

**2024 COURT OPINIONS
LITTLE RIVER BAND OF OTTAWA INDIANS TRIBAL COURT**

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**Burmeister, Johnson, Silvis, Wever & DiPiazza v.
Wolfe, Crampton, Metzger & Wittenberg**

24-007-GC

Summary: This case was heard by Judge Caroline LaPorte.

Plaintiffs filed an injunction for “immediate relief” to compel Defendants to appropriate funds for the first quarter of the FY2024 Tribal Government budget. Plaintiffs alleged that Defendants purposely broke quorum at two separate emergency meetings, resulting in the inability of Tribal Council to promote, protect, and provide for the public health, peace, morals, education and general welfare of the Little River Band of Ottawa Indians.

Decision and Order: The Court construed the Plaintiffs’ request for “immediate injunctive relief” as a request for an ex-parte request for a writ of mandamus. In order to grant an ex-parte request, the Court must be satisfied by specific facts set forth in an affidavit or verified pleading that irreparable injury, loss or damage will result from the delay required to effect notice, or that notice itself will precipitate adverse action before an order can be issued by the Court.

There was no affidavit accompanying the Plaintiffs’ request for ex-parte relief, nor was the pleading itself verified (i.e. notarized). Furthermore, there were no specific Constitutional provision, ordinance, resolution or other legal basis identified in Plaintiffs’ complaint. Therefore, the Court denied the request for ex-parte relief and dismissed this case without prejudice.

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

3031 Domres Road · Manistee, MI 49660
(231) 398-3406
tribalcourt@lrboi-nsn.gov

TAMMY BURMEISTER, PAM JOHNSON,
MISTY SILVIS, SHIRLEY WEVER, and
GARY DIPIAZZA,
Plaintiffs,

Case No. 24-007-GC

Honorable Caroline LaPorte

v.

JULIE WOLFE, SHANNON CRAMPTON,
ALLEN METZGER, and RONALD WITTENBERG,
Defendants.

ORDER REGARDING EX PARTE RELIEF

On January 8, 2024, the Court received a complaint from five (5) members of Tribal Council (Tammy Burmeister, Pam Johnson, Misty Silvis, Gary DiPiazza, and Shirley Wever) for “immediate injunctive relief” asking the Court to compel Tribal Council to appropriate funds for the FY2024 Budget and against Shannon Crampton, Allen Metzger, Julie Wolfe and Ronald Wittenberg “intentionally breaking quorum” at two emergency meetings that were called on January 5, 2024. Tribal Council Member Plaintiffs state in their complaint, which is not verified nor accompanied by an affidavit, their reason for filing which is the named Tribal Council Member Defendants “not upholding fiscal responsibilities that is resulting in the inability to promote, protect, and provide for public health, peace, morals, education and general welfare of the Little River Band and its members.”¹

The Plaintiffs ask the Court for “immediate injunctive relief” to “*compel*” four *elected officials* to “appropriate funds for the FY2024 Budget”. Because these parties are unrepresented for at least the purpose of filing this initial complaint, the Court will construe this as an ex-parte request for a writ of mandamus. But, in order for the Court to issue an ex-parte order as it construes this request to be (which is an *extraordinary* remedy because it is without notice to the other parties), it must be satisfied by specific facts set forth in an affidavit or verified pleading that irreparable injury, loss, or damage will result from the delay required to effect notice, or that notice itself will precipitate adverse action before an order can be issued by this Court.

Unfortunately, there is not an affidavit to accompany this request for ex-parte relief nor is the pleading itself verified (notarized). Additionally, no specific Constitutional provision, ordinance, resolution or other legal basis is identified in the Complaint.

¹ Complaint filed on January 8, 2024, and attached to this Order.

Therefore, the Court must and is **DENYING** the request for ex-parte relief and **DISMISSES** this case *without prejudice*. Nothing in this Order prohibits the Plaintiffs from refiling.

A copy of the Complaint and accompanying exhibits (the roll call sheets from the emergency meetings called on January 5, 2024) are attached to this **ORDER**.

IT IS SO ORDERED this 10th Day of January 2024.

DocuSigned by:
Caroline LaPorte
1AB0833FDF10437...

Caroline LaPorte, J.D.
Associate Judge

CERTIFICATION OF SERVICE

I certify that a copy of this order was sent to all parties via email and/or USPS mail on this day.

1-10-24
Date

Spring Medacco
Court Clerk/Administrator

LITTLE RIVER BAND
OF OTTAWA INDIANS
TRIBAL COURT

SUMMONS

CASE NO.

24-007-GC

Court address

Court telephone no.

Plaintiff's name(s), address(es), phone no(s), & email address(es):

Tammy Burmeister - tburmeister@lrbai-nsn.gov
 Pam Johnson - PamJohnson@lrbai-nsn.gov
 Misty Silvis - mistysilvis@lrbai-nsn.gov
 Shirley Wever - ShirleyWever@lrbai-nsn.gov
 Gary DiPiazza - GaryDiPiazza@lrbai-nsn.gov

Plaintiff's attorney, bar no., address, phone no. & email address:

Defendant's name(s), address(es), phone no(s), & email address(es):

Julie Wolfe - juliewolfe@lrbai-nsn.gov
 Shannon Crampston - shannoncrampston@lrbai-nsn.gov
 Al Metzger - Almetzger@lrbai-nsn.gov
 Ron W. Henberg - ronwhenberg@lrbai-nsn.gov

Instructions: Check the items below that apply to you and provide any required information. Submit this form to the court clerk along with your complaint and, if necessary, a case inventory addendum (form MC 21). The summons section will be completed by the court clerk.

Domestic Relations Case

- ☐ There are no pending or resolved cases within the jurisdiction of the Tribal Court and/or family division of the county circuit court involving the family or family members of the person(s) who are the subject of the complaint.
☐ There is one or more pending or resolved cases within the jurisdiction of Tribal Court and/or the family division of the county circuit court involving the family or family members of the person(s) who are the subject of the complaint. I have separately filed a completed confidential case inventory (form MC 21) listing those cases.
☐ It is unknown if there are pending or resolved cases within the jurisdiction of the Tribal Court and/or family division of the county circuit court involving the family or family members of the person(s) who are the subject of the complaint.

Civil Case

- ☐ This is a business case in which all or part of the action includes a business or commercial dispute under MCL 600.8035.
☐ MDHHS and a contracted health plan may have a right to recover expenses in this case. I certify that notice and a copy of the complaint will be provided to MDHHS and (if applicable) the contracted health plan in accordance with MCL 400.106(4).
☒ There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
☐ A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has

been previously filed in ☐ this court, ☐ _____ Court, where

it was given case number _____ and assigned to Judge _____.

The action ☐ remains ☐ is no longer pending.

Summons section completed by court clerk.

SUMMONS

NOTICE TO THE DEFENDANT: In the name of the people of the Little River Band of Ottawa Indians you are notified:

1. You are being sued.
2. **YOU HAVE 28 DAYS** after receiving this summons and a copy of the complaint to **file a written answer with the court** and serve a copy on the other party or **take other lawful action with the court**.
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.
4. If you require special accommodations to use the court because of a disability or if you require a foreign language interpreter to help you fully participate in court proceedings, please contact the court immediately to make arrangements.

Issue date

1-8-2024

Expiration date*

4-8-2024

Court clerk

Spring Medacco

*This summons is invalid unless served on or before its expiration date. This document must be sealed by the seal of the court.

LITTLE RIVER BAND
OF OTTAWA INDIANS
TRIBAL COURT

COMPLAINT
Page of pages

CASE NO.

24-007-GC

Court address

3031 Domres Road, Manistee, MI 49660

Court telephone no.

(231) 398-3406

Plaintiff's name(s), address(es), phone no(s), & email address(es):

Jammy Burmeister
Rim Johnson
misty silvis
Shirley Leever
Gary Dipiazza

Plaintiff's attorney, bar no., address, phone no. & email address:

Defendant's name(s), address(es), phone no(s), & email address(es):

Julie Wolfe
Shannon Crampton
Allen Metzger
Ron Wittenberg

FOR ITS COMPLAINT, PLAINTIFF(S) STATE(S) AS FOLLOWS: (attach additional pages, if necessary)

File for immediate injunction for relief to compel council to appropriate funds, against Shannon Crampton, Julie Wolfe, Allen Metzger, Ronald Wittenberg for purposely breaking quorum at 2 separate emergency meetings, one at 3pm and the second at 4:15pm on Friday January 5th 2024, there was 2 items on the agenda needing to be voted on, the first item was appropriating funds for expenditures during the first quarter of FY 2024, the second item was RE: Fiscal Year 2024 Budget negotiations.

Reasons for filing:

Obstruction for not upholding fiscal responsibilities that is resulting in the inability to promote, protect and provide for public health, peace, morals, education and general welfare of the Little River band and its members

See attachments.

Misty Silvis
Rim Johnson

Jammy S Burmeister
Signature of Plaintiff or Plaintiff's Attorney

1/8/24
Date

COMPLAINT

received
1-8-24 sm

Shirley Leever
S. Leever

(A)

ROLL CALL RECORD

Page 1

LITTLE RIVER BAND TRIBAL COUNCIL

REGULAR MEETING DATE: ~~December 6, 2023~~

SESSION: Open

Jan 5, 2024

3pm

Call to Order: _____

Roll Call to establish attendance and Quorum: Strikethrough represents response:

Tammy Burmeister	Present Absent	Pam Johnson:	Present Absent
Ron Wittenberg:	Present Absent	Misty Silvas:	Present Absent
Shannon Crampton:	Present Absent	Al Metzger:	Present Absent
Gary DiPiazza:	Present Absent	Shirley Wever:	Present Absent
Julie Wolfe:	Present Absent		

Quorum Established? Yes or No

3

5

Agenda Item/Title: II. General Business

C. Approval of Agenda

MOTION/MOVE:

MOTION BY: _____ SECOND: _____

Roll Call On Item: II C. (Strikethrough indicates response) Roll Call # _____

Ron Wittenberg	In Favor	Against	Abstain	Absent
Shannon Crampton	In Favor	Against	Abstain	Absent
Gary DiPiazza	In Favor	Against	Abstain	Absent
Julie Wolfe	In Favor	Against	Abstain	Absent
Pam Johnson	In Favor	Against	Abstain	Absent
Misty Silvas	In Favor	Against	Abstain	Absent
Al Metzger	In Favor	Against	Abstain	Absent
Shirley Wever	In Favor	Against	Abstain	Absent
Tammy Burmeister	In Favor	Against	Abstain	Absent

Notes:

MOTION ONLY

3

ROLL CALL RECORD

Page 1

LITTLE RIVER BAND TRIBAL COUNCIL

REGULAR MEETING DATE: ~~December 6, 2023~~ Jan 5 2024

SESSION: Open

Call to Order: 4:15

Roll Call to establish attendance and Quorum: Strikethrough represents response:

Tammy Burmeister	Present Absent	Pam Johnson:	Present Absent
Ron Wittenberg:	Present Absent	Misty Silvas:	Present Absent
Shannon Crampton:	Present Absent	Al Metzger:	Present Absent
Gary DiPiazza:	Present Absent	Shirley Wever:	Present Absent
Julie Wolfe:	Present Absent		

Quorum Established? Yes or No

Agenda Item/Title: II. General Business

C. Approval of Agenda

MOTION/MOVE:

MOTION BY: _____ SECOND: _____

Roll Call On Item: II C. (Strikethrough indicates response) Roll Call # _____

Ron Wittenberg	In Favor	Against	Abstain	Absent
Shannon Crampton	In Favor	Against	Abstain	Absent
Gary DiPiazza	In Favor	Against	Abstain	Absent
Julie Wolfe	In Favor	Against	Abstain	Absent
Pam Johnson	In Favor	Against	Abstain	Absent
Misty Silvas	In Favor	Against	Abstain	Absent
Al Metzger	In Favor	Against	Abstain	Absent
Shirley Wever	In Favor	Against	Abstain	Absent
Tammy Burmeister	In Favor	Against	Abstain	Absent

Notes:

MOTION ONLY

Stone & Burmeister v. Tribal Council**24-008-GC**

Summary: This case was heard by Judge Angela Sherigan.

Plaintiffs filed a complaint against Defendant, alleging violations of the Constitution and the Budget and Appropriations Act of 2013 when it failed to fund a budget by December 31. Plaintiffs requested ex-parte relief and asked the Court to declare that the failure to override the veto of the Ogema constituted approval of the Tribal budget in accordance with the Budget and Appropriations Act and to order the Tribal Council to approve a funding resolution to fund a budget.

Decision and Order: The Court denied the Plaintiffs request for ex-parte relief, stating that the Plaintiffs did not meet the requirements for same, and set the matter for hearing. The Plaintiffs then filed a motion to reconsider. The Court found that the requested relief found within the Plaintiffs' original complaint was moot as the Court had already ruled on the issue(s) in another case (*Case No. 24-010-GC, Order on Verified Complaint for an Ex-Parte Order for a Writ of Mandamus dated January 11, 2024*). This case was dismissed without prejudice.

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

3031 Domres Road · Manistee, MI 49660
(231) 398-3406
tribalcourt@lrboi-nsn.gov

ISRAEL STONE and
MICHAEL BURMEISTER,
Plaintiffs,

Case No. 24-008-GC

Honorable Caroline LaPorte

v.

LITTLE RIVER BAND OF OTTAWA
INDIANS TRIBAL COUNCIL,
Defendants.

Israel Stone
Plaintiff, In Pro Per
402 Parkdale Avenue
Manistee, MI 49660

LRBOI Tribal Council
Defendant
2608 Government Center Drive
Manistee, MI 49660

Michael Burmeister
Plaintiff, In Pro Per
6945 Pine Creek Road
Manistee, MI 49660

ORDER REGARDING EX-PARTE RELIEF AND SETTING HEARING

On January 8, 2024, Plaintiffs Israel Stone and Michael Burmeister filed a complaint requesting ex-parte relief in the above captioned case. On January 9, 2024 an affidavit was supplied to the Court by Israel Stone, who is a pro se litigant. Both Mr. Stone and Mr. Burmeister are Tribal Citizens of the Little River Band of Ottawa Indians.

At present, the Plaintiffs have requested in their Ex-Parte Request (styled in the pleading “Tribal Council’s Failure to Approve the Budget by December 31 and Impacts on Tribal Membership Programs and Benefits”), the following:

1. Direct the Tribal Council to immediately convene and approve a budget in compliance with the Tribe’s [C]onstitution and laws.
2. Order the Tribal Council to reinstate and fully fund all suspended membership programs, ensuring that tribal members have access to essential services and resources.
3. Direct the Tribal Council to expedite the distribution of benefits to tribal members, ensuring that they receive the financial support they are entitled to without further delay.

4. Impose any other appropriate remedies or sanctions deemed necessary to mitigate the harm caused by the Tribal Council's failure to approve a budget and to prevent further harm to tribal membership programs and benefits.¹

For the Court to issue an ex-parte order (meaning without notice to the other party), it must be satisfied by specific facts set forth in an affidavit or verified pleading that irreparable injury, loss, or damage will result from the delay required to effect notice, or that notice itself will precipitate adverse action before an order can be issued by this Court. The Plaintiffs' Complaint was unverified (not notarized), so an affidavit is necessary.

The Plaintiffs filed an affidavit, which the Court has attached to this Order along with the Complaint. The Court turns to whether or not it is satisfied with specific facts set forth in that affidavit that irreparable injury, loss, or damage will result from the delay required to effect notice, or that notice itself will precipitate adverse action before an order can be issued by this Court. While there is an affidavit filed with the Court, there are no specific facts attested to within the affidavit. Rather, the affidavit is a partial restatement of the Plaintiff's argument. Additionally, no resolutions are attached to the Complaint to establish any information that is included in the unverified pleading. Furthermore, the Plaintiffs do not establish via the affidavit that notice will precipitate adverse action before an order can be entered. Most importantly, the Court has no attested facts before it in the affidavit that establish what has happened that would result in the harm Plaintiffs argue will occur or is occurring. A Court can only consider what is before it. The Court cannot, unfortunately, make arguments on behalf of parties and cannot, especially not ex-parte, infer facts that are not attested to in an affidavit. The reason for this is because when parties are making ex-parte requests, they are asking the Court to issue an order without notice to the other party (which *normally* a Court cannot do). The basis for a Court's ability to do this (order ex-parte relief, which is an *extraordinary* remedy for a Court to enter) is that the party requesting the relief is attesting to certain facts, *under penalty of perjury*. Here, the Court has no facts; there are no specific events and dates, no specific resolutions and numbers, no specific contracts or grants that indicate if/when the harm that Plaintiffs state "may" occur would actually occur.

Therefore, while the Court carefully and heavily considered the ex-parte relief that the Plaintiffs filed and the affidavit that was before it, the ex-parte relief requested must be and is **DENIED**.

This matter is set for a hearing on Monday January 22, 2024 at 1:00 p.m. EST. **EVERY MEMBER OF TRIBAL COUNCIL AND BOTH PLAINTIFFS ARE ORDERED TO APPEAR IN PERSON.**

IT IS SO ORDERED this 10th Day of January 2024.

DocuSigned by:
Caroline LaPorte
TAB0833FDF10437

Caroline LaPorte, J.D.
Associate Judge

¹ See Complaint as attached on pg. 3 starting at "III. Request for Ex-Parte Order"

Original - Court
1st copy - Defendant

2nd copy - Plaintiff
3rd copy - Return

LITTLE RIVER BAND
OF OTTAWA INDIANS
TRIBAL COURT

COMPLAINT
Page of pages

CASE NO.

24-008-6C

Court address

3031 Domres Road, Manistee, MI 49660

Court telephone no.

(231) 398-3406

Plaintiff's name(s), address(es), phone no(s). & email address(es):

Israel Stone
Michael Baumeister

Defendant's name(s), address(es), phone no(s). & email address(es):


Little River Band of
Ottawa Indians.
Tribal Council

Plaintiff's attorney, bar no., address, phone no. & email address:

FOR ITS COMPLAINT, PLAINTIFF(s) STATE(s) AS FOLLOWS: (attach additional pages, if necessary)

Please see attached.

1/8/24
Date


Signature of Plaintiff or Plaintiff's Attorney

COMPLAINT

Israel Stone
402 Parkdale Ave
Manistee, MI 49660
israelist11@gmail.com
231-655-2484

Michael Burmeister
6945 Pine Creek Rd.
Manistee, MI 49660
michaelb2737@hotmail.com

vs

Little River Band of Ottawa Indians Tribal Council
Government Center Drive
Manistee, MI 49660

Re: Violation of the Little River Band of Ottawa Indians Constitution and Budget and Appropriations Act -
Failure to Approve Budget by December 31st

Dear Honorable [Judge's Last Name],

I. INTRODUCTION

I am writing on behalf of the Plaintiff's Israel Stone and Michael Burmeister, to bring to the court's attention a violation of the Tribe's constitution. Specifically, the failure to fund a budget by December 31st, as mandated by the Tribe's constitution, constitutes a violation of the constitutional provisions governing the Tribe's financial management. This legal brief aims to demonstrate the legal basis for this claim and seek appropriate remedies.

II. BACKGROUND

The Little River Band of Ottawa Indians is a federally recognized Indian tribe governed by its constitution, which outlines the powers, duties, and responsibilities of its tribal government. Article [X] of the Tribe's constitution specifically addresses the financial management of the Tribe, including the requirement to approve an annual budget by December 31st of each year.

III. ARGUMENT

A. Importance of Budget Approval

The approval of an annual budget is a fundamental aspect of any organization's financial management, including tribal governments. It ensures transparency, accountability, and effective allocation of

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1-8-24 SM

resources. The Tribe's constitution recognizes this importance by mandating the approval of a budget by December 31st.

B. Violation of Constitutional Provision

The failure to approve a budget by December 31st constitutes a clear violation of the Tribe's constitution. The language used in Article IV, I Physical Powers, Subject to the veto of the Tribal Ogema, to adopt, approve or amend the annual budget presented by the Tribal Ogema and to authorize the expenditure of funds in accordance with such budgets and the Little River Band of Ottawa Indians Budget and Appropriations Act of 2013, 5.07 Appropriations not later than March 1, June 1, September 1 and December 1st.

Violation of Budget and Appropriations Act Section 5.13 Enactment and Execution of Tribal Budget.

- A. The tribal budget for the next physical year shall be approved by the tribal council no later than the month of November.

Violation of Budget and Appropriations Act Section 5.13 C, D, and E.

The Tribal Ogema Veto the budget as approved by the tribal council, in accordance with letter C. The Tribal Council failed to override that veto which in accordance with the act letter e, states, it shall be returned to the tribal Ogema, without amendments, who shall approve it.

The Tribe's constitution serves as the supreme law of the Tribe, and all tribal officials and members are bound by its provisions. Veto powers are constitutionally derived powers under powers of the Ogema and the Budget and Appropriations Act affirms those powers in section 5.13 Enactment and Execution of the Tribal Budget.

It further states in section 5.14 Continuing Budget Resolutions. "if a budget is not approved by December 31, the council shall pass a continuing funding resolution to fund tribal operations and enterprises.

C. Consequences of Violation

Firstly, it undermines the Tribe's financial stability and hampers its ability to effectively manage its resources. Secondly, it erodes the trust and confidence of tribal members in the tribal government, as it reflects a failure to adhere to the constitutionally mandated processes. Lastly, it may lead to potential legal challenges and disputes regarding the validity of financial decisions made without an approved budget.

IV. RELIEF SOUGHT

In light of the foregoing,  respectfully requests the court to:

1. Declare that the failure to override the veto of the Ogema constitutes approval of the tribal budget in accordance with the budget and appropriations act.

2. Order the tribal government to promptly convene and approve a funding resolution to fund the budget in accordance with the Budget and Appropriations Act, which should have occurred no later than December 1st.

3. Impose any other appropriate remedies or sanctions deemed necessary to rectify the violation and prevent future occurrences.

4. Request for this matter to be decided on an Ex Parte decision as this has a deleterious impact on the tribe, its citizens, employees, and potentially grants and self-governance.

Re: Ex Parte Order Request - Tribal Council's Failure to Approve Budget by December 31 and Impacts on Tribal Membership Programs and Benefits

II. FAILURE TO APPROVE BUDGET AND IMPACTS

In absence of funding the harm that does exist can be as follows:

1. **Suspension of Tribal Membership Programs:** The lack of an approved budget has forced the suspension of vital tribal membership programs, including healthcare services, educational assistance, housing programs, and cultural preservation initiatives. Tribal members who rely on these programs are now left without essential support and resources.

2. **Delayed Distribution of Benefits:** The failure to approve a budget may result in delayed distribution of benefits to tribal members, elder assistance, and other financial support. This delay will cause financial hardship and uncertainty for many tribal members who depend on these benefits.

3. **Impaired Tribal Governance:** The absence of an approved budget has impaired the Tribe's ability to effectively govern and manage its resources. Without a clear financial plan, the Tribe's operations and services have been disrupted, leading to a loss of trust and confidence in the tribal government.

III. REQUEST FOR EX PARTE ORDER

Given the urgency and the significant harm caused by the Tribal Council's failure to fund a budget, the Plaintiffs respectfully requests an ex parte order to address this issue. The order should include the following provisions:

1. Direct the Tribal Council to immediately convene and approve a budget in compliance with the Tribe's constitution and laws.

2. Order the Tribal Council to reinstate and fully fund all suspended tribal membership programs, ensuring that tribal members have access to essential services and resources.

3. Direct the Tribal Council to expedite the distribution of benefits to tribal members, ensuring that they receive the financial support they are entitled to without further delay.

4. Impose any other appropriate remedies or sanctions deemed necessary to mitigate the harm caused by the Tribal Council's failure to approve a budget and to prevent further harm to tribal membership programs and benefits.

IV. CONCLUSION

The failure of the Tribal Council to fund a budget by December 31 has resulted in significant harm to tribal membership programs and benefits. Immediate action is necessary to protect the rights and interests of the Tribe's members. Therefore, the plaintiffs respectfully requests the court to issue an ex parte order as outlined above. Thank you for your attention to this matter, and we look forward to the court's prompt consideration and resolution of this issue.

Israel Stone
402 Parkdale Ave
Manistee, MI 49660
israelist11@gmail.com
231-655-2482
1/9/24

Little River Band of Ottawa Indians
Tribal Court
Manistee, MI 49660

Subject: Verification of Pleading

Honorable Judge LaPorte

I am writing this letter to provide you with a verification of pleading regarding the legal matter at hand. I, Israel Stone, hereby verify the accuracy and authenticity of the pleading submitted on 1/8/24 in Little River Band Tribal Courts.

I confirm that the pleading was prepared by me or under my direct supervision, and that it accurately represents the facts and arguments relevant to the case. I have reviewed the pleading thoroughly, ensuring that it complies with all applicable laws, rules, and regulations governing the court proceedings.

Furthermore, I affirm that the information provided in the pleading is true and correct to the best of my knowledge and belief. I have conducted the necessary research and investigation to support the claims made in the pleading, and I am prepared to present evidence and arguments in support of the same.

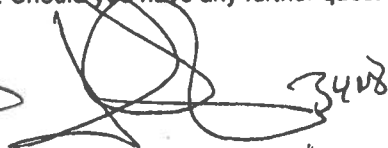
I understand the importance of honesty and integrity in legal proceedings, and I assure you that this pleading has been prepared in accordance with the highest ethical standards. I am fully aware of the consequences of making false statements or misrepresenting facts in court, and I affirm that no such misconduct has taken place in relation to this pleading.

Should any additional information or documentation be required to support this verification, please do not hesitate to contact me at the provided contact details. I am committed to cooperating fully and promptly to ensure a fair and just resolution of the case.

Thank you for your attention to this matter. I trust that this verification of pleading will assist in the smooth progression of the legal proceedings. Should you have any further questions or concerns, please feel free to reach out to me.

Yours sincerely,

Israel Stone


3408
Ann Marie Hull

1/9/24
1/9/24

ANN MARIE HULL, Notary Public
State of Michigan
County of Manistee
My Commission Expires 02/25/2030
Acting in the County of Manistee

RECEIVED
1/9/24

I Board Stone Tribal ID 1735 Assert
the following truths.

- If immediate relief is not granted in this case there will be irreparable harm to the tribe and/or the citizens.
- A. Potential violations of grants and contracts, placing the tribe in jeopardy of losing grant and self-governance dollars or ^{sanctions} ~~said~~.
- B. Disruption of benefits and programs of the tribe to citizens such as health, general welfare programs.
- C. Places the Tribe and Ogema at risk and puts the in position to misappropriate funds of the tribe because there has been no appropriation to pay bills, expenses, and payroll.
- D. This is a violation of the Constitution and tribal law, the Constitution and Budget and appropriations act prescribes the process of approval for the budget process.
 - 1. Tribal council is not only violating the constitution and laws but willfully violating the orders of the Little River Tribal Courts. The contempt of council to willfully disregard the orders of the court, can violate or cause violation of law that they have been elected and sworn to uphold. This may result in loss of funding sources which will impact the tribe and its citizens.

received
1/9/24

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

3031 Domres Road · Manistee, MI 49660
(231) 398-3406
tribalcourt@lrboi-nsn.gov

ISRAEL STONE and
MICHAEL BURMEISTER,
Plaintiffs,

Case No. 24-008-GC

Honorable Caroline LaPorte

v.

LITTLE RIVER BAND OF OTTAWA
INDIANS TRIBAL COUNCIL,
Defendants.

Israel Stone
Plaintiff, In Pro Per
402 Parkdale Avenue
Manistee, MI 49660

LRBOI Tribal Council
Defendant
2608 Government Center Drive
Manistee, MI 49660

Michael Burmeister
Plaintiff, In Pro Per
6945 Pine Creek Road
Manistee, MI 49660

ORDER REGARDING MOTION TO RECONSIDER

The Court is in receipt of the Motion to Reconsider filed by the Plaintiffs in this matter. Having ruled on this issue in a separate case (case number 24-010-GC) the Court finds that this requested relief found within the Plaintiffs' original complaint is **MOOT**.

The hearing set for January 22, 2024, has been **cancelled**. Notice shall issue to all parties. This matter will be dismissed without prejudice in 21 days *sua sponte* or upon motion by the Plaintiffs.

It is so **ORDERED** this 17th Day of January 2024.

DocuSigned by:
Caroline LaPorte
1A80833FDF10437
Caroline B. LaPorte
Associate Judge

**Burmeister, Johnson Silvis & DiPiazza v.
Crampton, Wolfe, Wittenberg, & Metzger****24-065-GC**

Summary: This case was heard by Judge Angela Sherigan.

Plaintiffs filed a complaint against Defendants, alleging violations of the Constitution, Law and Order Criminal Offenses Ordinance, and a court order in Case No. 20-082-GC (*Order After Hearing regarding Plaintiff's Motion for Entry of Default Judgment dated October 15, 2020*). Plaintiffs alleged that Defendants had purposely not attended two regularly scheduled Tribal Council meetings and an emergency meeting so that quorum would not be met. Plaintiffs requested ex-parte relief and asked that the Courts order the Defendants to attend Tribal Council meetings.

Decision and Order: The Court granted the Plaintiffs' request for ex-parte relief and further ordered Defendants to attend all Tribal Council meetings either in person or via Zoom and remain in the meeting until all business is conducted and the meeting is adjourned.

Plaintiffs filed a Motion for Show Cause, alleging that Defendants had left the March 27, 2024 Tribal Council meeting before it was adjourned. A hearing on the motion was held, and the Court found that Defendants were in contempt of court and fined. A second Motion for Show Cause was filed by Plaintiffs, alleging that Defendants Crampton and Metzger had left the April 17, 2024 Tribal Council meeting before it was adjourned. At the Show Cause hearing, Defendant Metzger admitted to leaving the meeting prior to it being adjourned; therefore, he was found in contempt of court and fined. Defendant Crampton stated that he was "kicked out" of the meeting but there was no video recording to indicate what had happened; therefore, he was not found in contempt of court. The Court further ordered that Tribal Council members shall appear for meetings in person pursuant to Tribal Council Resolution #24-0403-062, or by other forms as listed therein.

A status conference was then held in this case, and Plaintiffs stated that they did not wish to continue with the case because Resolution #24-0403-062, which was not in place at the beginning of this case, resolved the matter. Pursuant to the Plaintiffs' request, the Court closed this case.

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

3031 Domres Road · Manistee, MI 49660
(231) 398-3406
tribalcourt@lrboi-nsn.gov

TAMMY BURMEISTER,
PAM JOHNSON, MISTY SILVIS,
GARY DIPIAZZA,
Plaintiffs,

Case No. 24-065-GC

Hon. Angela Sherigan

v.

SHANNON CRAMPTON, JULIE WOLFE,
RON WITTENBERG, AL METZGER,
Defendants.

ORDER GRANTING EX-PARTE REQUEST FOR WRIT OF MANDAMUS

On March 21, 2024, the Court received a verified complaint, asking for, in part, an Ex-Parte Order for Mandamus, directing the Defendants to attend Council meetings so that a quorum necessary can be met to conduct business.

For an ex-parte order to be issued, the moving party must set forth facts, in an affidavit or verified pleading that irreparable harm, injury, loss, or damage will result from the delay required to effectuate notice, or that the notice itself will precipitate adverse action before an order can be issued.

In the pleading filed by the Plaintiffs, their attachment "A" complied with the requirement of being an affidavit or verified, as there is an attestation clause and is signed by the plaintiffs and notarized. The Court next looks at if specific facts have been set forth that show irreparable harm, injury, loss, or damage will result for the delay required to effect notice. Here, the Plaintiffs have stated that: 1) Defendants have failed to appear for the last three Council meetings - 2 regular meetings and one emergency meeting; 2) At those meetings, no business was able to be conducted due to lack of quorum; 3) That there are time sensitive issues that must be voted on at the next regular meeting. The Court finds that irreparable harm will occur if this order is not issued ex-parte.

The next issue the Court will look at is the form of injunctive relief that the Plaintiffs are requesting, that of a Mandamus. A Writ of Mandamus is an extraordinary remedy and will only be issued where the following four factors are met:

- 1) The party seeking the writ has a clear legal right to performance of the specific duty sought;
- 2) The defendant has the clear legal duty to perform the act requested;
- 3) The act is ministerial; and

4) No other remedy exists that might achieve the same results.

As to the first factor, does the party seeking the writ have a clear legal right to performance of the specific duty sought, the specific duty being defendants attending council meetings - The Court finds that the Plaintiffs, as co-council members (as well as being citizens of the Tribe), have a clear legal right to have the defendant Council members attend Council meetings as mandated by the Constitution so that business can be conducted and that the Plaintiffs can uphold their oath of office to promote, protect, and provide for public health, peace, morals, education and general welfare of the Little River Band and its members.

As to the second issue, Defendants have the clear legal duty to perform the act requested - The defendant Council members are mandated by the Constitution to attend Council meetings as set forth in the Constitution in Article IV, Section 6 (a) (f) and (g). Additionally, Councilors Shannon Crampton and Ron Wittenberg have direct knowledge of this mandate under Case No. 20-082-GC *Larry Romanelli, Ogema vs. Councilors Crampton, Champagne, Wittenberg, and Lewis*, 2020. As to the other two defendant Council members¹ they are also bound by prior orders of the Court that have not been reversed by the Court of Appeals.

As to the third factor, the act is ministerial - Attending a council meeting is a ministerial act, it is simply showing up and staying at the meeting.

As to the fourth factor, no other remedy exists that might achieve the same results. There are items that are time sensitive, and there is not enough time to act on those items. The next meeting is in three business days, and there is only one business day after the next regular Council Meeting. The Court does not generally set hearings on motions/requests earlier than ten days from receipt; thus this factor is also met.

THEREFORE, IT IS HEREBY ORDERED: That Defendants/Councilors Shannon Crampton, Julie Wolfe, Ron Wittenberg, and Al Metzger attend all Tribal Council meetings beginning March 27, 2024, either in person or via zoom, and remain in the meeting until all business is conducted and the meeting is adjourned.

Dated: 3-22-2024


Hon. Angela Sherigan



¹ This applies to all Council members, present and future.

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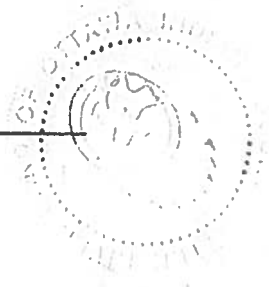
Honorable Angela Sherigan

**SHANNON CRAMPTON, JULIE WOLFE,
RON WITTENBERG, and AL METZGER,
Defendants.**

THEREFORE, IT IS HEREBY ORDERED: That defendants Al Metzger and Julie Wolfe shall pay a fine of \$100.00 each no later than April 23, 2024, by 4:00 p.m. for contempt of court, and defendants Shannon Crampton and Ron Wittenberg shall pay a fine of \$200.00 each no later than April 23, 2024, by 4:00 p.m. for contempt of court. Failure to comply will result in additional fines which will compound at the rate of an additional \$50.00 per day for each day beyond April 23, 2024, and any other sanctions the court may feel necessary for compliance.

Dated: April 16, 2024

DocuSigned by:
Angela Sherigan
B3F0857F17BE48A
Hon. Angela Sherigan



CERTIFICATION OF SERVICE

I certify that a copy of this order was sent to all parties via email or LRBOI interoffice mail and/or USPS mail on this day.

4-16-24
Date

Spring Medacco
Court Clerk/Administrator

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

TAMMY BURMEISTER,
PAM JOHNSON, MISTY SILVIS,
GARY DIPIAZZA,

Plaintiff

Case No. 24-065-GC
Hon. Angela Sherigan

v.

SHANNON CRAMPTON, JULIE WOLFE,
RON WITTENBERG, AL METZGER,
Defendants.

ORDER AFTER SHOW CAUSE

A show cause hearing was held regarding the Plaintiff's Motion to Show Cause against defendants Shannon Crampton and Al Metzger. The motion alleged that the two defendants violated the Court's Order of March 22, 2024, which states that the defendants "shall attend the Tribal Council meetings either in person or via zoom and remain in the meeting until all business is conducted and the meeting is adjourned" by leaving the April 17, 2024, meeting early. The show cause was brought against two defendants, and both will be addressed in this order.

During the hearing each defendant referred to the recording of the meeting, which was subpoenaed by Councilor Metzger but not produced. Subsequently the Court ordered the Information Technology Department to secure, convert, and produce the recording to the Court. In response, it was discovered that no recording was made that day.¹

As to Councilor Metzger, he openly admitted that he did leave the meeting prior to it being adjourned. The Court heard his explanation of he would rather face the judge than to stay there and break the law, fails. Councilor Metzger failed to see that violating a court order is in effect breaking a law. He consciously chose to violate the Court order. The court does not find his argument that he would rather face the judge than break the law is good cause when there is no showing of any actual laws being broken at the meeting. Failure to follow rules of meeting procedure is not breaking the law. Councilor Metzger has failed to show good cause and is therefore in contempt of court.

As to Councilor Crampton, who appeared via zoom, he argued that he was "kicked out" of the meeting. There was other testimony indicating that he was not and that he was. He also stated that he was muted before he was kicked out. Unfortunately, there is no video recording so there is no indication of what happened and why. Therefore, the Court will not find Councilor Crampton in contempt for this incident.

¹ The Court will not make in inferences from the fact that there was no recording made. Had the recording been deleted later, that may have made a difference, but that is simply not the case here.

There was also lengthy discussion on whether or not the Court order stating that the defendants could appear at council meetings either in person or via zoom, controls over the Tribal Council Resolution that states that Tribal Council members shall be physically present for meetings. It is important to note that the Court order was issued prior to the Resolution being passed. Absent a rule, resolution, ordinance, statute or any other form of law, the Tribal Court will issue an order regarding procedure when asked and where it is necessary to uphold the Constitutional mandates imposed on elected officials. Otherwise, the Court will not interfere with, or substitute its judgment regarding rules of meeting procedure for Tribal Council meetings.

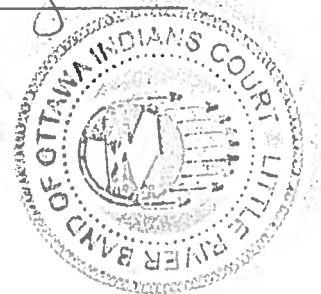
Tribal Council now has a resolution regarding attendance of Tribal Council Members thus, that is what will control, as it has not been challenged. All other provisions of the Court's March 22, 2024, Order remain in place until further order of the Court or conclusion of this case.

THEREFORE, IT IS HEREBY ORDERED:

1. Al Metzger shall pay a fine of \$100.00 for Contempt of Court no later than August 5, 2024, by 4:00 p.m.
2. Tribal Council Member shall appear for meeting in person pursuant to Resolution #24-0403-062, or by other forms as listed therein.
3. A Status Conference shall be held in this matter on August 13, 2024, at 2:00 p.m. either in person at the Tribal Court or via zoom.

Dated: July 24, 2024


Hon. Angela Sherigan



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

TAMMY BURMEISTER,
PAM JOHNSON, MISTY SILVIS,
GARY DIPIAZZA,

Plaintiff

Case No. 24-065-GC
Hon. Angela Sherigan

v.

SHANNON CRAMPTON, JULIE WOLFE,
RON WITTENBERG, AL METZGER,
Defendants.

ORDER OF DISMISSAL

A status conference was held on August 13, 2024, in which all parties appeared. After inquiry to the parties, the Plaintiffs did not wish to continue with the case. Resolution #24-0403-062, which was not in place at the beginning of this case, resolves the matter.

THEREFORE, IT IS HEREBY ORDERED: that this matter is dismissed.
This resolves this matter, and the case is closed.

Dated: August 13, 2024


Hon. Angela Sherigan



Puflett & Chapman v. v. Larry Romanelli**24-192-GC**

Summary: This case was heard by Judge Caroline LaPorte. Plaintiffs brought suit against Defendant, citing violations of Article III, Section 1(h) of the LRBOI Constitution and the Fifth and Fourteenth Amendments of the United States Constitution. Plaintiffs' allegations included, but were not limited to, breach of contract, negligent misrepresentation, fraudulent misrepresentation, negligence and unjust enrichment, gross negligence, reckless disregard for duty of care and rights of others, and constitutional infringement. Plaintiffs requested that the Court grant a preliminary and permanent injunction to enforce the LIHEAP contract terms. Plaintiffs further requested that the Court find the Defendants in breach of contract and award actual and compensatory damages.

Decision and Order: The Court stated in an order dated February 18, 2025 that any party bringing suit against the Tribe must show that there has been a waiver of sovereign immunity for their case to survive. Once the issue of sovereign immunity was raised in this case, the Plaintiffs bore the burden of establishing subject matter jurisdiction and proving an explicit waiver of sovereign immunity in one of two ways, either Congressional abrogation of immunity via federal legislation specific to the LIHEAP Block grant funds or a waiver of sovereign immunity by the Tribal Council.

Both the Tribal Council Speaker and Tribal Council Recorder testified under oath that no such waiver of sovereign immunity had occurred by action of Tribal Council. The Court could find no legislation to indicate that the United States Congress had waived sovereign immunity.

It should be noted that there is a limited waiver of sovereign immunity found in Article XI of the LRBOI Constitution that allows suits for declaratory and injunctive relief; however, the suit that Plaintiffs brought forth included monetary damages, which are distinct from declaratory and injunctive relief. Because the Plaintiffs were pro se and barred from requesting monetary relief/damages due to their inability to produce a waiver of sovereign immunity, the Court carefully reviewed the Plaintiffs' filings to ensure that declaratory or injunctive relief was not an available option based on their claims. The Court could not find any documentation to establish that they had a right to declaratory or injunctive relief in this matter, therefore this matter was dismissed with prejudice.

**This case has been appealed by Plaintiff and is currently pending in the Court of Appeals (Case No. 25-223-AP)*

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

3031 Domres Road · Manistee, MI 49660
(231) 398-3406
tribalcourt@lrboi-nsn.gov

GEORGE R. PUFLETT JR. AND
CANDACE M. CHAPMAN,
Plaintiffs

Case No. 24-192-GC

Hon. Caroline LaPorte

v.

THE LITTLE RIVER BAND OF OTTAWA
INDIANS EXECUTIVE BRANCH,
LARRY ROMANELLI
Defendant

George R. Puflett, Jr.
Candace M. Chapman
Plaintiffs
3376 Black Creek Road
Muskegon, MI 49444

Dennis Swain (P29866)
Attorney for Defendant
2608 Government Center Drive
Manistee, Michigan 49660

Tobin Dust (P36741)
Co-Counsel for Defendant
300 St. Andrews Road, Suite 302
Saginaw, MI 48638

ORDER REGARDING DISCOVERY and
SETTING HEARING FOR ARGUMENTS ON SOVEREIGN IMMUNITY

THIS CAUSE came before the Little River Band of Ottawa Indians Tribal Court on January 14, 2025 on Defendant Ogema's Motion for Summary Disposition and Plaintiffs' Response and Motion to Compel. All parties appeared, with the Ogema represented by Mr. Swain and Mr. Dust.

Sovereign Immunity is dispositive to the matter at hand.

Sovereign immunity is an inherent feature of tribal sovereignty. Here, any party bringing suit against the Tribe **MUST** show that there has been a waiver of that immunity for their case to survive. This waiver can be established by one of two ways: the United States Congress can pass express/clear/explicit legislation stating that a law includes a waiver of tribal sovereign immunity OR (in LRBOI's case) Tribal Council may pass a resolution or ordinance waiving that immunity (i.e.: the Tribe consents to suit). Importantly, because Tribal Council ratifies contracts, a contract itself may contain such a waiver, so long as such a waiver is clear. As previously stated, there is a limited waiver found in Article XI of the LRBOI Constitution that allows suits for declaratory

and injunctive relief. The suit that the Plaintiffs' brought in the present case includes *monetary damages (which are distinct from declaratory and injunctive relief)*.

To reiterate: the question of whether a court lacks subject matter jurisdiction over a claim barred by tribal sovereign immunity is a **threshold question** that is properly presented by way of a motion to dismiss. Once sovereign immunity is raised, Plaintiff bears the burden of establishing subject matter jurisdiction and must prove an explicit waiver of sovereign immunity. This waiver, as the Court stated earlier in this order, can travel via one of two rivers: The United States Congress, via its plenary authority over Indian Country matters (Article 1 Section 8 of the United States Constitution), can enact a law authorizing it (which cannot be implied: the authorization must be explicit) OR via a resolution/ordinance by LRBOI Tribal Council (which must also be clear and unambiguous).

The doctrine of tribal sovereign immunity is well established and is "a necessary corollary to Indian sovereignty and self-governance." *Three Affiliated Tribes of the Ft. Berthold Reservation v. Wold Eng'g. P.C.*, 467 U.S. 877, 890 (1986). See also *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 98 S.Ct. 1670 (1978), which held that Indian Tribes have long been recognized as possessing common-law immunity from suit traditionally enjoyed by sovereign powers. Without congressional authorization, Indian Nations are exempt from suit. *Id.* This immunity extends to tribal commercial and governmental activity, including activities outside of Indian Country. *Kiowa Tribe v. Manufacturing Technologies, Inc.*, 523 U.S. 751, 759 (1978). The U.S. Supreme Court has "time and again treated the 'doctrine of tribal immunity [as] settled law' and dismissed any suit against a tribe absent congressional authorization (or a waiver)." *Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 789 (2014) (alteration in original) (quoting *Kiowa*, 523 U.S. at 756, 118 S.Ct. 1700). **This is complete immunity from suit**, otherwise the sovereign immunity inherent to the Tribe is illusory if the Tribe is required to defend an action barred by the doctrine. Any waiver of a tribe's sovereign immunity, whether by Congress or by the tribe itself, "cannot be implied but must be unequivocally expressed." *Martinez*, at 1677 (citing *United States v. Testan*, 424 U.S. 392, 399 (1976)). For there to be a valid waiver of tribal sovereign immunity, the Tribal Council's approval of the waiver would need to be embodied in an ordinance or resolution duly enacted by the Tribal Council or the United States Congress itself would have to abrogate it via federal legislation. Plaintiffs MUST show either Congressional abrogation of immunity via federal legislation SPECIFIC to these funds (LIHEAP Block Grants) OR Plaintiffs must establish a waiver by Tribal Council.

Article XI of the Little River Band of Ottawa Indians Tribal Constitution addresses the Tribe's sovereign immunity. Section 1 clearly states that Tribal Council shall not waive or limit the right of the Little River Band of Ottawa Indians to be immune from suit, except as authorized by Tribal ordinance or resolution in furtherance of tribal business enterprises. Section I further states that except as authorized by tribal ordinance or resolution, the provisions of Article III of the Constitution shall not be construed to waive or limit the right of the Little River Band to be immune from suit for damages. Article XI Section 2 details which suits are authorized in Tribal Court. It specifically states that the Tribe, Council, the Ogema and other Tribal Officials, acting in their official capacity, shall be (ARE) subject to suit for declaratory or injunctive relief in the Tribal Court system for the *purposes of enforcing rights and duties* established by the LRBOI Constitution and by the ordinances and resolutions of this Tribe. **Section b goes on to state that people shall NOT be entitled to an award of damages, as a form of relief, against the Tribe,**

its Tribal Council members, the Ogema, or other Tribal officials acting in their official capacities. Furthermore, Tribal Council may via ordinance waive the right of the Tribe or Tribal officials to be immune from damages in such suits only in specified instances when such a waiver would promote the best interests of the Band or the interests of justice. *Id.* Article XI of the LRBOI Constitution is a limited/partial waiver of the Tribe's sovereign immunity for certain types of requested relief (declaratory/injunctive). Plaintiffs have the burden of establishing this.

Due to some unique circumstances, the Court has determined that some discovery must move forward in this case prior to a hearing on any potential waiver of sovereign immunity in which the Plaintiff must meet their burden to establish such a waiver. **To be clear, it is not possible for Tribal Members to have NOTICE of Tribal Resolutions or Official Actions if those actions are not made publicly available.** During the hearing, the Court noted that the minutes for Tribal Council Meetings were lacking and both the Plaintiffs and the Defendant indicated past issues (during the pendency of this suit) with receiving copies of resolutions. Accordingly, the Court enters the following and Defendant agreed on the record to help the Plaintiffs in securing this information:

I. Discovery Regarding Waiver of Sovereign Immunity

ALL DISCOVERY IN THIS CURRENT ACTION IS ON HOLD, including deadlines for complying, with the exception of the following:

- a. The Plaintiffs can move forward on requests for 3rd party contracts in the possession of the Defendant and his agents that identify their property (the property at issue in this suit) as the property intended for services and the Tribe;
- b. The Plaintiffs can move forward on requests for resolutions or official actions from Tribal Council regarding the LIHEAP Funds or Members Assistance/other Tribal Departments or contracts pertaining to the use of the LIHEAP Funds either generally or in regards to their property (these requests may NOT pertain to specific properties that are NOT the property at issue); and
- c. The Plaintiffs can move forward on requests for the acceptance of award regarding the LIHEAP Block Grant funds from the Federal Government to the Tribe; or
- d. The Plaintiffs can secure an affidavit from the Tribal Council Speaker stating there has been a waiver of sovereign immunity and attaching the Ordinance or Resolution waiving said immunity as identified in the affidavit.

II. Interrogatories

Because it was raised at the most recent hearing, the Court reminds the parties of the following:

- a. Discovery is outlined in the LRBOI Rules of Civil Procedure (*See* subchapter 4.300, *et al*).
- b. Section 4.309 outlines Interrogatories to Parties, but it does not provide for a limit on the number of interrogatories that can be sent by each separately represented party. However, MCR 2.309 provides that each separately represented party may serve no more than 20 interrogatories on each party. A discrete subpart of an interrogatory counts as a separate interrogatory.

- c. Accordingly, the number of interrogatories that may be served on the Defendant by the Plaintiffs is 20.
- d. Additionally, LRBOI Rules of Civil Procedure 4.302 (H) governs the limited instances in which discovery should be filed with the Court and the parties are encouraged to review that section.

This matter is set for a Hearing on March 18, 2025 at 10:00 a.m. The Court will issue a separate hearing notice.

IT IS SO ORDERED this 18th Day of February 2025.

DocuSigned by:

Caroline LaPorte

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Caroline B LaPorte, J.D.
Associate Judge

CERTIFICATE OF SERVICE

I hereby certify that this document was served upon the parties pursuant to Tribal Court Rule 4.100.

2-19-25
Date

Spung Medacco
Court Clerk/Administrator

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

3031 Domres Road · Manistee, MI 49660
(231) 398-3406
tribalcourt@lrboi-nsn.gov

GEORGE R. PUFLETT JR. AND
CANDACE M. CHAPMAN,
Plaintiffs

Case No. 24-192-GC

Hon. Caroline LaPorte

v.

THE LITTLE RIVER BAND OF OTTAWA
INDIANS EXECUTIVE BRANCH,
LARRY ROMANELLI
Defendant

George R. Pufflett, Jr.
Candace M. Chapman
Plaintiffs
3376 Black Creek Road
Muskegon, MI 49444

Dennis Swain (P29866)
Attorney for Defendant
2608 Government Center Drive
Manistee, Michigan 49660

Tobin Dust (P36741)
Co-Counsel for Defendant
300 St. Andrews Road, Suite 302
Saginaw, MI 48638

**ORDER DENYING MOTION FOR LEAVE TO AMEND COMPLAINT AND FINAL
ORDER DISMISSING SUIT FOR LACK OF SUBJECT MATTER JURISDICTION**

This cause came before the Little River Band of Ottawa Indians Tribal Court originally on a Complaint by Plaintiffs Chapman and Pufflett. On April 4, 2025, the parties appeared, with the Ogema represented by Mr. Swain and Mr. Dust, and the Plaintiffs appearing pro se.

Sovereign Immunity is dispositive to the matter at hand—and has remained as such for the crux of this case.

As stated in a previous Order dated February 18, 2025, sovereign immunity is an inherent feature of tribal sovereignty. Thus, any party bringing suit against the Tribe **MUST** show that there has been a waiver of that immunity for their case to survive. This waiver can be established by one of two ways: the United States Congress can pass express/clear/explicit legislation stating that a law includes a waiver of tribal sovereign immunity OR (in LRBOI's case) Tribal Council may pass a resolution or ordinance waiving that immunity (i.e. the Tribe consents to suit). Importantly, because Tribal Council ratifies contracts, a contract itself may contain such a waiver, so long as such a waiver is clear. As previously stated, there is a limited waiver found in

Article XI of the LRBOI Constitution that allows suits for **declaratory and injunctive relief**. The suit that the Plaintiffs' brought in the present case includes *monetary damages (which are distinct from declaratory and injunctive relief)*.

To reiterate: the question of whether a court lacks subject matter jurisdiction over a claim barred by tribal sovereign immunity is a **threshold question** that is properly presented by way of a motion to dismiss. Once sovereign immunity is raised, Plaintiff bears the burden of establishing subject matter jurisdiction and must prove an explicit waiver of sovereign immunity. This waiver, as the Court stated earlier in numerous orders, can be found in one of two ways: The United States Congress, via its plenary authority over Indian Country matters (Article 1 Section 8 of the United States Constitution), can enact a law authorizing it (which cannot be implied: the authorization must be explicit) OR via a resolution/ordinance by LRBOI Tribal Council (which must also be clear and unambiguous).

The doctrine of tribal sovereign immunity is well established and is "a necessary corollary to Indian sovereignty and self-governance." *Three Affiliated Tribes of the Ft. Berthold Reservation v. Wold Eng'g. P.C.*, 467 U.S. 877, 890 (1986). See also *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 98 S.Ct. 1670 (1978), which held that Indian Tribes have long been recognized as possessing common-law immunity from suit traditionally enjoyed by sovereign powers. Without congressional authorization, Indian Nations are exempt from suit. *Id.* This immunity extends to tribal commercial and governmental activity, including activities outside of Indian Country. *Kiowa Tribe v. Manufacturing Technologies, Inc.*, 523 U.S. 751, 759 (1978). The U.S. Supreme Court has "time and again treated the 'doctrine of tribal immunity [as] settled law' and dismissed any suit against a tribe absent congressional authorization (or a waiver)." *Michigan v. Bay Mills Indian Community*, 572 U.S. 782, 789 (2014) (alteration in original) (quoting *Kiowa*, 523 U.S. at 756, 118 S.Ct. 1700). **This is complete immunity from suit**, otherwise the sovereign immunity inherent to the Tribe is illusory if the Tribe is required to defend an action barred by the doctrine. Any waiver of a tribe's sovereign immunity, whether by Congress or by the tribe itself, "cannot be implied but must be unequivocally expressed." *Martinez*, at 1677 (citing *United States v. Testan*, 424 U.S. 392, 399 (1976)). For there to be a valid waiver of tribal sovereign immunity, the Tribal Council's approval of the waiver would need to be embodied in an ordinance or resolution duly enacted by the Tribal Council or the United States Congress itself would have to abrogate it via federal legislation. Plaintiffs were **required** to show either Congressional abrogation of immunity via federal legislation SPECIFIC to these funds (LiHeap Block Grants) OR establish a waiver by Tribal Council.

Article XI of the Little River Band of Ottawa Indians Tribal Constitution addresses the Tribe's sovereign immunity. Section 1 clearly states that Tribal Council shall not waive or limit the right of the Little River Band of Ottawa Indians to be immune from suit, except as authorized by Tribal ordinance or resolution in furtherance of tribal business enterprises. Section I further states that except as authorized by tribal ordinance or resolution, the provisions of Article III of the Constitution shall not be construed to waive or limit the right of the Little River Band to be immune from suit for damages. Article XI Section 2 details which suits are authorized in Tribal Court. It specifically states that the Tribe, Council, the Ogema and other Tribal Officials, acting in their official capacity, shall be (ARE) subject to suit for declaratory or injunctive relief in the Tribal Court system for the ***purposes of enforcing rights and duties*** established by the LRBOI

Constitution and by the ordinances and resolutions of this Tribe. **Section b goes on to state that people shall NOT be entitled to an award of damages, as a form of relief, against the Tribe, its Tribal Council members, the Ogema, or other Tribal officials acting in their official capacities.** Furthermore, Tribal Council may via ordinance waive the right of the Tribe or Tribal officials to be immune from damages in such suits only in specified instances when such a waiver would promote the best interests of the Band or the interests of justice. *Id.* Article XI of the LRBOI Constitution is a limited/partial waiver of the Tribe's sovereign immunity for certain types of requested relief (declaratory/injunctive).

As stated in a previous order, Plaintiffs had the burden of establishing this. Due to some unique circumstances, the Court in a previous Order determined that some discovery must move forward in this case prior to a hearing on any potential waiver of sovereign immunity in which the Plaintiffs needed to meet their burden to establish such a waiver. But as the Court stated in February, ***it is not possible for Tribal Members to have NOTICE of Tribal Resolutions or Official Actions if those actions are not made publicly available.*** How are those actions made publicly available? When Tribal Council meets the requirements of its duties in Article IV Section 6(g)2 of the LRBOI Constitution, which provides that *"minutes shall identify each Council Member's vote on every issue."* During the pendency of this case and on the record, the Court noted that the minutes for Tribal Council Meetings were lacking and both the Plaintiffs and the Defendant indicated past issues (during the pendency of this suit) with receiving copies of resolutions.

Prior to the last hearing, the Court allowed Plaintiffs to move forward on requests for 3rd party contracts in the possession of the Defendant and his agents that identified their property (the property at issue in this suit) as the property intended for services; on requests for resolutions or official actions from Tribal Council regarding LiHeap Funds or Members Assistance/other Tribal Departments or contracts pertaining to the use of the LiHeap Funds either generally or in regards to their property; on requests for the acceptance of award regarding the LiHeap Block Grant Funds from the Federal Government to the Tribe; and they were finally permitted to secure an affidavit from the Tribal Council Speaker stating that there had been a waiver of sovereign immunity and attaching the Ordinance or resolution waiving said immunity as identified in the affidavit.

The Court subpoenaed both the Speaker and Recorder of the Tribal Council, who dutifully appeared for this hearing in compliance with the Court's authority. Both Speaker Burmeister and Recorder Johnson testified under oath that no such waiver of sovereign immunity had occurred by action of Tribal Council. Plaintiff Chapman herself provided a moving statement about the importance of Tribal Sovereign Immunity as something she fought to uphold during her time serving on Tribal Council. Additionally, the Court noted that no waiver of sovereign immunity by the United States Congress could be found.

The Court has taken its time to review the Plaintiffs' motions and exhibits—which have been voluminous—to make sure that declaratory or injunctive relief was not an available option to the Plaintiffs based on their claim. The Court took this extra step because the Plaintiffs are pro se and because Plaintiffs are barred from requesting monetary relief/damages due to the Plaintiffs inability to produce of a waiver of sovereign immunity. Unfortunately, review of the Plaintiffs

documents does not establish that they have the right to declaratory or injunctive relief on this matter. These are grant funds and programs that are discretionary, and the Court found no 3rd party reliance that would have established such a basis for relief—even in a light most favorable to the Plaintiffs. The creation of a program to distribute federal grant dollars does not create an actionable right in which the Plaintiffs could have requested injunctive/declaratory relief.

The Court reviewed the Plaintiffs' Motion for Leave to Amend Complaint on the basis that their complaint raises issues regarding the Elder's Protection Ordinance. The Elder's Protection Ordinance #11-900-03, is not applicable to the facts pleaded throughout the Plaintiffs' complaint or the pendency of this case. Furthermore, the Court would refer the parties to the Orders in Case No. 23-115-GC, where the Court went through great efforts to respect the Plaintiffs as elders.¹

This Matter is DISMISSED WITH PREJUDICE this 31st Day of October, 2025.


Caroline B LaPorte, J.D.
Associate Judge

CERTIFICATE OF SERVICE

I hereby certify that this document was served upon the parties pursuant to Tribal Court Rule 4.100.

10.31-25
Date

Spring Medacco
Court Clerk/Administrator

¹ *From the Order dated February 15, 2024 in Case No. 23-115-GC, "Culturally, Mrs. Chapman can expect at least some consideration of what felt deeply unfair to her: the processes and the engagement she experienced prior to getting to Court. That is not a legal basis for fashioning a remedy, but how we see, treat, and speak to each other needs to matter, even if not in a western legal sense. The property the Plaintiffs requested assistance for is their home, and the Court feels that much of this suit could have been avoided had Mrs. Chapman been treated like an Elder. (....) Mrs. Chapman is owed respect as an Elder of this Tribe and it was clear during the pendency of this case that she did not feel like she had been heard or spoken to in line with our Seven Grandfather Teachings. When members of our community have experiences such as this, we have an opportunity to reflect on how to better our relations with one another."*