

No. 18-2332

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IN THE UNITED STATES COURT OF APPEALS  
FOR THE SEVENTH CIRCUIT

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DAWN MARIE DELEBREAU,  
Plaintiff-Appellant,

v.

CRISTINA DANFORTH, et al.,  
Defendants-Appellees.

U.S.C.A. - 7th Circuit  
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On Appeal from the United States District Court  
For the Eastern District of Wisconsin  
Honorable Judge William C. Griesbach, Chief Judge  
Case No. 1:17-cv-01221-WCG

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**Opening Brief of Plaintiff-Appellant**

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Dawn Marie Delebreau, Pro Se  
W480 Fish Creek Rd.  
De Pere, WI 54115

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Fed. Rule 26.1 Statement.

Pursuant to Fed. Rule 26.1 the Plaintiff-Appellant states, Plaintiff-Appellant files this action as an individual and not a non-governmental corporate party to any proceeding and that this action is not of any parent corporation, publicly-held company, nor is stock held.

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## INTRODUCTION

**This Brief is tenet to federal jurisdiction.** This Introduction scans three of several District Court errors such as 1) the undisputed facts as determined by federal investigators within the federal HUD fraud indictment of Jay L. Fuss (*United States v. Jay L. Fuss*, No. 17-CR-92 (E.D. Wis.)) and the temporal proximity causes of constitutional deprivations and harm are directly related to Plaintiff-Appellant, the indictment-deprivation cause-effect are indivisible, not insubstantial, not frivolous and therefore must invoke the federal question and federal jurisdiction, 2) Oneida Nation citizens such as the Plaintiff-Appellant have constitutional rights that invoke federal question because the Oneida Nation tribal constitution does not diminish a tribal citizens' U.S. Constitutional rights such that a dispute of rights (whether for or against) must be approved by the U.S. Secretary of Interior and ratified by the Oneida Nation General Tribal Council, in other words, no judge, no court can arbitrarily strip Plaintiff-Appellants' Reconstruction Era and Indian Civil Rights Act of 1968 rights (25 U.S.C. § 1302), and 3) it is "reasonable and rational" for the federal government to protect federal funds from fraud such that federal whistleblower laws are of general applicability such that receiving federal HUD funds are not an "exclusive right of [tribal] self-governance" and therefore invokes federal question because the Tuscarora Rule applies see *Federal Power Commission v. Tuscarora Indian Nation*, 362 U.S. 99 (1960), *Morton v. Mancari*, 417 U.S. 535



(1974) see also 18 U.S.C. § 245(b)(E). In *Morton* the Seventh Circuit Appellate Court has followed an approach which creates a presumption that statutes of general applicability apply to Indian tribes unless a contrary showing is made.

1. The Appellant, a federally recognized enrolled Oneida Nation tribal citizen while working as an employee of the Nation discovered, disclosed, and reported, and is a federal witness to continued and pervasive Oneida Housing Authority (OHA) HUD fraud leading to a federal indictment see *United States v. Jay L. Fuss*, No. 17-CR-92 (E.D. Wis.). The fraud indictment *id.* infers the Plaintiff is a federal HUD fraud whistleblower resulting in prohibited retaliation i.e. demotions, reassignments, firings, tribal litigation, and familial physical harm. The fraud indictment *id.* infers 1) there is no facial attack on the sufficiency of Plaintiff's allegations, and 2) there can be no substantial challenge to the undisputed facts because the extent of temporal proximity retaliation is federally documented by federal investigators i.e. OIG HUD and FBI who conducted the HUD fraud investigation leading to the indictment *id.* For a Standard of Decision on subject matter jurisdiction see *Tina Marie Somerlott v. Cherokee Nation Distributors, Inc., An Oklahoma Corporation, and CND, L.L.C., An Oklahoma Limited Liability Company*, CIV-08-429-D (W.D. Okla.) such that, when evaluating subject matter jurisdiction, the District Court did not consider the undisputed facts of evidence entered into

the legal record by federal investigators in *Fuss*. Therefore the merits of the undisputed facts of evidence are not, and cannot be insubstantial, immaterial, or frivolous see *Turner/Ozanne v. Hyman/Power*, 111 F.3d (7<sup>th</sup> Cir. 1997) at 1316-17. Undisputed facts as documented by federal investigators are convincingly sound such that the District Courts' decision to Dismiss on federal jurisdiction grounds elucidates a gaping hole of controversy that would have been otherwise avoided had this case been heard on the merits see *Sabrina Roppo v. Travelers Commercial Ins. Co.*, 869 F.3d (7<sup>th</sup> Cir. 2017). In other words, on the face, the Appellate Court should ask a simple question, "If the whistleblower Plaintiff-Appellant disclosed federal HUD fraud, a federally protected activity, that resulted in a federal indictment and the federal investigators documented evidence of temporal proximity retaliation, how can there not be federal jurisdiction in this Case?" see *Fuss* also 18 U.S.C. § 245(b)(E).

2. The District Courts' arbitrary stripping of Appellant's constitutional rights is abhorrent, dispassionate, and particularly inscrutable because the Oneida Nation Constitution Article IV – Powers of the General Tribal Council, Section 1 states "... subject to any limitations imposed by the statutes or the Constitution of the United States". Further, *id* at (h) the GTC exercises the powers "[T]o adopt resolutions not inconsistent with this Constitution and the

## STATEMENT OF JURISDICTION

The District Court Order Dismissing this Case for lack of federal jurisdiction is appealable as of Right taken under Fed. Rules of Appellate Procedure, Rule 3(a) and Rule 4(a)(1)(A).

## STATEMENT OF THE ISSUES

1. Did the District Court error by prematurely Dismissing this Case for lack of federal jurisdiction because the District Court failed to consider federal investigators' undisputed substantial evidence, facts, and testimony within the federal HUD fraud investigation and subsequent HUD fraud indictment of Jay L. Fuss? See *Fuss*.
2. Did the District Court error by using flawed tribal constitutions and laws of tribes in Montana and New Mexico to strip Appellants' guaranteed constitutional rights provisions as set forth in, (with specific federal intention to ensure tribal citizens have unabridged U.S. constitutional rights) the Oneida Nation Constitution Article IV as approved by the Secretary of Interior, Bureau of Indian Affairs in the Indian Reorganization Act of 1934?
3. Did the District Court error by failing to apply the intent of whistleblower laws such as to protect the federal government and taxpayers from HUD fraud such that whistleblower laws must be generally applied to the Oneida

Nation because federally funding the OHA HUD program does not in any way intramurally interfere with the Oneida Nations' exclusive right to self-govern? See *Federal Power Commission*.

4. Considering a claim is insubstantial only if a controversy cannot be raised, did the District Court create a gaping hole of controversy by failing to recognize the soundness of the federal investigators' claims of fraud and prohibited retaliation through documentation of valid evidence in *Fuss*? See *Roppo*.
5. Considering the federal HUD indictment in *Fuss* contains substantial claims while combined with Appellants' complaint undisputedly provides the steps and procedural groundwork that was necessary for federal HUD indictment, did the District Court error in its determination of conclusory effect?
6. Considering the Appellant discovered HUD fraud and worked with federal investigators who documented sufficient factual matter that resulted in the *Fuss* federal indictment, did the District Court error in failing to determine that plausible prohibited retaliation on its face may entitled Appellant to relief? See *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009)?
7. Considering the District Court accepts Appellants' factual allegations as undisputed and true such that Appellants' claims are documented as

federal evidence in *Fuss*, did the District Court error in its determination that Appellants' claims and right to relief are purely speculative? See *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007).

8. Did the District Court error by failing to determine Appellants' plausible deprivation of rights and prohibited whistleblower retaliation as federally documented within the *Fuss* HUD fraud indictment?
9. Did the District Court error by applying a non-Pub. Law 280 Ft. Belknap (Montana) tribal constitution to the Pub. Law 280 Oneida Nation Appellant?
10. Considering the federal HUD Office of Native American Programs requires evidence that those responsible for governing the OHA HUD entity are regularly monitoring the operations of the HUD entity and have financial oversight, did the District Court error in determining that the requirement of financial oversight does not include federal whistleblower laws? See *Federal Power Commission*.
11. Considering Congress has not provided for special treatment i.e. to allow HUD fraud to occur on Indian Reservations without financial oversight, it is well settled that under statutes of general applicability such as federal whistleblower laws that Indians are treated as any other person, did the District Court error in determining the general applicability of

whistleblower laws in this Case? See 29 C.F.R. § 1975.4(b)3, *Federal Power Commission*, and *Navajo Tribe v. N.L.R.B.*, 288 F.2d 162, 164-165 (D.C. Cir. 1961).

12. Considering the Appellate was not assured of safe and healthful working conditions after whistleblowing, did the District Court error in determining the general applicability of OSHA laws in this Case? See 29 U.S.C. § 651(b).
13. Considering federal HUD is not specifically reserved to Indians and that federal whistleblower laws are not sought to specifically affect tribal rights to self-governance, did the District Court error in failing to apply the Tuscarora Rule? See *EEOC v. Fond du Lac Heavy Equipment and Constr. Co.*, 986 F.2d 246 (8th Cir. 1993).
14. Considering all Reconstruction Era Civil Rights are not diminished, did the District Court error in failing to determine that conspiracy to interfere with Appellants' civil rights is plausible under 42 U.S.C. § 1985? See *Burrell* at 1177.
15. Although *pro se* Appellant had commenced this action not perfectly technically correct, such that it is not necessary to be technically correct, did the District Court error by prematurely finding a lack of federal

jurisdiction because due process of law only applies when fair? See *Burrell*, and *Kremer v. Chem. Constr. Corp.* 456 U.S. 461.

## STATUTORY PROVISIONS

The Oneida Nation, Pueblo of Santa Ana, and Ft. Belknap tribal constitutions are listed in the table of contents within the Addendum and bound together in this single document.

## STATEMENT OF THE CASE

This is an appeal from the E.D. Wis. Courts' decision to Dismiss for lack of federal jurisdiction. The underlying action arises from a federal HUD fraud whistleblower notice from the OHA such that Appellant seeks the right to relief from individuals working for the Oneida Nation who have acted outside the scope of their authority by invoking, supporting, and failing to prevent, prohibited workplace retaliation, tampering, and familial physical harm leading to monetary, physical, and emotional harm *inter alia* of the Appellant.

Background of OHA HUD fraud. OHA HUD fraud is in the millions of dollars and unfortunately dreadfully pervasive; involving many tribal families, some tied to the Oneida Business Committee i.e. to the current tribal chairman. In addition to families, the Oneida Nation-owned Oneida Tribal Integrated Enterprise (OTIE) was recently caught bid-rigging on-Reservation, tribal elder housing. Although the OHA

HUD funding is designed for Oneida citizens some of the HUD funding was used for non-tribal citizens both on and off the Reservation. Accordingly, the vastness of OHA HUD fraud has negatively impacted Oneida tribal citizens who have real HUD housing funding needs.

The Appellate Court should not be surprised by the tribal mafia-like protection to maintain free, free-flow funded liberal dollars. For example, the Appellate Court would not be surprised if the mafia were to beat someone who did not pay for protection similarly the Appellate Court should not be shocked that Appellants' son was run over by a snowplow by Defendant J. Fuss or severally beaten such that [his] eye socket was broken by a friend and co-OHA HUD worker of Defendant J. Fuss.

Perhaps the Appellate Court believes, notwithstanding the federal HUD fraud indictment in *Fuss*, that these claims are isolated and that Oneida citizens who are operating the OHA HUD program are really trying to be ethical. Consider a few examples here, in one year 987 stipends were paid to seven OHA HUD board members, five OHA HUD board members attending ethical training in New England rented premium automobiles one with a cost of \$1,067, six OHA HUD board members while training in Honolulu, Hawaii stayed an extra three days at HUD expense when no training was conducted, Oneida Nation OHA HUD paid for family airfare, gifts for OHA HUD board and staff (aka Merry Christmas to me), the purchase of personal credit cards, four HUD contracts were overpaid by \$95,000 to



relatives of two OHA HUD board members, a non-authorized HUD \$14,000 Fun-in-the-Sun petty-cash fund, \$200 per diems (twice what is allowed), \$33,000 in personal credit cards for skin care products, gift shop merchandise, clothing, hotel rooms for family members, and entertainment, and, four OHA HUD board members used HUD credit cards for \$10,000 cash advances<sup>1,2</sup>.

Perhaps the Appellate Court believes, the federal government and taxpayers ought *not* to worry because federal tribal HUD fraud is only isolated to the Oneida Nation. Consider some examples here, tribal HUD fraud such \$11 million in Navajo Territory, \$17 million United Auburn Indian Community, \$20 million investigated at Lower Brule Sioux Tribe, \$31.6 million Chippewa Cree Tribe, Lumbee Indian Tribe a mere \$225,000 for food and fishing. Tribal HUD fraud is pervasive throughout Indian Country inferring whistleblower laws are necessary to protect the federal government and taxpayers from tribal corruption.

Perhaps the Appellate Court believes, the Oneida Nation fraudulent HUD funds will be collected and returned to the federal treasury. Consider, currently former OHA HUD board members are paying restitution at the taxpayer jaw-

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<sup>1</sup> Daley, D. (September 15, 2016). Tribes in Wisconsin and across the U.S. misusing millions in federal housing funds. Retrieved from <https://www.badgerinstitute.org/Commentary/Tribes-in-Wisconsin-and-across-the-U.S.-misusing-millions-in-federal-housing-funds.htm>

<sup>2</sup> HUD OIG Audit Report #2008-SE-1002

dropping sham-rate of \$20 per month. In other words, there is no real ethical intent to indemnify the federal government or taxpayers for the OHA HUD fraud.

Based on the above, the Appellate Court should ask, “If the Appellant notified federal investigators of OHA HUD fraud, is it plausible that the Appellant would have been subjected to constitutional rights violations concomitant prohibited workplace retaliation?” If the answer is yes, it is plausible, then federal jurisdiction ought to be *sua sponte* and sent back to E.D. Wis.

#### I. FACTUAL BACKGROUND RELEVANT TO REVIEW

Herein this lawsuit is brought against tribal employees in their individual capacity, as the individual employee(s) have acted outside the scope of their authority and is the real party of interest and that the Oneida Nations’ sovereign immunity is not implicated, see *Lewis v. Clarke*, 137 S.Ct. 1285 (2017).

Upon discovery of fraudulent OHA HUD requisitions and invoices the Oneida Nation Purchasing Director was immediately contacted and disclosed fraud information (the PD did not want to receive this information) which started an avalanche of mafia-like activity such as having a secret meeting with the Oneida Nation Defendant C. Danforth off-reservation see 41 U.S.C. § 4712(a)(2)(G). The non-conclusory chronology is outlined in the Original Complaint however emphasis

is rightfully placed on the first consequence of relinquishing Appellant's full-time job as a commitment to support the OHA HUD fraud investigation at the Defendant C. Danforths' insistence see 41 U.S.C. § 4712(c)(7).

The Plaintiff-Appellants' rights remain unabridged, and cannot be waived such that the Plaintiff-Appellant an employee of the OHA HUD program that is construed as either a contractor, subcontractor, grantee, or subgrantee of the federal government Office of Native American Programs HUD program, and reprisals are federally prohibited such that the Plaintiff-Appellant was subjected to discharge, demotion, as reprisal for immediately disclosing OHA HUD fraud to the Oneida Nation Purchasing Director who was responsible to investigate, investigate, or address misconduct see 41 U.S.C. § 4712(a)(2)(G).

A reasonable and prudent person would conclude giving up a full-time job with benefits while accepting a limited term employment contract to support a HUD fraud investigation is wrong; it is a demotion because the deceitful underlying intent of this action was to remove Appellant from tribal full-time employment. Indeed, the Defendant C. Danforth as Oneida Nation Treasurer did not have the authority to place Appellant in a temporary job because the Defendant C. Danforth did not have the authority to hire the Appellant for another job position elsewhere as falsely promised in the tribal organization. Regardless of the fraud investigation outcome, the blacklisted Appellant would have to be rehired through the Oneida Nation

Defendant G. Danforth HRD gatekeeper. This initial underlying conspiracy to remove Appellant from a full-time position was not done in a vacuum because the implications of the HUD fraud exposure placed significant pressure on the Treasurer (C. Danforth), CFO (Defendant L. Barton), and HRD Director (G. Danforth) because tribal citizen families would most likely be implicated if not federally indicted, notwithstanding negative publicity the Oneida Nation would receive. Soon after Defendant M. Danforth (Vice-Chairperson) was responsible but negated upholding Appellant agreements with Defendant's C. Danforth and L. Barton because it was also outside the scope of M. Danforths' authority. Unfortunately, the conspiracy to terminate, blacklist, and remove Appellants' employee protections was underway which directly led to Appellant firings, reassignments, litigation, harassment, and the eventual severe beating of Appellants' son during an off-reservation OHA HUD sanctioned event. See 42 U.S.C. § 1985.

The Appellate Court should ask, "Considering the depth and breadth of OHA HUD fraud corruption within the Oneida Nation (a Pub. Law 280 tribe) is it plausible, that key tribal employees such as the Defendant's use their positions of power to subject, or caused to subject Appellant, a United States citizen, a tribal citizen with guaranteed constitutional rights under the Oneida Nation Constitution Article IV the deprivation of constitutional and workplace rights, equal protections,

secured by the United States Constitution and laws?" See Indian Citizenship Act of 1924, 43 U.S. Stats. At Large, Ch. 233, p. 253 (1924).

If the Appellate Court finds it plausible that tribal employees of a Pub. Law 280 tribal government made promises (that only the full Oneida Business Committee or the GTC could have made) to the Appellant and took actions detrimental to the Appellant that were outside the scope of their authority and might be the cause of deprivation of constitutional rights such as the right to equal protections, the right to due process of law (the real intent of limited term employment) then the Defendant's may be liable to the Appellant in an action at law inferring federal jurisdiction exists and the proper proceeding for redress is E.D. Wis.

## II. PROCEDURAL HISTORY AT THE DISTRICT COURT

On September 11, 2017 the *pro se* Plaintiff-Appellant filed Original Complaint, see Doc#1. On December 28, 2017 the first Scheduling Order signed by Chief Judge William Griesbach, see Doc#33. On January 24, 2018 Defendant's filed motion to Dismiss, see Doc#38. On June 5, 2018 Decision and Order motion to Dismiss granted due to lack of federal jurisdiction, see Doc#56. On June 15, Plaintiff-Appellant filed Notice of Appeal, see Doc#58.

## SUMMARY OF THE ARGUMENT

The District Courts' finding of a lack of federal jurisdiction is flawed because the District Court erroneously believes the Appellant has no federal standing because 1) that even though a federal HUD indictment of Jay L. Fuss exists, there is no connection between the whistleblower actions and the *Fuss* case, 2) that the Appellant does not have U.S. Constitutional rights, thus deprivation of rights cannot exist, 3) that even though tribal governments have corrupt HUD entities the federal government does not have laws of general applicability to address the corruption for the protection of federal government and taxpayers, 4) Appellant not only reported OHA HUD fraud but was also a witness i.e. there are special federal statute witness protections, and 5) the evidence of prohibited employee retaliation and constitutional violations in favor of Appellant is so compelling and overwhelming that the Appellate Court ought to consider a fee shift Order by Tuscarora Rule.

1. Appellants' whistleblower action is the direct cause of the federal OHA HUD fraud indictment of Jay L. Fuss see *Fuss*. Appellants' actions are tied to the *Fuss* case such as first contacting the purchasing department with the problem, communicating with the Treasurer's Office, and supporting the federal HUD fraud investigation through testimony, physical evidence, physical documents, and photographs, *inter alia*. The latter is a legally protected interest to the federal government, see 18 U.S.C. § 1512(a)(2),

18 U.S.C. § 1513(b), yet the Appellant suffered demotion, reassignments, firings, verbal and written threats, and familial harm (Appellants' son was severely beaten) see 18 U.S.C. § 1513(b). In other words, the Appellant was subjected to injuries in fact at 18 U.S.C. § 1512(a)(2) to attempt to influence, delay, or prevent Appellants' testimony and support in the OHA federal HUD fraud investigation. These injuries occurred by the causal connections of the Defendants' outside-the-scope-of-their-authority actions to act, to ensure, employee protections and due process of law. Considering the millions of dollars in fraud and the vastness of Oneida tribal familial OHA HUD corruption, it is highly plausible as opposed to mere speculation that the E.D. Wis. will favorably decide the proper redress of injury.

**Summary.** In this item no. 1 section *supra*, while the Appellant was supporting actual, concrete federal HUD investigation violations of 18 U.S.C. § 1512(a)(2), 18 U.S.C. § 1513(b), for example Appellants' son could have died. The Defendants' knew the familial federal HUD fraud relationships (because they are family) and their outside-the-scope-of-their-authority actions are the direct cause of failed employee protections and constitutional equal protections violations, notwithstanding 18 U.S.C. § 1512(a)(2), 18 U.S.C. § 1513(b). From this

it is highly likely the E.D. Wis. would find in favor of the Appellant. In other words, the Appellant has outlined the Supreme Courts' three-part test for federal standing to sue; federal jurisdiction exists. See *Lujan v. Defenders of Wildlife*, (90-1424), 504 U.S. 555 (1992), *County of Riverside v. McLaughlin*, 500 U.S. 44 (1991), *Northeastern Fla. Chapter of the Associated Gen. Contractors v. City of Jacksonville*, 508 U.S. 656 (1993).

2. Even in an extreme case of a perceived lack of United States constitutional rights such as within the Ft. Belknap tribal government (a non-Pub. Law 280 tribe) the federal court system must recognize Ft. Belknap tribal citizens *sua sponte* are not completely void of United States constitutional rights because Ft. Belknap citizens are United States citizens pursuant to the Indian Citizenship Act of 1924. With that, the Appellate Court *sua sponte* must determine that the Appellant does indeed have United States constitutional rights. The Appellant argues that if just one U.S. constitutional right exists under the United States Constitution, Indian Citizenship Act of 1924, Pub. Law 280, and or the Oneida Constitution then all the U.S. constitutional rights exists such that the Appellate Court *sua sponte* must determine if the Appellant maintains as a federal citizen all U.S. constitutional rights unabridged or the Appellant has no U.S.



constitutional rights in this Case i.e. “all or none”. If, U.S. Constitutional rights apply, federal jurisdiction must exist.

3. Tribal HUD fraud is so pervasive a whistleblower law of general applicability is necessary to protect the federal government, taxpayers, and as in this Case the Appellant whistleblower such as Tuscarora Rule 10 U.S.C. § 2049, and Tuscarora Rule 41 U.S.C. § 4712(a)(2)(G) that the federal government improves whistleblower rights of federal contractors, employees of contractors, subcontractor, or grantee *id* at (G) working federal contracts, grants, and other programs. In that, those who report such as the Appellant, waste, fraud, or abuse of federal funds cannot be demoted, discharged, or discriminated against as a result. Whistleblower laws apply as rule of general applicability, thus federal jurisdiction applies.
4. A special note, the Appellant reported the OHA HUD fraud but was also a witness who actively participated in the federal investigation thus 18 U.S.C. § 1512(a)(2), 18 U.S.C. § 1513(b) apply. Similarly, the Federal Circuit recognizes that the Defendants-Appellees’ actions have adversely affected Appellants’ rights and that the arbitrary and protection of OHA HUD mafia (known tribal citizens and familiarly related to the Defendants-Appellees) at the detriment of the Appellant and to the benefit of the OHA HUD mafia is an arbitrary exercise of their power see *Elkassir v. Gen.*

*Servs. Admin.*, 257 F.App'x 326, 329 (Fed. Cir. 2007). If abuse of authority and violations of 18 U.S.C. § 1512(a)(2), 18 U.S.C. § 1513(b) are plausible then federal jurisdiction exists.

5. If the Appellate Court finds under a favorable burden of proof that the Appellant has demonstrated temporal proximity of tampering and retaliation i.e. discovery of fraud, disclosure of fraud, demotion, firings, verbal and written threats of intimidation, and physical violence etc. that an Order of remedy might include fee shifting (Tuscarora Rule, federal whistleblower protection remedy) such that the Defendants-Appellees ought to pay for this litigation.

During the time of Appellants' constitutional deprivation, the Oneida Nation a Pub. Law 280 tribal government had an IRA era constitution such that Article IV was approved by the federal government, Department of Interior on December 21, 1936 where the General Tribal Council recognized the United States Constitution subjecting the tribe and its citizens to the limitations imposed by federal statutes and the Constitution of the United States. The Appellate Court must recognize that Oneida Nation citizens (just like other U.S. citizens, see Indian Citizenship Act of 1924) have unabridged constitutional rights. Indeed, Article IV, Section 1, (h) prohibits the GTC from adopting resolutions that would abridge their U.S. constitutional rights. A perceived abridgment of U.S. constitutional rights under

Article IV must be reviewed by the United States Secretary of Interior, Article IV, Section 4 (Manner of Review), and approved by both the Secretary of Interior and the GTC.

#### STANDARD OF REVIEW-REVIEWABILITY

The District Courts' Dismissal for perceived lack of federal jurisdiction is reviewable as an appeal as of Right taken under Fed. Rules of Appellate Procedure, Rule 3(a) and Rule 4(a)(1)(A). The District Court has abused its discretion by arbitrarily abridging Appellants' constitutional rights by applying Ft. Belknaps' (A Montana non-Pub. Law 280 tribal government) non-constitutional tribal rights see *Alliance for the Wild Rockies v. Cottrell*, 632 F.3d 1127 (9th Cir. 2011). Indeed, "The District Court necessarily abuses its discretion when it bases its decision on an erroneous legal standard or on clearly erroneous finding of fact." See *Cnty. House, Inc. v. City of Boise*, 468 F.3d 1118 (9th Cir. 2006). Because E.D. Wis. relied on the erroneous legal premise of using Ft. Belknaps' Constitution rather than the Oneida Nation Constitution the 7th Circuit Court of Appeals reviews the underlying issues of law *de novo*. *Id.*

Clearly, the use of another tribal constitution (Ft. Belknap, a non-Pub. Law 280 tribal government) used in *Burrell*; a case involving two non-tribal citizens in the Pueblo of Santa Ana (a Pub. Law 280 tribal government) incorrectly deprives Appellant of U.S. constitutional rights i.e. 42 U.S.C. § 1983, concomitant federal

jurisdiction therefore this Appellate Court ought to either remand for further E.D. Wis. proceedings to explore the federal jurisdiction question or resolve that E.D. Wis. does indeed have federal jurisdiction to hear this Case see *McAllister v. Sullivan*, 888 F.2d 599 (9th Cir. 1989), *Experience Hendrix L.L.C. v. Hendrixlicensing.com LTD*, 762 F.3d 829 (9th Cir. 2014).

## ARGUMENT

- I. THE DISTRICT COURT APPLIED ERRONEOUS LEGAL STANDARD BY APPLYING FORT BELKNAP AND PUEBLO OF SANTA ANA CASE LAW INVOLVING A NON-TRIBAL COMPANY IN THE FORMER AND A NON-TRIBAL HUSBAND AND WIFE IN THE LATTER TO THE ONEIDA NATION TRIBAL CITIZEN PLAINTIFF-APPELLANT THUS THE DISTRICT COURT ERRED IN STRIPPING PLAINTIFF-APPELLANT OF FEDERAL AND TRIBAL CONSTITUTIONAL RIGHTS.

THE ONEIDA CONSTITUTION FOLLOWS THE U.S. CONSTITUTION SUCH THAT STRIPPING AN ONEIDA NATION CITIZENS' RIGHTS MUST FIRST BE APPROVED BY THE U.S. SECRETARY OF INTERIOR AND RATIFIED BY THE ONEIDA NATION GENERAL TRIBAL COUNCIL.

WHEN THE DISTRICT COURT STRIPPED PLAINTIFF-APPELLANT OF RIGHTS THE DISTRICT COURT UNKNOWINGLY STRIPPED THE FEDERALLY APPROVED RIGHTS OF ALL ONEIDA NATION CITIZENS.

A. **The Legal Standard** established by the United States Department of the Interior, Office of Indian Affairs approved the Oneida Tribe of Indians Constitution on December 21, 1936 makes it clear that only the federal government in administrative action or law can strip an Oneida Nation tribal citizens' U.S. Constitutional rights (see also 25 U.S.C. § 1302(a)(1) unabridged rights i.e. to redress). The E.D. Wis. states, "A 42 U.S.C. § 1983 action is unavailable 'for persons alleging deprivation of constitutional rights under color of tribal law.'" see *Ft. Belknap Hous. Auth.* There are no federal legal precedents that supports the District Courts' ruling that the Plaintiff-Appellant has no 42 U.S.C. § 1983 constitutional rights as an Oneida Nation citizen under tribal constitutional law.

Indeed, Article IV – Powers of the General Tribal Council state, Section 1. *Enumerated Powers*. “The General Tribal Council of the Oneida Tribe of Wisconsin shall exercise the following powers, subject to any limitations imposed by the statutes or the Constitution of the United States: ... (h) To adopt resolutions not inconsistent with this Constitution and the attached By-laws...”. Any dispute thereof i.e. whether tribal citizens have or do not have 42 U.S.C. § 1983 constitutional rights are under Article IV, Section 4. *Manner of Review*. “Any resolution or ordinance which by the terms of this Constitution is subject to review by the Secretary of the Interior...”

In other words, the District Courts' ruling is erroneous because the ruling is an authoritative order that enforces an ordinance that unknowingly changes the federally-approved Oneida Nation Constitution. Furthermore, Article IV, Section 3. *Reserved Powers*. "Any rights and powers heretofore vested in the Oneida Tribe of Indians of Wisconsin but not expressly referred to in this Constitution shall not be abridged...". The District Court erred in stating the Plaintiff-Appellant has no 42 U.S.C. § 1983 constitutional rights because Plaintiff-Appellants' rights cannot be abridged thus, federal jurisdiction applies.



**B. Only the Oneida Tribe of Indians' Constitution can be applied.** The Appellate Court ought to know that applying a non-tribal company and non-tribal husband and wife to Ft. Belknap and Pueblo of Santa Ana constitutions are seriously flawed because they are not representative of this Case where a tribal citizen is involved. The District Court correctly believes apples and lemons are the same thing because they are both fruit, however, the Appellate-Court ought to recognize the non-native plaintiff cases in Ft. Belknap and Pueblo of Santa Ana seek to answer non-native constitutional deprivation questions differently because this Case involves an Oneida Nation tribal citizen and the citizens' respective Oneida Tribe of Indians federally-approved tribal constitution. Simply, the District Court cannot make lemonade from apples thus, federal jurisdiction applies.

C. **Abridged constitutional rights.** By paying the legal fees of the Defendants-Appellees, the Oneida Nation is abridging Plaintiff-Appellants' Indian Civil Rights see 25 U.S.C. § 1302(a)(1). This gross unbalance of power is a Fourteenth Amendment violation because the Defendants-Appellees' Motion to Dismiss attempts to silence Plaintiff-Appellant and "crosses the unconstitutional line between rich and poor" see *Douglas v. California*, 372 U.S. 353 (1963). Violations of equal protections are a Fourteenth Amendment U.S. Constitutional violation, Oneida Nation tribal constitutional violation, and an Indian Civil Rights Act of 1968 violation in the latter see 25 U.S.C. § 1302(a)(8). Because the Plaintiff-Appellant is subjected to Constitutional violations federal jurisdiction applies.

**D. Unlawful stripping of rights.** The District Court erred in stripping Plaintiff-Appellant of constitutional rights because the District Court knows the Plaintiff-Appellant is a federal witness in *Fuss*. In 25 U.S.C. § 1302(f) it is “...the obligation of the United States to investigate and prosecute any criminal violation in Indian Country” see 18 U.S.C. § 1512(a)(2) and 18 U.S.C. § 1513(b). The Plaintiff-Appellant has the right to redress under 25 U.S.C. § 1302(a)(1) and any failure to do so is an unlawful Indian Civil Rights Act violation therefore, federal jurisdiction applies.

**E. Tribal citizens are citizens of the United States.** Albeit, all tribal citizens are citizens of the United States (Indian Citizenship Act of 1924) the Appellate Court should recognize that the E.D. Wis. egregiously erred by stripping Appellant of U.S. Constitutional rights originating from the Ft. Belknap tribal constitution; a federal non-Pub. Law 280 tribal government in Montana see *Burrell*. Indeed, the E.D. Wis. states, “A 42 U.S.C. § 1983 action is unavailable ‘for persons alleging deprivation of constitutional rights under color of tribal law.’” (quoting *R.J. Williams Co. v. Ft. Belknap Hous. Auth.*, 719 F.2d 979, 982 (9th Cir. 1983)). **The Appellate Court must immediately take note, the caption that *R.J. Williams Co.* is a non-Native entity and not a tribal citizen as is the Oneida Plaintiff-Appellant. Similarly, the Burrell’s were a non-native husband and wife see *Burrell*. Constitutional deprivations for non-natives such as the Williams brothers or Mr. and Mrs. Burrell under tribal law are not the same as unabridged constitutional rights for the Oneida tribal citizen Plaintiff-Appellant under the Oneida Tribe of Indians constitutional laws therefore, federal jurisdiction applies see also 25 U.S.C. § 1302(a)(8).**

II. THE DISTRICT COURT'S FACTUAL CONCLUSION THAT PLAINTIFF FAILED TO MEET THE FEDERAL JURISDICTIONAL STANDARD WAS CLEARLY ERRONEOUS.

A. **The Supreme Court three-part federal standing to sue** is addressed *infra* thus federal jurisdiction applies.

1. As a federal witness, Plaintiff-Appellant suffered and continues to suffer several temporal proximity injuries in fact and constitutionally protected rights that includes, demotions, reassignments, firings, hiring blacklist, verbal and written threats, and familial harm i.e. son was severely beaten, *inter alia*. These injuries in fact are federally documented in the federal HUD fraud indictment of *Fuss* where *Fuss* was held in the E.D. Wis. see also 18 U.S.C. § 1512(a)(2), 18 U.S.C. § 1513(b), see also *Lujan*, *County of Riverside*, and *Northeastern Fla.*

2. As a federal HUD fraud witness in *Fuss*, federal investigators documented temporal proximity, the cause-effect of indictment-witness retaliation, indictment-witness tampering. See 18 U.S.C. § 1512(a)(2), 18 U.S.C. § 1513(b). Indeed, HUD states, “Fraud is a criminal act in which individuals, groups [tribal mafia], or businesses steal taxpayers’ monies from HUD and its programs. Fraud can also lead to violent crime.”<sup>3</sup> The latter infers, familial harm occurred as one violent crime outcome *id* at § 1512(a)(2) and § 1513(b), i.e. Plaintiff-Appellants’ son was severely beaten.
3. Since the Plaintiff-Appellant is a federal witness and federal investigators have documented witness tampering and retaliation, the federal documentation infers redress of injury is greater than speculative. In addition, the federal government is obligated to investigate retaliation and tampering as a violation of Plaintiff-Appellants’ Fourteenth Amendment rights and as of tribal right see 25 U.S.C. § 1302(f).

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<sup>3</sup> [https://www.hud.gov/sites/documents/DOC\\_10872.PDF](https://www.hud.gov/sites/documents/DOC_10872.PDF)

**B. The Plaintiff-Appellant is a federal HUD fraud witness.** The District Court failed to recognize the Plaintiff-Appellant as being a federal witness who helped the FBI and HUD OIG even though *Fuss* was held in E.D. Wis. by the Honorable Judge William C. Griesbach. The District Court erred in creating the Courts' own conclusory findings without considering temporal proximity cause and effect of tampering and retaliation directly from the federal HUD fraud indictment of *Fuss* concomitant Plaintiff-Appellant was actively providing federal testimony, documents, photographs, and physical material evidence within Plaintiff-Appellants' own home (which remains as federal physical evidence to this day).

For example, temporally, the original Complaint (albeit not perfectly technical and is in narrative form) starts the clock on proximity causes in January 2013. Indeed, the Complaint states, “In January of 2013, Dawn had come across purchase requisitions/ invoices for materials for a home that was located at 2776 Candle Lane, Green Bay, WI, an address not under the Oneida HUD housing process.” Following, temporally, the District Court states, “On March 21, 2013, Delebreau was reassigned...”

The District Court acknowledges temporal proximity but fails to recognize the unlawful cause-effect relationship. The Appellate Court ought to consider that “all” causes of retaliation, tampering, and harm follow the date of OHA HUD fraud discovery concomitant disclosure and appropriate reporting such that the federal investigation documents are clear, temporal proximity, the cause-effect relationship exists and thus prohibited tampering and retaliation concomitant constitutional deprivations have demonstrated the highest propinquity threshold possible therefore, federal jurisdiction applies.



1. In Dismissing Plaintiff-Appellants' action the District Court incorrectly interprets Plaintiff-Appellants' relief as Native American Whistleblower Law etc. because the Plaintiff-Appellant was clear that those were "Future Changes"; changes that the Plaintiff-Appellant would like to see happen in the future. Therefore, relief can be calculated as number of work-hours lost X \$/hr. plus appropriate punitive damages thus, nothing in this action prevents federal jurisdiction therefore, federal jurisdiction applies.

2. The District Court glosses over the cause-effect created in the federal HUD fraud indictment in *Fuss* held in the same Court such that the District Court appears to believe demotions, reassignments, firings, the beating of Plaintiff-Appellants' son is nothing more than a frivolous claim. Indeed, E.D. Wis. states, "Jay Fuss was indicted for misappropriating housing authority funds. He pleaded guilty and was sentenced by this Court in January 2018." Now the Appellate Court should revisit the Statement of the Case on page 8 and 9 *supra*. Clearly, serious problems exist in the OHA HUD program and glossing over them is not in the best interest of this Court, the HUD program, the taxpayers, and of course the Plaintiff-Appellant.

In other words, the District Court failed to tie the seriousness of the *Fuss* case to this action i.e. the Plaintiff-Appellant was instrumental in supporting the federal investigators to ensure the indictment of *Fuss*. Without the support of Plaintiff-Appellant as a key federal witness the indictment of *Fuss* never would have happened. The Appellate Court must recognize the cause-effect, indictment-retaliation for what it is, a real claim thus, federal jurisdiction applies.

3. March 21, 2018 reassignment. The Defendants-Appellees did not have the authority to “reassign” Plaintiff-Appellant from a fulltime job to a limited term employee. What is the frame of mind of the Defendants-Appellees considering tribal family members would be implicated in HUD fraud scheme? Temporally, the Defendants-Appellees create a pattern of behavior that hostility increasingly escalates resulting in retaliation, tampering, and the severe beating of Plaintiff-

Appellees' son see 18 U.S.C. § 1512(a)(2) and 18 U.S.C. § 1513(b) see also 41 U.S.C. § 4712(a)(2)(G) and *id* at (c)(7).

Tribal employees as individuals acting outside-the-scope-of-their-authority can be sued, see *Lewis*. The Defendants-Appellees thwarted and deprived Plaintiff-Appellant of federally protected rights, the federal right to be safe and secure without retaliation and tampering in Plaintiff-Appellants' own home (25 U.S.C. § 1302(a)(2)), in federal HUD fraud testimony, in federal HUD fraud proceedings, and while supporting and helping federal law enforcement officials and federal prosecutors see 18 U.S.C. § 245 (a)(2), 18 U.S.C. § 1512(a)(2), 18 U.S.C. § 1513(b), and 25 U.S.C. § 1302(f).

The Appellate Court ought to revisit the Statement of the Case with a greater appreciation of how the OHA tribal HUD mafia pattern manifests itself. For

example, the Appellate Court should ask, “Why would the Oneida Nation Internal Auditor in this Case leave the area without telling anyone where she went?” See, Doc#56, page 2.

Since the Plaintiff-Appellant discovered, reported, and supported federal investigators as a federal witness and who is also victim of a federal crime has victim rights, does not the Plaintiff-Appellants’ Statement of Claim in the Original Complaint liberally construe, read as, interpret to be, taken as, prohibited workplace retaliation and witness tampering?

- III. TUSCARORA RULE OF GENERAL APPLICABILITY IS OF GENERAL INTENTION THAT FEDERAL WHISTLEBLOWER LAWS APPLY TO ALL CONTRACTORS AND EMPLOYEES (EXCEPT 41 U.S.C. § 4712(f)) TO PROTECT THEM FROM REPRIASAL FOR DISCLOSURE OF FEDERAL FRAUD, GROSS MISMANAGEMENT OF FEDERAL CONTRACT OR GRANT, A GROSS WASTE OF FUNDS, AN ABUSE OF AUTHORITY RELATING TO FEDERAL CONTRACT OR GRANT, ETC AS OUTLINED IN 41 U.S.C. § 4712.

LEGISLATION DEALING WITH INDIAN TRIBES AND RESERVATIONS GENERALLY CARVES OUT SPECIAL TREATMENT FOR TRIBAL INDIANS LIVING ON OR NEAR RESERVATIONS AND ARE DERIVED FROM HISTORICAL FEDERAL-TRIBAL RELATIONSHIPS HOWEVER, COMMITTING FEDERAL HUD FRAUD IS NOT CONSIDERED A SPECIAL TREATMENT AND GOES BEYOND THE FEDERAL GOVERNMENTS' FEDERAL-TRIBAL TRUST OBLIGATION TO PREPARE INDIANS TO TAKE THEIR PLACE AS INDEPENDENT, QUALIFIED MEMBERS OF THE MODERN BODY POLITIC, *Board of Comm'rs v. Seber*, 318 U.S. 705 (1943).

A. The Appellate Court ought to consider the special treatment of Oneida Nation citizens when federal HUD funding is provided to the OHA however, in *Morton*, it is clear the long special treatment of Indians must be tied rationally to the fulfillment of Congress' unique obligation toward Indians. *Morton* states laws must be reasonable and rationally applied, to further Indian self-government. There must be reasonable and rational laws to continue the special treatment of Indians' HUD funding because Indian housing ought to be considered appropriate and necessary as part of the fulfillment of Congress' unique obligation to Indians however, the Appellate Court must realize that federal HUD fraud on Indian reservations falls outside Congress' unique obligation toward Indians.

- B. If federal OHA HUD funding is used for Hawaii vacations, New England excursions, and \$10,000 cash advances etc. Congress and taxpayers ought to sever the unique obligation to the Oneida Nation because federal funding is provided to OHA HUD program with the lawful expectations that the federal HUD funding would be used reasonably and rationally as tribal housing and not Hawaii vacations at taxpayers' expense.
- C. On-the-other-hand, if the Appellate Court believes Congress' unique obligation to continue OHA HUD funding is reasonable and rational the Appellate Court must find that whistleblower laws like 41 U.S.C. § 4712 are of general application because providing federal funds for OHA HUD program does not interfere with a tribal governments' right to self-govern but OHA employees like the Plaintiff-Appellant who disclosed federal HUD fraud must be protected from federal activities from prohibited reprisal see 18 U.S.C. § 245, and 41 U.S.C. § 4712.
- D. On the face, there is no rational reason why OHA HUD ought not to apply reasonable and rational federal whistleblower laws to protect OHA HUD employees from prohibited retaliation see 41 U.S.C. § 4712(a)(1), concomitant protection of federal

taxpayers' monies and subsequent commitment of Congress' unique obligation toward Indians knowing federal HUD funding can be protected under the Tuscarora Rule of general applicability, thus federal whistleblower laws apply and federal jurisdiction exists.

E. **Indeed, in *Morton* the Seventh Circuit Appellate Court has followed an approach which creates a presumption that statutes of general applicability apply to Indian tribes unless a contrary showing is made.** No tribal government can rationally defend negating federal whistleblower laws therefore, a reasonable showing cannot be made thus federal whistleblower laws apply and federal jurisdiction exists.

IV. IT IS NOT NECESSARY FOR PRO SE TO PROVIDE TECHNICALLY CORRECT ACTION.

A. Pro se action not perfect. The Appellate Court ought to recognize the Plaintiff-Appellant may not have provided a perfectly, technically correct action, nor has the Defendants-Appellees provided a technically correct defense such that actions and defenses do not necessarily need to be technically correct see *Burrell*. Due process of law only applies when fair see *Kremer*



and 25 U.S.C. § 1302(a)(8). Further, in *Burrell*, the due-process-of-law test is such that Plaintiff-Appellant has the right to both lower and higher competent court purview otherwise the due-process-of-law test fails. This action is technically correct enough therefore, federal jurisdiction applies.

V. SUMMARY. PLAINTIFF HAS MET THE ELEMENTS OF FEDERAL JURISDICTION.

A. Plaintiff-Appellant retains all U.S. Constitutional rights, unabridged; U.S. Constitutional rights are unabridged, Oneida Tribe of Indians Constitutional rights are unabridged therefore federal jurisdiction applies.

B. Plaintiff-Appellant has stated claims that meet Fed. Rule 12(b)(6). For example, 10 U.S.C. § 2049, 41 U.S.C. § 4712(a)(1), and as a federal witness under 18 U.S.C. § 1512(a)(2), 18 U.S.C. § 1513(b). Further, the Original Complaint requests relief from prohibited retaliation and tampering to include punitive damages and loss of income and physical harm caused to Plaintiff-Appellants' son.

Further, District Courts have permitted introduction of federal investigation documents and in this Case, those documents are held in the federal HUD fraud indictment in *Fuss*. In the latter there is no reason for dismissal on Fed. Rule 12(b)(6) grounds because federal investigation documents demonstrate 1) genuine issues of undisputed materials of fact, and 2) the undisputed federal investigation materials of fact show Plaintiff-Appellant is entitled to judgement as matter of law i.e. 18 U.S.C. § 1512(a)(2), 18 U.S.C. § 1513(b), 41 U.S.C. § 4712(a)(1), and Abuse of Authority *id* at (f).

C. Further Indian Civil Rights Act of 1968, 25 U.S.C. § 1302(f) states the United States has the obligation to investigate any criminal violation in Indian country”, is not federal witness retaliation and tampering as evidence in *Fuss* a violation of federal law? See 18 U.S.C. § 1512(a)(2), 18 U.S.C. § 1513(b) therefore, Fed. Rule 12(b)(1) is null because federal jurisdiction applies. This Case does not manifest itself in a vacuum because it is a direct result of the OHA federal HUD fraud indictment in *Fuss* that started with the whistleblower disclosure as outlined in the Original Complaint inferring a statement of claim exists and Fed. Rule 12(b)(6) is met. To reframe this question, if *Fuss* is a federal case and the Plaintiff-Appellant is a federal witness why would federal jurisdiction not apply?

D. The Defendants-Appellees blow smoke and use mirrors, to prevent the Appellate Court from following the temporal proximity of this Case, i.e. first *Fuss* then this legal action. Why would the Defendants-Appellees blow smoke? Because the Defendants-Appellees want the Appellate Court to believe this Case was created from the smoke and not the claims of temporal proximity as outlined in the Original Complaint that resulted in federal HUD fraud indictment in *Fuss*. This Case only exists because of the OHA HUD fraud and for no other reason. The federal *Fuss* indictment and this lawsuit are legally and federally tied therefore federal jurisdiction applies.

## CONCLUSION

The District Courts' Analysis to dismiss this Case for lack of federal jurisdiction is flawed for several reasons. For example, the Original Complaint provides the necessary temporal proximity that demonstrates the cause-effect, indictment-retaliation from OHA federal HUD fraud disclosure (41 U.S.C. § 4712(a)(1)), reporting, and working with federal investigators to ensure indictment while knowing federal witness retaliation and tampering are unlawful (18 U.S.C. §

1512(a)(2), 18 U.S.C. § 1513(b)). The indivisibleness of this Case and *Fuss* invoke federal jurisdiction because they are temporally propinquity-tied and thus a judgement on the merits of whether federal jurisdiction applies is based on temporal proximity of cause-effect, indictment-prohibited retaliation on the face in the federal HUD fraud in *Fuss*; this Case and *Fuss* are federally indivisible and therefore federal jurisdiction must apply see *Turner/Ozanne*.

Because this Case and *Fuss* are temporally propinquity-tied federal investigators have documented nonconclusory substantial material facts showing Plaintiff-Appellant is entitled to relief (Fed. R. Civ. P. 8(a)(2) and therefore Defendants-Appellees claims that this legal action is frivolous are baseless and unsound see *Bell v. Hood*, 327 U.S. 678 (1946). The District Court knows this Case and *Fuss* are indivisible because *Fuss* was held in E.D. Wis. and cannot be resisted as extraneous matter in Fed. Rule 12(b)(6)<sup>4</sup> thus, federal jurisdiction applies.

The District Court leaves several huge holes of controversy such as stripping all Oneida Nations Citizens of their constitutional rights. In other words, the District Court ought to tread carefully when stripping Plaintiff-Appellant of any constitutional right when doing so is contrary to the Oneida Tribe of Indians Constitution and even if language is left to District Court interpretation that tribal

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<sup>4</sup> Notes of Advisory Committee on Rules – 1946 Amendment Rule 12(b)(6) retrieved from [https://www.law.cornell.edu/rules/frcp/rule\\_12](https://www.law.cornell.edu/rules/frcp/rule_12).

constitutional deprivations are allowable i.e. Oneida Nation citizens have no 42 U.S.C. § 1983 or other Reconstruction Era Civil Rights under tribal law this interpretation must come administratively under the approval of the Secretary of Interior (Article IV, Section 4 (Manner of Review)) and ratified by the Oneida General Tribal Council. Because the Secretary of Interior has not interpreted the Oneida Tribe of Indians Constitution as abridging Oneida Nation citizens' constitutional rights, all constitutional rights remain intact and unabridged therefore, federal jurisdiction applies.

The District Court erroneously applied other tribal constitutions involving non-tribal people and entities to the Oneida Nation citizen Plaintiff-Appellant in this Case. This is a huge gaping hole of controversy because the Ft. Belknap tribal government is a Pub. Law non-280 tribal government and forces a non-tribal entity action to the tribal Plaintiff-Appellant of a Pub. Law 280 tribal government. Not only are the constitutions different but the laws governing these tribes are different indeed, the Ft. Belknap, and Pueblo of Santa Ana cases involve non-tribal people and entities resulting in the District Court ruling on apples and oranges by suggesting these tribal issues are of equal matter, after all, they are both fruit. The Appellate Court must recognize this gaping hole of controversy such that, federal jurisdiction applies see *Roppo*.

The Appellate Court, might wonder the consequences and harm to the federal government and taxpayers when federal funding is not held to an accounting standard by tribal entities and officials who receive federal monies on condition of accountability? Consider the contrary, is it plausible on its face that the federal investigators have sufficient factual matter that there was little or no accountability for federal HUD funding at OHA such that it was the cause of HUD fraud resulting in a tribal mafia-like hostile indictment-prohibited workplace retaliation environment for the Plaintiff-Appellant after temporal proximity federal OHA HUD fraud disclosure? See *Ashcroft* also 41 U.S.C. § 4712(a)(1). The Appellate Court will recognize the temporal proximity while noting federal investigation documents in *Fuss* demonstrate the allegations of prohibited retaliation, tampering, and familial harm far and above any speculative level of relief. Indeed, Plaintiff-Appellants' son was severely beaten, his eye socket was broken; he could have died see *Bell Atl. Corp.* also 41 U.S.C. § 4712(a)(1), 18 U.S.C. § 1512(a)(2), and 18 U.S.C. § 1513(b).

The Appellate Court ought to know that the Oneida Nation is quasi-sovereign state, so why not fire the Plaintiff-Appellant when the federal OHA HUD fraud was first disclosed? The answer is because it was federal HUD funding. Why does this make a difference? Because the Defendants-Appellees knew federal laws applied i.e. HUD OIG, FBI, and federal prosecutors were necessary. So, the question remains for which the Appellate Court must answer, under color of what law has the



Defendants-Appellees acted upon? What is known, is that federal laws exist in *Fuss* and with the Plaintiff-Appellant as a whistleblower of federal funding and as a federal crimes witness see 41 U.S.C. § 4712(a)(1), 18 U.S.C. § 1512(a)(2), and 18 U.S.C. § 1513(b). The District Court specifically states, “42 U.S.C. § 1983 does not apply to individuals acting under color of tribal law” (Doc.#56, p. 5) however, the District Court fails to state the tribal law the Defendant-Appellees are acting under. The District Court fails to state the tribal law with specificity while prematurely dismissing federal laws for which the Defendants-Appellees were acting under. Therefore, the District Court ruling on color-of-tribal-law is an erroneous ruling and federal jurisdiction applies.

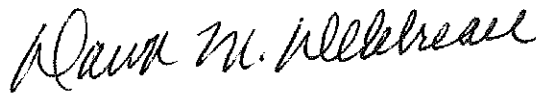
The District Court does a great job applying protections for 5 U.S.C. § 2302(b)(8), 31 U.S.C. § 3730(h) and Title VII of the Civil Rights Act of 1964 but discounts Indian Civil Rights Act of 1968, 41 U.S.C. § 4712(a)(1), 18 U.S.C. § 1512(a)(2), and 18 U.S.C. § 1513(b). Herein, the District Court applies preferential laws suggesting there is an absence of any claim inferring Plaintiff-Appellant is thereby prevented from obtaining just relief, however, when other laws are considered such as 18 U.S.C. § 1512(a)(2), and 41 U.S.C. § 4712(a)(1) notwithstanding federal documentation in *Fuss* that includes being a federal witness, concomitant complaints including familial harm and adverse actions, providing documents, photographs, and physical evidence, inter alia, to the FBI, OIG HUD,

and federal prosecutors, it becomes clear the Plaintiff-Appellant does indeed have avenues for just relief.

Lastly, based on *supra*, are in a single legal brief attempt to show the Appellate Court under argument that the Plaintiff-Appellant lawfully meets minimal standards for federal jurisdiction such that Plaintiff-Appellant has made sufficient federal complaints to federal investigators i.e. FBI, and OIG HUD such that these complaints of reprisals to include the severe beating of Plaintiff-Appellants' son are construed as federally valid. After merits have been heard, and if the District Court continues to find there is no such federal complaint of reprisal under 41 U.S.C. § 4712 the District Court does not disagree that prohibited reprisal occurred and therefore does not negate the unlawful federal witness reprisals and tampering that have occurred, *inter alia*, 18 U.S.C. § 1512(a)(2), and 18 U.S.C. § 1513(b). Furthermore, the Appellate Court should note the federal witness reprisals will not stop and there must be a legal equal protection remedy. For example, on June 7, 2018 at the Village of Hobart Town Hall meeting Plaintiff-Appellant was harassed by an Oneida Land Office employee. Prohibited whistleblower reprisals are valid and therefore a remedy must also be valid therefore, federal jurisdiction applies.

Conclusion. For the forgoing reasons, Plaintiff-Appellant respectfully requests this Court **reverse the District Courts' Order Dismissing this Case for lack of federal jurisdiction.**

Dated; July 23, 2018

A handwritten signature in cursive script, reading "Dawn M. Delebreau", written in black ink.

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Dawn Marie Delebreau, Pro Se.

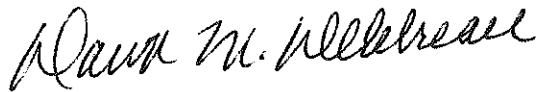
#### STATEMENT OF RELATED CASES

To the best of Plaintiff-Appellants' knowledge there are no related cases.

## CERTIFICATE OF COMPLIANCE

Plaintiff-Appellant that the Opening Brief is proportionally spaced, has a typeface of 14 points and contains 10,058 words.

Dated: July 23, 2018

A handwritten signature in cursive script, reading "Dawn M. Delebreau".

Dawn Marie Delebreau, Pro Se.

C: Jay L. Fuss, and Attorney's for the Defendants-Appellees, Lisa Lawless and Kenneth Nowakoski, at Husch Blackwell LLP, 555 E. Wells St., Suite 1900, Milwaukee, WI 53202.

## ADDENDUM

### Tribal Government Constitutions

- A. Oneida Tribe of Indians of Wisconsin
- B. Ft. Belknap, Montana
- C. Pueblo of Santa Ana, New Mexico

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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DAWN M. DELEBREAU,

Plaintiff,

v.

Case No. 17-C-1221

CHRISTINA DANFORTH, *et al.*,

Defendants.

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**DECISION AND ORDER GRANTING MOTION TO DISMISS**

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Plaintiff Dawn Delebreau, who is representing herself, filed this action in September 2017 against Defendants Cristina Danforth,<sup>1</sup> Melinda Danforth, Geraldine Danforth, Larry Barton, and Jay Fuss, all employees of the Oneida Nation, a federally recognized Indian tribe. Essentially, Delebreau alleges that she was terminated from her position as an administrative assistant at the Oneida Housing Authority because she identified and reported the misuse of housing authority funds. This matter comes before the court on a motion to dismiss the complaint filed by four of the defendants—Cristina Danforth, Larry Barton, Melinda Danforth, and Geraldine Danforth. ECF No. 38. They argue that the complaint should be dismissed for lack of subject matter jurisdiction under Federal Rule of Civil Procedure 12(b)(1) and for failure to state a claim under Rule 12(b)(6). Also before the court are Delebreau's motion to strike the defendants' reply brief in support of their motion to dismiss (ECF No. 52) and her motion to strike their motion to quash a subpoena (ECF

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<sup>1</sup> Although the Complaint, the docket, and the caption of this order identify her as "Christina" Danforth, the defendants inform the court that her name is properly spelled "Cristina." ECF No. 38 at 1. I will therefore use that spelling throughout this order.

No. 46). For the reasons set forth below, the defendants' motion to dismiss will be granted, the complaint will be dismissed sua sponte as to Jay Fuss, and Delebreau's motions to strike will be denied.

### **BACKGROUND**

These background facts are taken from Delebreau's complaint. ECF No. 1 at 3-4. Delebreau worked as an administrative assistant for the Oneida Housing Authority between March 2009 and March 2013. In January 2013, Delebreau identified purchase requisitions and invoices associated with a home at an address that was not within the housing authority's HUD housing site process. The home was owned by a special projects coordinator for the housing authority. Delebreau contacted the housing authority's purchasing director to report the irregular requisitions. Subsequently, Delebreau was contacted by Cristina Danforth, treasurer for the Oneida Business Committee, and an internal auditor from the Oneida Tribe of Wisconsin. They asked to meet with Delebreau regarding what she had uncovered.

On March 21, 2013, Delebreau was reassigned from her full-time, full-benefits administrative assistant position with the housing authority to a limited-term insurance clerk position reporting to the risk management director. Her new supervisor reported to Larry Barton who, in turn, reported to Cristina Danforth. At an unspecified time, Cristina Danforth explained to Delebreau that she was reassigned to her new position to ensure the integrity of an investigation into irregularities at the housing authority and that reassigning her would avoid bringing the situation to the attention of other Business Committee members and tribal employees. Delebreau signed a two-year contract for her new position based in part on a promise that she would return to a full-time position with benefits after the contract's two-year term. Her new position involved "a very intimidating, unfriendly,

uncooperative work environment.” *Id.* at 3. In particular, Geraldine Danforth allegedly told Delebreau that she was neither liked nor wanted in her new position because she was a whistleblower.

Delebreau was terminated from her new position in November 2013 for disclosing confidential information at a worker’s compensation claim hearing for her son in Oneida Tribal Court. The underlying worker’s compensation case involved an allegation that housing authority superintendent Jay Fuss orchestrated the beating of her son following a housing authority training session. Delebreau was reinstated to limited term employment, and in January 2014 she was reassigned once again, this time to the Oneida Museum. She worked there as a cultural interpreter until she was terminated in September 2014. After her second termination, she submitted an online OSHA whistleblower form, notified the FBI in Green Bay, and reported the misappropriation of HUD funds to Senator Tammy Baldwin’s office. Jay Fuss was eventually indicted for misappropriating housing authority funds. He pleaded guilty and was sentenced by this court in January 2018. *See United States v. Fuss*, No. 17-CR-92 (E.D. Wis.).

Delebreau asserts that “[e]very one of the people named in [her] complaint have violated [her] civil rights, Labor Law rights, and made [her] feel harassed, intimidated, and less than human, as well as damned for turning this case over to the FBI.” ECF No. 1 at 4. She states, “Since this began over 5 years ago, this case has created for me and my children financial debt, mental and emotional hardship, and the destruction of my personal integrity.” *Id.* For relief, she requests punitive damages, enactment of a “Native American Whistle Blower Law,” prevention of enactment of the “Tribal Labor Regulations Act,” and imposition of a requirement that all laws created by tribal governments be promulgated in a particular manner. *Id.*

## ANALYSIS

### A. Motion to Dismiss

The defendants contend that Delebreau's complaint should be dismissed under Rule 12(b)(1) for lack of subject matter jurisdiction or, if jurisdiction exists, for failure to state a claim under Rule 12(b)(6). Although the complaint purports to invoke federal question jurisdiction, it fails to identify the provision of the United States Constitution or any federal statute on which the action is based. The complaint does not assert any claim against any of the defendants arising under the United States Constitution or federal law. It will therefore be dismissed for lack of federal jurisdiction.

This court has "original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." 28 U.S.C. § 1331. "The existence of federal question jurisdiction . . . must, under the long-standing precedent of the Supreme Court of the United States, be determined from the face of the complaint." *Turner/Ozanne v. Hyman/Power*, 111 F.3d 1312, 1316 (7th Cir. 1997) (citing *Bell v. Hood*, 327 U.S. 678, 680–82 (1946)). Although it is also "well settled that the failure to state a proper cause of action calls for a judgment on the merits and not for a dismissal for want of jurisdiction," an action may nonetheless "be dismissed for want of jurisdiction where the alleged claim under the Constitution or federal statutes clearly appears to be immaterial and made solely for the purpose of obtaining jurisdiction or where such a claim is wholly insubstantial and frivolous." *Id.* at 1316–17 (internal quotation mark omitted) (quoting *Bell*, 327 U.S. at 682–83). "A claim is insubstantial only if 'its unsoundness so clearly results from the previous decisions of [the Supreme Court] as to foreclose the subject and leave no room for the inference that the questions sought to be raised can be the subject of controversy.'" *Sabrina Roppo v. Travelers Commercial Ins. Co.*, 869 F.3d 568, 587 (7th Cir. 2017) (quoting *Hagans v. Lavine*, 415 U.S. 528, 538 (1974)).



Delebreau's complaint alleges violations of her civil rights and "labor law rights." She also asserts that this court has jurisdiction under 28 U.S.C. § 1331 and "Office of Tribal Justice 28 CFR ch I (7-11) editions." ECF No. 1 at 4. This last basis for jurisdiction can immediately be disregarded. She apparently refers to 28 C.F.R. § 0.134, which defines the organization, mission, and function of the Office of Tribal Justice within the United States Department of Justice but does not create a federal cause of action that could give rise to jurisdiction. Delebreau's allegations that her civil rights and rights as an employee were violated are conclusory and fail to state a claim arising under federal law.

To state a cognizable claim under the federal notice pleading system, the plaintiff is required to provide a "short and plain statement of the claim showing that [she] is entitled to relief." Fed. R. Civ. P. 8(a)(2). The complaint must contain sufficient factual matter "that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). The court accepts the factual allegations as true and liberally construes them in the plaintiff's favor. *Turley v. Rednour*, 729 F.3d 645, 651 (7th Cir. 2013). Nevertheless, the complaint's allegations "must be enough to raise a right to relief above the speculative level." *Twombly*, 550 U.S. at 555.

Considering first Delebreau's allegation that the defendants violated her civil rights, she fails to state a claim for which relief can be granted in several respects. Under 42 U.S.C. § 1983, an individual may be liable for actions taken under color of state law. But § 1983 does not apply to individuals acting under color of tribal law. *Burrell v. Armijo*, 456 F.3d 1159, 1174 (10th Cir. 2006) ("A § 1983 action is unavailable 'for persons alleging deprivation of constitutional rights under color of tribal law.'" (quoting *R.J. Williams Co. v. Ft. Belknap Hous. Auth.*, 719 F.2d 979, 982 (9th

Cir.1983))). The complaint refers to Cristina Danforth, Geraldine Danforth, Larry Barton, and Jay Fuss in their respective capacities as part of the Oneida Housing Authority or the Oneida Tribe itself, meaning Delebreau could not recover from any of them under § 1983.

Moreover, the complaint makes no allegations that any of those four defendants took any actions against Delebreau, and it makes no allegations against Melinda Danforth at all. To state a claim for relief under § 1983, a plaintiff must allege that (1) she was deprived of a right secured by the Constitution or laws of the United States and (2) the deprivation was visited upon her by a person or persons acting under the color of state law. *Buchanan-Moore v. Cty. of Milwaukee*, 570 F.2d 824, 827 (7th Cir. 2009) (citing *Kramer v. Vill. of N. Fond du Lac*, 384 F.3d 856, 861 (7th Cir. 2004)); *see also Gomez v. Toledo*, 446 U.S. 635, 640 (1980). The complaint alleges that Cristina Danforth contacted Delebreau regarding misappropriated funds and explained the reason for her job transfer; that Geraldine Danforth told her she was unwelcome in her position as an insurance clerk; that Jay Fuss orchestrated the beating of her son and was eventually indicted for the misappropriation of funds; and that Larry Barton supervised one of her supervisors and was involved in the appeal process that led to reinstatement of her employment. Nothing about those allegations indicates any deprivation of Delebreau's rights. Because Delebreau also makes no allegations against Melinda Danforth, the complaint fails to state a claim against any defendant for a deprivation of civil rights.

The complaint also fails to state any claim for relief on the grounds that Delebreau was a "whistleblower." Although 5 U.S.C. § 2302(b)(8) prohibits taking adverse employment action for a person who discloses various types of misconduct, including "a gross waste of funds," that section applies only to federal employees, *see* 5 U.S.C. § 2105, and there is no allegation that Delebreau was ever a federal employee.

Delebreau likewise fails to state a claim for retaliation or another violation of her rights under Title VII of the Civil Rights Act of 1964, which makes it unlawful for an *employer* “to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin.” 42 U.S.C. § 2000e-2(a)(1). Title VII prohibits employers both from discrimination and from retaliation for reporting certain types of discrimination. *Miller v. Am. Fam. Mut. Ins. Co.*, 203 F.3d 997, 1007 (7th Cir. 2000). To state a claim for retaliation, a plaintiff must allege that she (1) opposed an unlawful employment practice; (2) was subsequently subjected to an adverse employment action; and (3) the adverse employment action was caused by the opposition to the unlawful employment practice. *Cullom v. Brown*, 209 F.3d 1034, 1041 (7th Cir. 2000).

The complaint fails to state a Title VII retaliation claim in at least two respects. First, to the extent the complaint alleges retaliation against Delebreau, the retaliation was for her actions exposing misappropriation of funds, rather than the type of discrimination covered by Title VII. Second, the complaint names as defendants only individuals, rather than an *employer* that allegedly retaliated against her. “Title VII authorizes suits against employers, not employees.” *Sullivan v. Vill. of McFarland*, 457 F. Supp. 2d 909, 914 (W.D. Wis. 2006) (citing *U.S. E.E.O.C. v. AIC Sec. Investigations, Ltd.*, 55 F.3d 1276, 1281 (7th Cir. 1995)). Because the complaint names only individuals, rather than Delebreau’s employer, any Title VII claim is further deficient.

Any claim for retaliation under the False Claims Act (FCA) would fail for a similar reason. To state a retaliation claim under the whistleblower protection provision of 31 U.S.C. § 3730(h), a plaintiff must allege that (1) she took action “in furtherance of” an FCA enforcement action; (2) her

employer had knowledge of her protected conduct; and (3) her discharge was motivated by her engagement in protected conduct. *Fanslow v. Chi. Mfg. Ct., Inc.*, 384 F.3d 469, 479 (7th Cir. 2004). Prior to 2009, “§ 3730(h) protected ‘employees’ from retaliation by ‘employers’ and therefore did not provide for individual liability.” *United States ex rel. Conroy v. Select Med. Corp.*, 211 F. Supp. 3d 1132, 1157 (S.D. Ind. 2016). Although the FCA was amended in 2009 to omit the word “employer,” “[t]he majority of courts . . . take the view that amended § 3730(h) did not expand the class of potential defendants subject to liability for retaliation.” *Id.* (citing *Aryai v. Forfeiture Support Assocs.*, 25 F. Supp. 3d 376 (S.D.N.Y. 2012)). Once again, then, the absence of any claim in the complaint against an employer prevents Delebreau from pursuing this avenue for relief.

Delebreau’s brief in opposition argues that she is entitled to relief under 41 U.S.C. § 4712. Similar to the FCA, § 4712 provides that certain individuals “may not be discharged, demoted, or discriminated against as a reprisal for disclosing” to certain federal officials “information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract or grant, a gross waste of federal funds,” or other delineated improprieties. 41 U.S.C. § 4712(a)(1). A person who believes she has been subjected to a prohibited reprisal, however, must submit a complaint to the Inspector General of the relevant executive agency, and any judicial review arising out of the alleged reprisal is contingent on administrative exhaustion. *Id.* § 4712(b)–(c). Because Delebreau has not alleged that she ever submitted a complaint to any Inspector General, any claim for reprisal under this section must also fail.

As a whole, Delebreau’s complaint fails to state any cognizable claim for relief against any defendant. Although the complaint contains multiple allegations that she was not only reassigned to inferior positions but also terminated from employment on two occasions, nothing in the

complaint associates those adverse employment actions with particular defendants. Indeed, of the four defendants against whom she makes allegations at all, she makes no allegation that any defendant did more than communicate with her.

In short, Delebreau alleges she was wrongfully terminated from her employment with the Oneida Nation due to the unspecified activities of several officer's or employees of the Nation. Federal law recognizes and promotes the authority of sovereign Indian tribes to control their own economic enterprises. *Duke v. Absentee Shawnee Tribe of Okla. Housing Auth.*, 199 F.3d 1123, 1125 (10th Cir. 1999). Indeed, it has been long established that Indian tribes are "distinct, independent political communities, retaining their original natural rights" in matters of local self-government. *Worcester v. Georgia*, 31 U.S. (6 Pet.) 515, 559 (1832). Tribal sovereign immunity protects Indian tribes from suit in their governmental activities, as well as their commercial activities, absent express authorization by Congress or clear waiver by the tribe. *Kiowa Tribe of Okla. v. Mfg. Techs., Inc.*, 523 U.S. 751, 754 (1998). Further, tribal sovereign immunity "extends to tribal officials when acting in their official capacity and within the scope of their authority." *Linneen v. Gila River Indian Cmty.*, 276 F.3d 489, 492 (9th Cir. 2002); *Cook v. AVI Casino Enters., Inc.*, 548 F.3d 718, 726–27 (9th Cir. 2008). Delebreau cites no federal statute or constitutional provision that overcomes the immunity of the Oneida Nation and its officers and employees to hire and fire tribal employees without outside interference. Consequently, Delebreau's complaint will be dismissed in its entirety.

#### **B. Motions to Strike**

Also before the court are two motions by Delebreau to strike filings by the defendants. ECF Nos. 52, 54. On March 20, 2018, Delebreau first filed a motion to strike the reply brief (ECF No. 49) filed by Barton and the Danforths in support of their motion to dismiss. ECF No. 52. She

asks the court to strike the reply brief because, “[o]n March 13, 2018, the Defendant’s [sic] provided Doc#49 to Chambers because Doc#49 was not previously provided.” *Id.* The defendants counter that they timely filed their reply brief on February 14, 2018, and provided the court with a courtesy copy by mail on March 13, 2018. ECF No. 53 at 1. Delebreau filed her first brief in opposition to the motion to dismiss on January 31, 2018. Under Civil Local Rule 7(c), the defendants’ February 14, 2018 filing of their reply brief was therefore timely. This motion to strike will be denied.

Delebreau has also filed a motion to strike the defendants’ motion to quash a subpoena that Delebreau served upon Dennis Nelson. ECF No. 54 (citing ECF No. 46). This motion will be denied as moot. The court has already entered an order (ECF No. 47) granting the motion to quash the subpoena, which was inconsistent with the stay of discovery that the court ordered while the defendants’ motion to dismiss is pending.

**IT IS THEREFORE ORDERED** that Delebreau’s motions to strike (ECF Nos. 52, 54) are **DENIED**.

**IT IS FURTHER ORDERED** that the motion to dismiss (ECF No. 38) filed by Larry Barton, Cristina Danforth, Geraldine Danforth, and Melinda Danforth is **GRANTED**. All claims against Jay Fuss are also **DISMISSED** sua sponte. This case is **DISMISSED** for lack of federal jurisdiction and the Clerk of Court shall enter judgment accordingly.

Dated this 5th day of June, 2018.

s/ William C. Griesbach  
\_\_\_\_\_  
William C. Griesbach, Chief Judge  
United States District Court

AO 450 (Rev. 5/85) Judgment in a Civil Case

# United States District Court

EASTERN DISTRICT OF WISCONSIN

DAWN M. DELEBREAU,

Plaintiff(s),

v.

**JUDGMENT IN A CIVIL CASE**

Case No. 17-CV-1221

CHRISTINA DANFORTH,  
LARRY BARTON, MELINDA DANFORTH,  
and GERALDINE DANFORTH,

Defendant(s).

- ☐ **Jury Verdict.** This action came before the Court for a trial by jury. The issues have been tried and the jury has rendered its verdict
- ☒ **Decision by Court.** This action came before the Court for consideration.

**IT IS HEREBY ORDERED AND ADJUDGED** that plaintiff takes nothing and this case is DISMISSED for lack of federal jurisdiction.

Approved:

s/ William C. Griesbach

William C. Griesbach, Chief Judge  
United States District Court

Dated: June 5, 2018

STEPHEN C. DRIES  
Clerk of Court

s/ Lori Hanson

(By) Deputy Clerk

18-2332

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF INDIAN AFFAIRS



CONSTITUTION AND BY-LAWS FOR THE  
ONEIDA TRIBE OF INDIANS  
OF WISCONSIN



APPROVED DECEMBER 21, 1936



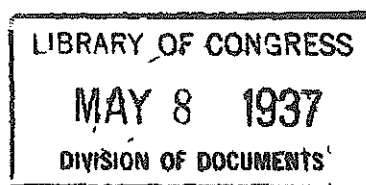
UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1937

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## CONSTITUTION AND BY-LAWS OF THE ONEIDA TRIBE OF INDIANS OF WISCONSIN

We, the people of the Oneida Tribe of Indians of Wisconsin, grateful to Almighty God for his fostering care, in order to reestablish our tribal organization, to conserve and develop our common resources and to promote the welfare of ourselves and our descendants, do hereby ordain and establish this Constitution.

### ARTICLE I—TERRITORY

The jurisdiction of the Oneida Tribe of Wisconsin shall extend to the territory within the present confines of the Oneida Reservation and to such other lands as may be hereafter added thereto within or without said boundary lines under any law of the United States, except as otherwise provided by law.

### ARTICLE II—MEMBERSHIP

SECTION 1. The membership of the Oneida Tribe of Wisconsin shall consist of:

(a) All persons of Indian blood whose names appear on the official annuity roll of the Tribe as of October 7, 1935.

(b) Any descendant of a member of the Tribe who is of at least one-quarter Indian blood, provided such member is a resident of the Reservation at the time of the birth of the said descendant.

SEC. 2. The General Tribal Council shall have the power to promulgate ordinances subject to review by the Secretary of the Interior covering future membership and the adoption of new members.

### ARTICLE III—GOVERNING BODY

SECTION 1. The governing body of the Oneida Tribe of Wisconsin shall be the General Tribal Council which shall be composed of all the qualified voters of the Oneida Reservation.

SEC. 2. All enrolled members of the Oneida Tribe of Wisconsin who are twenty-one years of age or over, and who have maintained continuous residence on the Oneida Reservation of not less than thirty (30) days, immediately preceding an election, shall be qualified voters, provided they shall present themselves in person at the polls on the day of election.

SEC. 3. The General Tribal Council shall elect from its own members by secret ballot (a) a chairman; (b) a vice-chairman; (c) a secretary; (d) a treasurer; (e) and such other officers and committees as may be deemed necessary.

SEC. 4. The General Tribal Council shall meet on the first Monday of January and July. Within thirty days after the ratification and approval of this Constitution and By-laws, a General Tribal Council

Case: 18-2332 Document: 10 Filed: 07/25/2018 Pages: 124  
 shall be called by the present Tribal Council for the purpose of electing the officers named herein, and it shall transact such other business as may be necessary. The officers elected at this meeting shall serve until the July meeting at which time their successors shall be chosen. Thereafter, officials shall be chosen at the July meeting. The chairman, or twenty-five (25) per cent of the qualified voters, may by written notice, call special meetings of the General Tribal Council.

One-third ( $\frac{1}{3}$ ) of the qualified voters of the Tribe shall constitute a quorum at any special or regular meeting.

Sec. 5. There shall be an executive committee, consisting of the chairman, vice-chairman, secretary, and treasurer of the General Tribal Council, which shall perform such duties as may be authorized by that Council.

#### ARTICLE IV--POWERS OF THE GENERAL TRIBAL COUNCIL

SECTION 1. *Enumerated Powers.*—The General Tribal Council of the Oneida Tribe of Wisconsin shall exercise the following powers, subject to any limitations imposed by the statutes or the Constitution of the United States:

- (a) To negotiate with the Federal, State, and local governments.
- (b) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.
- (c) To veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands, or other tribal assets of the tribe.
- (d) To advise with the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Oneida Tribe of Wisconsin prior to the submission of such estimates to the Bureau of the Budget and to Congress.
- (e) To manage all economic affairs and enterprises of the Oneida Tribe of Wisconsin in accordance with the terms of a Charter that may be issued to the tribe by the Secretary of the Interior.
- (f) To promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Oneida Tribe of Wisconsin, providing for the manner of making, holding, and revoking assignments of tribal land or interests therein, providing for the levying of taxes and the appropriation of available tribal funds for public purposes, providing for the licensing of non-members coming upon the reservation for purposes of hunting, fishing, trading, or other business, and for the exclusion from the territory of the tribe of persons not so licensed and establishing proper agencies for law enforcement upon the Oneida Reservation.
- (g) To charter subordinate organizations for economic purposes and to delegate to such organizations, or to any subordinate boards or officials of the tribe, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.
- (h) To adopt resolutions not inconsistent with this Constitution and the attached By-laws, regulating the procedure of the Council itself and of other tribal agencies, tribal officials, or tribal organizations of the Oneida Reservation.

A-4

**SEC. 2. *Future Powers.***—The General Tribal Council may exercise such further powers as may in the future be delegated to the Council by the Secretary of the Interior or any other duly authorized official or agency of the State or Federal Government.

**SEC. 3. *Reserved Powers.***—Any rights and powers heretofore vested in the Oneida Tribe of Indians of Wisconsin but not expressly referred to in this Constitution shall not be abridged by this Article, but may be exercised by the people of the Oneida Tribe of Wisconsin through the adoption of appropriate By-laws and constitutional amendments.

**SEC. 4. *Manner of Review.***—Any resolution or ordinance which by the terms of this Constitution is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the Reservation, who shall, within ten days thereafter, approve or disapprove the same.

If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the interior, who may, within 90 days from the date of enactment, rescind the said ordinance or resolution for any cause, by notifying the Tribal Council of such decision.

If the Superintendent shall refuse to approve any ordinance or resolution submitted to him, within ten days after its enactment, he shall advise the Council of his reasons therefor. If these reasons appear to the Council insufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within 90 days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

#### ARTICLE V—AMENDMENTS

This Constitution and By-laws may be amended by a majority vote of the qualified voters of the Tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) per cent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon receipt of a petition signed by one-third ( $\frac{1}{3}$ ) of the qualified voters of the Tribe.

#### BY-LAWS OF THE ONEIDA TRIBE OF INDIANS OF WISCONSIN

##### ARTICLE I—DUTIES OF OFFICERS

**SECTION 1. *Chairman of Council.***—The Chairman of the Council shall preside over all meetings of the Council, shall perform the usual duties of a Chairman, and exercise any authority delegated to him by the Council. He shall vote only in the case of a tie.

**SEC. 2. *Vice-Chairman of the Council.***—The Vice-Chairman shall assist the Chairman when called upon to do so and in the absence of the Chairman. he shall preside. When so presiding, he shall have all



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 the rights, privileges and duties as well as the responsibilities of the Chairman.

SEC. 3. *Secretary of the Council.*—The Secretary of the Tribal Council shall conduct all tribal correspondence and shall keep an accurate record of all matters transacted at Council meetings. It shall be his duty to submit promptly to the Superintendent of the jurisdiction, and the Commissioner of Indian Affairs, copies of all minutes of regular and special meetings of the Tribal Council.

SEC. 4. *Treasurer of Council.*—The Treasurer of the Tribal Council shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the Council, whether they be tribal funds or special funds for which the Council is acting as trustee or custodian. He shall deposit all funds in such depository as the Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession and custody, at each regular meeting of the General Tribal Council, and at such other times as requested by the Council or the executive committee.

He shall not pay out or otherwise disburse any funds in his possession or custody, except in accordance with a resolution duly passed by the Council.

The Treasurer shall be required to give a bond satisfactory to the Council and to the Commissioner of Indian Affairs.

SEC. 5. *Appointive Officers.*—The duties of all appointive boards or officers of the Community shall be clearly defined by resolutions of the Council at the time of their creation or appointment. Such boards and officers shall report, from time to time as required, to the Council, and their activities and decisions shall be subject to review by the Council upon the petition of any person aggrieved.

## ARTICLE II—RATIFICATION OF CONSTITUTION AND BY-LAWS

This Constitution and these By-laws, when adopted by a majority vote of the voters of the Oneida Tribe of Indians of Wisconsin voting at a special election called by the Secretary of the Interior, in which at least 30 per cent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of such approval.

### CERTIFICATE OF ADOPTION

Pursuant to an order, approved October 14, 1936, by the Secretary of the Interior, the attached Constitution and By-laws were submitted for ratification to the members of the Oneida Indian Tribe of the Oneida Reservation and were on November 14, 1936, duly adopted by a vote of 790 for and 16 against, in an election in which over 30 per cent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

MORRIS WHELOCK,  
*Chairman of Election Board.*

KATIE CORNELIUS,  
*Secretary of Election Board.*

FRANK CHRISTY, *Superintendent.*

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I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and By-laws of the Oneida Tribe of Indians of Wisconsin.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution and By-laws are hereby declared inapplicable to the Oneida Tribe of Indians of Wisconsin.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and By-laws.

Approval recommended December 16, 1936.

WILLIAM ZIMMERMAN, Jr.,  
*Acting Commissioner of Indian Affairs.*

HAROLD L. ICKES,  
*Secretary of the Interior.*  
[SEAL]

WASHINGTON, D. C., *December 21, 1936.*

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## AMENDMENTS—CONSTITUTION AND BY-LAWS FOR THE ONEIDA TRIBE OF INDIANS OF WISCONSIN

### AMENDMENT 1.

That section 3 of Article III, of the Constitution be changed by substituting the words, "The qualified voters of the Oneida Tribe of Indians of Wisconsin shall elect from among the qualified voters of the tribe" for the present words, "The General Tribal Council shall elect from its own members".

### AMENDMENT 2.

That an additional paragraph be added to section 3 of Article III, as follows:

"The General Tribal Council shall enact necessary rules and regulations governing the election of tribal officials."

### AMENDMENT 3.

That the sentence in the first paragraph of section 4, Article III, reading, "Thereafter, officials shall be chosen at the July meeting" be changed to read, "Thereafter, officials shall be elected annually in July on a date to be set by the General Tribal Council."

### AMENDMENT 4.

That the second paragraph of section 4, Article III, reading, "One-third ( $\frac{1}{3}$ ) of the qualified voters of the Tribe shall constitute a quorum at any special or regular meeting," be changed to read as follows:

"Fifty qualified voters of the Tribe shall constitute a quorum at any regular or special meeting of the General Tribal Council."

### CERTIFICATION OF ADOPTION

Pursuant to an order, approved January 13, 1939, by the Assistant Secretary of the Interior, the attached Amendments to the Constitution and By-laws of the Oneida Tribe of Indians of Wisconsin were submitted for ratification to the qualified voters of the Tribe, and were on June 3, 1939, duly adopted by a vote as follows: Amendment 1, 246 for, and 10 against; Amendment 2, 241 for, and 11 against; Amendment 3, 246 for, and 8 against; Amendment 4, 218 for, and 36 against, in an election in which over 30 percent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

DAVID O. SKENANDORE  
*Chairman of Election Board*  
LYDIA POWLESS  
*Secretary of Election Board*

PERU FARVER,  
*Superintendent, Tomah School.*

I, Oscar L. Chapman, the Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted me by

the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Amendments to the Constitution and By-laws of the Oneida Tribe of Indians of Wisconsin.

Approval recommended: June 10, 1939.

FRED H. DAIKER,  
*Assistant Commissioner of Indian Affairs.*

[SEAL]

OSCAR L. CHAPMAN  
*Assistant Secretary of the Interior*

WASHINGTON, D. C., *June 15, 1939.*



**CONSTITUTION**  
**OF THE**  
**FORT BELKNAP INDIAN COMMUNITY**  
**OF THE**  
**FORT BELKNAP RESERVATION**  
**OF**  
**MONTANA**

**PREAMBLE**

**We, the duly enrolled members of the Fort Belknap Reservation in the State of Montana, in order to secure to ourselves and our descendants the management of our own affairs, and to perpetuate this reservation as an abiding place for the members of this Community, do establish this Constitution of the Fort Belknap Indian Community.**

**ARTICLE I - OBJECTIVES**

It shall be the object of the Fort Belknap Indian Community:

- (a) To establish and maintain, with the aid of the Federal Government, a form of home rule that shall promote the advancement and welfare of the Indians of the Fort Belknap Reservation.
- (b) To establish and enforce such rules as may be necessary to safeguard Indian property for the use of present and future generations.
- (c) To obtain for all Indians of this Community of the present and future generations, lands needed for home and livelihood.

## ARTICLE II - TERRITORY

The jurisdiction of the Fort Belknap Indian Community shall extend to all lands now contained within the Fort Belknap Reservation and to any lands that may in the future be added thereto.

## ARTICLE III - MEMBERSHIP

**Section 1. Original Members of Community.** Every living person whose name appears on the Allotment Roll of the Fort Belknap Reservation prepared and approved pursuant to the Act of March 3, 1921 (41 Stat. 1355), shall be entitled to membership in the Fort Belknap Indian Community.

**Section 2. Descendants of Allottees.** Each person of one-eighth (1/8) or more Indian blood, regardless of residence, born heretofore or hereafter to any member of descendant of a member of the Community whose name was or is on the Allotment Roll of the Fort Belknap Reservation prepared and approved pursuant to the Act of March 3, 1921 (41 Stat. 1355), shall automatically be entitled to membership in the Community. (As amended May 1, 2001)

**Section 3. Adoption.** The Community may by a majority of the votes cast by the members of the Community, adopt as a member of the Community any person of one-eighth (1/8) degree or more Indian blood who is a descendant of a member of the Fort Belknap Community and/or an allottee; **PROVIDED**, That any person to be eligible for adoption must have resided at least three (3) consecutive years upon the Fort Belknap Reservation, and **PROVIDED, FURTHER**, That such person has not received membership in any other tribe of Indians.

**Section 4. Loss of Membership.** In no case shall a member lose his membership other than by personal request in writing to the Community Council or by reason of his having established legal residence in a foreign country.

**Section 5. Definition.** Wherever the term "Indian blood" is used in this Article it shall be determined to mean the blood of either or both the Assiniboiné or the Gros Ventre Tribe of the Fort Belknap Reservation.

**Section 6. Current Membership Roll.** The membership roll of the Fort Belknap Indian Community shall be kept current by striking therefrom the names of persons who have relinquished in writing their membership in the Community or have established legal residence in a foreign country and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Community Council, and by adding thereto the names of persons who meet the membership requirements and who comply with the procedures for enrollment as members of the Community.

**Section 7. Appeals.** Any person who has been rejected for enrollment as a member of the

Community, EXCEPT those rejected under Section 3, shall have the right to appeal within 60 days from the date of written notice of rejection to the Secretary of the Interior from the decision of the Community Council, and the decision of the Secretary of the Interior shall be final.

**Section 8. Rules of Procedure.** The Community Council shall have the authority to prescribe rules to be followed in compiling a membership roll in accordance with the provisions of this Article, the completed roll to be approved by the Fort Belknap Community Council, and in case of distribution of Community assets, the roll shall be submitted to the Secretary of the Interior for final approval.

#### **ARTICLE IV - ORGANIZATION OF COMMUNITY COUNCIL**

**Section 1. Composition.** The Community Council shall be composed of eight (8) members, all of whom shall be chosen every second year to popular vote, a President and Vice President who shall be chosen every four (4) years by popular vote, and a Secretary-Treasurer who shall be appointed in accordance with Section 4 of this Article. Every candidate for elected office shall pay a filing fee of \$10.00. (As amended May 1, 2001.)

**Section 2. Defining Council Seats.** There shall be created by the Community Council two (2) Gros Ventre and two (2) Assiniboine voting districts on the reservation. The actual enumeration for each district shall be made prior to July 1st of each election year. Representation on the Community Council shall consist of four (4) Gros Ventre and four (4) Assiniboine members, with one representative from each tribe residing in each district and having been elected by the members of his or her tribe in that district, one (1) Gros Ventre Council person, elected at large by the members of the Gros Ventre Tribe, one (1) Assiniboine Council person, elected at large by members of Assiniboine Tribe, one (1) Gros Ventre Council person, elected at large by members of both Tribes and (1) Assiniboine Council person, elected at large by members of both Tribes. Each at-large Council person elected must reside on the reservation. The President and Vice-President shall be a team of one (1) Gros Ventre and one (1) Assiniboine, elected as a team at-large. Changes to the number of Council seats shall be implemented at the next regularly scheduled election following adoption of these changes to the number of Council seats. (As Amended May 1, 2001.)

**Section 3. Tenure.** The Gros Ventre and Assiniboine candidates for each district and at-large Council seat shall be elected for a two (2) year term and may succeed themselves at will. The President and Vice President shall be elected for a four (4) year term and may succeed themselves at will. (As Amended May 1, 2001.)

**Section 4. Officers.** The officers of the Community Council shall consist of a President and Vice President who shall be elected at-large, and a Secretary-Treasurer, who shall be appointed by the President and confirmed by a majority vote of the Council when properly convened, and who shall be an enrolled member of either the Gros Ventre or Assiniboine Tribes, qualified to perform the financial and administrative duties of Secretary-Treasurer as defined by the

Community Council. The Secretary-Treasurer of the Community Council, as a non-elected officer, shall not be entitled to vote on matters before the Community Council. Once confirmed, the Secretary-Treasurer shall serve at the pleasure of the President. (As Amended May 1, 2001.)

## ARTICLE V - POWERS OF THE COMMUNITY COUNCIL

**Section 1. Enumerated Powers.** The Council of the Fort Belknap Community shall have the following powers, the exercise of which shall be subject to popular referendum as provided hereafter:

- (a) To negotiate with the Federal, State and local governments on behalf of the Community and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the Fort Belknap Community.
- (b) To employ legal counsel for the protection and advancement of the rights of the Community and its members, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.
- (c) To approve or veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands or other tribal assets which may be authorized or executed by the Secretary of the Interior or his duly authorized representatives, PROVIDED, That no Community lands shall ever be sold or encumbered, but may be leased for any purpose for periods consistent with existing law.
- (d) To admit through proper government channels recommendations for the expenditure of Federal funds for tribal support, reimbursable assistance reservational improvements, health, education, and other necessary activities looking toward the advancement of the members of this Community.
- (e) To borrow money from the Federal Government in accordance with the terms of a corporate charter to be issued to the Fort Belknap Indian Community.
- (f) To manage the economic affairs of the Community and to appropriate available funds for public purposes.
- (g) To assess fees against members of the Community or their property to obtain funds for payment of expenses of the Community Council or for carrying on any project that in the Council's opinion may be beneficial to the Community as a whole, PROVIDED, HOWEVER, That any district, not directly benefited by any project under contemplation, may by a majority vote of the people of the district, exempt itself from such assessment. In case of dispute as to whether a certain district is benefited by a given project, any party may appeal to the Commissioner

of Indian Affairs for a final determination.

- (h) To exclude from the territory of the Community persons not legally entitled to reside therein under ordinances which shall be subject to review by the Secretary of the Interior.
- (i) To establish ordinances, subject to review by the Secretary of the Interior, governing law enforcement on the reservation, and to set up courts for the trial and punishment of offenders against such ordinances, in cases that do not fall within the jurisdiction of the Federal Court.
- (j) To purchase land of members of the Community for public purposes, under condemnation proceedings in courts of competent jurisdiction.
- (k) To prohibit the overgrazing of lands or other depletion of the capital or natural resources of the Community by ordinances which shall be subject to approval by the Secretary of the Interior.
- (l) To establish ordinances relating to the assignment, use or transfer of tribal lands within the territory of the Community.
- (m) To regulate the inheritance of real and personal property, other than allotted lands, within the territory of the Community.
- (n) To charter subordinate organizations for economic purposes and to regulate the activities of all cooperative associations of members of the Community.
- (o) To regulate the domestic relations of members of the Community.
- (p) To provide for the appointment of guardians for minors and mental incompetents by ordinance or resolution subject to review by the Secretary of the Interior.
- (q) To provide for the appointment of guardians for minors and mental incompetents by ordinance or resolution subject to review by the Secretary of the Interior.
- (r) To appoint subordinate boards and tribal officials, and to provide for the popular election of subordinate district councils, and to delegate to such boards, councils, or officials or to cooperative associations which are open to all members of the Community any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.
- (s) To promulgate ordinances, subject to review by the Secretary of the Interior, providing for the assessment and collection of license fees from nonmembers

doing business, or obtaining any other special right or privilege within the reservation, including town sites therein.

**Section 2. Manner of Review.** Any resolution or ordinance which, by the terms of this constitution, is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the reservation, who shall, within ten (10) days thereafter, approve or disapprove the same.

If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior who may within 90 days from the date of enactment, rescind the said ordinance or resolution for any cause, by notifying the Community Council of such rescission.

If the Superintendent shall refuse to approve any resolution or ordinance submitted to him, within ten (10) days after its enactment, he shall advise the Community Council of his reasons therefore. If these reasons appear to the council insufficient, it may, by a majority vote, refer the ordinances or resolution to the Secretary of the Interior, who may, within 90 days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

**Section 3. Future Powers.** The Council of the Fort Belknap Community may exercise, subject to popular referendum, such further powers as may in the future be delegated to the Community by the Secretary of the Interior, or by any other duly authorized official or agency of government.

**Section 4. Reserved Powers.** Any rights and powers heretofore vested in the tribes of the Fort Belknap Indian Community but not expressly referred to in this constitution shall not be abridged by this Article but may be exercised by the people of the Fort Belknap Community through the adoption of appropriate bylaws and constitutional amendments.

## ARTICLE VI - INITIATIVE AND REFERENDUM

Whenever a matter of great importance comes before the Council the councilmen shall, by resolution duly passed, submit the matter to the vote of the people. If they do not so agree to submit the question, any two (2) members of the Council, or one hundred members of the Community, may within thirty (30) days after the vote of the Council, call such a popular referendum, but no councilman shall call more than two (2) referendum elections during any calendar year. When a referendum election has been called, the question to be voted on shall be posted at the voting places for at least ten (10) days prior to the election. The notice shall contain the ordinance or resolution to be voted on with the accompanying words: "Shall the ordinance (or resolution) be approved. Yes ( ). No ( )." The will of the majority of those voting shall be the law, PROVIDED at least one-third of the eligible voters actually vote.



## ARTICLE VII - ELECTIONS

**Section 1. Right to Vote.** All members of the Community of either sex, eighteen (18) years of age or over, are entitled to vote at any election when he or she presents himself or herself at any polling place in the voting district wherein the member resides, or in the case of nonresidents, absent or inform eligible voters, by absentee ballot, which shall be mailed to such voters upon written request. Eligible nonresident members of the Community shall also be entitled to vote in the district they are assigned by the Council utilizing the duly enacted Election Ordinance during the enumeration process. Each member of the Community shall be entitled to vote for one candidate from their designated tribe for the Council seat from their designated district, as well as for an at-large representative from their tribe, and the two at-large representatives from each tribe. Each member of the Community shall be entitled to one vote for the President and Vice President, who shall run for office as a team and be elected by all voters at-large. (As Amended May 1, 2001.)

**Section 2. Time of Elections.** A primary election shall be held for each Council seat. The two (2) candidates for each seat receiving the most votes shall progress to a general election in which the candidate receiving the majority of the votes shall be elected and seated. For the offices of President and Vice President, the two (2) teams receiving the most votes at-large shall progress to a general election in which the team receiving the majority of votes at-large shall progress to a general election in which the team receiving majority of the votes at-large shall be elected and seated. Primary elections for membership on the Community Council shall be held on the first Tuesday in October of the second year, and the general elections shall be held on the first Tuesday in November of the same year. Duly elected Council members shall take office immediately upon certification of the election results. (As Amended May 1, 2001.)

**Section 3. Manner and Place of Elections.** Elections shall be taken by ballot, and polling places in each district shall be established by the Council. Absentee ballots, including those of nonresidents, shall be counted in the district and with the tribal affiliation to which the voter has been designated in the enumeration process. The Council shall appoint three (3) election judges to serve at each polling place for each election, and the judges shall certify the results of the election. (As Amended May 1, 2001.)

**Section 4. Nominations.** Candidates for election to membership on the Community Council shall give public notice of such intention at least sixty (60) days prior to the primary election date and at the same time file with the Secretary-Treasurer of the Council a certificate of such intention including, a statement of tribal affiliation for such office, a statement verifying reservation residency, an endorsement by five (5) duly qualified electors other than immediate relatives, from the same tribe and same districts, if a district seat, and, for district representatives, a statement of residency in the district within which he or she wishes to run for office. Candidates for election to the Presidency and Vice Presidency shall give public notice of such intention at least sixty (60) days prior to the primary election date and at the same time file with the Secretary-Treasurer of the Council a certificate of such intention, including a statement of

reservation residency, a statement of affiliation of one (1) member of the team as a Gros Ventre and one (1) as an Assiniboine, and an endorsement of the team by five (5) duly qualified electors from each tribe, other than immediate relatives. (As Amended May 1, 2001.)

## **ARTICLE VIII - REMOVAL FROM OFFICE**

**Section 1. Forfeiture of Office.** Any member of the Community Council who shall be absent from three (3) consecutive regular meetings of the Council, unless such absence shall be excused for cause, or who shall be convicted of any offense involving dishonesty, shall automatically forfeit his office.

**Section 2. Impeachment.** The Council may expel a member for cause by a two-thirds vote, after due notice of charges and allowing an opportunity to be heard.

**Section 3. Vacancies.** When vacancies on the Council exist more than 270 days before an election to fill Council seats, the President shall issue a write of election to fill such vacancies. At least thirty (30) days notice of such election shall be given, and if more than two (2) candidates file for a vacancy, the Council may conduct a primary to reduce the number of candidates to two (2) for the position. In the event there occurs a vacancy in the office of President, the Vice President shall assume the office of President and shall then appoint a Vice President from within the tribe of the former President. In the event there occurs a vacancy in the office of Vice President, the President shall appoint a Vice President from within the tribe of the former Vice President.

**Section 4. Recall.**

(A) Any person elected to the Council, including the President and Vice President as a team, shall be subject to recall from that office. In the case of a councilman, recall shall be initiated by a petition signed by no less than forty percent (40%) of the number of votes cast by tribal members in the councilman's district for that position in the last general election preceding the recall petition. In the case of recall of the President and Vice President, recall shall be initiated by a petition signed by no less than forty percent (40%) of the total number of at-large votes cast for the position at the last general election preceding the recall petition.

(B) Every recall petition must contain a general statement of cause, in not more than two hundred (200) words, of the grounds of such demand for recall, and must be filed at the office of the Secretary-Treasurer of the Council. The subject of the recall petition shall immediately be served with a copy of the recall petition and shall have ten (10) days from the date of service to file his/her response to the general statement of cause, in not more than two hundred (200) words, with the Secretary-Treasurer of the Council. Each signatory must add to his or her signature the date of signing, his or her residency and tribal affiliation.



(C) If the subject of recall offers his or her resignation, it shall be accepted by the Council. If he or she does not resign within ten (10) days after a recall petition is filed, a special recall election shall be ordered and held, not less than twenty (20) or more than thirty (30) days after such filing, to determine whether the subject should be recalled. On the ballots at said election the reasons set forth in the recall petition together with the subject's response, is not more than two hundred (200) words, shall be printed for review by the voters. The subject shall continue to hold office until the results of the election are officially declared by the Council. The subject shall be recalled in the event that a majority of the voters in the special recall election vote for such recall. Such action to certify the election results shall be taken as soon as possible after the election.

(D) No recall petition shall be circulated against a councilman until he or she has been in office for a period of eight (8) months. Should a recall petition fail, the subject shall not be subjected to further recall action within one (1) year of the special recall election.

#### ARTICLE IX - AMENDMENTS

This constitution and bylaws may be amended by a majority vote of the qualified voters of the Community voting at an election called for that purpose by the Secretary of the Interior, PROVIDED, that at least thirty (30) percent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment, at the request of the Council, or upon presentation of a petition signed by one-third (1/3) of the qualified voters, members of the Community.

#### ARTICLE X - JUDICIARY

JUDICIARY: There is hereby established the Fort Belknap Indian Community Tribal Court, which shall have the general power, limited only by applicable law, to adjudicate all cases and controversies which arise within the jurisdiction of the Fort Belknap Indian Community. The court shall include an Appellate Court which shall insure litigants a review of decisions made by the Trial Court. Judges of the Fort Belknap Indian Community Tribal Court shall be appointed through procedures established by the Tribal Council, which shall guarantee an independent judiciary. Nothing contained in this Article shall be construed as a waiver of the Tribal Council's sovereign immunity, which may be waived only with the consent of the Council.

As Amended May 1, 2001.

PRINTED & AMENDED AS OF 8/01  
Rerun; 6/30/03

**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF INDIAN AFFAIRS**

**CONSTITUTION AND BYLAWS  
OF THE PUEBLO OF  
SANTA CLARA  
NEW MEXICO**

**APPROVED DECEMBER 20, 1935**

**UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1936**

**CONSTITUTION AND BYLAWS OF THE PUEBLO OF  
SANTA CLARA, NEW MEXICO**

**PREAMBLE**

## ARTICLE I-JURISDICTION

This constitution shall apply within the exterior boundaries of Santa Clara pueblo grant and to such other lands as are now or may in the future be under the jurisdiction of the pueblo of Santa Clara. This constitution shall apply to and be for the benefit of all persons who are members of the pueblo of Santa Clara.

## ARTICLE II-MEMBERSHIP

SECTION 1. *Conditions of membership.*-The membership of the Santa Clara pueblo shall consist as follows:

- (a) All persons of Indian blood whose names appear on the census roll of the Santa Clara pueblo as of November 1, 1935, provided that within one year from the adoption and approval of this constitution corrections may be made in the said roll by the pueblo council with the approval of the Secretary of the Interior.
- (b) All persons born of parents both of whom are members of the Santa Clara pueblo.
- (c) All children of mixed marriages between members of the Santa Clara pueblo and nonmembers, provided such children have been recognized and adopted by the council.
- (d) All persons naturalized as members of the pueblo.

SEC. 2. *Naturalization.*-Indians from other pueblos or reservations who marry a member of Santa Clara pueblo may become members of the pueblo, with the assent of the council, by naturalization. To do this they must (1) go before the pueblo council and renounce allegiance to their tribe and declare intention of becoming members of the Santa Clara pueblo. They shall swear that from that date on they will not receive any benefits from their people, except through inheritance. (2) A year later they shall go before the pueblo council again, swear allegiance to the pueblo of Santa Clara and receive membership papers; provided, they have kept their promise from the time of their first appearance before the pueblo council.

## ARTICLE III-ORGANIZATION OF THE PUEBLO COUNCIL

SECTION 1. *Officers.*-The governing power of the pueblo of Santa Clara shall be vested in the pueblo council which shall consist of the following officers:

Officers:	Number
Governor.....	1
Lieutenant Governor.....	1
Representatives.....	8
Secretary.....	1
Treasurer.....	1
Interpreter.....	1
Sheriff.....	1

and such other officers as the council may recognize or appoint.

SEC. 2.-*Election of Governor, Lieutenant Governor, secretary, treasurer, interpreter, and sheriff.*-On the first Saturday of each year an election shall be held within the pueblo of Santa Clara, at which a Governor, Lieutenant Governor, secretary, treasurer, interpreter, and sheriff shall be elected by secret ballot to serve for the ensuing year.

SEC. 3. *Who may vote.*-Every member of the pueblo of Santa Clara who is of sane mind and over 18 years of age, may vote at any election. Any member who is absent from the pueblo on the date of any election shall have the right to vote by mail under such rules as may be prescribed by the pueblo council.

SEC. 4. *Candidates.*-Candidates for Governor, Lieutenant Governor, secretary, treasurer, interpreter, and sheriff shall be nominated at least fifteen (15) days before the date upon which each election is to be held. Nominations for the first election shall be made by the recognized parties now existing within the pueblo. Thereafter nominations shall be made in a manner prescribed by the council of the pueblo.

SEC. 5. *Representatives.*-Two representatives shall be appointed to the pueblo council upon the date of the first election, for a term of 1 year by each of the four recognized parties now existing within the pueblo, and in all future elections eight representatives shall be chosen in a manner to be prescribed by the council.

SEC. 6. *Manner of elections.*-All nominations for office and elections shall be made and held in a manner prescribed by the council of the pueblo.

## ARTICLE IV-THE PUEBLO COUNCIL AND ITS POWERS

SECTION 1. *Legislative power.*-The legislative power shall be vested in the pueblo council, and the said power shall be exercised in accordance with, and not in conflict with, the constitution or any laws of the United States of America.

The pueblo council shall have the following rights and powers:

1. To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.
2. To prevent the sale, disposition, lease, or encumbrance of pueblo lands, interests in lands, or other tribal assets.
3. To negotiate with the Federal, State, and local governments, and with the councils and governing authorities of other pueblos or Indian tribes.
4. To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the pueblo prior to the submission of such estimates to the Bureau of the Budget and to Congress.
5. To enact ordinances, not inconsistent with the constitution and bylaws of the pueblo, for the maintenance of law and order within the pueblo and for the punishment of members, and the exclusion of nonmembers violating any such ordinances, for the raising of revenue and the appropriation of available funds for pueblo purposes, for the regulation of trade, inheritance, land-holding, and private dealings in land within the pueblo, for the guidance of the officers of the pueblo in all their duties, and generally for the protection of the welfare of the pueblo and for the execution of all other powers vested in the pueblo by existing law: *Provided*, That any ordinance which affects persons who are not members of the pueblo shall not take effect until it has been approved by the Secretary of the Interior or some officer designated by him.
6. To delegate any of the foregoing powers to appropriate officers of the pueblo, reserving the right to review any action taken by virtue of such delegated power.

SEC. 2. *Judicial power.*-The pueblo council shall also adjudicate all matters coming before it over which it has jurisdiction. In all controversies coming before the pueblo council, the council shall have the right to examine all witnesses and ascertain full details of the controversy, and after the matter shall have been sufficiently commented upon by the interested parties, the council shall retire to a private place to make a decision. All of the members of the council except the Governor and the Lieutenant Governor shall have the

right to vote upon a decision, and a majority shall rule. In the event of a tie, the Governor shall have the right to cast a vote, thereby breaking the tie. It shall be the duty of the Governor and the Lieutenant Governor to express to the other members of the pueblo council their views regarding the case before a vote is taken.

SEC. 3. *Common law of pueblo.*-With respect to all matters not covered by the written constitution, bylaws, and ordinances of the pueblo of Santa Clara, nor by those laws of the United States of America which are applicable to the pueblo of Santa Clara, the customs and usages of the pueblo, civil, and criminal, as interpreted by the council, shall have the force of law.

## ARTICLE V-THE GOVERNOR, HIS POWERS AND DUTIES

The Governor shall be the executive head of the pueblo government. It shall be his duty to enforce the laws of the pueblo, civil and criminal, written and unwritten. If any person considers that any ruling of the Governor is unjust, he shall have the right to demand through any representative of the pueblo council or directly to the pueblo council that the matter be brought before the pueblo council for adjudication at the next meeting of said officers.

In all community work the Governor shall be the sole overseer unless he is unavoidably absent, in which event the Lieutenant Governor shall have the same rights and duties as the Governor.

## ARTICLE VI-VACANCIES AND IMPEACHMENTS

SEC. 1. *Vacancies.*-Should any vacancy occur in any of the offices or any member of the council, the council shall, by a majority vote, have the right to name a successor for the said office, except that in the event the office of Governor becomes vacant for any reason, then and in that event the Lieutenant Governor shall thereupon become the Governor with all duties and powers of the said office, and further, that the successor to any pueblo representative appointed by a particular group shall be chosen by the same group.

SEC. 2. *Impeachment.*-Any officer charged with grave offenses may be tried before the other members of the council. The manner of conducting impeachments shall be prescribed by the council. The council shall act as the trial court, and if they decide, by a two-thirds vote, to remove the accused member from office he will be removed.

## ARTICLE VII-LAND

SECTION 1. *Pueblo title.*- Title to all lands of the pueblo, whether assigned to the use of individuals or withheld for the common use of the members of the pueblo, shall forever remain in the pueblo itself and not in the individual members thereof. All the members of the pueblo are declared to have an equal right to make beneficial use, in accordance with ordinances of the council, of any land of the pueblo not heretofore or hereafter assigned to individual members. For the purpose of this article the word "member" shall be defined by the council.

SEC. 2. *Individual rights of possession.*-The right of full possession shall be guaranteed to every member of the pueblo, holding lands assigned to him by the Pueblo Council, for cultivation or other purposes: *Provided*, That no member holding said lands shall sell or will same to an alien. All lands assigned to individuals of the pueblo must be completely fenced within three years. Any violation of the above provision shall be sufficient cause for the council to dispossess him of said land. He shall have the right, however, to rent to a pueblo member or, with the approval of the council, to an alien, all lands under his possession, for a term not to exceed two years. He shall have the right to sell his interest in said lands to any other member of the pueblo after his assignment has been finally approved, subject to such regulations as the council may prescribe.

SEC. 3. *Council to have power of granting assignments.*-When any member of the pueblo desires a piece of unimproved pueblo land, he shall select his land, and then make his application for same to the council of the pueblo. If the council decides to grant him the land, or any part thereof, they shall mark out the boundaries of



same. The grantee shall thereafter have full possession of said land, unless the council shall, in accordance with the constitution, bylaws, and ordinances of the pueblo, dispossess him of the same. Case: 18-2532 Document: 10 Filed: 07/25/2018 Pages: 124

SEC. 4. *Prior assignments recognized.*-All assignments of land heretofore made by the pueblo authorities are hereby recognized and confirmed.

## ARTICLE VIII-AMENDMENTS

No amendments or changes shall be made in the constitution or bylaws of the pueblo except by a decision of the general pueblo. At the request of the council the Secretary of the Interior shall submit any proposed amendment to the said constitution or bylaws to a vote of the people. If such amendment is approved by a majority of the qualified voters of the pueblo, 21 years old or over, voting at an election in which at least 30 percent of those entitled to vote shall vote, it shall be submitted to the Secretary of the Interior, and if he shall approve the same it shall become effective.

## BYLAWS OF THE PUEBLO OF SANTA CLARA, NEW MEXICO

### ARTICLE I-DUTIES OF OFFICERS

SECTION 1. *Governor.*-The Governor shall be in full charge of all meetings of the pueblo council. It shall be his duty to see that perfect order is preserved in every respect. In the discussion of all business but one person shall be allowed to speak at a time, and the Governor shall have the right to set a time limit upon speakers. When any member of the pueblo council or any other person desires to speak at a meeting of the pueblo council, such person shall first ask permission of the Governor to do so before proceeding. It shall be the duty of the Governor to see that all business presented to the council within any month be disposed of, if possible, before the beginning of the next month.

SEC. 2. *Lieutenant Governor.*-The Lieutenant Governor shall be next in rank to the Governor. In case of the death, resignation, absence, impeachment, or other disability of the Governor, the Lieutenant Governor shall become Governor or act as Governor during such disability or absence. As long as the Governor is at the pueblo holding office, the Lieutenant Governor shall have the power only of a representative in the council, except as otherwise provided in the constitution and bylaws of the pueblo.

SEC. 3. *Representatives.*-Representatives shall represent their people in the pueblo council. They shall bring before the council at every meeting the matters that their people want brought before the council and such other matters as each representative believes should be presented to the council. Such matters may originate with any member of the pueblo or may originate with the representative himself.

SEC. 4. *Secretary.*-The secretary shall keep a record of all council proceedings and all business authorized or transacted by the council. At the beginning of each regular meeting, he shall call the roll of councilmen and all specially summoned persons expected to be present. He shall then read the minutes of the previous meeting and the officers shall then decide as to whether they should be approved as they stand, and all persons present shall have the right to suggest corrections. After the minutes of the previous meeting have been accepted, the secretary will then mark them approved. The secretary shall attend to all official correspondence as directed by the pueblo council and the Governor.

SEC. 5. *Treasurer.*-It shall be the duty of the treasurer to receive all money due to the pueblo and to give a receipt for the same. He shall deposit the pueblo money in a bank which should be approved by the pueblo council. He shall keep a record in his books of all moneys received and paid out. Moneys of the pueblo shall be paid by check signed by the treasurer and countersigned by the Governor. No moneys shall be paid out unless the same shall have been authorized to be expended by the council and vouchers for same shall have been signed by the Governor and the secretary. At each regular meeting of the pueblo council, the treasurer shall present to them a statement of receipts and disbursements made by him since the last regular meeting and he shall submit to the pueblo council at each regular meeting all of his books and a statement of the financial condition of the pueblo funds.

SEC. 6. *Interpreter*.-The interpreter shall translate from the Tewa language into the English language or from English into the Tewa language whenever directed to do so by the pueblo council. He shall also assist the secretary with the official correspondence of the pueblo.

SEC. 7. *Sheriff*.-It shall be the duty of the sheriff to assist the Governor in keeping law and order in the pueblo. He shall maintain order at all meetings, also in the village and on the pueblo lands. He shall report on disorders to the council. He shall have authority to stop trouble immediately wherever he finds it, without special authorization from the Governor. In case of disputes or difficulties the sheriff shall bring the parties in controversy before the council for a decision. He shall bring before the council for punishment all violators of the laws of the pueblo. He shall serve notices or summons upon all persons required to be present before the council in criminal or civil proceedings.

## ARTICLE II-QUALIFICATIONS OF OFFICE

SECTION. 1. *Qualifications of Governor and Lieutenant Governor*.-The Governor and the Lieutenant Governor must be at least twenty-five (25) years of age and shall not be over sixty-five (65) years of age. They must be members of the pueblo of Santa Clara and be residents of said pueblo at the time of their election. They must be able to speak the Tewa language fluently and also be able to speak either the English or Spanish languages well enough to be understood.

SEC. 2. *Qualifications of representatives*.-The representatives must be at least twenty-five (25) years of age. They must be members of the pueblo of Santa Clara and residents thereof at the time of their selection. They must be able to speak the Tewa language fluently.

SEC. 3. *Qualifications of secretary, treasurer, and sheriff*.-The secretary, treasurer, and sheriff must be not less than twenty-five (25) years of age and not over sixty-five (65) years of age. They must be members of the pueblo of Santa Clara and residents thereof at the time of their election. They must be able to speak the Tewa language fluently and speak, read, and write the English language, and it will be preferable to have those who can also understand the Spanish language.

SEC. 4. *Qualifications of the Interpreter*.-The interpreter shall be not less than twenty-five (25) years of age, and not over sixty-five (65) years of age, and must be a member of the pueblo of Santa Clara and a resident thereof at the time of his election. He must be able to speak the Tewa language fluently and to translate the said language into English and Spanish and the English and Spanish languages into the Tewa language.

## ARTICLE III-CONDUCT OF COUNCIL MEETINGS

SECTION 1. *Regular meetings*.-Regular meetings of the pueblo council shall be held at least once a month, at such time and place as shall be fixed by the council, and special meetings shall be held at such times and places as shall be fixed by the council. No action shall be taken by the council at any meeting unless at least a majority of the members are present.

SEC. 2. *Attendance of council members*.-Every member of the pueblo council shall be required to be present at each regular monthly meeting and at each special meeting of the pueblo council unless it should be impossible for such member to be there, in which event said member shall notify the Governor of his inability to attend, giving reasons therefor. The Governor will then refer the matter to the pueblo council who, if the reasons given are found to be justifiable, shall excuse the absence of the said member. In the event that members of the council receive compensation for their services from the pueblo funds, an unexcused absence shall be punished by a fine to be fixed by the pueblo council.

SEC. 3. *Matters of general interest to pueblo*.-In all matters in which all of the people of the pueblo of Santa Clara are interested, the pueblo council shall cause the sheriff to notify all members of the pueblo of the time and place at which such business is to be transacted. At least three days' notice of such general meeting of the pueblo council shall be given in such manner as shall be prescribed by the bylaws of the pueblo. If any member of the

SEC. 4. *Special meetings on grievances.*-If any member of the pueblo of Santa Clara has any grievance against any other member of the said pueblo which cannot await settlement at the regular pueblo council meeting, he shall report the same to the Governor who, if he deems that the case requires speedy attention, shall call a special meeting of the council at such time and place as the Governor shall fix, to pass upon the said matter.

SEC. 5. *Advice of counsel.*-If any cause cannot be fully understood by the pueblo council, the pueblo council may consult the special attorney for the Pueblo Indians and ask for his advice.

#### ARTICLE IV-PERSONAL LIBERTIES

SECTION 1. *Private rights of each member of the pueblo.*-Each member of the pueblo of Santa Clara shall be assured his private rights as a citizen of the United States, and no attempt shall be made by the officers of the pueblo to enforce any order upon him depriving him of said rights.

SEC. 2. *Preference to relatives.*-Preference to relatives shall not be given by council members under any circumstances. If they clearly show preference they will be exposing themselves to impeachment.

SEC. 3. *Old members of the pueblo.*-All members of the pueblo who have completed their 75th year shall not be compelled to work on community work (pueblo cleaning, fencing, etc.), and ditch work. If, however, they of their own accord attend to community work they will be free to work as they please.

Retired members will not, however, be able to fill the places of sons who are of working age and not justified in refusing to serve on community work and ditch work.

#### ARTICLE V-INTOXICATION

Any person showing signs of intoxication will not be allowed to take part in a council meeting. Council members who attend meetings while intoxicated or who have missed a meeting because of intoxication will face a charge of impeachment.

All liquor charges will be decided by the pueblo council and fines will be made by the council when cases come up before the council.

#### ARTICLE VI-STOCK

From March 1 to November 1 of each year it shall be the duty of all members of the pueblo to report all loose animals found in cultivated fields of the pueblo to the Governor. The Governor will then notify the owners. If they do not remove the animals from the fields at once, they will be subject to a fine. The fine will be made according to the amount of damage done. If the Governor cannot by himself settle a question like this he will be free to bring the case before the pueblo council.

#### ARTICLE VII-RATIFICATION

This constitution and bylaws, when ratified by a majority vote of the members of the pueblo over twenty-one years of age at a special election, called by the Secretary of the Interior, in which at least thirty percent (30%) of the eligible voters shall vote, shall be submitted to the Secretary of the Interior for his approval and shall be effective from the date of such approval. The constitution and by-laws of the pueblo may thereafter be amended or revoked in the manner provided under article VIII of the constitution.

#### CERTIFICATION OF ADOPTION



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Pursuant to an order, approved November 23, 1935, by the Secretary of the Interior, the attached constitution and by-laws was submitted for ratification to the Indians of the Santa Clara pueblo and was on December 14, 1935, duly adopted by a vote of 145 for and 8 against, in an election in which over 30 per cent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the act of June 15, 1935 (Pub., No. 147 , 74th Cong.).

GUTIERREZ,

PATRICI

*Chairman of Election Board.*

CLETO TAFOYA,

*Secretary of Election Board.*

NESTOR NARANJO.

JOHN NARANJO.

ANASTACIO NARANJO.

AGAPITO NARANJO.

JOSE G. NARANJO.

JOSEPH FILARIO TAFOYA.

S. D. ABERLE,

*Superintendent in charge the United Pueblos Agency.*

I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached constitution and by-laws of the pueblo of Santa Clara.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said constitution or by-laws are hereby declared inapplicable to the pueblo of Santa Clara.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said constitution and by-laws.

Approval recommended December 18, 1935.

JOHN COLLIER,

*Commissioner of Indian Affairs.*

ICKES,

HAROLD L.

*Secretary of the Interior.*  
[SEAL]

WASHINGTON, D. C., December 20, 1935.

**AMENDMENT-CONSTITUTION AND BY-LAWS OF THE  
PUEBLO OF SANTA CLARA, NEW MEXICO**

AMENDMENT I. Section 2 of Article III shall be amended to read :

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"Within the first five days of each year an election shall be held within the Pueblo of Santa Clara, at which a Governor, Lieutenant Governor, secretary, treasurer, interpreter, and sheriff shall be elected by secret ballot to serve for the ensuing year."

I, Oscar L. Chapman, the Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Amendment I, amending Section 2 of Article III of the Constitution and By-laws of the Pueblo of Santa Clara, New Mexico.

Approval recommended December 27, 1939.

F. H. DAIKER,  
*Assistant to the Commissioner.*

CHAPMAN,

OSCAR L.

*Assistant Secretary of the Interior.*  
[SEAL]

WASHINGTON, D. C., December 29, 1939.

#### CERTIFICATION OF ADOPTION

Pursuant to an order, approved November 21, 1939 by the Assistant Secretary of the Interior, the attached Amendment to the Constitution and By-laws of the Pueblo of Santa Clara was submitted for ratification to the qualified voters of the Pueblo, and on December 19, 1939 was adopted by a vote of 124 for, and 12 against in an election in which more than 30 per cent of those entitled to vote cast their ballots in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

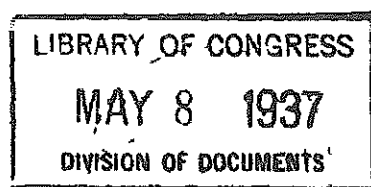
JOSEPH F. TAFOYA,

*Governor, Pueblo Council of Santa Clara.*

ALLAN LAFLIN,  
*Acting Superintendent, United Pueblos Agency.*

U. S. GOVERNMENT PRINTING OFFICE : 1940

*[Faint, illegible handwritten text]*



## CONSTITUTION AND BY-LAWS OF THE ONEIDA TRIBE OF INDIANS OF WISCONSIN

We, the people of the Oneida Tribe of Indians of Wisconsin, grateful to Almighty God for his fostering care, in order to reestablish our tribal organization, to conserve and develop our common resources and to promote the welfare of ourselves and our descendants, do hereby ordain and establish this Constitution.

### ARTICLE I—TERRITORY

The jurisdiction of the Oneida Tribe of Wisconsin shall extend to the territory within the present confines of the Oneida Reservation and to such other lands as may be hereafter added thereto within or without said boundary lines under any law of the United States, except as otherwise provided by law.

### ARTICLE II—MEMBERSHIP

SECTION 1. The membership of the Oneida Tribe of Wisconsin shall consist of:

(a) All persons of Indian blood whose names appear on the official annuity roll of the Tribe as of October 7, 1935.

(b) Any descendant of a member of the Tribe who is of at least one-quarter Indian blood, provided such member is a resident of the Reservation at the time of the birth of the said descendant.

SEC. 2. The General Tribal Council shall have the power to promulgate ordinances subject to review by the Secretary of the Interior covering future membership and the adoption of new members.

### ARTICLE III—GOVERNING BODY

SECTION 1. The governing body of the Oneida Tribe of Wisconsin shall be the General Tribal Council which shall be composed of all the qualified voters of the Oneida Reservation.

SEC. 2. All enrolled members of the Oneida Tribe of Wisconsin who are twenty-one years of age or over, and who have maintained continuous residence on the Oneida Reservation of not less than thirty (30) days, immediately preceding an election, shall be qualified voters, provided they shall present themselves in person at the polls on the day of election.

SEC. 3. The General Tribal Council shall elect from its own members by secret ballot (a) a chairman; (b) a vice-chairman; (c) a secretary; (d) a treasurer; (e) and such other officers and committees as may be deemed necessary.

SEC. 4. The General Tribal Council shall meet on the first Monday of January and July. Within thirty days after the ratification and approval of this Constitution and By-laws, a General Tribal Council

shall be called by the present Tribal Council for the purpose of electing the officers named herein, and it shall transact such other business as may be necessary. The officers elected at this meeting shall serve until the July meeting at which time their successors shall be chosen. Thereafter, officials shall be chosen at the July meeting. The chairman, or twenty-five (25) per cent of the qualified voters, may by written notice, call special meetings of the General Tribal Council.

One-third ( $\frac{1}{3}$ ) of the qualified voters of the Tribe shall constitute a quorum at any special or regular meeting.

SEC. 5. There shall be an executive committee, consisting of the chairman, vice-chairman, secretary, and treasurer of the General Tribal Council, which shall perform such duties as may be authorized by that Council.

#### ARTICLE IV—POWERS OF THE GENERAL TRIBAL COUNCIL

SECTION 1. *Enumerated Powers.*—The General Tribal Council of the Oneida Tribe of Wisconsin shall exercise the following powers, subject to any limitations imposed by the statutes or the Constitution of the United States:

- (a) To negotiate with the Federal, State, and local governments.
- (b) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.
- (c) To veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands, or other tribal assets of the tribe.
- (d) To advise with the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the Oneida Tribe of Wisconsin prior to the submission of such estimates to the Bureau of the Budget and to Congress.
- (e) To manage all economic affairs and enterprises of the Oneida Tribe of Wisconsin in accordance with the terms of a Charter that may be issued to the tribe by the Secretary of the Interior.
- (f) To promulgate and enforce ordinances, which shall be subject to review by the Secretary of the Interior, governing the conduct of members of the Oneida Tribe of Wisconsin, providing for the manner of making, holding, and revoking assignments of tribal land or interests therein, providing for the levying of taxes and the appropriation of available tribal funds for public purposes, providing for the licensing of non-members coming upon the reservation for purposes of hunting, fishing, trading, or other business, and for the exclusion from the territory of the tribe of persons not so licensed and establishing proper agencies for law enforcement upon the Oneida Reservation.
- (g) To charter subordinate organizations for economic purposes and to delegate to such organizations, or to any subordinate boards or officials of the tribe, any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.
- (h) To adopt resolutions not inconsistent with this Constitution and the attached By-laws, regulating the procedure of the Council itself and of other tribal agencies, tribal officials, or tribal organizations of the Oneida Reservation.

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SEC. 2. *Future Powers.*—The General Tribal Council may exercise such further powers as may in the future be delegated to the Council by the Secretary of the Interior or any other duly authorized official or agency of the State or Federal Government.

SEC. 3. *Reserved Powers.*—Any rights and powers heretofore vested in the Oneida Tribe of Indians of Wisconsin but not expressly referred to in this Constitution shall not be abridged by this Article, but may be exercised by the people of the Oneida Tribe of Wisconsin through the adoption of appropriate By-laws and constitutional amendments.

SEC. 4. *Manner of Review.*—Any resolution or ordinance which by the terms of this Constitution is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the Reservation, who shall, within ten days thereafter, approve or disapprove the same.

If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the interior, who may, within 90 days from the date of enactment, rescind the said ordinance or resolution for any cause, by notifying the Tribal Council of such decision.

If the Superintendent shall refuse to approve any ordinance or resolution submitted to him, within ten days after its enactment, he shall advise the Council of his reasons therefor. If these reasons appear to the Council insufficient, it may, by a majority vote, refer the ordinance or resolution to the Secretary of the Interior, who may, within 90 days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

#### ARTICLE V—AMENDMENTS

This Constitution and By-laws may be amended by a majority vote of the qualified voters of the Tribe voting at an election called for that purpose by the Secretary of the Interior, provided that at least thirty (30) per cent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior.

It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment upon receipt of a petition signed by one-third ( $\frac{1}{3}$ ) of the qualified voters of the Tribe.

#### BY-LAWS OF THE ONEIDA TRIBE OF INDIANS OF WISCONSIN

##### ARTICLE I—DUTIES OF OFFICERS

SECTION 1. *Chairman of Council.*—The Chairman of the Council shall preside over all meetings of the Council, shall perform the usual duties of a Chairman, and exercise any authority delegated to him by the Council. He shall vote only in the case of a tie.

SEC. 2. *Vice-Chairman of the Council.*—The Vice-Chairman shall assist the Chairman when called upon to do so and in the absence of the Chairman, he shall preside. When so presiding, he shall have all

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 the rights, privileges and duties as well as the responsibilities of the Chairman.

SEC. 3. *Secretary of the Council.*—The Secretary of the Tribal Council shall conduct all tribal correspondence and shall keep an accurate record of all matters transacted at Council meetings. It shall be his duty to submit promptly to the Superintendent of the jurisdiction, and the Commissioner of Indian Affairs, copies of all minutes of regular and special meetings of the Tribal Council.

SEC. 4. *Treasurer of Council.*—The Treasurer of the Tribal Council shall accept, receive, receipt for, preserve and safeguard all funds in the custody of the Council, whether they be tribal funds or special funds for which the Council is acting as trustee or custodian. He shall deposit all funds in such depository as the Council shall direct and shall make and preserve a faithful record of such funds and shall report on all receipts and expenditures and the amount and nature of all funds in his possession and custody, at each regular meeting of the General Tribal Council, and at such other times as requested by the Council or the executive committee.

He shall not pay out or otherwise disburse any funds in his possession or custody, except in accordance with a resolution duly passed by the Council.

The Treasurer shall be required to give a bond satisfactory to the Council and to the Commissioner of Indian Affairs.

SEC. 5. *Appointive Officers.*—The duties of all appointive boards or officers of the Community shall be clearly defined by resolutions of the Council at the time of their creation or appointment. Such boards and officers shall report, from time to time as required, to the Council, and their activities and decisions shall be subject to review by the Council upon the petition of any person aggrieved.

## ARTICLE II—RATIFICATION OF CONSTITUTION AND BY-LAWS

This Constitution and these By-laws, when adopted by a majority vote of the voters of the Oneida Tribe of Indians of Wisconsin voting at a special election called by the Secretary of the Interior, in which at least 30 per cent of those entitled to vote shall vote, shall be submitted to the Secretary of the Interior for his approval, and shall be effective from the date of such approval.

### CERTIFICATE OF ADOPTION

Pursuant to an order, approved October 14, 1936, by the Secretary of the Interior, the attached Constitution and By-laws were submitted for ratification to the members of the Oneida Indian Tribe of the Oneida Reservation and were on November 14, 1936, duly adopted by a vote of 790 for and 16 against, in an election in which over 30 per cent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

MORRIS WHEELOCK,  
*Chairman of Election Board.*

KATIE CORNELIUS,  
*Secretary of Election Board.*

FRANK CHRISTY, *Superintendent.*

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I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Constitution and By-laws of the Oneida Tribe of Indians of Wisconsin.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said Constitution and By-laws are hereby declared inapplicable to the Oneida Tribe of Indians of Wisconsin.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said Constitution and By-laws.

Approval recommended December 16, 1936.

WILLIAM ZIMMERMAN, Jr.,  
*Acting Commissioner of Indian Affairs.*

HAROLD L. ICKES,  
*Secretary of the Interior.*  
[SEAL]

WASHINGTON, D. C., *December 21, 1936.*

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## AMENDMENTS—CONSTITUTION AND BY-LAWS FOR THE ONEIDA TRIBE OF INDIANS OF WISCONSIN

### AMENDMENT 1.

That section 3 of Article III, of the Constitution be changed by substituting the words, "The qualified voters of the Oneida Tribe of Indians of Wisconsin shall elect from among the qualified voters of the tribe" for the present words, "The General Tribal Council shall elect from its own members".

### AMENDMENT 2.

That an additional paragraph be added to section 3 of Article III, as follows:

"The General Tribal Council shall enact necessary rules and regulations governing the election of tribal officials."

### AMENDMENT 3.

That the sentence in the first paragraph of section 4, Article III, reading, "Thereafter, officials shall be chosen at the July meeting" be changed to read, "Thereafter, officials shall be elected annually in July on a date to be set by the General Tribal Council."

### AMENDMENT 4.

That the second paragraph of section 4, Article III, reading, "One-third ( $\frac{1}{3}$ ) of the qualified voters of the Tribe shall constitute a quorum at any special or regular meeting," be changed to read as follows:

"Fifty qualified voters of the Tribe shall constitute a quorum at any regular or special meeting of the General Tribal Council."

### CERTIFICATION OF ADOPTION

Pursuant to an order, approved January 13, 1939, by the Assistant Secretary of the Interior, the attached Amendments to the Constitution and By-laws of the Oneida Tribe of Indians of Wisconsin were submitted for ratification to the qualified voters of the Tribe, and were on June 3, 1939, duly adopted by a vote as follows: Amendment 1, 246 for, and 10 against; Amendment 2, 241 for, and 11 against; Amendment 3, 246 for, and 8 against; Amendment 4, 218 for, and 36 against, in an election in which over 30 percent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

DAVID O. SKENANDORE  
*Chairman of Election Board*  
LYDIA POWLESS  
*Secretary of Election Board*

PERU FARVER,  
*Superintendent, Tomah School.*

I, Oscar L. Chapman, the Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted me by

the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Amendments to the Constitution and By-laws of the Oneida Tribe of Indians of Wisconsin.

Approval recommended: June 10, 1939.

FRED H. DAIKER,

*Assistant Commissioner of Indian Affairs.*

[SEAL]

OSCAR L. CHAPMAN

*Assistant Secretary of the Interior*

WASHINGTON, D. C., *June 16, 1939.*

**CONSTITUTION**  
**OF THE**  
**FORT BELKNAP INDIAN COMMUNITY**  
**OF THE**  
**FORT BELKNAP RESERVATION**  
**OF**  
**MONTANA**

**PREAMBLE**

**We, the duly enrolled members of the Fort Belknap Reservation in the State of Montana, in order to secure to ourselves and our descendants the management of our own affairs, and to perpetuate this reservation as an abiding place for the members of this Community, do establish this Constitution of the Fort Belknap Indian Community.**

**ARTICLE I - OBJECTIVES**

It shall be the object of the Fort Belknap Indian Community:

- (a) To establish and maintain, with the aid of the Federal Government, a form of home rule that shall promote the advancement and welfare of the Indians of the Fort Belknap Reservation.
- (b) To establish and enforce such rules as may be necessary to safeguard Indian property for the use of present and future generations.
- (c) To obtain for all Indians of this Community of the present and future generations, lands needed for home and livelihood.

## ARTICLE II - TERRITORY

The jurisdiction of the Fort Belknap Indian Community shall extend to all lands now contained within the Fort Belknap Reservation and to any lands that may in the future be added thereto.

## ARTICLE III - MEMBERSHIP

**Section 1. Original Members of Community.** Every living person whose name appears on the Allotment Roll of the Fort Belknap Reservation prepared and approved pursuant to the Act of March 3, 1921 (41 Stat. 1355), shall be entitled to membership in the Fort Belknap Indian Community.

**Section 2. Descendants of Allottees.** Each person of one-eighth (1/8) or more Indian blood, regardless of residence, born heretofore or hereafter to any member or descendant of a member of the Community whose name was or is on the Allotment Roll of the Fort Belknap Reservation prepared and approved pursuant to the Act of March 3, 1921 (41 Stat. 1355), shall automatically be entitled to membership in the Community. (As amended May 1, 2001)

**Section 3. Adoption.** The Community may by a majority of the votes cast by the members of the Community, adopt as a member of the Community any person of one-eighth (1/8) degree or more Indian blood who is a descendant of a member of the Fort Belknap Community and/or an allottee; **PROVIDED**, That any person to be eligible for adoption must have resided at least three (3) consecutive years upon the Fort Belknap Reservation, and **PROVIDED, FURTHER**, That such person has not received membership in any other tribe of Indians.

**Section 4. Loss of Membership.** In no case shall a member lose his membership other than by personal request in writing to the Community Council or by reason of his having established legal residence in a foreign country.

**Section 5. Definition.** Wherever the term "Indian blood" is used in this Article it shall be determined to mean the blood of either or both the Assiniboiné or the Gros Ventre Tribe of the Fort Belknap Reservation.

**Section 6. Current Membership Roll.** The membership roll of the Fort Belknap Indian Community shall be kept current by striking therefrom the names of persons who have relinquished in writing their membership in the Community or have established legal residence in a foreign country and of deceased persons upon receipt of a death certificate or other evidence of death acceptable to the Community Council, and by adding thereto the names of persons who meet the membership requirements and who comply with the procedures for enrollment as members of the Community.

**Section 7. Appeals.** Any person who has been rejected for enrollment as a member of the

Community, EXCEPT those rejected under Section 3, shall have the right to appeal within 60 days from the date of written notice of rejection to the Secretary of the Interior from the decision of the Community Council, and the decision of the Secretary of the Interior shall be final.

**Section 8. Rules of Procedure.** The Community Council shall have the authority to prescribe rules to be followed in compiling a membership roll in accordance with the provisions of this Article, the completed roll to be approved by the Fort Belknap Community Council, and in case of distribution of Community assets, the roll shall be submitted to the Secretary of the Interior for final approval.

#### ARTICLE IV - ORGANIZATION OF COMMUNITY COUNCIL

**Section 1. Composition.** The Community Council shall be composed of eight (8) members, all of whom shall be chosen every second year to popular vote, a President and Vice President who shall be chosen every four (4) years by popular vote, and a Secretary-Treasurer who shall be appointed in accordance with Section 4 of this Article. Every candidate for elected office shall pay a filing fee of \$10.00. (As amended May 1, 2001.)

**Section 2. Defining Council Seats.** There shall be created by the Community Council two (2) Gros Ventre and two (2) Assiniboiné voting districts on the reservation. The actual enumeration for each district shall be made prior to July 1st of each election year. Representation on the Community Council shall consist of four (4) Gros Ventre and four (4) Assiniboiné members, with one representative from each tribe residing in each district and having been elected by the members of his or her tribe in that district, one (1) Gros Ventre Council person, elected at large by the members of the Gros Ventre Tribe, one (1) Assiniboiné Council person, elected at large by members of Assiniboiné Tribe, one (1) Gros Ventre Council person, elected at large by members of both Tribes and (1) Assiniboiné Council person, elected at large by members of both Tribes. Each at-large Council person elected must reside on the reservation. The President and Vice-President shall be a team of one (1) Gros Ventre and one (1) Assiniboiné, elected as a team at-large. Changes to the number of Council seats shall be implemented at the next regularly scheduled election following adoption of these changes to the number of Council seats. (As Amended May 1, 2001.)

**Section 3. Tenure.** The Gros Ventre and Assiniboiné candidates for each district and at-large Council seat shall be elected for a two (2) year term and may succeed themselves at will. The President and Vice President shall be elected for a four (4) year term and may succeed themselves at will. (As Amended May 1, 2001.)

**Section 4. Officers.** The officers of the Community Council shall consist of a President and Vice President who shall be elected at-large, and a Secretary-Treasurer, who shall be appointed by the President and confirmed by a majority vote of the Council when properly convened, and who shall be an enrolled member of either the Gros Ventre or Assiniboiné Tribes, qualified to perform the financial and administrative duties of Secretary-Treasurer as defined by the

Community Council. The Secretary-Treasurer of the Community Council, as a non-elected officer, shall not be entitled to vote on matters before the Community Council. Once confirmed, the Secretary-Treasurer shall serve at the pleasure of the President. (As Amended May 1, 2001.)

## ARTICLE V - POWERS OF THE COMMUNITY COUNCIL

**Section 1. Enumerated Powers.** The Council of the Fort Belknap Community shall have the following powers, the exercise of which shall be subject to popular referendum as provided hereafter:

- (a) To negotiate with the Federal, State and local governments on behalf of the Community and to advise and consult with the representatives of the Interior Department on all activities of the Department that may affect the Fort Belknap Community.
- (b) To employ legal counsel for the protection and advancement of the rights of the Community and its members, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.
- (c) To approve or veto any sale, disposition, lease or encumbrance of tribal lands, interests in lands or other tribal assets which may be authorized or executed by the Secretary of the Interior or his duly authorized representatives, PROVIDED, That no Community lands shall ever be sold or encumbered, but may be leased for any purpose for periods consistent with existing law.
- (d) To admit through proper government channels recommendations for the expenditure of Federal funds for tribal support, reimbursable assistance reservational improvements, health, education, and other necessary activities looking toward the advancement of the members of this Community.
- (e) To borrow money from the Federal Government in accordance with the terms of a corporate charter to be issued to the Fort Belknap Indian Community.
- (f) To manage the economic affairs of the Community and to appropriate available funds for public purposes.
- (g) To assess fees against members of the Community or their property to obtain funds for payment of expenses of the Community Council or for carrying on any project that in the Council's opinion may be beneficial to the Community as a whole, PROVIDED, HOWEVER, That any district, not directly benefited by any project under contemplation, may by a majority vote of the people of the district, exempt itself from such assessment. In case of dispute as to whether a certain district is benefited by a given project, any party may appeal to the Commissioner



of Indian Affairs for a final determination.

- (h) To exclude from the territory of the Community persons not legally entitled to reside therein under ordinances which shall be subject to review by the Secretary of the Interior.
- (i) To establish ordinances, subject to review by the Secretary of the Interior, governing law enforcement on the reservation, and to set up courts for the trial and punishment of offenders against such ordinances, in cases that do not fall within the jurisdiction of the Federal Court.
- (j) To purchase land of members of the Community for public purposes, under condemnation proceedings in courts of competent jurisdiction.
- (k) To prohibit the overgrazing of lands or other depletion of the capital or natural resources of the Community by ordinances which shall be subject to approval by the Secretary of the Interior.
- (l) To establish ordinances relating to the assignment, use or transfer of tribal lands within the territory of the Community.
- (m) To regulate the inheritance of real and personal property, other than allotted lands, within the territory of the Community.
- (n) To charter subordinate organizations for economic purposes and to regulate the activities of all cooperative associations of members of the Community.
- (o) To regulate the domestic relations of members of the Community.
- (p) To provide for the appointment of guardians for minors and mental incompetents by ordinance or resolution subject to review by the Secretary of the Interior.
- (q) To provide for the appointment of guardians for minors and mental incompetents by ordinance or resolution subject to review by the Secretary of the Interior.
- (r) To appoint subordinate boards and tribal officials, and to provide for the popular election of subordinate district councils, and to delegate to such boards, councils, or officials or to cooperative associations which are open to all members of the Community any of the foregoing powers, reserving the right to review any action taken by virtue of such delegated power.
- (s) To promulgate ordinances, subject to review by the Secretary of the Interior, providing for the assessment and collection of license fees from nonmembers

doing business, or obtaining any other special right or privilege within the reservation, including town sites therein.

**Section 2. Manner of Review.** Any resolution or ordinance which, by the terms of this constitution, is subject to review by the Secretary of the Interior, shall be presented to the Superintendent of the reservation, who shall, within ten (10) days thereafter, approve or disapprove the same.

If the Superintendent shall approve any ordinance or resolution, it shall thereupon become effective, but the Superintendent shall transmit a copy of the same, bearing his endorsement, to the Secretary of the Interior who may within 90 days from the date of enactment, rescind the said ordinance or resolution for any cause, by notifying the Community Council of such rescission.

If the Superintendent shall refuse to approve any resolution or ordinance submitted to him, within ten (10) days after its enactment, he shall advise the Community Council of his reasons therefore. If these reasons appear to the council insufficient, it may, by a majority vote, refer the ordinances or resolution to the Secretary of the Interior, who may, within 90 days from the date of its enactment, approve the same in writing, whereupon the said ordinance or resolution shall become effective.

**Section 3. Future Powers.** The Council of the Fort Belknap Community may exercise, subject to popular referendum, such further powers as may in the future be delegated to the Community by the Secretary of the Interior, or by any other duly authorized official or agency of government.

**Section 4. Reserved Powers.** Any rights and powers heretofore vested in the tribes of the Fort Belknap Indian Community but not expressly referred to in this constitution shall not be abridged by this Article but may be exercised by the people of the Fort Belknap Community through the adoption of appropriate bylaws and constitutional amendments.

## ARTICLE VI - INITIATIVE AND REFERENDUM

Whenever a matter of great importance comes before the Council the councilmen shall, by resolution duly passed, submit the matter to the vote of the people. If they do not so agree to submit the question, any two (2) members of the Council, or one hundred members of the Community, may within thirty (30) days after the vote of the Council, call such a popular referendum, but no councilman shall call more than two (2) referendum elections during any calendar year. When a referendum election has been called, the question to be voted on shall be posted at the voting places for at least ten (10) days prior to the election. The notice shall contain the ordinance or resolution to be voted on with the accompanying words: "Shall the ordinance (or resolution) be approved. Yes ( ). No ( )." The will of the majority of those voting shall be the law, PROVIDED at least one-third of the eligible voters actually vote.



## ARTICLE VII - ELECTIONS

**Section 1. Right to Vote.** All members of the Community of either sex, eighteen (18) years of age or over, are entitled to vote at any election when he or she presents himself or herself at any polling place in the voting district wherein the member resides, or in the case of nonresidents, absent or inform eligible voters, by absentee ballot, which shall be mailed to such voters upon written request. Eligible nonresident members of the Community shall also be entitled to vote in the district they are assigned by the Council utilizing the duly enacted Election Ordinance during the enumeration process. Each member of the Community shall be entitled to vote for one candidate from their designated tribe for the Council seat from their designated district, as well as for an at-large representative from their tribe, and the two at-large representatives from each tribe. Each member of the Community shall be entitled to one vote for the President and Vice President, who shall run for office as a team and be elected by all voters at-large. (As Amended May 1, 2001.)

**Section 2. Time of Elections.** A primary election shall be held for each Council seat. The two (2) candidates for each seat receiving the most votes shall progress to a general election in which the candidate receiving the majority of the votes shall be elected and seated. For the offices of President and Vice President, the two (2) teams receiving the most votes at-large shall progress to a general election in which the team receiving the majority of votes at-large shall progress to a general election in which the team receiving majority of the votes at-large shall be elected and seated. Primary elections for membership on the Community Council shall be held on the first Tuesday in October of the second year, and the general elections shall be held on the first Tuesday in November of the same year. Duly elected Council members shall take office immediately upon certification of the election results. (As Amended May 1, 2001.)

**Section 3. Manner and Place of Elections.** Elections shall be taken by ballot, and polling places in each district shall be established by the Council. Absentee ballots, including those of nonresidents, shall be counted in the district and with the tribal affiliation to which the voter has been designated in the enumeration process. The Council shall appoint three (3) election judges to serve at each polling place for each election, and the judges shall certify the results of the election. (As Amended May 1, 2001.)

**Section 4. Nominations.** Candidates for election to membership on the Community Council shall give public notice of such intention at least sixty (60) days prior to the primary election date and at the same time file with the Secretary-Treasurer of the Council a certificate of such intention including, a statement of tribal affiliation for such office, a statement verifying reservation residency, an endorsement by five (5) duly qualified electors other than immediate relatives, from the same tribe and same districts, if a district seat, and, for district representatives, a statement of residency in the district within which he or she wishes to run for office. Candidates for election to the Presidency and Vice Presidency shall give public notice of such intention at least sixty (60) days prior to the primary election date and at the same time file with the Secretary-Treasurer of the Council a certificate of such intention, including a statement of

reservation residency, a statement of affiliation of one (1) member of the team as a Gros Ventre and one (1) as an Assiniboine, and an endorsement of the team by five (5) duly qualified electors from each tribe, other than immediate relatives. (As Amended May 1, 2001.)

## **ARTICLE VIII - REMOVAL FROM OFFICE**

**Section 1. Forfeiture of Office.** Any member of the Community Council who shall be absent from three (3) consecutive regular meetings of the Council, unless such absence shall be excused for cause, or who shall be convicted of any offense involving dishonesty, shall automatically forfeit his office.

**Section 2. Impeachment.** The Council may expel a member for cause by a two-thirds vote, after due notice of charges and allowing an opportunity to be heard.

**Section 3. Vacancies.** When vacancies on the Council exist more than 270 days before an election to fill Council seats, the President shall issue a write of election to fill such vacancies. At least thirty (30) days notice of such election shall be given, and if more than two (2) candidates file for a vacancy, the Council may conduct a primary to reduce the number of candidates to two (2) for the position. In the event there occurs a vacancy in the office of President, the Vice President shall assume the office of President and shall then appoint a Vice President from within the tribe of the former President. In the event there occurs a vacancy in the office of Vice President, the President shall appoint a Vice President from within the tribe of the former Vice President.

**Section 4. Recall.**

(A) Any person elected to the Council, including the President and Vice President as a team, shall be subject to recall from that office. In the case of a councilman, recall shall be initiated by a petition signed by no less than forty percent (40%) of the number of votes cast by tribal members in the councilman's district for that position in the last general election preceding the recall petition. In the case of recall of the President and Vice President, recall shall be initiated by a petition signed by no less than forty percent (40%) of the total number of at-large votes cast for the position at the last general election preceding the recall petition.

(B) Every recall petition must contain a general statement of cause, in not more than two hundred (200) words, of the grounds of such demand for recall, and must be filed at the office of the Secretary-Treasurer of the Council. The subject of the recall petition shall immediately be served with a copy of the recall petition and shall have ten (10) days from the date of service to file his/her response to the general statement of cause, in not more than two hundred (200) words, with the Secretary-Treasurer of the Council. Each signatory must add to his or her signature the date of signing, his or her residency and tribal affiliation.

(C) If the subject of recall offers his or her resignation, it shall be accepted by the Council. If he or she does not resign within ten (10) days after a recall petition is filed, a special recall election shall be ordered and held, not less than twenty (20) or more than thirty (30) days after such filing, to determine whether the subject should be recalled. On the ballots at said election the reasons set forth in the recall petition together with the subject's response, is not more than two hundred (200) words, shall be printed for review by the voters. The subject shall continue to hold office until the results of the election are officially declared by the Council. The subject shall be recalled in the event that a majority of the voters in the special recall election vote for such recall. Such action to certify the election results shall be taken as soon as possible after the election.

(D) No recall petition shall be circulated against a councilman until he or she has been in office for a period of eight (8) months. Should a recall petition fail, the subject shall not be subjected to further recall action within one (1) year of the special recall election.

#### ARTICLE IX - AMENDMENTS

This constitution and bylaws may be amended by a majority vote of the qualified voters of the Community voting at an election called for that purpose by the Secretary of the Interior, PROVIDED, that at least thirty (30) percent of those entitled to vote shall vote in such election; but no amendment shall become effective until it shall have been approved by the Secretary of the Interior. It shall be the duty of the Secretary of the Interior to call an election on any proposed amendment, at the request of the Council, or upon presentation of a petition signed by one-third (1/3) of the qualified voters, members of the Community.

#### ARTICLE X - JUDICIARY

**JUDICIARY:** There is hereby established the Fort Belknap Indian Community Tribal Court, which shall have the general power, limited only by applicable law, to adjudicate all cases and controversies which arise within the jurisdiction of the Fort Belknap Indian Community. The court shall include an Appellate Court which shall insure litigants a review of decisions made by the Trial Court. Judges of the Fort Belknap Indian Community Tribal Court shall be appointed through procedures established by the Tribal Council, which shall guarantee an independent judiciary. Nothing contained in this Article shall be construed as a waiver of the Tribal Council's sovereign immunity, which may be waived only with the consent of the Council.

As Amended May 1, 2001.

PRINTED & AMENDED AS OF 8/01  
Rerun; 6/30/03

**UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF INDIAN AFFAIRS**

**CONSTITUTION AND BYLAWS  
OF THE PUEBLO OF  
SANTA CLARA  
NEW MEXICO**

**APPROVED DECEMBER 20, 1935**

**UNITED STATES  
GOVERNMENT PRINTING OFFICE  
WASHINGTON : 1936**

**CONSTITUTION AND BYLAWS OF THE PUEBLO OF  
SANTA CLARA, NEW MEXICO**

**PREAMBLE**

## ARTICLE I-JURISDICTION

This constitution shall apply within the exterior boundaries of Santa Clara pueblo grant and to such other lands as are now or may in the future be under the jurisdiction of the pueblo of Santa Clara. This constitution shall apply to and be for the benefit of all persons who are members of the pueblo of Santa Clara.

## ARTICLE II-MEMBERSHIP

SECTION 1. *Conditions of membership.*-The membership of the Santa Clara pueblo shall consist as follows:

- (a) All persons of Indian blood whose names appear on the census roll of the Santa Clara pueblo as of November 1, 1935, provided that within one year from the adoption and approval of this constitution corrections may be made in the said roll by the pueblo council with the approval of the Secretary of the Interior.
- (b) All persons born of parents both of whom are members of the Santa Clara pueblo.
- (c) All children of mixed marriages between members of the Santa Clara pueblo and nonmembers, provided such children have been recognized and adopted by the council.
- (d) All persons naturalized as members of the pueblo.

SEC. 2. *Naturalization.*-Indians from other pueblos or reservations who marry a member of Santa Clara pueblo may become members of the pueblo, with the assent of the council, by naturalization. To do this they must (1) go before the pueblo council and renounce allegiance to their tribe and declare intention of becoming members of the Santa Clara pueblo. They shall swear that from that date on they will not receive any benefits from their people, except through inheritance. (2) A year later they shall go before the pueblo council again, swear allegiance to the pueblo of Santa Clara and receive membership papers; provided, they have kept their promise from the time of their first appearance before the pueblo council.

## ARTICLE III-ORGANIZATION OF THE PUEBLO COUNCIL

SECTION 1. *Officers.*-The governing power of the pueblo of Santa Clara shall be vested in the pueblo council which shall consist of the following officers:

Officers:	Number
Governor.....	1
Lieutenant Governor.....	1
Representatives.....	8
Secretary.....	1
Treasurer.....	1
Interpreter.....	1
Sheriff.....	1

and such other officers as the council may recognize or appoint.

SEC. 2.-*Election of Governor, Lieutenant Governor, secretary, treasurer, interpreter, and sheriff.*-On the first Saturday of each year an election shall be held within the pueblo of Santa Clara, at which a Governor, Lieutenant Governor, secretary, treasurer, interpreter, and sheriff shall be elected by secret ballot to serve for the ensuing year.



SEC. 3. *Who may vote.*-Every member of the pueblo of Santa Clara who is of sane mind and over 18 years of age, may vote at any election. Any member who is absent from the pueblo on the date of any election shall have the right to vote by mail under such rules as may be prescribed by the pueblo council.

SEC. 4. *Candidates.*-Candidates for Governor, Lieutenant Governor, secretary, treasurer, interpreter, and sheriff shall be nominated at least fifteen (15) days before the date upon which each election is to be held. Nominations for the first election shall be made by the recognized parties now existing within the pueblo. Thereafter nominations shall be made in a manner prescribed by the council of the pueblo.

SEC. 5. *Representatives.*-Two representatives shall be appointed to the pueblo council upon the date of the first election, for a term of 1 year by each of the four recognized parties now existing within the pueblo, and in all future elections eight representatives shall be chosen in a manner to be prescribed by the council.

SEC. 6. *Manner of elections.*-All nominations for office and elections shall be made and held in a manner prescribed by the council of the pueblo.

#### ARTICLE IV-THE PUEBLO COUNCIL AND ITS POWERS

SECTION 1. *Legislative power.*-The legislative power shall be vested in the pueblo council, and the said power shall be exercised in accordance with, and not in conflict with, the constitution or any laws of the United States of America.

The pueblo council shall have the following rights and powers:

1. To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior.
2. To prevent the sale, disposition, lease, or encumbrance of pueblo lands, interests in lands, or other tribal assets.
3. To negotiate with the Federal, State, and local governments, and with the councils and governing authorities of other pueblos or Indian tribes.
4. To advise the Secretary of the Interior with regard to all appropriation estimates or Federal projects for the benefit of the pueblo prior to the submission of such estimates to the Bureau of the Budget and to Congress.
5. To enact ordinances, not inconsistent with the constitution and bylaws of the pueblo, for the maintenance of law and order within the pueblo and for the punishment of members, and the exclusion of nonmembers violating any such ordinances, for the raising of revenue and the appropriation of available funds for pueblo purposes, for the regulation of trade, inheritance, land-holding, and private dealings in land within the pueblo, for the guidance of the officers of the pueblo in all their duties, and generally for the protection of the welfare of the pueblo and for the execution of all other powers vested in the pueblo by existing law: *Provided*, That any ordinance which affects persons who are not members of the pueblo shall not take effect until it has been approved by the Secretary of the Interior or some officer designated by him.
6. To delegate any of the foregoing powers to appropriate officers of the pueblo, reserving the right to review any action taken by virtue of such delegated power.

SEC. 2. *Judicial power.*-The pueblo council shall also adjudicate all matters coming before it over which it has jurisdiction. In all controversies coming before the pueblo council, the council shall have the right to examine all witnesses and ascertain full details of the controversy, and after the matter shall have been sufficiently commented upon by the interested parties, the council shall retire to a private place to make a decision. All of the members of the council except the Governor and the Lieutenant Governor shall have the

right to vote upon a decision, and a majority shall rule. In the event of a tie, the Governor shall have the right to cast a vote, thereby breaking the tie. It shall be the duty of the Governor and the Lieutenant Governor to express to the other members of the pueblo council their views regarding the case before a vote is taken.

SEC. 3. *Common law of pueblo.*-With respect to all matters not covered by the written constitution, bylaws, and ordinances of the pueblo of Santa Clara, nor by those laws of the United States of America which are applicable to the pueblo of Santa Clara, the customs and usages of the pueblo, civil, and criminal, as interpreted by the council, shall have the force of law.

## ARTICLE V-THE GOVERNOR, HIS POWERS AND DUTIES

The Governor shall be the executive head of the pueblo government. It shall be his duty to enforce the laws of the pueblo, civil and criminal, written and unwritten. If any person considers that any ruling of the Governor is unjust, he shall have the right to demand through any representative of the pueblo council or directly to the pueblo council that the matter be brought before the pueblo council for adjudication at the next meeting of said officers.

In all community work the Governor shall be the sole overseer unless he is unavoidably absent, in which event the Lieutenant Governor shall have the same rights and duties as the Governor.

## ARTICLE VI-VACANCIES AND IMPEACHMENTS

SEC. 1. *Vacancies.*-Should any vacancy occur in any of the offices or any member of the council, the council shall, by a majority vote, have the right to name a successor for the said office, except that in the event the office of Governor becomes vacant for any reason, then and in that event the Lieutenant Governor shall thereupon become the Governor with all duties and powers of the said office, and further, that the successor to any pueblo representative appointed by a particular group shall be chosen by the same group.

SEC. 2. *Impeachment.*-Any officer charged with grave offenses may be tried before the other members of the council. The manner of conducting impeachments shall be prescribed by the council. The council shall act as the trial court, and if they decide, by a two-thirds vote, to remove the accused member from office he will be removed.

## ARTICLE VII-LAND

SECTION 1. *Pueblo title.*- Title to all lands of the pueblo, whether assigned to the use of individuals or withheld for the common use of the members of the pueblo, shall forever remain in the pueblo itself and not in the individual members thereof. All the members of the pueblo are declared to have an equal right to make beneficial use, in accordance with ordinances of the council, of any land of the pueblo not heretofore or hereafter assigned to individual members. For the purpose of this article the word "member" shall be defined by the council.

SEC. 2. *Individual rights of possession.*-The right of full possession shall be guaranteed to every member of the pueblo, holding lands assigned to him by the Pueblo Council, for cultivation or other purposes: *Provided*, That no member holding said lands shall sell or will same to an alien. All lands assigned to individuals of the pueblo must be completely fenced within three years. Any violation of the above provision shall be sufficient cause for the council to dispossess him of said land. He shall have the right, however, to rent to a pueblo member or, with the approval of the council, to an alien, all lands under his possession, for a term not to exceed two years. He shall have the right to sell his interest in said lands to any other member of the pueblo after his assignment has been finally approved, subject to such regulations as the council may prescribe.

SEC. 3. *Council to have power of granting assignments.*-When any member of the pueblo desires a piece of unimproved pueblo land, he shall select his land, and then make his application for same to the council of the pueblo. If the council decides to grant him the land, or any part thereof, they shall mark out the boundaries of

same. The grantee shall thereafter have full possession of said land, unless the council shall, in accordance with the constitution, bylaws, and ordinances of the pueblo, dispossess him of the same.

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SEC. 4. *Prior assignments recognized.*-All assignments of land heretofore made by the pueblo authorities are hereby recognized and confirmed.

## ARTICLE VIII-AMENDMENTS

No amendments or changes shall be made in the constitution or bylaws of the pueblo except by a decision of the general pueblo. At the request of the council the Secretary of the Interior shall submit any proposed amendment to the said constitution or bylaws to a vote of the people. If such amendment is approved by a majority of the qualified voters of the pueblo, 21 years old or over, voting at an election in which at least 30 percent of those entitled to vote shall vote, it shall be submitted to the Secretary of the Interior, and if he shall approve the same it shall become effective.

## BYLAWS OF THE PUEBLO OF SANTA CLARA, NEW MEXICO

### ARTICLE I-DUTIES OF OFFICERS

SECTION 1. *Governor.*-The Governor shall be in full charge of all meetings of the pueblo council. It shall be his duty to see that perfect order is preserved in every respect. In the discussion of all business but one person shall be allowed to speak at a time, and the Governor shall have the right to set a time limit upon speakers. When any member of the pueblo council or any other person desires to speak at a meeting of the pueblo council, such person shall first ask permission of the Governor to do so before proceeding. It shall be the duty of the Governor to see that all business presented to the council within any month be disposed of, if possible, before the beginning of the next month.

SEC. 2. *Lieutenant Governor.*-The Lieutenant Governor shall be next in rank to the Governor. In case of the death, resignation, absence, impeachment, or other disability of the Governor, the Lieutenant Governor shall become Governor or act as Governor during such disability or absence. As long as the Governor is at the pueblo holding office, the Lieutenant Governor shall have the power only of a representative in the council, except as otherwise provided in the constitution and bylaws of the pueblo.

SEC. 3. *Representatives.*-Representatives shall represent their people in the pueblo council. They shall bring before the council at every meeting the matters that their people want brought before the council and such other matters as each representative believes should be presented to the council. Such matters may originate with any member of the pueblo or may originate with the representative himself.

SEC. 4. *Secretary.*-The secretary shall keep a record of all council proceedings and all business authorized or transacted by the council. At the beginning of each regular meeting, he shall call the roll of councilmen and all specially summoned persons expected to be present. He shall then read the minutes of the previous meeting and the officers shall then decide as to whether they should be approved as they stand, and all persons present shall have the right to suggest corrections. After the minutes of the previous meeting have been accepted, the secretary will then mark them approved. The secretary shall attend to all official correspondence as directed by the pueblo council and the Governor.

SEC. 5. *Treasurer.*-It shall be the duty of the treasurer to receive all money due to the pueblo and to give a receipt for the same. He shall deposit the pueblo money in a bank which should be approved by the pueblo council. He shall keep a record in his books of all moneys received and paid out. Moneys of the pueblo shall be paid by check signed by the treasurer and countersigned by the Governor. No moneys shall be paid out unless the same shall have been authorized to be expended by the council and vouchers for same shall have been signed by the Governor and the secretary. At each regular meeting of the pueblo council, the treasurer shall present to them a statement of receipts and disbursements made by him since the last regular meeting and he shall submit to the pueblo council at each regular meeting all of his books and a statement of the financial condition of the pueblo funds.



SEC. 6. *Interpreter*. -The interpreter shall translate from the Tewa language into the English language or from English into the Tewa language whenever directed to do so by the pueblo council. He shall also assist the secretary with the official correspondence of the pueblo.

SEC. 7. *Sheriff*. -It shall be the duty of the sheriff to assist the Governor in keeping law and order in the pueblo. He shall maintain order at all meetings, also in the village and on the pueblo lands. He shall report on disorders to the council. He shall have authority to stop trouble immediately wherever he finds it, without special authorization from the Governor. In case of disputes or difficulties the sheriff shall bring the parties in controversy before the council for a decision. He shall bring before the council for punishment all violators of the laws of the pueblo. He shall serve notices or summons upon all persons required to be present before the council in criminal or civil proceedings.

## ARTICLE II-QUALIFICATIONS OF OFFICE

SECTION. 1. *Qualifications of Governor and Lieutenant Governor*. -The Governor and the Lieutenant Governor must be at least twenty-five (25) years of age and shall not be over sixty-five (65) years of age. They must be members of the pueblo of Santa Clara and be residents of said pueblo at the time of their election. They must be able to speak the Tewa language fluently and also be able to speak either the English or Spanish languages well enough to be understood.

SEC. 2. *Qualifications of representatives*. -The representatives must be at least twenty-five (25) years of age. They must be members of the pueblo of Santa Clara and residents thereof at the time of their selection. They must be able to speak the Tewa language fluently.

SEC. 3. *Qualifications of secretary, treasurer, and sheriff*. -The secretary, treasurer, and sheriff must be not less than twenty-five (25) years of age and not over sixty-five (65) years of age. They must be members of the pueblo of Santa Clara and residents thereof at the time of their election. They must be able to speak the Tewa language fluently and speak, read, and write the English language, and it will be preferable to have those who can also understand the Spanish language.

SEC. 4. *Qualifications of the Interpreter*. -The interpreter shall be not less than twenty-five (25) years of age, and not over sixty-five (65) years of age, and must be a member of the pueblo of Santa Clara and a resident thereof at the time of his election. He must be able to speak the Tewa language fluently and to translate the said language into English and Spanish and the English and Spanish languages into the Tewa language.

## ARTICLE III-CONDUCT OF COUNCIL MEETINGS

SECTION 1. *Regular meetings*. -Regular meetings of the pueblo council shall be held at least once a month, at such time and place as shall be fixed by the council, and special meetings shall be held at such times and places as shall be fixed by the council. No action shall be taken by the council at any meeting unless at least a majority of the members are present.

SEC. 2. *Attendance of council members*. -Every member of the pueblo council shall be required to be present at each regular monthly meeting and at each special meeting of the pueblo council unless it should be impossible for such member to be there, in which event said member shall notify the Governor of his inability to attend, giving reasons therefor. The Governor will then refer the matter to the pueblo council who, if the reasons given are found to be justifiable, shall excuse the absence of the said member. In the event that members of the council receive compensation for their services from the pueblo funds, an unexcused absence shall be punished by a fine to be fixed by the pueblo council.

SEC. 3. *Matters of general interest to pueblo*. -In all matters in which all of the people of the pueblo of Santa Clara are interested, the pueblo council shall cause the sheriff to notify all members of the pueblo of the time and place at which such business is to be transacted. At least three days' notice of such general meeting of the pueblo council shall be given in such manner as shall be prescribed by the bylaws of the pueblo. If any member of the

SEC. 4. *Special meetings on grievances.*-If any member of the pueblo of Santa Clara has any grievance against any other member of the said pueblo which cannot await settlement at the regular pueblo council meeting, he shall report the same to the Governor who, if he deems that the case requires speedy attention, shall call a special meeting of the council at such time and place as the Governor shall fix, to pass upon the said matter.

SEC. 5. *Advice of counsel.*-If any cause cannot be fully understood by the pueblo council, the pueblo council may consult the special attorney for the Pueblo Indians and ask for his advice.

#### ARTICLE IV-PERSONAL LIBERTIES

SECTION 1. *Private rights of each member of the pueblo.*-Each member of the pueblo of Santa Clara shall be assured his private rights as a citizen of the United States, and no attempt shall be made by the officers of the pueblo to enforce any order upon him depriving him of said rights.

SEC. 2. *Preference to relatives.*-Preference to relatives shall not be given by council members under any circumstances. If they clearly show preference they will be exposing themselves to impeachment.

SEC. 3. *Old members of the pueblo.*-All members of the pueblo who have completed their 75th year shall not be compelled to work on community work (pueblo cleaning, fencing, etc.), and ditch work. If, however, they of their own accord attend to community work they will be free to work as they please.

Retired members will not, however, be able to fill the places of sons who are of working age and not justified in refusing to serve on community work and ditch work.

#### ARTICLE V-INTOXICATION

Any person showing signs of intoxication will not be allowed to take part in a council meeting. Council members who attend meetings while intoxicated or who have missed a meeting because of intoxication will face a charge of impeachment.

All liquor charges will be decided by the pueblo council and fines will be made by the council when cases come up before the council.

#### ARTICLE VI-STOCK

From March 1 to November 1 of each year it shall be the duty of all members of the pueblo to report all loose animals found in cultivated fields of the pueblo to the Governor. The Governor will then notify the owners. If they do not remove the animals from the fields at once, they will be subject to a fine. The fine will be made according to the amount of damage done. If the Governor cannot by himself settle a question like this he will be free to bring the case before the pueblo council.

#### ARTICLE VII-RATIFICATION

This constitution and bylaws, when ratified by a majority vote of the members of the pueblo over twenty-one years of age at a special election, called by the Secretary of the Interior, in which at least thirty percent (30%) of the eligible voters shall vote, shall be submitted to the Secretary of the Interior for his approval and shall be effective from the date of such approval. The constitution and by-laws of the pueblo may thereafter be amended or revoked in the manner provided under article VIII of the constitution.

#### CERTIFICATION OF ADOPTION

Pursuant to an order, approved November 23, 1935, by the Secretary of the Interior, the attached constitution and by-laws was submitted for ratification to the Indians of the Santa Clara pueblo and was on December 14, 1935, duly adopted by a vote of 145 for and 8 against, in an election in which over 30 per cent of those entitled to vote cast their ballots, in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the act of June 15, 1935 (Pub., No. 147 , 74th Cong.).

GUTIERREZ,

PATRICI

*Chairman of Election Board.*

CLETO TAFOYA,

*Secretary of Election Board.*

NESTOR NARANJO.

JOHN NARANJO.

ANASTACIO NARANJO.

AGAPITO NARANJO.

JOSE G. NARANJO.

JOSEPH FILARIO TAFOYA.

S. D. ABERLE,

*Superintendent in charge the United Pueblos Agency.*

I, Harold L. Ickes, the Secretary of the Interior of the United States of America, by virtue of the authority granted me by the act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached constitution and by-laws of the pueblo of Santa Clara.

All rules and regulations heretofore promulgated by the Interior Department or by the Office of Indian Affairs, so far as they may be incompatible with any of the provisions of the said constitution or by-laws are hereby declared inapplicable to the pueblo of Santa Clara.

All officers and employees of the Interior Department are ordered to abide by the provisions of the said constitution and by-laws.

Approval recommended December 18, 1935.

JOHN COLLIER,

*Commissioner of Indian Affairs.*

ICKES,

HAROLD L.

*Secretary of the Interior.*

[SEAL]

WASHINGTON, D. C., December 20, 1935.

**AMENDMENT-CONSTITUTION AND BY-LAWS OF THE  
PUEBLO OF SANTA CLARA, NEW MEXICO**

AMENDMENT I. Section 2 of Article III shall be amended to read :

Case: 18-2332 Document: 10 Filed: 07/25/2018 Pages: 124  
"Within the first five days of each year an election shall be held within the Pueblo of Santa Clara, at which a Governor, Lieutenant Governor, secretary, treasurer, interpreter, and sheriff shall be elected by secret ballot to serve for the ensuing year."

I, Oscar L. Chapman, the Assistant Secretary of the Interior of the United States of America, by virtue of the authority granted me by the Act of June 18, 1934 (48 Stat. 984), as amended, do hereby approve the attached Amendment I, amending Section 2 of Article III of the Constitution and By-laws of the Pueblo of Santa Clara, New Mexico.

Approval recommended December 27, 1939.

F. H. DAIKER,  
*Assistant to the Commissioner.*

CHAPMAN,

OSCAR L.

*Assistant Secretary of the Interior.*  
[SEAL]

WASHINGTON, D. C., December 29, 1939.

#### CERTIFICATION OF ADOPTION

Pursuant to an order, approved November 21, 1939 by the Assistant Secretary of the Interior, the attached Amendment to the Constitution and By-laws of the Pueblo of Santa Clara was submitted for ratification to the qualified voters of the Pueblo, and on December 19, 1939 was adopted by a vote of 124 for, and 12 against in an election in which more than 30 per cent of those entitled to vote cast their ballots in accordance with section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984), as amended by the Act of June 15, 1935 (49 Stat. 378).

JOSEPH F. TAFOYA,

*Governor, Pueblo Council of Santa Clara.*

ALLAN LAFLIN,  
*Acting Superintendent, United Pueblos Agency.*

U. S. GOVERNMENT PRINTING OFFICE : 1940