

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

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

STACI CHENEY, JOLENE O’SIGNAC,
and SUSAN THULL,
Plaintiffs

Case No. 23-013-GC

Honorable Caroline LaPorte

v.

LRBOI ELECTION BOARD,
Defendant

Staci Cheney
Plaintiff, In Pro Per
7350 Warwick Drive
Ypsilanti, MI 48197
cheney82@gmail.com

LRBOI Election Board
Defendant
2608 Government Center Drive
Manistee, MI 49660

Jolene O’Signac
Plaintiff, In Pro Per
264 Kauai Lane
Placentia, CA 92870
osignac@aol.com

Susan Thull
Plaintiff, In Pro Per
7170 Cattail Drive
Byron Center, MI 49315
susan.thull@gmail.com

**ORDER DENYING EX-PARTE INJUNCTIVE RELIEF, DISMISSING RELIEF IN
PART DUE TO MOOTNESS, and SETTING FOR HEARING**

The Plaintiffs filed a Statement of Claim on January 5, 2023 and an amended Statement of Claim on January 6, 2023 (‘Complaint’) alleging that the Little River Band of Ottawa Indians (‘LRBOI’) Election Board committed an abuse of power, violated the Constitution of LRBOI, and violated the LRBOI Election Board Regulations/Resolutions/Ordinances. The Plaintiffs are requesting the following:

1. Ex-Parte Restraining Order and Stay for the 2022 Special Election;
2. Ex-Parte Restraining Order for the 2023 Regular Election;
3. Permanent Injunction for both the 2022 Special Election and the 2023 Regular Election;
4. Mandatory Injunction for both the 2022 Special Election and the 2023 Regular Election;
and
5. and immediate removal of Election Board Members Karen Love, Laura Echelbarger and Kathy Gibson.

Upon review of the pleading and attached exhibits, **BOTH** requests for Ex-Parte Injunctive Relief are **DENIED** for failing to show that serving the Defendant would cause delay would cause irreparable injury, loss or damage or that notice will not precipitate adverse action before an order can be issued.

Ex-Parte relief is an extraordinary request that the Court does not often grant. For the Court to consider a request for Ex-Parte relief, the Plaintiffs' request must state specific facts set forth in an affidavit or verified pleading and those facts must show that irreparable injury, loss, or damage will result from the delay required to effect notice, or that the notice itself would precipitate adverse action before an order can be issued. In both instances Plaintiffs fail to state any facts or provide any arguments that address their request for Ex-Parte relief. What creates the appearance of urgency rather, is that the Plaintiffs waited until after the Special Election was certified and the week before candidates were to be sworn in, despite their awareness of the alleged impropriety dating back before the candidates for the 2022 Special Election were even slated.¹

The Plaintiffs are requesting that the Court enjoin the Special Election from certification. The request is for Ex-Parte relief, a permanent injunction and a mandatory injunction. Though the Court has jurisdiction to hear allegations of impropriety by the Election Board as outlined in LRBOI § 2 (A) of the LRBOI Election Board Regulations (as amended September 9, 2022), the Court finds that the Plaintiffs' request is **MOOT** as the Special Election results were certified on **December 20, 2022**. Furthermore, the Plaintiffs fail to allege any facts that would show irreparable injury, loss or damage would result from the delay required to effect notice and alternatively, fail to show why notice of their complaint would precipitate adverse action before an order can be issued (thus the Court's present denial of their request for Ex-Parte Injunctive Relief). While not necessary for the Court to address as the requests regarding the 2022 Special Election are **MOOT**, the Plaintiffs' Complaint as to the Special Election would otherwise be barred for two reasons: Plaintiffs' Complaint is time barred and the Plaintiffs failed to exhaust their remedies. In as much as the Plaintiffs' requests could be construed as an election dispute or an election challenge (the later for which they lack standing to raise as they were not candidates in the 2022 Special Election), the Plaintiffs failed to exhaust their remedies by failing to file an election dispute with the LRBOI Election Board. The Court hears allegations of impropriety as stated above under Chapter 14 §2(A) of the LBROI Election Board Regulations, but §2(B) requires that the allegations be filed with the Tribal Court within thirty (30) days of the date on which the complainant has knowledge. In each instance relating to the Special Election of 2022, the Complainants' knowledge of the issue giving rise to the allegation exceeds the thirty (30) day time limit.

The request for Ex-Parte Injunctive Relief with regards to the 2023 Regular Election is also **DENIED**. Plaintiffs fail to allege any facts that would show irreparable injury, loss or damage

¹ Election Disputes, as outlined in LRBOI Election Board Regulations Chapter 12 §1 et al., must be filed with the Election Board five (5) business days after the date that the Tribal Member has active or constructive knowledge of the act or event giving rise to the dispute. Any registered voter may bring an election dispute. (Chapter 12 §1(B)). Here, though the Plaintiffs should have raised their complaint with the Election Board when they had constructive knowledge of the act or event giving rise to the dispute, they failed to do so and instead waited to file this present action.

would result from the delay required to effect notice and alternatively, fail to show why notice of their complaint would precipitate adverse action before an order can be issued. They fail to address notice at all.

In summation, the Plaintiffs’ requests as to the 2022 Special Election and the 2023 Regular Election for Ex-Parte Injunctive Relief are **DENIED**. The Plaintiffs’ request for relief regarding the 2022 Special Election is **DISMISSED** as **MOOT**. As to the remainder of the Plaintiffs’ complaint regarding allegations of impropriety impacting the 2023 Regular Election, **the Court is setting this matter for a hearing**. To be clear the Court will not entertain arguments resembling election disputes (which need to go before the Election Board before coming in front of this Court as an appeal from an Election Board decision) or election challenges (which also need to go before the Election Board before coming in front of this Court, and for which the Plaintiffs in this case lack standing to bring).

The Court calls to attention serious concerns about the potential ethical issues found within the Affidavit of Valerie McDonnell, namely why Ms. McDonnell would provide the Court with a signed statement that she accessed a “Personnel Security Consultant Website” while a candidate for the 2023 Regular Election **POST** her time as a member of the LRBOI Election Board. Per Ms. McDonnell’s Affidavit, she served on the Election Board from 2017 to October of 2022. She states that “during Thanksgiving, she was called and asked to check the Personnel Security Consultant Website to see if the background checks had come to [her] account. That was November 25, 2022.”² As Ms. McDonnell did not provide the name of the individual who asked her to access the website, Plaintiffs have three (3 days) to provide that information to this Court and the Defendant (not including today). Vague allegations of impropriety (such as the ones included in Ms. McDonnell’s Affidavit), which can only serve to undermine the validity of Tribal elections (especially in which the affiant is running), will not be tolerated by this Court.

This matter is set for a hearing on January 20th, 2023 at 1:00 P.M. Notice will issue from the Court and Plaintiffs **MUST** serve their Initial Complaint and Amended Complaint (with accompanying exhibits) on the Defendant.

1/9/2023

Date

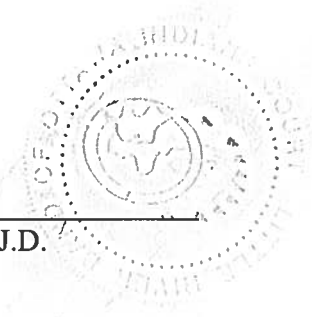
DocuSigned by:

Caroline LaPorte

1AB0833F0F10437...

Caroline B. LaPorte, J.D.

Associate Judge



² See Sworn Affidavit of Valerie McDonnell, attached as **Plaintiffs Exhibit S** and to this Order.

Plaintiff's
Exhibit:
S

January 3, 2023

I Valerie McDonnell who lives at [REDACTED]
Tribal ID [REDACTED]. I swear this information in this letter is true to the best of my
knowledge.

I used to be the chair on the election board of LRBOI for about 3 years, (I served on the election board from 2017 to October 2022)when I was the chair, we never had the undeliverable ballots come back to the government center, where there could be access to the ballots. They were supposed to go the Manistee Post office where they were kept locked up and we did not have access to them. If they didn't go there then, they went back to the vendor and we could check online to see who was undeliverable. (The vendor would copy the front of the envelope so that we could at least see why the ballot was being returned) That way the integrity of the election was unquestionable. We should never have access to any ballots. Even at the Regular Election the vendor would print a new ballot for anyone who came into vote. That way, they could check to make sure they have not already voted.

On the Special Election, it was noted on the report that there was 0 (zero) undeliverable. I have talked to a current election board member and was told there was 38 undeliverable, most of they were wrong addresses. What happened to them ballots were any opened and used?

During Thanksgiving I was called and asked to check the Personnel Security Consultant website to see if the background checks had come to my account. I did check but they did not come to my account. That was November 25, 2022 and the election board was to slate on Monday the 28th, 2022. So, unless they came thru on the 28th of November, they would have not been back in order to slate the candidates for the election.

On the day of the election if you are close related to a candidate you should reclude yourself. (as defined on page 60 of the election board regulation)

Valerie McDonnell

1/3/2023