CHEYENNE RIVER SIOUX TRIBAL COURT CHEYENNE RIVER SIOUX TRIBE CHEYENNE RIVER INDIAN RESERVATION) ;§	SUPERIOR COURT
)	Eagle Butte, SD
CHEYENNE RIVER SIOUX TRIBE,)	Case No. 23C044
Plaintiff,)	MOTION TO DISMISS AND
V.)	ALTERNATIVE PETITION
SARAH SHAFF, CINDY LINDSKOV, and KEITH FODNESS.)	FOR HEARING TO RECONSIDER EMERGENCY EXCLUSION
Defendants.)	ORDER FOR SARAH SHAFF, CINDY LINDSKOV, AND
Defendants.)	KEITH FODNESS

COME NOW, Sarah Shaff, Cindy Lindskov, and Keith Fodness, Defendants, and hereby move the Court to dismiss all matters pending including Plaintiff's Emergency Petition for Exclusion and Removal of Sarah Shaff, Cindy Lindskov, and Keith Fodness from the Cheyenne River Sioux Indian Reservation filed herein, and rescind this Court's Emergency Exclusion Order for Sarah Shaff, Cindy Lindskov, and Keith Fodness. Defendant's alternatively Petition this Court for a Hearing to reconsider its Emergency Exclusion Order for Sarah Shaff, Cindy Lindskov, and Keith Fodness.

Defendants move for dismissal pursuant to Rule 12(b)(1) for lack of subject-matter jurisdiction and Rule 12(b)(2) for lack of personal jurisdiction as to all Defendants. The Exclusion Order involves claims against School District Officials at a state-run school which do not fall within any recognized exception to the test set forth in *Montana v. United States*, 450 U.S. 544 (1981), nor its progeny.

As additional grounds for dismissal, Dupree School District Superintendent Keith

Fodness is required, as a condition of his employment, to live in a house provided by and for the convenience of the Dupree School District in order to properly perform the duties as



Superintendent. The school owned house is located directly across the street from the Dupree K12 School, which is located within the exterior boundaries of the Cheyenne River Sioux Indian
Reservation. Therefore, pursuant to Law & Order Code, Section 11-1-2, Keith Fodness is not
subject to exclusion or removal and the Emergency Exclusion Order should be rescinded
inasmuch as it pertains to him.

Similarly, Dupree Elementary PK-6 School Principal Cindy Lindskov is an owner of land in both Ziebach and Dewey Counties, including land which is located within the exterior boundaries of the Cheyenne River Sioux Indian Reservation. Accordingly, pursuant to Law & Order Code, Section 11-1-2, Cindy Lindskov is likewise not subject to exclusion or removal and the Emergency Exclusion Order should be rescinded inasmuch as it pertains to her.

This Motion to Dismiss and Alternative Petition for Hearing to Reconsider Emergency

Exclusion Order for Sarah Shaff, Cindy Lindskov, and Keith Fodness is supported by a Brief and

Affidavits in support thereof which are filed contemporaneously herewith.

WHEREFORE, Defendants respectfully request the Court dismiss all matters pending including Plaintiff's Emergency Petition for Exclusion and Removal of Sarah Shaff, Cindy Lindskov, and Keith Fodness from the Cheyenne River Sioux Indian Reservation, and rescind this Court's Emergency Exclusion Order for Sarah Shaff, Cindy Lindskov, and Keith Fodness. Defendants alternatively respectfully Petition this Court for a Hearing to reconsider its Emergency Exclusion Order for Sarah Shaff, Cindy Lindskov, and Keith Fodness, and schedule said hearing within two (2) weeks of the receipt of this Petition in accordance with Law & Order Code, Section 11-1-5(3).

Dated this $\frac{3}{4}$ day of August, 2023.

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