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IN THE SUPREME COURT OF THE STATE OF OKLAHOMA

Nathan Anderson, Ryan Herrod,)
 Wesley Montemayor, Leyahna Hicks,)
 Malinda Noon, Inda McGrit, Jason Sawyer,)
 Joyce Noon, Summer Barnes, Leeanna Tomah,)
 Individually and as elected officials of the)
 Thlopthlocco Tribal Town,)
 a federally-recognized Indian Tribe,)
 Petitioners,)

FILED
SUPREME COURT
STATE OF OKLAHOMA

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v.)
)
 THE HONORABLE LAWRENCE PARISH,)
 District Judge of Okfuskee County,)
 State of Oklahoma, and PLAINTIFFS holding)
 themselves out at Thlopthlocco Tribal Town,)
 a federally-recognized Indian Tribe)
 In CASE NO. CJ-2025-79 in the District Court)
 of Okfuskee County,)
 Respondents.)

No. 123548

REPLY TO RESPONSE OF REAL PARTY IN INTEREST THLOPTHLOCCO
TRIBAL TOWN HOLDOVER FACTION IN SUPPORT OF PETITION SPECIAL
APPEARANCE FOR LACK OF SUBJECT MATTER JURISDICTION AND WRIT
OF PROHIBITION

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COMES NOW, Jonathan Velie, 401 W. Main St., Ste. 300, Norman, Oklahoma 73069, attorney of record for Petitioners, and files this Response Brief in Support of Petition for Special Appearance for Lack of Subject Matter Jurisdiction and Writ of Prohibition.

ARGUMENT

Proposition I:

Verification is not required for a special appearance challenging court's jurisdiction.

The Oklahoma Pleading Code (12 O.S. § 2012) does not mandate verification (a sworn statement by the party or attorney attesting to the truth of the facts) for such a motion. Motions to dismiss are governed by general motion rules in District Court Rule 4 (12 O.S. Ch. 2, App.), which require only that the motion state its grounds and relief sought clearly. No affidavit or verification is specified for jurisdictional challenges. If facts outside the pleadings are needed (e.g., to resolve a factual dispute over jurisdiction), supporting affidavits may be attached, but the motion itself does not require verification. This aligns with notice pleading standards under 12 O.S. § 2008, where allegations need only be simple and concise—no sworn verification is needed unless a specific statute requires it.

Proposition II:

Verification is not required for Emergency Stay with Writ of Prohibition in the Oklahoma Supreme Court.

A writ of prohibition is an extraordinary remedy under Okla. Const. art. VII, § 4, seeking to prevent a lower court from exceeding its jurisdiction. It is filed as an original action in the Supreme Court via an application to assume original jurisdiction, petition for the writ,

brief in support, and appendix (Okla. Sup. Ct. R. 1.191). An emergency stay may be requested alongside it if irreparable harm is imminent, and the Court can issue a temporary stay pending review (Okla. Sup. Ct. R. 1.15; see also emergency provisions in R. 1.191 for ex parte consideration).

Supreme Court Rule 1.191 requires the petition to concisely state: (1) why jurisdiction should be assumed, (2) the relief sought, and (3) the facts entitling the petitioner to relief. There is no requirement for verification of the petition itself. Supporting evidence (e.g., certified copies of lower court orders) must be included in the appendix, but no sworn verification of the petition is mandated. This contrasts with habeas corpus petitions (which are often verified) or certain trial-level filings, but prohibition follows the general original jurisdiction rules without a verification mandate.

While not required, please see Affidavit of Nathan Anderson as Exhibit A. The purpose of the Affidavit is to:

1. Establish this matter is clearly an inter-tribal dispute and this Court has no jurisdiction to determine it.
2. Those claiming to be the Real Party of Interest are not the elected officials of TTT and are acting in violation of Thlophlocco Tribal Town's Constitution, the supreme law of TTT and a document Oklahoma Court's do not have the jurisdiction to interpret. He attaches the TTT Constitution as Exhibit 1.
3. The Anderson Administration has been recognized by the United States as the leadership of TTT. See Sam.gov documents as Exhibit 2. Federal Funding

determinations are the triggering actions that the US decides which group is the governing body *Cayuga Nation v. Campbell*, (34 N.Y.3d 45, 83 N.Y.S.3d 760) citing *Goodface v. Grassrope* (708 F.2d 335, 8th Cir. 1983), cited in related Cayuga litigation, which holds that the BIA must provisionally recognize a governing body during disputes "in its responsibility for carrying on government relations with the Tribe," particularly to ensure continuity of federal funding and programs.

Proposition III:

The purported real party in interest holdover officials have no authority to waive sovereign immunity and if they did Oklahoma Courts could not hear this matter.

Those claiming to be the Thlopthlocco Tribal Town are not the legitimate government and only the recognized government can waive immunity. The Anderson government has been recognized by the United States of America through the System for Award Management (SAM.gov) which is the trigger event that the US recognizes a Federally recognized Tribe under *Cayuga*. If this Court permits State Jurisdiction it will disrupt this federal process.

Moreover, no Tribe can waive sovereign immunity to determine this matter. In *First Bank & Trust v. Cheyenne & Arapaho Tribes* referenced above, the Ct of Appeals cited this Supreme Court when it stated unless Congress has expressly abrogated sovereign immunity or the evidence show a Tribe expressly waived its immunity, then the Tribe enjoys Sovereign Immunity, citing *Sheffer v. Buffalo Run Casino* 2013 OK 77.

But notwithstanding the sufficiency of the waiver as discussed above, *First Bank v. Cheyenne & Arapaho Tribes* holds that waivers of sovereign immunity cannot be waived for the Court to resolve an inter-tribal dispute.

In making its decision the Court used the Marzette three-part test.

1. Jurisdiction of the subject matter.
2. Jurisdiction of the parties and
3. Power to render a particular judgment and cites. *Read v. Read* 2002 OK 87, 57 P. 3d. 561 and *Marzette v. Marzette*. 1994 OK Civ App 88 882 P. 2d 578.

The First Bank Court found that the third Marzette element is compromised to the degree that subject matter jurisdiction does not exist and cannot exist here under the facts. The District Court cannot command the Tribes to decide the dispute because it does not have the authority to do so. *Id.* at 7.

Proposition IV:

The purported real party in interest holdover officials offer no case to support Oklahoma has jurisdiction over a trespass action.

The Holdover faction attempts to distinguish this is a trespass action and not an intertribal dispute. This is a distinction without a difference. First and foremost, Oklahoma Courts can't determine trespass on Tribal Trust property. Oklahoma Supreme Court case *Ahboah v. Housing Authority of the Kiowa Tribe of Indians*, 660 P.2d 1111 (Okla. 1983), the court held that state courts lack jurisdiction over eviction proceedings involving tribal citizens

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on restricted Indian allotments (land held in trust by the federal government for individual Indians or tribes). The case involved a forcible entry and detainer action (eviction) filed by a tribal housing authority against a tribal member residing on trust land. The court reasoned that such actions infringe on tribal self-governance and federal trust responsibilities, preempting state jurisdiction under federal Indian law principles, including the Indian Civil Rights Act and the non-intercourse policy protecting tribal lands from state interference. This ruling aligns with broader U.S. Supreme Court precedents like *Williams v. Lee*, 358 U.S. 217 (1959), which prohibits states from adjudicating disputes arising on tribal trust lands that threaten tribal sovereignty. Although decided before *McGirt v. Oklahoma* (591 U.S. 867, 2020) reaffirmed reservation status in eastern Oklahoma, *Ahboah* remains cited as controlling for trust land evictions, distinguishing them from fee lands where state jurisdiction may apply.

CONCLUSION

Therefore, Petitioners request immediate stay and permanent writ accordingly, along with such other and further relief as this Court deems just and proper.

Respectfully submitted,

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CERTIFICATE OF MAILING TO PARTIES

I certify that a true and correct copy of the Reply to Response of Real Party in Interest Thlopthlocco Tribal Town Holdover Faction in Support of Petition Special Appearance for Lack of Subject Matter Jurisdiction and Writ of Prohibition was mailed this 17th day of November, 2025, by depositing it in the U.S. Mail, postage prepaid or by electronic mail to:

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