IN THE NORTHERN CHEYENNE APPELLATE COURT
OF AND FOR THE NORTHERN CHEYENNE TRIBE
LAME DEER, MONTANA

Melissa Fisher (Ashland), Eva Foote (Ashland), Gwen Spottedhorse (Birney), Stefan Rainingbird (Busby), Melissa Lonebear (Lame Deer), Nizhoni Friez (Lame Deer), Donvan Limberhand (Lame Deer), Howard Ontiveros (Muddy), Edina Redstar, Secretary, Kristi Killsnight, Treasurer, and Ryhal Rowland, Employee Plaintiffs/Appellees, v. Larry Medicine Bull, Wesley Spotted Elk, and Roger Killsnight, Defendants, Jason Standing Elk (Ashland), Waylon Rogers (Ashland), Llevando "Cowboy" Fisher (Birney), Reuben Roundstone (Busby), Corey Spotted Elk (Lame Deer), Josie "Wade" Redhat (Lame Deer), Robert Simpson (Lame Deer), Lynwood Ewing (Muddy), Sharlene Evans, Secretary, Terrance Limpy, Treasurer, and Donovan Taylor (Busby), Defendants/Appellants	CAUSE NO. C2026-079.A APPELLATE JUDGES, Michael A. Monson Adrian A. Miller Steven T. Small [*Recused*] **ORDER OF DENIAL FOR EN BANC REVIEW**

On September 22, 2026, Appellate Judge Miller issued a decision in this appeal, affirming the judgment of the Northern Cheyenne Trial Court. On September 24, 2026,

Appellants filed a written request for *en banc* review. Appellees filed a response on October 5, 2026.

Under the revised Law and Order Code of the Northern Cheyenne Tribe adopted June 2, 2025 and made effective October 1, 2025 (the "Code"), all appeals and other authorized requests for review before this Court are heard and decided by one Appellate Judge. A party who is dissatisfied with that decision may request *en banc* review by a panel of three Appellate Judges. The request must be in writing and filed and served within thirty (30) days of issuance of the single Appellate Judge's decision. Any other party may file and serve a written response within ten (10) days of receiving the request. The Code provides that *en banc* review "shall be granted if two (2) Appellate Judges, in their absolute discretion, vote in favor of *en banc* review." NCTLOC § 2.6.1.

ORDER

The request was timely, and the Court has considered it, together with the response and the decision for which review is sought. Judges Miller and Monson have voted on the request with neither voting in favor of *en banc* review.[1] Fewer than two Appellate Judges voted in favor of *en banc* review. **The request for *en banc* review is therefore DENIED.**

Because the Code commits the decision to grant *en banc* review to the "absolute discretion" of the Appellate Judges, this Court does not require a showing of error, and a denial is not a ruling on the merits of the request. The Code provides for a two-tier structure in which a

[1] Chief Appellate Judge Small has recused himself from this matter and did not participate in the consideration of, or the vote on, the request for *en banc* review. The Code provides that a judge "shall disqualify himself in a proceeding in which the judge's impartiality might reasonably be questioned," including where the judge's spouse, or a person within the third degree of relationship to the judge or the judge's spouse, "or the spouse of such a person is known by the judge to have a more than *de minimis* interest that could be substantially affected by the proceeding." Judicial Rule 3.E. NCTLOC. Council Member Torrey Davie (Busby), who has a more than *de minimis* interest in the outcome of this proceeding, is within the third degree of relationship to Judge Small's spouse. Judge Small recused himself to avoid any question regarding the appearance of impartiality, and nothing in this footnote suggests that he acted with actual partiality in any respect. Because Judge Small did not participate, the request was considered by the two remaining Appellate Judges.

single Appellate Judge hears the full appeal, and *en banc* review is an additional, discretionary safeguard. It is not a second appeal as of right. A party's disagreement with the outcome of the first-tier decision, however sincere, does not alone warrant *en banc* review.

No further requests for *en banc* review will be entertained in this matter. The decision of Judge Miller issued on September 22, 2026 stands as the final decision of this Court.

DATED this 2nd day of November, 2026.

Michael A. Monson

Michael A. Monson
ASSOCIATE APPELLATE JUDGE
NORTHERN CHEYENNE TRIBE

/s/ Adrian A. Miller

Adrian A. Miller
ASSOCIATE APPELLATE JUDGE
NORTHERN CHEYENNE TRIBE

Recused

Steven T. Small
CHIEF APPELLATE JUDGE
NORTHERN CHEYENNE TRIBE

OFFICIAL COURT SEAL
NORTHERN CHEYENNE TRIBAL COURT
LAME DEER, MONTANA 59043

NORTHERN CHEYENNE COURT
CERTIFIED COPY
CLERK OF COURT:
BY: _____
DATED: 11/3/2026

IN THE NORTHERN CHEYENNE TRIAL COURT
OF AND FOR THE NORTHERN CHEYENNE TRIBE
LAME DEER, MONTANA

FR: CLERK OF COURT

RE: SERVICE OF PAPERS

SERVICE OF ATTACHED PAPER(S):

CERTIFIED COPY ORDER OF DENIAL FOR EN BANC REVIEW
DATED:11/03/2026

CASE #: C2026-079.A

NAME: ELMORE LIMBERHAND
LAME DEER, MT 59043

(RETURN THIS PAPER BACK TO THE COURT, THANK YOU)

11/03/2026

KEISHA HOWE, CLERK OF COURT

CERTIFICATE OF SERVICE

I certify that I am the Clerk of Court for the Northern Cheyenne Court; that I received the within Service of Paperwork on _____ and personally served the same at _____ o'clock _____.m. on _____, upon _____ within the exterior boundaries of the Northern Cheyenne Reservation at: _____

A copy of said Service of Papers was left with the above named party.

ACKNOWLEDGED DATE CLERK OF COURT