

**IN THE NOOKSACK TRIBAL COURT OF APPEALS
NOOKSACK INDIAN TRIBE
DEMING, WASHINGTON**

**In re Gabriel S. Galanda, pro se, Anthony
S. Broadman, pro se, and Ryan D.
Dreveskracht,**

Petitioners,

v.

Nooksack Tribal Court.,

Respondent.

Court No. 2016-CI-CL-001 & 002

**Order Regarding Plaintiffs' Second
Motion for Show Cause Order Re:
Partial Summary Judgment, Contempt,
or Mandamus**

Plaintiffs come before the Court once more seeking some form of relief from their apparent disbarment from practice before the Nooksack Tribal Court by the Tribal Council of the Nooksack Indian Tribe. On the record before this Court it is unclear whether the Plaintiffs have been disbarred already or whether the process initiated by the Tribal Council is on-going. As is well-known to those familiar with this case, the Plaintiffs have sought a review of this process before the Tribal Court, but the court clerk returned their pleadings and refuses to accept any filings from them. Unable to obtain a review of this process before the trial court of the Nooksack Tribe, the Plaintiffs have petitioned this Court of Appeals on numerous occasions seeking some form of relief from us. This Court has already issued a mandatory injunction that the court clerk accept their pleadings and other filings. Moreover, when this order was ignored, we issued an order finding the court clerk in contempt. When this contempt was not corrected, we ordered the Police Chief to arrest the court clerk. When the Police Chief refused to enforce the Court's order to arrest the court clerk, we held the Police Chief in contempt. Most recently, when the Police Chief failed to correct his contempt, we imposed significant monetary fines on him for each day that the contempt continues. Notwithstanding our efforts, the orders of this Court have been unlawfully ignored and the rule of law on the reservation, at least within the scope of this case, has completely broken down.

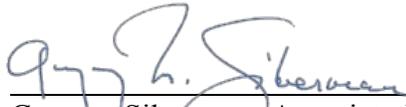
Plaintiffs now ask that this Court issue, in the alternative, a mandamus (i.e., a mandatory injunction), a finding of contempt, or a partial summary judgment. As noted above, we have already issued an injunction and a finding of contempt and it has proved of no assistance to the Plaintiffs under the current circumstances. With regard to these two remedies, there is no point in duplicating actions that have already been taken with no effect. Nor can the Court grant Plaintiffs'

newest request for a partial summary judgment. A summary judgment is only appropriate when there are no material facts in dispute and the only issue presented is one of law. As an appellate court, this Court relies on the trial court to find the facts in a dispute and does not itself engage in fact-finding. As such, this Court is not the proper forum in which to move for a summary judgment.

What is clear, however, is that the Plaintiffs have standing to raise their due process challenge to their pending or completed disbarment in Tribal Court, and they have been unlawfully denied their right to have the Tribal Court rule on their challenge. Under NTC 80.09.010, this Court can “dismiss an appeal, affirm or modify the decision being reviewed, reverse the decision in whole or in part, order a new trial, or take any other action as the merits of the case and the interest of justice may require.” Accordingly, we now hereby order that pending a full and fair review before the Nooksack Tribal Court of the Plaintiffs’ claims that their rights of due process have been infringed by the Nooksack Tribal Council, no action of disbarment is to be taken against the Plaintiffs and, if it appears on the record of the Tribal Council by resolution or otherwise that they have already been disbarred, the disbarment is stayed and the Plaintiffs are reinstated as advocates admitted to practice before the Nooksack Tribal Court.

It is so ordered, this 21st day of September, 2016, for the panel,

Douglas Nash, Associate Judge
Eric Nielsen, Chief Judge



Gregory Silverman, Associate Judge