

**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 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 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.”*