

**Nelson/Friedel v. LRBOI Election Board****19119GC**

**Summary:** This case was heard by Judge Pro Tem Allie G. Maldonado. The case was filed as a dispute regarding the 2019 general election and the Election Board's decision to place seven (7) candidates on the ballot for two available seats in the Nine-County area because two of the candidates were tied.

The Plaintiffs were seeking an injunctive relief in the form of a stay; asking that the Election Board hold a run-off election to narrow the field from seven to six. The Plaintiffs cite Chapter 5, Section 7(L) of the Election Board regulations that require a runoff in the case of a tie.

**Decision:** The Court found that the Election Board Regulations require a runoff election for ties in the general election, not primary elections. Therefore, the Plaintiff's request for an injunction was denied.

**George Karl v. Little River Band Election Board****19133EB**

**Summary:** Plaintiff filed a complaint against the Election Board disputing a provision in their regulations, specifically Chapter 2, Section 3B. The Election Board stated "If you do not vote for two (2) consecutive Elections, you will be disqualified to vote..." The Plaintiff felt that regulation was denying a citizen their right to vote when they chose to do so.

The Defendant responded with the argument that the Plaintiff did not have standing to bring the complaint to the Court. The Plaintiff had to meet three elements to have standing: 1. Suffered a concrete injury; 2. The injury is fairly traceable to actions by the Defendant, and 3. It must be likely that the injury will be redressed by a favorable opinion.

**Decision:** The Court found the concern of the Plaintiff for other Tribal citizens honorable; but found the Plaintiff did not meet the elements of *Standing*. The case was dismissed.

**Jamie Friedel, Appellant v. Little River Band Election Board****19146AP**

**Summary:** On May 15, 2019, Mr. Friedel submitted a document that indicated he wanted to appeal the Trial Court's decision on case number: 19119GC. The Court of Appeals allowed him to file an amended notice of appeal as long as he properly formatted the request by using the directions in the LRBOI Tribal Court Rules.

**Decision:** The amended notice of appeal had to have been received by the Court by 3:00 p.m. on Friday, July 12, 2019 for further consideration by the Court of Appeals.

**Jamie Friedel, Appellant v. Little River Band Election Board 19146AP**

**Summary:** The Court of Appeals had given the Appellant, Mr. Friedel, 21-days to submit an amended notice of appeal that contained the required information and format. The Court did not receive an amended notice of appeal by the deadline as permitted in the *Order Allowing Amended Notice of Appeal*. Mr. Friedel did not contact the Court.

**Decision:** Mr. Friedel failed to submit the amended notice of appeal. The Court of Appeal dismissed the case.

**Cynthia Champagne v. Ethics Board and Little River Tribal Council 19237GC**

**Summary:** Plaintiff Champagne argued the Elected Officials Ethics Ordinance was unconstitutional. The Ethics Ordinance created a body that investigates and holds hearings on complaints of unethical conduct of elected officials. Plaintiff argues that the Constitution only allows for removal of a sitting Council member and that there are no other sanctions under the Constitution.

**Decision:** The Tribal Council cannot delegate power to a subordinate body that it is specifically tasked with in the Constitution. Article X of the Constitution sets forth the grounds for removal, including misconduct and malfeasance. There is no mention of any other sanction. This is the same for the Ogema.

**Cynthia Champagne v. LRBOI Ethics Board 19292EC**

The finding of the Ethics Ordinance as Unconstitutional in Case Number 19237GC reverses and dismisses this case.

**Shannon Crampton v. LRBOI Ethics Board 19218EC**

The finding of the Ethics Ordinance as Unconstitutional in Case Number 19237GC reverses and dismisses this case.

**Shannon Crampton v. LRBOI Ethics Board 19288EC**

The finding of the Ethics Ordinance as Unconstitutional in Case Number 19237GC reverses and dismisses this case.

**LITTLE RIVER BAND OF OTTAWA INDIANS  
TRIBAL COURT**

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PLAINTIFFS:  
NIKKI DORIS NELSON; JAMIE FRIEDEL

v.

DEFENDANT:  
LITTLE RIVER BAND OF OTTAWA  
INDIANS ELECTION BOARD

CASE NO. 19119GC  
HON. ALLIE G. MALDONADO  
(JUDGE PRO TEM)

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**ORDER OF THE COURT DENYING PLAINTIFFS' EX PARTE REQUEST  
FOR A STAY OF THE GENERAL ELECTION**

This case arises out of a dispute regarding the Election Board's decision to place seven candidates on the ballot for the 2019 general election for two available seats in the Nine-County Tribal Council area. The Plaintiffs requested that this Court issue injunctive relief in the form of a stay exclusively for the Nine-County Tribal Council election and order the Election Board to hold a runoff election to narrow the field from seven to six in the Nine-County general election. It is the Plaintiffs' assertion that Chapter 5, Section 7(L) of the Election Board's regulations requires a runoff in the case of a tie for the sixth candidate position in the primary election because there was a tie between Ms. Nikki Doris Nelson and Mr. Levi O. Stone. **The Court FINDS that the Election Board Regulations require a runoff election for ties in general elections, but not in the primary elections. Therefore, the Plaintiffs' request for an injunction is denied.**

## **FACTS**

The relevant facts in this case are not in dispute.

The Little River Band of Ottawa Indians (“LRBOI”) Election Board held a primary election on February 15, 2019 for the offices of the LRBOI Nine-County Tribal Council. The unofficial results written on a white board at the count showed six (6) candidates from the Nine-County office of Tribal Council moving on to the final, general election to be held on Friday, April 26, 2019. A few hours later, after a recount by machine, new unofficial results were posted by the Election Board on LRBOI government website. Those results showed a different result from the outcome on the white board, specifically, a tie between Ms. Nelson and Mr. Stone, each with 63 votes after the machine recount.

On February 18, 2019, Ms. Nelson filed a timely dispute alleging improprieties by the Election Board in the ballot count. The claims included alleged changes in the tentative counts, a possible incomplete ballot and a request for a hand count of the ballots. The Election Board denied the request for a hand count. However, the Election Board decided to allow Ms. Nikki Doris Nelson and Mr. Levi O. Stone, the two candidates who tied for sixth place, to both appear on the general election ballot.

On February 25, 2019 the primary results were certified by the Election Board. On March 6, 2019, Mr. Friedel attempted to file an election dispute alleging that the Election Board was not following their regulations by failing to have a runoff between tied candidates in a primary. The Election Board considered Mr. Freidel’s request an election challenge and rejected the dispute as untimely because it was not filed within five (5) days of the unofficial results or the official results.

The general election ballots were mailed at the end of March, 2019. The Nine-County Tribal Council election ballot has seven candidates competing for two spots, including both Plaintiffs. Plaintiffs filed a complaint with the Court requesting an emergency ex parte injunction of the Nine-County General Election on April 18, 2019. The Court provided proper notice to both parties and heard oral arguments on April 22, 2019.

## **JURISDICTION**

A question every Court must ask before hearing a case is whether the Court has jurisdiction to hear it. **The LRBOI Tribal Court FINDS that it has jurisdiction over this election case because the complaint looks to redress alleged violations of the laws of the LRBOI.**

In this case, the Election Board attorney on the record asserted that the Court’s jurisdiction to hear this matter was limited to allegations of impropriety. She offered this argument for two reasons. First, she suggested the LRBOI Constitution might limit the Court’s jurisdiction because it states the following in Article IX, Section 4:

“(c) Allegations of impropriety by the Election Board shall be settled by the Tribal Judiciary.”

Second, the Election Board regulations make the following assertion in Section 2, E. under the heading of Election Challenges:

“Final Decisions. The decision of the Election Board will be final.”

While the regulations seem to attempt to severely limit the Tribal Court’s jurisdiction over election cases, the Court does not read the Constitution to be as restraining. Article IX, Section 4 of the Constitution does not limit Tribal Court authority at all, but rather grants the Tribal Court authority to hear allegations of impropriety against the Election Board. That means that the Board is not allowed to be a self-regulating body or a body regulated by Tribal Council for matters of impropriety. However, that is not the end of the Tribal Court’s jurisdiction in election matters. Article IX, Section 4 must be read in conjunction with LRBOI Tribal Constitution, Section 8, Jurisdiction and Powers of the Tribal Court, p.8.

“The jurisdiction and judicial powers of the Little River Band of Ottawa Indians [Tribal Court] shall extend to all cases and matters in law and equity arising under the Tribal Constitution or under the laws and ordinances applicable to the Little River Band of Ottawa Indians. Such powers shall include, but are not limited to,

- (a) To adjudicate all civil and criminal matters arising within the territorial or membership-based jurisdiction of the Tribe.
- (b) To review ordinances and resolutions of the Tribal Council or General Membership to ensure that they are consistent with this Constitution and rule void those ordinances and resolutions deemed inconsistent with this Constitution...”

LRBOI Tribal Constitution, Section 8, Jurisdiction and Powers of the Tribal Court, p.8 [emphasis added].

The LRBOI Tribal Appellate Court has already found that this section in the Constitution gives the LRBOI Tribal Court broad power to hear election disputes. In the election case of *Tyler v. LRBOI Election Board*, 8-9 (2013) the LRBOI Appellate Court looked at a similar argument from the Election Board and found the following:

“...the argument of the Election Board goes too far in its assertion that there is no role for the Tribal courts when the Election Board adopts regulations which are not in conformity with the Constitution. There must be redress for procedures and standards that are unconstitutional. A good system of government checks and balances requires judicial review. Unconstitutional laws, procedures or standards must not be allowed to stand.”

This Court reads the Appellate Court to mean that a properly plead violation of the Constitution or the laws of the LRBOI's can be heard in this Court. Herein, the Plaintiffs are asking the Court to determine if the Election Board violated the Election Board Regulations. **The Court FINDS that if the Plaintiffs exhausted administrative remedies, it has jurisdiction to hear their complaint for the reasons discussed above. Furthermore, the Court strikes down as unconstitutional Election Board Regulation Section 2, E. under the heading of Election Challenges: "Final Decisions. The decision of the Election Board will be final."**

### **ADMINISTRATIVE REMEDIES**

The next question for the Court to examine is whether the Plaintiffs properly exhausted administrative remedies before filing their complaint in Tribal Court. CHAPTER 8., Section 1 of the LRBOI Election Regulations create the following administrative procedure that must be followed before a case can be heard by the LRBOI Tribal Court:

"A. "Election Dispute" means a dispute relating to the Election process. An Election Dispute is decided by the Election Board under the authority of the Tribal Constitution."

The regulations go on to state that an election dispute may be filed with the Election Board at any time during the election process. The Election Board may, in its discretion, treat an Election dispute that is filed late in the Election process as an Election challenge which must be filed within five (5) business days.

Section 2. of the LRBOI Election Regulations defines Election Challenges as follows:

"A. Election Challenge means a challenge to the results or outcome of an Election. An Election Challenge is decided by the Election Board under the authority of the Tribal Constitution."

The regulations make it clear that an election challenge must be filed to the Election Board within five (5) business days following the announcement of the unofficial election results.

Both Plaintiffs acknowledged on the record that their complaints were not filed with the Election Board within the five day time frame. However, the question still remains as to whether their concerns fall under an "election dispute" which can be filed at any point in the process or an "election challenge" which must be brought within five days of the unofficial results.

In *Crampton v. Sam*, the Court gave definition to the terms at issue here:

An "election challenge" is a direct challenge to the results or outcome of an election itself. The object of the challenge is to affect the outcome of the election...

An "election dispute" is any election dispute other than that which challenges the outcome of an election. The object of an election dispute is to affect how a tribal election is conducted as the election process moves forward."

*Tyler v. LRBOI Election Board*, 8-9 (2013) citing *Crampton v. Sam*, 98-200-02-01. 000846 at 4-5.

Without a doubt, this is an election dispute. It is uncertain whether the Plaintiffs request for a runoff would change the result. If the election is held with six finalists, or with seven, no one knows for certain whether the final two would change. It is certain that a runoff would change how the Tribal election is conducted moving forward. **Therefore, the Court FINDS that the Plaintiffs' request is an election dispute.**

As noted above, the regulations state that an election dispute may be filed at any time during the election process. However, the Election Board may, in its discretion, treat an election dispute that is filed late in the election process as an election challenge which must be filed within five (5) business days. This is a huge amount of discretion for the Election Board. While the Tribe has not issued an opinion on the amount of deference to an agency decision the Court must give, the United States Supreme Court has ruled that agencies are to be afforded broad deference by the courts. The doctrine is widely known as the Chevron deference rule. (*Chevron U.S.A. v. National Resources Defense Council, Inc.*, 476 U.S. 837 (1984), *See also Auer v. Robbins*, 519 U.S. 452 (1997)).<sup>1</sup>

Ms. Nelson never brought a complaint to the Election Board regarding the specific issue of the need for a runoff. Therefore, **the Court FINDS that her complaint is barred for failure to exhaust administrative remedies.**

Mr. Friedel attempted to file an election dispute alleging that the Election Board was not following their regulations by failing to have a runoff between tied candidates in a primary on March 6, 2019. The Election Board rejected the dispute as untimely because it was not filed within five (5) business days of the unofficial results or the official results. The Board used their discretion to determine that the filing was late enough in the process to categorize the filing as an election challenge. The Court views the language of the Election Board Regulations Chapter 8, Section 1, as easy to misunderstand and recommends amending the language by setting firm deadlines for substantive changes that would delay the election. Despite the potential for the confusion in the regulations, the Board's discretion is clear and they properly exercised it. **Therefore, the Court FINDS Mr. Friedel's complaint to the Election Board was late and therefore his request for an injunction must fail.**

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<sup>1</sup> The Chevron deference rule was recently challenged before the United States Supreme Court and the Court's decision is still pending in a case titled *Kisor v. Wilkie* (no citation available).

### **FAILURE TO PROVE A LIKELIHOOD OF SUCCESS**

Even if the Plaintiffs did file their complaints to the Election Board in a timely manner they still would not be eligible for an injunction because, based on the evidence they presented to the Court, they cannot prove a likelihood of success on the full merits.

The Plaintiffs asked this Court to enjoin the Nine-County Tribal Council general election to be held on Friday, April 26, 2019. The LRBOI Tribal Court of Appeals has adopted the following test in determining whether to grant a preliminary injunction or temporary restraining order:

The trial court must evaluate whether (1) the moving party made the required demonstration of irreparable harm, (2) the harm to the applicant absent such an injunction outweighs the harm it would cause to the adverse party, (3) the moving party showed that it is likely to prevail on the merits, and (4) there will be harm to the public interest if an injunction is issued.

*Ossignac v. Sam*, Case no. 09-012-AP, at 7-8 (2009) (vacating a temporary restraining order where the trial court did not utilize the four-factor test; *Tyler v. LRBOI Election Board*, Case No. 13-079-AP, at 3 (2013)(remanding the action to the trial court to apply the four factor test).

As specified in prong three of the LRBOI Appellate Court test, the moving party must establish a likelihood of success on the merits. *Crampton v. LRBOI Election Board*, Case No. 05-111-AP (2005). In *Crampton*, the Tribal Court of Appeals held that the fact the petitioner could not prove the substantial likelihood that she would prevail on the merits was detrimental to her request for an injunction. *Id.*, at 3 (upholding denial of an injunction to stop a Tribal special election until the plaintiff's name could be placed on the ballot). This was affirmed in the *Tyler* case where a preliminary injunction was denied when the plaintiff was not able to prove his claims would succeed on the merits. *Tyler*, at 21-22 (quoting *Crampton*).

In this case, the Plaintiffs are the moving party requesting the injunction. Therefore, it is their obligation to prove that there is a substantial likelihood that they would prevail on the merits.

The Plaintiffs first argument is that the following part of the Election Regulations do not allow more than three candidates to run for an open seat. What the regulations actually state is that at the outset of the Election, after the Board has verified the initial pool of candidates, if there are more than three candidates per seat, a primary is triggered. The Election Regulations, Chapter 5, Section 1 (A) read:

“Primary Election. Trigger for Primary Election during a Regular Election. A Primary Election shall take place only during a Regular Election.

For Tribal Ogema: A primary shall be held if the Election Board verifies there are more than two (2) Candidates for the office of Tribal Ogema. If there are only two (2) verified Candidates they will proceed to the Regular Election.



For all other offices: **If the Election Board verifies more than three Candidates for any open seat, then a primary shall be held. Primary Election applies only to a Regular Election.** [Emphasis added.]

The Plaintiffs read the highlighted part of the regulations to mean that there may only be three candidates per seat. In this case, placing seven people on the ballot for two seats means that more than three people are competing for one seat. But the Court must read more closely to get the true meaning of the regulations. "If the Election Board verifies more than three Candidates for any open seat, then a primary shall be held." [Emphasis added.] The section is referring to the process by which the Election Board initially, before the general election, look at how many candidates are running for a seat. If there are less than three candidates per open seat, the Election Board could skip the primary and move forward with the General Election. However, more than three candidates per seat "triggers" a primary. The Regulations do not state the purpose of the primary. Furthermore, there is no provision for a second primary. In addition, the Regulations do not state what happens if the Election Board comes across a tie in the primary, giving them discretion. Therefore, the Plaintiffs reading of this section is wrong.

The Plaintiffs seek a runoff election because they were tied for the sixth and seventh positions in the primary election. However, while the Election Regulations do grant a runoff for ties in the general election, it does not specifically grant a runoff election for the primary election. However, it is understandable that the Plaintiffs had this expectation when first reading the Regulations. Section 2 wherein the definitions for the statute lie, reads as follows:

HH. "Run-off Election" means the process by which Registered Voters vote for one Candidate following a Special Election or a Regular Election in the event of a tie in votes between two or more Candidates.

Again, the regular reader might assume that any tie triggers a runoff election. Yet, in order to properly interpret laws, laws must be read as a whole, not line-by-line. Therein, the Court must ask what is a "Special Election" and a "Regular Election" because the runoff only applies to these two types of elections. The regulations define a "Special Election" as accordingly:

"Special Election" means an Election used for filling a vacancy in an Elected Office, due to a removal or recalling an Elected Official, death, resignation, voting on initiatives, referendums or ties.

A primary does not fall into any of the above listed categories. Therefore, **the Court must FIND that a "Special Election" is not a primary.**

The analysis continues with the Court looking at the definition of "Regular Election":

"Regular Election" means an Election held during the month of April, every two years in odd number years."

The Regulations state this definition for "Regular Election" twice showing an intent to so limit it.<sup>2</sup> The General Election is the election that is held during the month of April, every two years in odd number years, not the primary. Therefore, **this Court FINDS that a primary is not also a "Regular Election" because primaries are not held in April every two years in odd number years.**

**CONCLUSION**

1. **The LRBOI Tribal Court FINDS that it has jurisdiction over this election case because the complaint looks to redress alleged violations of the laws of the LRBOI;**
2. **The Court strikes down as unconstitutional Election Board Regulation Section 2, E. under the heading of Election Challenges: "Final Decisions. The decision of the Election Board will be final;"**
3. **The Court FINDS that the Election Board Regulations require a runoff election for ties in general elections, but not in the primary elections;**
4. **The Court FINDS that the Plaintiffs' request is an election dispute;**
5. **The Court FINDS that Plaintiff Nelson's complaint is barred for failure to exhaust administrative remedies;**
6. **The Court FINDS Plaintiff Friedel's complaint to the Election Board was late and therefore his request for an injunction must fail;**
7. **The Court FINDS that a "Special Election" is not a primary;**
8. **Finally, the Court FINDS that a primary is not also a "Regular Election."**

Based on all of the facts, analysis and findings of the Court above, it is clear that Plaintiffs have not met their burdens. Ms. Nelson failed to exhaust administrative remedies. Mr. Friedel's complaint to the Election Board was late. The facts and law show that Plaintiffs are not likely to succeed on the merits. Therefore, the Plaintiffs' request for an injunction of the 2019 general election for two available seats in the Nine-County Tribal Council area is respectfully denied.

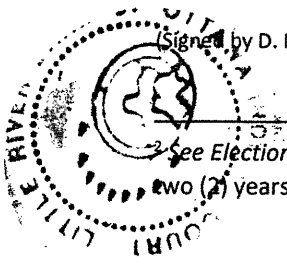
SO ORDERED:

Allie S. Maldonado  
Honorable Allie Maldonado – Judge Pro Tem

4-24-2019  
Date

(Signed by D. Miller/Court Admin. With Permission of Judge)

<sup>2</sup> See Election Board Regulations Chapter 5, Section 1 (B), "Regular Elections. There shall be a Regular Election every two (2) years on the last Friday of April, unless otherwise scheduled by the Election Board."



Little River Band of Ottawa Indians  
TRIBAL COURT  
3031 Domres Road  
Manistee Michigan 49660  
(231) 398-3406  
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GEORGE KARL,  
Plaintiff

V.

Case Number: 19133EB

LITTLE RIVER BAND OF OTTAWA INDIANS  
ELECTION BOARD,  
Defendants

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George Karl  
In Pro Per  
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Attorneys for Defendants:  
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At a session of said Court on May 20, 2019  
In the Reservation Boundaries of the  
Little River Band of Ottawa Indians,  
State of Michigan  
Present: Hon. Daniel Bailey

#### ORDER AFTER MOTION FOR TEMPORARY STAY

On May 1, 2019, the Plaintiff filed a Complaint against the Election Board regarding a provision in their regulations, specifically in Chapter 2, Section 3 B. It states "If you do not vote for two (2) consecutive Elections, you will be disqualified to vote..." and further "To be reinstated as a Voter you will have to sign up with a new Voters form that will need to be notarized". Plaintiff asked the Court to grant a temporary stay regarding that regulation saying it was unconstitutional under the Tribal Constitution and the National Voters Registration Act of 1993 to un-register someone for not voting in a particular election. Plaintiff adamantly states that no citizen should lose their right to vote.

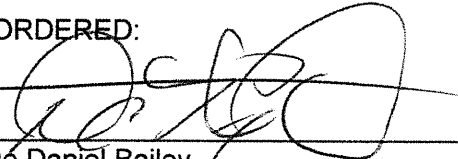
The Court could continue with the points and counter-points brought up in the Complaint and the Defendant's Response along with the testimony heard in the courtroom but because the Defendant's argued that the Plaintiff does not have standing to bring his complaint to the Court, that is the first thing to be decided.

To meet the qualifications of having **standing** in a court case, the party must meet these **three elements**: (1) the plaintiff has suffered a concrete injury; (2) that injury is fairly traceable to actions of the defendant; and (3) it must be likely—not merely speculative—that the injury will be redressed by a favorable decision.

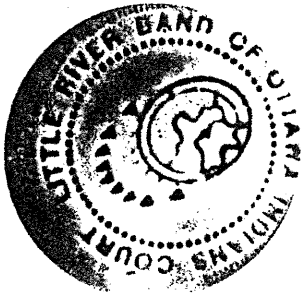
Although the Plaintiff's arguments and concern for the Tribal citizens is extremely honorable, the Court finds that he cannot meet any of the elements above at this time.

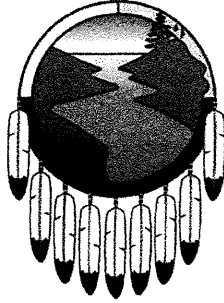
This case is dismissed.

SO ORDERED:

  
\_\_\_\_\_  
Judge Daniel Bailey

5/23/19  
Date





**Little River Band of Ottawa Indians  
Tribal Court of Appeals**

3031 Domres Road  
Manistee, Michigan 49660  
Phone: 231-398-3406 Fax: 231-398-3404  
Website: [lrboi-nsn.gov/government/tribal-judicial/tribal-court/](http://lrboi-nsn.gov/government/tribal-judicial/tribal-court/)

**JAMIE FRIEDEL,**  
Appellant/Plaintiff,

v.

**LITTLE RIVER BAND OF OTTAWA INDIANS  
ELECTION BOARD,**  
Appellees/Defendant.

Case Number: 19146AP

Hon. Melissa L. Pope, Chief Justice  
Hon. Berni Carlson, Associate Justice  
Hon. Joseph LaPorte, Associate Justice

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JAMIE L. FRIEDEL  
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**ORDER ALLOWING AMENDED NOTICE OF APPEAL**

On May 15, 2019, Jamie Friedel, Plaintiff in Trial Court Case No. 19119GC, submitted an untitled document that was addressed to "LRBOI Courts" with "Appeal of case 19119GC" following the salutation. The text of this one-page document indicates that Mr. Friedel wishes to appeal the Trial Court's holdings in the referenced case.

This document is not in the proper format nor does it contain the information required to appeal a Trial Court decision to this Court of Appeals. The requirements for matters before the Little River Band of Ottawa Indians Tribal Court can be found in the LRBOI Tribal Court Rules with matters before this Court of Appeals governed by *Chapter 5 – Court Rules of Appellate Procedure*.

Although the LRBOI Tribal Court Rules – including Chapter 5 – are available to the public through the Court's website, Mr. Friedel is not represented by an attorney. The Chief Justice, therefore, consulted with the other Court of Appeals Justices. By unanimous agreement, the Court of Appeals will allow Mr. Friedel to file an amended notice of appeal if the following requirements are met:

1. The amended notice of appeal must be properly formatted pursuant to Chapter 5 of the LRBOI Tribal Court Rules.
2. The amended notice of appeal must contain all information required by the LRBOI Tribal Court Rules, including as specified in Chapter 5.
3. The amended notice of appeal must address the authority under which Mr. Friedel makes his requests for relief, including his request for money damages. It should be noted that Mr. Friedel did not request a stay of the election, a stay of the Oath of Office Ceremony, or a stay of the Trial Court Order.
4. The amended notice of appeal must be received by the Court by 3:00 PM on Friday, July 12, 2019 for further consideration by this Court.

If the amended notice of appeal is filed as detailed in this *Order Allowing Amended Notice of Appeal*, and the Court of Appeals determines that an appeal in Trial Court Case No. 19119GC may proceed, the Chief Justice will issue an order and notice for appellate scheduling conference pursuant to the Court Rules of Appellate Procedure a minimum of fourteen (14) days in advance of the date set for the scheduling conference.

**IT IS HEREBY ORDERED:**

On behalf of the unanimous Court of Appeals,

*Melissa L. Pope*

\_\_\_\_\_  
Hon. Melissa L. Pope, Chief Justice

\_\_\_\_\_  
June 20, 2019  
Date





**Little River Band of Ottawa Indians  
Tribal Court of Appeals**

3031 Domres Road  
Manistee, Michigan 49660  
Phone: 231-398-3406 Fax: 231-398-3404  
Website: [lrboi-nsn.gov/government/tribal-judicial/tribal-court/](http://lrboi-nsn.gov/government/tribal-judicial/tribal-court/)

**JAMIE FRIEDEL,**  
Appellant/Plaintiff,

v.

**LITTLE RIVER BAND OF OTTAWA INDIANS  
ELECTION BOARD,**  
Appellees/Defendant.

Case Number: 19146AP

Hon. Melissa L. Pope, Chief Justice  
Hon. Berni Carlson, Associate Justice  
Hon. Joseph LaPorte, Associate Justice

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JAMIE L. FRIEDEL  
Appellant-Plaintiff In Pro Per  
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Attorney for the Appellee-Defendant  
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605-763-2015

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**ORDER DISMISSING APPEAL**

On May 15, 2019, Jamie Friedel, Plaintiff in Trial Court Case No. 19119GC, submitted a one-page, untitled document to the Court that did not comply in form or content with the Little River Band of Ottawa Indians Tribal Court Rules.

With Mr. Friedel not represented by counsel, the Chief Justice consulted with the Associate Justices. By unanimous agreement of the Court of Appeals, the Chief Justice issued the *Order Allowing Amended Notice of Appeal* on June 20, 2019, giving over twenty-one (21) days to Mr. Friedel to submit an amended notice of appeal that contained the required information, in the required format, as specified in *Chapter 5 – Court Rules of Appellate Procedure*, the governing Chapter of Court Rules. In addition, the Court ordered Mr. Friedel “to address the authority under which Mr. Friedel makes his requests for relief, including his request for money damages”.

The Court did not receive an amended notice of appeal by the deadline of 3:00 PM on Friday, July 12, 2019 as permitted in this Court’s *Order Allowing*

*Amended Notice of Appeal*. The Court also did not receive any other document from Mr. Friedel before the deadline or in the week following the deadline, nor did Mr. Friedel otherwise contact the Court.

With Mr. Friedel failing to submit an amended notice of appeal pursuant this Court's June 20, 2019 *Order Allowing Amended Notice of Appeal*, the Chief Justice now issues this *Order Dismissing Appeal*. This case is now closed.

**IT IS HEREBY ORDERED:**

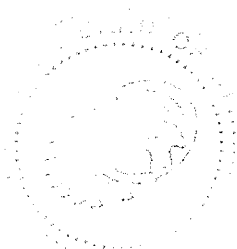
On behalf of the unanimous Court of Appeals,

*Melissa L. Pope*

\_\_\_\_\_  
Hon. Melissa L. Pope, Chief Justice

July 22, 2019

Date





LITTLE RIVER BAND OF OTTAWA INDIANS  
TRIBAL COURT  
3031 Domres Road  
Manistee Michigan 49660

CYNTHIA CHAMPAGNE,  
Petitioner

Case No.: 19-237 GC  
Hon. Angela Sherigan

V.

ETHICS BOARD, and,  
LITTLE RIVER BAND OF OTTAWA INDIANS  
TRIBAL COUNCIL,  
Respondents.

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**DECLARATORY JUDGMENT**  
**Regarding the Constitutionality of**  
**the Elected Officials Ethics Ordinance**

This matter having come before the Court as an Appeal on a finding of the Ethics Boards regarding a Petitioner. Petitioner appealed the findings and argued that the Elected Officials Ethics Ordinance is unconstitutional. A hearing having been held and the issues of whether or not Elected Officials have a property interest in their position, and if the ordinance violates due process being fully briefed, the Court finds as follows:

The Court has jurisdiction to hear this matter under Article VI, Section 8 of the Constitution, specifically Section 8(b), which states that the Court has the power to “review ordinances and resolutions of the Tribal Council or General Membership to ensure that they are consistent with the Constitution and rule void those ordinances and resolutions deemed inconsistent with this Constitution.”

The Elected Officials Ethics Ordinance, creates a body that investigates and holds hearings on complaints of unethical conduct of elected officials.<sup>1</sup> Tribal Council has cited Article IV, Section 7 of the Constitution as the authority to create the ordinance, specifically Section 7(a)1-2, which states: 1. To govern the conduct of members of the Little River Band and other persons within its jurisdiction; 2. To promote, protect and provide for public health, peace, morals, education and general welfare of the Little River Band and its members”.

#### Constitutionality

Petitioner argues that the Ordinance is unconstitutional to her as a Tribal Council member as the Constitution only allows for removal of a sitting council member as a sanction, Article X, Section 3, and there is no other means of

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<sup>1</sup> The Tribal Courts are exempt from the Ordinance.

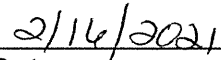
sanctions, specifically, fines, reprimands, restitution, suspension. The Respondents argue that Tribal Council members can also be removed by a Recall, thus there is not a constitutional limitation on discipline, and additionally, Tribal Council can delegate powers and that is what it has done here

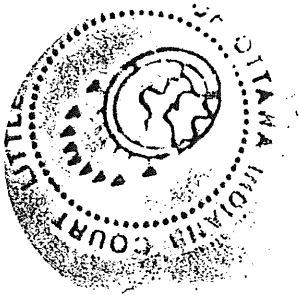
The Court finds that the argument of recall is unpersuasive and misplaced. The issue here is Tribal Councils enactment of an ordinance, not the general membership's abilities.

Delegation of power. The Tribal Council cannot delegate power to a subordinate body that it is specifically tasked with in the Constitution. Article X of the Constitution sets forth the grounds for removal, including misconduct, and malfeasance<sup>2</sup>. There is no mention of any other sanction. This is the same for the Ogema.

THEREFORE, for the reasons stated above, the Court finds that the Elected Officials Ethics Ordinance is unconstitutional as to Tribal Council Members<sup>3</sup> and the Ogema.

  
\_\_\_\_\_  
Judge Angela Sherigan

  
\_\_\_\_\_  
Date



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<sup>2</sup> In the Ethics Board findings there was a finding of malfeasance. Malfeasance is specifically mentioned in the Constitution in Article X as a cause for removal by the Tribal Council, this function cannot be delegated.

<sup>3</sup> As the Court has found the Ordinance to be unconstitutional as to Tribal Council Members, there is no need for analysis and ruling on the issues of due process and property interest.

LITTLE RIVER BAND OF OTTAWA INDIANS  
TRIBAL COURT  
3031 Domres Road  
Manistee Michigan 49660  
(231) 398-3406

CYNTHIA CHAMPAGNE,  
PETITIONER

Case No.: 19-292 EC  
Hon. Angela Sherigan

v.

LRBOI ETHICS BOARD,  
RESPONDENT

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Cynthia Champagne  
Petitioner  
1080 Red Apple  
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Rebecca Liebing  
Attorney for Respondent  
2608 Government Center Dr.  
Manistee, MI 49660


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**ORDER OF REVERSAL AND DISMISSAL**

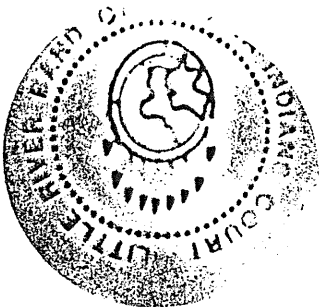
This matter has come before the Court on an appeal from a decision of the Ethics Board, a hearing having been previously held and the parties stipulating to delay decision until a decision had been made in Case No. 19-237 GC on the constitutionality of the Elected Officials Ethics Ordinance.

Case No. 19-237 has been decided (February 16, 2021) finding the Elected Officials Ethics Ordinance unconstitutional as to Tribal Council members. This Petitioner is a Tribal Council member.

THEREFORE, the decision of the Ethics Board is hereby reversed and the dismissed. This case is hereby Closed.

  
\_\_\_\_\_  
Judge Angela Sherigan

2-16-2021  
Date



LITTLE RIVER BAND OF OTTAWA INDIANS  
TRIBAL COURT  
3031 Domres Road  
Manistee Michigan 49660  
(231) 398-3406

SHANNON CRAMPTON,  
PETITIONER

Case No.: 19218EC  
Hon. Angela Sherigan

v.

LRBOI ETHICS BOARD,  
RESPONDENT

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Petitioner  
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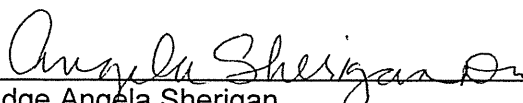
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Judge Angela Sherigan

2/16/2021  
Date



LITTLE RIVER BAND OF OTTAWA INDIANS  
TRIBAL COURT  
3031 Domres Road  
Manistee Michigan 49660  
(231) 398-3406

SHANNON CRAMPTON,  
PETITIONER

Case No.: 19-288 EC  
Hon. Angela Sherigan

v.

LRBOI ETHICS BOARD,  
RESPONDENT

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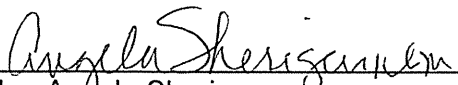
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Judge Angela Sherigan

2-16-2021  
Date

