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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO DIVISION

FEDERATED INDIANS OF GRATON RANCHERIA,

Plaintiff,

v.

UNITED STATES DEPARTMENT OF THE INTERIOR, et al.,

Defendants.

Case No. 3:24-cv-08582-RFL

[Related to Case No. 3:25-cv-03850-RFL]

KOI NATION OF NORTHERN CALIFORNIA'S MOTION TO STAY FURTHER PROCEEDINGS PENDING APPEAL

Hearing Date: October 7, 2025
Hearing Time: 10:00 a.m.
Judge: Honorable Rita F. Lin

NOTICE OF MOTION AND MOTION

PLEASE TAKE NOTICE that on October 7, 2025 at 10:00 a.m. or as soon thereafter the matter may be heard, in the Courtroom of The Honorable Rita F. Lin, Courtroom 15, 450 Golden Gate Ave., San Francisco, CA 94102, the Koi Nation of Northern California will and hereby does move to stay further proceedings in this case pending resolution of Koi Nation's appeal from the Court's Order granting Koi Nation's motion to intervene but denying its motion to dismiss this action for failure to join an indispensable party, Dkt. No. 127.

Koi Nation seeks to stay further proceedings pending issuance of the Ninth Circuit's mandate in Koi Nation's interlocutory appeal, *see* Dkt. No. 128, because that appeal divests this Court of jurisdiction to proceed with this action until the appeal is resolved. Alternatively, Koi Nation requests that this Court exercise its discretion to stay further proceedings in this action pending issuance of the Ninth Circuit's mandate in Koi Nation's interlocutory appeal.

This Motion to Stay Further Proceedings Pending Appeal is filed under Federal Rule of Civil Procedure 7(b) and Local Rule 7-2 and is based on this Notice of Motion and Motion, the following Memorandum of Points and Authorities, the attached Declaration of Chairman Darin Beltran ("Beltran Decl."), the filings and records in this action, and any other matters that may be presented to this Court in support of this Motion.

In so moving, Koi Nation expressly does not waive, and instead reserves in full, its sovereign immunity from unconsented suit. Beltran Decl. ¶¶ 3–4. Nothing in this motion shall be construed as a waiver, in whole or in part, of Koi Nation's immunity, or as Koi Nation's consent to be sued, and the legal counsel for Koi Nation, undersigned, lack authority to waive Koi Nation's immunity or consent to the jurisdiction of this Court. *Id.* ¶ 4.

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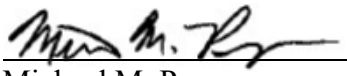
Plaintiff opposes this Motion. Defendants take no position.

Dated: July 24, 2025

Respectfully submitted,

HUESTON HENNIGAN LLP

By: 

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MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

This lawsuit is designed to divest Koi Nation of Northern California of the sovereign and economic rights it acquired on January 13, 2025, after a decades-long battle to be restored to federal recognition and have its land taken into trust by the federal government for gaming, furthering the Tribe's sovereignty and self-determination. Accordingly, Koi Nation moved to intervene in this action and seek its dismissal on sovereign immunity grounds. *See* Dkt. Nos. 81, 81-1. The Court granted Koi Nation's motion to intervene but denied its motion to dismiss on July 18, 2025, Dkt. No. 127 ("Order"), and Koi Nation filed a notice of appeal the next business day—July 21, 2025, Dkt. No. 128. Koi Nation now requests that the Court stay this action pending resolution of the Tribe's appeal.[1] A stay is warranted for either of two reasons. First, Koi Nation's filing of its notice of appeal divests this Court of jurisdiction to proceed with summary judgment because that would finally adjudicate Koi Nation's substantial rights, serving as the functional equivalent of trial in this action for declaratory and injunctive relief. *See Pyrodyne Corp. v. Pyrotronics Corp.*, 847 F.2d 1398, 1403 (9th Cir. 1988) (permissible interlocutory appeal divests district court of jurisdiction to "finally adjudicate substantial rights involved in the appeal"); *Chuman v. Wright*, 960 F.2d 104, 105 (9th Cir. 1992) (permissible interlocutory appeal "divests the district court of jurisdiction to proceed with trial"). Second, even if this Court retains jurisdiction, it should exercise its discretion to enter a stay to protect Koi Nation's sovereign interests. *See Landis v. N. Amer. Co.*, 299 U.S. 248, 254–55 (1936).

II. ARGUMENT

A. The Court Lacks Jurisdiction to Proceed with This Action Until Koi Nation's Appeal Is Resolved

Under the collateral order doctrine, Koi Nation has a right to pursue an interlocutory appeal from this Court's order denying the Tribe's motion to dismiss this action on sovereign immunity

[1] Because the hearing on the parties' cross-motions for summary judgment is scheduled for just two business days from the date of this noticed motion, Koi Nation does not seek to stay that hearing. Koi Nation instead requests that the Court defer ruling on summary judgment for the reasons set forth herein. Although Koi Nation does not now waive its sovereign immunity, depending on the outcome of its appeal, the Tribe may thereafter seek leave to be heard before this Court enters final judgment.

grounds. The Ninth Circuit has "recognize[d] that the district court's denial of a motion to dismiss on grounds of sovereign immunity *is* immediately appealable under the collateral order doctrine." *Alto v. Black*, 738 F.3d 1111, 1130 (9th Cir. 2013) (explaining that where a tribe has been granted intervention under Rule 19, but its motion to dismiss is denied, the latter order can be immediately appealed). The Circuit has applied that rule in the specific context of tribal sovereign immunity: "when an adverse decision is rendered denying tribal sovereign immunity as a complete defense to proceeding with the litigation," the ruling "is a collateral order which may be reviewed on an interlocutory basis." *See Burlington N. & Santa Fe Ry. Co. v. Vaughn*, 509 F.3d 1085, 1089 (9th Cir. 2007); *see also Terenkian v. Republic of Iraq*, 694 F.3d 1122, 1130 (9th Cir. 2012) (order denying motion to dismiss based on Foreign Sovereign Immunities Act "was immediately appealable"); *Doe v. Holy See*, 557 F.3d 1066, 1074 (9th Cir. 2009) ("A district court's denial of immunity to a foreign sovereign is an appealable order under the collateral order doctrine."). Koi Nation has now exercised its right to interlocutory appeal.

The "general rule in all cases . . . is that an appeal suspends the power of the court below to proceed further in the cause." *Hovey v. McDonald*, 109 U.S. 150, 157 (1883). The rule permits district courts "to preserve the status quo while the case is pending in the appellate court" but strips district courts of jurisdiction to "finally adjudicate substantial rights involved in the appeal." *Pyrodyne*, 847 F.2d at 1403; *see also Newton v. Consolidated Gas Co. of N.Y.*, 258 U.S. 165, 177 (1922) ("Undoubtedly, after appeal the trial court may, if the purposes of Justice require, preserve the status quo until decision by the appellate court. But it may not finally adjudicate substantial rights directly involved in the appeal." (citations omitted)). Entry of a new order that "materially affect[s] substantial rights of the parties" beyond what was decided in the order on appeal "require[s] a change from the status quo," not its "maintenance." *McClatchy Newspapers v. Central Valley Typographical Union No. 46, Int'l Typographical Union*, 686 F.2d 731, 735 (9th Cir. 1982). And if a lower court exceeds its jurisdiction by entering an order that finally adjudicates substantial rights involved in the appeal, the order is "null and void." *In re Padilla*, 222 F.3d 1184, 1190 (9th Cir. 2000). The lower court may only proceed in such circumstances if it first certifies that the interlocutory appeal is "frivolous or forfeited." *Chuman*, 960 F.2d at 105.

Consistent with these principles, when an interlocutory appeal challenges a district court order refusing to dismiss an action on immunity grounds, the appeal "relates to the entire action" and "divests the district court of jurisdiction to proceed with any part of the action" that pertains to the appellant. *Stewart v. Donges*, 915 F.2d 572, 576 (10th Cir. 1990). That logic flows from the concept of immunity. Immunity precludes suit altogether, functioning as a "quasi-jurisdictional affirmative defense" that deprives a court of "subject-matter jurisdiction." *Grondal v. United States*, 37 F.4th 610, 617 (9th Cir. 2022). That is why sovereign immunity is a "threshold jurisdictional issue[]." *Donovan v. Vance*, 70 F.4th 1167, 1172 (9th Cir. 2023) (citation omitted); *Deschutes River All. v. Portland Gen. Elec. Co.*, 1 F.4th 1153, 1158 (9th Cir. 2021). Until a "threshold immunity question is resolved," courts should not even permit discovery. *Harlow v. Fitzgerald*, 457 U.S. 800, 818 (1982); *see also Hunter v. Bryant*, 502 U.S. 224, 227 (1991) (Supreme Court "repeatedly ha[s] stressed the importance of resolving immunity questions at the earliest possible stage in litigation"). "Permitting [a] case to proceed through discovery" while a party pursues an interlocutory immunity appeal "would undermine the fundamental privilege of immunity from suit." *WhatsApp Inc. v. NSO Grp. Techs. Ltd.*, 491 F. Supp. 3d 584, 595–96 (N.D. Cal. 2020).

It follows that district courts lack jurisdiction to adjudicate summary judgment motions while immunity is litigated on appeal. *Walker v. City of Orem*, 451 F.3d 1139, 1145–47 (10th Cir. 2006); *see also, e.g.*, *Capps v. Dixon*, 2024 WL 340842, at *18–21 (D.N.J. Jan. 30, 2024) (district court raised jurisdictional defect sua sponte and concluded that it lacked jurisdiction to grant summary judgment during pendency of interlocutory immunity appeal); *Mille Lacs Band of Ojibwe v. Cnty. of Mille Lacs, Minn.*, 2021 WL 1400069, at *3 (D. Minn. Apr. 14, 2021) (even though "factual and legal issues" raised by parties' cross-motions for summary judgment were "largely distinct" from immunity defense, "to exercise jurisdiction over the pending motions would violate the very rights asserted on appeal"). Resolving the merits by adjudicating summary judgment would "finally adjudicate substantial rights involved in the appeal," *Pyrodyne*, 847 F.2d at 1403, by destroying the immune party's right to preclude suit altogether. Far from "preserv[ing] the status quo during the pendency of an appeal," a decision granting or denying summary judgment would "drastically change[] the status quo." *Padilla*, 222 F.3d at 1190. Such a decision would proceed all the way to

final judgment before the appellate court determines whether the threshold issue of immunity deprived the district court of subject matter jurisdiction from the outset.

The principle that a district court may not decide summary judgment while an appellate court adjudicates immunity is particularly salient in this case. Because the operative complaints seek only declaratory and injunctive relief, *see* Dkt. Nos. 67-3 and 77, there will be no trial. *See Alvarado v. Cajun Operating Co.*, 588 F.3d 1261, 1270 (9th Cir. 2009) ("no right to a jury exists for equitable claims"). Absent immunity, summary judgment is the whole game, serving as the functional equivalent of trial. And the Ninth Circuit has held that trial may not go forward while a litigant pursues a non-frivolous interlocutory appeal from the denial of an immunity defense. *Chuman*, 960 F.2d at 105. The filing of the notice of appeal automatically "divests the district court of jurisdiction to proceed with trial." *Id.* Even when trial proceedings "may be significantly disrupted and delayed, the district court has no jurisdiction to proceed with trial while [a party] appeal[s] the sovereign immunity issue to the Ninth Circuit." *In re Cathode Ray Tube Antitrust Litig.*, 2020 WL 13303644, at *2 (N.D. Cal. Feb. 4, 2020) (citation and quotation marks omitted).

That rule, too, flows from the fact that immunity precludes trial. "An appeal, including an interlocutory appeal, 'divests the district court of its control over those aspects of the case involved in the appeal,'" *Coinbase, Inc. v. Bielski*, 599 U.S. 736, 740 (2023) (quoting *Griggs v. Provident Consumer Discount Co.*, 459 U.S. 56, 58 (1982)), and when a party seeks an immunity ruling, the determination of "[w]hether there shall be a trial is precisely the aspect[] of the case involved in the appeal," *Apostol v. Gallion*, 870 F.2d 1335, 1338 (7th Cir. 1989) (citation and quotation marks omitted). Just as a district court is divested of jurisdiction to proceed with trial while an immunity appeal is pending, *Chuman*, 960 F.2d at 105, this Court is divested of jurisdiction to adjudicate the parties' cross-motions for summary judgment until Koi Nation's immunity appeal is resolved. Entering summary judgment on the merits before the Ninth Circuit determines whether Koi Nation's sovereign immunity precludes adjudication of those merits would "destroy[] rights created by the immunity." *Apostol*, 870 F.2d at 1338. Any ruling on summary judgment must be postponed until after the Ninth Circuit's mandate returns jurisdiction to this Court.

B. Even if This Court Retained Jurisdiction, It Should Exercise Its Discretion to Stay Proceedings Pending Resolution of Koi Nation's Appeal

Assuming arguendo that this Court has jurisdiction to decide the parties' cross-motions for summary judgment while Koi Nation pursues its sovereign immunity appeal, the Court should exercise its discretion to stay further proceedings until the appeal is resolved.

"The District Court has broad discretion to stay proceedings as an incident to its power to control its own docket." *Clinton v. Jones*, 520 U.S. 681, 706 (1997). That discretion affords a district court wide latitude "to control its docket and calendar and to provide for a just determination of the cases pending before it." *Leyva v. Certified Grocers of Cal., Ltd.*, 593 F.2d 857, 864 (9th Cir. 1979). A court may "find it is efficient for its own docket and the fairest course for the parties to enter a stay of an action before it." *Id.* at 863. The decision whether to grant such a stay "calls for the exercise of judgment, which must weigh competing interests and maintain an even balance." *Landis*, 299 U.S. at 254–55. "Those interests include: 'the possible damage which may result from the granting of a stay, the hardship or inequity which a party may suffer in being required to go forward, and the orderly course of justice measured in terms of the simplifying or complicating of issues, proof, and questions of law which could be expected to result from a stay.'" *Sarkar v. Garland*, 39 F.4th 611, 617–18 (9th Cir. 2022) (quoting *CMAX, Inc. v. Hall*, 300 F.2d 265, 268 (9th Cir. 1962)). The standard is thus one of flexible fairness and equity.[2]

Equity warrants a stay here. As this Court recognized in granting Koi Nation's motion to intervene, the challenged decision to take the Tribe's land into trust "confer[red] significant benefits, including tribal jurisdiction over the land, tax exemptions, land use protections, and rights to engage in Class I and Class II gaming," as well as "a pathway to pursue Class III gaming rights." Order at 7. "Those benefits are particularly salient in the case of Koi, which had been waiting for decades for land to be taken into trust on its behalf." *Id.* The land taken into trust is Koi Nation's only sovereign land after generations of displacement; the Tribe "has no other tribal lands over which it has

[2] This flexible standard governs stays of *proceedings* and is different from the more demanding standard governing stays of *judgments*. *See Nken v. Holder*, 556 U.S. 418, 422, 425–26 (2023); *see also Flores v. Bennett*, 675 F. Supp. 3d 1052, 1056–57 (E.D. Cal. 2023).

sovereignty and may apply its tribal laws." *Id.* "This lawsuit seeks to reverse that transaction, leaving Koi without tribal lands again." *Id.* Koi Nation was permitted to intervene in this action because it "'has a protected interest in the trust status of its land.'" *Id.* at 6 (quoting *Jamul Action Comm. v. Simermeyer*, 974 F.3d 984, 997 (9th Cir. 2020)).

Koi Nation continues to realize tangible benefits from maintaining its land in trust. The Tribe recently received a $147,879.26 tax refund from Sonoma County for the Shiloh Site property. Declaration of Chairman Darin Beltran ("Beltran Decl.") ¶ 6. In addition, the State of California recently agreed to commence negotiations for a Class III tribal-state gaming compact, and Koi Nation is planning to meet with the State in the first week or two of August. *Id.* ¶ 7. Meanwhile, Koi Nation's ability to farm the land—which predates and is not related to trust status—has proved to be increasingly unprofitable. Grape demand and prices have dropped substantially, and like many other grape growers in Sonoma County, Koi Nation has been unable to identify any buyer for its recent crop. *Id.* ¶ 8. The Tribe's grapes now risk rotting on the vine. *Id.* The Tribe cannot afford to maintain the Shiloh Site without future gaming revenue and has no ability to pull existing vines and turn to farming alternative crops if gaming rights are lost. Koi Nation thus has a substantial interest in continuing to pursue its gaming rights by developing its sovereign land, as anticipated in the Record of Decision and Decision Letter dated January 13, 2025, and in avoiding further economic losses in the event the land is divested of its tribal sovereign status.

Proceeding to final judgment before Koi Nation litigates its interlocutory appeal from the denial of its motion to dismiss risks destroying the Tribe's significant protected interests. A judgment in favor of the Federated Indians of Graton Rancheria (FIGR) would "divest [Koi Nation] of its sole tribal lands," extinguishing the "significant benefits" that were conferred upon Koi Nation when its land was taken into trust. *Id.* at 7. Likewise, proceeding before the resolution of Koi Nation's interlocutory appeal risks vitiating the Tribe's "sovereign immunity from suit." *Pit River Home & Agr. Co-op Ass'n v. United States*, 30 F.3d 1088, 1100 (9th Cir. 1994). Koi Nation's "interest in maintaining its sovereign immunity outweighs [FIGR's] interest in litigating its claim" generally, *id.* at 1102, and certainly outweighs any interest FIGR might have in litigating its claim before the Ninth Circuit has an opportunity to rule on Koi Nation's interlocutory appeal. That is especially so given

that the administrative record is complete, and there is no risk of loss of evidence or fading of witness memories pending resolution of Koi Nation's appeal. Koi Nation intends to confer with the parties and propose expediting its interlocutory appeal, further minimizing the possibility of any hardship either party might claim. The substantial prejudice Koi Nation would suffer if the Court were to bypass its sovereign immunity and proceed to final judgment substantially outweighs any possible prejudice to the parties that could result from a modest period of delay while Koi Nation exercises its appellate rights. The fair balance of any competing interests in this case, *see Landis*, 299 U.S. at 254–55, decidedly favors a stay.

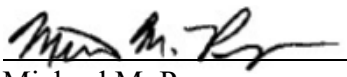
III. CONCLUSION

This Court lacks jurisdiction to rule on the parties' competing motions for summary judgment pending resolution of Koi Nation's interlocutory appeal, and even if this Court maintains jurisdiction, it should exercise its broad discretion to stay any further proceedings until Koi Nation's appeal is resolved.

Dated: July 24, 2025

Respectfully submitted,

HUESTON HENNIGAN LLP

By: 

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