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Of Attorneys for Plaintiff John Dossett

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

JOHN H. DOSSETT,

Plaintiff,

v.

HO-CHUNK, INC., a tribal corporation
formed by the Winnebago Tribe of
Nebraska, NOBLE SAVAGE MEDIA,
L.L.C., a Limited Liability Company of
unknown origin, THE NATIONAL
CONGRESS OF AMERICAN INDIANS
OF THE UNITED STATES AND
ALASKA, an Oklahoma Not For Profit
Corporation, and HIGH COUNTRY NEWS,
a Colorado Nonprofit Corporation,

Defendants.

No. 3:19-cv-01386-SB

DECLARATION OF JOHN H. DOSSETT IN
OPPOSITION TO DEFENDANT HIGH
COUNTRY NEWS' SPECIAL MOTION TO
STRIKE AND MOTION TO DISMISS,
DEFENDANT HO-CHUNK, INC.'S MOTION
TO DISMISS AND MOTION TO STRIKE,
AND DEFENDANT THE NATIONAL
CONGRESS OF AMERICAN INDIANS OF
THE UNITED STATES AND ALASKA'S
MOTION TO DISMISS AND SPECIAL
MOTION TO STRIKE

I, John Hayden Dossett, declare the following to be true based on my personal knowledge under penalty of perjury.

Background on My Career with NCAI as an Attorney, not a Public Figure

1. I started working for NCAI as a staff attorney in 1995, was promoted to General Counsel in 1997, and served in this role for more than twenty years. I worked remotely for NCAI, working from Oregon for the Washington D.C. based organization.
2. In my complaint I detailed some of our collaborative achievements on various law and policy initiatives, however I was never a public figure for NCAI.
3. NCAI is a national organization led by tribal government leaders elected by the membership to an Executive Committee. Like elected officials everywhere, tribal leaders aggressively guard their role as the public figures. The NCAI President is the primary spokesperson who communicates with the press, testifies to Congress, or speaks publicly about any matter related to NCAI. If the President is not available, this public role is filled by another member of the Executive Committee, or the NCAI Executive Director.
4. My role as the General Counsel for NCAI was to work behind the scenes as legal staff, as it is with most organizations or businesses. My work focused on legal research and writing, gathering and synthesizing information on a broad range of issues for a diverse national organization advocating for the rights of indigenous peoples. I wrote hundreds of official NCAI documents: mostly letters, Congressional testimony, and comments on agency rulemaking. I have never signed my name to any of these documents. I have never testified to Congress. On official documents, my name appears only on legal briefs, or as a staff contact on legal questions.
5. In over two decades with NCAI, I rarely spoke to the press and did so only when required to respond to a legal or procedural question. I drafted many NCAI press releases but was never quoted in one. Until the Indianz.com story falsely accusing me of sexual harassment and being a predator, I had never had a news article published about me. (With one exception, three years ago I was profiled by Trinity University's alumni magazine, with a readership so

small that none my classmates noticed the article.)

6. High Country News is one of the leading national publications on tribal government affairs. A search of the HCN archives reveals over 12,500 articles published on matters affecting tribal governments and native people. Yet, I have been quoted only three times by HCN. In 2002, I was asked to comment on state legal authority to condemn tribal lands. In 2011, I was asked to comment on tribal land leasing regulations proposed by the Department of the Interior. In 2017, I was asked to comment on Justice Gorsuch's record on Indian law cases. Each time I was responding to a reporter's legal question routed to me by NCAI's press office. I have never received an inquiry from Tristan Ahtone, who wrote the HCN article that defamed me, and serves as editor for Indigenous affairs at High Country News.

7. Similarly, both Indianz.com and Indian Country Today have issued comprehensive coverage of national tribal news and NCAI's major meetings for many years, yet I have been quoted on only a handful of occasions, and always as an attorney responding to a legal matter. I have never spoken to either of the Indianz.com editor/reporters, Acee Agoyo or Kevin Abourzek.

8. Working at NCAI, I spoke only internally, to give legal updates or facilitate legal discussions on legal questions, at meetings of tribal organizations. I also spoke at legal education conferences, to audiences of attorneys and law students. I have participated in panel discussions but have never given a keynote speech.

9. In NCAI meetings with federal officials, I have never been the lead representative. I often wrote the talking points but was rarely included in high level meetings with a Member of Congress or a cabinet secretary. I have attended one political fundraiser in my life, and it was to thank Representative Bonamici for nominating our daughter's admission to West Point.

10. The most prestigious event I've ever attended was the bill signing for the Violence Against Women Act of 2013, along with five other NCAI staff and 400 coalition

workers from the National Task Force to End Domestic Violence.

11. In the year since leaving NCAI, I have published two law review articles on the Framers' original understanding of federal power in Indian affairs. The articles break new ground in advancing tribal rights. Neither has been cited. The leading academic blog for legal issues in Indian country is turtletalk.blog. Virtually any academic article of note in the field will receive a blog post. Mine have not, so I don't believe I am a public figure in the field of federal Indian law.

12. I was not a public figure, but I became an experienced attorney working for NCAI and learned a great deal about the law as well as congressional and administrative process. I didn't set the organization's policy goals, but after many years of experience, leadership sought my advice in finding the next steps towards achieving their goals. I also drafted many of NCAI's official documents, so I had gained some influence in shaping NCAI's work. I believe that for this reason, one of my colleagues resented me and began spreading false rumors about me.

Denise Desiderio Spreads False Rumors

13. Denise Desiderio joined NCAI in 2014 as Director of Government Affairs. This position had been vacant for several years, and Ms. Desiderio previously worked as staff for the Senate Committee on Indian Affairs. When she joined NCAI I looked forward to working with her. I thought we would benefit from her Senate experience and contacts. But from the beginning, I struggled to find a way to work productively with her.

14. Ms. Desiderio never called me, not once in five years. When I called her, to reach out and collaborate, the answer was always no. "I don't do tax." "That's not my issue." "I'm not working on voting rights." This seemed odd, because the Government Affairs Director needs a working knowledge of every major issue under consideration, even if they aren't the lead. At that point I had 18 years with NCAI, and a lot of experience on a broad range of issues. Ms. Desiderio came in as the new Government Affairs Director and was never willing to coordinate or communicate with me on anything.

15. There was an uncomfortable dynamic with Ms. Desiderio and the NCAI Executive Director, Jacqueline Pata. At least once a week, Ms. Pata would convene a conference call among a group of senior staff and ask our advice on how to proceed with a new issue or development. Ms. Desiderio always started with the no-action alternative and advocated for a wait and see, let's see how this plays out approach. Then Ms. Pata asked my opinion, and I would recommend one of the usual actions of any advocacy organization, let's write a letter, or request a meeting, etc. Ms. Desiderio would oppose my proposal in an emotionally heated way. She took it personally, that I was disrespecting her by questioning her judgment. At the same time, Ms. Pata was prodding me to put forward proactive ideas. Ms. Pata and Ms. Desiderio had a personal friendship, so Ms. Pata didn't want to instruct Ms. Desiderio on how to do her job, but she was frustrated by Ms. Desiderio's reluctance to act. Ms. Pata used me as a tool to compel Ms. Desiderio to take action, repeatedly, and I believe that added to Ms. Desiderio's resentment of me.

16. Ms. Pata was aware that Ms. Desiderio was spreading false rumors about me and took no action to address them, other than to warn me. In early 2015 and on subsequent occasions, I received phone calls from Ms. Pata with complaints from Ms. Desiderio: "John, you better watch your back. She is telling people that you don't respect women." Disagreement with a work colleague on how the organization implements its mission is not equivalent to sexism or disrespect for women, even if the work colleague happens to be a woman.

17. At this stage, I was unaware that Ms. Desiderio was spreading the false rumor: "don't be left alone in a room with him." I learned that later, after the Indianz.com story appeared, when Ms. Desiderio called her former colleagues and urged them not to repeat the rumor any longer.

18. Ms. Desiderio promoted a gossip-driven false narrative about me to diminish my reputation and advance her own influence. She befriended staff attorneys who worked for me, particularly Natasha Anderson, and encouraged that the legal work I assigned was unnecessary

and unfair. She labelled me as a “bully,” and “disrespectful,” and encouraged others to see me in that light. Ms. Desiderio portrayed me as a misogynist and cultivated hostility towards me among a faction of the NCAI staff, the majority of whom were women. While I was in Oregon, Ms. Desiderio used her position, influence, and proximity in DC to encourage other NCAI employees to interpret any interaction with me negatively.

19. I found it bewildering that Ms. Desiderio would spread these false rumors about me, but I was unaware of how far she went. I was living in Oregon and doing my job, researching and writing about federal Indian policy. I had a history of respectful and collegial professional relationships with many female colleagues, had long supported opportunities for female attorneys and actively advanced women’s rights in substantive ways throughout my career. I thought that would carry me through a rough patch, but I was wrong.

Spokane Incident and Investigation

20. These efforts by Ms. Desiderio had their effect. On June 30, 2016, I was at the last day of an NCAI conference in Spokane, WA with NCAI colleagues. A big group of us had had dinner at a nearby restaurant. A female colleague had too much to drink during dinner and fell asleep at the table. So, I offered to walk with her back to the hotel.

21. This colleague was widely known among the NCAI staff for having a low tolerance for alcohol and erratic behavior when drinking. Her friends in the DC office saw it more often than I did and it was kind of a running joke. On June 30, 2016, it wasn't that we were sitting around drinking excessively as a group. One of my colleagues drank too much, and the rest of us had dinner and drank a few beers at the end of a busy conference.

22. I was sitting across the table, watching her slide toward the floor. Some of my colleagues were making fun of her, taking pictures of her. I thought it was embarrassing for her, and that if she got kicked out it would be embarrassing for the entire NCAI staff. So I asked my intoxicated colleague if she wanted to walk back to the hotel. She roused herself and walked out to the street, where she promptly closed her eyes and just stood there, in a stupor, on a busy

sidewalk in downtown Spokane, Washington.

23. I took her hand and we walked two short blocks to the lobby entrance of the Davenport Grand Hotel. She was walking with her eyes closed. As we approached the hotel entrance, she seemed to wake a little, mumbling to herself. I asked for her room number because I didn't know which button to push on the elevator. She startled and lurched toward the street. I held onto her arm to keep her out of traffic. Then we walked through the hotel entrance, where we saw Erik Stegman and his mother. I started talking to Erik, and my colleague seemed more alert and went towards the elevators. That was it. At all times we were in public, two blocks of a busy sidewalk filled with people in front of a convention center. I didn't accompany her to her room. I held her arm only to prevent her from getting hit by a truck. I thought I was being kind and considerate to a heavily intoxicated colleague.

24. There has never been anything between me and this colleague but a work relationship and platonic friendship. I don't believe that my colleague would have thought badly of me if not for Ms. Desiderio spreading rumors about me. Ms. Desiderio was this colleague's boss.

25. I later heard from Ms. Pata that this colleague had expressed confusion. She couldn't remember what happened, but "she felt uncomfortable." She had expressed her confusion to Ms. Desiderio, who converted this into a vague sexual harassment complaint and conveyed it to Ms. Pata.

26. On August Pata questioned me about this on August 5, 2016. Her investigation was a surprise and she called me in Oregon out of the blue. At first Ms. Pata asked me a broad question about what happened on the last day of the conference. I was completely unaware of any concerns, so I asked for clarification. Ms. Pata reiterated that some incident had happened between me and my colleague. I responded with something like, "oh, yea, she got really drunk and I walked her back to the hotel." Ms. Pata told me that my colleague didn't really remember what happened, but "felt uncomfortable that maybe I had intended to take advantage of her." I

responded with absolute astonishment.

27. I explained in detail to Ms. Pata what had occurred. At all times, we were in public: two blocks of a busy sidewalk in front of a convention center, and the lobby of a hotel filled with hundreds of NCAI meeting participants. I always acted kindly and considerately to a heavily intoxicated colleague. None of the NCAI staff at the dinner expressed concern that I took the responsibility to escort her back to the hotel, but rather relief that they didn't have to deal with it. That's when Ms. Pata said, "I believe you." She said that my colleague was uncertain about what happened, and she would follow up to try to resolve the misunderstanding. Ms. Pata asked me to take a course in preventing sexual harassment in the workplace, and I did so. I thought the matter was resolved and understood that my colleague did not wish to pursue the matter further. There was no written complaint or investigative report. I was hoping we could reconcile. This incident did not, by any stretch, constitute sexual harassment. The matter was closed based on my detailed explanation.

My Reputation and Career Become Collateral Damage in Escalating Feud Between NCAI Executive Director and Nicole Hallingstad

28. Months later, Ms. Pata (wrongfully) disclosed this confidential matter to Nicole Hallingstad, who had joined NCAI as Director of Operations in 2015. Ms. Hallingstad states this in the attached memo that she sent to the NCAI President, dated April 22, 2017, titled, "Damaging Human Resources Action of NCAI Executive Director Jacqueline Pata" Included in Ms. Hallingstad's memo is an allegation of an "unresolved sexual harassment charge" against me. Attached hereto as Exhibit AA is a true and correct copy of Nicole Hallingstad's letter to the NCAI President described above.

29. The NCAI Employee Handbook states that: "The organization will conduct all investigations in a discreet and sensitive manner.... We also recognize the serious impact a false accusation can have." A copy of the 8/11/2017 version of the NCAI handbook is attached as Exhibit 1 to NCAI's Motion to Dismiss and Special Motion to Strike. The NCAI Executive

Director has a duty to protect confidential employment information, particularly information about false allegations of sexual harassment. I believe that Ms. Pata violated this duty by sharing confidential information with Nicole Hallingstad.

30. Ms. Hallingstad and Ms. Pata had a falling out and appeared to be engaged in a power struggle. In order to accuse Ms. Pata of mismanagement and indifference to sexual harassment claims, Nicole sent the attached memo to the NCAI President. The memo includes a long list of complaints about Ms. Pata's mishandling of employee matters.

31. The NCAI Executive Committee reviewed this memo and decided to take no action. Ms. Pata subsequently changed Ms. Hallingstad's job duties and took away her access to employee files.

Second Complaint made by Sarah Pytalski

32. The original Indianz.com news article assumes facts – that I was accused of sexual harassment, and then I was demoted, so I must be a sexual “predator.” This is not true, as I have been investigated three times, and each time was found not to have violated of NCAI's sexual harassment policies. Instead, I was demoted entirely to mollify Ms. Hallingstad and to allow NCAI to appear that they took action on allegations of sexual harassment.

33. In February of 2018, a former NCAI employee, Sarah Pytalski, filed a false claim alleging that I made a joke about masturbation. No other person heard the alleged “joke,” and about 19 months had gone by since it was alleged to have taken place. I deny that allegation in its entirety. Attached hereto as Exhibit BB is a true and correct copy of the complaint made by Sarah Pytalski.

34. I was stunned by the Pytalski complaint because I did not do what she accused me of and the “joke” did not even sound like something I would say. I thought I had a good professional relationship with her and had never heard this allegation.

35. Ms. Pata and I talked on the phone later that day. We talked about how stilted the Pytalski complaint was, a complaint about a rude joke while watching sports 19 months earlier,

written out like it was a fundamental violation of human rights. We talked about how Ms. Pytalski was trying to leverage other people's complaints, particularly Hallingstad's complaints against Ms. Pata. Ms. Pata said that we needed to take it very seriously, and she was worried that Ms. Hallingstad and Ms. Pytalski would take their complaints to the board as Ms. Hallingstad had done previously.

36. I do not believe that the Pytalski complaint was on her own behalf, but was a transparent attempt to trigger a new investigation of Ms. Pata's handling of a series of employee matters. It re-alleged the prior matter with the intoxicated colleague that had already been resolved, arguing that Ms. Pata had handled it incorrectly. It alleged that I engaged in "psychological harassment" of Natasha Anderson, a staff attorney who once worked for me. It alleged retaliation by Ms. Pata against Ms. Hallingstad. The Pytalski complaint was as much about the feud between Nicole Hallingstad and Jacqueline Pata as it was about me.

37. Ms. Pata first asked Virginia Davis to investigate the complaint. Ms. Davis is a senior attorney with NCAI who was formerly the Deputy Director of the Office of Violence Against Women at the Department of Justice. Ms. Pytalski refused to cooperate with an investigation led by Ms. Davis and demanded an outside investigator.

The Montani Investigation

38. Ms. Davis and Ms. Pata worked together to retain an independent investigator, attorney Sadina Montani. Virginia Davis emphasized that the Pytalski complaint didn't amount to sexual harassment even if true, and that is why they were attracted to Ms. Montani's pitch for a two-part investigation that would offer recommendations to improve workplace culture. I didn't think I needed a lawyer or to make it an adversarial process. Ms. Pytalski's complaint didn't amount to sexual harassment even if true, and a workplace culture review seemed non-threatening. Regarding Ms. Montani, Ms. Davis told me, "I think you can trust her." I relied on this to my detriment.

39. Ms. Pata was concerned that although the complaint didn't amount to sexual

harassment, she was faced with an uproar among several NCAI staffers. If she didn't investigate, they would direct their complaints to the Executive Committee as Ms. Hallingstad had done before.

40. Ms. Montani interviewed me once, by phone, on March 29, 2018. She started with the Pytalski complaint. I told her that it had taken place more than a year and a half earlier and I had no memory of making that statement at all.

41. Then Ms. Montani asked me about the previous non-incident with my intoxicated colleague. I explained what happened and Ms. Montani didn't have any follow up questions.

42. We changed topics to general workplace culture and Ms. Montani shifted her tone and her inquiry. She asked open-ended questions about my general impressions and recommendations on the workplace culture problems. I told her there was a big shift in the workplace culture around 2014 or 2015. When I started in 1995, we had eight employees, not much money, and we were all young and idealistic. Everyone we hired was straight out of school, and eager to work. By 2015 we were a growing organization with about 40 employees and a much larger budget. Ms. Pata wanted to hire experienced people, so she brought in Ms. Desiderio and Ms. Hallingstad, who I believed had severely damaged the organization.

43. Toward the end of the interview with Ms. Montani I raised the two points that I wanted to insert. First, that Ms. Hallingstad was in a feud with Ms. Pata and sharing confidential information and false allegations with the board and with other NCAI staffers. That the Pytalski complaint was an effort to reinvestigate the first non-incident because everyone had gossiped about it, and that the real goal was to take Ms. Pata down with the board of directors. Ms. Montani seemed stunned by this, and quickly cut me off. I told her that I had a draft complaint against Ms. Hallingstad for wrongful disclosure of confidential information and that I would share it with her.

44. My second point was that the extensive gossip around the office was destroying my reputation, and that I had even heard it from one person outside the office. I told Ms.

Montani I was really concerned, and that I needed to counter the false rumors because they were getting way out of hand. I told her I had a draft email to the NCAI staff to counter the false rumors and that I would share it with her. Ms. Montani told me that I shouldn't try to address the false rumors because of the Barbara Streisand effect. (The Streisand effect is a phenomenon where an attempt to hide a piece of information has the unintended consequence of publicizing the information more widely.) I told her that she misunderstood the Streisand effect, that NCAI was making things worse by trying to keep matters confidential while Ms. Desiderio and Ms. Hallingstad were circulating false rumors.

45. At the end of the interview Ms. Montani asked me if I had anyone I would like her to interview. I said no, because I thought the only real question was whether I had used a crude expression while watching soccer, and everything else was a discussion of workplace culture. After the interview I sent Ms. Montani an email that included the draft complaint against Ms. Hallingstad, and the draft email trying to address the false rumors.

46. The next day I received a call from Ms. Pata. She told me that she had just finished a phone call with Ms. Montani, and that I could not file a complaint against Ms. Hallingstad because that was "not considering the best interests of the organization." She said that Ms. Hallingstad had to be handled with "kid gloves." I asked Ms. Pata if I would get an opportunity to respond to the false rumors. Ms. Pata responded "never." From this, I took it that Ms. Pata wasn't willing to confront Ms. Hallingstad about her abuse of confidential information. She was afraid that Ms. Hallingstad or Ms. Pytalski or would go back to the board of directors with more complaints about her management.

47. I was surprised that Ms. Pata called me the day after the interview with Ms. Montani. I thought that my account would go into a report together with other statements, that Ms. Montani would produce findings that weighed the various accounts. But that isn't what happened. Ms. Montani contacted Ms. Pata immediately after my interview, and Ms. Pata decided that some of my statements, and particularly my concerns about Ms. Hallingstad's

misuse of confidential information and Ms. Desiderio's spread of false rumors, would not even be considered. This violated the ethical rule in the NCAI Employee Handbook, that "every investigation requires a determination based on all the facts in the matter."

48. On or about May 2, 2018 I received a call from Ms. Pata and the disciplinary memo. Ms. Pata read it to me in a robotic monotone voice, and then e-mailed it to me. I was stunned. I had no idea that a demotion was on the table or that I was defending myself against allegations of yelling and bullying. None of this was discussed in my one interview with Ms. Montani. I didn't recognize myself in the allegations of "unprofessional and inappropriate behavior, including yelling, bullying, being disrespectful, speaking over colleagues, insulting and derogatory emails, and sexually-charged comments." I work from Oregon, and my interactions with most of the staff come only in emails, at formal public meetings, and on conference calls. I don't yell or bully over the phone. I had no idea these were the accusations until I received the disciplinary memo. As Ms. Pata ended the call, she dropped the robot tone and said in her real voice. "Don't worry John, we'll protect you." From this, I took it that Ms. Pata knew she was throwing me under the bus to protect herself, and she felt guilty about it. Attached hereto as Exhibit CC is a true and correct copy of the NCAI memo providing the official reasons for my demotion.

49. Although I was demoted by Ms. Pata's disciplinary memo, it is important to note that it included no finding that I had violated NCAI's sexual harassment policy. At this point I had been investigated twice, and each time there was no finding of sexual harassment.

50. It is my understanding, based on statements made to me by people that have reviewed Ms. Montani investigation's conclusions, that Ms. Montani did in fact conclude that I did not commit sexual harassment of any sort. Future emails with Ms. Montani would confirm this belief.

51. Attached hereto as Exhibit DD is a true and correct copy of an email string with Ms. Montani and Ms. Pata, including an email from Ms. Montani dated August 31, 2018 stating

that "... I think a statement and denial are appropriate here" in regards to the later Indianz.com article.

52. I subsequently learned four things about the Montani investigation, from Ms. Montani herself. Indianz.com sent a request for comment the evening before publishing false rumors about me. On the morning of August 31, 2018, Ms. Pata and Ms. Montani instructed me on how I could respond. In the e-mail exchange about how to respond, Ms. Montani revealed several facts about her investigation. (Exhibit DD.)

53. First, Ms. Montani told me in an email, "Sarah P was focused at least as much on the [intoxicated colleague] incident as her own allegations." (Exhibit DD.)

54. Ms. Montani also told me, "We also know that incident has been gossiped out extensively in the community, based on comments that you all shared with me when I launched my investigation." (Exhibit DD.)

55. Ms. Montani also stated in the same email string "Nicole (and others) are not respecting [intoxicated colleague] in this situation, which is a complaint that [she] and others shared with me. The idea that others would use [her] as a pawn against Jackie has rightly infuriated some folks." (Exhibit DD.)

56. Finally, Ms. Montani wrote: "I think a statement and denial are appropriate here..." and drafted my statement to Indianz.com. The attorney tasked with investigating directly acknowledged that the allegations were false and the Executive Director of NCAI was aware of it as well.

57. Back in May of 2018, I didn't know how to respond to the disciplinary memo. The demotion just involved a change in my job title and that I would no longer supervise junior staff. I figured I would just get back to work, focus on the Tribal Supreme Court Project and my legal writing, and in the longer term I needed to find an exit from the increasingly toxic environment at NCAI.

58. The Montani investigation lacks credibility for several reasons. The first is scope.

The investigation started as a complaint that I used a crude expression while watching sports in a hotel lobby. It morphed into a general referendum on my character. I didn't know that that the investigation had shifted to new allegations of "bullying" and "yelling" and "being disrespectful." I was unaware of the need to call character witnesses, or that some employees were providing false allegations to the investigation.

59. Second, there is no factual basis for the allegations of yelling. I have had surgery on my vocal cords three times in the last four years and I am incapable of yelling.

60. Third, according to Pata, the "bullying" charge was based on an email exchange four years earlier between me and Ms. Natasha Anderson. Ms. Anderson had ceased to do most of her work with Ms. Desiderio's encouragement. I reminded Ms. Anderson of her ethical obligation as an attorney to "act with reasonable diligence and promptness in representing a client." Reminding a recalcitrant junior attorney of her ethical obligations cannot be construed as "bullying," because it was my responsibility as her supervisor. Attached hereto as Exhibit EE is a true and correct copy of the above described email exchange.

61. Fourth, according to Pata, the "disrespectful" and "insulting and derogatory emails" charge is based on an email that I sent to the NCAI accounting department. In response to a request for an update on a grant, I reported that it was difficult to complete the grant because "Denise really does not like grant and contract work." A single factual statement about Ms. Desiderio's widely stated preference not to work on grants and contracts cannot be the basis of generalized factual findings of "being disrespectful" nor "insulting and derogatory emails." Attached hereto as Exhibit FF is a true and correct copy of the above described email exchange.

62. Finally, the "sexually charged comments" charge is based on Ms. Pytalski's complaint that I made a rude comment while watching sports, which I flatly deny ever occurred.

63. All of the accusations lack factual basis in that I reside in Oregon, and my interactions with most of the staff happened only at formal public meetings, emails, and conference calls. I have not had the opportunity to engage in that kind of behavior.

64. I was told that the investigation was confidential, that there would be a change in my job title and would no longer supervise employees. Given the assurance of confidentiality, I decided it was in the best interests of the organization to move on and get back to work. I have repeatedly requested a copy of the investigation pursuant to Oregon Revised Statute 652.750(2), but NCAI has refused to provide it. Attached hereto as Exhibit GG is a true and correct copy of a demand letter sent by my prior legal counsel to NCAI requesting documents pursuant to ORS 652.750(2).

Indianz.com Publishes Original Article

65. On August 13, 2018, Ms. Hallingstad sent a letter of resignation to the NCAI Executive Committee, again charging Ms. Pata with mismanagement of employee matters as her “last act” as Director of Operations for NCAI. This letter was transmitted to Indianz.com, by either Hallingstad or a member of the NCAI Executive Committee. Attached hereto as Exhibit HH is a true and correct copy of the above described resignation letter.

66. Ms. Hallingstad was the primary named source for the defamatory August 31, 2018 article published by Indianz.com. Ms. Hallingstad’s statement and resignation letter provided a preconceived narrative to Indianz.com: NCAI leadership was indifferent to sexual harassment and was mismanaging employee complaints. She provided a public statement alleging Ms. Pata’s mismanagement of employee matters, and the article shared her letter of resignation and mentioned internal NCAI documents. Sam Owl also shared internal documents with Indianz.com, repeating the false rumor of an unresolved sexual harassment charge against me. Neither claim to be first-hand witnesses of any alleged sexual harassment.

67. On August 30, 2018, only hours before publication, I received an email request for comment from Indianz.com about the false allegations. I was instructed by Ms. Pata and Ms. Montani that I could make only a general denial. Ms. Montani drafted the denial for me. (Exhibit DD.) I was repeatedly told by Ms. Pata and Ms. Montani that I could not disclose information that they considered private or confidential, even though other employees had

disclosed false information about me to the press, and even though Ms. Pata had disclosed confidential information to Nicole Hallingstad. Ms. Pata and Ms. Montani assured me that NCAI President Keel would issue a statement denying allegations of sexual harassment. So, on the morning of August 31, 2018, as an employee of NCAI, I limited my response to the Indianz.com story as instructed and drafted by Ms. Pata and Ms. Montani. Attached hereto as Exhibit II is a true and correct copy of the email from Indianz.com requesting comment shortly before publication.

68. On August 31, 2018, Indianz.com published its article titled, “Prominent Indian Country Attorney Reassigned After #MeToo Allegations,” that labelled me a “predator” and included the false and malicious statements:

Dossett’s treatment of women was common knowledge, according to this [anonymous] former employee. She went to work for NCAI in hopes of making a difference in tribal communities but soon found herself questioning whether she would be able to do that with a potential predator on the payroll.

“As a new staff, I was told by a colleague, ‘You are a pretty young Native woman, beware of John Dossett. Don’t be caught in a room alone with him,’” the former employee said, making her one of three former female employees interviewed by Indianz.Com who said they were told never to be alone with Dossett.

“It’s the worst kept secret in D.C.’s Indian circles,” she said.

“[R]epeated attempts to resolve complaints against Dossett went nowhere . . .”

69. Each of these statements is false and defamatory and relies on false rumors from persons who have no personal knowledge or personal experience to support the conclusion that I am a “potential predator.”

70. Ms. Pata and Ms. Montani had assured me that NCAI President Keel would issue a statement denying the allegations of sexual harassment, but he did not. Mr. Keel’s statement in

the article disputed Ms. Hallingstad's description of employee turnover problems, but omitted that NCAI's investigation had found no credible evidence of sexual harassment and did not result in a finding of sexual harassment.

71. The Indianz.com story states that NCAI failed to "fully resolve complaints of sexual harassment" including "some that date back to 2014." This statement implies and leads the reader to believe that there were multiple claims of sexual harassment against me dating back to 2014, with no basis in fact. In fact, the complaint filed in 2014 was about another staff member and an NCAI Executive Committee member. I didn't know about it until 2017 when Ms. Hallingstad included it in her complaint to the NCAI Executive Committee. Attached hereto as Exhibit J is a true and correct copy of the 2014 sexual harassment complaint about another individual, entirely unrelated to me.

72. Further, Indianz.com mischaracterizes an email as containing "alarming information" about my interaction with a colleague through selective misquoting, distorting and misrepresenting the words, taking them out of context so that the meaning changed. In fact my email was an effort to reconcile with a colleague, and I requested her consent via Pata before sending it to her. Attached hereto as Exhibit KK is a true and correct copy of the letter I sent to the colleague including the misquoted passages by NCAI.

73. Indianz.com also misrepresented its publication as an "investigation," when I was never offered an interview and the article includes no firsthand information. Indianz.com also did not interview or inquire about any witnesses or information that would counter the salacious preconceived narrative offered by Ms. Hallingstad.

74. Indianz.com published rumors and represented them as facts or implied the existence of undisclosed facts to support the false Indianz.com statements. Indianz.com violated basic journalism ethical standards by publishing false rumors without investigation and with a reckless disregard for the truth.

**NCAI's Wholly-Owned News Website, "Indian Country Today" Republishes the
Defamatory Allegations**

75. As NCAI's inside legal counsel during the times in question, I have direct knowledge of NCAI's relationship with Indian Country Today.

76. NCAI directly received substantially all of Indian Country Today Media Network, L.L.C.'s assets and liabilities on January 31, 2018 pursuant to the Gift Agreement, a true and correct copy of which is attached hereto as Exhibit LL.

77. The NCAI article attached as exhibit B to the complaint also states that "The National Congress of American Indians is the owner of Indian Country Today and manages its business operations." At the time the articles that are the subject of this case were written, Indian Country Today was simply a trade name and a website used by NCAI. Indian Country Today was transferred into a subsidiary entity in 2019, after the events of this case.

78. Ms. Pata, as the executive director of NCAI and the masthead publisher of Indian Country Today, exercised full control over the content of Indian Country Today. She held a weekly editorial meeting with the editors, with urgent issues handled on an ad hoc basis. Ms. Pata did not allow NCAI staff to communicate with Indian Country Today without going through her, or her daughter Jamie Gomez, who was the NCAI Communications Director. The editors of Indian Country Today were similarly restricted from writing stories about NCAI without clearing them through Ms. Pata or Ms. Gomez. The long term plan was to create an independent board for Indian Country Today, but in 2018 Ms. Pata served as the publisher and exercised editorial control of Indian Country Today.

79. Indian Country Today, repeated the false allegations in a story published on September 2, 2018:

According to Indianz.com, while "Dossett was working on issues like the Tribal Law and Order Act and the Violence Against Women Act, he was being accused of harassing,

intimidating and pressuring female employees at NCAI...”

The article also cites several interviews from people who remained anonymous and commented on the behavior of Dossett. “As a new staff, I was told by a colleague, ‘You are a pretty young Native woman, beware of John Dossett. Don't be caught in a room alone with him,’” the former employee said to Indianz.com. “It's the worst kept secret in D.C.'s Indian circles.”

80. Indian Country Today did not contact me or attempt to verify or investigate or interview alternative sources. The Indian Country Today story repeated false, anonymous rumors from NCAI employees. The repeat story by Indian Country Today was particularly harmful because it appeared to confirm the false allegations in the Indianz.com story, and it is widely known that Indian Country Today is wholly owned by NCAI. In this way, NCAI was both the source of the false rumors and a prominent publisher of the defamatory rumors.

81. Ms. Pata was listed as the publisher of Indian Country Today. She knew that the allegations were false, yet she allowed the false story to run and provided only this comment:

“NCAI takes very seriously its anti-harassment and anti-retaliation obligations and policies ... It also takes seriously its commitment to its employees to protect their privacy when handling such sensitive matters. As such, NCAI does not comment publicly regarding allegations, investigations or related personnel matters.”

This statement is not accurate. NCAI staff, including Ms. Pata, didn't maintain confidentiality, and this statement is included in an article where NCAI itself published false rumors about confidential employee matters on the internet. Ms. Pata had direct knowledge of the results of the external investigation that found that I did not commit sexual harassment and direct knowledge of the actual reasons I was demoted.

NCAI Issues Misleading Statement

82. On September 18, 2018, NCAI President Keel issued a public letter to the

membership of NCAI. His letter again did not deny the “predator” allegations of sexual harassment against me, but only stated that the news articles were “misleading.” This did even more damage to my reputation, because my employer was now making public statements implying that there was some truth to the allegations. A true and correct copy of this letter is attached hereto as Exhibit MM.

83. At this point I knew that Ms. Pata and Ms. Montani intended to hide behind a veil of confidentiality while making false implications that their investigation of me included findings of sexual harassment. I began to urge the NCAI Executive Committee to conduct a new and independent investigation.

NCAI Fires Me After Attempt to Defend Myself

84. These news articles caused a controversy within the NCAI Executive Committee and among tribal leaders throughout the country. I sent a memorandum to NCAI President Keel urging NCAI to conduct a new and independent investigation to address the allegations. In key part, my memorandum urged:

You may think that attorney Sadina Montani has already done an investigation. There are several problems with relying on her earlier work for the issues before us. First, there are many new allegations in the Indianz article, made by former NCAI employees, and never a part of the Montani investigation. Those allegations are not only about me, they are also about the Executive Director, and the Executive Committee. Second, Montani was hired by Jacqueline Pata in March of 2018, long before the Executive Committee was involved. The Executive Committee does not, but should, have independent legal advice. Third, it didn’t take into account my concerns that Nicole Hallingstad had fabricated allegations against me and was misusing confidential employee information. My concerns about Nicole Hallingstad were silenced. Intentionally or unintentionally, the investigation appears designed to mollify Nicole Hallingstad. Finally, the investigation expanded to unrelated complaints, not sexual in nature, without my ability

to respond because they were anonymous, and the details not disclosed to me. Of course Ms. Montani found people willing to say bad things about me, Nicole had been circulating false rumors for years, and that mistrust transformed into the insinuation and innuendo you see in the Indianz article. Nicole had organized a campaign, and neither I nor Sadina Montani were fully aware of her maneuvering. I did not know that the investigation had become a general referendum on my character. If I had, I would have asked that the investigation include interviews with colleagues and co-workers who have had positive interactions and relationships with me recently and over the years.

A true and correct copy of this memorandum is attached hereto as Exhibit NN.

85. The NCAI Executive Committee met on September 24th, 2018. My spouse, Stephanie and I travelled to DC so that I could meet with the Executive Committee that day. Apparently, the news articles were so damaging to my reputation, that after 23 years of service to NCAI, I was given five minutes to defend myself.

86. I explained my need for a process to clear my name of allegations that were entirely different and vastly more serious, and that the “predator” label attributed serial sexual violence. I urged that NCAI start an independent investigation, rather than force me to litigate to clear my name.

87. That same day, Mr. Ron Allen informed me that Ms. Montani told the NCAI Executive Committee of the results of her investigation that there were facts showing that I had created a hostile work environment at NCAI by being rude and bullying, but not due to sexual harassment.

88. That same day, September 24, 2018, I learned that after the news articles appeared, Ms. Desiderio called a group of her former colleagues and urged them not to repeat the false rumors regarding “don’t be alone in a room with him.” This was the date that I learned of Ms. Desiderio’s coordinated efforts to cover up the false rumors that she instigated, and that Ms. Desiderio was the source of the rumor.

89. On September 28, 2018, I sent an email to Ms. Montani asking her to support my request for an independent investigation of the “predator” allegations against me, one that would be separately conducted from her previous investigation. It is my understanding that Ms. Montani advised Ms. Pata that there should be no further investigation, that my request for an investigation meant that I was placing my own interests ahead of my employer’s interests, and I must be forced to resign. A true and correct copy of the email from me to Ms. Montani is attached hereto as Exhibit OO.

90. On October 3, 2018, I received a phone call from Ms. Pata who told me there would be no further investigation and I must resign immediately. Unwilling to resign under a cloud of false allegations, I issued a statement by email to a list of my professional contacts, denying the charges and urging an independent investigation. A true and correct copy of my statement is attached hereto as Exhibit PP. Within two hours Ms. Pata and Mr. Derrick Beetso called me back, and sent a letter terminating my employment with NCAI. A true and correct copy of the termination letter is attached hereto as Exhibit QQ.

91. That same day, on October 3, 2018, the NCAI Executive Director issued a statement to Indianz.com. “NCAI had no knowledge of, and John was not authorized to send, that statement to anyone,” Ms. Pata told Indianz.Com. “Further, I can only confirm that John Dossett is no longer employed by NCAI.” I believe I was fired in retaliation for asserting my right to an independent investigation of sexual harassment allegations, and revealing the compromised internal investigation conducted by Montani.

92. On October 11, 2018, Indian Country Today published another story, for NCAI to justify its actions in firing Mr. Dossett. It republished in whole a letter from NCAI President Keel, including this statement:

Earlier this year, NCAI hired an external investigator who investigated two specific allegations of sexual harassment against John Dossett, one of which had been the subject of an earlier internal investigation. In conducting this investigation, the external

investigator spoke with many current and former employees, including some former employees who learned about the investigation and requested an opportunity to speak. The investigation concluded with recommendations that NCAI promptly implemented.

93. With this statement and news article, NCAI publicly defamed me by implying a connection between my termination and the allegations of sexual harassment. NCAI had investigated both incidents and concluded that no sexual harassment had taken place. Now under public pressure, NCAI President Keel converted these non-incidents into “two specific allegations of sexual harassment against John Dossett,” while omitting that both had been investigated and determined that no sexual harassment occurred. This statement by NCAI President Jefferson Keel constitutes defamation by implication. Indian Country Today repeated this defamation in a news story that continues to reside on its website.

94. President Keel’s statement also creates a false implication from undisclosed facts. The undisclosed facts are the findings of NCAI’s investigation, and readers are led to believe that the investigation included findings of sexual harassment.

95. President Keel’s statement was also defamatory in its mischaracterization of two events, which NCAI concluded did not happen, as sexual harassment.

High Country News Publishes Its Article

96. On October 18, 2018, High Country News published an article titled “National Congress of American Indians roiled by claims of harassment and misconduct.” Tristan Ahtone interviewed a small group of discontented former NCAI employees and published multiple false accusations and statements, but failed to contact or interview me, or any person with differing views about my reputation and conduct. With this article, the false accusations against me were expanded to include unwanted touching, accusations of racism, and delivered to a larger general audience.

97. The article contained the following defamatory statements, including the false,

and malicious statements:

“Dossett is accused of unwanted touching of a female employee and of making crude sexual remarks to coworkers.”

“Documents reveal that Dossett continued contacting his accuser by email well into February 2018, defending his actions and trying to explain why he couldn’t have done what he was accused of doing.”

“Interviews and documents reveal the handling of such incidents as representative of an office run by the whims of the couple and subject to Dossett’s frequent outbursts.”

“At one point, Dossett, who is non-Native, sent a belittling, racially charged email to the organization’s Native chief financial officer, accusing the staffer of wanting to turn NCAI into the Bureau of Indian Affairs — the widely disliked federal agency charged with providing services to American Indian and Alaska Natives.”

98. Each of these statements is false and defamatory and relies on false rumors from anonymous persons who have no personal knowledge to support the conclusion that I engaged in any type of sexual harassment.

99. I was never accused of “unwanted touching.” When an intoxicated colleague fell asleep after dinner at a restaurant, I walked with her two blocks back to the hotel lobby, and held her hand to guide her, all completely voluntary, in public, and with other NCAI employees in the restaurant and at the lobby of the hotel where we arrived. Although the intoxicated colleague later expressed confusion about what had happened, she never filed any complaint or accusation. This non-incident has been investigated three times, and each time it was found that no sexual harassment of any kind took place.

100. Ms. Pytalski accused me of making a rude comment while watching sports in a hotel lobby with a group of NCAI employees. I flatly denied it, and no other person heard it. Ms. Pytalski’s accusation was investigated by Ms. Montani, and her report concluded that no

sexual harassment occurred.

101. By mischaracterizing events and omitting the results of the investigations, Defendants High Country News and Tristan Ahtone created false implications from undisclosed facts, leading their readers to believe that I committed acts of sexual harassment.

102. I did not “continue contacting [my] accuser by email well into February 2018.” I asked the NCAI Executive Director to communicate with my colleague and received my colleague’s consent to send one email in an attempt to reconcile. High Country News mischaracterizes the contents of that email through selective misquoting, distorting and misrepresenting the words, taking them out of context so that the meaning changed. In fact, my email was an effort to reconcile with a colleague. See Exhibit KK.

103. The NCAI office was not subject to my “frequent outbursts.” I live in Oregon and visited DC several times a year, usually in hotels for NCAI conferences or federal government meetings.

104. High Country News and Tristan Ahtone interviewed a small group of discontented former NCAI employees, but failed to contact me, or any NCAI employee who might have differing views, violating fundamental principles of ethical journalism and demonstrating a reckless disregard for the truth.

Continuing Damages as NCAI Withholds Findings of Quarles & Brady Independent Investigation

105. In the same timeframe as these events, Lewis and Clark Law School suspended my employment as an adjunct professor. I was disinvited from a conference at the University of Montana Law School where I was scheduled to present my pending law review article. I was also disinvited from a scheduled legal update at the Affiliated Tribes of Northwest Indians Annual Meeting.

106. On October 20, 2018, the NCAI Executive Committee placed Ms. Pata on suspension while investigating her management of employee matters. The Executive Committee

initiated an independent investigation at this time, The independent investigation was performed by the firm Quarles & Brady LLP. Quarles & Brady did not contact or interview me.

107. On October 23, 2019, Indianz.com published “National Congress of American Indians opens annual convention amid controversy.” The article quotes NCAI President Keel making a public statement to the Annual Meeting of the National Congress of American Indians. “NCAI doesn't condone harassment of any kind in the workplace, nor have we, nor will we, tolerate it anymore,” Keel said. “We will take action when it occurs in the future just like we did in the situation at hand.” This statement by NCAI President Keel, in direct reference to me, falsely claims that sexual harassment occurred “in the situation at hand,” and is contrary to NCAI’s own internal investigations. The statement was made to the largest annual gathering of tribal leaders and advocates in the nation, causing great harm to my reputation.

108. On February 19, 2019, Ms. Pata resigned from NCAI.

109. On February 20, 2019, Indianz.com published an article about Ms. Pata’s resignation, with Ms. Hallingstad prominently quoted: ““This is fantastic news,” Hallingstad, who is also a citizen of the Tlingit and Haida Tribes, told Indianz.Com.” The article repeated the false and defamatory allegations against me.

110. On February 21, 2019, NCAI and Indian Country Today published its own article about the resignation of Ms. Pata. The second sentence is: “The resignation came in the wake of allegations of sexual misconduct by former lead counsel and attorney for the National Congress of American Indians, John Dossett.”

111. As recently as March 8, 2019, NCAI continued to defame me. On that date, NCAI’s President Keel sent a letter to the NCAI membership stating: “It is critical to note that the allegations regarding sexually inappropriate behavior were against former employees and the most recent was alleged to have occurred in 2016. In other words, the audit found, no current employee had been accused of sexually inappropriate behavior.” Because I’m the only NCAI employee to be publicly accused, the implication of this statement is that the NCAI working

environment is safe because NCAI has fired me. This statement was also published on the internet by NCAI, on its wholly owned news site, Indian Country Today on March 13, 2019.

112. NCAI's March 8, 2019 statement also offered the results of the independent investigation by the firm Quarles & Brady LLP. "While there were many rumors, this outside firm found no facts to support the rumors." This statement suggests that NCAI is withholding a second investigative report that found there were no facts to support the false rumors about me, while simultaneously publishing those false rumors on the internet where they are often the first result of any Google search of my name.

113. On May 28, 2019, Indian Country Today published an article titled, "#MeToo in Indian Country; 'We don't talk about this enough'" that again repeats the false rumors: "In August 2018, the National Congress of American Indians was roiled by its poor handling of charges of sexual harassment against staff attorney John Dossett. Women employees complained of leadership's lack of response to repeated claims of harassment."

114. The March 28, 2019 article ends with a statement about how NCAI did not respond to Indian Country Today's request for the Quarles and Brady report. NCAI knew that its own in-house news site was writing another article to further defame me with unfounded allegations of sexual harassment, and yet refused to release the results of an independent investigation that found no facts to support the false rumors of sexual harassment. These actions are unconscionable and constitute premeditated malice.

115. I have never sexually harassed anyone at NCAI or elsewhere. I am not a predator. The Indianz.com, NCAI/Indian Country Today and High Country News statements and articles represent a chain of false allegations based in office politics, wrongful disclosure of confidential information, and bad faith in NCAI following its own policies and procedures.

116. The false allegations promoted by NCAI, Indianz.com and High Country News not only resulted in the loss of my job, but also the destruction of my reputation, career, and future opportunities. I had a job that I loved that gave me a sense of purpose, and I derived

enormous satisfaction from collaborative work with tribal leaders and advocates, and the sense of collective accomplishment when we worked together and achieved our goals.

117. The false allegations continue to reside on the internet, instantly searchable, and form a barrier to any future employment in any field.

118. The false allegations have inflicted continuing emotional distress. My career had been marked by widespread collaboration with others, and the loss of relationships has been very difficult. I have extreme difficulty sleeping as a result of the stress and anxiety caused by the publications and have received sleep therapy treatment and medication.

119. To date, in the middle of a nationwide #MeToo Movement of women coming forward to make public statements about their experiences with sexual harassment, not one person has come forward publicly to credibly accuse me of sexual harassment.

PURSUANT TO 28 U.S.C. § 1756, I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATED: November 26th, 2019.

By: /s/ John H. Dossett
John H. Dossett

CERTIFICATE OF SERVICE

I hereby certify that on the 26th day of November, 2019, I electronically filed the foregoing DECLARATION OF JOHN H. DOSSETT IN OPPOSITION TO DEFENDANT HIGH COUNTRY NEWS' SPECIAL MOTION TO STRIKE AND MOTION TO DISMISS, DEFENDANT HO-CHUNK, INC'S MOTION TO DISMISS AND MOTION TO STRIKE, AND DEFENDANT THE NATIONAL CONGRESS OF AMERICAN INDIANS OF THE UNITED STATES AND ALASKA'S MOTION TO DISMISS AND SPECIAL MOTION TO STRIKE with the Clerk of the Court using the CM/ECF system, which will send notification of this filing to the attorneys of record and to all registered participants.

/s/ B. Scott Whipple

B. Scott Whipple, OSB #983750