UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DANIEL S. PENNACHIETTI,

Plaintiff,

v.

CRAIG MANSFIELD,

Defendant.
_____/

Case No. 2:17-cv-02582-GJP

Hon. Gerald J. Pappert

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PROPOSED ORDER GRANTING MOTION TO DISMISS

Defendant Craig Mansfield, having filed his Motion to Dismiss, and Plaintiff Daniel S. Pennachietti, having filed his response, and the Court being fully advised in the matter, IT IS ORDERED:

1. Mansfield's Motion to Dismiss is GRANTED;

2. This order is a final judgment on all claims against Mansfield.

This Order resolves all issues as to Mansfield and the case against Mansfield is DISMISSED with prejudice.

_____ _____

Date Honorable Gerald J. Pappert

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MANSFIELD'S MOTION TO DISMISS AND SPECIAL APPEARANCE

Defendant Craig Mansfield, appears solely to contest this Court's jurisdiction and by doing so does not waive any defenses or consent to this Court's jurisdiction or to the underlying claims if ultimately this Court determines that it has jurisdiction.

A sovereign's limited appearance in legal proceedings for the purpose of seeking dismissal for lack of jurisdiction does not waive any claims to sovereign immunity. *See e.g.*, *Kansas v. United States*, 249 F.3d 1213, 1220 (10th Cir. 2001); *Zych v. Unidentified Wrecked and Abandoned Vessel*, 960 F.2d 665, 667-68 (7th Cir. 1992); *Lac du Flambeau Band of Lake Superior Chippewa Indians v. Norton*, 327 F. Supp.2d 995, 1000 (W.D. Wis. 2004); *Wyandotte v. Kansas City*, 200 F. Supp.2d 1279, 1287 (D. Kan. 2002); *Miami Tribe of Okla. v. Walden*, 206 F.R.D. 238 (D. Ill. 2001).

A determination of whether a tribe's sovereign immunity was waived is a jurisdictional question and must be answered without consideration of the particular facts of the case. *Puyallup Tribe v. Wash. Dept. of Game*, 433 U.S. 165, 172-73 (1977); *Hagen v. Sisseton Wahpeton Comm. College*, 205 F.3d 1040 (8th Cir. 2000); *Pan American v. Scyuan Band of Mission Indians*, 884 F.2d 416, 418 (9th Cir. 1989).

Mansfield, by and through his attorneys, Justin Gray, *pro hoc vice*, and Joel L. Frank, moves this Court to dismiss the action for the following reasons:

1. At all times relevant to Plaintiff Daniel S. Pennachietti's allegations, Mansfield was acting in his capacity as co-manager of Sovereign Lending Solutions, LLC ("SLS"), a wholly-owned economic arm and instrumentality of the Lac Vieux Desert Band of Lake Superior Chippewa Indians ("LVD"), a federally recognized Indian tribe, and thus at all times was shielded from personal liability by LVD's sovereign immunity.

2. Because Pennachietti failed to allege any actions by Mansfield that were outside the scope of his authority as co-manager, this Court does not have and cannot obtain subject matter jurisdiction over him and the complaint must be dismissed pursuant to Fed. R. Civ. P. 12(b)(1).

3. Because Pennachietti failed to allege any actions by Mansfield that were outside the scope of his authority as co-manager, this Court does not have and cannot obtain personal jurisdiction over him and the complaint must be dismissed pursuant to Fed. R. Civ. P. 12(b)(2).

4. Without personal jurisdiction over Mansfield, this complaint must be dismissed pursuant to Fed. R. Civ. P. 12(b)(3), as this venue is improper.

For these reasons, Mansfield respectfully requests this Court grant its Motion and dismiss all claims as to Mansfield.

Respectfully Submitted By:

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Dated: June 30, 2017

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MANSFIELD'S BRIEF IN SUPPORT OF MOTION TO DISMISS

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INTRODUCTION

This Court has already found that a "suit against [Defendant Craig] Mansfield is an attempt to circumvent [the Lac Vieux Desert Band of Lake Superior Chippewa Indians ("LVD")] and [Sovereign Lending Solutions, LLC ("SLS")] tribal immunity" and that for the conduct alleged against Mansfield, "it is clear that [SLS], not Mansfield" is the proper party. *Bynon v. Mansfield*, CIV.A. 15-00206, 2015 WL 2447159, at *2 (E.D. Pa. May 21, 2015) ("*Bynon I*") (Attachment 1).

Plaintiff Daniel S. Pennachietti's allegations in his June 8, 2017 complaint[1] ("Complaint") are phrased differently than the fatal pleadings in *Bynon I*, but the crux of the dispute and the facts of Mansfield's conduct remain the same: all factual allegations regarding Mansfield pertain to his role as co-manager of SLS and *not* to Mansfield, personally. *Id*.

This lawsuit is nothing more than another attempt by Pennachietti's attorney, Robert F. Salvin, to force a settlement payment from LVD by bullying Mansfield with harassing, vexatious, and frivolous litigation.[2] Salvin has blatantly ignored his duty to demonstrate candor to this Court by failing to identify, and completely ignoring, *Bynon I*. But this Court's *Bynon I* decision on the facts of Mansfield's conduct cannot can be easily avoided by omission or artful pleading.

As this Court has already held that Mansfield's alleged conduct was at all times performed in his capacity as co-manager of SLS and never outside the scope of his authority, and the conduct alleged in *Bynon I* is no different than the conduct alleged here, based on *Bynon I*

[1] Pennachietti's Complaint begins with ¶ 7.

[2] This is the *third* time Salvin has deployed this tactic to deliberately circumvent the jurisdictional bar imposed by SLS's, and therefore Mansfield's, sovereign immunity. *See Bynon I*; *Ghost v. Victory Recovery Service, Inc., et al*, CIV.A. 2:14-cv-00215 (E.D. Pa. Jan. 14, 2014).

alone this lawsuit can be readily dismissed as it is again clear that Mansfield is protected from Pennachietti's allegations by the umbrella of LVD's sovereign immunity making dismissal pursuant to Fed. R. Civ. P. 12(b)(1) appropriate.

Additionally, Pennachietti's Complaint is also subject to dismissal pursuant to Fed. R. Civ. P. 12(b)(2), as Pennachietti has failed to demonstrate this Court has personal jurisdiction over Mansfield. Moreover, as there are no facts that will overcome dismissal based on lack of subject-matter and personal jurisdiction, discovery and leave to amend the Complaint should be denied. Finally, if this Court finds that dismissal is inappropriate pursuant to Fed. R. Civ. P. 12(b)(1) and (2), this matter should be dismissed pursuant to Fed. R. Civ. P. 12(b)(3) or transferred pursuant to 28 U.S.C. §§ 1404 and 1631, as venue is improper in this Court.

FACTS

The Lac Vieux Desert Band of Lake Superior Chippewa Indians

Exactly as was presented to this Court in *Bynon I*, it is undisputed that LVD is a federally recognized Indian Tribe consisting of Tribal members who reside on federally-recognized reservation lands close to their ancestral homeland near the town of Watersmeet, Michigan. 12 U.S.C.A. § 1300(h)(2); 70 Fed. Reg. 4748, 4750; *Bynon I* at *1 ("Bynon . . . acknowledges that she did not sue LVD and Sovereign because they are 'protected from liability under the doctrine of tribal immunity.'")

It is undisputed that as a federally-recognized Indian tribe, LVD maintains all the inherent attributes of sovereignty, operates as a sovereign under its tribal constitution, and is governed by its tribal council.

Sovereign Lending Solutions, LLC

On July 8, 2011, SLS was organized under LVD's laws as a title lending company.[3] *Id.* Formed as an economic arm and instrumentality, SLS was entitled to LVD's sovereign immunity. *See id.* at *2 (sovereign immunity "extends to a tribe's subordinate economic entities and to tribal officials who are acting in their official capacity and within the scope of their authority.") "As a consumer lending company wholly owned by [LVD] and incorporated under [] tribal law, SLS was authorized to issue loans secured by vehicles at interest rates far greater than permitted under Pennsylvania law." *Goldenstein v. Repossessors Inc.*, 815 F.3d 142, 144 (3d Cir. 2016).

From July 8, 2011 until January 17, 2014, Mansfield served as SLS's co-manager and was responsible for overseeing the day-to-day operations of SLS.[4] (Complaint, ¶ 12-13, Exhibit P-2 p 2 ¶¶ 6-8; *see also*, SLS Operating Agreement, ¶ 3.2 [Attachment 2].) Complaint, ¶ 12.) The Complaint does not allege that Mansfield acted outside of his duties as co-manager.

[3] It is undisputed that on March 30, 2010, pursuant to LVD Tribal Council Resolution No. 2010-018, LVD adopted the LVD Limited Liability Company Code ("LLC Code"), which allowed LVD to create, operate, and dissolve Tribally-owned limited liability companies that exist as economic development arms and instrumentalities of the tribe to further its economic growth and development. On August 26, 2014, pursuant to LVD Tribal Council Resolution No. T2014-068, LVD adopted the LVD Business Entity Ordinance ("Business Ordinance"), which replaced the LLC Code. The Business Ordinance specifically provides that LVD's sovereign immunity extends to its wholly owned and operated economic arms and instrumentalities, as well as their agents, officers, employees, and elected or appointed officials. SLS was created pursuant to the LLC Code, then operated under the LVD Business Ordinance.

[4] Pennachietti misrepresents information in a declaration prepared by Mansfield in the *Ghost* matter and attempts to incorporate "[a]ll documents" filed in the *Ghost* matter into this Complaint. (Complaint, ¶ 13.) First, Mansfield's declaration from *Ghost* merely says that Mansfield was "the duly appointed Co-Manager of [SLS] . . . from July 8, 2011 to early 2014," and that Mansfield was "responsible for the day-to-day operations of SLS, subject to the limitations set forth in Section 3.2." (Complaint, ¶ 13, Exhibit P-2 p 2 ¶¶ 4, 6-7.) Mansfield's declaration does not say that Mansfield had any role in "making, servicing, and collecting loans" as alleged. (Complaint, ¶ 12.)

Moreover, any such incorporation of documents filed in another lawsuit may be appropriate by judicial notice, but not *via* allegation. Fed. R. Civ. P. 8(a)(2) requires a pleading to contain a short plain statement of the claim showing that the pleader is entitled to relief, and Fed. R. Civ. P 8(d)(1) requires that each allegation made be simple, concise, and direct. Further, under Fed. R. Civ. P. 10(c), only "[a]statement in a pleading may be adopted by reference elsewhere in the same pleading or in another pleading or motion," and "[a] copy of a written instrument that is an exhibit to a pleading is part of the pleading for all purposes."

As explained in the *Bynon I* matter, SLS chose to cease all business operations and stopped lending in order to dissolve. On April 8, 2014, after Mansfield had resigned, SLS assigned its assets, including its loans, to Management Solution, LLC,[5] which included the assignment of all liability for any future claims arising from any of the assigned loans. (Attachment 3, Assignment and Assumption Agreement, p 1 ¶¶ 1-2.)

After January 17, 2014, Mansfield was no longer employed by SLS; he had no role or authority with SLS; he has not participated in any way in any lending activity; and he has not communicated with any of the alleged "Lending Enterprises," Pennachietti, or any other person or entity identified in the Complaint, including the Pennsylvania Department of Transportation. (Attachment 4, Affidavit of Craig Mansfield, ¶ 4.)

Pennachietti's Alleged Loan, Payments, and Repossession

Pennachietti alleges, without evidentiary support, that on July 9, 2013, he took a loan for $5,050, from the "Lending Enterprise."[6] (Complaint, ¶ 19.) Pennachietti does not allege that SLS issued the loan so he can avoid a pleading precluded by SLS's sovereign immunity. But without pleading who issued the loan, it is unclear who issued the alleged loan. Mansfield did not issue a loan to Pennachietti. Mansfield does not possess any records or have any knowledge of any loan to Pennachietti. (Attachment 4, ¶ 6.)

Pennachietti alleges he made several loan payments to the "Lending Enterprise," but does not allege which entity required or received the payments. Pennachietti does not know the interest rate of his alleged loan. Pennachietti's proffered evidentiary support shows a

[5] At that time, MS was a registered Delaware limited liability company. Mansfield is unaware if the entity mentioned in Pennachietti's Complaint is the same MS that was assigned SLS's assets. (Attachment 4, ¶ 5; See Complaint, ¶ 10.)

[6] Pennachietti alleges the "Lending Enterprise" consists of SLS, Auto Loans, LLC, Car Loans, LLC, Liquidations, LLC, Loan Servicing Solutions, LLC, Management Solution, LLC, and RS Financial Management, LLC, "among others." (Complaint, ¶ 10.)

"transactions" list for a vehicle loan, but as redacted it offers no substantive information connecting the alleged transactions to Mansfield.[7] (Complaint, ¶¶ 24, 25, P-4.) Moreover, much of the alleged conduct occurred well after Mansfield resigned on January 17, 2014. *See, e.g.*, Complaint, ¶ 27 (where installment payments were made in August 2014); Exhibit P-3 (where cease and desist order was served on June 24, 2015); Exhibit P-4, p 2 (where several payments were made after January 17, 2014); Exhibit P-4, pp 3-7 (where payments; release; and affidavit were executed after January 17, 2014) Mansfield never instructed Pennachietti to make any payments, never received any payment from Pennachietti, either directly or indirectly, and never received any benefit from Pennachietti, either directly or indirectly, and has no evidence of any payments made by or received from Pennachietti. (Attachment 4, ¶¶ 8-9.)

Pennachietti alleges that sometime after January 17, 2014, the "Lending Enterprise repossessed [his] vehicle . . . [and] demanded payment of $7,000 for the return of his vehicle." (Complaint, ¶¶ 26-27.) Until reviewing this Complaint, Mansfield had no personal knowledge that Pennachietti owned any vehicles, or that any vehicle Pennachietti owned may have been repossessed. (Attachment 4, ¶ 10.) After January 17, 2014, as Mansfield had resigned, Mansfield did not instruct anyone, or have any knowledge of any instructions, at any time, to repossess any vehicle from anyone or demand any repayment from anyone at any time, including Pennachietti. (Attachment 4, ¶ 11.)

Pennachietti claims that he owned a 2008 Ford Expedition, but provides no evidence to support the allegation and does not allege that he pledged the vehicle as security for any loan. (Complaint, ¶ 15.) However, it appears from Pennachietti's proffered evidence that Mansfield had no involvement in the repossession of Pennachietti's vehicle. It appears that on August 7,

[7] Rather than make an allegation against the proper entity, Pennachietti has redacted the telephone number from Exhibit P-4 to conceal the identity of the payment recipient to allow him to blame Mansfield.

2014, "Repossessions," from email address respossessions@customer-service-email.com, emailed Pennachietti a "General Release Letter" to redeem his vehicle and Pennachietti replied to the email. (Complaint, P-4, p 3). Until his review of this Complaint, Mansfield had no knowledge of the existence of "Repossessions," its email address, or the communications to Pennachietti. (Attachment 4, ¶ 12.)

Before reviewing this Complaint, Mansfield was unaware of any release executed by Pennachietti and he had no part in negotiating a release. (Attachment 4, ¶ 13.) Furthermore, the "General Release Letter" as Exhibit P-4, p 4, is unexecuted and there is no confirmation that it is valid. However, *arguendo*, in the release, Pennachietti acknowledged his default and agreed to "release and forever discharge [SLS] and its respective affiliates, successors, subsidiaries, and agents . . . of and from all suits in law and equity, which [Pennachietti] ever had, now has, will ever have . . . arising from a loan made by Lender to Borrower." (Complaint, Exhibit P-4, p 4.)

It also appears that Pennachietti acknowledged to Car Loan, LLC in a signed Affidavit that he "attested that the charges to my debit card . . . is [sic] valid . . . toward repayment of his pawn agreement with Car Loan, LLC," and that on September 3, 2014, he received acknowledgement from Car Loan, LLC, from email address customerservice@carloan-llc.com, of receipt of payment. (Complaint, P-4, pp 5-6.) Mansfield is aware of the existence of an entity named Car Loan, LLC because of the *Ghost* and *Bynon I* suits, but Mansfield has not communicated with Car Loan, LLC in any way, including the communication alleged in the Complaint. (Attachment 4, ¶¶ 14-15.) Until the litigation, Mansfield had no knowledge of any communications between Car Loan, LLC and Pennachietti or of the affidavit executed by Pennachietti. (Attachment 4, ¶ 15.)

Bynon v. Mansfield

In *Bynon I,* Salvin's plaintiff made nearly the same factual allegation against Mansfield as Pennachietti makes now. Based on those allegations, this Court granted Mansfield's motion to dismiss because, "Mansfield is immune from suit under the doctrine of tribal sovereign immunity." *Id.* This Court found that the plaintiff's claims were deliberately misaimed:

> Sovereign Lending Solutions, LLC ("Sovereign"), a title lending company established under the tribal law of the Lac Vieux Desert Band of Lake Superior Chippewa Indians ("LVD"), operated the web site. Bynon has not sued LVD or Sovereign. Instead, she has sued Craig Mansfield ("Mansfield"), who allegedly was "a manager in charge of day-to-day operations" at Sovereign and authorized the loan to Bynon. [*Id*. (internal citations omitted).]
>
> * * *
>
> A fair reading of the SAC, however, shows that Bynon's dispute is with Sovereign, not with Mansfield individually. All of Bynon's factual allegations regarding Mansfield pertain to his role as manager of Sovereign. There are no facts implicating Mansfield in any misconduct outside of his employment with Sovereign. Without factual allegations to state a plausible claim against Mansfield personally, Bynon's assertion that she has sued Mansfield only in his individual capacity is without weight. [*Id*. at *2.]

Simply put, this Court rejected plaintiff's arguments that Mansfield was individually liable and held that "it is clear that Sovereign, not Mansfield, is the party with which Bynon has a dispute." *Id*. By separate order, this Court rejected Mansfield's motion for attorney fees.[8]

After Mansfield was dismissed from Bynon's second amended complaint, the plaintiff withdrew her second amended complaint to proceed against several co-defendants on the amended complaint. *Bynon v. Mansfield*, CV 15-00206, 2016 WL 4089169, at *3 (E.D. Pa. Aug.

[8] This Court found that, "Bynon did not act in bad faith when naming Mansfield as a defendant in the Complaint, Amended Complaint, and Second Amended Complaint. In defense of her pleadings, Bynon asserted legal arguments as to why she believed that tribal sovereign immunity did not shield Mansfield. The Court ruled that her legal arguments did not have merit. The Court nevertheless sees no evidence – and Mansfield has not pointed it to any – to show that Bynon's allegations were made in bad faith, vexatiously, wantonly, or for oppressive reasons." *Bynon v. Mansfield*, CIV.A. 15-00206, p 1 fn 1 (E.D. Pa. July 1, 2015) ("*Bynon II*") (Attachment 5).

1, 2016) ("*Bynon III*") (Attachment 6). This Court made several findings against the co-defendants, notably that McKibbin, III, Weiner, Cronin, Auto Loans, LLC, Car Loans, LLC, Loan Servicing Solutions, LLC and Management Solution, LLC were defaulted for violating Pennsylvania's Loan Interest and Protection Law ("LIPL"), 41 P.S. § 201 et seq., and that these co-defendants, along with Casey, and Venezia were defaulted for violating RICO, but none of these defendants could be located. *Id*. at pp *4-5; 6 fn 6.

This Court ultimately issued a default judgment against co-defendants and awarded $41,086.98 in damages and $11,462 in legal fees. *Id.* at *7.

ARGUMENT

I. *Bynon* is not substantively distinguishable from the Complaint.

The majority of the factual allegations adjudicated in *Bynon I & III* have been recycled in Pennachietti's Complaint. (*See, e.g*., See *Bynon I*, Docket No. 13, filed 3/6/2015 ("Bynon Complaint") ¶ 28-36 [Attachment 7]; Complaint, ¶ 23-29.) The differences between the Bynon Complaint and Pennachietti's Complaint are clearly intended to overcome the deficiencies in *Bynon I* with artful pleading.

First, because the Court clearly found LVD and SLS's immunity extended to Mansfield, Pennachietti simply omitted several allegations about SLS in the instant matter. For example, while, in *Bynon I* it was alleged that SLS is a loan company wholly owned by LVD, incorporated under tribal law, that originated the loan in *Bynon I*, but was "not named as a party because it is protected from liability under the doctrine of tribal immunity," Pennachietti omits any allegations about SLS in an attempt to avoid recognizing that SLS and LVD are protected by sovereign immunity, and to avoid dismissal. (*See* Bynon Complaint, ¶ 14.)

Second, because McKibbin, Weiner, Cronin, Auto Loans, LLC, Car Loans, LLC, Loan Servicing Solutions, LLC, and Management Solution, LLC cannot be found, Salvin simply took them out of Pennachietti's Complaint as defendants, redirected the allegations from *Bynon I* about these enigmatic people to Mansfield, and then used these reclusive entities to bolster his RICO allegations by creating a fictitious "Lending Enterprise." (*See* Complaint, ¶ 9 and Bynon Complaint, ¶ 12.)

However, the veil disguising this effort is transparent. (Compare, *e.g.*, Bynon Complaint, ¶ 5-9 [where McKibbin, et al, was accused of directing lending] with, Complaint, ¶¶ 10, 29, 32 [Mansfield is accused of the same activity]; Bynon Complaint, ¶ 13 [where entities are McKibbin's businesses] with Complaint [where no ownership is alleged]; Bynon Complaint, ¶¶ 37-49 [where Weiner directed repossession] with Complaint, ¶ 33 [Mansfield is accused of directing repossession]; Bynon Complaint, ¶¶ 89-116 [where McKibbin, et al, were accused of RICO violations] with Complaint, ¶¶ 34-50 [where only Mansfield is identified].) Moreover, the Complaint ignores this Court's findings in *Bynon III*, where the Court found that McKibbin, Weiner, Cronin, Auto Loans, LLC, Car Loans, LLC, Loan Servicing Solutions, LLC, and Management Solution, LLC were culpable for the very types of acts alleged here. *See Bynon III* at *4-6.

Salvin's camouflage simply does not change the basic facts that Mansfield's conduct was always on behalf of SLS and that the true dispute here is not with Mansfield—artful pleading does not change this Court's holding that Mansfield is immune from the alleged conduct.

There is no need to re-adjudicate Mansfield's conduct. Just as before, a fair reading of the Complaint shows that Pennachietti's dispute is with SLS, not with Mansfield individually. All of the factual allegations regarding Mansfield pertain to his role as manager of SLS from July

8, 2011 to January 17, 2014. There are no facts implicating Mansfield in any misconduct outside of his employment with SLS during that time. "Without *factual* allegations to state a plausible claim against Mansfield personally, [Pennachietti's] assertion that [he] has sued Mansfield only in his individual capacity is without weight." *See Bynon I* at *2. After January 17, 2014, as Mansfield was no longer employed by SLS, Mansfield had no knowledge of or participation in any events alleged to have occurred after January 17, 2014.

II. Without a loan agreement, Pennachietti has no claim.

At the outset, it is significant that Pennachietti has made allegations that are centered around a loan agreement that Pennachietti has failed to provide to the Court. All that can be understood about the contract is presented through conclusory allegations.

Under Fed. R. Civ. P. Rule 8, Pennachietti has a burden to allege grounds for this Court's jurisdiction and for his entitlement to relief. All of his allegations stem from an alleged loan agreement that Pennachietti does not furnish. Simply put, Pennachietti cannot meet his burden to show jurisdiction without the alleged loan agreement. *See, e.g.*, Fed. R. Evid. 1002, 1003, 1004 (requiring original or duplicate of document unless lost or destroyed, or otherwise unavailable); *Time Share Vacation Club v. Atl. Resorts, Ltd.*, 735 F.2d 61, 65 (3d Cir. 1984).

Without supplying the contract at issue, there is no way Pennachietti can show Mansfield, as an individual *or* as co-manager of SLS, is responsible for any of the alleged conduct. Pennachietti never alleges any communication with Mansfield. All of Pennachietti's proffered evidence identifies other people and other entities:

- a Pennsylvania Department of Banking notice and order issued to other entities;
- copies of a transaction report without any identification information about the recipient of any such transactions;
- email correspondences to entities and persons other than Mansfield;
- an unexecuted general release delivered by someone other than Mansfield;
- Pennachietti's signed affidavit delivered to an entity other than Mansfield;

- payment confirmations from an entity other than Mansfield; and,
- a "sample" SLS pawn ticket executed by someone other Pennachietti, while SLS is not a defendant in this matter. (*See* Complaint, Exhibits P-1, 3-5.)

Moreover, supplying screenshots of a website that no longer exists (and purportedly observed on May 13, 2013, two months before Pennachietti alleges he received a loan) does not add support to the allegations about the existence or content of a loan agreement or that Pennachietti actually took a loan with the entity identified on the website. Nor can a "sample" Pawn Ticket Agreement confirm the existence or the content of any alleged agreement with Pennachietti when Pennachietti alleges that he "does not recall seeing or accepting any particular set of terms and conditions . . . or to any particular rate of interest," and he never had a copy of any alleged agreement. (Complaint, ¶¶ 21-23.) Without any knowledge of what he allegedly agreed to or with whom he agreed, the "sample" agreement cannot be accepted as demonstrative—apparently, Pennachietti does not know who issued the loan.

The fatal flaw of suing without the alleged agreement at the core of the Complaint, and without any possible means to obtain the alleged agreement, effectively means that Pennachietti has no claim. Moreover, Mansfield's arguments that there is no subject matter or personal jurisdiction, explained below, should be considered in light of the omission and unavailability of any alleged agreement.

III. Mansfield is protected by sovereign immunity.

A. Standard of Review under Fed. R. Civ. P. 12(b)(1)

Courts address issues of tribal sovereign immunity pursuant to motions to dismiss for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1). *Bynon I*, at *1. Motions to dismiss for lack of subject matter jurisdiction fall into two general categories: (1) facial attacks and (2) factual attacks. A *facial attack* is a challenge to the sufficiency of the

pleading itself. On such a motion, the court must take the material allegations of the petition as true and construed in the light most favorable to the nonmoving party. *Mortensen v. First Fed. Sav. and Loan Ass'n.*, 549 F.2d 884, 891 (3d Cir. 1977).

A *factual attack* challenges the factual existence of subject matter jurisdiction. *Id.* On such a motion, no presumptive truthfulness applies to the factual allegations and the court is free to weigh the evidence and satisfy itself as to the existence of its power to hear the case. *Id.*

B. As a co-manager for SLS, Mansfield is immune from suit.

In *Bynon I*, this Court granted Mansfield's motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(1) because "under the facts alleged in the [Second Amended Complaint], Mansfield is immune from suit under the doctrine of tribal sovereign immunity. The Court therefore lacks subject matter jurisdiction over Bynon's claims against Mansfield." *Bynon I* at *1. As Mansfield's past conduct while working for SLS as alleged in *Bynon I is the same conduct alleged in the instant Complaint*, Pennachietti's artful pleading is inconsequential—this Court should dismiss this Complaint as well.

The doctrine of tribal sovereign immunity is firmly rooted in American Indian law and precludes LVD from being subject to unconsented suit. *Mich. v. Bay Mills Indian Cmty.*, 134 S.Ct. 2024, 2030-31 (2014). Indian tribes enjoy sovereign immunity unless that immunity has been clearly waived by the tribe or unequivocally abrogated by Congress. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 58, 98 S.Ct. 1670 (1978) *Kiowa Tribe of Okla. v. Mfg. Techs., Inc.*, 523 U.S. 751, 754-56 (1998) (As a matter of federal law, an Indian tribe is subject to suit only where Congress has authorized the suit or the tribe has waived its immunity); *Puyallup Tribe v. Wash. Dept. of Game*, 433 U.S. 165, 172 (1977) (holding that tribal sovereign immunity barred a State agency from suing a tribe). Tribal sovereign immunity extends to a tribe's subordinate economic

entities and to tribal officials who are acting in their official capacity and within the scope of their authority. *Bynon I* at *1; *relying on Breakthrough Mgmt. Grp., Inc. v. Chukchansi Gold Casino & Resort,* 629 F.3d 1173, 1195 (10th Cir.2010).

A tribal employee is entitled to sovereign immunity when acting in his official capacity and within the scope of his authority. *Imperial Granite Co. v. Pala Band of Missouri Indians*, 940 F.2d 1269, 1271 (9th Cir. 1991); *see also Magyar v. Kennedy,* No. 12-5906, Slip Op., 2013 WL 6119243, *3 (E.D. Pa. Nov. 20, 2013) (sovereign immunity when they act in their official capacity and within the scope of their authority.) "[A]lthough tribal sovereign immunity is implicated when the suit is brought against individual officers in their official capacities, it is simply not present when the claim is made against those employees in their individual capacities." *Lewis v. Clarke*, -- U.S. --, 137 S.Ct. 1285, 1295 (2017).

In *Lewis*, a tribal employee driver off Indians lands was sued for causing a car accident. In analyzing whether the tribal employee was shielded by tribal sovereign immunity, the Supreme Court looked to the "real party in interest:"

> The distinction between individual- and official-capacity suits is paramount here. In an official-capacity claim, the relief sought is only nominally against the official and in fact is against the official's office and thus the sovereign itself. This is why, when officials sued in their official capacities leave office, their successors automatically assume their role in the litigation. The real party in interest is the government entity, not the named official. 'Personal-capacity suits, on the other hand, seek to impose *individual* liability upon a government officer for actions taken under color of state law.' '[O]fficers sued in their personal capacity come to court as individuals,' and the real party in interest is the individual, not the sovereign. [*Id.* at 1292; internal citations omitted.]

Thus, "[t]he identity of the real party in interest dictates what immunities may be available." *Id.* Ultimately in *Lewis*, the tribal employee was not acting in an official capacity and therefore was not immune from suit as the crux of the negligence action was against the

tribal employee as an individual and not by virtue of his role as a tribal employee, *e.g.*, a successor tribal employee could not have replaced the driver in *Lewis* in the litigation. *Lewis* is markedly different than the instant matter.

Pennachietti acknowledges that Mansfield "was formally employed as a co-manager of Sovereign. In that capacity, he oversaw day-to-day operations of the company." (Complaint, ¶ 12.) Pennachietti attached an old declaration from Mansfield filed in *Ghost*, where Mansfield attested that he "served as a duly appointed Co-Manager of [SLS], an entity wholly created, owned and operated as an instrumentality of [LVD] . . . from July 8, 2011 until early 2014." (Complaint, ¶ 13; Exhibit P-2, p 2 ¶ 6.) Mansfield also stated that he "was responsible for the day-to-day operations of SLS, subject to the limitations set forth in Section 3.2." (Complaint, ¶ 13; Exhibit P-2, p 2 ¶ 7.)

Pennachietti *did not* include the similar declaration filed by Mansfield in *Bynon I*, where Mansfield stated that "[u]nder SLS's Operating Agreement, I had responsibility to oversee the day-to-day operations of SLS, subject to the limitation set forth in Section 3.2 and at all times acted within the scope of authority granted me as co-manager in accordance with the Tribal Consumer Financial Services Regulatory Code." *See Bynon I*, Docket No. 16-7, filed 3/27/2015 – Attachment 8 "Bynon Affidavit") ¶ 3.

In *Bynon I*, Mansfield declared that he has "not spoken to anyone about a former SLS loan outside the context of litigation since [he] resigned" from SLS in January 2014. (Bynon Affidavit ¶ 7.) Mansfield explained that he only knew of McKibbin and Cronin "in relation to the contractual arrangements between SLS and RS Financial Management, LLC." (Bynon Affidavit ¶ 4.) Mansfield stated that as co-manager he "only ever acted on behalf of SLS. I never had any authority or control over any other company named in Bynon's complaint" which

included entities Pennachietti describes as the "Lending Enterprise." (Bynon Affidavit ¶ 6; Complaint, ¶ 10.)

Pennachietti's allegations accuse Mansfield of controlling SLS and of acts performed in his capacity as co-manager of SLS, including deciding and directing the "Lending Enterprise." (Complaint, ¶¶ 12, 29, 31-33, 41-44.) Pennachietti *never* alleged that Mansfield acted independently to incur individual liability, and this Court has previously found that the same allegations against Mansfield "shows that Bynon's dispute is with Sovereign, not with Mansfield individually." *Bynon I* at *2. "[L]awsuits brought against employees in their official capacity represent only another way of pleading an action against an entity of which an officer is an agent, and they may also be barred by sovereign immunity." *Lewis,*137 S.Ct. at 1291–92 (internal quotations omitted).

Here, *arguendo*, allegations of directing SLS or allegations of directing others from a capacity as co-manager of SLS makes no difference—Pennachietti's pleading fails for the same reason as the pleading in *Bynon I* failed—the allegations do not show that Mansfield acted in an individual capacity and that he is not the real party with which Pennachietti has a dispute. *See, e.g., Bynon I* at *2 (where 'direct[ing] *Sovereign* to make loans in Pennsylvania,' 'authoriz[ing] *Sovereign's* loan to [Bynon],' and 'operat[ing] *Sovereign* through the collection of unlawful debt' showed that Sovereign, not Mansfield, is the party with which Bynon has a dispute.)

In short, any SLS co-manager would have had the same duties and performed in the same manner for SLS, so the suit is not against Mansfield individually.

Moreover, Pennachietti is the only person that knows the people he communicated with over the course of the alleged loan and repossession, but conceals their identity and blames Mansfield for their conduct. Unfortunately, the proffered evidence shows that Mansfield is not

the target of Pennachietti's dispute. For example, Pennachietti alleges that the "Lending Enterprise" was "ordered to cease and desist" by the Pennsylvania Department of Banking. (Complaint, ¶ 14.) But the Pennsylvania Department of Banking and Securities order, issued on June 24, 2015, *is not against Mansfield*, it is against "Auto Loans, LLC, Car Loans, LLC, Loan Servicing Solutions, Management Solutions, LLC, [] McKibbin, [] Cronin, [] Weiner, and [] Bonner." (Complaint, Exhibit P-3 p 3.) Pennsylvania recognized the wrongs were performed by the identified people and entities and did not include SLS and Mansfield.

Also by example, Pennachietti's release and payment is with "The Repossession Department" and Car Loan, LLC, not with SLS or Mansfield. (Complaint, Exhibit P-4 pp 3-5.) Pennachietti's proffered evidence shows his dispute is not with Mansfield despite his deceptive allegations.

As at all times alleged before January 17, 2014, Mansfield was acting in his official capacity as co-manager of SLS, and there is no factual basis to show that at any time Mansfield acted in an individual capacity during that time. At all times alleged after January 17, 2014, Mansfield had no involvement. Thus, Mansfield is immune from this lawsuit and the case must be dismissed pursuant to Fed. R. Civ. P. 12(b)(1).

IV. This Court lacks personal jurisdiction over Mansfield.

A. Standard of Review under Fed. R. Civ. P. 12(b)(2)

Federal Rule of Civil Procedure 12(b)(2) requires that a defendant bear the initial burden of raising the lack of personal jurisdiction defense. *Nat'l Paintball Supply, Inc. v. Cossio,* 996 F.Supp. 459, 460 (E.D.Pa.1998) (*citing Clark v. Matsushita Elec. Indus. Co., Ltd.*, 811 F.Supp. 1061, 1064 (M.D.Pa.1993)). Once the defense has been raised, the burden shifts to the plaintiff

to demonstrate that personal jurisdiction exists. *Poole v. Sasson*, 122 F.Supp.2d 556, 557 (E.D.Pa.2000) (citation omitted).

Although the Court must accept a plaintiff's allegations as true when considering a defendant's 12(b)(2) motion to dismiss, "a plaintiff may not solely rely on bare pleadings to satisfy his jurisdictional burden. Rather, the plaintiff must offer evidence that establishes with reasonable particularity sufficient contact between the defendant and the forum state to support jurisdiction." *Id.*; *Mellon Bank (East) PSFS, Nat'l Assoc. v. Farino*, 960 F.2d 1217, 1223 (3d Cir. 1992).

If the plaintiff meets this burden, the defendant must then establish the presence of other considerations that would render jurisdiction unreasonable. *Carteret Sav. Bank v. Shushan*, 954 F.2d 141, 150 (3d Cir.1992)).

B. Pennachietti has not met the law's high expectations to assert personal jurisdiction over Mansfield, a non-resident.

Federal Rule of Civil Procedure 4(k)(1)(A) allows a federal court to exercise personal jurisdiction over a non-resident defendant to the extent provided by the laws of the state in which the federal court sits. *Time Share*, 735 F.2d at 63. Pennsylvania allows personal jurisdiction over a non-resident defendant "to the fullest extent allowed under the Constitution of the United States and may be based on the most minimum contact with this Commonwealth allowed under the Constitution of the United States." 42 Pa.Cons.Stat. § 5322(b); *see also Mellon Bank*, 960 F.2d at 1221.

The Due Process Clause "requires that nonresident defendants have 'certain minimum contacts with [the forum state] such that the maintenance of the suit does not offend traditional notions of fair play and substantial justice.'" *Kehm Oil Co. v. Texaco, Inc.*, 537 F.3d 290, 299–300 (3d Cir.2008) (*quoting Int'l Shoe Co. v. Washington*, 326 U.S. 310, 316, 66 S.Ct. 154,

(1945)). Under the Due Process Clause, a court may not exercise personal jurisdiction over a non-resident defendant unless there are certain minimum contacts between the defendant and the forum state. *Time Share,* 735 F.2d at 63(*relying on World-Wide Volkswagen Corp. v. Woodson*, 444 U.S. 286, 100 S.Ct. 559 (1980)).

Two types of personal jurisdiction have been recognized by federal courts: general and specific jurisdiction. "General jurisdiction exists when a defendant has maintained systematic and continuous contacts with the forum state." *Kehm Oil*, 537 F.3d at 300 (*citing Helicopteros Nacionales de Colombia, S.A. v. Hall*, 466 U.S. 408, 414–15 & n. 9, 104 S.Ct. 1868 (1984)). Specific jurisdiction is present "when the claim arises from or relates to conduct purposely directed at the forum state." *Id.*

In deciding whether specific jurisdiction exists, the Court conducts a three-part analysis: First, the defendant's activities must have been purposefully directed at the forum. *Marten v. Godwin*, 499 F.3d 290, 296 (3d Cir.2007) (quotations and citations omitted); *see also Time Share,* 735 F.2d at 63. Next, the plaintiff's claim must arise out of or relate to at least one of those specific activities in the forum state. *Marten*, 499 F.3d at 296. Finally, courts may consider additional factors to ensure that the assertion of jurisdiction otherwise comport[s] with fair play and substantial justice. *Id.*

Essentially, before hearing a case, a court must ask whether "the quality and nature of the defendant's activity is such that it is reasonable and fair to require [that it] conduct [its] defense in that state." *Time Share,* 735 F.2d at 63 (*relying*; *Int'l Shoe*, 326 U.S. at 316–17).

Mansfield, a Wisconsin resident, acting at all times alleged as a co-manager of a tribal business located on Indian lands in Michigan, has not had any contact with Pennsylvania related to the allegations sufficient to assert either general or specific jurisdiction. There is no general

jurisdiction over Mansfield as Mansfield (nor SLS) has never operated in Pennsylvania, has no office in Pennsylvania, has no business contacts in Pennsylvania, has no property or assets in Pennsylvania, has no employees or board members in Pennsylvania, and, as a tribal instrumentality, and as an agent of a tribal instrumentality, SLS and Mansfield are not required to be licensed by Pennsylvania.

There is no specific jurisdiction over Mansfield as Pennachietti initiated the alleged transaction by seeking out SLS's website, which is not targeted at any particular state, geographic region, or citizenry, the consummation of the alleged business transaction took place on LVD's reservation lands in Michigan, Mansfield never traveled to Pennsylvania during any part of the alleged transaction, nor has Mansfield had any other contact with Pennsylvania—no calls, no emails, no letters.[9] Even the choice of law provision in the alleged "sample" agreement chooses LVD laws. *See Burger King Corp. v. Rudzewicz*, 471 U.S. 462, 482, 105 S.Ct. 2174, 2187 (1985) (A choice of law clause is a factor to be considered but is not sufficient to establish personal jurisdiction).

Pennachietti's alleged conduct in Pennsylvania is insufficient to affix personal jurisdiction to Mansfield, so it is of no consequence that Pennachietti lives in Pennsylvania, allegedly sought out SLS's website from Pennsylvania, filled out an application in Pennsylvania, allegedly made payments from Pennsylvania, titled his vehicle in Pennsylvania, etc. "We must examine what acts the defendants, or each of them, committed by which minimum contacts could be established." *Time Share,*735 F.2d at 65. The Supreme Court has held that:

> [t]he unilateral activity of those who claim some relationship with a nonresident defendant cannot satisfy the requirement of contact

[9] Informational communications in furtherance of a contract between a resident and a nonresident, either before or after a contract commences, do not establish the purposeful activity necessary for a valid assertion of personal jurisdiction over the nonresident defendant. *Vetrotex Certaineed Corp. v. Consol. Fiber Glass Prods. Co*., 75 F.3d 147, 152 (3d Cir.1996); quoting *Sunbelt Corp. v. Noble, Denton & Assoc., Inc*., 5 F.3d 28, 32 (3d Cir.1993).

> with the forum State.... [I]t is essential in each case that there be some act by which the defendant purposefully avails itself of the privilege of conducting activities within the forum State, thus invoking the benefits and protections of its laws. [*Hanson v. Denckla*, 357 U.S. 235, 253, 78 S.Ct. 1228 (1958) (*citing Int'l Shoe*, 326 U.S. at 319).]

Moreover, if Pennachietti's alleged loan was approved as a part of SLS's daily operation, no allegations or facts show that such approval was made with any regard for Pennachietti's geographic location or with any consideration of whether Pennachietti would ever move from one location to another—any approval was based on a match to underwriting qualifications. There are simply no facts to support the notion that Mansfield had any contacts with Pennsylvania or in any way contemplated entering Pennsylvania to avail himself to suit in Pennsylvania.

Pennachietti was required to allege facts to show that Mansfield acted beyond the scope of his authority as co-manager of SLS and as an individual in Pennsylvania in order for this Court to assert personal jurisdiction over Mansfield. Pennachietti has not pled personal jurisdiction exists or pled that Pennsylvania's long-arm statute establishes personal jurisdiction as required by Fed. R. Civ. P. 8(a)(1).

Everything in Pennachietti's Complaint seems to indicate that he sued Mansfield in his individual capacity to avoid suing SLS (which is dissolved and immune) or any of the other "Lending Enterprise" entities (because he cannot locate them). Merely because Mansfield is the only person Pennachietti can locate is insufficient to assert personal jurisdiction. It is not alleged that Mansfield has entered Pennsylvania or has done any act outside Wisconsin or Michigan. It is not alleged that Mansfield has personally conducted any business transactions in Pennsylvania.

C. RICO's broad reach is insufficient to allow personal jurisdiction over Mansfield.

RICO allows for suit to be brought in any district court in which a defendant "resides, is found, has an agent, or transacts his affairs" and allows suit for civil remedies in "any district court . . . in which it is shown that the ends of justice required that other parties residing in any other district be brought before the court." 18 USC 1965(a)-(b). However, under 18 USC 1965(a), "defendants in a civil RICO action must have sufficient 'minimum contacts' with the forum state in order for a district court in that state to exercise specific personal jurisdiction over them." *Vizant Techs., LLC v. Whitchurch*, 97 F.Supp.3d 618, 630 (E.D. Pa. 2015). As there is no personal jurisdiction over Mansfield, and there are no other defendants in this lawsuit, 18 USC 1965(b) cannot be used to "bootstrap" jurisdiction to Mansfield. *See Id*. at 630 fn 3.

D. Pennachietti should not be allowed discovery as to personal jurisdiction.

The Third Circuit has held that "[i]f a plaintiff presents factual allegations that suggest with reasonable particularity the possible existence of the requisite contacts between [the party] and the forum state, the plaintiff's right to conduct jurisdictional discovery should be sustained." *Toys "R" Us, Inc. v. Step Two, S.A*., 318 F.3d 446, 456 (3d Cir.2003) (internal quotations omitted).

Pennachietti cannot articulate any basis to allow discovery sufficient to overcome the failures in his Complaint and the facts showing that Mansfield has not availed himself to jurisdiction in Pennsylvania or had sufficient minimum contacts to allow personal jurisdiction in Pennsylvania. Pennachietti was allegedly harmed when he sought out a loan from a tribal instrumentality operating from Indian lands in Michigan, when "unknown" third-party companies collected upon the debt and seized his vehicle in Pennsylvania, and has sued an

individual residing in Wisconsin with no facts supporting any individual acts. Discovery will not resuscitate Pennachietti's Complaint.

Because Pennachietti has not alleged there is personal jurisdiction over Mansfield, and has not alleged Mansfield has availed himself to jurisdiction in Pennsylvania or that there are sufficient minimum contacts by Mansfield, in his individual capacity, to assert personal jurisdiction in Pennsylvania, Pennachietti has failed to show that this Court has personal jurisdiction over Mansfield. Pursuant to Fed. R. Civ. P. 12(b)(2), Mansfield's Motion to Dismiss should be granted.

V. If the Court finds that dismissal is inappropriate at this time, venue is improper and this matter should be dismissed pursuant to Fed. R. Civ. P. 12(b)(3).

As there is no personal jurisdiction over Mansfield, venue is improper in this Court and dismissal is appropriate under Fed. R. Civ. P. 12(b)(3). Alternatively, this matter should be transferred to Wisconsin pursuant to 28 U.S.C. §§ 1404 and 1631 as venue is improper in this Court and, as alleged, venue would be proper where Mansfield resides.

VI. Leave to amend the Complaint should be denied.

Leave to amend a pleading "shall be freely given when justice so requires" unless the underlying circumstances of a particular case render amendment inappropriate. Fed. R. Civ. P. 15(a); *see also Arthur v. Maersk, Inc.*, 434 F.3d 196, 204 (3d Cir. 2006) (*citing Foman v. Davis*, 371 U.S. 178, 182 (1962)). "Bad faith on the part of the [moving party], repeated failure to cure deficiencies by amendments previously allowed, undue prejudice to the opposing party, and futility of [an] amendment" are circumstances that may justify a denial of leave to amend. *Foman*, 371 U.S. at 182.

A. Any leave sought by Pennachietti will be done in bad faith and prejudicial to Mansfield.

The question of bad faith requires that the court focus on the plaintiff's motives in amending the complaint. *Lindquist v. Buckingham Twp.*, 106 F.App'x 768, 775 (3d Cir. 2004). As discussed above, Salvin has repeatedly attempted to skirt around LVD and SLS's sovereign immunity by suing Mansfield in his individual capacity. Salvin's first attempt resulted in a settlement with LVD, while his second attempt against Mansfield was dismissed as it was evident that Mansfield was immune from suit.

Now, Salvin has flatly ignored this Court's finding that Mansfield is immune and attempted to artfully plead to avoid the ruling in *Bynon I* despite alleging no new facts of different conduct by Mansfield. Salvin will not stop suing Mansfield until he is able to find a cause of action that sticks, and it is apparent that each lawsuit and each amended pleading is merely to drive out more information. Any leave to amend will be done simply as another test of this Court's tolerance.

Moreover, Mansfield is compelled to defend frivolous lawsuits and causing LVD to incur unnecessary legal expense. Salvin, *via* Pennachietti's Complaint, should not be able to knowingly file an inadequate pleading with a strategy built on making amendments based on a defendant's response rather than legal arguments to support well pled allegations.

B. Any amendments will be futile.

"Amendment of the complaint is futile if the amendment will not cure the deficiency in the original complaint or if the amended complaint cannot withstand a renewed motion to dismiss." *Jablonski v. Pan American World Airways, Inc.*, 863 F.2d 289, 292 (3d Cir. 1988).

As stated above, this is Salvin's third suit against Mansfield based on the same conduct alleged in his two previous lawsuits. And similar to both *Ghost* and *Bynon I*, Pennachietti's

dispute is with SLS, not Mansfield in his individual capacity. Mansfield has already stated twice that at all relevant times, he was acting within the power granted to him through SLS's operating agreement and never outside the scope of that power. There are no set of facts that Pennachietti can allege that would transform Mansfield's work for SLS into Mansfield's conduct as an individual. Moreover, much of what is alleged in Pennachietti's Complaint occurred after SLS discontinued operation and after Mansfield had resigned. *See, e.g.*, Complaint, ¶ 27 (where installment payments were made in August 2014); Exhibit P-3 (where cease and desist order was served on June 24, 2015); Exhibit P-4 p 2 (where several payments were made after January 17, 2014); Exhibit P-4 pp 3-7 (where payments; release; and affidavit were executed after January 17, 2014) As such, any proposed amendment would be futile. Pennachietti should be denied the chance to amend his Complaint as any amendments would be futile.

CONCLUSION AND RELIEF REQUESTED

At all times alleged Mansfield was acting in his official capacity as co-manager of SLS, and as SLS was a wholly owned and operated instrumentality of a federally-recognized Indian tribe, sovereign immunity protects LVD, SLS, and Mansfield from suit. Therefore, this Court lacks subject matter jurisdiction over Pennachietti's claims and this Court should grant Mansfield's Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(1).

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Additionally, Pennachietti has failed to allege any facts to show that Mansfield has availed himself to this jurisdiction or had sufficient minimum contacts with this jurisdiction. As such, this Court lacks personal jurisdiction over Mansfield and Mansfield's Motion to Dismiss should be granted pursuant to Fed. R. Civ P. 12(b)(2).

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Dated: June 30, 2017

CERTIFICATE OF SERVICE

This is to certify that in this case complete copy of the foregoing pleading has been filed electronically and is available for viewing and downloading from the ECF system. This document is being served upon the following counsel by electronic filing:

Name	**Date of Service**
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