



## **Huron Potawatomi Tribal Court**

### **The Nottawaseppi Huron Band of the Potawatomi**

2221 1-1/2 Mile Road • Fulton, Michigan 49052  
Phone: (269) 729-5151 • Fax: (269) 729-4826

**CASE NO: See Below**

**ROB LARSON (CASE NO. 13-080-CV/TRO),  
DEAN TENBRINK (CASE NO. 13-078-  
CV/TRO), and  
TERRY TENBRINK (CASE NO. 13-079-  
CV/TRO)**

**v.**

**THE NOTTAWASEPPI HURON BAND OF  
THE POTAWATOMI TRIBAL COUNCIL,  
and THE NOTTAWASEPPI HURON  
BAND OF THE POTAWATOMI  
ELECTION BOARD**

**STEPHEN SPURR  
Attorney for Plaintiffs  
1114 Beaconsfield Avenue  
Grosse Pointe Park, Michigan 48230-1345  
Phone: 313-331-2902  
Work: 313-577-3232**

**JAMES MEGGESTO  
Attorney for Respondents  
Akin Gump Strauss Hauer & Feld LLP  
1333 New Hampshire Avenue, N.W.  
Washington, D.C. 20036-1564  
Phone: 202-887-4000  
Fax: 202-887-4288  
Email: [jmeggesto@akingump.com](mailto:jmeggesto@akingump.com)**

### **OPINION AND ORDER**

At a session of said Court held in the Courthouse of the  
Nottawaseppi Huron Band of the Potawatomi Tribal Court on  
the Pine Creek Reservation on the 23<sup>rd</sup> day of April 2013

Honorable Melissa L. Pope Presiding

#### **INTRODUCTION**

This matter comes before the Court following this Court's Opinion and Order, issued on March 19, 2013, denying the Plaintiff's Petition for Temporary Restraining Order and Permanent Injunction against the Tribal Council and the Tribal Election Board.

## **JURISDICTION**

The NHBP Tribal Court has jurisdiction over this matter pursuant to Article XI, Section 3(b) of the NHBP Constitution:

The judicial power of the Tribal Court system may be exercised to the fullest extent consistent with self-determination and the sovereign powers of the Band, and, as exercised, shall govern all persons and entities subject to the jurisdiction of the Band under Article II of this Constitution.

Suits against Tribal officials are authorized under Article X of the NHBP Constitution:

Section 2. Authorization of Suits against Officials and Employees of the Band.

a) Officials and employees of the Band shall be subject to suit if

1. The suit is brought in the Band's Tribal Court.
2. The suit is against such officials or employees in their official capacity;
3. The suit seeks only prospective injunctive relief, and does not seek monetary damages or any other form of retroactive relief;
4. The suit seeks to enforce legal rights and duties established by this Constitution and by the laws of the Band.

In the present case, the Plaintiffs, NHBP Tribal Members and former candidates for Tribal Council in the election scheduled for April 27, 2013, have submitted a Motion for New Trial, to Alter or Amend Judgment, for an Advisory Opinion, and to Issue a Permanent Injunction following an Opinion and Order issued in this case on March 19, 2013 with the Plaintiffs' cause of action arising under their assertion that the Respondents violated Article VII(1)(8) of the NHBP Constitution and that the NHBP Tribal Election Code violates Article VII (1)(a) of the NHBP Tribal Constitution, the United States Constitution and the Indian Civil Rights Act.

## **STATEMENT OF FACTS**

The full facts of these cases prior to the issuance of the March 19, 2013 Opinion and Order are specified in that Opinion. This Opinion and Order shall only provide the facts from the point after this Court issued its Opinion and Order on March 19, 2013.

On or about March 29, 2013, following becoming a member of the NHBP Tribal Court Bar, Stephen Spurr submitted an Appearance on behalf of the Plaintiffs.

On or about April 1, 2013, the Plaintiffs, by and through their attorney, submitted a Motion for Joinder.

On or about April 5, 2013, the Plaintiffs filed a Motion for New Trial, and to Alter or Amend Judgment and Brief in Support of Motion for New Trial, to Alter or Amend Judgment, for an Advisory Opinion, and to Issue a Permanent Injunction with accompanying exhibits.

On or about April 15, 2013, the Plaintiffs filed the Reply Brief in Support of Motions for New Trial and to Amend Judgment, Request for Advisory Opinion on Constitutionality of the Tribal Election Code, Request for Stay of Certification of Election by the Tribal Election Board, and for Permanent Injunction against the Tribal Council and the Tribal Election Board.

On or about April 18, 2013, the Respondents, by and through their attorney, submitted the Defendants' Consolidated Opposition to Plaintiffs' Motions for Joinder, For a New Trial and to Alter or Amend Judgment. For the purposes of this Opinion and Order, the Court shall use "Defendants" and "Respondents" interchangeably.

## **ANALYSIS**

This Court issues this Opinion and Order following the submission of briefs by both parties in compliance with the NHBP Tribal Court Rules.



The first Motion before the Court is whether to grant or deny the Plaintiffs' Motion for Joinder. This Court initially ordered that these cases proceed separately because the parties were not represented by an attorney and NHBP Tribal Court Rules do not permit lay advocates. In the interest of judicial economy, and with consent of the parties at the March 15, 2013 Hearing, one Hearing was held with Plaintiffs Dean and Terry TenBrink choosing to proceed with a joint statement to the Court. Plaintiff Larson did not appear and did not submit a written Motion to Adjourn, despite being advised of this procedure prior to the Hearing.

Plaintiffs Dean and Terry TenBrink have now retained the same attorney, are submitting identical pleadings and any ruling affecting one party will have the same effect on the other party. The Court shall exercise its discretionary authority pursuant to NHBP R. Civ. P 13(B)(3) to permit the joinder of the cases involving Plaintiffs Dean and Terry TenBrink.

The Plaintiffs' request to join the case involving Plaintiff Rob Larson, however, is denied. Plaintiff Larson's case was dismissed for his failure to appear for the expedited Hearing on March 15, 2013 without submitting a written Motion to Adjourn. As such, the case involving Plaintiff Larson is not identical to that of Plaintiffs Dean and Terry TenBrink. The Plaintiffs did not address this issue in their pleadings. Plaintiff Larson's Motion for Joinder is therefore denied.

The Respondents provide significant Tribal case law supporting their argument that Plaintiff Larson's case should be dismissed with prejudice.

While one could 'conceive of instances where a party may have an excusable absence due to reasons beyond the individual's control (e.g. gave illness or death in the family),...that type of instance is not present here.' *Harden*, 2 Am. Tribal Law at 276. Larson's case should remain dismissed, with prejudice. *See id.* (upholding 'decision to dismiss with prejudice' suit filed by plaintiff who failed to appear); *Whitehorse v. Kayenta Chapter*, Dist. No. 8, 1 Am. Tribal Law 517,520 (Navajo Nation Supreme Ct. 1998) (affirming trial court's dismissal with prejudice of suit where plaintiff was 5 minutes late to hearing). Respondents Brief at 9. References to criminal cases omitted.

As Plaintiff Larson was originally a pro se party and the Respondents did not request that the case be dismissed with prejudice at the March 15, 2013 Hearing, the Court did not dismiss this case with prejudice in its March 19, 2013 Opinion and Order. At this point, however, the Court must dismiss Plaintiff Larson's case with prejudice. The Respondents have not only correctly noted that Plaintiff Larson failed to appear or submit a written Motion to Adjourn despite being advised of the process by the Tribal Court Administrator, they have cited cases that highlight that such a dismissal with prejudice is proper in other Tribal Courts. This Court finds these cases to be persuasive. Of equal importance is that Plaintiff Larson, by and through his attorney, fails to provide an explanation for not appearing or submitting a written Motion to Adjourn, fails to request that the dismissal be set aside and fails to provide any legal basis as to why the dismissal should be set aside. The case involving Plaintiff Larson is, therefore, dismissed with prejudice. With Plaintiff Larson's case dismissed, references to the "Plaintiffs" in this Opinion and Order mean Plaintiffs Dean and Terry TenBrink.

The next issue the Court will address is the Respondents request to strike as untimely the Plaintiffs' Reply Brief in Support of Motions for New Trial and to Amend Judgment, Request for Advisory Opinion on Constitutionality of the Tribal Election Code, Request for Stay of Certification of Election by the Tribal Election Board, and for Permanent Injunction against the Tribal Council and the Tribal Election Board. This Court is granting the Respondents request. To begin, it appears to this Court that the Plaintiffs are attempting to introduce a history of alleged misconduct by the NHBP Tribal Council that has mostly not been litigated in this Court under the guise that it directly relates to this case. These allegations are not relevant to the present case. This case only involves an appeal of the Election Board decision to remove candidates for Tribal Council from the April 27, 2013 ballot. Of equal importance is that this Reply Brief appears to be an attempt to introduce the evidence and legal analysis that should have been presented before or at the Hearing on March 15, 2013 without any explanation as to why it was not



presented, without a request for the Court to accept this late Reply Brief and without arguing any legal basis for the Court to consider this Reply Brief when it issued its Opinion and Order almost one month prior to the date the Plaintiffs submitted it to the Court. As such, the Court hereby strikes this “Reply Brief” as untimely.

The Plaintiffs, by and through their attorney, have requested a new trial or to alter or amend the judgment of March 19, 2013. The Plaintiffs correctly state that Chapter 5, Section 30 of the NHBP Tribal Court Rules governs setting aside a verdict, decision, or judgment. The Plaintiffs specifically referenced the following in their Brief:

A. Grounds. A verdict, decision, or judgment may be set aside and a new trial granted on the following grounds:

1. Irregularity in the proceedings of the court, jury, or prevailing party...
3. Accidents or surprise which could not have been prevented by the use [of] ordinary care
4. Newly discovered evidence that, with reasonable diligence, could not have been produced at trial...
6. A verdict clearly or grossly inadequate or excessive
7. Error in the admission or rejection of evidence, error in the instructions to the jury, or in refusing instructions requested or other errors of law occurring at the trial or during the progress of the trial

Although all of the above is quoted from the Court Rule, the Plaintiffs’ primary argument is that the Plaintiffs lacked the legal training to properly introduce the transcript from the January 31, 2013 Election Board Hearing and that this lack of training constitutes an “irregularity” sufficient to justify a new trial or for the judgment to be altered or amended. The Plaintiffs argue that the fact that they requested a transcript of the Election Board Hearing on January 31, 2013 prior to the Court Hearing on

March 15, 2013 is relevant, perhaps to indicate that the Plaintiffs wanted the Court to consider the Election Board Hearing, but lacked the legal knowledge of how to properly enter it. The Plaintiffs reference the following excerpt from the March 19, 2013 Opinion and Order:

Important to this Opinion and Order, the Plaintiffs did not provide this transcript to the Court during the Hearing on March 15, 2013 nor did it request that the Court consider this transcript when making its decision.

The Plaintiffs appear to miss the importance of this sentence. The point important to the Court was that the Plaintiffs did not provide the transcript or ask the Court to consider it. The Court notes that the Plaintiffs could have requested the Court to consider the transcript or view the recording of the Hearing if the transcript was not available. Whether the transcript was unavailable then or now is not relevant since the Plaintiffs never requested that the Court consider the transcript – or recording – of the Election Board Hearing.

The Plaintiffs also referenced the following from the March 19, 2013 Opinion and Order:

In cases such as this when a party is not represented by an attorney and does not appear to have had legal advice, the Court takes extra care in reading the pleadings and reviewing the evidence to determine whether the statements, arguments, legal analysis and evidence support the relief requested.

The Plaintiffs once again miss the point of the Court's statements. The "great care" referenced was provided in ordering the expedited Hearing, despite the defects in the initial filing. The Court ensured that the Plaintiffs had their day in Court. The fact that the Plaintiffs failed to ask the Court to consider the Election Board Hearing, whether by transcript or recording, is not an "irregularity". It is a failure on the part of the Plaintiffs to understand the law, the NHBP Court Rules and court proceedings. The Court cannot permit the Plaintiffs to introduce evidence after an Opinion and Order has been issued when it could and should have been presented prior to or at the Hearing. This is especially critical considering the fact that the Plaintiffs requested an extraordinary remedy of a temporary restraining order and permanent injunction against an election after the absentee ballots had been mailed. To permit this to

occur, would mean that any pro se party would be entitled to have the Court set aside, alter or amend a judgment simply by stating that they did not have the legal training to know they had to ask the Court to consider evidence. This would set a dangerous precedent that would put into question whether any order of this Court is final.

This same reasoning applies to the Plaintiffs argument that there was an “error in the admission or rejection of evidence.” The Plaintiffs are once again essentially asking that the Court to alter its Opinion and Order only because the Plaintiffs were pro se parties. This is further supported by the list of potential witnesses included in their April 5, 2013 Brief as the list includes Plaintiffs Dean and Terry TenBrink. The Plaintiffs were clearly available at the Hearing and could have testified. They did not. To classify the failure of a plaintiff to testify at a Hearing because they are a pro se litigant as an “irregularity” or “error in the admission or rejection of evidence” would also set a precedent that puts into question whether any Order of this Trial Court is final.

As correctly noted by the Respondents, the Plaintiffs did not include all of the relevant elements of the Court Rule regarding a request to set aside a verdict, decision or judgment. Section 30(A)(1) of Chapter Five of the NHBP Tribal Court Rules of Civil Procedure authorizes a new trial if the moving party meets its burden of proof regarding the grounds for a new trial and proves that “the moving party was denied a fair trial.” The Plaintiffs do not allege that they were denied a fair trial nor do they provide evidence or legal analysis to that effect.

The party submitting a motion to the Court has the burden of proof unless otherwise noted in the Court Rules. As such, the Plaintiffs have the burden of proof for demonstrating that there are sufficient grounds to warrant a new trial or to alter or amend this Court’s March 19, 2013 Opinion and Order. For the reasons stated thus far in this Opinion and Order, the Plaintiffs have failed to meet their burden.



In their Motion for New Trial, to Alter or Amend Judgment, for an Advisory Opinion, and to Issue a Permanent Injunction, the Plaintiffs make a new request for a permanent injunction different than that in the initial filing. They now request that the Court issue a permanent injunction against the Election Board prohibiting them from certifying the April 27, 2013 election results and from swearing in the new Tribal Council. Despite the Court explicitly stating in its March 19, 2013 Opinion and Order that a party must provide proofs with regard to the four-part test for preliminary injunctions, the Plaintiffs fail to even address the test or apply the facts of this case to the test.

Instead, the Plaintiffs have a section in their Brief entitled, “Unfair Tribal Elections are Unconstitutional” in which they cite several cases from other Tribal Courts, but do not clearly articulate how the facts of those cases relate to the facts of this case. While not discussing the four-part test for a preliminary injunction established in *Spurr v. Nottawaseppi Huron Band of the Potawatomi Tribal Council*, No. 12-005APP, at 9-10 (NHBP S. Ct. Feb. 21, 2012), the Plaintiffs reference *Spurr* as follows:

Yet this election presents an entirely novel, and indeed extraordinary situation. On account of the Election Board’s disqualification of all the plaintiffs and RoAnn Beebe-Mohr, there remain only three candidates, two of them incumbents, running for three Council positions. Since there is no provision in the Election Code for write-in candidates, these three candidates cannot possibly lose if this Court allows the election to proceed. If the decision of the Election Board of February 1, 2013 is allowed to stand, three incumbent candidates, two of whom have never been elected to Tribal Council and have never faced the voters, will be unopposed in this so-called election. It is thus not a real election; it is a fake election, a fraud, a coronation. The Court may wish to consider these circumstances in deciding whether to grant the plaintiffs a new trial or supplemental hearing. Plaintiffs Brief at 6.

For clarification purposes, the Plaintiffs initially correctly state that there are three candidates, “two of them incumbents,” but incorrectly identify the candidates as “three incumbent candidates” later in the same paragraph. The Court presumes this was an unintentional error since the Plaintiffs initially correctly identified that two of the three candidates have incumbent status.

The Plaintiffs state, but fail to provide any reasoning, as to how the fact that the three individuals running for Tribal Council will be elected as they are running unopposed is “extraordinary” within the context of the meaning in *Spurr*. While this argument may really be rooted in the Plaintiffs contention that they were unfairly removed from the ballot, the Plaintiffs failure to provide the evidence and legal analysis necessary to prove their case leaves the Court only with the question as to whether the extraordinary remedy of interfering with an election because the candidates are running unopposed is justified. Running unopposed is not unprecedented. This will not be the first election, tribal or otherwise, where candidates are running unopposed nor is it likely to be the last. The Plaintiffs have not cited any persuasive authorities, such as cases in other Tribal Courts, where an injunction involving an election was issued solely because one or more candidates were running unopposed. This Court finds no basis for setting such a precedent.

The one new piece of evidence submitted by the Plaintiffs with their Motions was a letter from the NHBP Tribal Council to NHBP Tribal Members dated March 22, 2013 that advised Members that they are considering whether to establish an Office of Special Prosecutor to “undertake appropriate investigation to determine whether any violations of the NHBP Constitution or law (which includes attempts to overthrow the NHBP Tribal Government or Council without going through due process) occurred with respect to the activities that were the subject of the January 31 hearing.” (Plaintiffs’ Exhibit with April 5, 2013 Filing) While this letter does constitute “newly discovered evidence that, with reasonable diligence, could not have been produced at trial,” it does not have any bearing on the merits of this case. This case involves an appeal of the Election Board’s decision to remove three candidates from the ballot. Whether or not the NHBP Tribal Council, or a Special Prosecutor, finds grounds to pursue other action in relation to the events discussed at the Election Board is a separate issue from what is being appealed in this case.



The final issue to address is the Plaintiffs request for an advisory opinion on the constitutionality of the NHBP Election Code. The Black's Law Dictionary defines an advisory opinion as follows:

Such may be rendered by a court at the request of the government or an interested party indicating how the court would rule on a matter should adversary litigation develop. An advisory opinion is thus an interpretation of the law without binding effect. While the International Court of Justice and some state courts will render advisory opinions the federal courts will not; their jurisdiction being restricted to cases or controversies.

While this Court hesitates from creating a blanket rule that it will never issue an advisory opinion, it finds wisdom in the federal courts policy to restrict its jurisdiction to cases or controversies. As advisory opinions are not binding precedent, an issue must be litigated in order for the advisory opinion to have legal effect. Such a system is more costly to the parties, the Court and the Nation as a whole. In addition, there could be issues of actual or perceived bias by the Judge who issues an advisory opinion if the matter is later litigated.

Further, as stated in the definition, an advisory opinion is issued to state "how the court would rule on a matter should adversary litigation develop." (Emphasis added) In the present case, there is already adversarial litigation. The Plaintiffs have claimed that they were wrongfully removed from the ballot for Tribal Council because the Election Board found they violated certain Election Code provisions that the Plaintiffs allege are unconstitutional. The Plaintiffs needed to prove that the portions of the Election Code they were found to have violated which resulted in their removal from the ballot were unconstitutional for the purposes of the requested injunction. An advisory opinion is not appropriate in the present case because the issues the Plaintiffs want an advisory opinion on are an integral part of the Plaintiffs' Petition and, therefore, part of adversarial litigation.

The Respondents have a different interpretation regarding the Court's holding in relation to the requested advisory opinion. They state the following in their Brief:



A further hearing on their request for an advisory opinion would also be futile in light of the Court's reasoning in the March 19 Opinion denying Plaintiffs requested preliminary and permanent injunctive relief. The Court's ruling observed repeatedly that Plaintiffs could not demonstrate any likelihood of success on the merits of their claims – i.e., that the Tribal Election Code violates the Tribal Constitution and other laws. March 19 Op. at 8-11. In other words, in substance the Court has already correctly ruled that Plaintiffs are not entitled to an advisory opinion declaring the Election Code unconstitutional, and so there is no need for a new hearing on the matter.

Respondents Brief at 12.

The Respondents' Brief could be interpreted as implying that the Court, by denying the Plaintiffs Motions in its March 19, 2013 Opinion and Order, determined that the Election Code provisions at issue are constitutional. It did not. It has made no findings as to whether these provisions are constitutional because the Plaintiffs failed to meet their burden of proof by presenting the evidence and legal arguments necessary for the Court to review the Election Code provisions. In its March 19, 2013 Opinion and Order, the Court stated:

Instead of doing what is required by NHBP Tribal Law, the Plaintiffs only made allegations that certain provisions of the Election Code are prior restraints on speech in violation of the NHBP Tribal Constitution, the United States Constitution and the Indian Civil Rights Act. The Plaintiffs also alleged that they were denied equal protection and due process of law. They did not provide support for their allegations from NHBP case law or other tribal law. While the Plaintiffs cited a handful of United States cases, they did not provide the facts of the cases, the significance of the holdings or why the NHBP Tribal Court should adopt these lines of reasoning. Of equal importance, the Plaintiffs have not submitted any evidence to support their allegations.

With the Plaintiffs failing to make the appropriate arguments, provide the appropriate legal analysis, including analysis around the request for this extraordinary, perhaps unprecedented, relief as required in *Spurr*, and provide evidence to support their arguments and analysis, the Plaintiffs have failed to meet their burden of proof. The Court hereby denies the Plaintiffs request for a preliminary injunction.

March 19, 2013 Opinion and Order at 10-11.

To be clear, for the same reason that this Court will not issue an advisory opinion in the Motions currently before the Court, it did not issue an advisory opinion – explicit or implicit – in its March 19, 2013 Opinion and Order as to whether the Election Code provisions at issue are constitutional. Both of these Opinions and Orders are based on the fact that the constitutional issues are integral to the Plaintiffs’ request for an injunction, initially to interfere with the April 27, 2013 Tribal Council Election and now to prohibit the NHBP Election Board from certifying the election results and/or swearing in the new NHBP Tribal Council, and that the Plaintiffs failed to meet their burden of proof.

With the Plaintiffs failing to meet their burden of proof for any of the relief requested, including providing the evidence and legal reasoning required for the underlying action of an injunction, and the Court clarifying that an Advisory Opinion is not appropriate in this case, this joined case is now dismissed with prejudice.

## **CONCLUSION**

The Plaintiffs Motion for Joinder of the Plaintiffs Dean and Terry TenBrink is granted due to the fact that they have retained the same attorney, are filing identical pleadings, the cases and controversies arise from the same incident, and because any decision of the Court regarding one Plaintiff will have the same effect on the other party.

The Plaintiffs’ Motion for Joinder in relation to Plaintiff Rob Larson is denied as his case was dismissed for failure to appear at the March 15, 2013 Hearing or to file a Motion to Adjourn which means it is not identical to the cases involving Plaintiffs Dean and Terry TenBrink. That case is now dismissed with prejudice for the failure to provide an explanation for not appearing or submitting a written Motion to Adjourn, failure to request that the dismissal be set aside and failure to provide any legal basis as to why the dismissal should be set aside.



As the Plaintiffs provided no legal basis for the submission of the Plaintiffs' Reply Brief in Support of Motions for New Trial and to Amend Judgment, Request for Advisory Opinion on Constitutionality of the Tribal Election Code, Request for Stay of Certification of Election by the Tribal Election Board, and for Permanent Injunction against the Tribal Council and the Tribal Election Board when the Hearing was held one month earlier and the Opinion and Order was issued only four days after the Hearing was held, the Reply Brief is stricken from this record as untimely.

To request that a verdict, decision, or judgment be set aside, the moving party must establish grounds as defined in Chapter 5, Section 30 of the NHBP Tribal Court Rules, as well as prove that the moving party was denied a fair trial. The failure of a pro se party to request consideration of evidence by the Court is not an "irregularity" or "error in the admission or rejection of evidence" and is not grounds to set aside a verdict, decision or judgment under Chapter 5, Section 30 of the NHBP Tribal Court Rules. The failure of a pro se party to present witnesses is not an "irregularity" or "error in the admission or rejection of evidence" and is not grounds to set aside a verdict, decision or judgment under Chapter 5, Section 30 of the NHBP Tribal Court Rules, especially when the plaintiff failed to testify on their own behalf despite being present at the Hearing. The Plaintiffs failed to meet the burden of proof to set aside the judgment or alter or amend the judgment.

The Plaintiffs failed to address the four-part test for the injunction they are requesting, as well as failed to provide reasoning as to how the fact that unopposed candidates warrants the extraordinary relief of an injunction.

While the Plaintiffs did submit a document that does constitute "newly discovered evidence that, with reasonable diligence, could not have been produced at trial," it is not relevant to the merits of the present case.



While the Court declines to hold that an advisory opinion is never appropriate, it is not appropriate in this case. An advisory opinion is not appropriate in the present case as the Election Code provisions at issue in this case are an integral part of the injunctions requested by the Plaintiffs and the Plaintiffs have failed to meet their burden of proof. The Court did not in its March 19, 2013 Opinion and Order and has not in this current Opinion and Order issued an any opinion, explicit or implicit, as to the constitutionality of the Election Code provisions at issue in this case.

## **ORDER**

For the reasons set forth in this Opinion and Order:

1. The Plaintiffs' Motion for Joinder regarding the cases involving Plaintiff Dean TenBrink and Plaintiff Terry TenBrink is **GRANTED**;
2. The Plaintiffs' Motion for Joinder in relation to Plaintiff Rob Larson is **DENIED**;
3. The case involving Plaintiff Rob Larson is **DISMISSED WITH PREJUDICE**;
4. The Respondents' request to strike as untimely the Plaintiffs' Reply Brief in Support of Motions for New Trial and to Amend Judgment, Request for Advisory Opinion on Constitutionality of the Tribal Election Code, Request for Stay of Certification of Election by the Tribal Election Board, and for Permanent Injunction against the Tribal Council and the Tribal Election Board is **GRANTED**
5. The Plaintiffs' Motion for New Trial, and to Alter or Amend Judgment is **DENIED**;
6. The Plaintiffs' Motion to Issue a Permanent Injunction is **DENIED**;
7. The Plaintiffs' Motion for an Advisory Opinion is **DENIED**; and

8. The joined case involving Plaintiffs Dean and Terry TenBrink is **DISMISSED WITH PREJUDICE**.

4-23-2013  
Date

Melissa L. Pope  
Melissa L. Pope, Chief Judge

#### CERTIFICATE OF MAILING

I certify that on this day I mailed a copy of the *Opinion and Order* by first-class mail with proper postage affixed to the parties, or their attorneys, at the addresses listed above.

4/23/2013  
Date

R. Scott Ryder  
R. Scott Ryder, Tribal Court Administrator