Case No. 22-2271

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

DEAN S. SENECA,

Plaintiff- Appellant

V.

GREAT LAKES INTER_TRIBAL COUNCIL, INC.,

Defendant- Appellee

U.S.C.A. – 7th Circuit
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Appeal from the United States District Court
for the Western District of Wisconsin
Case No. 21-cv-204-wmc
District Judge William M. Conley

RESPONSE BRIEF OF PLAINTIFF-APPELLANT
DEAN S. SENECA

GLITC
DOES NOT POSSESS SOVEREIGN IMMUNITY
THEY ARE NOT A "TRIBAL NATION"

Mr. Dean S. Seneca, MPH, MCURP, plaintiff, respectfully summits this brief in response to the Defendant Brief that Great Lakes Inter-Tribal Council (GLITC) actually possess sovereign immunity. Mr. Seneca is a person of great integrity, with high standards, morals, and ethics, who has been severally wronged by GLITC and is seeking justice.

Statement of the Plaintiff for Legal Council

Filing pro se Mr. Seneca would like to remind the parties that a motioned for an appointment of legal counsel on August 25, 2022, was denied by the court. That the panel assigned to decide this case may recruit counsel if it finds that it is appropriate after reviewing the briefs. Also Mr. Seneca would like to inform the court that he has been actively seeking legal counsel for this matter and has been unable to find anyone that is admitted to the 7th circuit. So, Mr. Seneca, (I) graciously apologize to the court if briefs and filings are not amenable to the procedures of the court. I am trying my very best. I kindly ask the court for some forgiveness and leniency.

STATEMENT OF THE ISSUES

There are two issues on appeal:

1. Whether GLITC, a nonprofit organization incorporated under the laws of the "State" of Wisconsin is an entity entitled to tribal sovereign immunity; and,

2. Whether GLITC meets the definition of "Indian tribe" under the definition provided by the Bureau of Indian Affairs. An Indian tribe recognized by the United States government usually possesses tribal sovereignty, a "dependent sovereign nation" status with the Federal Government that is similar to that of a state in some situations, and that of a nation in others. Depending on the historic circumstances of recognition, the degree of self-government and sovereignty varies somewhat from one tribal nation to another. Whether GLITC meets this definition would make them subject to suit in federal court and subject to civil rights laws of the United States.

We are requesting the 7th Circuit Court to please answer these two questions appropriately and you will determine that GLITC does not possess sovereign immunity. I

understand the courts are trying to do good by protecting Tribal Nation interest, and the plaintiffs supports tribal nations, but they are doing more harm than good when this is right is extended to other entities beyond our Tribal Nations. Congress has authority to waive both tribal sovereign immunity and the federal government's immunity as trustee for the tribes in federal and state courts, *McCarran Amendment.* The plaintiff firmly believes that Indian Tribes have the right to immunity. The courts need to update its decisions in support of Tribes over Tribal Organizations. They are simply not the same.

ORAL ARGUEMENTS

The plaintiff believes that Oral Arguments are appropriate for this Case.

RESPONSE TO SUMMARY OF THE ARGUEMENT

In the defendant's response they like to mix match things and like to convolute, conflict, and confuse the issues. They often apply case law incorrectly to the issues and apply different meanings in it cited case law for Indian Tribes vs Tribal Organizations. We kindly ask to the court to weigh the case law correctly because as the Appellee has indicated (pg. 17) each case deals with different facts. Also, many of these cases are timeworn and do not meet social policy standards with today's Tribal issues. If you are not familiar with Tribal Law, this can easily become confusing.

The court must deny tribal sovereign immunity to GLITC. If the mother ship, the National Congress of American Indians (NCAI), the oldest, largest, and most representative of American Indian/Alaska Native Tribal Governments does not have sovereign immunity, then neither can their subordinate organizations of which GLITC is a member. *Dante Desiderio v. National Congress of America Indians, Case No. 2022 CA 002830 B, Superior Court of the*

District of Columbia. NCAI often represents many of the non-profits throughout the country including GLITC where board members of GLITC also serve on the board of NCAI. GLITC is a consortium of federally recognized Tribes which is incorporated under Wisconsin Law as a 501 c3 non-profit and thus must be bound by those very same "State and Federal" laws. This court must support this argument. Tribes have been permitted to retain their sovereign status subject to the federal government's (court) authority to revoke, limit or otherwise modify tribal immunity at its discretion.

If GLITC were incorporated under Tribal Law, that maybe a different arrangement but that not the case. GLITC has had since 1964 to change its charter to properly protect itself and for the very same reason it hasn't, proves that the 11 Wisconsin Tribes never intended to grant sovereign immunity to GLITC. At the very least, a tribal resolution should be provided by each of the 11 Wisconsin tribes granting sovereign immunity to GLITC (Cohen's Book of Federal Indian Law). Again, to date, this has never been done and further proves that the 11 Wisconsin tribes never intended to grant sovereign immunity to GLITC. Immunity can only be granted by the sovereign entities who hold that right. There are tribal protocols in place for Tribal Nations when extending their sovereign status to other entities. None of this tribal protocol has been implemented. If one tribe chooses to opt out, then no sovereign immunity can exist for GLITC.

Second, GLITC is not an Indian Tribe or a Tribal Nation. GLITC is not a federally recognized tribe and is not on the Department of Interiors list of federally recognized tribes. So, the case law used in reference to Indian Tribes should be excluded by the defendant in their argument that GLITC is considered an Indian Tribe. Most, if not all of the case law that the defendant uses in its argument is within this scenario of a single tribe, who develops a corporation(s) under tribal law, the plaintiff agrees, immunity exist. The plaintiff fully agrees that Indian Tribes are sovereign entities, and a corporate entity created under a "single Indian

Tribe" is entitled to the same immunity as the individual tribe itself. But GLITC is not a single Indian Tribe and does not have a commercial corporate structure. Please show the court the reservation land GLITC owns, the revenue it generates, the businesses it operates, its tribal membership and the language they speak.

Also, GLITC is not a tribal corporate, business, or economic enterprise. GLITC does not raise revenue or contribute to each Indian tribes' financial assets. The defendant refers throughout their argument to the fact that GLITC does not produce revenue (pg. 11). Actually, if GLITC did not exist, the economic security of the 11 Wisconsin tribes would not be altered. Also, this leads to the fact that GLITC is not a "true arm" of the Tribe. Immunity must only be granted by a true arm of the Tribe. Citing the Supreme Court's 1992 decision in County of *Yakima v. Confederated Tribes and Bands of Yakima Indian Nation*, the state court had reasoned that an Indian tribe's claim of sovereign immunity did not bar courts from exercising jurisdiction to settle disputes over real property.

A point to be made in the United States Supreme Court's decision in *Yellen v. Confederated Tribes of Chehalis Reservation* 141 S. Ct. 2434 (2021), in which the Court held that Alaska Native regional and village corporations ("ANCs") were not themselves federally recognized, since they were not "Indian tribes" under the statutory definition, they were nevertheless eligible for relief under the CARES Act. Id. at 2452. Importantly, the *Yellen* Court did not recognize them as tribal entities thus implied, they do not retain tribal sovereign immunity, even know their corporate arms function to serve tribal members. In *Yellen,* Chief Justice Sonia Sotomayor made it clear that Alaska Native Tribes were eligible to receive CARES ACT money due the definition of Alaska Natives in the Indian Self-Determination and Assistance Act, but it was clearly explained that ANCs are not Tribal Nations which implied do not possess sovereign immunity. Just like GLITC. Sotomayor went on further to state, this

"does not open the door to other Indian groups that have not been federally recognized becoming Indian tribes under ISDA." Moreover, even with respect to the ANCs, Sotomayor stressed that the result did not make the ANCs "Indian tribes" for the purposes of other statutes with different definitions. Also, the NCAI brief indicated, "corporations are not "Tribal governments," and the district court's decision allowing them to access CARES Act funds reserved for sovereign, federally recognized Indian tribes wreaks havoc with the fundamental tenets of federal Indian law protecting the dignity of Indian tribes as governments." As stated in Cohen's Handbook of Federal Indian Law, it is the native villages that retain the power of self-government.

In *Aleman v. Chugach Support Servs., Inc.* a three-judge panel said the same protections did not extend to a different federal law that bars discrimination on the basis of race or national origin. The court said *Chugach Alaska, an Alaska Native regional corporation*, doesn't fall in the same category as tribal governments. Judge J. Harvie Wilkinson wrote in the 19-page opinion. "While the sovereign immunity of Indian tribes is a necessary corollary to Indian sovereignty and self-governance, Alaska Native Corporations and their subsidiaries are not comparable sovereign entities." Just like GLITC. The court reinstate the claims of the first plaintiff because the exemption for Alaska Native Corporations from suit under Title VII does not immunize the defendants from suit under the separate and independent cause of action established by Section 1981. Section 1981 functions to "protect the equal right of 'all persons within the jurisdiction of the United States' to 'make and enforce contracts' without respect to race. *Domino's Pizza. Inc. V. McDonald. 546 U.S. 470, 474 (2006) (quoting 42 U.S.C.I 1981(a)).*

Again, the Appellee is trying to confuse things when they point out cases like *Stifel, Wells Fargo, Barker, Local N-302, Alabama, Allen, Ninigret, and Hagen* which are cases where there is one Tribal Government entity, and one business corporation that was formed under *tribal*

law and plaintiff fully agrees in these instances that immunity exist. But the appellee would like to mislead the court and indicate that tribal sovereign immunity extends to these cases because they were created by more than one federally recognized tribe. This is incorrect. If you take a good look at these cases, they don't apply to GLITC, and they essentially support the plaintiffs position.

GLITC does not pass the balancing test as laid out in *McNally*

After having used the *McNally* case in several instances to support their position that GLITC holds sovereign immunity, now the appellee has taken a reversal that this case is erroneous and irrelevant. Is it because that the factors in the McNally case weight heavily that GLITC does not pass the balancing test laid out for determining whether sovereign immunity applies? The appellee tries to make a case that GLITC does not involve the same facts as McNally (pg. 17). Well, if that is the circumstance, every case that is listed in this suit deals with different facts and unique situations. Thus, *McNally's* multi-factor analysis has meaningful bearing on GLITC sovereign immunity. The fact that GLITC does not meet the overall standard review of many of the nine criteria, specifically the fact they were created under state law, does deprive GLITC of tribal sovereign immunity.

In *McNally CPAs and Consulting v. DJ Host, Inc.*, 2004 WI App 221, ¶ 12, 277 Wis. 2d 801, 692 N.W.2d 347, the Wisconsin Court of Appeals considered *nine* factors to answer the narrow question of whether tribal sovereign immunity applies when an Indian tribe purchases all shares of an existing, for-profit corporation, then assumes its operations. Not one court, administrative judge, state, or federal court has weighed all 9 factors equally in its decision regarding McNally. I respectively ask the 7th circuit court to weigh each factor independently and you will find that GLITC does not pass the test.

The question of whether a corporation, formed under state laws and controlled by a compact of sovereign tribes, enjoys sovereign immunity is not one that has been addressed by this court. It is not a matter of dispute that 'arms' of a tribe share the same sovereign immunity afforded their parent tribe (one Indian tribe, one corporation), but the question as to whether an entity is an 'arm' of a parent tribe is one open to dispute and litigation. Under the scenario of 'one tribe, that forms a corporation(s), under tribal law;' well yes, then tribal sovereign immunity would apply. But multiple tribes under the cloak of one corporation; there is no comprehendible means in which immunity can exist. Which Indian tribe claims 'an arm of the tribe' today? How do you measure the services equally to each of the eleven Indian Tribes, where they can justly claim GLITC is a true 'arm of *their tribe*?' Also, given the number of tribal stakeholders in GLITC, arguably any stakeholder could object and claim sovereign immunity if a complaint were brought against it by a fellow stakeholder or by GLITC.

Littered throughout the decisions and briefs on this matter you will see appeals to persuasive authority from other jurisdictions regarding the question as to whether an entity is an 'arm' of a tribe. Currently there are no clear definitions as to what constitutes an 'arm of a/the Tribe,' and GLITC is an organization that employs many non-Indians that work on and off Tribal lands (reservations). Given that the application of the generalized balancing test in *McNally* is a question of law, the Plaintiff does ask that this matter be reviewed *de novo*.

The *McNally* Court did then establish a 'nonexclusive' list of factors to be considered, namely:

> "(1) Whether the corporation is organized under the tribe's laws or constitution;
>
> (2) Whether the corporation's purposes are similar to or serve those of the tribal government;
>
> (3) Whether the corporation's governing body is comprised mainly or solely of tribal officials;

(4) Whether the tribe's governing body has the power to dismiss corporate officers;

(5) Whether the corporate entity generates its own revenue;

(6) Whether a suit against the corporation will affect the tribe's fiscal resources;

(7) Whether the corporation has the power to bind or obligate the funds of the tribe;

(8) Whether the corporation was established to enhance the health, education, or welfare of tribe members, a function traditionally shouldered by tribal governments; and

(9) Whether the corporation is analogous to a tribal governmental agency or instead more like a commercial enterprise instituted for the purpose of generating profits for its private owners." *McNally* at para 12.

The administrative court did briefly address these factors, but it is the plaintiff's contention that this analysis was severely flawed and incomplete. The Western District Court of Wisconsin didn't address any factors and ignored the case totally. Other administrative courts (Labor and Industry Review Commission) relied heavily upon factor 8 while giving little weight to factors 1, 4, 5, 6, 7 and 9. Which if they did you would find that GLITC fails the test miserably. Functionally these factors boil down into three categories: tribal purpose, control, and liability. The plaintiff is not contesting that the health and welfare aspects of GLITC advance tribal purposes (although the portions of GLITC's work that impact and involve non-Indians and travel outside of tribal lands do mitigate these factors). The plaintiff does highly contest that GLITC is organized under a tribe's law, is tribally controlled, whether is earns its own revenue, whether a suit will damage the 11 Tribes fiscal resources, and whether the organization can bind the Tribes resources. Namely, the lack of a single tribe controlling GLITC complicates its governance and venue (a factor to be addressed below). In this instance, organizing under Wisconsin law should be considered a prima-facie waiver of sovereign immunity. It shows a clear and unambiguous submission of GLITC to the laws of the State of Wisconsin, including to all relevant anti-discrimination laws and civil rights laws.

Well, as indicated GLITC has had ample time to reorganize under a one of their member tribes' laws or constitution (1965). In doing so, this would put some guarantee toward sovereign immunity. The simple fact they "have not" speaks to the fact that the member tribes have not, nor would ever, grant GLITC sovereign immunity. McNally, number 2, the corporation's purpose is not similar to those of Tribal Governments or serve those of the tribal constituency. Their original purpose of GLITC was to provide a means by which member tribes could unite against the threat of termination. Today their purpose is intertribal unity to gain leverage in dealing with federal, state, and local government outside forces. Actually, in many of the services GLITC attempts to provide are duplicative and meaningless since they are already being provided by the 11 Tribal governments themselves. McNally, number 4, the tribe's governing body does not have the power to dismiss corporate officers. First off, this would never be done. Second there is not a procedural means in the GLITC bylaws where members can be removed. This basically does not exist. McNally, number 5, simply GLITC does not generate its own revenue. GLITC is not a business or an enterprise (which most, if not all the case law the appellee uses is in reference in this case). This organization is primarily funded by federal grants and thus should be bound by federal Equal Employment Laws. McNally, number 6, a review of the bylaws will show that the member tribes created a buffer to make sure their fiscal resources are protected by any suit against GLITC. McNally, number 7, again referring to the bylaws, GLITC does not have any power to bind or obligate the funds of its member Tribes. McNally, number 9, GLITC was established to fight the termination policies of the federal government. The mission of GLITC has evolved to enhance the health, education, or welfare of tribal populations, which includes Urban populations that are not located on Tribal lands but in the cities of Green Bay, Milwaukee, and Madison. This is a serious fact that the court must consider. This is a population GLITC serves that is outside the boundaries of Indian Tribes.

McNally, number 9, simply put GLITC is not a Tribal government, nor a commercial enterprise instituted for the purpose of generating profits for its private owners. The fact GLITC main funding source is federal grants totally negates this point. Finally, in this review, the plaintiff believes dispositively, tribal liability weighs heavily against extending sovereign immunity to GLITC.

It is important to note, that there is precedent for considering tribal liability to be the most important factor of the *McNally* balancing test. The *McNally* Court itself was "particularly persuaded by the fact that, when a tribe purchases stock in an existing corporation, the tribe can choose to limit its risk to its investment in the stock." *Id.* At para 13. In short, the dispositive factor in that case was the use of *DJ Host's* corporate structure under state law to limit the liability to the controlling tribe.

The plaintiff kindly asks this Court to adopt the standard laid out in *Runyan v. Assn. of Village Council Presidents*, 84 P.3d 437 (Alaska 2004). *Runyan* identifies an entity to be protected by sovereign immunity as "a subdivision of tribal government or a corporation attached to a tribe may be so closely allied with and dependent upon the tribe that it is effectively an arm of the tribe. It is then actually a part of the tribe per se, and, thus, clothed with tribal immunity." In determining this relationship "The entity's financial relationship with the tribe is therefore of paramount importance if a judgment against it will not reach the tribes assets or if it lacks the power to bind or obligate the funds of the [tribe], it is unlikely that the tribe is the real party in interest. If, on the other hand, the tribe would be legally responsible for the entity's obligations, it is a true an arm of the tribe. In such a case, factors relating to how much control the tribe exerts or whether the entity's work is commercial or governmental, may assist in the determination." In short, when choosing how to weigh the nine *McNally* factors, this Court

should look first at the financial impact of a suit on the constituent tribes. Here, where the corporate structure would wholly shield the actual tribes themselves from liability, the eleven constituent tribes of GLITC are not actual parties in interest. As such this Court need not look to the other *McNally* factors which should be treated as more informative than dispositive.

In choosing to avail themselves of the protections inherent to incorporating under Wisconsin law, namely protecting the tribes themselves from suit in state or federal court, either via waiver or congressional authorization, the tribes have voluntarily distanced themselves from GLITC. This is not a choice that was forced upon them. They chose to avail themselves of the benefit of state law and in doing so, they should be bound by those laws.

The Seventh Circuit has not established a specific test or set of factors to consider when deciding whether an organization is entitled to tribal sovereign immunity. J.L. Ward. 842 F. Supp. 2d at 1173. In J.L. Ward, however, this Court—looking to decisions like *Wright v. Prairie Chicken.* 579 N.W.2d 7 (S.D. 1998), *Gavle Vs. Little Six. Inc.,* 555 N.W.2d 284 (Minn. 1996), and *Breakthrough Management Group. Inc. v. Chukchansi Gold Casino & Resort,* 629 F.3d 1173 (10th Cir. 2010)— used a multi-factor test to decide whether a nonprofit corporation created by sixteen tribes enjoyed sovereign immunity. *J.L. Ward,* 842 F. Supp. 2d at 1171-77. The non-exhaustive factors this Court considered were: (1) the entity's method of creation; (2) the entity's purpose; (3) the entity's structure, ownership, and management, including the level of tribal control; (4) the tribe's intent to extend its sovereign immunity to the entity; (5) the financial relationship between the tribe and the entity; and (6) whether the purposes of tribal sovereign immunity are served by granting immunity to the entity. Id. at 1176. Courts have referred to these factors as the "subordinate economic entity analysis" id at 1173 (cleaned up and citation omitted), or the "arm-of-the-tribe" test, *Williams v. Big Picture Loans, LLC*, .929 F.3d 170,177 (4th Cir. 2019). Formation under tribal law favors sovereign immunity, while incorporation

under state law can preclude an entity from sharing in a tribe's immunity, *Somerlott v. Cherokee Nation Distribs.*, 686 F.3d 1144, 1149-50 (10th Cir. 2012).

Sovereign immunity protects a tribe and any related subordinate governmental and commercial entities that are considered to be a true "arm of the tribe." When you fairly weight the factors, when you look at all the evidence, the true results are overwhelmingly against GLITC. The United States Supreme Court has not set forth guidance under federal law as to the question of what constitutes an arm of the tribe.

Again, the appellee tries to twist the facts regarding this case by mentioning Tribal Colleges that are incorporated under state law that were granted tribal sovereign immunity. Well in many of these cases they are not considered a true arm of the tribe. And these Tribal colleges, educational institutions, specifically formed under state laws in order to prevent them from being subjected to Indian tribal politics.

If GLITC Had Sovereign Immunity, That Immunity Has Been Waived when it accepted Federal Money.

The plaintiff further argues that GLITC waived its immunity regarding federal antidiscrimination laws by accepting money from the Federal Government. Every contract, cooperative agreement or grant with the U.S. Department of Health and Human Services ("HHS") requires the recipient, as a condition of receiving the money, to agree to abide by federal antidiscrimination laws such as Title VI of Civil Rights Law of 1964 42 U.S.C. §2000 et seq. ("Title VI"). Title VI is implemented through the regulations found at 45 Code of Federal Regulations ("C.F.R.") Part 80. 45 C.F.R. §80.1. Title VI and the regulations apply to any entity that accepts federal money through an HHS contract or grant. 45 C.F.R. §80.2. Discrimination based on race, color or national origin in employment practices is prohibited. 45 C.F.R. §80.3(c).

As a condition of receiving the money, the receiving entity agrees to allow a complaint to be filed against it for, *inter alia*, engaging in prohibited employment practices; to allow an investigation of the complaint; to have a hearing to resolve the complaint; and to allow judicial review of decisions. 45 C.F.R. §§80.7-11. Retaliation is prohibited 45 C.F.R. 80.7(e). One way to resolve a complaint is through any applicable proceeding under Federal, State or local law. 45 C.F.R. §80.8(a)(2).

Most importantly, the entity receiving the money knowingly and expressly agrees to abide by the federal antidiscrimination laws. The recipient of federal money must provide assurances, at the time of contracting and on an annual basis for the duration of the contract, that the entity is in full compliance with federal antidiscrimination laws. 45 C.F.R. §80.4. "Any such assurance shall include provisions which give the United States a right to seek its judicial enforcement." *Id.* Every HHS contract contains a form clause and checklist (collectively, "HHS Form") for the recipient to provide the written assurances of compliance to HHS. In agreeing to comply literally allows GLITC to be sued in federal court.

In the present matter, GLITC waived its sovereign immunity with regard to federal civil rights laws prohibiting discrimination in the workplace by accepting these grants and cooperative agreements. GLITC was under no obligation to accept this money, instead proactively seeking out these grants and affirmatively agreeing to be bound by the terms of said grants.

The appellee presents that the eight circuit in *Dillon* has rejected the argument that holding of federal funds does not waive tribal sovereign immunity when coupled with the requirement that the recipient comply with federal civil rights laws:

> In its agreement with HUD, the contract signed by the Authority specifically provides that "[a]n Indian Housing Authority established pursuant to tribal law shall comply with applicable civil rights requirements, as set forth in Title 24 of the Code of Federal Regulations." There is no provision in these regulations, however, mandating a waiver of sovereign immunity when a tribal housing authority enters into an agreement with HUD.

> Because the Authority did not explicitly waive its sovereign immunity, we lack jurisdiction to hear this dispute.

Again, the housing authority was a corporation created by a single tribe, the Yankton Sioux Tribe, under the laws of the tribal government. Thus, the plaintiffs agrees that sovereign immunity would exist. This does not apply to GLITC. GLITC is an entity created under state and federal laws, not tribal laws, thus civil rights laws do apply. This is especially true in *Santa Clara Pueblo v. Martinez* where the Supreme Court held the 1968 Indian Civil Rights Act did not waive sovereign immunity of the tribal governments in federal court suits against tribes for violations of the Act or against the United States as trustee for tribes.

Tribes organizing corporations received a charter from the Bureau of Indian Affairs. "Virtually all of the corporate charters contain a 'sue and be sued' clause, waiving at least some of the immunity that the corporation enjoyed as part of the tribal entity." *Merrion v. Jicarilla Apache Tribe, 617 F.2d 537 (10th Cir. 1980), aff'd on other grounds, 455 U.S. 130 (1982).*

Due Process Demands A Process

While GLITC has band together to form an 'arm' of the tribe, it is important to note that by doing so the tribes may run afoul of the Fifth and Fourteenth Amendments to the United States Constitution. Applying sovereign immunity under these circumstances amounts to a violation of the due process clause. Specifically, since a majority of GLITC employees are non-Indian, the Fifth and Fourteenth Amendments must apply to those citizens and thus the entire GLITC organization. You simply cannot grant sovereign immunity to a nonprofit incorporated under state law where most, if not all, the employees (violators) are non-Indian. Indian Tribes cannot prosecute non-members of their tribe and their jurisdiction is limited to those within their tribal boundaries (Cohens Book of Federal Indian Law). So, it is imperative as citizens of the United States that Indian tribes abide by the provisions of the Fifth and Fourteenth Amendments

of the United States Constitution. Since non-Indians cannot be protected or prosecuted under tribal laws, then where are they accountable, if not by the states or federal government in which they work? Now it is the undeniable responsibility of the federal government or the federal courts to assume jurisdiction for civil and criminal matters when it pertains to Tribal non-profit organization like GLITC. It is the intention of immunity to protect Indian tribes and Tribal members.

Due process requires there to be *some* process. By claiming sovereign immunity, the respondent is positioning itself as a quasi-state actor. The plaintiff would argue that the 14th Amendment applies not only the State of Wisconsin in ensuring the plaintiff's right to due process, but also to GLITC as an entity made up of non-Indian US citizens.

Public Law 280 (18 U.S.C. § 1162, 28 U.S.C. § 1360, and 25 U.S.C. §§ 1321–1326) is a federal statute enacted in 1953. It enabled states to assume criminal, as well as civil, jurisdiction in matters involving Indians as litigants on reservation land. Public Law 280 grants civil jurisdiction in matters such as this to the State of Wisconsin. The Western District never addressed this question!

The Attorney General of the State of Wisconsin has recognized that, under Public Law 280, the jurisdiction of the State of Wisconsin extends to its civil laws of general application. 70 Op. Att'y Gen 237 (1981). There can be no doubt that the civil rights laws of Wisconsin are enforceable here under authority granted to state by Public Law 280. The civil right laws represent major public policy of Wisconsin.

It should be noted that Public Law 280 does not grant states any authority to regulate civil activities in Indian country through P.L. 280. *Bryan v. Itasca County*, 426 U.S. 373 (1976) (no authority under P.L. 280 to tax personal property of tribal member). In repudiating these

attempts to regulate Indian Country, the *Bryan* Court stated that it "was not the Congress's intention to extend to the States the 'full panoply of civil regulatory powers,' but essentially to afford Indians a judicial forum to resolve disputes among themselves and with non-Indians." *Id.* A tribal agency does not exist with expertise to adequately investigate, administer, and enforce applicable civil rights violations, including those violations arising under federal and state EEO law. GLITC has, in fact, demonstrated that it refuses to investigate and enforce the policies articulated by the very same civil rights laws.

State ex. rel. Dept. of Human Services v. Jojola, 660 P.2d 590,593 (New Mex. 1983), cert. denied, 464 U.S. 803 (1983). No law or policy concern exists that is more compelling than the protection of the civil rights of American citizens. The Federal Government is required to show deference to activities having a nexus to tribal lands when the activities constitute an egregious violation of a person's civil rights. The plaintiff has made many arguments to state a claim under which relief can be granted.

Even the United Nations has the International Court of Justice. This main body of the UN settles legal disputes submitted to it in accordance with international law. Where is the court of justice for GLITC. That is why the Federal Government must intervene, so members and employees have a means of "due process" fifth and fourteenth amendments of the US Constitution.

The Plaintiffs Claim

The plaintiffs has repeatedly stated a claim of a relief over and over throughout this brief. That GLITC is not an Indian Tribe and should not be afforded the right of an Indian Tribe.

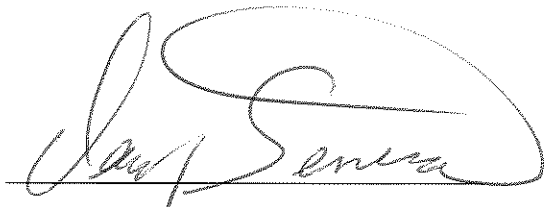
GLITC is a nonprofit incorporated under state laws and should have to abide by those laws. This alone makes them in violation of Title VII, the ADA, GINA and the ADEA.

CONCLUSION

In reviewing this matter, the plaintiff asks that this Court to review and understand Tribal protocols when granting immunity and that *McNally* weighs heavily against a finding of sovereign immunity for GLITC. Given the due process concerns detailed in this request, it seems appropriate to consider the multi-tribal nature of GLITC and weigh that against it. Also, accepting money but intentionally not abiding by the contractual agreements (civil rights laws), is a intended waiver of sovereign immunity. Finally, the plaintiff is requesting that it find that such immunity was waived due to GLITC's actions or otherwise voided by the Fifth and Fourteenth Amendment. The plaintiff seeks compensatory relief from GLITC for a plethora of civil rights

This court has jurisdiction over this matter pursuant to 28 U.S.C. 1331

Dated this 22 day of December, 2022



(Signature of Plaintiff)