

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

UNITED STATES DISTRICT COURT

for the

District of _____

Division _____

FEE PAID
RCPT # 11e47

Chere' Souther - POA for
Matthew Souther

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

Nez Perce Tribe Judicial
Services
AKA
Nez Perce Tribal Court

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

CV 23-0246 DCN

Case No.

(to be filled in by the Clerk's Office)

Jury Trial: (check one) Yes No

U.S. COURTS

MAY 11 2023

Rcvd JP Filed _____ Time mail
STEPHEN W. KENYON
CLERK, DISTRICT OF IDAHO

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS
(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint

A. The Plaintiff(s)

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name Chere' Souther POA for Matthew
 Address PO Box 112 Souther
Kamiah ID 83534
City State Zip Code
 County Idaho
 Telephone Number 208-814-3944
 E-Mail Address cheresouther@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name Nez Perce Tribe Judicial Services
 Job or Title (if known) _____
 Address PO Box 305
Lapwai ID 83540
City State Zip Code
 County _____
 Telephone Number 208-843-7338
 E-Mail Address (if known) _____
 Individual capacity Official capacity

Defendant No. 2

Name _____
 Job or Title (if known) _____
 Address _____
City State Zip Code
 County _____
 Telephone Number _____
 E-Mail Address (if known) _____
 Individual capacity Official capacity

Defendant No. 3

Name _____
 Job or Title *(if known)* _____
 Address _____

City State Zip Code

 County _____
 Telephone Number _____
 E-Mail Address *(if known)* _____

Individual capacity Official capacity

Defendant No. 4

Name _____
 Job or Title *(if known)* _____
 Address _____

City State Zip Code

 County _____
 Telephone Number _____
 E-Mail Address *(if known)* _____

Individual capacity Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)*, you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against *(check all that apply)*:

- Federal officials (a *Bivens* claim)
- State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

Deprivation of right to a fair trial

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted “under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia.” 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

The Nez Perce Tribal court used its lawful authority to repeatedly and deliberately cause Matthew Souther not get a fair and unbiased trial.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

Lapwai, ID

- B. What date and approximate time did the events giving rise to your claim(s) occur?

October - December 2022

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

see attached

On or about October 25, 2022 Edward Souther, father of Matthew Souther, received a Sworn Affidavit from Nez Perce Tribal Court in regards to actions taken by his sister, Kathy Taylor, on behalf of their mother's estate. Kathy Taylor sued Matthew Souther, accusing him of damages done to a trailer that is a part of the estate.

Edward received Notice of Hearing for this matter on November 9, 2022. The notice was postmarked November 4, 2022, two days after the hearing took place, on November 2, 2022. Matthew never received Notice of Hearing in this matter and was not served notice of suit at any point prior to the hearing on November 2, 2022.

On or about December 14, 2022, Matthew received a 2nd Amended Judgement from Nez Perce Tribal Court that stated: The matter was put before the court on November 15, 2022. Neither Edward or Matthew Souther have ever received notice of any sort about a hearing in regards to this matter taking place on November 15, 2022. The judgement further stated that Matthew Souther received notice of the hearing and failed to appear or respond, therefore, judgment was made against him.

Not only has Nez Perce Tribal Court deliberately violated Matthew Souther's constitutional right to a fair trial, Nez Perce Tribal Court violated Edward Souther's Constitutional and Tribal rights to be made aware of proceedings about his mother's estate until it was too late to attend, thereby repeatedly and deliberately ensuring that Matthew Souther would not get a fair trial.

Matthew has been trying since November 10, 2022 to get copies of transcripts for all hearings that have taken place on this matter. Nez Perce Tribal Court informed Matthew that only recordings of the hearings are available and has repeatedly promised to make those available to him. To date, Nez Perce Tribal Court has not clarified how many hearings have actually taken place on this matter and have failed to make those recordings available to him, which they are legally required to do.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Reimbursement for all court costs associated with this suit and punitive damages for pain and suffering and mental anguish.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk’s Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk’s Office may result in the dismissal of my case.

Date of signing: 5/5/2023

Signature of Plaintiff Cheri Souther
Printed Name of Plaintiff Cheri Souther - POA for Matthew Souther

B. For Attorneys

Date of signing: _____

Signature of Attorney _____

Printed Name of Attorney _____

Bar Number _____

Name of Law Firm _____

Address _____

_____ City State Zip Code

Telephone Number _____

E-mail Address _____

EFFECTIVE DATE

This power of attorney is effective immediately unless I have stated otherwise in the Special Instructions.

This power of attorney will remain in effect despite any future incapacity or disability of the principal.

RELIANCE ON THIS POWER OF ATTORNEY

Any person, including my agent, may rely upon the validity of this power of attorney or a copy of it unless that person knows it is terminated or invalid.

PRIOR DESIGNATIONS REVOKED

I hereby revoke any prior power of attorney for financial affairs.

SIGNATURE AND ACKNOWLEDGMENT

Your Signature: 

Date: 3/16/23

Your Name Printed: Matthew Shane Souther

Your Address: 688 Woodland Rd. Kamiah, ID 83536

Your Phone Number: 208-861-6153

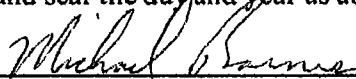
NOTARY - REQUIRED FOR RECORDING AND FOR REAL PROPERTY

STATE OF IDAHO)
 : ss.
County of ~~ADA~~)
 Lewis

On the 16th day of March 2023 before me, the undersigned Notary Public, personally appeared Matthew Souther, known or identified to me to be the person whose name is subscribed to the within instrument, and acknowledged to me that she executed the same.

IN WITNESS WHEREOF, I have set my hand and seal the day and year as above written.




Notary Public for Idaho
Residing at Kamiah, ID
Commission Expires: 04/10/2023

- Estates, Trusts, and Other Beneficial Interests
- MS Claims and Litigation
- Personal and Family Maintenance
- Benefits from Governmental Programs or Civil or Military Service
- Retirement Plans
- Taxes
- MS All Preceding Subjects

GRANT OF SPECIFIC AUTHORITY (OPTIONAL)

My agent MAY NOT do any of the following specific acts for me UNLESS I have INITIALED the specific authority listed below:

(CAUTION: Granting any of the following will give your agent the authority to take actions that could significantly reduce your property or change how your property is distributed at your death. INITIAL ONLY the specific authority you WANT to give your agent.)

- Create, amend, revoke, or terminate an inter vivos trust
- Create, amend, revoke, or terminate a "Miller Trust" for Medicaid long-term care eligibility purposes
- Make a gift, subject to the limitations of the Uniform Power of Attorney Act, chapter 12, title 15, Idaho Code, and any special instructions in this power of attorney
- Make a gift without limitations except any special instructions in this power of attorney
- Create or change rights of survivorship
- Create or change a beneficiary designation
- Authorize another person to exercise the authority granted under this power of attorney
- Waive the principal's right to be a beneficiary of a joint and survivor annuity, including a survivor benefit under a retirement plan
- Exercise fiduciary powers that the principal has authority to delegate

LIMITATION ON AGENTS AUTHORITY

An agent that is not my ancestor, spouse, or descendant MAY NOT use my property to benefit the agent or a person to whom the agent owes an obligation of support unless I have included that authority in the Special Instructions.

SPECIAL INSTRUCTIONS (OPTIONAL)

On the following lines you may give special instructions:

DURABLE POWER OF ATTORNEY FOR FINANCIAL AFFAIRS

IMPORTANT INFORMATION

This power of attorney authorizes another person (your agent) to make decisions concerning your property for you (the principal). Your agent can make decisions and act with respect to your property (including your money) whether or not you are able to act for yourself. The meaning of authority over subjects listed on this form is explained in the Uniform Power of Attorney Act, chapter 12, title 15, Idaho Code. This power of attorney does not authorize the agent to make health care decisions for you. You should select someone you trust to serve as your agent. The agent's authority will continue until your death unless you revoke the power of attorney or the agent resigns. Your agent is entitled to reasonable compensation unless you state otherwise in the Special Instructions. This form provides for designation of one (1) agent. If you wish to name more than one (1) agent, you may name a co-agent in the Special Instructions. Co-agents are not required to act together unless you include that requirement in the Special Instructions. If your agent is unable or unwilling to act for you, your power of attorney will end unless you have named a successor agent. You may also name a second successor agent. This power of attorney becomes effective immediately unless you state otherwise in the Special Instructions. If you have questions about the power of attorney or the authority you are granting to your agent, you should seek legal advice before signing this form.

DESIGNATION OF AGENT

I, Matthew Shane Southur, name the following person as my agent: Chere Southur Address: 2144 Hill St. Kamiah, ID 83536 and phone number: 208-816-3966. In the event _____ is not able or willing to serve as my agent, I name as my successor agent: _____ address: _____ and phone number: _____

GRANT OF GENERAL AUTHORITY

I grant my agent and any successor agent general authority to act for me with respect to the following subjects as defined in the Uniform Power of Attorney Act, chapter 12, title 15, Idaho Code:

(INITIAL each subject you want to include in the agent's general authority. If you wish to grant general authority over all of the subjects you may initial "All Preceding Subjects" instead of initialing each subject.)

- Real Property
- Tangible Personal Property
- Stocks and Bonds
- Commodities and Options
- Banks and Other Financial Institutions
- Operation of an Entity or Business
- Insurance and Annuities

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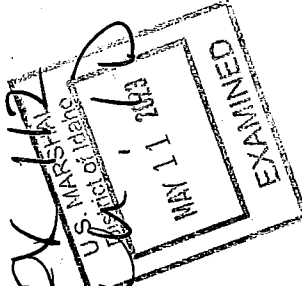
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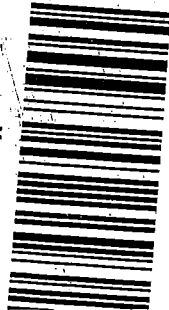
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