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Coyote Valley Band of Pomo Indians

17 UNITED STATES DISTRICT COURT
18 NORTHERN DISTRICT OF CALIFORNIA

19 COYOTE VALLEY BAND OF POMO
20 INDIANS, a federally recognized Indian tribe,

Case No. 4:22-cv-00607-JST

SECOND AMENDED COMPLAINT

21 Plaintiff,

22 v.

23 ROBERT FINDLETON, doing business as
Terre Construction and On-Site Equipment;
24 ANN C. MOORMAN, Judge of the Superior
Court of Mendocino County, California, in her
official capacity; SAVINGS BANK OF
25 MENDOCINO COUNTY, a California
corporation; JOHN AND JANE DOES 1-10;
26 ABC CORPORATIONS 1-10; and XYZ LLCs
1-10,

27 Defendants.

1 Plaintiff Coyote Valley Band of Pomo Indians (the “Tribe”), a sovereign federally recognized
2 Indian tribe, submits the following Complaint against Robert Findleton, in his individual capacity
3 and as an individual doing business as Terre Construction and as On-Site Equipment (“Findleton”),
4 against Honorable Judge Ann C. Moorman, Judge of the Superior Court of Mendocino County,
5 California, in her official capacity, and against Savings Bank of Mendocino County (“Savings
6 Bank”).

7 **THE PARTIES**

8 1. The Tribe is a federally recognized Indian tribe with a reservation located in
9 Mendocino County, California (the “Coyote Valley Reservation”).

10 2. Findleton is a natural person who, upon information and belief, resides in Placer
11 County, California.

12 3. Ann C. Moorman is a natural person, who is a judge of the Superior Court of
13 Mendocino County, California.

14 4. Savings Bank is a California corporation with its principal place of business in
15 Mendocino County, California.

16 5. Defendants John and Jane Does 1-10, ABC Corporations 1-10, and XYZ LLCs 1-
17 10 are sued under fictitious names. Their true names and capacities are unknown to the Tribe. When
18 their true names and capacities are ascertained, the Tribe will amend its complaint to reflect their
19 true names and capacities.

20 6. At times material to the allegations in this Complaint, Findleton was doing business
21 on the Coyote Valley Reservation, located in Mendocino County, as Terre Construction and On-Site
22 Equipment Rental, and Ann C. Moorman, or judges before her, were presiding over the matter from
23 the Superior Court of Mendocino County, California

24 **JURISDICTION AND VENUE**

25 7. The Court has personal jurisdiction over Findleton, Judge Moorman, and Savings
26 Bank because their conduct giving rise to this dispute occurred in Mendocino County, California.

27 8. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1362,
28 *Coeur d’Alene Tribe v. Hawks*, 933 F.3d 1052 (9th Cir. 2019), and *Ute Indian Tribe of the Uintah*

1 *and Ouray Reservation v. Lawrence*, 22 F.4th 892 (10th Cir. 2022), and supplemental jurisdiction
2 pursuant to 28 U.S.C. § 1367.

3 9. Venue is proper in the Northern District under 28 U.S.C. § 1391(b) because all
4 events giving rise to this action occurred on the Coyote Valley Reservation located within
5 Mendocino County, California.

6 **GENERAL ALLEGATIONS**

7 **The Tribe and the Tribal Constitution**

8 10. As a federally recognized Indian tribe, the Tribe is entitled to the privileges and
9 immunities of tribal sovereignty, including immunity from uncontested civil suit in California state
10 court; the power to establish, operate, and maintain its own form of government and adjudicatory
11 system; and the power to regulate and exercise adjudicatory authority (1) over non-Indians who
12 have consented to the Tribe’s authority by entering into a contractual relationship with the Tribe,
13 (2) over non-Indians whose conduct threatens or has some direct effect on the political integrity,
14 the economic security, or the health or welfare of the Tribe, and (3) over non-Indians broadly, based
15 on the Tribe’s inherent sovereign power to exclude nonmembers from its Tribal land.

16 11. The Tribe is organized under a constitution (the “Tribal Constitution”) that divides
17 the Tribal government into three distinct branches: (i) a General Council consisting of all adult
18 Tribal members; (ii) a Tribal Council consisting of seven Tribal members democratically elected
19 by the General Council; and (iii) a Tribal judiciary established by the Tribal Council.

20 12. True and correct copies of the Tribal Constitution and related documents are attached
21 as Exhibit A and incorporated herein as though set forth in full.

22 13. The Tribal Constitution was enacted on October 4, 1980.

23 14. The Tribal Constitution memorializes the Tribe’s three-branch governmental
24 structure, including its distinct General Council, Tribal Council, and judiciary.

25 15. The Tribal Constitution vests the Tribal Council with authority to establish Tribal
26 courts and determine their jurisdiction and procedures.

27 16. Under the Tribal Constitution (as enacted in 1980 and until amended on November
28 14, 2012), Article XIV — Judiciary, memorialized the Tribe’s judicial branch, vesting its judicial

1 power in one “Supreme Court” and “such other inferior courts as the Tribal Council may from time-
2 to-time establish” (Section 1). It also reserved to the General Council the power “to sit as a Court
3 of Appeals whenever necessary” and “to hear appeals from the Supreme Court” (Section 6).

4 17. Pursuant to Article XIV — Judiciary, Section 1 of the Tribal Constitution, tribal
5 courts established by the Tribal Council “exercise jurisdiction over all cases and controversies
6 within the [Tribe’s] jurisdiction, in law and equity, whether civil or criminal in nature that arise
7 under [the Tribal Constitution], the laws of the [Tribe], or which is vested in the tribal courts by
8 federal law.”¹

9 18. With certain limited exceptions, Article VII, Section 1(n) of the Tribal Constitution
10 vests the Tribal Council with both executive and legislative powers, including the power to “enact
11 laws, statutes and codes governing conduct of individuals and proscribing offenses against the
12 [Tribe]; to maintain order to protect the safety and welfare of all persons within tribal jurisdiction;
13 and to provide for the enforcement of the laws and codes of the [Tribe].”

14 19. Article V, Section 6(c)(6) of the Tribal Constitution further provides that “[n]o
15 exercise of [the power to waive immunity] by the Tribal Council or by any other agency or officer
16 of the [Tribe] shall be effective unless the General Council has given its consent to such action in
17 accordance with Article VII of [the Tribal Constitution].”

18 20. Article VII of the Tribal Constitution reinforces this provision, stating that the Tribal
19 Council “may assert as a defense to lawsuits against the [Tribe] the sovereign immunity of the
20 [Tribe]; except that no waiver of sovereign immunity can be made by the Tribal Council without
21 prior approval of the General Council.”

22 21. The Tribal Constitution states that “the General Council shall exercise its powers of
23 self-government through the initiative, referendum, repeal and recall powers as set forth in Articles
24 XI, XII, and XIII, of this [Tribal Constitution].”

25 22. The Tribal Constitution also exclusively reserves to the General Council both “[t]he
26 power to grant or relinquish any tribal jurisdiction to any other government, political subdivision
27

28 ¹ The language quoted here, from the Constitution as enacted in 1980, is materially identical to the
Constitution, as amended in 2012.

1 of a government, agency, organization, association, or person” and “[t]he power to revoke,
2 terminate or diminish a right reserved or delegated to the [Tribe] by federal law.”

3 23. In a November 14, 2012 memorandum, Indian Dispute Resolution Services certified
4 an election to amend the Tribal Constitution, including an amendment to Article XIV — Judiciary
5 (the “2012 IDRS Memorandum”).

6 24. A true and correct copy of the 2012 IDRS Memorandum is attached as Exhibit B
7 and incorporated herein as though set forth in full.²

8 25. The ballot to approve the amendment to Article XIV of the Tribal Constitution
9 provided: “A ‘YES’ vote will give the Tribe greater control over the form of its judiciary and allow
10 the Tribe to enter into an intertribal court system.”

11 26. As amended, Article XIV of the Tribal Constitution provides as follows:

12 The judicial power of the Tribe may be vested in a Tribal court or courts, as the
13 Tribal Council may from time to time establish, or it may delegate its judicial power
14 to tribal courts located outside the reservation (all such courts are hereinafter
15 collectively referred to as the “Tribal Courts”). The Tribal Courts shall exercise
16 jurisdiction over all cases and controversies within the Tribe’s jurisdiction, in law
17 and equity, whether civil or criminal in nature, that arise under this Constitution,
18 from the laws of the Tribe or which is otherwise inherent to the Tribal Courts’
19 sovereignty to hear such cases or controversies.

20 27. As amended, Article XIV further provides that “[t]he Tribal Courts may consist of
21 a Chief Judge and any number of associate judges.”

22 **The Claims Ordinance**

23 28. In 1998, the Tribe enacted Chapter 1.10 of the Tribal Code entitled “Claims for
24 Money or Damages” (the “Claims Ordinance”), which provides a remedy for any person to bring
25 a claim against the Tribe for money or damages.

26 29. The Claims Ordinance is intended to “expedite the paying of legitimate claims and
27 money damages” and “[t]o ensure a timely and effective means of resolving claims against the
28 Tribe without the necessity of litigation.”

30. The Claims Ordinance requires that a claim be presented to the Tribal Council as a
prerequisite to filing a claim against the Tribe in court. Once presented, the Tribal Council has sixty

² The personal information of the voters’ has been redacted to protect their privacy.

1 (60) days to grant or deny the claim, and upon rejection of the claim in whole or in part, a claimant
2 may file a court action on the claim.

3 31. Specifically, Section 1.10.010 of the Claims Ordinance provides as follows:

4 All claims against the Tribe or any of its business enterprises for money or damages
5 shall be presented to the Tribal Council for the Tribe and acted upon as a prerequisite
6 to suit thereon as further provided in this Chapter. All such claims must be presented
as required by this Ordinance and in the time periods specified therein.

7 32. Section 1.10.020 lists the claims that are subject to the Claims Ordinance:

8 The claims subject to the filing requirements under this Section shall include, but
9 not be limited to, any and all claims for money or damages The provisions of
10 this Section shall apply to any and all claims whether they relate to events,
11 transactions, or occurrences that took place prior to the effective date of this
Ordinance codified in this Chapter or after the effective date of this Ordinance
codified in this Chapter.

12 33. Section 1.10.090 of the Claims Ordinance enumerates the applicable statute of
13 limitations period: “A claim relating to any other cause of action [other than ‘a claim relating to a
14 cause of action for death or for injury to a person or to personal property’] shall be presented, as
15 provided in this Chapter, not later than one hundred eighty (180) days after the accrual of the cause
16 of action.”

17 34. The Claims Ordinance affirms the existence of a Tribal dispute resolution forum,
18 accessible to Findleton since its enactment in 1998, and additionally affirms the Tribe’s
19 adjudicatory authority.

20 35. On May 16, 2012, the Tribe adopted a related ordinance entitled “Ordinance of the
21 Tribal Council of the Coyote Band of Pomo Indians Ratifying Tribal Claims Ordinance” (the
22 “Ratification”).

23 36. A true and correct copy of the Ratification is attached hereto as Exhibit C and
24 incorporated herein as though set forth in full.

25 37. As explained in the Ratification, the originally-enacted Claims Ordinance was lost
26 and could not be located by the Tribe.

27 38. The Ratification therefore provided that “[b]y enacting this Ordinance, the Tribal
28 Council intends to authorize the Tribal Chairman and Secretary to execute the 1998 Claims

1 Ordinance nunc pro tune, making it clear that the [Claims] Ordinance has been in effect since its
2 adoption in 1998.”

3 39. The Ratification further clarified that “[t]he fact that the original executed 1998
4 [Claims] Ordinance cannot be found does not affect its validity. The 1998 Claims Ordinance, since
5 the time that it was enacted, has been valid and in effect.”

6 **The Tort Claims Ordinance**

7 40. On January 27, 2006, the Tribe enacted Ordinance No. 06-10 entitled “Approval of
8 the Tort Claims Ordinance, Title 1 of the Coyote Valley Band of Pomo Indians Tribal Code” (the
9 “Tort Claims Ordinance”).

10 41. A true and correct copy of the Tort Claims Ordinance is attached as Exhibit D and
11 incorporated herein as though set forth in full.

12 42. Like the Claims Ordinance, the purpose of the Tort Claims Ordinance is “[t]o
13 establish time limits, substantive standards, procedures for filing and prompt and fair adjudication
14 of claims against the Tribe for money damages for bodily injury, personal injury, or property
15 damage.”

16 43. Section 6.3 of the Tort Claims Ordinance likewise affirms the Tribal Council’s
17 adjudicatory authority:

18 The Tribal Council, or its designee, in accordance with the terms of this Ordinance,
19 may consider, investigate, ascertain, adjust, determine, compromise, arbitrate,
20 mediate, adjudicate, and settle any claim for money damages against the Tribe for
21 injury or loss of property or personal injury or death occurring on the premises of
22 the Tribe’s Gaming Facility or in connection with the operation of the Tribe’s
23 Gaming Facility, caused by the negligent act or omission of any officer, employee,
24 or agent of the Tribe (not including an independent contractor) while acting within
25 the scope of his or her office, employment, or agency

26 44. Section 13.7 of the Tort Claims Ordinance further establishes an appellate
27 procedure:

28 The Claimant may appeal a final decision as to the Rejection of Claim, liability or the
amount of damages awarded, based upon the evidentiary record presented to the decision-
making body. An appeal initiated by paying one hundred fifty dollars (\$150) and the filing
of a Notice of Appeal with the Arbitration Panel, Tribal Gaming Agency or the Tribal
Council, whichever body rendered the final administrative decision, within thirty (30)
calendar days after mailing of the final decision to the Claimant.

1 45. The Tribe has enacted other Tribal laws since the adoption of the Tribal Constitution
2 which expressly recognize the Tribe’s adjudicatory authority.

3 **Additional Tribal Laws Evidencing the Existence and Function of the Tribe’s Adjudicatory**
4 **System at the Time Findleton filed his Claim in State Court**

5 46. The Tribe’s Property Management Manual, published in November of 1998, details
6 the Tribe’s housing policies and procedures for admissions and occupancy operations.

7 47. A true and correct copy of the Property Management Manual is attached as Exhibit
8 E and incorporated herein as though set forth in full.³

9 48. Under Section III.K., entitled “Tribal Court Action for Eviction,” “Tribal Court
10 action is required before the Housing Director can lawfully have a tenant or subtenant evicted.”

11 The procedures for taking such an action are as follows:

12 The Housing Director may go to the Coyote Valley Tribal Court and file a forcible
13 entry and detainer action by filling out a form of complaint specified by the Coyote
14 Valley Landlord Tenant Code. The complaint form requires a copy of the notice
15 served on the tenant to be attached at time of filing. The court clerk will then fill out
16 a summons (which specifies the date of the first court appearance for the
defendant/tenant), collect all applicable fees, and forward a copy of the summons
and complaint to the applicable law enforcement agency for service of notice to the
tenant. The notice, at this stage, is notice to appear before the tribal court.

17 If a settlement between the tenant and the Housing Director is not reached by the
18 first court appearance, then the tribal court judge will most likely set the case for
19 trial. Trial will generally be set in approximately two weeks with the possibility of
another week to two week set over if the tenant has been unable to obtain a lawyer
or representative.

20 49. Under the Tribe’s “Construction Tax Ordinance,” approved October 11, 2007, “any
21 disputes regarding [the] Ordinance or the application thereof shall be heard before the Coyote
22 Valley Band Tribal Council.”

23 50. A true and correct copy of the Construction Tax Ordinance is attached as Exhibit F
24 and incorporated herein as though set forth in full.

25 51. Likewise, under the Tribe’s “Development Fee Ordinance,” approved October 11,
26 2007, “any disputes regarding [the] Ordinance or the application thereof shall be heard before the

27 _____
28 ³ The Property Management Manual is missing several pages not relevant to this dispute. The
version of the Property Management Manual attached as Exhibit E, although incomplete, is the
only version that the Tribe knows to be in existence.

1 Coyote Valley Band Tribal Council.”

2 52. A true and correct copy of the Development Fee Ordinance is attached as Exhibit G
3 and incorporated herein as though set forth in full.

4 53. Both the Construction Tax Ordinance and the Development Fee Ordinance govern
5 the collection of taxes and fees associated with the construction and development of real property
6 improvements on the Coyote Valley Reservation.

7 **The AIA Agreement and Amendments**

8 54. To help address poverty and high unemployment on the Coyote Valley Reservation,
9 in 2006 the Tribe retained Summit Project Management (“Summit”) to manage and oversee
10 construction of a casino on the Coyote Valley Reservation (the “Casino Project”).

11 55. Had the failed Casino Project been completed, it would have provided additional
12 jobs for the Tribe’s members and increased revenue to operate the Tribe’s government and provide
13 services to its members.

14 56. At Summit’s recommendation, on or about October 4, 2007, the Tribe and Findleton,
15 who was doing business as Terre Construction, executed AIA Document A107–1997 (the “AIA
16 Agreement”), under which Findleton agreed to perform construction services for the Tribe
17 pertaining to the Casino Project.

18 57. A true and correct copy of relevant excerpts of the AIA Agreement are attached as
19 Exhibit H and incorporated herein as though set forth in full.

20 58. As set forth on Page 1 of the AIA Agreement, Findleton agreed to perform the
21 following construction services on the Coyote Valley Reservation:

22 Improvement/Widening of North State Street, relocation of a portion of the existing
23 Bureau of Indian Affairs Road for the purpose of site preparation, and certain
24 infrastructure improvements related to the [Tribe]’s construction of a new gaming
25 facility and other ancillary work described in the Project Scope on pages 2 and 3 [of
26 the AIA Agreement].

25 59. By executing the AIA Agreement, Findleton agreed that the Tribe would retain
26 sovereign immunity in all respects, that the Tribe’s law would govern the AIA Agreement, and that
27 Findleton would be subject to the Tribe’s jurisdiction.

28 60. Section 9.10.8 of the AIA Agreement states that “[n]o term or provision in th[e]

1 Agreement shall be construed as a waiver of the sovereign immunity of the Coyote Valley Band of
2 Pomo Indians.”

3 61. Section 9.10.8 further provides: “The Parties specifically agree that the sovereign
4 immunity of the Coyote Valley Band of Pomo Indians shall not be waived for disputes or other
5 matters related to th[e] Agreement.”

6 62. Section 18.1.2 of the AIA Agreement states that it “shall be governed by the law of
7 the Coyote Valley Band of Pomo Indians” and that Findleton expressly “agrees to the jurisdiction
8 of the Coyote Valley Band of Pomo Indians,” and Findleton specifically agreed that state taxes did
9 not apply to the assessment of a Tribal construction tax in Section 8.3.1(H), (J).

10 63. On November 28, 2007 and January 31, 2008, Plaintiff and Findleton executed two
11 amendments to the original AIA Agreement for additional construction services on the Coyote
12 Valley Reservation. Those amendments are not directly pertinent to the issues before the Court.

13 64. On August 19, 2008, Findleton sent a letter (the “Proposal Letter”) to the Tribe in
14 which Findleton proposed a third amendment to the AIA Agreement (the “Third Amendment”). A
15 copy of the proposed Third Amendment was attached to the Proposal Letter.

16 65. True and correct copies of the Proposal Letter and Third Amendment are attached
17 as Exhibit I and incorporated herein as though set forth in full.

18 66. As a condition to the Third Amendment, Findleton required the Tribe to “issue a
19 tribal Resolution . . . includ[ing] the ‘limited waiver of sovereign immunity’ wording which allows
20 Terre Construction remedy within the U.S. Federal Court System.”

21 67. The Third Amendment further states that “[a]ll terms and conditions of the original
22 [AIA Agreement] shall apply to this Amendment and to the additional work [it] describe[s].”

23 68. The Parties agreed to and executed the Third Amendment on August 20, 2008.

24 69. On August 27, 2008, the Tribal Council adopted Resolution No. CV-08-20-08-03
25 (“Resolution 08-03”), which accepts the terms and conditions set forth in the Proposal Letter,
26 approves the scope of work the Proposal Letter outlines, and approves the Third Amendment.

27 70. A true and correct copy of Resolution 08-03 is attached as Exhibit J and incorporated
28 herein as though set forth in full.

1 71. With respect to the Tribe’s sovereign immunity, Resolution 08-03 states as follows:

2 [The Tribe] hereby consents to a limited waiver of Sovereign Immunity of the Tribe,
3 which is limited to 1.) provide for arbitration of disputes; 2.) avoid dispute resolution
4 in state courts; 3.) limit recourse solely to casino assets; and 4.) shall not allow
recourse to assets owned by individual members of the Tribe.

5 72. By adopting Resolution 08-03, the Tribe did not waive sovereign immunity to civil
6 suit in state court, including California’s state courts.

7 **The Rental Agreement**

8 73. On or about November 7, 2007, the Tribe and Findleton, doing business as On-Site
9 Equipment, executed a Master Rental Contract Rental Agreement (the “Rental Agreement”)
10 relating to leasing of construction equipment for use on the Coyote Valley Reservation.

11 74. A true and correct copy of the Rental Agreement is attached as Exhibit K and
12 incorporated herein as though set forth in full.

13 75. Section 1 of the Rental Agreement states that Findleton will “deliver, store and lease
14 equipment” to the Tribe at a “site within the Coyote Valley Indian Reservation,” Section 22(E)
15 states that the Agreement “shall be deemed to have been negotiated and executed within the Coyote
16 Valley Indian Reservation,” and Findleton agreed in Section 21 to the application of a Tribal tax
17 and to the inapplicability of state sales tax.

18 76. Section 22(D) of the Rental Agreement states that “[n]o term or provision in th[e]
19 Agreement shall be construed as a waiver of the sovereign immunity of the Coyote Valley Band of
20 Pomo Indians.”

21 77. Section 22(D) further provides: “The Parties specifically agree that the sovereign
22 immunity of [the] Coyote Valley Band of Pomo Indians shall not be waived for disputes or other
23 matters related to th[e] Agreement.”

24 78. Section 20 of the Rental Agreement states that neither Findleton’s nor the Tribe’s
25 rights “may be changed and no extension of the terms of th[e] [Agreement] may be made except in
26 writing signed by both [Findleton] and [the Tribe].”

27 79. Neither Findleton nor the Tribe executed any writing that changed the Tribe’s rights
28 or extended the terms of the Rental Agreement, and in State Court Findleton took the position that

1 the AIA and Rental Agreements should be read together.

2 **Findleton’s Failure to Comply with the Claims Ordinance**

3 80. On February 22, 2008, after the Tribe was unable to secure permanent financing for
4 the Casino Project, the Tribe suspended all operations on the Casino Project aside from project
5 management.

6 81. The Tribe subsequently notified Summit that it was terminating its contract on
7 August 14, 2008, in part because of Findleton’s defective construction work on the Casino Project
8 that Findleton never remedied and Findleton’s significant unapproved work to run up costs.

9 82. Without following the procedures set forth in the Claims Ordinance, Findleton then
10 demanded \$926,195.76, which he alleged the Tribe owed him under the AIA Agreement and Rental
11 Agreement.

12 83. On January 31, 2011, the Tribe sent letters (the “Rejection Letters”) notifying
13 Findleton that his claims against the Tribe were barred by his failure to comply with the procedures
14 set forth in the Claims Ordinance, which requires contract claims against the Tribe to be presented
15 to the Tribal Council “not later than one hundred eighty (180) days after the accrual of the cause of
16 action.”

17 84. True and correct copies of the Rejection Letters and Claims Ordinance are attached
18 as, respectively, Exhibits L, M, and N and incorporated herein as though set forth in full.

19 85. Findleton did not file a claim with the Tribal Council, as required by the Claims
20 Ordinance, until July 29, 2011, more than one hundred eighty (180) days after the accrual of his
21 cause of action (the “Notice of Claim”).

22 86. A true and correct copy of the Notice of Claim is attached as Exhibit O and
23 incorporated herein as though set forth in full.

24 **The Tribal Court System**

25 87. On February 29, 2012, the Tribe, along with the Hopland Band of Pomo Indians,
26 the Manchester Band of Pomo Indians, and the Cahto Tribe of the Laytonville Rancheria, executed
27 an intergovernmental agreement (the “Intergovernmental Agreement”) establishing the Northern
28 California Intertribal Court System (the “Intertribal Court System”).

1 88. A true and correct copy of the Intergovernmental Agreement is attached as Exhibit
2 P and incorporated herein as though set forth in full.

3 89. The Intergovernmental Agreement refers to the Indian tribes within the Intertribal
4 Court System as “member Tribes” (with each such Tribe referred to herein individually as a
5 “Member Tribe” and collectively as the “Member Tribes”).

6 90. The Intertribal Court System was created for the purposes of managing and
7 optimizing the resources of its Member Tribes to provide the Member Tribes, their tribal members,
8 and persons within the jurisdiction of the Member Tribes with access to judicial services.

9 91. The Intertribal Court System is governed by a board of directors (the “Judicial
10 Council”), which is comprised of three representatives, each of whom must be an elected governing
11 official of the Member Tribe they represent.

12 92. Section 105(B) of the Intergovernmental Agreement provides that “[t]he jurisdiction
13 of [the Intertribal Court System] shall extend to all persons, entities, or organizations within the
14 territory of the member [t]ribes of the Court System to the fullest extent authorized by all applicable
15 law” and to “[t]hose who consent to [the Intertribal Court System] jurisdiction, including . . . [t]hose
16 who transact business with a member [t]ribe or within the tribal borders [and t]hose who supply
17 goods or services to a member [t]ribe.”

18 93. Section 105(C) of the Intergovernmental Agreement provides that “[t]he jurisdiction
19 of the [Intertribal Court System] shall extend to all matters authorized by the tribal laws and
20 ordinances of the members [t]ribes and not otherwise prohibited by applicable law.”

21 94. In accordance with the foundational purposes under which the Intertribal Court
22 System was formed, and in recognition of the unique needs of its Member Tribes, each Member
23 Tribe operates its own tribal court (each referred to herein as a “Member Court” and collectively
24 as the “Member Courts”) within the Intertribal Court System pursuant to the NCICS Rules of Court
25 Procedure and Practice (the “Rules of Court”).

26 95. The Rules of Court govern all actions of each tribal court that is part of the Intertribal
27 Court System, including without exception the Cahto Tribal Court, Hopland Tribal Court and
28 Coyote Valley Tribal Court (Rule 1, Rules of Court).

1 96. Those same Rules of Court establish the Intertribal Court System’s administrative
2 location at 3000 Shanel Road, Hopland, CA 95449, but tribal court hearings shall be held in the
3 location designated by each Member Tribe and will typically be on each Member Tribe’s respective
4 tribal land (Rule 4, Rules of Court)

5 97. The Intertribal Court System is funded through a combination of grants,
6 membership fees, and contributions by the individual Member Tribes.

7 98. The Judicial Council has formal policies in place that govern the ability of each
8 Member Tribe to utilize grant funding to maintain and administer matters within their respective
9 Member Courts. Any matters for which grant funding may not be utilized under the Judicial
10 Council’s grant policies must be paid for by the Member Tribe in whose Member Court the matter
11 is heard.

12 99. The inability of grant funding to be used in association with a matter heard in a
13 Member Court in no way limits the rights of a Member Court judge to determine the extent of the
14 Member Court’s jurisdiction, nor in any way limits the ability of the matter to be heard in the
15 Member Court, as all such determinations are reserved to the specific judge assigned to the matter.

16 100. In March 2012, Christine Williams was appointed the first Chief Judge of the
17 Intertribal Court System.

18 101. The Tribe ratified the Intergovernmental Agreement and became an official member
19 of the Intertribal Court System through the passage of a Tribal Council resolution dated March 21,
20 2012.

21 102. Given that the Tribal Constitution, as in effect on March 21, 2012, provides that
22 “[t]he judicial power of the Tribe shall be vested in one Supreme Court,” the Tribe’s judicial power
23 was vested in the Coyote Valley Tribal Court, a Member Court within the Intertribal Court System.

24 103. As set forth in the Tribal Constitution, as in effect on March 21, 2012, the Tribe’s
25 Court of Appeals (the “Tribal Court of Appeals”) existed in part to hear appeals from the Tribe’s
26 Supreme Court, which, at that time, was the Coyote Valley Tribal Court, a Member Court within
27 the Intertribal Court System.

28 104. As further set forth in the Tribal Constitution, as in effect on March 21, 2012, the

1 General Council had the power to act as the Tribal Court of Appeals and, accordingly, to hear
2 appeals from the Coyote Valley Tribal Court, a Member Court within the Intertribal Court System.

3 105. On August 12, 2021, the Intertribal Court System approved a “Resolution of the
4 Judicial Council of the Northern California Intertribal Court System Reaffirming that the Coyote
5 Valley Tribal Court is a Duly Constituted Member Court of the NCICS and Other Matters” (the
6 “Intertribal Court System Resolution”).

7 106. A true and correct copy of the Intertribal Court System Resolution is attached as
8 Exhibit Q and incorporated herein as though set forth in full.

9 107. The Intertribal Court System Resolution reaffirmed that “the Coyote Valley Tribal
10 Court is a Member Court of the NCICS in good standing,” and has been since it “became a Member
11 Tribe in 2012.”

12 108. At all times relevant to this dispute, the Tribe has had a judiciary in existence and
13 available to Findleton, including from prior to the date on which Findleton brought his suit against
14 the Tribe to the current day. In any event, the judiciary established by the Tribal Constitution was
15 in existence and available to Findleton.

16 **The State Court Action and *Findleton I***

17 109. On March 23, 2012, two days after the Coyote Valley Tribal Court became a
18 Member Court of the Intertribal Court System, Findleton filed a Petition to Compel Mediation and
19 Arbitration in the Superior Court of the State of California, County of Mendocino, Ukiah Branch
20 (the “State Court”).

21 110. At that time, the Tribe’s judicial power was vested in the Coyote Valley Tribal
22 Court, a Member Court of the Intertribal Court System, and the power to hear appeals from the
23 Intertribal Court System was vested in General Council sitting as the Tribal Court of Appeals.

24 111. On October 31, 2013, the Tribe filed a Motion to Quash Service of the Summons
25 and Motion to Dismiss for Lack of Subject Matter Jurisdiction with the State Court on the grounds
26 that (1) the Tribe did not waive its sovereign immunity, (2) Findleton failed to exhaust tribal
27 remedies, and (3) even if the tribe did waive its immunity, the State Court lacked jurisdiction.

28 112. On May 19, 2014, the State Court granted the Tribe’s Motion to Quash, finding “that

1 there was no valid waiver of immunity and consent to jurisdiction.”

2 113. Findleton appealed the State Court’s decision (*Findleton I*), and on July 29, 2016,
3 the Court of Appeal for the State of California (the “Appellate Court”) reversed and held that “the
4 Tribal Council was authorized to, and did, waive the Tribe’s sovereign immunity for purposes of
5 arbitrating disputes arising under the Tribe’s contracts with Findleton.”

6 114. Following the Appellate Court decision, Findleton filed a second Motion to Compel
7 Mediation and Arbitration on October 4, 2016.

8 115. On November 18, 2016, the Tribe filed a Notice of Demurrer and Demurrer to
9 Complaint, arguing that the purported waiver of sovereign immunity did not confer jurisdiction to
10 the State Courts because the Tribal Court—not the State Court—must determine the arbitrability
11 of the claim and whether Findleton exhausted Tribal remedies.

12 116. On February 1, 2017, the State Court overruled the Tribe’s demurrer, holding that
13 “[a] Tribe’s sovereignty remains intact and suit in state court is barred unless, and until, as here,
14 the Tribe waives its sovereignty with respect to the dispute and, in effect, consents to state
15 jurisdiction.”

16 117. On April 24, 2017, the State Court issued an order (the “Order Compelling
17 Mediation”) finding that “[t]here is nothing about [the State Court suit] that impinges on tribal
18 sovereignty,” that “[w]hen a tribe waives its sovereign immunity it, in effect, consents to state court
19 jurisdiction,” and that the Tribe consented to state court jurisdiction and waived sovereign
20 immunity “when it agreed to arbitrate its disputes with Findleton.” The Order Compelling
21 Mediation further provides that “[t]he parties are ordered to mediation.”

22 118. Neither the State Court nor the Appellate Court addressed the Tribe’s arguments
23 that the State Court lacks subject-matter jurisdiction, regardless of the purported waiver of
24 sovereign immunity.

25 119. A true and correct copy of the Order Compelling Mediation is attached as Exhibit R
26 and incorporated herein as though set forth in full.

27 **The First Coyote Valley Tribal Court Permanent Injunction**

28 120. On January 20, 2017, before the State Court made any substantive jurisdictional

1 determinations, the Tribe filed a Petition for Tribal Court Review (the “Petition”) in the Tribal
2 Court.

3 121. On January 26, 2017, the Tribal Court granted the Tribe’s Petition, concluding that
4 the Tribe had made “a colorable claim that [it] ha[d] both subject matter jurisdiction over the
5 dispute, and personal jurisdiction over [Findleton].”

6 122. A true and correct copy of the Amended Memorandum Decision explaining the
7 Tribal Court’s decision to grant the Petition is attached as Exhibit S and incorporated herein as
8 though set forth in full.

9 123. Findleton subsequently filed a Motion to Dismiss for Lack of Jurisdiction, which
10 the Tribal Court denied on March 27, 2017.

11 124. A true and correct copy of the Tribal Court’s order denying the Motion is attached
12 as Exhibit T and incorporated herein as though set forth in full.

13 125. On July 6, 2017, the Tribal Court issued its opinion on the Tribe’s Petition (the
14 “Petition Opinion”).

15 126. A true and correct copy of the Petition Opinion is attached as Exhibit U and
16 incorporated herein as though set forth in full.

17 127. In the Petition Opinion, the Tribal Court concluded that the State Court lacks
18 jurisdiction:

19 It is abundantly clear from the various Agreements that the state court was not to
20 have jurisdiction. Given the complete lack of either jurisdiction or choice of law
21 granted to the state of California, the reservation of choice of law and jurisdiction to
22 the Tribe, as well as the express statement that the Tribe wished to avoid state courts,
23 there is no support for finding that the state had jurisdiction in this matter. Nor is
24 there anything else in the record to suggest that the parties agreed to state court
25 jurisdiction in the event of a dispute. Instead, the Tribe clearly stated that it did not
26 want state jurisdiction.

27 128. Moreover, even though Findleton expressly agreed to be subject to the Tribe’s
28 jurisdiction, in Footnote 3 of the Petition Opinion the Tribal Court observed that Findleton failed
to cooperate with Tribal Court proceedings, including by failing to “follow court orders” and
“communicate in any way with the court or its staff.”

129. On August 17, 2017, the American Arbitration Association (“AAA”) sent a letter to

1 the parties notifying them that, at Findleton’s request, AAA would proceed with mediation and
2 arbitration pursuant to the State Court’s Order Compelling Mediation.

3 130. On August 22, 2017, the Tribe sent a letter to AAA seeking dismissal of the
4 mediation and arbitration and attaching a copy of the Tribal Court’s Petition Opinion.

5 131. On August 29, 2017, AAA responded that it would proceed with arbitration based
6 on the AIA Agreement and Rental Agreement and the absence of an order from the Tribal Court
7 staying the State Court proceedings.

8 132. On September 15, 2017 the Tribe filed a Motion for Temporary Restraining Order
9 and Preliminary Injunction in Tribal Court seeking to restrain Findleton and AAA from proceeding
10 with mediation and arbitration.

11 133. On October 2, 2017, following a hearing in which AAA and the Tribe participated
12 and in which Findleton did not appear, the Tribal Court granted a temporary restraining order
13 enjoining AAA and Findleton from proceeding with mediation or arbitration (the “Tribal Court
14 Preliminary Injunction”).

15 134. A true and correct copy of the Tribal Court Preliminary Injunction is attached as
16 Exhibit V and incorporated herein as though set forth in full.

17 135. On October 27, 2017, after providing both parties with an opportunity to be heard,
18 AAA sent a letter (the “Notice of Stay”) notifying the Tribe and Findleton that mediation and
19 arbitration proceedings were stayed in accordance with the Tribal Court Preliminary Injunction.

20 136. A true and correct copy of the Notice of Stay is attached as Exhibit W and
21 incorporated herein as though set forth in full.

22 137. On October 2, 2017, October 30, 2017, November 27, 2017, and December 14,
23 2017, the Tribal Court held hearings relating to the Tribe’s request for injunctive relief. Although
24 the Tribe and AAA participated in these hearings, Findleton again declined to appear or to
25 participate in any of these hearings and was sanctioned by the Tribal Court as a result.

26 138. On December 20, 2017, the Tribal Court issued an order permanently enjoining
27 AAA and Findleton from initiating arbitration or otherwise enforcing the arbitration clause
28 contained in the AIA Agreement and Rental Agreement (the “First Tribal Court Permanent

1 Injunction”).

2 139. A true and correct copy of the First Tribal Court Permanent Injunction is attached
3 as Exhibit X and incorporated herein as though set forth in full.

4 140. On April 23, 2018, AAA sent a letter (the “Notice of Closure”) to the parties
5 confirming receipt of the First Tribal Court Permanent Injunction and informing the parties that the
6 matter is closed.

7 141. A true and correct copy of the Notice of Closure is attached as Exhibit Y and
8 incorporated herein as though set forth in full.

9 **The Enforcement of Judgments Ordinance and the Sanctions Orders**

10 142. On December 14, 2017, the Tribal Council enacted Ordinance No. CV-TC-12-14-
11 17-01 (the “Enforcement of Judgments Ordinance”).

12 143. A true and correct copy of the Enforcement of Judgments Ordinance is attached as
13 Exhibit Z and incorporated herein as though set forth in full.

14 144. The Enforcement of Judgments Ordinance establishes the exclusive procedure for
15 collection of a debt by a judgment creditor against persons under the Tribe’s jurisdiction or against
16 the Tribe. It requires that a final judgment must first be obtained against the person who owes the
17 debt. If the judgment is a foreign judgment, it must be domesticated by the Tribal Court prior to
18 enforcement.

19 145. In direct violation of the First Tribal Court Permanent Injunction and the procedures
20 prescribed by the Enforcement of Judgments Ordinance, on June 27, 2018, Findleton filed a motion
21 in State Court for sanctions against the Tribe for failing to attend mediation and arbitration.

22 146. On December 10, 2018, the State Court granted Findleton’s motion, impugned the
23 Tribal Court proceedings as “intended for the purpose of negating th[e] [State Court’s] order,” and
24 ordered the Tribe to pay Findleton \$86,457 in sanctions (the “First Sanctions Order”).

25 147. A true and correct copy of the First Sanctions Order is attached as Exhibit AA and
26 incorporated herein as though set forth in full.

27 148. The Tribe appealed the First Sanctions order on February 6, 2019.

28 149. The State Court issued an additional sanction (the “Second Sanctions Order”) for

1 \$11,348 on January 2, 2020 after granting a motion to compel discovery filed by Findleton (the
2 “Order Compelling Discovery”).

3 150. A true and correct copy of the Second Sanctions Order is attached as Exhibit BB
4 and incorporated herein as though set forth in full.

5 151. The Tribe appealed the Second Sanctions Order on March 6, 2020.

6 ***Findleton II* and Findleton’s Subsequent Request to AAA**

7 152. In the interim, on remand after the Appellate Court’s ruling in *Findleton I*, Findleton
8 filed a motion in State Court for an award of the contractual attorneys’ fees he had incurred in the
9 prior appellate proceedings.

10 153. The State Court granted Findleton’s motion for fees, and the Tribe appealed.

11 154. In a September 25, 2018 ruling (*Findleton II*), the Appellate Court interpreted the
12 waiver of sovereign immunity found in *Findleton I* to extend to the Rental Agreement, and therefore
13 found that Findleton was entitled to attorneys’ fees.

14 155. Pursuant to a written request by Findleton based on the holdings of *Findleton II*, he
15 requested the AAA consider opening the case on February 5, 2019.

16 156. The parties each submitted briefs per the AAA’s invitation.

17 157. In a February 25, 2019 letter, the AAA informed the parties that it had decided to
18 keep the matter closed.

19 **The Second Coyote Valley Tribal Court Permanent Injunction**

20 158. On February 7, 2019, the Tribe filed a Motion for Declaratory Judgment, Temporary
21 Restraining Order, Preliminary Injunction and Permanent Injunction with the Tribal Court.

22 159. Among other things, the Tribe sought a declaratory judgment that the Enforcement
23 of Judgments Ordinance was the exclusive means by which Findleton could enforce State Court
24 monetary judgments against the Tribe’s assets and an injunction requiring that any foreign
25 monetary judgments obtained by Findleton be domesticated in the Tribal Court pursuant to the
26 Enforcement of Judgments Ordinance as part of the debt collection process.

27 160. The Tribe further requested that the Tribal Court enjoin Findleton, those in active
28 concert or participation with him, and any officers, staff, and representatives of the Tribe from

1 engaging in judgment collection proceedings in State Court, including participation in a debtor’s
2 examination.

3 161. On March 18, 2019, after giving advance notice to all parties, the Tribal Court held
4 a hearing on the Tribe’s request for a preliminary and permanent injunction. Again, Findleton failed
5 to appear or to participate in any way in the hearing.

6 162. On April 6, 2019, the Tribal Court granted the Tribe’s motion and entered an order
7 consistent with the relief the Tribe requested (the “Second Tribal Court Permanent Injunction”).

8 163. A true and correct copy of the Second Tribal Court Permanent Injunction is attached
9 as Exhibit CC and incorporated herein as though set forth in full.

10 164. Pursuant to the Second Tribal Court Permanent Injunction, “Findleton and all those
11 in active concert or participation with him and any individual including officers, staff and
12 representatives of the Tribe, are permanently restrained and enjoined from engaging in judgment
13 collection proceedings in the State Court (including conducting a debtor’s examination) against the
14 Tribe’s property.”

15 165. The Second Tribal Court Permanent Injunction further provides that “Findleton is
16 permanently enjoined from taking any action to perfect a lien, levy, or garnishment of the Tribe’s
17 personal property, or engage in any other action to collect any Foreign Judgment, without first
18 moving to domesticate such judgment in the Tribal Court pursuant to Article 5, § 01, *et seq.* of the
19 Coyote Valley Enforcement of Judgments Ordinance.”

20 **The State Court Orders and *Findleton III***

21 166. The Coyote Valley Casino (the “Casino”) and all of its assets are owned by the
22 Coyote Valley Entertainment Enterprises (“CVEE”), a tribally chartered subdivision of the Coyote
23 Economic Development Corporation (“CEDCO”), a federally chartered corporation.

24 167. Both CVEE and CEDCO are cloaked in the privileges and immunities of tribal
25 sovereignty, including sovereign immunity from unconsented suit.

26 168. On November 16, 2017, the Tribe transferred all Casino assets and liabilities to
27 CVEE to comply with certain lender and investor requirements in association with the federal
28 government’s New Markets Tax Credit Program.

1 169. The transfer of Casino assets and liabilities was a condition of the lender and
2 investor to comply with the federal requirements of the New Markets Tax Credit Program.

3 170. On January 11, 2018, Findleton submitted an application in State Court for a
4 debtor's examination.

5 171. In response, the Tribe asked the State Court to clarify that the collection of money
6 judgments could only be enforced against Casino assets due to the language in the waiver and
7 acknowledge that the Tribe did not possess any Casino assets.

8 172. On April 26, 2019, the State Court issued an order finding that the phrase "Casino
9 assets" did not need any clarification.

10 173. In direct violation of the Second Tribal Court Permanent Injunction, on February
11 27, 2019 Findleton filed a motion in State Court for an order requiring the Tribe to post an
12 undertaking to stay execution of the order awarding sanctions and directing issuance of a writ of
13 execution.

14 174. The State Court granted Findleton's request for the undertaking on April 29, 2019,
15 adding a finding that the Tribe's Casino assets had been conveyed fraudulently or inequitably to
16 CVEE and that the transfer was set aside for purposes of the case without any notice, hearing, or
17 due process to the Tribe, CEDCO, or CVEE regarding the topic.

18 175. In the interim, Findleton made several indications through counsel that he intended
19 to file suit in federal court. For example, on May 24, 2019, Findleton's counsel indicated at an ex
20 parte hearing that "since mid-March we have been planning a federal court action to enjoin the
21 judge of the Tribal Court . . . from improperly exercising tribal court jurisdiction over a non-Indian,
22 nonmember individual." A true and correct copy of the relevant portion of the transcript from that
23 hearing is attached as Exhibit DD and incorporated herein as though set forth in full.

24 176. In a notice of intent sent to the Tribe, a true and correct copy of which is attached as
25 Exhibit EE, Findleton even indicated that he intended to file suit in federal court.

26 177. On June 19, 2020, the Tribe filed three appeals under case numbers A158171,
27 A158172 and A158173, which were consolidated (the "Debt Collection Consolidated Appeals").

28 178. The Appellate Court considered the Debt Collection Consolidated Appeals together

1 with two appeals from the First (A156459) and Second Sanctions Orders (A159823).

2 179. In a September 29, 2021 opinion (*Findleton III*), the Appellate Court invoked the
3 disentitlement doctrine against the Tribe for accessing the Tribal Court and dismissed all five of
4 the Tribe’s pending appeals subject to reinstatement on the condition that the Tribe “complies with
5 the superior court’s orders compelling mediation and arbitration, imposing monetary sanctions and
6 awarding prevailing party fees to Findleton within 90 days.” *Findleton v. Coyote Valley Band of*
7 *Pomo Indians (Findleton III)*, 285 Cal. Rptr. 3d 47 (App. 2021).

8 180. The Tribe was given until January 31, 2022 to comply with *Findleton III*.

9 181. Over the life of the litigation prior to the issuance of the *Findleton III* decision the
10 State Court had entered \$298,514.80 in monetary awards (including statutory interest) against the
11 Tribe.

12 182. On January 13, 2022, Savings Bank of Mendocino County sent the Tribe five
13 Notices of Garnishment, along with a Notice of Judgment Lien that was filed in the State Court on
14 January 6, 2022. It stated that it intended to debit the Tribe’s bank accounts on January 22, 2022.

15 183. True and correct copies of the Notices of Garnishment and Notice of Judgment Lien
16 are attached as Exhibits FF and GG and incorporated herein as though set forth in full.

17 184. Out of an abundance of caution and while preserving the Tribe’s objection to the
18 State Court’s jurisdiction, on January 25, 2022, the Tribe attended an ex parte hearing in the State
19 Court seeking a stay of the execution of the writs of execution.

20 185. The State Court denied the Tribe’s stay application on January 28, 2022.

21 186. During the ex parte, hearing both Findleton and the State Court rejected a proposal
22 from the Tribe to place the funds with a third-party escrow agent for the duration of this action.

23 187. The next day, on January 26, 2022, the Tribe sent a proposal to Findleton addressing
24 the concerns raised during the hearing.

25 188. A second ex parte hearing was then scheduled for January 31, 2022, at which the
26 Tribe requested that the State Court and Findleton discuss its proposal.

27 189. On January 7, 2022 the State Court issued a Notice to Appear and Produce
28 Documents in Lieu of Subpoena at Debtor’s Examination to Tribal Council Chairman Michael

1 Hunter; Vice-Chairman Richard Campbell Jr.; Tribal Historian Margaret Olea; and Tribal Treasurer
2 Amanda Pulawa (the “Notice to Appear”).

3 190. A true and correct copy of the Notice to Appear is attached as Exhibit HH and
4 incorporated herein as though set forth in full.

5 191. These debtor’s examinations were scheduled for February 25, 2022.

6 192. On February 22, 2022, the Superior Court awarded \$496,367.08 as prevailing party
7 attorney fees and costs (“February 22, 2022 Order”).

8 193. A true and correct copy of the February 22, 2022 Order is attached as Exhibit II and
9 incorporated herein as though set forth in full.

10 194. Pursuant to a writ, Savings Bank garnished the Tribe’s governmental account in
11 such amount.

12 195. The State Court by way of a Case Management Order calendared hearings for
13 contempt sanctions for violating the Order Compelling Discovery and terminating sanctions for
14 violating the Order Compelling Mediation.

15 196. A true and correct copy of the Case Management Order is attached as Exhibit JJ and
16 incorporated herein as though set forth in full.

17 197. The terminating sanctions sought were in the amount of \$4,738,595.71 and the
18 discovery sanctions in the amount of \$2,940,000.00, totaling \$7,678,595.71.

19 198. The State Court denied \$7,471,595.00 but granted \$207,000.00 as discovery
20 sanctions in a July 11, 2022 Order Granting Motion for Sanctions for Non-Compliance with Order
21 to Compel and Denying Requested Termination Sanction (the “July 11, 2022 Order”).

22 199. A true and correct copy of the July 11, 2022 Order is attached as Exhibit KK and
23 incorporated herein as though set forth in full.

24 200. The Tribe paid Findleton \$207,000 in sanctions pursuant to the July 11, 2022 Order.

25 201. In total, the Tribe has paid \$1,001,881.88 to Findleton in 2022.

26 **Pending and Forthcoming State Court Filings and Proceedings**

27 202. The July 11, 2022 Order not only granted the monetary discovery sanctions, but also
28 ordered that the Tribe produce the documents requested in Findleton’s August 28, 2019 “First

1 Amended Set of Document Requests,” although all court-awarded sanctions have been collected
2 by Findleton, noting that “[c]ontinued non-compliance by defendant will result in additional daily
3 sanctions calculated at a higher rate.”

4 203. On June 13, 2022, Findleton petitioned the State Court for the appointment of a
5 neutral arbitrator, which the Tribe opposed. Nonetheless, Judge Moorman’s July 22, 2022 Bench
6 Ruling held that the parties shall each nominate an arbitrator and that those two arbitrators shall
7 choose a third arbitrator who will then arbitrate the State Court dispute.

8 204. The State Court required the parties to submit the names of arbitrators by August 5,
9 2022.

10 205. A true and correct copy of the Transcript of July 22, 2022 Hearing is attached as
11 Exhibit 1 to Request for Judicial Notice [Doc. 85], at p. 33:18–19.

12 206. On September 13, 2022 the Tribe will be appearing at a CMC in the State Court in
13 which part of the discussion will center around a protective order as related to such discovery and
14 will presumably involve further discussion of the arbitration if the State Court has not ruled on the
15 appointment of a neutral arbitrator by then.

16 **The Tribal Court TRO**

17 207. On January 21, 2022, after giving Savings Bank notice and an opportunity to be
18 heard, wherein legal counsel for Savings Bank appeared, the Tribal Court entered a Temporary
19 Restraining Order (the “Tribal Court TRO”) in Case No. CIV-2022-001-JW (the “Savings Bank
20 Proceedings”).

21 208. A true and correct copy of the Tribal Court TRO is attached as Exhibit LL and
22 incorporated herein as though set forth in full.

23 209. Savings Bank was served a copy of the Tribal Court TRO.

24 210. The Tribal Court TRO declares that \$298,514.80 on deposit with Savings Bank, of
25 which Findleton Seeks garnishment in connection with the State Court proceedings, is the “property
26 of the Tribe” and “cannot be garnished or transferred without the Tribe’s consent.”

27 211. The Tribal Court TRO further states that Savings Bank “is temporarily restrained
28 from garnishing the funds in any of the Tribe’s accounts held at [Savings] Bank . . . until further

1 notice from [the Tribal] Court.”

2 212. Savings Bank’s counsel represented at the January 21, 2022 hearing that Savings
3 Bank would comply with the Tribal Court TRO.

4 213. On January 31, 2022, Savings Bank filed a Special Appearance and Objection to
5 Jurisdiction of Tribal Court (the “Objection”) in the Savings Bank Proceedings.

6 214. A true and correct copy of the Objection is attached as Exhibit MM and incorporated
7 herein as though set forth in full.

8 215. In the Objection, Savings Bank argued that the Tribal Court lacks the power to
9 enforce its orders against non-Indian entities situated off-reservation and requested that the Tribal
10 Court TRO be dissolved and the Savings Bank Proceedings be dismissed.

11 216. That same day, Savings Bank issued a \$298,514.80 check (the “Garnished Funds”)
12 to the Mendocino County Sheriff to remit funds the Tribe has on deposit with Savings Bank.

13 217. On February 2, 2022 the Tribal Court issued an extension of the TRO.

14 218. A true and correct copy of the Order Confirming Interim Declaratory Judgment And
15 Granting Extended Temporary Restraining Order is attached as Exhibit NN and incorporated herein
16 as though set forth in full.

17 219. On information and belief, there are additional persons and entities that will be
18 subject to the Tribal Court TRO, and the extension thereof, including but not limited to persons and
19 financial institutions that Findleton will enlist to assist in his collection of the State Court judgments
20 (collectively, the “Assisting Defendants”).

21 **COUNT ONE**

22 **Recognition and Enforcement of First Tribal Court Permanent Injunction**

23 220. The Tribe incorporates by reference all allegations in the preceding Paragraphs of
24 this Complaint.

25 221. By executing the AIA Agreement, Findleton expressly agreed to be subject to the
26 Tribe’s jurisdiction.

27 222. The Tribal Court has personal jurisdiction over Findleton.

28 223. At all times since the parties entered into their consensual relationship the Tribe

1 possessed adjudicatory and regulatory authority over Findleton.

2 224. As Findleton acknowledged in the Petition to Compel, a true and correct copy of
3 which is attached hereto as Exhibit OO, The AIA Agreement, amendments thereto, and Rental
4 Agreement (collectively, the “Agreement Documents”) were negotiated and entered into on the
5 Coyote Valley Reservation, pertain to work to be performed on the Coyote Valley Reservation, and
6 are expressly governed by the Tribe’s laws.

7 225. The Tribal Court therefore has jurisdiction over the subject matter of any dispute
8 arising out of the Agreement Documents.

9 226. In contrast, the Tribe did not consent to the State Court exercising subject matter
10 jurisdiction over any such dispute, and Congress did not grant the State Court subject matter
11 jurisdiction over the same.

12 227. The Tribe did not waive and expressly retained sovereign immunity with regard to
13 suit commenced in any state court.

14 228. The State Court therefore does not have subject matter jurisdiction over any dispute
15 arising out of the Agreement Documents.

16 229. The Tribal Court afforded Findleton due process in connection with the First Tribal
17 Court Permanent Injunction.

18 230. There are no equitable grounds upon which this Court may decline to recognize and
19 enforce the First Tribal Court Permanent Injunction.

20 231. The First Tribal Court Permanent Injunction is a final and enforceable judgment that
21 is entitled to recognition and enforcement under principles of comity.

22 **COUNT TWO**

23 **Recognition and Enforcement the Second Tribal Court Permanent Injunction**

24 232. The Tribe incorporates by reference all allegations in the preceding Paragraphs of
25 this Complaint.

26 233. The Tribal Court has personal jurisdiction over Findleton and subject matter
27 jurisdiction over any dispute arising out of the Agreement Documents, including the dispute giving
28 rise to the Second Tribal Court Permanent Injunction.

1 234. At all times since the parties entered into their consensual relationship the Tribe
2 possessed adjudicatory and regulatory authority over Findleton.

3 235. The State Court lacks subject matter jurisdiction over any dispute arising out of the
4 Agreement Documents, including the dispute giving rise to the Second Tribal Court Permanent
5 Injunction.

6 236. The Tribal Court afforded Findleton due process in connection with the Second
7 Tribal Court Permanent Injunction.

8 237. There are no equitable grounds upon which this Court may decline to recognize and
9 enforce the Second Tribal Court Permanent Injunction.

10 238. The Second Tribal Court Permanent Injunction is a final and enforceable judgment
11 that is entitled to recognition and enforcement under principles of comity.

12 **COUNT THREE**

13 **Recognition and Enforcement of the Tribal Court Sanctions Orders**

14 239. The Tribe incorporates by reference all allegations in the preceding Paragraphs of
15 the Complaint.

16 240. The Tribal Court has personal jurisdiction over Findleton and subject matter
17 jurisdiction over any dispute arising out of or relating to the Agreement Documents, including the
18 dispute giving rise to the Tribal Court Sanctions Orders.

19 241. At all times since the parties entered into their consensual relationship the Tribe
20 possessed adjudicatory and regulatory authority over Findleton.

21 242. The State Court lacks subject matter jurisdiction over any dispute arising out of the
22 Agreement Documents, including the dispute giving rise to the Tribal Court Sanctions Orders.

23 243. The Tribal Court afforded Findleton due process in connection with the Tribal Court
24 Sanctions Orders.

25 244. There are no equitable grounds upon which this Court may decline to recognize and
26 enforce the Tribal Court Sanctions Orders.

27 245. The Tribal Court Sanctions Orders are final and enforceable judgments that are
28 entitled to recognition and enforcement under principles of comity.

COUNT FOUR

Declaratory Judgment that the State Court Lacks Jurisdiction

246. The Tribe incorporates by reference all allegations in the preceding Paragraphs of the Complaint.

247. The Tribal Court has exclusive subject-matter jurisdiction over any dispute arising out of the Agreement Documents, including the dispute giving rise to the Tribal Court Orders.

248. The State Court therefore lacks subject matter jurisdiction over any dispute arising out of the Agreement Documents, including the dispute giving rise to the First Tribal Court Permanent Injunction, Second Tribal Court Permanent Injunction, and Tribal Court Sanctions Orders (collectively, the “Tribal Court Orders”).

249. At all times since the parties entered into their consensual relationship the Tribe possessed adjudicatory and regulatory authority over Findleton.

COUNT FIVE

Recognition and Enforcement of the Tribal Court TRO

250. The Tribe incorporates by reference all allegations in the preceding Paragraphs of the Complaint.

251. The Tribal Court has personal jurisdiction over Savings Bank because, based on the contractual agreement it entered into with the Tribe, it should have reasonably anticipated that its actions would trigger the Tribal Court’s authority.

252. The Tribal Court has personal jurisdiction over any Assisting Defendants that Findleton enlists to assist in his collection of the State Court judgments.

253. The Tribal Court has subject-matter jurisdiction over the dispute giving rise to the Tribal Court TRO and *in rem* jurisdiction over Tribal property, including the Garnished Funds.

254. At all times since the Savings Bank entered into their consensual relationship with the Tribe, it possessed adjudicatory and regulatory authority over Savings Bank.

255. Savings Bank received notice of the Tribal Court TRO, and the Tribal Court afforded Savings Bank due process in connection with the Tribal Court TRO.

256. In violation of the Tribal Court TRO, Savings Bank issued a check for the Garnished

1 Funds to the Mendocino County Sheriff.

2 **COUNT SIX**

3 **Breach of Contract**

4 257. The Tribe incorporates by reference all allegations in the preceding Paragraphs of
5 the Complaint.

6 258. The Court has supplemental jurisdiction over this claim pursuant to 28 U.S.C. §
7 1367.

8 259. The AIA Agreement, as amended by the Third Amendment, is a valid and binding
9 contract between Findleton and the Tribe.

10 260. Section 18.1.2 of the AIA Agreement provides that it “shall be governed by the law
11 of the Coyote Valley Band of Pomo Indians.”

12 261. By executing the AIA Agreement and Third Amendment, Findleton therefore
13 agreed to comply with the Tribe’s laws governing the AIA Agreement.

14 262. The Tribe’s laws include the Enforcement of Judgments Ordinance, which requires
15 that foreign judgments against the Tribe be domesticated by the Tribal Court prior to enforcement.

16 263. Findleton breached the express provisions of the AIA Agreement by failing to
17 domesticate the State Court monetary judgments against the Tribe with the Tribal Court pursuant
18 to the Enforcement of Judgments Ordinance.

19 264. As a direct and proximate result of Findleton’s breach, the Tribe has been damaged,
20 including consequential damages, in an amount to be proven at trial.

21 **COUNT SEVEN**

22 **Unjust Enrichment**

23 265. The Tribe incorporates by reference all allegations in the preceding Paragraphs of
24 the Complaint.

25 266. The Court has supplemental jurisdiction over this claim pursuant to 28 U.S.C. §
26 1367.

27 267. Findleton has been enriched as a consequence of collecting on the State Court
28 monetary judgments against the Tribe before first domesticating the judgments with the Tribal

1 Court.

2 268. The Tribe has suffered an impoverishment as a consequence of paying the State
3 Court monetary judgments to Findleton, despite Findleton's failure to first domesticate the
4 judgments with the Tribal Court.

5 269. There is a direct connection between Findleton's enrichment and the Tribe's
6 impoverishment.

7 270. There is an absence of justification for the enrichment and impoverishment.

8 271. The Tribe believes that the proper remedy at law is recognition and enforcement of
9 the Second Tribal Court Permanent Injunction under principles of comity. However, in the absence
10 of such remedy, there is no remedy at law to compensate the Tribe for the impoverishment it has
11 suffered.

12 272. The Tribe is entitled to damages in an amount equal to the reasonable value of
13 enrichment that Findleton received at the Tribe's expense.

14 WHEREFORE, the Tribe prays for the following relief:

- 15 1. Recognition and enforcement of the First Tribal Court Permanent Injunction;
 - 16 2. Recognition and enforcement of the Second Tribal Court Permanent Injunction;
 - 17 3. Recognition and enforcement of the Tribal Court Sanctions Orders;
 - 18 4. Declaratory judgment that the State Court lacks jurisdiction over the dispute giving
19 rise to the Tribal Court Orders;
 - 20 5. An order permanently enjoining Findleton from violating the First Tribal Court
21 Permanent Injunction;
 - 22 6. An order permanently enjoining Findleton from violating the Second Tribal Court
23 Permanent Injunction;
 - 24 7. Recognition and enforcement of the Tribal Court TRO and any extensions thereof;
 - 25 8. Damages in an amount to be proven at trial; and
 - 26 9. Any and all other relief the Court may deem proper.
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1 DATED this 2nd day of September, 2022.

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