

THE HONORABLE JOHN C. COUGHENOUR

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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

MARGRETTY RABANG, OLIVE OSHIRO,  
DOMINADOR AURE, CHRISTINA  
PEATO, and ELIZABETH OSHIRO,

Plaintiffs,

v.

ROBERT KELLY, JR., RICK D. GEORGE,  
AGRIPINA SMITH, BOB SOLOMON,  
LONA JOHNSON, KATHERINE CANETE,  
RAYMOND DODGE, ELIZABETH KING  
GEORGE, KATRICE ROMERO, DONIA  
EDWARDS, and RICKIE ARMSTRONG,

Defendants.

Case No. 2:17-cv-00088-JCC

DECLARATION OF CONNIE SUE  
MARTIN IN SUPPORT OF MOTION  
FOR INDICATIVE RULING  
REGARDING DISMISSAL PURSUANT  
TO CR 62.1, CR 60(B)(4) AND (5), AND  
CR 12(H)(3)

**NOTED FOR HEARING: MARCH 30,  
2018**

Declarant CONNIE SUE MARTIN certifies and states as follows:

1. I am one of the attorneys of record of defendants Robert Kelly, Jr., Rick D. George, Agripina Smith, Bob Solomon, Lona Johnson, Katherine Romero (formerly Canete), Elizabeth King George, Katrice Romero, Donia Edwards, and Rickie Armstrong (collectively, the Kelly Defendants). I am over the age of 18 years, have personal knowledge of the facts contained in this declaration, and am competent to testify.

2. The Nooksack Indian Tribe conducted its Special Election in December, 2017 and on December 12, 2017, certified the results of the Special Election to the Bureau of Indian

DECLARATION OF CONNIE SUE MARTIN RE:  
MOTION FOR INDICATIVE RULING: **CASE NO. 2:17-**

1 Affairs (BIA) and the Department of the Interior (DOI). The Tribe expected that the BIA  
2 would complete its review and make a recommendation to the DOI sometime in December, as  
3 had been contemplated in the Memorandum of Agreement (MOA) between the DOI and  
4 Chairman Kelly.

5  
6 3. Under the Nooksack Election Code, the next regularly scheduled election cycle  
7 would have the Primary Election on Saturday, February 17, 2018 and the General Election on  
8 Saturday, March 17, 2018.

9 4. In late January, 2018, when it became apparent that the BIA would be taking  
10 much longer to complete its investigation of the Special Election than the Tribe had  
11 anticipated, and that an ongoing investigation could create uncertainty if the Tribal Council  
12 that had not been recognized by the DOI from the 2017 Special Election was the body taking  
13 action to certify the results of the 2018 election, the Tribal Council suspended the 2018  
14 election. Attached hereto as **Exhibit 1** is a true and correct copy of the January 30, 2018  
15 Resolution #18-10, which suspended the 2018 Tribal Council Election until “such time as the  
16 U.S. Department of Interior completes its review and recognizes the Tribal Council Members  
17 elected in December 2017,” after which the council election process would be resumed.

18  
19 5. Resolution #18-10 also explicitly provided “that tribal council members with  
20 terms scheduled to expire in March 2018 shall, as a matter of Nooksack tribal law, maintain  
21 holdover status with all constitutional powers and responsibilities until such time as their  
22 successors are elected and sworn in to office.”

23  
24 6. The Tribe forwarded Resolution #18-10 to the DOI the day after it was adopted,  
25 to inform Principal Deputy Assistant Secretary (PDAS) Tahsuda of both the delayed election  
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DECLARATION OF CONNIE SUE MARTIN RE:  
MOTION FOR INDICATIVE RULING: CASE NO. 2:17-

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SCHWABE, WILLIAMSON & WYATT, P.C.  
Attorneys at Law  
1420 5th Avenue, Suite 3400  
Seattle, WA 98101-4010  
Telephone: 206.622.1711

1 and the holdover status of the Council members elected in 2014.

2 7. By letter dated March 9, 2018, PDAS Tahsuda notified the Tribe that BIA had  
3 completed its investigation of the Special Election, and the DOI “recognize[d] the validity of  
4 the Tribal Council comprised of the four Tribal Council members elected in 2014 and the four  
5 Tribal Council members elected in the Special Election.” Dkt. 141-1.  
6

7 8. PDAS Tahsuda also recognized and endorsed the Tribe’s suspension of the  
8 2018 General Election, and the holdover status of the Tribal Council members elected in 2014  
9 after March 17, 2018, writing that the “[r]ecognition of the Tribal Council comprised of the  
10 above-listed members shall extend until the results for the general election originally scheduled  
11 for March 17, 2018, can be certified” by the Tribe. *Id.*  
12

13 9. On March 15, 2018, following the DOI’s full recognition of the Tribal Council,  
14 the Council passed a series of resolutions adopting, approving, ratifying, and confirming as  
15 valid and binding all actions taken by the holdover Council from March 24, 2016 through  
16 March 9, 2018, specifically including the appointments of Judge Dodge (Resolution #18-15)  
17 and pro tem Judge Milton Roland (Resolution #18-16).  
18

19 10. Attached hereto as **Exhibit 2** is a true and correct copy of the March 15, 2018  
20 Resolution #18-18, ratifying resolutions adopted by the Tribal Council since March 24, 2016.

21 11. Attached hereto as **Exhibit 3** is a true and correct copy of Resolution #18-15,  
22 ratifying the appointment of Chief Judge Raymond Dodge.

23 12. Attached hereto as **Exhibit 4** is a true and correct copy of Resolution #18-16,  
24 ratifying the appointment of Pro Tem Judge Milton Roland.

25 I certify under penalty of perjury under the laws of the United States that the foregoing  
26

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Attorneys at Law  
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is true and correct.

Signed this 30<sup>th</sup> day of March, 2018 in Seattle, Washington.

By: /s/ Connie Sue Martin  
Connie Sue Martin, WSBA #26525  
Email: [csmartin@schwabe.com](mailto:csmartin@schwabe.com)  
1420 5th Avenue, Suite 3400  
Seattle, WA 98101-4010

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Seattle, WA 98101-4010  
Telephone: 206.622.1711

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**CERTIFICATE OF SERVICE**

The undersigned declares under penalty of perjury, under the laws of the State of Washington, that the following is true and correct:

That on the 30<sup>th</sup> day of March, 2018, I electronically filed the foregoing DECLARATION OF CONNIE SUE MARTIN IN SUPPORT OF MOTION FOR INDICATIVE RULING RE: DISMISSAL PURSUANT TO CR 62.1 with the Clerk of the Court using the CM/ECF System which will send notification of such filing to the following:

Gabriel S. Galanda  
Anthony S. Broadman  
Ryan D. Dreveskracht  
Bree R. Black Horse  
Galanda Broadman, PLLC  
P.O. Box 15146  
8606 35th Avenue NE, Suite L1  
Seattle, WA 98115

Rob Roy Smith  
Rachel Saimons  
Kilpatrick Townsend & Stockton LLP  
1420 5<sup>th</sup> Avenue, Suite 3700  
Seattle, WA 98101

/s/ Connie Sue Martin  
Connie Sue Martin