1 Jack W. Fiander, General Counsel Sauk-Suiattle Indian Tribe 5318 Chief Brown Lane Darrington, WA 98241 3 (360) 436-0139 4 (509) 961-0096 towtnuklaw@msn.com 5 6 7 IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF WASHINGTON 8 9 RAJU DAHLSTROM, et al., 10 Plaintiff, 11

Defendant.

SAUK-SUIATTLE INDIAN TRIBE, et al.,

v.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

2.7

28

29

No. 2:16-cv-00052-JLR

REPLY BRIEF IN SUPPORT OF MOTION FOR IMMEDIATE TEMPORARY RESTRAINING ORDER

In reply to defendant's response brief, counsel for defendant is not testifying as a witness at trial within the meaning of RPC 3.7 and merely declared as to the authenticity of the attached statements. A declaration was not actually necessary, as by signing the motion, he attests to the validity of information therein. Fed. R. Civ. P. 11.

As to any impropriety in placing in the mail a copy of the motion to plaintiff, the copy of the complaint which counsel received from defendant Morlock on January 11, 2017 was signed by Plaintiff Dahlstrom and appeared to have been prepared pro se by him. Due to the prior sealing of the record, I checked the pacer gov website and the last item displayed was an order for plaintiff to retain counsel within 30 days. It was only after I actually filed the motion in the MOTION RE EXPEDITED HEARING on MOTION FOR RESTRAINING OR PROTECTIVE ORDER - 1

> Sauk-Suiattle Incian Tribe Office of Legal Counsel 5318 Chief Brown Lane Darrington, WA 98241 (360) 436-0139

CM/ECF system that the CM/ECF notice of filing I received electronically from the clerk reflected the name of counsel Pope. Such efforts to derogate the character of the defendants and their counsel is part of an ongoing pattern of plaintiff and plaintiff's counsel of harassment and intimidation of opposing parties who take personnel disciplinary action adverse to plaintiff Dahlstrom. *See, e.g.*, W.D. Wash. Case No. C98-0890L.

Per the request of Plaintiff's counsel, attached are sworn affidavits documenting such childish pranks as leaving summonses and complaints in a gift bag attached to a "congratulations" balloon on defendant Metcalf's porch, peeking into her private mailbox, and leaving documents with an eleven year old child—not to mention making false statements to neighbors that Dahlstrom was merely present to check on the welfare of Ms. Metcalf, the General Manager of the entity which terminated his employment.

Additionally, although it is perhaps better left to a Fed. R. Civ. P. 12 (b) (4) or 12 (b) (5) motion, due to the lack of service upon the Sauk-Suiattle Indian Tribe, the Court must be apprised that at least three of the Returns of Service filed with the court and signed under penalty of perjury, read in light of defendants' affidavits are perjurious. Patrick Roberts who is neither a defendant in the case nor an agent for service of process upon the Sauk-Suiattle Indian Tribe was not even present when a summons and complaint were served upon his mother—with whom he does not reside—who has no relationship to this case. *See*, docket entry no. 17, Attachment 4. Attachment 2 states that a summons was personally served upon defendant Metcalf when it was merely tossed on her porch during nighttime hours. And the conduct of plaintiff Dahlstrom looking into defendant Metcalf's mailbox nearly two weeks after her

MOTION RE EXPEDITED HEARING on MOTION FOR RESTRAINING OR PROTECTIVE ORDER - 2

## Case 2:16-cv-00052-JLR Document 20 Filed 01/26/17 Page 3 of 4

counsel filed a notice of appearance in the case which was electronically served upon plaintiff's counsel is particularly disturbing. *See* Docket Entry No. 12, wherein counsel appeared on behalf of all defendants.

The Court has inherent authority and discretion to control the litigation. Given the apparent *animus* held by Plaintiff toward his former employer as evidenced by the hostile assertions of his complaint (*see*, *e.g.*, Complaint, docket entry no. 1, pg. 3 fn. 1), its potential frivolity<sup>1</sup>, and his highly visible presence in and around defendants' residences and 19 acre reservation, and statements attempting to derogate defendant Sauk-Suiattle Indian Tribe with public defamatory statements that defendants are "hiding" people or injuring children, an order restraining plaintiff *pendent lite* from contacting defendants or making further attempts at serving documents is appropriate.

DATED this 26<sup>TH</sup> day of January, 2017.

Respectfully submitted,

S/ Jack W. Fiander

Jack W. Fiander, WSBA 13116 Counsel for Defendant Sauk-Suiattle Indian Tribe Tribal Defendants (509) 961-0096 or (509) 969-4436 towtnuklaw@msn.com

<sup>1</sup> Plaintiff Dahlstrom's belated (post-firing) claims of wrongdoing by employees and contractors of the Sauk-Suiattle Tribal Health Clinic are particularly confusing in that, while claiming improprieties, he also admits that he served as *Director* of the Tribe's Health and Social Services Department and therefore had supervisory responsibility over the clinic staff and was responsible for its overall operations! *See* Complaint, pg. 3, fn. 2.

MOTION RE EXPEDITED HEARING on MOTION FOR RESTRAINING OR PROTECTIVE ORDER - 3

Sauk-Suiattle Incian Tribe Office of Legal Counsel 5318 Chief Brown Lane Darrington, WA 98241 (360) 436-0139

| 1                                       | CERTIFICATE OF SERVICE  |
|---|---|
| 3                                       | The undersigned certifies that the foregoing motion was filed with the Clerk of Court using the CM/ECF system and served electronically upon:   |
| 4   5   6   7   8   9   110   111   112 | Annette Louise Hayes Kerry Jane Keefe Assistant United States Attorneys Western District of Washington Kerry.keefe@usdoj.gov  Robert W. Ferguson Washington State Attorney General judyg@atg.wa.gov  Richard Lamar Pope Counsel for Plaintiff Dahlstrom rp98007@gmail.com |
| 13                                      | S/ Jack W. Fiander  |
| 14<br>15                                | <del>2. 2 3 3 3 2 2 3 3 2 2 3 3 3 2 3 3 3 3 3</del>   |
| 16                                      |   |
| 17                                      |   |
| 18                                      |   |
| 19                                      |   |
| 20                                      |   |
| 21                                      |   |
| 22                                      |   |
| 23                                      |   |
| 24                                      |   |
| 25                                      |   |
| 26                                      |   |
| 27<br>28                                | MOTION RE EXPEDITED HEARING on  |
| 29                                      | MOTION FOR RESTRAINING OR PROTECTIVE ORDER - 4  Sauk-Suiattle Incian Tribe Office of Legal Counsel 5318 Chief Brown Lane Darrington, WA 98241 (360) 436-0139  |