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5
6 UNITED STATES DISTRICT COURT
7 DISTRICT OF NEVADA

8 PERLINE THOMPSON, et al.,)
)
9 Plaintiffs,) Case No. 3:18-cv-00147-RCJ-WGC
)
10 vs.) **MOTION TO DISMISS PLAINTIFFS'**
) **COMPLAINT (ECF No. 6)**
11 UNITED STATES OF AMERICA ex rel.)
THE DEPARTMENT OF THE)
12 INTERIOR, et al.,)
)
13 Defendants.)

14
15 COMES NOW, Defendant Mitchell C. Wright (Defendant), by and through
16 undersigned counsel, and move this Court to dismiss Plaintiffs' Complaint against him. This
17 Motion is supported by the Following Points and Authorities and the file contained herein.

18 **POINTS AND AUTHORITIES**

19 **Introduction**

20 Defendants Rodney Mike, Kathy Adams-Blackeye, Lili Ann Pete, Keith Honaker,
21 Allen Ambler, and Daniel P. Ward, through undersigned counsel, previously filed a motion
22 to dismiss. (ECF No. 10). Due to conflicting travel schedules and the communication issues
23 it caused, the undersigned had not yet received authorization from Mitchell Wright to
24 represent him at the time ECF No. 10 was filed. This has now been rectified.

25 Due to their not being a Federal Rule of Procedure that allows for a joinder in a
26 previously filed motion to dismiss, a full motion to dismiss is being filed by the undersigned
27 on behalf of Judge Wright. To avoid confusion, the following motion is identical to the
28 previous motion to dismiss that the undersigned filed with the exception that Judge Wright

1 has been added to the motion including a reference to the tribal resolution that hired him.
2 Too keep the motion as identical as possible to the previously filed motion, all defendants
3 will still be referenced (Mike, Adams-Blackeye, Pete, Honaker, Ambler, Ward, and Wright).

4 Plaintiffs' Complaint centers around an allegation that they should have political
5 control of the Duckwater Shoshone Tribe ("Tribe) and that politics as well as the Tribal
6 courts have denied them the ability to have control over the Tribe. As shown, the attempt to
7 use this Court for their political desires is not proper. In this matter, Defendants are seeking
8 a dismissal of Plaintiffs' Complaint (ECF No. 6) pursuant to Fed.R.Civ.P. 12(b) based on: 1)
9 lack of service of process, 2) lack of personal jurisdiction, 3) Plaintiffs filing in the wrong
10 venue, 3) lack of subject matter jurisdiction, 4) failing to state a claim upon which relief may
11 be granted, and 5) Defendants having immunity.

12
13 **1. LR 8-1 requires dismissal.**

14 Plaintiffs were required to "state the statutory or other basis of claimed federal
15 jurisdiction and the facts to support it." LR 8-1. While Plaintiffs state some jurisdictional
16 codes in their Complaint, Plaintiffs fail to state any facts that support any of the statutory
17 basis cited and thus Plaintiffs fail to state as required the jurisdictional basis for their
18 lawsuit.¹ As such, Plaintiffs' Complaint must be dismissed.

19
20 **2. LR 1A 1-8 requires dismissal.**

21 Plaintiffs bring their lawsuit alleging that certain actionable activities "occurred in
22 Duckwater Shoshone Indian Reservation." (ECF No. 6, 4:26-28). Duckwater is located in
23 Nye County, Nevada. Local Rule 1A 1-8(a) requires that civil actions "*must* be filed in the
24 clerk's office for the unofficial division of the court in which the action allegedly arouse."
25 (emphasis added). Nye County is located in the Southern Division. LR 1A 1-6. As such,

26
27

¹ It should be noted that many of the jurisdictional statutes cited are not relevant to this
28 matter.

1 Plaintiffs' Complaint must be have been filed in Las Vegas and not in Reno and Plaintiffs'
2 Complaint must dismissed for filing in the wrong division.

3

4 **3. This Court does not have personal jurisdiction over Defendants due to
insufficiency of service of process upon them.**

5 To date their has not been a showing of service of process, but out of cautiousness,
6 Defendants are filing this motion to avoid having to set aside any default should Plaintiffs
7 attempt to take a default.

8 Plaintiffs claimed to have served their Complaint to Defendants in a variety of
9 manners including by mailing. See Certificate of Mailing/Delivery of the Complaint. This
10 is not proper service of process. Plaintiffs bear the burden of showing that proper service of
11 process has occurred. *Brockmeyer v. May*, 383 F.3d 798, 801 (9th Cir. 2004); See also *R.*
12 *Griggs Grp. Ltd. v. Filanto Spa*, 920 F. Supp. 1100, 1102 (D. Nev. 1996). Actual notice of a
13 lawsuit will not subject a defendant to personal jurisdiction *Crowley v. Bannister*, 734 F.3d
14 967, 975 (9th Cir. 2013) (quotation omitted). "A federal court does not have jurisdiction
15 over a defendant unless the defendant has been served properly under Fed. R. Civ. P. 4."
16 *Direct Mail Specialists, Inc. v. Eclat Computerized Tech., Inc.*, 840 F.2d 685, 688 (9th Cir.
17 1988).

18 Based on the lack of showing of proper service of process upon Defendants, this
19 matter should be dismissed.

20

21 **4. This Court does not have subject matter jurisdiction.**

22 a. Plaintiffs' ICRA cause of action

23 Plaintiffs allege two (2) causes of actions against Defendants. Plaintiffs have listed
24 two sections entitled "Second Claim for Relief." The second "Second Claim" alleges that
25 Defendants violated "the Indian Civil Rights Act of 1968 re: Due Process, Cruel and
26 Unusual Punishment and Equal Protection." (ECF No 6, 21:21-25). Said cause of action
27 alleges that Defendants have denied Plaintiffs their rights to due process and that they are
28 entitled to relief under the Indian Civil Rights Act of 1968 ("ICRA"). *Id.* at 21-22, ¶ 62-64.

1 This Court does not have subject matter jurisdiction over Plaintiffs' cause of action
2 alleging ICRA due process violations.

3 The Supreme Court has held that the only remedy available from the federal courts
4 under ICRA is a writ of habeas corpus under 25 U.S.C. S 1303. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 69-72 (1978). Plaintiffs do not seek such a writ. Thus, ICRA provides no cause of action for plaintiffs' claims.

5 *Hein v. Diegueno Mission Indians*, 201 F.3d 1256, 1260-61 (9th Cir., 2000)

6 Since Plaintiffs have not brought a habeas corpus action and have not alleged facts allowing
7 them to bring such an action, Plaintiffs have failed to state a cause of action upon which
8 relief may be granted as well failing to bring a cause of action upon which this Court has
9 subject matter jurisdiction. Therefore this cause of action must be dismissed against
10 Defendants.

11 b. Plaintiffs' request for Declaratory Judgment

12 Plaintiffs request a declaratory judgment against "Defendant Mike administration's
13 actions as illegal and in violation of the Plaintiffs civil rights." (ECF No. 6, p. 23, ¶ 68).
14 This request for a declaratory judgment finding that Plaintiffs' ICRA rights have been
15 violated is necessarily premised on a finding that Plaintiffs' ICRA rights have in fact been
16 violated -- which this Court does not have subject matter jurisdiction over. Therefore,
17 Plaintiffs' request for a declaratory judgment against Defendants must also be dismissed due
18 to a lack of subject matter jurisdiction.

19
20 **5. The Defendants are immune from this lawsuit.**

21 a. All Defendants have Tribal Sovereign Immunity

22 Plaintiffs have sued the defendants in a variety of capacities. With the exception of
23 Pete (who was only sued in her official capacity), all other defendants were sued in both
24 their individual and official capacities.

25 As alleged by Plaintiffs, the individuals being sued have been performing work on
26 behalf of the Duckwater Shoshone Tribe ("Tribe), and that the Tribe is a Federally
27 Recognized Tribe. (ECF No. 6, 4:26-28). Such a Tribe is immune to a lawsuit due to its
28 Tribal sovereign immunity. "As a matter of federal law, an Indian tribe is subject to suit

1 only where Congress has authorized the suit or the tribe has waived its immunity." *Kiowa*
2 *Tribe of Oklahoma v. Manufacturing Tech.*, 523 U.S. 751, 118 S.Ct. 1700, 140 L.Ed.2d 981
3 (1998) (internal citation omitted).

4 Plaintiffs are aware of this and have attempted to bypass this immunity by suing the
5 individual defendants instead of the Tribe. However, naming individuals instead of the
6 Tribe does not defeat the Tribe's immunity.

7 In the context of lawsuits against employees of a sovereign entity,

8 "[C]ourts should look to whether the sovereign is the real party in interest to
9 determine whether sovereign immunity bars the suit." See *Hafer v. Melo*, 502 U.S.
10 21, 25, 112 S.Ct. 358, 116 L.Ed.2d 301 (1991)). In making this assessment, courts
11 may not simply rely on the characterization of the parties in the complaint, but rather
12 must determine in the first instance whether the remedy sought is truly against the
13 sovereign. See, e.g., *Ex parte New York*, 256 U.S. 490, 500–502, 41 S.Ct. 588, 65
14 L.Ed. 1057 (1921). Similarly, lawsuits brought against employees in their official
15 capacity "represent only another way of pleading an action against an entity of which
16 an officer is an agent," and they may also be barred by sovereign immunity. *Kentucky*
17 *v. Graham*, 473 U.S. 159, 165–166, 105 S.Ct. 3099, 87 L.Ed.2d 114 (1985) (internal
18 quotation marks omitted).

19 *Lewis v. Clarke*, 137 S. Ct. 1285, 1290, 197 L. Ed. 2d 631 (2017)

20 The identity of the real party in interest dictates what immunities may be available.
21 Defendants in an official-capacity action may assert sovereign immunity. *Graham*,
22 473 U.S., at 167, 105 S.Ct. 3099.

23 *Id.* at 137 S. Ct. 1291

24 In an official-capacity claim, the relief sought is only nominally against the official
25 and in fact is against the official's office and thus the sovereign itself. *Will v.*
26 *Michigan Dept. of State Police*, 491 U.S. 58, 71, 109 S.Ct. 2304, 105 L.Ed.2d 45
27 (1989); *Dugan v. Rank*, 372 U.S. 609, 611, 620–622, 83 S.Ct. 999, 10 L.Ed.2d 15
28 (1963).

Id.

The real party in interest is the government entity, not the named official. See
Edelman v. Jordan, 415 U.S. 651, 663–665, 94 S.Ct. 1347, 39 L.Ed.2d 662 (1974).

Id.

In this matter, Plaintiffs allegations are clearly directed to the conduct that
Defendants have taken in their official capacities and on behalf of the Tribe.

As to Defendant Pete, Plaintiffs have only sued her "in her official capacity for her
actions while on the Duckwater Shoshone Tribal Council" due to her being a "former
Duckwater Tribal Councilmember." (ECF No. 6, 6:14-15). Plaintiffs desire to sue Pete as a

1 Tribal government official for acts done while in office shows that the real party in interest
2 is the Tribe and thus Pete is immune from this lawsuit and should be dismissed from it.

3 The same holds true for the other defendants. "Rodney Mike is the sitting elected
4 Chairman of the Duckwater Shoshone Tribe . . . and is being sued in his official capacity and
5 as an individual". Id. at 6:5-8. Kathy Adams-Blackeye is sued due to her being "the current
6 Acting Director of Finance and former Duckwater Shoshone Tribal Councilmember." She is
7 "sued in her official capacity for her actions while on the Duckwater Shoshone Tribal
8 Council, as an employee of the Duckwater Shoshone Tribe, Duckwater Shoshone Tribal
9 Councilmember and (as an) individual." Id. at 6:9-13. Honaker is sued due to him being
10 "the current Acting Tribal Manager for the Duckwater Shoshone Tribe" and he "is being
11 sued in his official capacity as an employee of the Duckwater Shoshone Tribe". Id. at 6:19-
12 21. Ambler is sued "in his official capacity and as an individual" for performing his
13 obligations as the "Tribal Attorney for the Duckwater Shoshone Tribe." Id. at 6:16-18.

14 In addition to the above allegations, Plaintiffs further allege that "Defendant Mike, *as*
15 *Chairman* of the Duckwater Shoshone Tribal Council, Defendant Adams-Blackeye, and
16 Defendant Pete, *as Secretary* of the Duckwater Shoshone Tribal Council, *within their*
17 *official capacities . . .*" (emphasis added) Id. at 9:7-10. "Defendant Adams-Blackeye, *as*
18 *Vice-Chairman* of the Duckwater Shoshone Tribal Council, made the motion . . ."
19 (emphasis added) Id. at 9:21-24. "That acting *as the Duckwater Shoshone Tribe's Attorney*,
20 Defendant Ambler filed in the Duckwater Shoshone Tribal court, an Emergency Civil
21 Complaint . . ." (emphasis added) Id. at 10:5-7. "Judge Daniel Ward determined that the
22 Duckwater Shoshone Tribal Court lacked jurisdiction to hear and make a determination on
23 the complaints . . ." Id. at 10:16-18. "Defendant Ambler was also given authority by
24 Defendant Mike, per Duckwater Shoshone Tribal Resolution No. 2017-D-22, *to serve as*
25 *their counsel*". Id. at 11:7-9.

26 In addition to the allegations showing the acts complained of were from individuals
27 acting within their capacities as Tribal officials and/or employees, there are also multiple
28 references by Plaintiffs as to "the political machine" of the Tribe further showing that the

1 acts complained of are from Tribal politics (i.e. disagreement with acts from government
2 political officials). *Id.* at 13:11-12; 22:1-2; 24:16-17.

3 As presented, Plaintiffs' allegations are directed to alleged conduct of Defendants that
4 they have taken in their official capacities and on behalf of the Tribe. Due to the acts being
5 complained of (alleged violations of ICRA), the real party in interest is the Tribe and as such
6 Defendants have Tribal sovereign immunity and must be dismissed from this lawsuit.

7 b. Defendants Ward and Wright have Judicial Immunity

8 In addition to having Tribal sovereign immunity due to their official capacities within
9 the Tribe, Defendants Ward and Wright also have judicial immunity from being judges for
10 the Tribe. Plaintiffs allege that Ward and Wright were judges for the Tribe and that they
11 improperly performed acts in said role.²

12 Judges are entitled to absolute immunity for actions taken in their judicial capacity.
13 *Mishler v. Clift*, 191 F.3d 998, 1003 (9th Cir. 1999). Judicial immunity means that a judge is
14 immune from suit, not simply that he is immune from the ultimate assessment of damages.
15 *Mireles v. Waco*, 502 U.S. 9, 11 (1991).

16 The United States Supreme Court has repeatedly stated that judicial immunity serves
17 the public interest by allowing judges to deal fearlessly with public issues without the
18 intimidation of future liability. *Clinton v. Jones*, 520 U.S. 681, 692-93 (1997). The threat or
19 burden of litigation leads to intimidation of a public official that distracts from the official's

21 ² Plaintiffs only allegations against Judge Ward are that he was the Tribal Judge, that his
22 contract was cancelled, that he determined that the Tribal Court lacked jurisdiction to
23 determine complaints filed by some of the named defendants in the case at bar, and that he
24 recommended mediation. (ECF No. 6, 7:1-5; 10:16-23). Plaintiffs allege that Judge Wright
25 was hired as a Tribal Judge through Tribal Resolution 2017-D-23. (ECF No. 6, 10:27-11:2).
26 Said Resolution was signed by Rodney Mike (the Tribal Chairperson) after a vote of the
27 Tribal Council. ECF No. 6-1, p. 107 (Exhibit L to Plaintiffs' Complaint).

1 duties, and distorts an official's usefulness. *Id.*; *see Id.* at 721 (concurring opinion stating a
2 "lawsuit that significantly distracts an official from his public duties can distort the content
3 of a public decision"). Based upon this rationale, courts apply judicial immunity no matter
4 how erroneous the judge's actions may have been, and no matter how injurious the
5 consequences of the judge's actions are to a party. *Martinez v. Newport Beach City*, 125 F.3d
6 777, 780 (9th Cir. 1997). Judicial immunity will apply even where a plaintiff alleges that a
7 Judge conspired with one party to rule against another party. *Moore v. Brewster*, 96 F.3d
8 1240, 1244 (9th Cir. 1996). "Few doctrines were more solidly established at common law
9 than the immunity of judges from liability for damages for acts committed within their
10 judicial jurisdiction." *Pierson v. Ray*, 386 U.S. 547, 553-554 (1967). The scope of a judge's
11 jurisdiction must be construed broadly when addressing the immunity of the judge. *Stump v.*
12 *Sparkman*, 435 U.S. 349, 359 (1978). An action will not be considered to be taken in the
13 clear absence of all jurisdiction unless the action is taken without any colorable claim of
14 jurisdiction. *Id.* at 356-57; *Snell v. Tunnell*, 920 F.2d 673, 686 (10th Cir. 1990). "Judges and
15 those performing judge-like functions are absolutely immune from damage liability for acts
16 performed in their official capacities." *Ashelman v. Pope*, 793 F.2d 1072, 1075 (9th Cir.
17 1986); *see also Butz v. Economou*, 438 U.S. 478 (1978).

18 Due to being sued for work performed as judges for the Tribe, Judge Ward and Judge
19 Wright are immune from suit -- which requires that this court dismiss the claims against
20 them.

21 c. Ambler has Advocate Immunity

22 As the Tribe's Legal Counsel, Ambler is also entitled to both litigation immunity and
23 prosecutorial immunity.³ Under Nevada law, "communications uttered or published in the
24

25 ³ Plaintiffs allege that Ambler was hired as Legal Council for the Tribe through Tribal
26 Resolution 2017-D-22. (ECF No. 6, 11:8-9). Said Resolution was signed by Rodney Mike
27 (the Tribal Chairperson) after a vote of the Tribal Council. ECF No. 6-1, p. 112 (Exhibit M
28 to Plaintiffs' Complaint).

1 course of judicial proceedings are absolutely privileged, rendering those who made the
2 communications immune from civil liability." *Greenberg Traurig v. Frias Holding Co.*, 331
3 P.3d 901, 903 (Nev. 2014) (en banc) (quotation omitted). It is an absolute privilege that
4 "bars any civil litigation based on the underlying communication." *Hampe v. Foote*, 47 P.3d
5 438, 440 (Nev. 2002), *abrogated on other grounds by Buzz Stew, LLC v. City of N. Las*
6 *Vegas*, 181 P.3d 670 (Nev. 2008). The privilege's scope is "quite broad." *Fink v. Oshins*, 49
7 P.3d 640, 644 (Nev. 2002).

8 In addition to litigation immunity, Ambler also has prosecutorial immunity.

9 Prosecutors performing their official prosecutorial functions are entitled to
10 absolute immunity against constitutional torts. The Supreme Court has held that this
11 rule follows for the same reason that prosecutors were given immunity at common
12 law—without it, resentful defendants would bring retaliatory lawsuits against their
13 prosecutors, and because a prosecutor "inevitably makes many decisions that could
14 engender colorable claims of constitutional deprivation[, d]efending these decisions,
15 often years after they were made, could impose unique and intolerable burdens upon a
16 prosecutor." *Van de Kamp v. Goldstein*, 555 U.S. 335, 342 (2009) (quoting *Imbler v.*
17 *Pachtman*, 424 U.S. 409, 425-26 (1976)) (internal quotation marks omitted). Without
18 the promise of immunity from suit, a prosecutor would be distracted from his duties
19 and timid in pursuing prosecutions rather than exercising the independent judgment
20 and discretion that his office requires. *See id.*

21 *Lacey v. Maricopa Cnty.*, 693 F.3d 896, 912 (9th Cir., 2012)

22 Prosecutors are entitled to absolute prosecutorial immunity for acts taken in their
23 official capacity. *See Van de Kamp v. Goldstein*, 555 U.S. 335, 342-43 (2009); *Kalina v.*
24 *Fletcher*, 522 U.S. 118, 123-25 (1997). Prosecutors are immune from liability for acts
25 performed in the scope of their authority that are an "integral part of the judicial process."
26 *Imbler v. Pachtman*, 424 U.S. 409, 430 (1976). The Supreme Court of Nevada has adopted
27 the rule that absolute immunity is afforded to all persons "who are an integral part of the
28 judicial process." *Duff v. Lewis*, 114 Nev. 564, 568, 958 P.2d 82, 85 (1998).

To the extent Plaintiffs allege any prosecutorial actions against Ambler, he has
absolute prosecutorial immunity as well as litigation immunity and therefore he must be
dismissed from this lawsuit.

1 **6. Plaintiffs' have failed to state claims upon which relief may be granted.**

2 While Defendants recognize that the previously discussed immunity defenses are
3 actually defenses regarding a failure to state a claim upon which relief may be granted,
4 Defendants wanted to separate the immunity defenses from defenses regarding Plaintiffs not
5 stating any facts that give rise to a cause of action -- which is presented here.

6 A Fed.R.Civ.P. 12(b)(6) dismissal is proper where there is either a “lack of a
7 cognizable legal theory” or “the absence of sufficient facts alleged under a cognizable legal
8 theory.” *Balisteri v. Pacifica Police Dept.*, 901 F.2d 696, 699 (9th Cir. 1990). Fed.R.Civ.P.
9 12(b)(6) dismissal is proper when a “plaintiff can prove no set of facts in support of his
10 claim which would entitle him to relief.” *Conley v. Gibson*, 355 U.S. 41, 45-46, 78 S.Ct. 99,
11 101-102 (1957). “[A] plaintiff’s obligation to provide the ‘grounds’ of his ‘entitlement to
12 relief’ requires more than labels and conclusions, and a formulaic recitation of the elements
13 of a cause of action will not do.” *Bell Atl. Corp. v. Twombly*, 127 S. Ct. 1955, 1964-65
14 (2007) (internal citations omitted).

15 a. ICRA claim

16 As previously presented, Plaintiffs have not stated a cognizable claim under ICRA
17 that this court can address -- which is the sole claim against Defendants. In addition to
18 Plaintiffs not stating a claim upon which relief may be granted, Plaintiff have also failed to
19 allege any bad acts against Judge Ward and Ambler.

20 b. Judge Ward claims

21 While Plaintiffs have named Judge Daniel Ward as a defendant, they have not alleged
22 any wrongdoing against him. The only allegations against Judge Ward are that:

23 15. Daniel P. Ward was the Tribal Court Judge of the Duckwater Shoshone Tribal
24 Court, that his contract was cancelled and is operating without authority of the
25 Duckwater Shoshone Tribal Council, and is being sued in his capacity as an
employee/contractor of the Duckwater Shoshone Indian Tribe and as an individual;
(ECF No. 6, 7:1-5)

26 15. On June 21, 2017, Judge Daniel Ward determined that the Duckwater
27 Shoshone Tribal Court lacked jurisdiction to hear and make a determination on the
28 complaints filed by Defendants Mike and Adams-Blackeye, Ward's letter is marked
Exhibit K, attached hereto and incorporated herein. That Judge Ward issued an
official "letter" stating that the court could not hear the case and that mediation was

1 the best way to deal with the issues of the Emergency Civil Complaint as filed; Id. at
2 10:16-23.

3 62. That Defendants . . . Ward . . . have sought to deny the Plaintiffs their right to
4 due process by forming a political machine, using the Duckwater Tribal Court to
5 carry forth illegal processes, without proper authorization for Wright to act as a
6 Duckwater Tribal Court Judge, Defendant Ambler colluding with Defendant Wright
7 to carry forth directions of Defendant Mike, by Defendant Ward allowing for
8 Defendant Wright to illegal assume the Duckwater Shoshone Tribal Court bench and
9 conduct illegal judicial processes; Id. at 21:28-22:7.

10 Plaintiffs allegations that Judge Ward was the Tribal Judge, that his contract was
11 cancelled, that he determined that the Court lacked jurisdiction to determine complaints filed
12 by some of the named defendants in the case at bar, and that he recommended mediation (i.e.
13 finding that he would not take any judicial action) do not give rise to any of the causes of
14 actions filed by Plaintiffs.⁴ These facts alleged by Plaintiffs simply fail to state any claim,
15 including a valid ICRA claim, against Judge Ward and he and the claims should be
16 dismissed from this lawsuit.

17 c. Ambler claims

18 Plaintiffs have alleged that Ambler was hired as a Tribal Advocate to be legal counsel
19 for the Tribe, that Ambler filed a motion in Tribal Court and a further motion for
20 clarification, and that the filing of the motions were ethically prohibited. Plaintiffs further
21 allege that the filing of these motions in Tribal Court was a violation of due process. The
22 only claim brought by Plaintiffs against Ambler is the ICRA claim and these facts alleged by
23 Plaintiffs simply fail to state any claim, including a valid ICRA claim, against Ambler and
24 he should be dismissed from this lawsuit.

25 The only allegations against Ambler are:

26 12. Allen Ambler is a non-tribal member Indian, Tribal Attorney for the
27 Duckwater Shoshone Tribe, who is being sued in his official capacity and as
28 an individual, (ECF No. 6, 6:16-18)

13. That acting as the Duckwater Shoshone Tribe's Attorney, Defendant
Ambler filed in the Duckwater Shoshone Tribal court, an Emergency Civil

⁴ Defendants have presented Plaintiffs' allegations and are not conceding that the allegations are correct.

1 Complaint against the Plaintiffs, marked Exhibit J, attached hereto and incorporated
2 herein; Id. at 10:5-8.

3 14. That a tribes' attorney, cannot ethically use his position to defendant or
4 prosecute selected Duckwater Shoshone Tribal Councilmembers (sic) against one
5 another and/or individual political opponents of Defendants Mike, Adams-
6 Blackeye, Pete, Wright, Honaker and Does I-X, and most specifically cannot file
7 an action in tribal court wherein the tribal court lacks subject matter jurisdiction:
8 per Judge Daniel Ward's letter; Id. at 10:9-16.

9 18. That Defendant Ambler was also given authority by Defendant Mike, per
10 Duckwater Shoshone Tribal Resolution No. 2017-D-22, to serve as their counsel; Id.
11 at 6, 11:8-9.

12 31. That on February 6, 2018, Defendants Amber (sic) and Wright colluded to
13 author and file a Motion for Clarification, marked Exhibit AA, attached hereto and
14 incorporated herein, resulting in an order, Marked Exhibit AB, attached hereto and
15 incorporated herein, Defendant Wright illegally, without a hearing, without notice,
16 without the opportunity for Plaintiffs to respond, issued a new order against them;
17 Id. at 14:11-17.

18 62. That Defendants . . . Ambler . . . have sought to deny the Plaintiffs their right
19 to due process by forming a political machine, using the Duckwater Tribal Court to
20 carry forth illegal processes, without proper authorization for Wright to act as a
21 Duckwater Tribal Court Judge, Defendant Ambler colluding with Defendant Wright
22 to carry forth directions of Defendant Mike, by Defendant Ward allowing for
23 Defendant Wright to illegal assume the Duckwater Shoshone Tribal Court bench and
24 conduct illegal judicial processes; Id. at 21:28-22:7.

25 These allegations against Ambler simply do not give rise to any of the causes of
26 actions filed by Plaintiffs. These facts alleged by Plaintiffs simply fail to state any claim,
27 including a valid ICRA claim, against Ambler and he and the claims should be dismissed
28 from this lawsuit.

Conclusion

For the reasons presented, including that this Court lacks subject matter jurisdiction,
that there has been a lack of service of process, that there is a lack of personal jurisdiction,
that Plaintiffs filed in the wrong venue, that Plaintiffs have failed to state a claim upon
which relief may be granted, and that Defendants have immunity, this matter against
Defendant Wright must be dismissed with prejudice.

Dated this 25th day of July, 2018.



Brian Morris, Esq.

CERTIFICATE OF SERVICE

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I certify that on the 25th day of July, 2018, I caused the foregoing document to be delivered via U.S. mail to:

Perline Thompson
527 Diamond Street
Duckwater, Nevada 89314

Lisa George
527 Diamond Street
Duckwater, Nevada 89314


Alfreda Walker
527 Diamond Street
Duckwater, Nevada 89314

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Brian Morris, Esq.
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