tribal court, they were also barred from commencing an action in tribal court as pro se litigants. The letter does not cite any code provision or any other legal authority that prohibits a person who is not entitled to practice law from self-representation in the tribal court.

Based on the Court Clerk's refusal to accept and file their complaint and related motion the Petitioners submitted their Petition for Writ of Mandamus directly to the Nooksack Appellate

Court by mailing it to the office of the Northwest Indian Tribal Court System (NICS), which administers the Nooksack Appellate Court. While submitting a Petition directly to this Court is unusual, it does not violate any appellate court rule.

Under Title 80 of the Nooksack Tribal Code (hereinafter “NTC”), an appeal from the trial court division of the Nooksack Tribal Court is commenced by “[a] written notice of appeal [that] must be filed with the trial court division of the Nooksack Tribal Court” and then the Court Clerk provide[s] the “Chief Judge of the Court of Appeals with a copy” NTC 80.01.010, 80.04.010 & 80.05.010. Title 80, however, only governs appeals from decisions of the trial court division and the youth court division of the Nooksack Tribal Court. NTC 80.01.010. However, the extraordinary process of a *writ of mandamus* is neither an appeal, nor a substitute for an appeal. See *Ex parte Harding*, 219 U.S. 363, 371 (1911) (a “writ of mandamus . . . cannot be used to perform the office of an appeal or writ of error.” quoting *Ex parte Nebraska*, 209 U.S. 436, 441 (1908)); see also *In Re Politz*, 206 U.S. 323 (1907); *Ex parte Hoard*, 105 U.S. 578 (1881).¹ Thus, the appellate rules in Title 80 of the Nooksack Tribal Code only govern appeals from decisions of the trial courts. The rules do not govern petitions for writs of mandamus.

Because Title 80 does not apply to the extraordinary process of a *writ of mandamus*, two questions arise. First, does the Nooksack Tribal Court have the power to issue the *writ of mandamus* requested by the Petitioners? Second, what is the process through which a petitioner

¹ The reason why a *writ of mandamus* is not a substitute for an appeal also explains the one narrow exception to this rule. As the United States Supreme Court noted in *Re Winn*, 213 U.S. 458 (1909), “Mandamus, it is true, never lies where the party praying for it has another adequate remedy [such as the remedy of an appeal or writ of error] But where, without any right, a court of the United States has wrested from a state court the control of a suit pending in it, an appeal or writ of error, at the end of long proceedings, which must go for naught, is not an adequate remedy. . . . It is only in [such] cases where the record makes it clear, as matter of law, that the circuit court was without jurisdiction to take any action whatever that [there is an exception to the general rule that a writ of mandamus cannot serve as a substitute for an appeal and] the writ of mandamus lies.” Because there is no possibility of an appeal in the present matter as the Court Clerk refused to allow any judicial process whatsoever when she refused to accept and file the complaints submitted by the petitioners, this exception does not apply to the matter before the Court.

should submit and the Court should entertain a petition for such a writ? We take up each question in turn.

To answer the first question, whether the Court has the power to issue the *writ of mandamus* requested by the Petitioners, we consult the Nooksack Tribal Code. But before doing so we observe that while the *mandamus*, like the *quo warranto*, was originally a remedy in the courts of the common law distinct from the injunction issued by the courts of equity, the merger of law and equity brought “together *mandamus* and *quo warranto* at law with the injunction in equity as remedies to be used as justice and expediency demand by a single court which is both a court of law and equity,” and “has resulted in the use of injunctions . . . just as *mandamus* and *quo warranto* are used, . . . , irrespective of their labels at law or in equity prior to code merger.” William F. Walsh, A TREATISE ON EQUITY 279 (1930). The Nooksack Tribal Code does not distinguish between courts of law and equity.

The Nooksack Tribal Court of the Appeals is a division of the Nooksack Tribal Court. NTC 10.05.010 and 80.02.010. NTC 10.00.100 states, in relevant part,

(b) Subject to the Limitation of Remedies in § 10.00.90, any officer, employee or agent of the Nooksack Indian Tribe may be sued in this court to compel him/her to perform his/her non-discretionary duties under the laws of the Nooksack Indian Tribe and the United States.

(1) Relief awarded by the court under this section shall be limited to declaratory or prospective injunctive relief.

(2) This paragraph (b) shall not apply to the Nooksack Tribal Council.

Under this provision the Nooksack Tribal Court, which includes the Court of Appeals, has the authority to issue a permanent injunction directed at an employee of the Tribe that commands him or her to perform his or her nondiscretionary duties under the laws of the Nooksack Indian Tribe. While NTC 10.00.090 prohibits the court from issuing a temporary or preliminary restraining order against an employee of the Tribe, it does not prohibit the issuance

of a permanent injunction. And, because a *mandamus* is equivalent to an injunction, we find this Court as well as the trial court has the power to issue a *writ of mandamus*.

The Court Clerk is an employee of the Nooksack Indian Tribe. The only question is whether the Court Clerk had a nondiscretionary duty to accept and file the Petitioners complaint. A court clerk is an officer of the court who is responsible for performing various administrative and ministerial duties related to the operation of the court, including managing the flow of cases through the court and maintaining official court records. One of the clerk's nondiscretionary, ministerial duties directly related to both the management of the flow of cases through the court and maintenance of official records is the duty to accept every document a person seeks to file with the court. See NTC 10.04.020(c) (“[r]ecords kept by the clerk *shall include* a separate file for each case filed in the Tribal Court, with *a copy of every document submitted in the case.*”) (emphasis added). Moreover, a complaint initiating a lawsuit must be filed with the court clerk: “A copy of every complaint . . . shall be filed with the clerk.” NTC § 10.05.040. There is nothing in the Nooksack Tribal Code that purports to confer on the Court Clerk the authority or power to refuse to accept a complaint for filing.

Also, as a practical matter, if a court clerk refuses to file a complaint it prevents the judge from performing his or her duty adjudicate the complaint. NTC 10.03.040. If a defendant believes a complaint fails to state a cause of action, suffers from some other infirmity, or was filed by a party not entitled to file a complaint, the defendant can file the appropriate motion with the court and request the judge dismiss the complaint. The refusal to file a complaint, however, is akin to dismissing the complaint and the Clerk does not have the authority to perform that judicial function. To prevent the judge from performing his or her duty to adjudicate a complaint is tantamount to interfering with a court proceeding, something the Clerk has sworn not to do: “[b]efore taking office, the court clerk shall state in the presence of the judge that he or she will

perform the clerk's duties faithfully and honestly, ... [and] will not attempt to influence the course of court proceedings" NTC 10.040.010(a).

We find that under the above provisions of the code the Court Clerk has a non-discretionary duty under the laws of the Nooksack Indian Tribe to accept and file complaints submitted to the court. Thus, this Court as a division of the Nooksack Tribal Court has the power to issue the *writ of mandamus* requested by the Petitioners.

Having answered the first question in the affirmative, we turn now to the second question: what is the process through which a petitioner should submit and the Court should entertain a petition for a *writ of mandamus*? There is no process in the Nooksack Tribal Code that addresses this question. Nonetheless, NTC 10.03.040(b) provides,

Whenever the Tribal Court has jurisdiction over a person and subject, the court shall have the power to use reasonable means to protect and carry out its jurisdiction. If the means to enforce its jurisdiction are not spelled out in these rules or in the Tribal Code, the court may use any appropriate procedure that is fair and consistent with the spirit and intent of the tribal law being applied.

In exercising its power to use reasonable means to protect and carry out its jurisdiction and develop an appropriate procedure that is fair and consistent with the spirit and intent of the tribal law being applied, this Court does not apply but draws inspiration from Rule 21 of the Federal Rules of Appellate Procedure (Fed. R. App. P.).

Generally, under the Tribe's codes, a party would be required to file a writ with the court clerk and the trial judge would rule on the writ in the first instance. The aggrieved party could then appeal the ruling to this Court by filing a Notice of Appeal. Here, however, Petitioners seek a *writ of mandamus* directed at the Court Clerk because she has allegedly refused to accept and file their complaints. It is unreasonable to expect the Clerk to accept and file a document commencing an action (a petition for *writ of mandamus*), the sole purpose of which is to require

the same Clerk to accept and file another document commencing an action (the complaints) that she has already refused to accept and file. Under these circumstances, if we were to require Petitioners to file their writ with the Clerk and confined our review to the judge's ruling following an appeal from that ruling before we could entertain the writ, then the Clerk could effectively thwart any legal action taken against her. Accordingly, we hold that under the unique circumstances of this case the Petitioners properly filed their Petition for a Writ of Mandamus when they filed it by mail with the Nooksack Tribal Court of Appeals. Our holding is similar to Rule 21 of the Federal Rules of Appellate Procedure that requires a *writ of mandamus* be filed with the circuit court of appeals.

Once a petition for a writ of mandamus is filed with the appellate court, under Rule 21 of the Federal Rules of Appellate Procedure, the court may deny the petition without an answer; however, if the court believes that the petition may have merit, it must order the respondent at whom the requested *writ of mandamus* is directed to answer within a fixed time. *See Fed. R. App. P. 21(b)(1)*. We also find this process to be reasonable, appropriate and fair because it ensures that the respondent receives due process before the appellate court rules on the petition.

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

It is so ordered, this 25th day of April, for the panel,

Douglas Nash, Associate Judge
Eric Nielsen, Chief Judge


Gregory Silverman, Associate Judge

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

From: Anthony Broadman [<mailto:anthony@galandabroadman.com>]

Sent: Tuesday, May 17, 2016 10:50 AM

To: Katie Nicoara <katien@nics.ws>

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Subject: Re: Galanda (Pro Se) v. Bernard - Motion for Show Cause Order Re: Contempt

Dear Ms. Nicoara,

Please find the attached Motion for Show Cause Order Re: Contempt in 2016-CI-CL-002, a Proposed Order, and the Declaration of Ryan D. Dreveskracht.

We will also attempt to file these in person, through a third person, at the Tribal Court in Deming.

This email is not intended to be the practice of law or transaction of business within the Nooksack Tribe's jurisdiction.

Thank you,

Gabriel S. Galanda , Pro Se

Anthony S. Broadman, Pro Se

Ryan D. Dreveskracht, Pro Se

EXHIBIT I

[REDACTED]

[REDACTED]

[REDACTED]

From: Anthony Broadman [<mailto:anthony@galandabroadman.com>]
Sent: Monday, May 23, 2016 11:04 AM
To: Katie Nicoara <katien@nics.ws>

[REDACTED]

Subject: Re: Galanda (Pro Se) v. Bernard - Motion for Show Cause Order Re: Contempt

Dear Ms. Nicoara,

Please find the attached Errata regarding our previously filed Motion for Show Cause Order Re: Contempt in 2016-CI-CL-002.

[illegible]

**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

**Order Re: Written Responses to April 25,
2016 Order on Petition for Writ of
Mandamus**

On April 25, 2016 we issued the following Order on Petitioners request for a *writ of mandamus*: “that the Court Clerk of the Nooksack Tribal Court shall either accept and file Petitioners complaints and related motions or file an answer to the Petition for Writ of Mandamus with this Court on or before May 16th, 2016.” Order at 6.

An answer to the Petition for Writ of Mandamus has not been filed.

On May 17, 2016 this Court received PETITIONERS’ MOTION FOR SHOW CAUSE ORDER RE: CONTEMPT. The motion alleges that as of May 9, 2016 the Court Clerk had not accepted Petitioners complaints and related motions.

We decline to rule on the show cause motion at this time. However, we cannot ignore the allegation there has been noncompliance with our April 25th Order. Therefore, we hereby order the Petitioners and the Court Clerk to each respond in writing on or before June 3, 2016, on whether Petitioners complaints and related motions have been accepted for filing. The parties

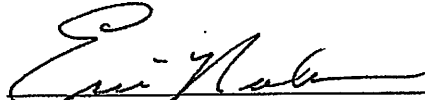
shall submit their written responses by mail to the Northwest Indian Court System (NICS) administrator at 20818 - 44th Avenue West, Suite 120, Lynnwood, WA 98036-7709.

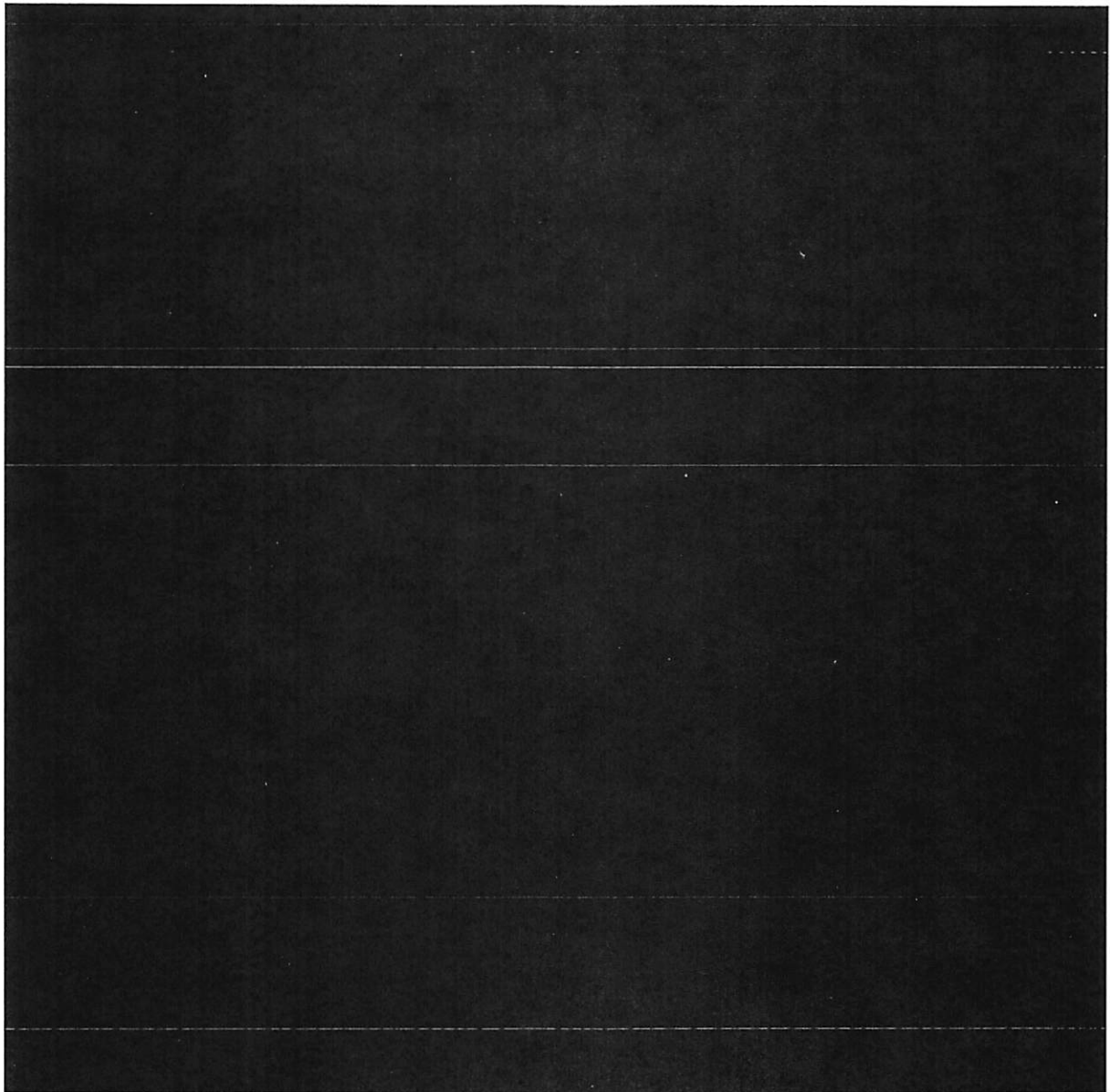
It is further ordered that the NICS administrator serve a copy of this Order by both email and standard mail on the Petitioners and the Court Clerk.

After we review the parties written responses, if necessary we will take such action as we deem appropriate to ensure adherence with our April 25, 2016 Order.

It is so ordered, this 24th day of May, 2016. for the panel,

Douglas Nash, Associate Judge
Gregory Silverman, Associate Judge


Eric Nielsen, Chief Judge



From: Gabe Galanda [<mailto:gabe@galandabroadman.com>]

Sent: Wednesday, May 25, 2016 10:20 AM

To: Katie Nicoara <katien@nics.ws>

[Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]

Subject: In Re Galanda v. Nooksack Tribal Court: Second Petition for Writ of Mandamus

Ms. Nicoara:

Attached please find our Second Petition for Writ of Mandamus, with Appendices A through

For reasons noted in the "REJECTED" Motion for Injunction, which we tried to file through a third party on Monday, time is of the essence with regard to this Second Petition. We will also attempt to file this in person, via mail, with the Tribal Court in Deming. We will mail the filing to NICS, too. Given the size of the attachment (9.9 MB), kindly reply to confirm your receipt of this email.

Thank you,

Anthony S. Broadman, Pro Se

[illegible]

**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

**Order Re: Second Petition for Writ of
Mandamus**

On April 25, 2016 we issued the following Order on Petitioners request for a writ of mandamus: "that the Court Clerk of the Nooksack Tribal Court shall either accept and file Petitioners complaints and related motions or file an answer to the Petition for Writ of Mandamus with this Court on or before May 16th, 2016." (April 25, 2016 Order at 6). The complaints and motions relate to the disbarment and exclusion of the three Petitioners and raise a number of issues, including allegations the Tribal Council's actions violate the Nooksack Constitution and the Indian Civil Rights Act.

An answer to the Petition for Writ of Mandamus has not been filed, and on May 17, 2016 this Court received Petitioners motion to show cause why the Clerk should not be held in contempt. The motion alleges that as of May 9, 2016 the Court Clerk had not accepted Petitioners complaints and related motions.

On May 24, 2016 we issued an order requiring the Petitioners and the Court Clerk "to each respond in writing on or before June 3, 2016, on whether Petitioners complaints and related

motions have been accepted for filing. The parties shall submit their written responses by mail to the Northwest Indian Court System (NICS) administrator at 20818 - 44th Avenue West, Suite 120, Lynnwood, WA 98036-7709.” (May 24, 2016 Order).

On May 25, 2016 we received Petitioners’ Second Petition for Writ of Mandamus. Petitioners allege that on May 23 and 25, 2016 they attempted to file additional pleadings in the above cause. Those were a First Amended Complaint and Motion for Injunction. The injunction motion requests the Court to enjoin the Tribal Council from conducting a hearing on June 9, 2016 concerning the disbarment of all three Petitioners until the Court rules on their complaint.¹

It appears the Court Clerk is willfully ignoring our orders by continuing to refuse to accept the pleadings filed in this case. It is unclear to us whether the clerk is acting on the advice of counsel² or on orders from the Tribal Council, but regardless a Tribal court clerk’s willful failure to comply with a Nooksack Tribal Court’s orders is contemptuous, mocks the Nooksack Tribe’s judiciary, obstructs official judicial proceedings, and undermines the Tribe’s self-governance.

We have previously ruled this Court has the power and authority under Nooksack law to issue a writ of mandamus (April 25, 2016 Order). After reviewing the Second Petition for Writ of Mandamus in its entirety, including the declarations of Petitioners, we hereby ORDER the Court Clerk to accept and file all pleadings the Petitioners have presented for filing in the above case by June 3, 2016 or show cause by affidavit why we should not find her in contempt and order the Nooksack Chief of Police to hold her in jail until she purges the contempt by filing the pleadings, for willfully failing to comply with our orders. The affidavit shall be submitted either

¹ We take judicial notice the Tribe terminated the tribal judge on March 28, 2016. See, <http://www.bellinghamherald.com/news/local/article73366262.html>. It is unclear to us whether the Tribe has retained either temporarily or permanently another tribal judge.

² We note that under 8.4(d) of the Rules of Professional Conduct that govern the practice of law in Washington State it is misconduct for a lawyer to “engage in conduct that is prejudicial to the administration of justice.”

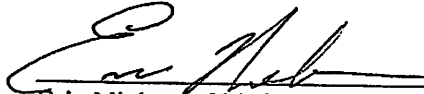
by standard mail or email (katie@nics.ws) to the Northwest Indian Court System Administrator.

It is further ORDERED that the court schedule a hearing on the Petitioners injunction motion before the Tribal Council's June 9, 2016 hearing.

The NICS administrator shall serve a copy of this Order by both email and standard mail on the Petitioners, the Court Clerk and the Nooksack Tribal Council Secretary.

It is so ordered, this 27th day of May, 2016, for the panel,

Douglas Nash, Associate Judge
Gregory Silverman, Associate Judge


Eric Nielsen, Chief Judge

[REDACTED]

From: Gabe Galanda [<mailto:gabe@galandabroadman.com>]

Sent: Friday, June 03, 2016 2:49 PM

To: nielsene@nwattorney.net; dank@nics.ws; Katie Nicoara <katien@nics.ws>

[REDACTED]

Subject: Petitioner's Response/Writ of Prohibition Papers

Your Honor, Nooksack Appellate Court Staff:

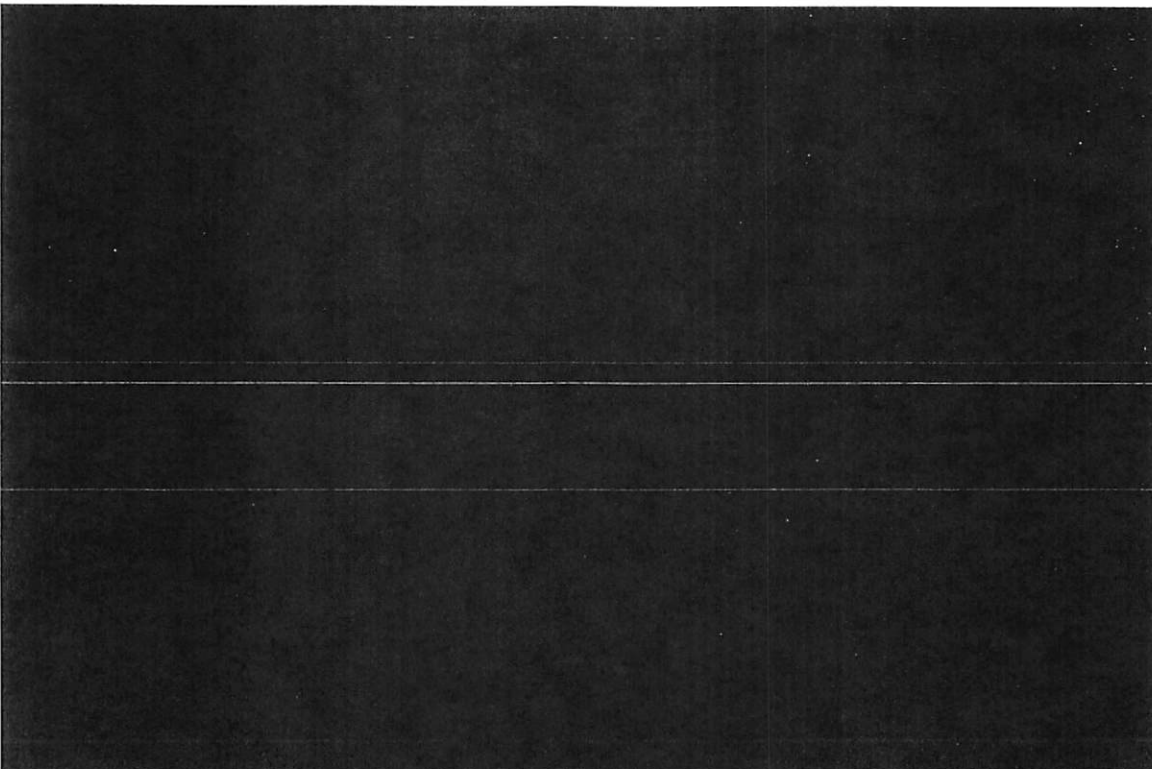
These papers are also being filed via U.S. Mail with NICS and the Tribal Court/Clerk, with copies to the office of the Tribal Court Judge; and being served via U.S. Mail upon the Tribal Chairman and Tribal Attorney's Office.

Thank you,

Anthony S. Broadman, Pro Se

Ryan D. Dreveskracht, Pro Se

[illegible]



On Wed, Jun 15, 2016 at 4:38 PM, Gabe Galanda <gabe@galandabroadman.com> wrote:

Nooksack Appellate Court Staff:

Attached please find my Fourth Declaration with Exhibits, as "REJECTED" by Clerks Francis and Leathers today.

Not only are the Clerks now rejecting appellate court filings in addition to trial court filings, they held this filing from 10:50 AM until late this afternoon, and refused to answer any questions about it's status.

That is because those now in control of the Courthouse have erected a sign that says, "The Clerks Cannot Answer Any Questions" (not the typical court signage, "The Clerks Cannot Give Legal Advice"). So the Clerks now simply point to the sign in reaction to any mechanical questions, such as those concerning the status of attempted filings.

This email does not constitute the practice of law or transaction of business at Nooksack.

Gabriel S. Galanda, Pro Se

On Wed, Jun 15, 2016 at 9:05 AM, Gabe Galanda <gabe@galandabroadman.com> wrote:

Nooksack Appellate Court Staff:

Attached please find my Fourth Declaration with Exhibits. Kindly reply to confirm your receipt of this email and its attachment.

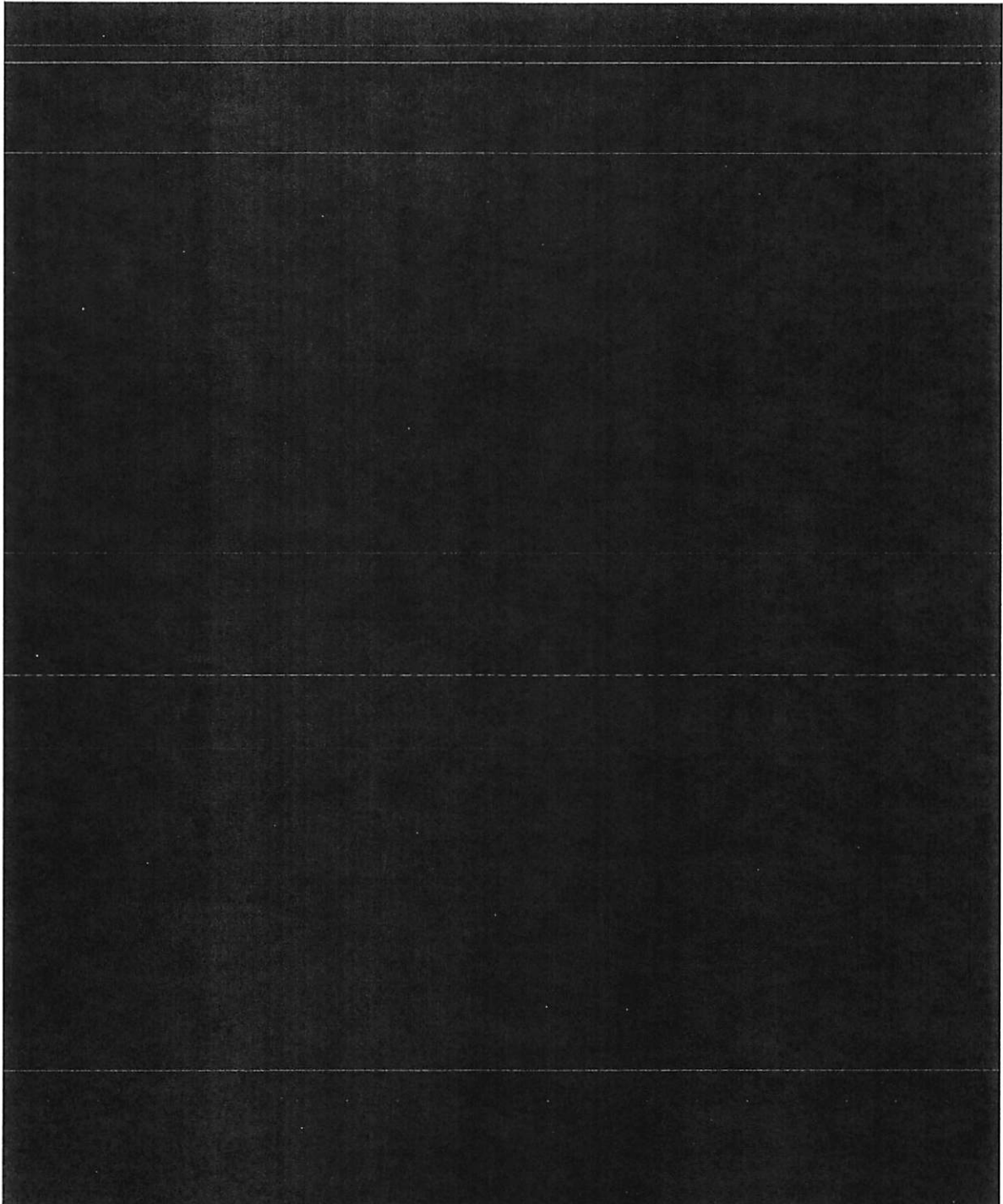
These papers are again being filed in hard copy with NICS and the Tribal Court/Clerk, with copies to the office of the Tribal Court Judge; and being served via U.S. Mail upon the Tribal Chairman and Tribal Attorney's Office.

This email does not constitute 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



[REDACTED]

[REDACTED]

[REDACTED]

From: Anthony Broadman [<mailto:anthony@galandabroadman.com>]

Sent: Thursday, June 16, 2016 3:51 PM

To: Katie Nicoara <katien@nics.ws>

[REDACTED]

Subject: Re: Broadman (pro se) and Dreveskracht (pro se) v. Tribal Court - Motion for Show Cause Order; Declaration; Proposed Order

Ms. Nicoara:

Please see attached for e-filing with the Court of Appeals:

- MOTION FOR SHOW CAUSE ORDER RE: PARTIAL SUMMARY JUDGMENT OR ALTERNATIVELY CONTEMPT

- [PROPOSED] ORDER FOR SHOW CAUSE RE: PARTIAL SUMMARY JUDGMENT OR ALTERNATIVELY CONTEMPT

- SECOND BROADMAN DECLARATION

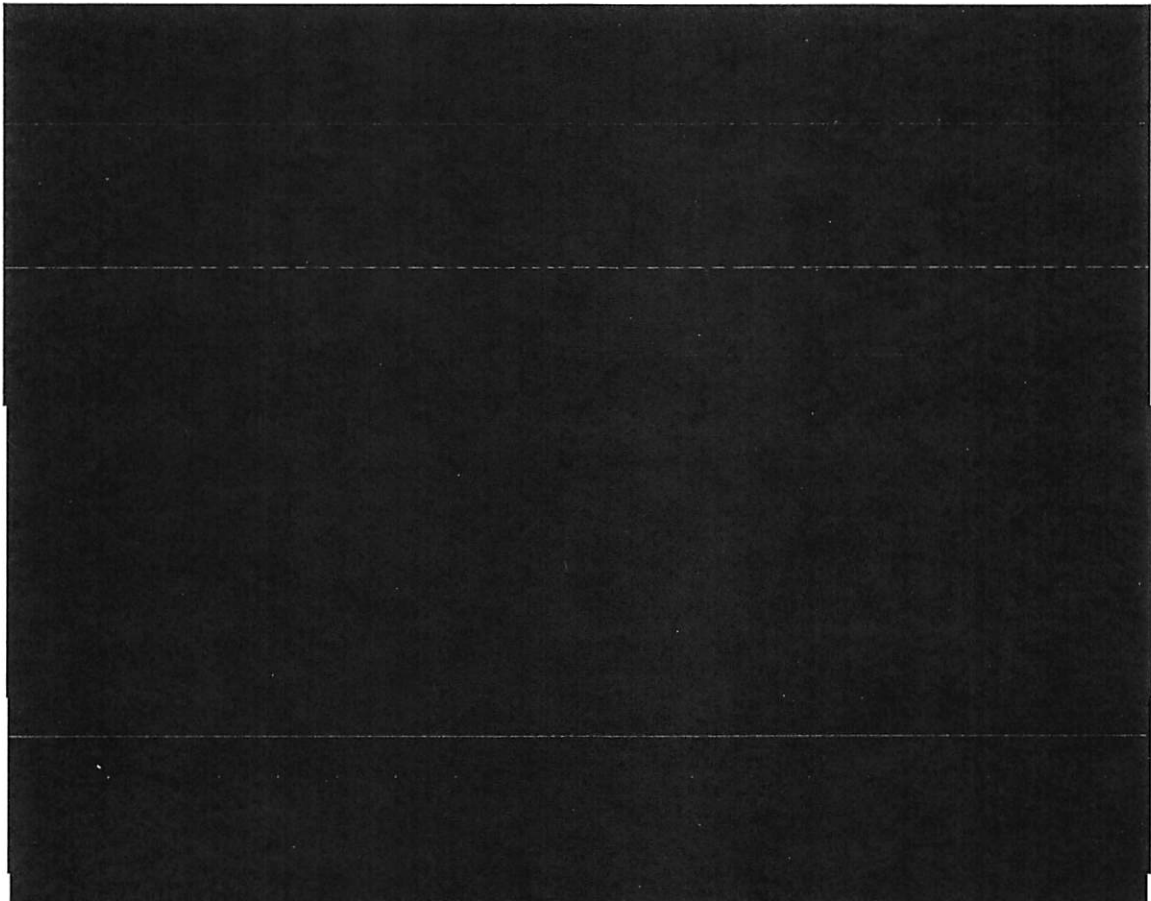
We will also attempt to file these in person at the Tribal Court in Deming.

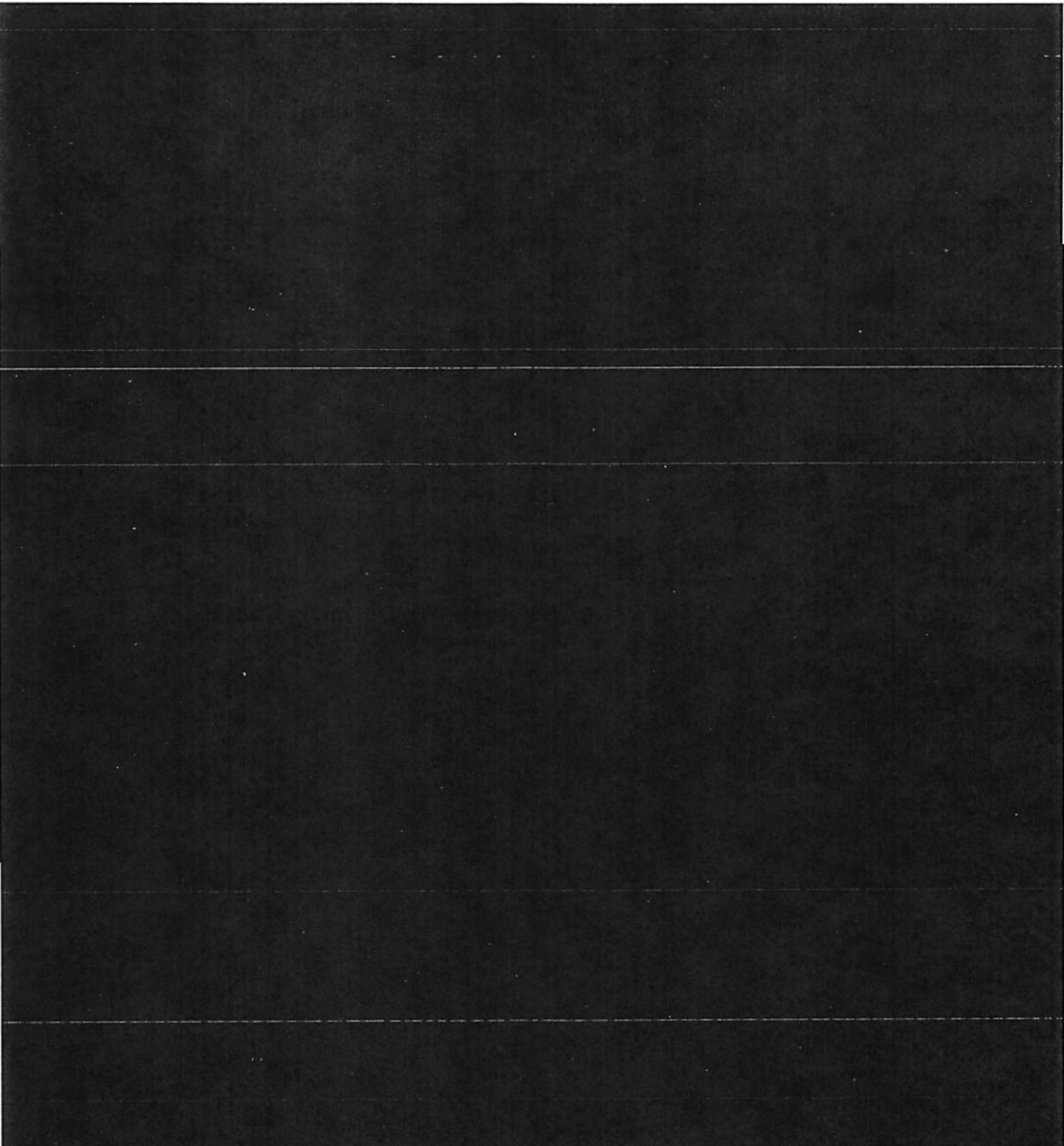
This email is not intended to be the practice of law or transaction of business within the Nooksack Tribe's jurisdiction.

Thank you,

Anthony S. Broadman, Pro Se

Ryan D. Dreveskracht, Pro Se





From: Gabe Galanda [<mailto:gabe@galandabroadman.com>]

Sent: Monday, June 20, 2016 9:24 AM

To: dank@nics.ws; Katie Nicoara <katien@nics.ws>



Subject: Re: Broadman (pro se) and Dreveskracht (pro se) v. Tribal Court - Motion for Show Cause Order; Declaration; Proposed Order

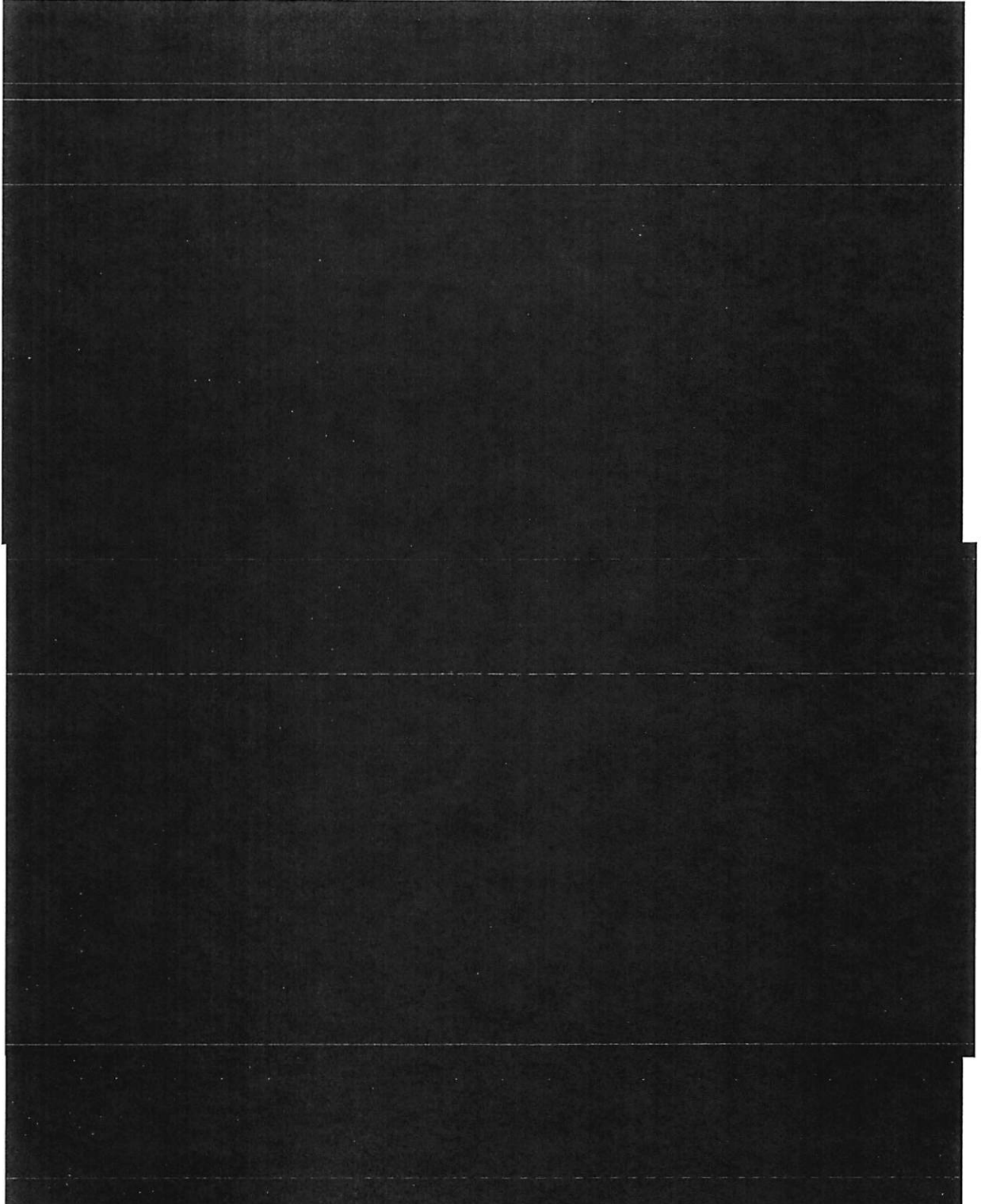
Nooksack Appellate Court Staff:

Attached please find my Fifth Declaration with Exhibit A.

We will again attempt to file this pleading in person and by U.S. Mail.

This email does not constitute the practice of law or transaction of business at Nooksack.

Gabriel S. Galanda, Pro Se



**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-001 & 002

**Order Finding Betty Leathers
in Contempt**

On February 24th, 2016, the Nooksack Tribal Council adopted a resolution that stated, in relevant part, “BE IT RESOLVED, Mr. Galanda and his firm are not fit to practice law in the Nooksack Tribal Court and [are]hereby barred from . . . practicing in the Tribal Court.” Nooksack Tribal Council, Resolution #16-28 (February 24, 2016). This Resolution purports to bar Mssrs. Gabriel S. Galanda, Anthony S. Broadman, Ryan D. Dreveskracht as well as five other members of the Galanda Broadman law firm from practicing law in the Nooksack Tribal Court. Mssrs. Galanda, Broadman and Dreveskracht currently represent more than 300 members of the Nooksack Indian Tribe who are being threaten with disenrollment by the Nooksack Tribal Council in a lawsuit known in the popular press as “the Nooksack 306.”

In the recitals composing the preamble to the Resolution, the Nooksack Tribal Council appears to justify its disbarment of Attorney Galanda by taking issue with a ruling handed down by him while serving as a pro tem judge for the Quinault Tribal Court and by a reference to “numerous other unethical acts before the Nooksack Tribal Court”. *Id.* No recitals attempt to justify barring the other seven Mssrs. from practice before the Nooksack Tribal Court. Mssrs. Galanda, Broadman and Dreveskracht were given no notice that the Tribal Council was intending to take up this Resolution at its meeting on February 24th, 2016, nor were they given any opportunity to be heard prior to the Nooksack Tribal Council adopting the Resolution.

Insofar as the process adopted by the Nooksack Tribal Council and the Resolution that it produced possibly violate the due process rights afforded to Mssrs. Galanda, Broadman and Dreveskracht by Title II of the Indian Civil Rights Act, it is hardly surprising that these three Mssrs. subsequently filed a Complaint and a Motion for Injunctive and Declaratory Relief in

Nooksack Tribal Court challenging the action of the Nooksack Tribal Council.¹ The Court Clerk, Betty Leathers, accepted these documents for filing on March 24th, 2016 at 10:38. Each document is date-stamped “03-24-16A10:38 RCVD” and signed “Betty Leathers” in the upper righthand corner of its first page. The Court Clerk also assigned a case file number to each document, assigning case file number 2016-CI-CL-001 to the Complaint and case file number 2016-CI-CL-002 to the Motion for Injunctive and Declaratory Relief. That the Court Clerk Betty Leathers assigned these numbers to the two documents is evident both from the fact that she initialed the case file number on the Motion for Injunctive and Declaratory Relief and from the fact that the last three digits of the assigned case file numbers on both documents are written with the same pen and in the same hand that produced Betty Leathers’ signature on each document. Finally, the two shadowy grey circles produced by a two-hole punch at the top of each document suggest that both the Complaint and the Motion for Injunctive and Declaratory Relief were placed in a Court case file after being accepted. See the images immediately below.

1		03-24-16A10:38 RCVD
2		Betty Leathers
3		
4		03-24-16A10:38 RCVD
5		
6	IN THE NOOKSACK TRIBAL COURT	
7	GABRIEL S. GALANDA, ANTHONY S.	NO. 2016-CI-CL- 002 ^{SL}
8	BROADMAN, and RYAN D.	MOTION FOR INJUNCTIVE AND
9	DREVESKRACHT,	DECLARATORY RELIEF
	<i>Pro Se</i> Plaintiffs,	

¹ We do not decide whether there has been a due process violation. That issue is not before us and is properly decided in the first instance by the tribal judge.

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03-24-16A10:38 RCVD

Betty Leathers

IN THE NOOKSACK TRIBAL COURT

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

Pro Se Plaintiffs,

NO. 2016-CI-CL- 001
COMPLAINT

Curiously, on April 1st, 2016, Mssrs. Galanda, Broadman and Dreveskracht received a letter from the Nooksack Tribal Court returning their Complaint and Motion for Injunctive and Declaratory Relief. The letter stated that “[t]hese documents, which were filed on the day before a Court holiday, are rejected for the following reasons:” It then went on to state three different reasons for the rejection and return of the documents.

This letter is curious for at least three reasons. First, the letter is unsigned. While the letter is written on the stationary of the Nooksack Tribal Court, no one actually signed the letter. Hence, there is no way to tell who actually sent the letter or who is responsible for the letter being sent. Somewhat suspiciously, it is as if whoever is responsible for the letter is attempting to cloak their identity. Second, the letter involves the Tribal Court in an action that is neither customary nor lawful. Once a document has been filed, there is no provision in the Nooksack Tribal Code for returning it. Once a pleading or other document is filed with the Court Clerk, it is pending before the Court and can only be disposed of through judicial action. If a filed pleading is somehow improper, then a judge may dismiss it. If a filed motion is improper, a judge may strike it from the record. In no case can documents accepted for filing be disposed of or returned extrajudicially.

Here, the very letter returning the documents acknowledges that the Complaint and the Motion for Injunctive and Declaratory Relief had already been accepted for filing, that is, had already been filed: it states that the documents “were filed on the day before a Court holiday.” Accordingly, assuming, *arguendo*, that the Complaint was filed improperly, the proper course of action is not for the Tribal Court to return the Complaint, but for the defendants in the action to move the Court to dismiss the Complaint. Similarly, assuming, *arguendo*, that the Motion for Injunctive and Declaratory Relief was accepted for filing improperly, the proper course of action is for the defendants to submit a motion to strike or, perhaps, a memorandum in opposition to the requested relief.

Nor do the recent amendments to Title 10 of the Nooksack Tribal Code alter this conclusion. On April 18th, 2016, ten days after the Complaint and Motion for Injunctive and Declaratory Relief had been returned to Mssrs. Galanda, Broadman and Dreveskracht and 55 days

after the two documents had been accepted for filing, the Nooksack Tribal Council adopted a resolution making various amendments to Title 10, Tribal Court System and Court Rules, of the Nooksack Tribal Code. Nooksack Tribal Council, Resolution #16-47 (April 18th, 2016). One of these amendments added new section 10.04.030, Review of Filed Documents. This section states that “[t]he clerk is responsible for determining whether a document shall be accepted for filing. A document that fails to comply with the requirements of this Title shall be rejected and returned to the filing party along with a Notice of Rejection stating the basis for the rejection.” It is worth emphasizing that even under this new section 10.04.030, the Court Clerk only has the authority to reject a non-complying document when it is presented for filing. In other words, the Court Clerk has the authority to refuse to accept for filing a non-complying document, but once she has accepted a document for filing, it requires judicial action to dismiss or strike it—the Court Clerk cannot simply remove a document from the file and return it as if it never existed. In the present matter, the Court Clerk did determine “whether the Complaint and Motion for Injunctive and Declaratory Relief shall be accepted for filing.” The second sentence of the letter from the Nooksack Tribal Court dated April 1, 2016—“[t]hese documents, which were filed on the day before a Court holiday . . .”—unequivocally evinces the Court Clerk determined that they should be accepted, and then accepted the documents for filing.

Nor did the Court Clerk err in accepting the Complaint and Motion for Injunctive and Declaratory Relief for filing. The second section of 10.04.030 states that “[a] document that fails to comply with the requirements of this Title shall be rejected and returned to the filing party along with a Notice of Rejection stating the basis for the rejection.” Neither the Complaint, nor the Motion for Injunctive and Declaratory Relief failed to comply with the requirements of Title 10. Title 10 contains three provisions containing requirements with which any document submitted to the Court for filing must comply. Section 10.05.060(a) states that “[u]nless otherwise specified by the judge or in these rules, defenses, motions, arguments, and other requests made to the court have to be in writing.” Both the Complaint and the Motion for Injunctive and Declaratory Relief accepted for filing by the Court Clerk on February 24th, 2016 were in writing. Thus, both documents complied with section 10.05.060(a).

Section 10.05.060(b) states, in relevant part, that

All pleadings should be clear and legible and shall contain the name of the court, the names of all parties, the court file number of the case, the signature of the party filing the pleading, or the signature of the party's advocate, and any other information required by these rules.

Both the Complaint and the Motion for Injunctive and Declaratory Relief accepted for filing by the Court Clerk on February 24th, 2016 were clear and legible—they were typed documents. Both documents contained the name of the court, the names of all parties, the court file number of the cases, and the signature of the party filing the document—all of the specific information required by this section. Thus, both documents complied with section 10.05.060(b).

Finally, section 10.05.050(g) requires that “[a]ny document submitted for filing for which a filing fee is required must be accompanied by the appropriate fee. The clerk will not accept for

filing any document for which a filing fee is required, without prepayment.” The filing fee for both the Complaint and Motion for Injunctive and Declaratory Relief was paid as required by section 10.05.050(g): the last sentence of the letter from the Nooksack Tribal Court dated April 1, 2016 informs Msrs. Galanda, Broadman and Dreveskracht that “[a] refund of the filing fees will be processed shortly.” Thus, the Complaint and Motion for Injunctive and Declaratory Relief complied with this section as well. In short, the Court Clerk was correct to accept for both documents for filing because there were no reasons based in Title 10 to reject them: the documents formally complied with Title 10 and the filing fees had been paid.

This brings us to the second reason why the letter from the Nooksack Tribal Court returning the Complaint and Motion for Injunctive and Declaratory Relief is so curious. None of the three reasons recited in the letter from the Nooksack Tribal Court dated April 1, 2016 are based in the Nooksack Tribal Code. Indeed, none of the reasons offered stand a moment’s scrutiny. We will consider each in turn.

The first reason that the letter from the Tribal Court offers for returning the Complaint and the Motion for Injunctive and Declaratory Relief is that “[t]he motion and the complaint should not have had two different cause numbers, because they are the same matter.” On its face, this reason is bizarre. As we have already noted, it was the Court Clerk herself, Betty Leathers, who wrote the case file numbers on each of the documents. Betty Leathers wrote “2016-CI-CL-001” on the Complaint and Betty Leathers wrote “2016-CI-CL-002” on the Motion for Injunctive and Declaratory Relief. If a clerical mistake was made, it was Betty Leathers, the Court Clerk, who made the mistake and it was Betty Leathers who had the responsibility for correcting the mistake. This responsibility is clearly placed on the Court Clerk by the Nooksack Tribal Code. Section 10.04.020(a) states that “[o]fficial records of the Tribal Court shall be maintained by the clerk.” Moreover, section 10.05.020(c) states, in relevant part, that “[o]fficial Tribal Court records kept by the clerk are: . . . [a] docket book which shows, for each case filed in Tribal Court, *the case file number*, the parties’ names and short description of every document filed and every order issued in the case, including the date of the order or filing.” (emphasis added). If the Court Clerk had mistakenly entered two different case file numbers on the Complaint and the Motion for Injunctive and Declaratory Relief, then it was her duty and within her authority to correct this administrative error. To do this, she simply had to scratch out the second case file number assigned to the Motion in the docket book and enter the case file number already assigned to the Complaint. Then, just to be complete, she needed to enter the case file number that she had assigned to the Complaint on the first page of the Motion for Injunctive and Declaratory Relief, scratching out the case file number that she herself had placed on the Motion and initialed at approximately 10:38 am on February 24th, 2016. Instead of making this simply administrative fix, the letter cites the Court Clerk’s own mistake as a reason for returning the Complaint and the Motion for Injunctive and Declaratory Relief to the Petitioners. Needless to say, the first proffered reason is specious, unpersuasive and utterly without merit.

The second reason proffered for returning the documents in the letter from the Nooksack Tribal Court does not even pretend to justify returning the Complaint, but is concerned only with the Motion for Injunctive and Declaratory Relief. The letter states, in relevant part, that

Your Motion was [] improperly noted and will not be set for hearing. Pursuant to NTC 10.05.030(c) [now (d) in amended Title 10], 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.

(emphasis and underlining in the original). This first sentence of the quoted paragraph refers to a third document, Note For Motion, accepted for filing on February 24th, 2016. Like the Complaint and the Motion for Injunctive and Declaratory Relief, this document was signed by the Court Clerk Betty Leathers, inscribed with a case file number also initialed by Betty Leathers and date-stamped “03-24-16A10:39 RCVD”—having been received and accepted for filing one minute after the other two documents. The letter correctly observes that the proposed date for a hearing on the Motion for Injunctive and Declaratory Relief does not comply with the Nooksack Tribal Code. The hearing date proposed, April 1, 2016, is only 38 days after service on the Tribe and the Nooksack Tribal Code requires a hearing no earlier than 14 days after the deadline for filing an answer. Accordingly, the Note For Motion should have proposed a hearing no earlier than June 6th, 2016. See image immediately below.

1	<div style="border: 1px solid black; padding: 5px; text-align: center;">RECEIVED MAR 24 2016 Office of Tribal Attorney Nooksack Indian Tribe</div> <p><i>by personal del.</i></p>		03-24-16A10:39 RCVD <i>Betty Leathers</i>
2			
3			
4			
5	IN THE NOOKSACK TRIBAL COURT		
6	GABRIEL S. GALANDA, ANTHONY S. BROADMAN, and RYAN D. DREVESKRACHT, <i>Pro Se Plaintiffs,</i>	NO. 2016-CI-CL- <i>002</i> NOTE FOR MOTION	
7			
8			
9			

Nonetheless, for reasons already discussed, it is quite clear that an error in calculating a date for a hearing on a motion does not justify returning the motion, let alone the complaint that commenced the action, as if neither the complaint, nor the motion had ever been filed.

This is especially the case when, as here, the Court Clerk herself is complicit in the error. Under section 10.05.030(d) of the Nooksack Tribal Code, the Court Clerk is responsible for setting the time for a hearing. Section 10.05.030(d) states that “[u]nless otherwise provided in these rules, the court clerk shall set and record the time for trials and other hearings.” It is for this reason that section 10.05.050(e)(i) requires that “[t]he time and date for [a] hearing shall be scheduled in advance by the moving party by contacting the clerk prior to filing the motion.”

Mssrs. Galanda, Broadman and Dreveskracht all signed the Note For Motion and therein state that “[t]he time and date for this hearing was scheduled in advance by contacting the Court.” Even if the movants only consulted with the Court Clerk when presenting the Note For Motion for filing, it was the duty of the Court Clerk to ensure that the date proposed for the hearing met the requirements of the Nooksack Tribal Code. Once the error was discovered, rather than return the Complaint and Motion for Injunctive and Declaratory Relief, the proper remedy was for the Court Clerk to set a hearing date that complied with the requirements of the Nooksack Tribal Code and notify the parties of the change.

The third and final reason that the letter from the Tribal Court proffers Mssrs. Galanda, Broadman and Dreveskracht for returning the Complaint and the Motion for Injunctive and Declaratory Relief is that

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.

The quoted paragraph does not expressly state the advice sought and received from legal council, but it is clear from the last sentence that it amounted to the claim that a lawyer who represents himself pro se is engaged in the practice of law. Accordingly, the anonymous sender of the letter concludes that Mssrs. Galanda, Broadman and Dreveskracht are barred from proceeding pro se before the Nooksack Tribal Court by Resolution #16-28. This interpretation of the letter is confirmed by a second letter that Mssrs. Galanda, Broadman and Dreveskracht received from the Nooksack Tribal Court dated May 9, 2016 in which the same or another anonymous sender writes

[u]nder Washington's 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.

In the case *In re Disciplinary Proceeding Against Haley*, the Washington Supreme Court held that a lawyer acting pro se is "representing a client" for purposes of RPC 4.2(a). That Rule of Profession Conduct states that “[i]n representing a client, a lawyer shall not communicate about the subject of the representation with a party the lawyer knows to be represented by another lawyer in the matter, unless the lawyer has the consent of the other lawyer or is authorized by law to do so.” The decision does *not* hold that a lawyer who is acting pro se is

practicing law. In fact, just the opposite is true: in the State of Washington, a lawyer who is acting pro se is *not* practicing law. General Rule 24, Definition of the Practice of Law, of the Washington Court Rules states very clearly in section 24(a) that “[t]he practice of law is the application of legal principles and judgment with regard to the circumstances or objectives of *another entity or person(s)* which require the knowledge and skill of a person trained in the law.” (emphasis added). A lawyer who is acting pro se and representing himself is not applying legal principles and judgment with regard to the circumstances or objectives of *another person*. Thus, an attorney who is acting pro se and representing himself is not practicing law as that phrase is defined under Washington law. In defining the practice of law in a manner that excludes an attorney who is acting pro se and representing himself, the State of Washington is following the recommendation of the American Bar Association’s Task Force on the Model Definition of the Practice of Law. That Task Force adopted the following resolution on August 11, 2003:

RESOLVED, That the American Bar Association recommends that every state and territory adopt a definition of the practice of law.

FURTHER RESOLVED, That each state’s and territory’s definition should include the basic premise that the practice of law is the application of legal principles and judgment to the circumstances or objectives of *another person or entity*.

<http://www.americanbar.org/content/dam/aba/migrated/cpr/modeldef/recomm.authcheckdam.pdf>. (emphasis added). While it is clear from the letters that the Nooksack Tribal Court accepts Washington law as persuasive authority as to what constitutes the practice of law, it is equally clear that the anonymous sender of the two letters has misinterpreted Washington law. Under both Washington law and the recommendation of the American Bar Association, Mssrs. are not engaged in the practice of law when they represent themselves in a lawsuit. If, like the Nooksack Tribal Court in its two anonymously sent letter, we too accept Washington law as persuasive authority regarding the definition of the practice of law, it follows that when Attonreys Galanda, Broadman and Dreveskracht proceed pro se, they are not engaged in the practice of law and, therefore, are not barred by Resolution #16-28 from commencing a lawsuit on their own behalf in the Nooksack Tribal Court. Accordingly, just like the first two reasons discussed above, this third and final reason for returning the Complaint and the Motion for Injunctive and Declaratory Relief to Mssrs. Galanda, Broadman and Dreveskracht is also specious, unpersuasive and wholly without merit.²

Just as troubling as the faulty reasoning and the misinterpretations of law embodied in the three specious reasons proffered in the letter from the Nooksack Tribal Court is the attempt of its sender to usurp the judicial function of a tribal judge. It is the exclusive province and role of a tribal judge to interpret the words of the Tribal Council in a resolution relevant to a case pending before the Tribal Court. The administrative personnel of the Tribal Court lack the expertise, power and authority to interpret a Tribal Council resolution or any other tribal law. Interpretations of tribal law that affect the rights and duties of the parties before the Court must be left to a duly

² In her order in *Belmont v. Kelly*, 2014-CI-CL-007, the disbarment issue was addressed and the now terminated tribal judge noted “...the Galanda Broadman attorneys have not lost their right to self-representation in the matter. *Id.* at 14, n. 3.

appointed tribal judge. If a defendant before the Tribal Court believes that a Tribal Council resolution bars the plaintiff's action, then the defendant must make his argument to the Court and the tribal judge will interpret the resolution and rule on the merits of the defendant's position. It is not up to the administrative personnel of the Tribal Court to short-circuit this process and interpret the law for themselves. All lawsuits are contested matters that must be adjudicated by a judge. The role of a court clerk is not to substitute her legal judgment for that of the judge, but to support and assist the judge by managing and coordinating the smooth flow of cases that come before the judge. If an individual seeks to commence a lawsuit in the Tribal Court and presents a complaint for filing, the role of a court clerk is to collect the filing fee and review the document to ensure that it is properly formatted. If the complaint passes that review and the fee is paid, then the court clerk is to accept the complaint for filing. It is not the role of the court clerk to determine if the court has jurisdiction over the subject of the lawsuit, whether the Tribal Court is the proper venue, or to answer any other question of law presented by the lawsuit. Such questions must be left to the judge when properly raised by the parties to the lawsuit.

Compounding the error of usurping the function of a tribal judge, the letter also discloses that the court clerk—apparently recognizing her lack of expertise to interpret Tribal Council Resolution #16-28—sought “the advice of legal council” as to how this Resolution should be interpreted. In doing so, the administrative personnel of the Tribal Court placed an unknown and unaccountable private attorney in the role of a duly appointed tribal judge. That a court clerk or any other administrative personnel of the Tribal Court could so subvert the judicial process of the Court that they are charged with protecting and facilitating is mind-boggling. For all we know, the court clerk could have consulted the attorney for the defendants in a potential lawsuit about whether the plaintiffs should be allowed to file their complaint against the attorney's clients. The perversion of justice that this represents should be patently obvious even to those untrained in the law.

In sum, it is clear from the letter from the Nooksack Tribal Court dated April 1, 2016 that Mssrs. Galanda, Broadman and Dreveskracht's Complaint and Motion for Injunctive and Declaratory Relief were accepted for filing on February 24th, 2016. It is also clear that sometime later the Complaint and Motion for Injunctive and Declaratory Relief were removed from their case file and returned to Mssrs. Galanda, Broadman and Dreveskracht under cover of a letter dated April 1, 2016. Finally, it is equally clear that the removal and return of these documents was unlawful and without justification under either the Nooksack Tribal Code or Resolution #16-28 and that the three reasons offered for the removal and return of the documents were specious and wholly without merit.

We thus have a rather curious and unprecedented situation. The letter from the Nooksack Tribal Court dated April 1, 2016 admits that the Complaint of Mssrs. Galanda, Broadman and Dreveskracht was filed on February 24th, 2016—the day before a Court holiday—and that the filing fees were paid. Accordingly, under Title 10 of the Nooksack Tribal Code, a lawsuit was commenced and a case file for the matter opened. The improper actions of the Court Clerk in removing the Complaint and returning it to Mssrs. Galanda, Broadman and Dreveskracht does not alter the fact that on February 24th, 2016, a lawsuit was commenced and is currently pending before the Nooksack Tribal Court. A bell cannot be unrung. Before this lawsuit can proceed,

however, the Complaint and Motion for Injunctive and Declaratory Relief must be returned to their empty case file in the courthouse.

When Msrs. Galanda, Broadman and Dreveskracht attempted to return the documents to the Court, the Court Clerk acting for the Nooksack Tribal Court refused to accept them. The Court Clerk refused to accept the return of the documents because as explained in the letters from the Nooksack Tribal Court dated April 1, 2016 and May 9, 2016, she believed that Resolution #16-28 prevented her from doing so. On April 6th, 2016, believing this to be an obvious error that limited their freedom to pursue their lawsuit, Msrs. Galanda, Broadman and Dreveskracht filed an interlocutory appeal with this Court. While Msrs. Galanda, Broadman and Dreveskracht captioned and titled their filing in terms of the relief they sought—a petition for a writ of mandamus directed to the Nooksack Tribal Court—strictly speaking, it was a request for permission to file an interlocutory appeal in the case that was commenced when the Complaint was accepted for filing on February 24th, 2016. *See*, Petition for Writ of Mandamus, at 2, n. 1 (where the petitioner’s argue in the alternative that their request be treated as an appeal under Title 80 given their Complaint was returned by the court). Under section 80.03.020 of the Nooksack Tribal Code, “[a]n aggrieved party may seek review of acts of the Nooksack Tribal Court Permission to file an interlocutory appeal shall be granted only if the Nooksack Tribal Court has committed an obvious error which . . . substantially limits the freedom of a party to act.” Agreeing that in failing to accept the return of the Complaint and Motion for Injunctive and Declaratory Relief, the Nooksack Tribal Court had committed an obvious error that substantially limited the freedom of Msrs. Galanda, Broadman and Dreveskracht to pursue their lawsuit, on April 25th, 2016, this Court accepted the interlocutory appeal and issued a writ of mandamus ordering the Court Clerk to accept the return of the Complaint and Motion for Injunctive and Declaratory Relief or file an answer with this Court on or before May 16th, 2016. May 16th came and went without the Court Clerk accepting the return of the documents or filing an answer with this Court. Accordingly, on May 26th, 2016, this Court ordered that the Court Clerk accept and file all pleadings the Petitioners have presented for filing in this case by June 3, 2016 or show cause by affidavit why we should not find her in contempt and order the Nooksack Chief of Police to hold her in jail until she purges the contempt by filing the pleadings, for willfully failing to comply with our orders. Now June 3rd has come and gone, and the Court Clerk has neither accepted the documents nor shown cause by affidavit why we should not find her in contempt of this Court.

While the Court Clerk has not responded to our prior orders, this Court received an unsolicited and unprecedented ex parte letter from the Chairman of the Nooksack Tribal Council on June 2, 2016. In this letter, the Chairman states that he writes on behalf of the Nooksack Indian Tribe and the Nooksack Tribal Court. This Court accepts that his letter is written on behalf of the Nooksack Indian Tribe, but we note that he has no authority to speak for the Nooksack Tribal Court. While the constitutional authority to create the Nooksack Tribal Court is vested in the Tribal Council, the Tribal Council has no role in the day-to-day operations of the Court.³ This is by constitutional design and is required by the most fundamental principles of due process and an independent judiciary. It ensures that no person—not even the Tribe itself—will be judge in his own cause. We respect the Chairman’s view that the doctrine of tribal sovereign immunity bars

³ This is not to deny the important role of the Tribal Council in periodically appointing tribal judges and approving the annual budget for the Tribal Court

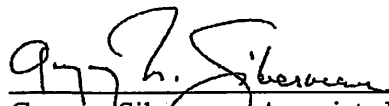
the lawsuit commenced by Mssrs. Galanda, Broadman and Dreveskracht in effect challenging the Tribal Council's authority to disbar them under the Nooksack Constitution and Title II of the Indian Civil Rights Act. Rather than communicating his views to this Court, we would advise him to consult with the Tribal Attorney about intervening in the action and filing a motion to dismiss the lawsuit of Mssrs. Galanda, Broadman and Dreveskracht based on a theory of sovereign immunity once the Court Clerk accepts the return of the Complaint and the Motion for Injunctive and Declarative Relief so the case can properly and legally proceed to an initial hearing before the trial division of the Nooksack Tribal Court.

This Court is troubled, however, by two passages in the letter received from the Chairman. The two passages are statements by the Chairman concerning the Court's two prior Orders requiring the Court Clerk to accept the Complaint and related motion of Mssrs. Galanda, Broadman and Dreveskracht or show cause why she should not be held in contempt. The Chairman states that "the Court will do neither" and that "the Tribal Court Clerks will not be accepting the Galanda Broadman documents for filing." This Court fears that these two statements could be read to suggest that the Chairman and the Tribal Council are attempting to improperly influence the course of a lawsuit in which they have an interest and that was properly filed and is currently pending before the Nooksack Tribal Court. While this Court is certain that the Chairman would not deliberately coerce or intimidate the Court Clerks into violating the lawful orders of this Court, it fears that others may not be so generous. To give the appearance of interfering with the proper operation of the Nooksack Tribe's justice system undermines the sovereignty of all tribes across the nation because it suggests to those who would curtail and thwart the progress we have made as Indians over the last forty years that we are still not able to operate an independent judiciary.

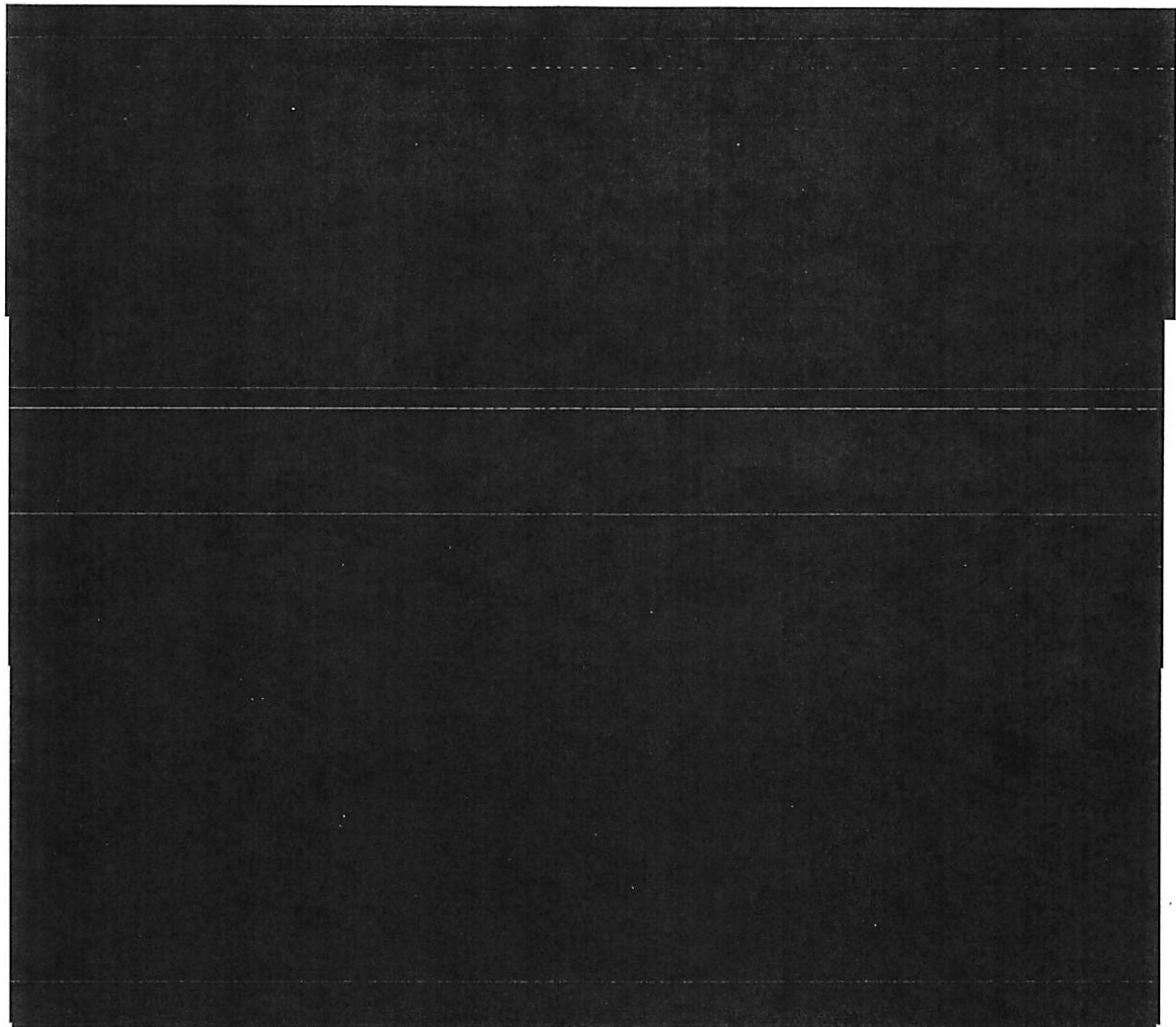
IT IS HEREBY ORDERED that having not heard from the Court Clerk, Betty Leathers, as required in our two previous Orders, this Court has no alternative but to find Betty Leathers in contempt. If the contempt is not purged by the Court Clerk accepting the return of the Complaint and Motion for Injunctive and Declaratory Relief from Mssrs. Galanda, Broadman and Dreveskracht on or before July 6th, 2016, the Nooksack Chief of Police is ordered to arrest and jail Betty Leathers until such time as the return of the documents from Messrs. Galanda, Broadman and Dreveskracht are accepted by a clerk of the Nooksack Tribal Court and the contempt purged.

It is so ordered, this 28th day of June, 2016, for the panel,

Douglas Nash, Associate Judge
Eric Nielsen, Chief Judge



Gregory Silverman, Associate Judge



On Mon, Jul 11, 2016 at 4:55 PM, Gabe Galanda <gabe@galandabroadman.com> wrote:

Ms. Nicoara:

Attached please find Plaintiffs' pro se Motion To Enforce Contempt Order, and my supporting Declaration with Exhibits.

Originals of both papers will be mailed to you in Lynnwood and to the Nooksack Tribal Court in Deming, and we will also attempt to file them in person with the Court Clerk.

Kindly reply to confirm your receipt of this email and its two attachments.

Thank you,

Gabriel S. Galanda, Pro Se



From: Dan Kamkoff
To: Gabe Galanda; Katie Nicoara
[REDACTED]
Subject: RE: In Re Galanda v. Nooksack Tribal Court, Order Re Petition for Mandamus & Order Finding Betty Leathers in Contempt
Date: Tuesday, July 12, 2016 12:42:25 PM

All:

This email and the attached filings has been received and forwarded to the panel.

Thanks,

Dan A. Kamkoff

Executive Director

Northwest Intertribal Court System

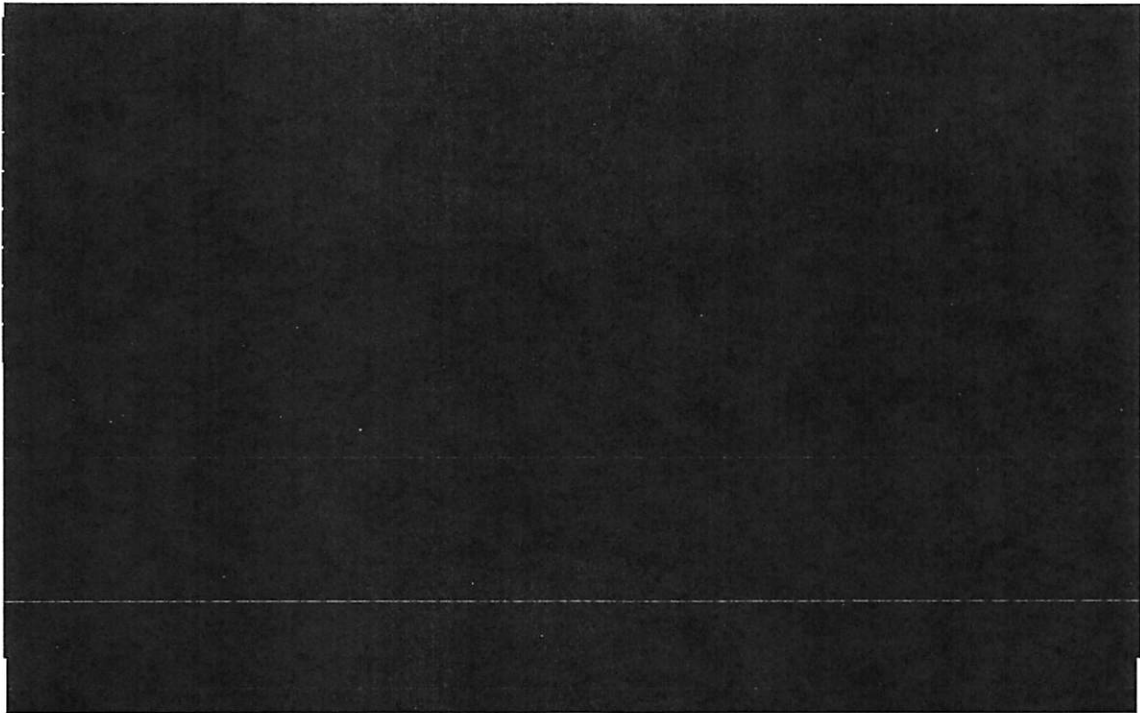


EXHIBIT T

**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

**Order on Motion to Enforce Contempt
Order**

The procedural and substantive facts in this ongoing case are all too familiar with the parties and this Court. The following is merely a brief summary.

On April 25th, 2016, this Court accepted petitioners' interlocutory appeal and issued a writ of mandamus ordering the Court Clerk to accept the return of the petitioners Complaint and Motion for Injunctive and Declaratory Relief or file an answer with this Court on or before May 16th, 2016. May 16th came and went without the Court Clerk accepting the return of the documents or filing an answer with this Court. On May 26th this Court ordered that the Court Clerk accept and file all of petitioners' pleadings in this case by June 3rd or show cause by affidavit why we should not find her in contempt and order the Nooksack Chief of Police to hold her in jail until she purges the contempt by filing the pleadings. The Court Clerk still did not accept the documents for filing nor show cause by affidavit why we should not find her in contempt. On June 28, 2016, this Court found the Court Clerk in contempt and ordered the Nooksack Chief of Police to hold her in jail until she purged the contempt by filing the pleadings.

On July 12, 2016, petitioners filed with this Court this current Motion to Enforce Contempt Order. The motion is supported by petitioner Galanda's declaration that the Court Clerk has still not accepted the pleadings, and that the Nooksack Chief of Police has failed to comply with our June 28th order that the Court Clerk be held in jail until she purges her contempt by filing the pleadings.

In his declaration Galanda has also directed us to recent public statements attributed to the Nooksack Tribe's Chairman that suggest Nooksack Court of Appeals orders are extralegal. Galanda Declaration, Exhibit D (July 11, 2016 article published by the Bellingham Herald purporting to quote the Tribe's Chairman). We do not find the Chairman actually made those statements. If he did we do not know the context in which the statements were made. However, we take this opportunity to remind the Tribe's officials that the mechanism for challenging tribal court orders is through the Tribe's legal processes as mandated by its constitution. If Nooksack

Court of Appeals orders are simply ignored by the Tribe's government officials the Nooksack government ceases to operate under the rule of law and as a result it forfeits (1) its claim to equal status with other sovereign tribes (2) any right to demand other jurisdictions respect Nooksack Tribal Court orders or that other sovereign governments deal with it government to government, and (3) its legal authority to govern the Tribe. The Court Clerk and Nooksack Chief of Police do not have a legal option of refusing to comply with lawful orders issued by a Nooksack court. They have a legal duty to comply with the law and no tribal official is above the law, particularly the Tribe's chief law enforcement officer who has taken an oath to uphold the law.

Despite what other tribal officers do or fail to do, we will not abandon our sworn duty and responsibility to enforce the laws and constitution of the Nooksack Tribe. Thus, we cannot ignore the allegation there has been willful noncompliance with our orders.

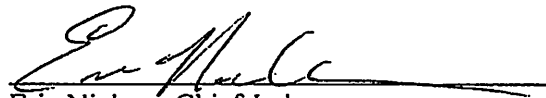
Therefore, it is ordered that on or before August 3, 2016, the Nooksack Chief of Police shall show cause in writing and supported by an affidavit or declaration why he should not be held in contempt of this Court and ordered to pay \$1,000.00 per day until he purges the contempt by complying with our June 28th Order directing the Court Clerk be jailed until she accepts petitioners filings.

It is further ordered that the Chief of Police shall show cause why he should not be sanctioned for failing to comply with our June 28th Order by paying petitioners' reasonable costs and other fees incurred in bringing this motion.

The Chief of Police shall submit the response by mail to the Northwest Indian Court System (NICS) administrator at 20818 - 44th Avenue West, Suite 120, Lynnwood, WA 98036-7709.

It is so ordered, this 25 day of July, 2016, for the panel,

Douglas Nash, Associate Judge
Gregory Silverman, Associate Judge


Eric Nielsen, Chief Judge

8-3-16 Declaration of Gabriel S Galanda in Support of Response re Order on Motion to Enforce Contempt Order.pdf

**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

**Order on Motion to Enforce Contempt
Order**

On July 25, 2016, we entered the following order:

“...that on or before August 3, 2016, the Nooksack Chief of Police shall show cause in writing and supported by an affidavit or declaration why he should not be held in contempt of this Court and ordered to pay \$1,000.00 per day until he purges the contempt by complying with our June 28th Order directing the Court Clerk be jailed until she accepts petitioners filings.

It is further ordered that the Chief of Police shall show cause why he should not be sanctioned for failing to comply with our June 28th Order by paying petitioners’ reasonable costs and other fees incurred in bringing this motion.

The Nooksack Chief of Police, like the Court Clerk, has failed to comply with our order. We are forced to find the Nooksack Chief of Police in contempt. We find it astounding that the Chief of Police, who is sworn to enforce the law, would so blatantly violate his duty by ignoring a lawful order of the Nooksack Court. That both the Court Clerk and Chief of Police have failed to comply with our orders without offering any reason makes us fearful that at Nooksack the rule of law is dead.

Therefore, it is ordered that the Nooksack Chief of Police shall pay a sanction of \$1,000.00 per day beginning August 4, 2016 until such time as he purges the contempt by complying with our July 28th Order. He is also ordered to pay petitioners reasonable costs for bringing the motion leading to our July 28th Order. Petitioners shall file with this Court an accounting of their costs on or before August 20, 2016.

We also find that petitioners have likely exhausted the remedies this Court can provide on the issue that is the subject of these orders.¹

It is so ordered, this 15 day of August, 2016, for the panel,

Douglas Nash, Associate Judge
Gregory Silverman, Associate Judge


Eric Nielsen, Chief Judge

¹ We note that petitioner Galanda filed a response to our order on August 4, 2016. The response is replete with pejoratives and sarcasm. While we sympathize with his frustration at the turn of events this litigation has taken, it is no reason to abandon professionalism.

Gabriel S. Galanda, Pro Se

From: [Gabe Galanda](#)
To: [Katie Nicoara](#)
Subject: Re: In Re Galanda v. Nooksack Tribal Court, Order on Motion to Enforce Contempt Order
Date: Monday, August 22, 2016 4:37:15 PM
Attachments: [8-22-16 Errata \(1\).pdf](#)

Ms. Nicoara:

Attached please find the REJECTED Errata to Petitioners' previously submitted cost accounting.

As with all of our prior filings and related communications, this filing and email is not the practice of law or transaction of business at Nooksack.

Gabriel S. Galanda, Pro Se

On Mon, Aug 22, 2016 at 12:34 PM, Gabe Galanda <gabe@galandabroadman.com> wrote:
Ms. Nicoara:

Attached please find my REJECTED Declaration, as well as an Errata to Petitioners' previously submitted cost accounting.

We will once again attempt to file them with the Court Clerk in Deming, as well as file and serve them by U.S. Mail.

Kindly reply to confirm your receipt of this email and its two attachment.

As with all of our prior filings and related communications, this filing and email is not the practice of law or transaction of business at Nooksack.

Thank you,

Gabriel S. Galanda, Pro Se



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

Order on Cost Accounting

On August 20, 2016, we granted petitioners' request for costs in bringing the motion that resulted in our July 28, 2016 show cause order. That motion was the Motion to Enforce Contempt Orders filed July 12, 2016. In their accounting petitioners' account for their costs related to all the motions brought resulting in our orders finding both the Court Clerk and Chief of Police in contempt.

In our August 20, 2016 order we only granted petitioners' request for costs leading to our July 28, 2016 order. We now clarify we meant petitioners' reasonable cost in bringing Motion to Enforce Contempt Orders filed July 12, 2016. Petitioners are granted until September 13, 2016 to submit an accounting of cost in bringing the July 12, 2016 Motion to Enforce Contempt Orders only.

It is so ordered, this 2 day of September, 2016, for the panel,

Douglas Nash, Associate Judge
Gregory Silverman, Associate Judge

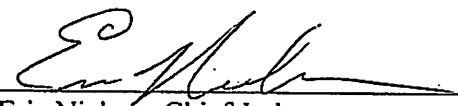


Eric Nielsen, Chief Judge

EXHIBIT Z



Per the Appeals Court's latest Order, attached please find my latest Declaration with a revised cost accounting.

I do not hereby practice law or transact business at Nooksack.

Gabriel S. Galanda, Pro Se

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

From: Gabe Galanda [mailto:gabe@galandabroadman.com]

Sent: Monday, September 12, 2016 5:25 PM

To: Katie Nicoara <katien@nics.ws>

[REDACTED]

Subject: In Re Galanda v. Nooksack Tribal Court, Second Motion for Show Cause

Ms. Nicoara:

Attached please find our Second Motion for Show Cause, and a proposed Order.

Kindly reply to confirm your receipt of this email and its two attachments.

As always, we will also attempt to have them filed with the Court Clerk in Deming, in person.

I do not hereby practice law or transact business at Nooksack.

Gabriel S. Galanda, Pro Se

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

**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-001 & 002

**Order Regarding Plaintiffs' Second
Motion for Show Cause Order Re:
Partial Summary Judgment, Contempt,
or Mandamus**

Plaintiffs come before the Court once more seeking some form of relief from their apparent disbarment from practice before the Nooksack Tribal Court by the Tribal Council of the Nooksack Indian Tribe. On the record before this Court it is unclear whether the Plaintiffs have been disbarred already or whether the process initiated by the Tribal Council is on-going. As is well-known to those familiar with this case, the Plaintiffs have sought a review of this process before the Tribal Court, but the court clerk returned their pleadings and refuses to accept any filings from them. Unable to obtain a review of this process before the trial court of the Nooksack Tribe, the Plaintiffs have petitioned this Court of Appeals on numerous occasions seeking some form of relief from us. This Court has already issued a mandatory injunction that the court clerk accept their pleadings and other filings. Moreover, when this order was ignored, we issued an order finding the court clerk in contempt. When this contempt was not corrected, we ordered the Police Chief to arrest the court clerk. When the Police Chief refused to enforce the Court's order to arrest the court clerk, we held the Police Chief in contempt. Most recently, when the Police Chief failed to correct his contempt, we imposed significant monetary fines on him for each day that the contempt continues. Notwithstanding our efforts, the orders of this Court have been unlawfully ignored and the rule of law on the reservation, at least within the scope of this case, has completely broken down.

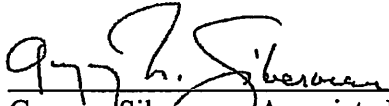
Plaintiffs now ask that this Court issue, in the alternative, a mandamus (i.e., a mandatory injunction), a finding of contempt, or a partial summary judgment. As noted above, we have already issued an injunction and a finding of contempt and it has proved of no assistance to the Plaintiffs under the current circumstances. With regard to these two remedies, there is no point in duplicating actions that have already been taken with no effect. Nor can the Court grant Plaintiffs'

newest request for a partial summary judgment. A summary judgment is only appropriate when there are no material facts in dispute and the only issue presented is one of law. As an appellate court, this Court relies on the trial court to find the facts in a dispute and does not itself engage in fact-finding. As such, this Court is not the proper forum in which to move for a summary judgment.

What is clear, however, is that the Plaintiffs have standing to raise their due process challenge to their pending or completed disbarment in Tribal Court, and they have been unlawfully denied their right to have the Tribal Court rule on their challenge. Under NTC 80.09.010, this Court can “dismiss an appeal, affirm or modify the decision being reviewed, reverse the decision in whole or in part, order a new trial, or take any other action as the merits of the case and the interest of justice may require.” Accordingly, we now hereby order that pending a full and fair review before the Nooksack Tribal Court of the Plaintiffs’ claims that their rights of due process have been infringed by the Nooksack Tribal Council, no action of disbarment is to be taken against the Plaintiffs and, if it appears on the record of the Tribal Council by resolution or otherwise that they have already been disbarred, the disbarment is stayed and the Plaintiffs are reinstated as advocates admitted to practice before the Nooksack Tribal Court.

It is so ordered, this 21st day of September, 2016, for the panel,

Douglas Nash, Associate Judge
Eric Nielsen, Chief Judge



Gregory Silverman, Associate Judge

**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

Order and Judgment Awarding Costs

On August 20, 2016, we granted petitioners request for costs in bringing the July 12, 2016 Motion to Enforce Contempt Orders that resulted in our July 28, 2016 show cause order. Following our September 2, 2016 order clarifying our August 20, 2016 order, the petitioners submitted an accounting related only to their costs in bringing the July 12, 2016 motion. Petitioners, who are attorneys, request attorney fees in addition to other costs. Petitioners were required to spend their time researching the law and preparing the motion and declarations in support of the motion. That time took away from the work petitioners could have spent earning their living representing clients, and the motion would not have been necessary if the Chief of Police had complied with our orders. For these reasons we find that awarding petitioners their reasonable attorney fees is appropriate.

We have reviewed petitioners accounting and find an hourly rate of \$250.00 for Mr. Galanda and \$195.00 for Mr. Dreveskracht is reasonable. We find that 12.3 hours to research the law and prepare the motion and declarations is likewise reasonable.

Therefore, judgment is hereby entered against the Nooksack Tribe's Chief of Police in favor of petitioners in the amount of \$2,790.15.

It is so ordered, this 21st day of September, 2016, for the panel,

Douglas Nash, Associate Judge

Gregory Silverman, Associate Judge


Eric Nielsen, Chief Judge