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FEB 7 2014

FILED BY

Bobby Johnson

1 **IN THE NOOKSACK TRIBAL COURT**
2 **FOR THE NOOKSACK INDIAN TRIBE**
3 **DEMING, WASHINGTON**

4 SONIA LOMELI; TERRY ST. GERMAIN;
5 NORMA ALDREDGE; RAENNA RABANG;
6 ROBLEY CARR, individually on behalf of his
7 minor son, LEE CARR, enrolled members of the
8 Nooksack Indian Tribe,

9 Plaintiffs,

10 vs.

11 ROBERT KELLY, RICK D. GEORGE,
12 AGRIPINA SMITH, BOB SOLOMON,
13 KATHERINE CANETE, LONA JOHNSON,
14 JEWELL JEFFERSON, AND ROY BAILEY

15 Defendants.

Case No.: 2013-CI-CL-001

**ORDER DENYING MOTION FOR ORDER
TO SHOW CAUSE RE: CONTEMPT**

16 **THIS COURT** has been remanded an issue on this case from the Nooksack Court of
17 Appeals. The Court of Appeals states: "Because the Tribal Court has not issued findings of fact,
18 conclusions of law, or otherwise ruled on Plaintiffs/Appellants Motion to Show Cause re: Contempt,
19 this Court hereby dismisses the Supplemental Notice of Appeal filed by Appellants on November
20 19, 2013 and we remand that matter to the Tribal Court for further proceedings consistent with our
21 Opinion of January 15, 2013." (Error in date in original, order was filed on 1/15/2014.)

22 The *Motion for Order to Show Cause Re: Contempt* was filed by the Plaintiffs on September
23 27, 2013. In that Motion, the Plaintiffs asked this Court to hold the Defendants in Contempt of
24 Court for disenrolling four tribal members, Rose A. Hernandez, Cody M. Narte, Nadine L. Rapada,
 and Kristal Trainor on August 13, 2013. The Plaintiffs' attorneys argue that these disenrollments

1 violated a Stipulation entered into by the Plaintiffs' attorneys and the Defendants' attorneys. This
2 Court declined to rule on the *Motion* as several issues raised in it were related to matters on appeal.

3
4 The Court of Appeals discussed, extensively, whether the Plaintiffs/Appellants consisted of
5 all the individuals facing potential disenrollment or the six individually named Plaintiffs. The Court
6 of Appeals sought additional orders from this Court on that issue. In its January 15, 2014 ruling, the
7 Court held "We find the record supports the court's findings, and its conclusion that the only
8 plaintiffs in this case are those six specifically named is supported by the court's finding. Appellants
9 assert their own interpretation of the stipulation and the statements made by counsel belie the
10 Court's findings." The Court held further that "Standing requires that a plaintiff allege a concrete
11 injury, that there is a causal connection between the injury and the conduct complained of, and that
12 the injury will likely be redressed by a favorable decision." *Lomeli v. Kelly*, 2013-CI-APL-002, 22
13 (internal citations omitted.) In order to litigate an issue, plaintiffs must show that they have
14 "suffered an injury in fact—an invasion of a legally protected interest which is (a) concrete and
15 particularized . . . and (b) actual or imminent." *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560.

16
17 While the Court has the utmost sympathy for the position of the four individuals who were
18 disenrolled on August 13, 2013, the Court cannot overlook the fact that the Court of Appeals has
19 ruled that the only Plaintiffs with standing to litigate in this case are the six named Plaintiffs. The
20 Plaintiffs' attorneys failed to seek class certification¹ or, as they have done in subsequent cases, list
21 as named Plaintiffs all of the proposed disenrollees whose rights they seek to protect. The four

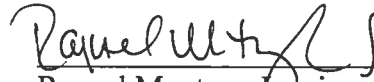
22 _____
23 ¹ As the Court of Appeals noted, this Court sought clarification, in open court, on more than one occasion, from the
24 Plaintiffs' attorneys as to who they represented and it attempted, as best it could, to alert them to this as a potential
problem surrounding the litigation in *Lomeli*. It is not the responsibility of this Court to question or fix the strategic
errors of counsel.

1 individuals on whose behalf the Plaintiffs' attorneys bring this Motion were not the six named
2 Plaintiffs. Those six Plaintiffs have not themselves suffered the injury necessary to bring this
3 *Motion*. While the Court recognizes the issues raised by the Stipulation, the Plaintiffs are not in a
4 position to litigate that issue on behalf of the four disenrolled individuals named in the *Motion*.

5
6 Therefore, the Court hereby **DENIES** the Plaintiffs' *Motion for Order to Show Cause Re:*
7 *Contempt* on the basis that the Plaintiffs lack the standing to bring the motion.

8
9 **IT IS SO ORDERED.**

10 **DATED** this 7 day of _____ February _____, 2014__.

11 

12 Raquel Montoya-Lewis
13 Chief Judge, Nooksack Tribal Court