

NOOKSACK TRIBAL COURT  
NOOKSACK INDIAN TRIBE  
APR 29 2016  
TIME: 12:58 PM  
FILED BY: \_\_\_\_\_ CLERK: [Signature]

IN NOOKSACK TRIBAL COURT  
NOOKSACK INDIAN TRIBE  
DEMING, WASHINGTON

DEBORAH EILEEN GLADSTONE  
ALEXANDER; ROBERT STANLEY  
FORBES GLADSTONE; MARGRETTY  
(MARJORIE) LAJUNE RABANG; and  
BONNIE CLARA GLADSTONE FORBES  
RUSSELL,

NO. 2016-CI-CL-004

COMPLAINT

Plaintiffs,

v.

ROBERT KELLY, Chairman of the Nooksack  
Tribal Council; RICK D. GEORGE, former  
Vice-Chairman of the Nooksack Tribal  
Council; AGRIPINA SMITH, former  
Treasurer of the Nooksack Tribal Council;  
BOB SOLOMON, Councilmember of the  
Nooksack Tribal Council; KATHERINE  
CANETE, former Councilmember of the  
Nooksack Tribal Council and Nooksack  
General Manager; AGRIPINA "LONA"  
JOHNSON, former Councilmember of the  
Nooksack Tribal Council; ELIZABETH KING  
GEORGE, Enrollment Officer of the Nooksack  
Tribal Council; ROY BAILEY, Enrollment  
Officer of the Nooksack Tribal Council, in  
their personal and official capacities,

Defendants.

**I. INTRODUCTION**

1. Defendants are violating or will violate the Nooksack Constitution and laws. Defendants are attempting or will attempt to disenroll Plaintiffs without providing due process and in violation of the Nooksack Constitution and a Nooksack Tribal Court Order.

**II. JURISDICTION**

2. Plaintiffs, enrolled members of the Nooksack Indian Tribe, bring this action against Defendants, who are current or former officers, employees, or agents of the Tribe, acting in their official and personal capacities.



1           9.     Each Plaintiff wrote a letter to the Tlingit & Haida Tribe in Juneau, Alaska,  
2 stating that each wished to relinquish the right to be enrolled in the Tlingit & Haida Tribe.  
3 Copies of each letter were immediately provided to Defendant Elizabeth King George and are  
4 attached hereto as Exhibit B.

5           10.    Each Plaintiff was advised that the Tlingit & Haida Tribes could not take action  
6 on Plaintiffs' request until May 2016. However, the Notice stated that the Plaintiffs would be  
7 disenrolled if they did not provide confirmation from the Tlingit & Haida Tribes that evidences  
8 the Plaintiffs' relinquishment within 30 days of the Notice or by April 7, 2016. This set an  
9 arbitrary deadline to obtain "evidence" that Plaintiffs cannot obtain from the Tlingit & Haida  
10 Tribe in time to meet this deadline.

11           11.    Each Plaintiff has received a formal Notice of Intent to Disenroll ("Notice of  
12 Intent") on the basis that each had failed to "provide satisfactory evidence that you relinquished  
13 your membership from the Central Council Tlingit & Haida Tribes of Alaska."

14           12.    The Notice of Intent cited NTC § 63.04.001(B)(2) of the Nooksack Code. The  
15 Defendants are currently barred from proceeding with disenrollment under Title 63 by a Tribal  
16 Court order issued in *Belmont v. Kelly*, No. 2014-CI-CL-007 (Nooksack Tribal Ct. Feb. 26,  
17 2015).

18           13.    Article II § 2 of the Constitution requires the approval of the Secretary of the  
19 U.S. Department of the Interior for any changes made to Title 63 by the Tribal Council to  
20 become effective. That governing provision guarantees that disenrollees are entitled to fairness  
21 and due process; it provides for Secretarial approval as a procedural check on the Noosack  
22 Tribal Council's authority to pass laws that do not comport with these fundamental rights.

23           14.    To date, the Secretary's approval has not been obtained, and the matter is  
24 currently under appeal to the Interior Board of Indian Appeals.

25           15.    On February 26, 2015, the Nooksack Tribal Court issued an Order in 2014-CI-  
26 CL-007 that precludes the Defendants from proceeding with disenrollment actions until the

1 Secretary has finally approved the Defendants' latest changes to Title 63. Therefore, the  
2 Defendants cannot presently proceed to disenroll Plaintiffs. Nor can they force Plaintiffs to  
3 relinquish their membership from the Tlingit & Haida Tribe.

4 16. The Notice of Intent contains the same infirmities as those at issue in the  
5 *Belmont* case.

6 17. The Notice and Notice of Intent are pretexts for the Defendants to retaliate  
7 against the Plaintiffs here for supporting the Plaintiffs who are subject to disenrollment and  
8 commonly known as "the Nooksack 306." The Defendants fail to provide due process to the  
9 Plaintiffs to cure the alleged "defect" in their Nooksack Tribal membership.

10 18. The Defendants also cannot proceed because no lawful, functioning tribal  
11 council exists to proceed with Plaintiffs' disenrollment. The Tribal Council was required by  
12 law to conduct a general and primary election by March 19, 2016, for the purpose of electing  
13 four new council members. The Tribal Council failed to do so. Defendants Agripina Johnson,  
14 Rick D. George, Agripina Smith, and Katherine Canete's term of office expired as of  
15 March 24, 2016. The Tribal Council cannot govern because there are only four validly elected  
16 members of the eight-member body, and they can only act if a quorum (five) of members  
17 exists. Nooksack Bylaws Art. II § 4.

## 18 V. CAUSE OF ACTION

### 19 (Injunction/Declaratory Judgment – Violation of Nooksack Constitution)

20 19. Plaintiffs incorporate and reallege the foregoing allegations.

21 20. "[T]he Tribe's Constitution itself clearly provides a Tribal member with a right  
22 to challenge the enforcement or threatened enforcement of an unconstitutional law or policy,  
23 and with a forum where the member can bring that challenge." *Lomeli*, at 14.

24 21. "[A]ny procedural rules governing disenrollment proceedings must be adopted  
25 by ordinance and the ordinance approved by the Secretary of Interior as provided for in the  
26

1 Nooksack Constitution.” *Roberts v. Kelly*, No. 2013-CI-CL-003, at 9 (Nooksack Ct. App.  
2 Mar. 18, 2014).

3 22. The Notice and Notice of Intent set forth vague rules governing disenrollment  
4 proceedings.

5 23. The ordinance under which the Notice and Notice of Intent were issued has not  
6 been finally approved by the Secretary of the Interior.

7 24. Defendants are using or are threatening to use the Notice and Notice of Intent  
8 against Plaintiffs.

9 25. Defendants have not provided clear procedural rules governing disenrollment  
10 proceedings.

11 26. Defendants must provide clear procedural rules governing disenrollment  
12 proceedings as a matter of due process and the Nooksack Constitution.

13 27. Plaintiffs have clear legal or equitable rights and a well-grounded fear of  
14 immediate invasion of those rights. The relative equities of the parties favor granting  
15 injunctive relief. Defendants have acted and are continuing to act in excess of their  
16 constitutional authority in this matter. If not enjoined by order of the Court, Defendants will  
17 continue to enforce unconstitutional statutes and Resolutions, and Plaintiffs will suffer  
18 irreparable injury. Plaintiffs do not have a plain, speedy, and adequate remedy in the ordinary  
19 course of law.

20 28. An actual controversy exists between the parties concerning the issues identified  
21 above.

22 29. A judicial determination resolving this actual controversy is necessary and  
23 appropriate at this time.

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**VI. CAUSE OF ACTION**  
**(Injunction/Declaratory Judgment – Lack of Authority)**

30. Plaintiffs incorporate and reallege the foregoing allegations.

31. The Tribal Council was required by Nooksack law to conduct a general and primary election by March 19, 2016 for the purpose of electing four new council members. The Tribal Council failed to do so. Defendants Agripina Johnson, Rick D. George, Agripina Smith, and Katherine Canete's term of office expired as of March 24, 2016. The Tribal Council cannot govern because there are only four validly elected members of the eight member body and they can only act if a quorum (five) of members exists. Nooksack Bylaws Art. II § 4.

32. An actual controversy exists between the parties concerning the issue of whether the Defendants have any authority to act to disenroll Plaintiffs.

33. A judicial determination resolving this actual controversy is necessary and appropriate at this time.

**VII. RELIEF REQUESTED**

WHEREFORE, Plaintiffs pray for relief as follows:

- A. For injunctive relief enjoining disenrollment proceedings against Plaintiffs;
- B. For declaratory judgment that Defendants have no authority to act on any matter, including Plaintiffs' disenrollment;
- C. For attorneys' fees and costs;

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1 D. Contempt of the Order issued in *Belmont v. Kelly*, No. 2014-CI-CL-007  
2 (Nooksack Tribal Ct. Feb. 25, 2016).

3 E. For such other relief as the Tribal Court may deem just and equitable.  
4 Plaintiffs reserve the right to further amend their Complaint.

5  
6 DATED this 28<sup>th</sup> day of April, 2016.

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9 Deborah Eileen Gladstone Alexander, *Pro Se*

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12 Robert Stanley Forbes Gladstone, *Pro Se*

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15 Margretty ("Marjorie") Lajune Rabang, *Pro Se*

16  
17   
18 Bonnie Clara Gladstone Forbes Russell, *Pro Se*