

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

FEB 10 2025

MITCHELL R. ELFERS
CLERK

CALVIN LEE
CJ LEE & ASSOCIATES P.C.
8174 Las Vegas Blvd S Ste 105
Las Vegas, NV. 89123-1030
(505) 862-9837
Email: info@federalindianlawyer.com

Attorney for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

Joseph Mundo,
849 Goldcoast Dr.,
Deltona, Florida 32725,

Plaintiff,

v.

Case No.: 1:25-cv-000136

JUDGE JMR-KK

Shelby Vandever,
P.O. Box 1159,
Thoreau, NM 87323,

and,

Navajo Family Court,
Crownpoint,
Navajo Nation,

Defendants,
Jointly and Severally,

AMENDED

COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF

JURISDICTION AND VENUE

1. Federal Question Jurisdiction: This Court has jurisdiction pursuant to 28 U.S.C. § 1331
because Plaintiff's claims arise under federal law, specifically the federal common law

1
2 governing the extent of tribal jurisdiction, including the jurisdiction of the tribal courts,
3 and the *Ex parte Young* doctrine allowing injunctive relief to prevent tribal judges and
4 other tribal judicial officials from continuing to engage in actions in excess of tribal civil
5 jurisdiction.

6
7 2. Declaratory Judgment Jurisdiction: This Court has authority to issue a declaratory
8 judgment under 28 U.S.C. § 2201, determining the respective rights and obligations of the
9 parties under the federal common law governing civil tribal jurisdiction and the *Ex parte*
10 *Young* doctrine.

11
12 3. Injunctive Relief Against Tribal Officials: This Court has federal question jurisdiction
13 under *Ex parte Young*, 209 U.S. 123 (1908) to enjoin tribal court judges and officials from
14 continuing to exceed the tribe's civil jurisdiction in contravention of the federal common
15 law placing limits on the exercise of such jurisdiction over nonmembers of the tribe.

16
17 4. Venue: Venue is proper under 28 U.S.C. § 1391(b)(2) because substantial events giving
18 rise to these claims occurred in the District of New Mexico.

19
20 PARTIES

21 5. Plaintiff Joseph Mundo is a citizen of Florida, residing in Deltona, Florida. He is the
22 legal father of the two minor children under a valid Florida custody order, which has been
23 domesticated and registered in the Eleventh Judicial District Court, McKinley County,
24 New Mexico. He is not a member of the Navajo Nation.

25
26
27 6. Defendant Shelby Vandever is a citizen of New Mexico who has engaged in conduct
28 interfering with the enforcement of the Florida custody order.

1
2 7. The Navajo Family Court in Crownpoint, New Mexico, is a Navajo Nation tribal court,
3 whose judges and other officials are sued in their official capacities only for issuing orders
4 and taking actions in excess of the tribal court's jurisdiction in violation of the federal
5 common law that limits the exercise of tribal civil jurisdiction over nonmembers of the
6 tribe.
7

8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

FACTUAL ALLEGATIONS

8. On August 13, 2024, the Circuit Court of Orange County, Florida, entered a Final
Judgment of Paternity and Parenting Plan, awarding Plaintiff primary custody of his two
minor children. A copy of the Florida court's Final Judgment of Paternity and Parenting
Plan is attached hereto as Exhibit "A".

9. Under the Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA),
Florida has continuing, exclusive jurisdiction to determine parental custody and visitation
because Florida was the children's home state when the custody proceedings began.

10. On December 2, 2024, the Florida court order was domesticated and registered in the
Eleventh Judicial District Court, McKinley County, New Mexico.

11. This domesticated order must be enforced by the New Mexico state courts under the
Full Faith and Credit Clause and the Parental Kidnapping Prevention Act (PKPA), 28
U.S.C. § 1738A.

12. On November 20, 2020, the Navajo Family Court, Crownpoint District, entered an
Order dismissing a petition filed by Defendant Shelby Vandever for paternity, custody,
and support "with prejudice for lack of jurisdiction," held that the Florida custody

1
2 proceedings “shall govern,” and granted Plaintiff Joseph Mundo immediate temporary
3 custody of the Vandever’s and Mundo’s two minor children, A.I.M. (currently age 11) and
4 Y.P.M. (currently age 5). A copy of the Navajo Family Court’s May 12, 2020 Order is
5 attached hereto as Exhibit “B”.
6

7 13. On January 15, 2025, despite previously dismissing Vandever’s original custody
8 petition in 2020 for lack of jurisdiction, the Navajo Family Court in Crownpoint, NM,
9 improperly attempted to assert jurisdiction over Ms. Vandever’s renewed child custody
10 petition by re-scheduling a hearing on a domestic abuse petition for acts that allegedly
11 occurred outside the Nation’s territorial boundaries, for February 11, 2025.
12

13 14. The Navajo Family Court in Crownpoint, NM purported to base its jurisdictional claim
14 on false child abuse allegations leveled against Mr. Mundo by Ms. Vandever that had
15 already been investigated and deemed unsubstantiated by the New Mexico Children,
16 Youth and Families Department. Prior to this, the Navajo Family Court in Window Rock,
17 AZ dismissed the same petition for wrong venue. It is believed the Crownpoint court has
18 consolidated several actions including the abuse petition and two more custody petitions.
19
20

21 15. The Navajo Family Court lacks authority to modify the August 13, 2024 Florida
22 custody order because Florida has not relinquished jurisdiction, Mr. Mundo is not a
23 member of the tribe, Mr. Mundo has not consented to the jurisdiction of the tribal courts,
24 Congress has not granted jurisdiction to the tribal courts to adjudicate custody disputes
25 involving nonmembers of the tribe, and neither of the *Montana* exceptions to the federal
26 common law presumption against the exercise of tribal civil jurisdiction over nonmembers
27 applies, *see Montana v. United States*, 450 U.S. 544 (1981).
28

1
2 16. The two minor children have been subjected to emotional and psychological harm due
3 to continued litigation and interference by Defendants with enforcement of the Florida
4 custody order.

5
6 17. Plaintiff's custodial rights, as established by the Florida court order, are being
7 unlawfully denied due to the Navajo Family Court's continued unlawful assertion of
8 jurisdiction.

9
10
11
12 CAUSES OF ACTION
13

14 COUNT I – DECLARATORY JUDGMENT (28 U.S.C. § 2201)

15
16 (Seeking Affirmation of Florida Order's Validity and Tribal Court's Lack of Jurisdiction)

17
18 18. Plaintiff incorporates the allegations of Paragraphs 1 through 17 as if fully set forth
19 herein at length.

20
21 19. This matter presents an "actual controversy" within the jurisdiction of this Court
22 regarding the ability of the Navajo Nation Family Court to exercise jurisdiction over a
23 custody dispute involving a parent who is a nonmember of the tribe, where the nonmember
24 parent has not consented to the tribal court's jurisdiction to adjudicate custody and
25 Congress has not granted the tribal courts any jurisdiction to adjudicate custody disputes
26 involving a nonmember parent.

27
28 WHEREFORE Plaintiff seeks the entry of a declaratory judgment affirming that:

1
2 (a) The August 13, 2024 Final Judgment of Paternity and Parenting Plan issued by the
3 Florida court is valid and enforceable under the Full Faith and Credit Clause (Art. IV, § 1)
4 and the PKPA (28 U.S.C. § 1738A) and has been domesticated and registered in the
5 appropriate New Mexico state court;

6
7 (b) The Defendant Navajo Family Court lacks jurisdiction over Defendant Vandever's
8 renewed child custody petition, and its actions in scheduling a hearing on such petition are
9 in excess of the tribal court's lawful civil jurisdiction under federal common law
10 principles;

11
12 (c) Defendant Vandever must comply with the Florida court order, as enforced by the New
13 Mexico state courts, and must immediately cease and desist in her efforts improperly to
14 use the Navajo Nation Family Court to circumvent her duty of compliance;

15
16 (d) Attorney's fees and costs solely against Defendant Vandever; and

17
18 (d) For such further relief as the Court may deem just and equitable.

19
20
21
22 COUNT II – INJUNCTIVE RELIEF UNDER EX PARTE YOUNG

23 (Against Navajo Family Court Judges and Officials for Exceeding Jurisdiction)

24
25 20. Plaintiff incorporates the allegations of Paragraphs 1 through 20 as if fully set forth
26 herein at length.

1
2 21. Under the *Ex parte Young* doctrine, this Court has authority to enjoin tribal court
3 judges and officials from taking actions and enforcing orders issued in violation of federal
4 common law principles placing limits on the exercise of tribal civil jurisdiction over
5 nonmembers.

6
7 22. The Navajo Family Court's assertion of jurisdiction over Defendant Vandever's
8 renewed child custody petition exceeds the tribal court's civil jurisdiction over
9 nonmembers as defined by applicable federal law and the *Montana* exceptions.

10
11 WHEREFORE Plaintiff seeks the entry of an injunctive order against the Navajo Nation
12 Family Court judges and officials:

13
14 (a) Prohibiting the judges and officials of the Navajo Nation Family Court from
15 proceeding with any further actions, custody hearings, and/or rulings contradicting
16 the Florida court's August 13, 2024 custody order;

17
18 (b) Prohibiting the judges and officials of the Navajo Nation Family Court from
19 proceeding with any further actions, custody hearings, and/or rulings interfering
20 with the New Mexico Eleventh Judicial District Court's enforcement of the Florida
21 court's August 13, 2024 custody order; and

22 (c) For such further relief as the Court may deem just and equitable.
23
24
25

26 JURY DEMAND
27
28

1
2 Plaintiff demands a jury trial on all triable issues under FRCP 38.

3
4 Respectfully submitted,

5 

6 Calvin Lee

7 Attorney for Plaintiff Joseph Mundo

8 8174 Las Vegas Blvd S. Ste 105

9 Las Vegas, NV 89123-1030

(505) 862-9837

(505) 213-0578 FAX

10 Email: info@federalindianlawyer.com

11 NM Bar No. 16874

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28