

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA

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|----------------------------|---|-------------------------------|
| Kristin Ann Tix, |) | |
| n/k/a Kristin Ann McGowan, |) | |
| |) | Case No. 24-cv-1824-KMM-ECW |
| Plaintiff, |) | |
| |) | REPLY MEMORANDUM IN |
| v. |) | SUPPORT OF PLAINTIFF'S |
| |) | MOTION FOR SUMMARY |
| |) | JUDGMENT |
| Robert William Tix, |) | |
| |) | |
| Defendant. |) | |
| |) | |

Defendant's arguments address tangential issues but ultimately miss the mark on the questions before this Court, and Plaintiff's motion for summary judgment should be granted.

I. This Court's Jurisdiction is Not Found Under 28 U.S.C. § 2201

Defendant's analysis of 28 U.S.C. § 2201 revolves around the Court's exercise of jurisdiction, not its ability to issue the injunctive relief sought. Specifically, Defendant argues a pending parallel state law claim deprives this Court of jurisdiction. Def. Mem. at 4 (citing *Lexington Ins. Co. v. Integrity Land Title Co., Inc.*, 721 F.3d 958, 968 (8th Cir. 2013)). However, Plaintiff is not using 28 U.S.C. § 2201 to invoke federal jurisdiction, as was the case in *Lexington*, 721 F.3d at 967 (discussing a district court's discretion to abstain from exercising jurisdiction under the Declaratory Judgment Act). Plaintiff has invoked this Court's jurisdiction under 28 U.S.C. § 1331 and the case law cited

in Paragraph 3 of the Complaint.¹ The six part test, given significant discussion in Defendant's opposition and set out both in *Lexington* (721 F.3d at 967) and in *Scottsdale Ins. Co. v. Detco Industries, Inc.*, 426 F.3d 994, 998 (8th Cir. 2005) as cited by Defendant, analyzes a district court's discretion to exercise jurisdiction when there is no parallel state action pending. *Lexington*, 721 F.3d at 967; *Scottsdale*, 426 F.3d at 999 ("Accordingly, we conclude that the Fourth Circuit's six-factor test should be applied by the district court in determining whether to exercise jurisdiction over a declaratory judgment action.") This has no bearing on the matter at hand here.

As articulated in Plaintiff's other briefing, the United States Supreme Court has held that, in order for federal courts to rule on the limits of a tribal court's jurisdiction, the remedies available to the parties *in the tribal court system* must be exhausted first. *Nat'l Farmers Union Ins. Cos. v. Crow Tribe of Indians*, 471 U.S. 845, 857, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985). There is no requirement to exhaust state court remedies, nor could there be. Plaintiff has exhausted the remedies available in the tribal court system and has laid

¹ Paragraph 3 of the Complaint states in its entirety: This court has jurisdiction to determine whether a tribal court has exceeded the lawful limits of its jurisdiction pursuant to 28 U.S.C. § 1331, federal question jurisdiction and this court's inherent equitable powers. Whether a tribal court has adjudicative authority over nonmembers is a federal question. *Plains Commerce Bank v. Long Family Land & Cattle Co.*, 554 U.S. 316, 324, 128 S. Ct. 2709, 2716 (2008); *Iowa Mut. Ins. Co. v. LaPlante*, 480 U.S. 9, 15, 107 S. Ct. 971, 94 L. Ed. 2d 10 (1987); *National Union [sic] Ins. Cos. v. Crow Tribe*, 471 U.S. 845, 852-853, 105 S. Ct. 2447, 85 L. Ed. 2d 818 (1985).

those exhaustion efforts before the Court to demonstrate that jurisdiction under the cases laid out in Paragraph 3 of the Complaint permit this Court to exercise jurisdiction. Plaintiff did not analyze this Court's jurisdiction under 28 U.S.C. § 2201 because she does not need to. 28 U.S.C. § 2201 is not discussed in *Montana* or *National Farmers*. See generally *Montana v. United States*, 450 U.S. 544, 101 S.Ct. 1245, 67 L.Ed.2d 493 (1981) and *Nat'l Farmers*, 471 U.S. 845, 105 S.Ct. 2447, 85 L.Ed.2d 818 (1985). The analysis of jurisdiction under 28 U.S.C. § 2201 put forth by Defendant is not a question before this Court.

The additional issues raised in Defendant's Opposition were addressed in Plaintiff's opening brief and her Opposition to Defendant's Motion to Dismiss and will not be repeated here.

CONCLUSION

For the above-stated reasons, and moreover those articulated in Plaintiff's other briefing, Plaintiff respectfully requests that the Court deny Defendant's Motion to Dismiss and grant her Motion for Summary Judgment.

Respectfully submitted,

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