

MHA SUPREME COURT CASE NO. AP-2025-001

DISTRICT COURT CASE NOS. CV-2024-0357

IN THE SUPREME COURT OF THE
MANDAN, HIDATSA & ARIKARA NATION

Terrance Fredericks & Carol Goodbear,

Plaintiffs-Appellants,

v.

Mark N. Fox, as Three Affiliated Tribes' Tribal Chairman
Corey Spotted Bear, as Three Affiliated Tribes' Vice-Chairman
Fred Fox, as Three Affiliated Tribes' Executive Secretary,
Mervin Packineau, as Three Affiliated Tribes' Treasurer,
Robert White, as Three Affiliated Tribe' Councilman
Sherry Turner-Lone Fight, as Three Affiliated Tribes Councilwoman
Monica Mayer, as Three Affiliated Tribes' Councilwoman, and the

Defendants-Appellees.

ON APPEAL FROM THE MHA NATION DISTRICT COURT FOR THE FORT
BERTHOLD RESERVATION, NEW TOWN, NORTH DAKOTA

PLAINTIFFS/APPELLANT'S BRIEF

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INTRODUCTION

This appeal arises from the Tribal District Court's dismissal of a lawsuit brought by Appellants—enrolled members of the Three Affiliated Tribes—challenging the Tribal Business Council's (TBC) unauthorized and secretive withdrawal of \$250 million from the People's Fund, a sovereign trust established for the long-term benefit of the Tribal membership. The transfer was executed without public notice, without an opportunity for member input, and in violation of both the Indian Civil Rights Act (ICRA) and the Tribe's own Constitution, Bylaws, and governing resolutions.

At stake is not only the financial integrity of a fund built from non-renewable oil and gas revenues but also the fundamental right of Tribal members to participate in decisions affecting their communal assets. The Constitution of the Three Affiliated Tribes guarantees due process and reserves to the people the power to veto Council resolutions through referendum—a right rendered illusory if major financial decisions are finalized in closed meetings and kept from public scrutiny until irreversible actions are taken.

Appellants seek reversal of the dismissal, recognition of their vested property interests in annual distributions from the People's Fund, and enforcement of their procedural rights under ICRA. They further request injunctive relief to preserve the status quo and ensure the referendum process remains viable. This case calls on the MHA Supreme Court to uphold the rule of law, protect Tribal citizens from arbitrary governance, and reaffirm that even sovereigns must follow their own laws.

STATEMENT OF FACTS

The TBC passed Resolution #13-04-VJB establishing the People's Fund, funded by oil and gas revenues, and simultaneously created a trust account with the Bureau of Trust Fund Management—"Proceeds of Labor Account" (PL 10017014)—pursuant to 25 C.F.R. Part 115. A distribution eligibility plan was developed to distribute the Fund's proceeds to tribal members, subject to referendum approval under Article VIII of the Tribal Constitution. However, no referendum was held.

In 2014, TBC passed Resolution #114-112-VJB approving a distribution plan allocating 80% of non-renewable oil and gas revenues to the Fund. The principal was to remain intact, except upon future Council authorization. Since then, approximately \$600 million has been distributed to members—including minors—tax-free due to the trust fund's federal status.

Appellants do not challenge the distribution method but instead object to Resolution #24-248-FWF, adopted in a closed session, transferring \$250 million from the federal trust account to TWG Global LLC (hereinafter "TWG"), an alleged private investment entity. Appellees claim the new investment provides an 8% return, while Appellants argue that TWG was only recently incorporated in Delaware (on December 12, 2023), appears speculative, lacks a clear business purpose, and does not qualify as an investment entity under Delaware records. Appellants also argue that future distributions may lose their tax-exempt status under IRS Notice 2014-17, potentially resulting in taxable events.¹

¹ A copy of a letter sent Judge Jones on November 8, 2024, the date of the hearing, attaching both the entity search of TWG Global, LLC revealing the date it was incorporated and IRS Notice 2014 -17 are provided in the Appendix attached hereto.

The original complaint sought a preliminary injunction to prevent the transfer, a permanent injunction to block it, time to circulate a referendum petition, and attorney's fees under the private attorney general doctrine. Before the hearing, the TBC ratified the transfer in an open meeting, and according to an affidavit by tribal attorney John Fredericks III, the funds were transferred before October 7, 2024.

At the November 7, 2024, hearing, Appellants explained that the perfected transfer discouraged tribal members from signing the referendum petition. The Court found no time limit in Article VIII on submitting a referendum petition and stated that a ruling in this case would not preclude the right to referendum, which stems from the Constitution, not ICRA.

The proposed amended complaint did not alter the factual or legal basis of the case but expanded the relief sought: prohibiting the TBC from excluding the public from meetings absent a proper basis for closed session, enjoining the TBC from taking financial action in closed session, and enjoining further transfers from the trust fund for 120 days to allow time for referendum petitions. All relief sought relates to the unlawful transfer of \$250 million from the federal trust account to TWG.

STANDARD OF REVIEW

Appellants appeal the District Court's order in this case dated January 24, 2025.¹ This order results from the TBC's motion to dismiss. De novo review is normally applied in such instances. *See, e.g., Nandan, LLP v. City of Fargo, 2015 ND 37, ¶ 11, 858 N.W.2d 892* ("This Court reviews a district court's decision granting a motion to dismiss . . . de novo."). The order and motion involve issues of sovereign immunity requiring the District Court to interpret the ICRA and the MHA Nation Constitution. Decisions involving interpretation of these laws are also generally reviewed

de novo. *United States v. Rodriguez*, 581 F.3d 775, 796 (8th Cir. 2009) (“This court reviews de novo constitutional challenges and questions of statutory interpretation.”); *Arrow Midstream Holdings, LLC v. 3 Bears Constr., LLC*, 2015 ND 302, ¶ 9, 873 N.W.2d 16 (“[T]he question of subject-matter jurisdiction is a question of law.”).

In reviewing the District Court’s order, this Court should accept the “allegations contained in the complaint as true” and draw “all reasonable inferences in favor of the nonmoving party.” *Cockram v. Genesco, Inc.*, 680 F.3d 1046, 1056 (8th Cir. 2011). The MHA Nation Supreme Court should only affirm the District Court’s decision dismissing Appellants’ claim if it “cannot discern a potential for proof to support it.” *Kuntz v. State*, 923 N.W. 2d 513, 522, citing, *Vandall v Trinity Hospitals*, 2004 ND 47 ¶ 5, 676 N.W. 2d 88.

STATEMENT OF JURISDICTION

The MHA Nation – Three Affiliated Tribes – Supreme Court has jurisdiction over this appeal from the Fort Berthold District Court’s final judgment dismissing Appellants’ claims. Article VI, Section 3(b) of the Constitution of the Three Affiliated Tribes expressly grants the Tribal Court authority to adjudicate claims under the Indian Civil Rights Act (“ICRA”), including the power to issue injunctive relief against the TBC (“TBC”) for ICRA violations. This constitutional provision constitutes a clear waiver of the Tribe’s sovereign immunity for such claims. The District Court below had jurisdiction pursuant to this waiver, and Appellants timely filed a notice of appeal. Accordingly, this Court has appellate jurisdiction to review the District Court’s dismissal and to grant appropriate relief.

ISSUES PRESENTED

The issues presented pursuant to this appeal are:

1. ***Sovereign Immunity:*** Whether Article VI, Section 3(b) of the MHA Nation Constitution waives the Tribe's sovereign immunity, permitting tribal members to sue the TBC for injunctive relief to remedy violations of the Indian Civil Rights Act.
2. ***Due Process Violation:*** Whether the TBC's transfer of \$250 million from the People's Fund without prior notice, public deliberation, or a referendum vote violated Appellants' due process rights under ICRA by depriving them of a protected property interest without notice or an opportunity to be heard.
3. ***Protected Property Interest:*** Whether tribal members have a constitutionally protected property interest in the People's Fund and its annual distributions, based on the Tribe's own laws, established practices, and the federally approved Section 17 Corporate Charter of the Three Affiliated Tribes.
4. ***Analogy to Shareholder Rights:*** Whether the property rights of tribal members in the People's Fund are analogous to shareholder interests (as recognized in *American Premier Underwriters, Inc. v. Amtrak*, 709 F.3d 584 (6th Cir. 2013)) such that the deprivation of those rights triggers due process protection.
5. ***Political Question Doctrine:*** Whether the political question doctrine bars judicial review of the TBC's \$250 million transfer, or whether this dispute is justiciable because it involves enforcing individual legal rights and procedural safeguards (ICRA and tribal constitutional requirements) rather than a policy choice committed solely to tribal political discretion.

STATEMENT OF THE CASE

The Three Affiliated Tribes ("Tribe") established a sovereign trust fund known as "The People's Fund" in 2013 to preserve a portion of the Tribe's oil and gas revenue for the benefit of tribal members. Resolution No. 13-004-VJB (Jan. 24, 2013) created the People's Fund and a

corresponding Department to administer it, with the express purpose of saving non-renewable resource income for current and future generations in perpetuity. The Resolution mandated the development of a Distribution and Eligibility Plan to govern the Fund and required that the plan be approved by the TBC and then submitted to a referendum of the tribal membership pursuant to Article VIII of the Constitution. This requirement underscored the Tribe's intent that the People's Fund be managed with transparency and membership consent.

In 2014, the TBC adopted the People's Fund Distribution and Eligibility Plan (the Plan") via Resolution No. 14-112-VJB, the plan has never been ratified by tribal voters as directed. The Plan declares that the People's Fund is "established for the benefit of [the] members and future generations of the MHA Nation from now until time immemorial," ensuring that the Tribe's finite oil resources will "provide revenue for the membership long after the last barrel of oil is taken". To fulfill this purpose, the Plan provides for annual per capita distributions to all enrolled members. Specifically, "[a]ll members of the [Tribe] that are on the Tribal rolls shall be eligible to receive The People's Fund distributions," and "[s]uch distributions shall be made in an equal amount of money to each Tribal member." The Plan sets July 31 of each year as the annual distribution date. In practice, beginning in 2014, the Tribe has indeed issued a per capita payment from the People's Fund to every eligible member around late July or early August of each year, including in 2024. By these laws and practices, tribal members came to rely on the annual People's Fund distribution as an entitlement and benefit of tribal membership.

As of mid-2024, the People's Fund had accumulated a principal balance of nearly \$890 million, held in trust by the U.S. Bureau of Trust Fund Administration (BTFA) on behalf of the Tribe. The interest generated by this principal (approximately 3% annually) was used to finance the yearly distributions to tribal members, about \$17.5 million per year. Importantly, under the

Plan, only the interest (earnings) from the Fund – not the principal – would be used for the annual payments, thereby preserving the corpus for future generations.

On August 6, 2024, the TBC, in a closed session not open to tribal members, passed Resolution No. 24-248-FWF directing BTFA to “relinquish” \$250 million from the People’s Fund (over a quarter of the fund’s assets) and transfer it to the Tribe for an alleged purchase of a private investment holding (TWG Global, LLC). This massive withdrawal of trust funds was approved without prior notice to the general membership, without any public hearing or input, and without a referendum or other form of direct tribal member approval. The TBC’s action was effectively kept secret until after the transfer was initiated. Only after the fact did tribal citizens learn of the quarter-billion-dollar depletion of the People’s Fund principal, sparking widespread concern within the community. The \$250 million transfer immediately reduced the Fund’s balance (from roughly \$890 million to \$640 million), thereby diminishing future investment returns and, by extension, the money available for annual member distributions.

In response, tribal members mobilized. Appellants Terry Fredericks and Carol Good Bear – enrolled members entitled to People’s Fund payments along with all other Tribal members – filed suit in the Fort Berthold District Court on August 28, 2024. Their complaint (later amended) sought injunctive relief to protect their rights in the People’s Fund. In essence, Appellants alleged that the TBC’s unilateral withdrawal of \$250 million violated their rights under the Indian Civil Rights Act, 25 U.S.C. § 1302, by depriving them of property without due process of law. As relief, they asked the court to, inter alia, enjoin any further transfers from the People’s Fund absent a referendum and to compel the TBC to honor tribal law procedures (such as a membership vote) before reallocating People’s Fund assets.

TBC (Appellees) moved to dismiss the suit, arguing lack of jurisdiction and failure to state a claim. The Tribal District Court acknowledged Article VI, Section 3(b) of the MHA Constitution waives the Tribe's sovereign immunity for ICRA claims seeking injunctive relief. However, the court concluded that Appellants had not established a "property" interest in the People's Fund sufficient to trigger due process protection, and it further suggested that the dispute was a non-justiciable political question. On January 24, 2025, the District Court dismissed the Amended Complaint. In the court's view, because tribal members have no individual property right in the People's Fund corpus itself, the removal of \$250 million did not deprive anyone of "property," and thus no due process violation under ICRA was stated. The court also expressed reluctance to interfere in what it characterized as a policy decision by the Tribe's governing body (the management of tribal trust assets).

Appellants timely appealed to this Court. They contend that the District Court's dismissal was in error. First, the court failed to give effect to the Tribe's own sovereign immunity waiver, which plainly allows this suit. Second, the court misapplied the law on property interests: tribal law and precedent establish that members do have a protected entitlement in the People's Fund distributions. Third, conducting judicial review here does not usurp a political function but rather vindicates fundamental individual rights and enforces the Tribe's own laws. Appellants respectfully ask this Court to reverse the dismissal and remand with instructions to reinstate their ICRA claims. They seek an injunction requiring the TBC to comply with due process – specifically, to refrain from further depleting the People's Fund without notice and approval of the membership, and to permit a referendum so that the people may decide the fate of the \$250 million already withdrawn and the funds that remain in the trust account, People's Fund.

The TBC moved to dismiss the suit, arguing lack of jurisdiction and failure to state a claim. The Tribal District Court acknowledged that Article VI, Section 3(b) of the MHA Constitution waives the Tribe’s sovereign immunity for ICRA claims seeking injunctive relief. However, the court concluded that Appellants had not established a “property” interest in the People’s Fund sufficient to trigger due process protection, and further suggested the dispute was a non-justiciable political question. On January 24, 2025, the District Court dismissed the Amended Complaint.

SUMMARY OF THE ARGUMENT

I. *Procedural Error:* The District Court erred in dismissing Appellants’ claims without conducting a meaningful evidentiary hearing, despite the intertwined nature of the jurisdictional and merits questions raised under Article VI, Section 3(b) of the MHA Constitution. Appellants allege a clear waiver of sovereign immunity for ICRA claims and a deprivation of property without due process, stemming from the Tribal Business Council’s covert \$250 million transfer from the People’s Fund. They were ultimately denied fair notice, opportunity to present evidence, or question officials—procedural failures that undermine their right to a fair adjudication. The decision below should be reversed and remanded for a proper evidentiary hearing and adjudication on the merits of Appellants’ constitutional claims.

II. *Sovereign Immunity:* The MHA Nation’s Constitution contains an explicit waiver of sovereign immunity for claims seeking equitable relief against the TBC for violations of the Indian Civil Rights Act. Article VI, Section 3(b) unambiguously grants the Tribal Court authority to enforce ICRA, including by issuing injunctions against the Council when it violates tribal members’ ICRA-protected rights. By ratifying this constitutional provision, the Tribe consented to be sued in its own courts for injunctive relief in cases of alleged civil rights deprivations. Indeed,

the Tribe's appellate court (the Northern Plains Intertribal Court of Appeals) confirmed in *Francis v. Wilkinson* that Article VI, §3(b) "waived the Tribe's immunity from suit in ICRA violations". Accordingly, sovereign immunity is no bar to this action. The District Court was correct to recognize the waiver; it erred by nevertheless dismissing the case. Once tribal sovereign immunity is waived – as it is here – the tribal judiciary is empowered to reach the merits of the ICRA claim.

III. Protected Property Interest: Appellants argue that the Three Affiliated Tribes' members have a constitutionally protected property interest in the annual distributions from the People's Fund, grounded in tribal law, long-standing practice, and the Tribe's federally approved Section 17 Corporate Charter. This entitlement, reinforced by mandatory language in the People's Fund Plan and consistent annual payments since 2014, constitutes more than a mere expectation—it is a vested economic benefit akin to a trust income or corporate dividend. The Tribe's actions to transfer \$250 million from the Fund without notice or member input therefore violate procedural due process under the Indian Civil Rights Act (25 U.S.C. § 1302(a)(8)) by depriving members of their property interest without lawful procedures.

IV. Due Process Violation: Appellants contend that the Tribal Business Council's secretive \$250 million transfer from the People's Fund violated their procedural due process rights under the Indian Civil Rights Act (ICRA) by depriving them of a protected property interest without notice or opportunity to be heard. This interest arises from both the Tribe's Distribution Plan—requiring referendum approval—and its long-standing practice of annual per capita payments funded by trust earnings. By executing the transfer in closed session without public disclosure, the Council not only diminished the source of those payments by approximately \$7.5 million annually but also obstructed the members' constitutional right to initiate a referendum. The action irreversibly removed assets from the trust account and undermined safeguards designed to protect

the Fund, amounting to an arbitrary deprivation of property that ICRA's due process clause squarely forbids.²

V. Analogy to Shareholder Rights (*American Premier Underwriters v. Amtrak*): Appellants argue that their right to annual distributions from the People's Fund is analogous to a shareholder's entitlement to dividends or stock redemption and therefore constitutes a protected property interest under due process principles. Drawing on the Sixth Circuit's holding in *American Premier Underwriters, Inc. v. Amtrak*, 709 F.3d 584 (6th Cir. 2013), where a shareholder's statutory right to stock redemption was deemed a protected property interest, Appellants contend that the Tribal Business Council's unilateral \$250 million withdrawal from the Fund—without notice or member consent—violated their due process rights. Like the shareholders in *Amtrak*, Tribal members have a legally recognized expectation to financial benefits created by tribal law and long-standing practice, which cannot be stripped away arbitrarily or in secret without affording procedural safeguards.

VI. Political Question Doctrine: Appellants argue that the political question doctrine does not bar judicial review of the Tribal Business Council's secretive \$250 million transfer from the People's Fund, because the dispute concerns enforceable individual rights—not policy discretion. Courts are well-equipped to determine whether the Council violated the due process clause of the Indian Civil Rights Act (ICRA) and the Tribe's own constitutional procedures, both of which provide clear legal standards. Appellants are not challenging the wisdom of investment decisions but rather the unlawful process by which those decisions were made, including the deprivation of

² Funds transferred out of the People's Fund are "irreversibly removed" because the Tribe cannot put money back into a "25 C.F.R. Part 115" trust account. Only trust accounts formed and managed under the Indian Trust Fund Management Reform Act of 1994 which is regulated under 25 C.F.R. Part 1200. See, 25 C.F.R Part 115, Subpart F. A copy of this regulation is attached in the Appendix attached hereto.

protected property interests without notice or an opportunity to be heard. Upholding the rule of law and enforcing constitutional rights is a core judicial function, and this case is therefore justiciable.

ARGUMENT

I. The District Court Committed Legal Error in Failing to Conduct a Meaningful Evidentiary Hearing.

The District Court committed legal error by failing to conduct a meaningful evidentiary hearing prior to dismissing Appellants' claims. While a hearing was held, Appellants received no definite notice that the hearing Defendants' motion to dismiss and none of the Defendants appeared at the hearing. As a result, Appellants were deprived of the opportunity to question the TBC members or present testimony on the central jurisdictional issue—whether the Tribe waived its sovereign immunity under Article VI, Section 3(b) of its Constitution.

The District Court issued the Notice of Hearing on October 7, 2024, before Appellees had even filed their motion to dismiss later that same day at approximately 4:50 p.m. The notice failed to indicate the purpose of the hearing or whether parties could offer witness testimony. It was not until November 4, 2024—three days before the hearing—that Appellants were informed by email from opposing counsel that the hearing would address the motion to dismiss. This inadequate notice violated Appellants' right to a fair opportunity to be heard.

At the hearing on November 7, 2024, no Appellees appeared, and Appellants were unable to call Defendants as witnesses. Appellants had alleged in their amended complaint—and again informed the Court—that the \$250 million transfer from the People's Fund was executed to provide collateral for a loan. The Court itself questioned whether the transfer constituted a "taking"

for purposes of ICRA and acknowledged it may need to hold an evidentiary hearing. However, it rendered a final decision without doing so.

Where, as in this case, subject matter jurisdiction and the merits are intertwined—both arising from Article VI, § 3(b)—courts must treat the motion as a factual challenge. In such cases, due process and precedent require that appellants be given notice and an opportunity to present evidence. *See, Brandon Label, Inc. v. City of Branson*, 793 F.3d 910 (8th Cir. 2015); *Johnson v. United States*, 534 F.3d 674 (8th Cir. 2008). The District Court failed to do so.

The District Court relied on *Hagen v. Sisseton-Wahpeton Community College*, 205 F.3d 1040 (8th Cir. 2000), but the facts in *Hagen* were undisputed and did not involve a waiver claim. Here, Appellants explicitly alleged a constitutional waiver and factual basis for jurisdiction, triggering the need for an evidentiary hearing.

Appellants also provided documentation suggesting that the transfer of funds served as collateral for a \$250 million loan—claims that, if substantiated, could support their ICRA claims. Resolution No. 24-248-FWF authorizes the use of the funds to purchase “protected common units” in TWG Global, a newly formed entity whose financial claims appear questionable. Appellants submitted evidence to the Court showing TWG’s recent formation and challenged its financial representations, further raising credibility issues. They also alleged Chairman Fox had stated the funds would back a loan, yet they were not given the chance to subpoena him or the Tribal Treasurer.

The District Court acknowledged on page 18 of its Order that “there is no proof that the transfer will deprive the people of the future benefits from that investment.” This illustrates why a

hearing was essential. Without it, Appellants had no meaningful way to satisfy the evidentiary burden the Court appeared to impose.

Accordingly, the District Court's failure to conduct an evidentiary hearing or allow witness testimony denied Appellants their right to be heard and prevented proper adjudication of jurisdictional facts. If the Supreme Court is unpersuaded by the arguments below, it should reverse and remand this case for a jurisdictional hearing to allow Appellants to establish that the Court has subject matter jurisdiction under the express waiver of sovereign immunity in Article VI, § 3(b).

II. Article VI, § 3(b) of the MHA Constitution Waives Tribal Sovereign Immunity for ICRA Claims Seeking Injunctive Relief.

It is a fundamental principle that an Indian tribe enjoys sovereign immunity from suit unless it has clearly waived that immunity, or Congress has unequivocally abrogated it. Here, the Three Affiliated Tribes have done exactly that in their own Constitution for a defined category of cases. Article VI, Section 3(b) of the Constitution of the Three Affiliated Tribes provides, in pertinent part: "The people of the Three Affiliated Tribes... hereby specifically grant to the Tribal Court the authority to enforce the provisions of the Indian Civil Rights Act... including the award of injunctive relief only against the TBC if it is determined... that the TBC in a specific instance violated that Act.". This language amounts to an express consent by the Tribe to be sued in Tribal Court for alleged ICRA violations, with the remedy limited to injunctive (equitable) relief against the governing body.

The waiver could not be clearer. By "specifically grant[ing]... authority" to the Court to issue injunctions against the Council for ICRA violations, the Tribe removed any shield of immunity that the Council might otherwise invoke in such cases. This provision was adopted by tribal membership itself (as part of the Constitution), reflecting the people's decision to balance

governmental immunity with individual rights. The Northern Plains Intertribal Court of Appeals, acting as the appellate court for MHA Nation at the time, recognized the breadth of this waiver over thirty years ago. In *Francis v. Wilkinson*, 20 Indian L. Rep. 6015 (N.P. Intertribal Ct. App. 1993), the court held that the Three Affiliated Tribes' Constitution "waived the Tribe's immunity from suit in ICRA violations." *Francis* involved a tribal member's lawsuit alleging a violation of ICRA, and the appellate court had no difficulty finding jurisdiction, precisely because of Article VI, §3(b). In short, under tribal law, ICRA-based suits for injunctions against the TBC are allowed. Tribal officials cannot use sovereign immunity as a defense to such claims.

This tribal waiver fills the gap left by federal law. The Indian Civil Rights Act, as interpreted by the U.S. Supreme Court in *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978), does not authorize lawsuits against tribes in federal court (except in habeas corpus), largely out of respect for tribal sovereign immunity and self-governance. However, *Santa Clara* emphasized that tribal forums are available and are indeed expected to play the primary role in vindicating ICRA rights. The Three Affiliated Tribes embraced that responsibility by enacting Article VI, §3(b). Thus, unlike in *Santa Clara*, where the plaintiff had no forum due to immunity, here the Tribe has opened its courts to ICRA claims. The District Court below correctly noted the existence of this waiver. However, it mistakenly treated the issue of whether Appellants stated a valid ICRA claim (i.e., had a property interest) as if it were a jurisdictional or immunity question. That was error. Whether a plaintiff has a property right and was denied due process is the merits of the ICRA claim; the only jurisdictional question is whether the Tribe consented to the suit. Article VI, §3(b) answers that question with a resounding yes.

Because the Constitution's waiver plainly encompasses Appellants' claim – they allege the TBC violated ICRA and seek an injunction, exactly what §3(b) permits – the Tribe's immunity is

not an obstacle here. This Court should hold that the Tribal District Court has authority to adjudicate the ICRA claim and grant injunctive relief if a violation is proven. By doing so, the Court vindicates the Tribe's own law (the Constitution) and ensures the TBC is accountable under the same. Sovereign immunity exists to protect tribes from unconsented litigation, not to bar suits that the tribe has consented to. Here, the Tribe chose accountability as a matter of constitutional principle. The TBC, as the Tribe's governing body, must abide by that choice and cannot evade judicial review of its ICRA compliance. Accordingly, this Court should proceed to evaluate the merits of Appellants' ICRA due process claim, unfettered by immunity concerns.

III. Tribal Members Have a Protected Property Interest in the People's Fund and Its Annual Distributions Under Tribal Law and the Section 17 Charter. Tribal Law and Practice Create a Legitimate Claim of Entitlement to People's Fund Distributions.

The first step in any procedural due process claim is to identify a protected liberty or property interest. Property interests are not created by the Constitution itself, but by "existing rules or understandings" from an independent source, such as statutes, regulations, official policies, or longstanding customs that secure certain benefits. In this case, the relevant sources are the laws of the Three Affiliated Tribes – in particular, the resolutions establishing the People's Fund and the Distribution Plan – as well as the Tribe's consistent practice of providing annual per capita payments to members from that Fund. These sources give tribal members a reasonable expectation, indeed a guarantee, of receiving monetary distributions, which constitutes "property" for due process purposes.

The People's Fund Distribution and Eligibility Plan is a formal tribal enactment that defines who is entitled to what benefits from the Fund. It leaves no ambiguity: "All members of the [Mandan, Hidatsa, and Arikara] Nation that are on the Tribal rolls shall be eligible to receive The People's Fund distributions. Such distributions shall be made in an equal amount of money to each

Tribal member...” (emphasis added). The Plan also fixes the timing, providing that an Annual Distribution will occur each year on July 31 (or as close thereto as practical). This language is plainly mandatory. Every enrolled member shall receive an equal share; nowhere does the Plan indicate that the Council has discretion to withhold the distribution or to vary the amount per person arbitrarily. Moreover, when adopting the Plan, the TBC explicitly subjected it to approval by the people via referendum, signaling that once approved, the Plan’s provisions would carry the weight of both law and democratic mandate. The tribal electorate’s ratification of the Plan solidified it as a kind of social contract between the government and the members: the Tribe (through the Council) committed to distribute the Fund’s revenues fairly and annually, and the people endorsed that commitment.

In practice, the Tribe honored this commitment consistently for a decade. From the Plan’s inception through 2024, each year the Council appropriated funds (specifically, the interest earned from the People’s Fund principal) to issue a per capita payment to every enrolled citizen. By 2023-2024, this annual distribution was approximately \$17.5 million in total, divided equally among all members. The regularity and universality of these payments created a settled expectation among tribal members that each year, around late July, or early August, they would receive their “People’s Fund check.” Such expectations, backed by official policy, are precisely what give rise to property interests. Courts have held in various contexts that when a government establishes a routine benefit program with defined eligibility criteria, beneficiaries may obtain a protected interest in continued receipt of those benefits (absent lawful changes). For instance, in the tribal context, when a tribe by ordinance or custom allocates a resource to individuals (be it land assignments, housing benefits, or per capita payments), those individuals may acquire property rights in those benefits that are cognizable under ICRA’s due process clause. Here, the Tribe’s “rules and understandings”

– the Plan and the decade of distributions – have built an entitlement that members plan their lives around and rely upon.

It is important to note that the property interest at issue is each individual member's right to their share of the People's Fund benefits, not a communal ownership of the entire fund.³ Appellants do not claim an undivided collective right to control the whole \$640 million corpus. Rather, they claim the right to receive the personal distributions that the law promises them. The Plan entitles each member to a pro rata share of the Fund's income – that is the property interest. The distinction is crucial: while the corpus of the People's Fund is owned by the Tribe as a whole, the beneficial interest in that corpus (the right to receive income from it) is allocated in equal portions to each member. This is analogous to a trust: the trust principal is held collectively, but the beneficiaries have individual rights to the trust's proceeds. It is those individual beneficial rights that due process protects here. The Council's actions interfered with those rights by endangering the source of the income stream and by ignoring the required procedure (membership approval) that was meant to safeguard members' interests.

IV. The Federally Approved Section 17 Charter Confirms Members' Equitable Ownership of Tribal Assets and Expectation of Profit Distribution.

In addition to the Plan, the Tribe's Corporate Charter under federal law reinforces the notion that tribal citizens have a kind of property stake in tribal assets and income. The Corporate Charter of the Three Affiliated Tribes, issued by the Secretary of the Interior pursuant to Section 17 of the Indian Reorganization Act (25 U.S.C. § 477), creates the Tribe as a federal corporation with all tribal members as its shareholders. The Charter explicitly states that the Tribe is a

³ As reflected on page 15 the District Court's Order, there has been confusion concerning the concept of "communal property" and the application of the Indian Civil Rights Act. Plaintiffs stress this point to be clear on what they claim to be the basis for their taking argument.

“membership corporation” and authorizes the issuance of membership certificates to each member evidencing “the equal share of each member in the assets of the Tribe.” It further provides that the Tribe “may distribute per capita, among the recognized members of the Tribe, all profits of [the] corporate enterprise” beyond those needed for obligations, reserves, public works, government, or other specified purposes. The clear import of these provisions is that tribal members are the equitable owners of tribal property and are entitled to benefit from the Tribe’s surplus revenue.

The People’s Fund itself was born from the Tribe’s exercise of these corporate powers. It represents “profits” or surplus revenues from the Tribe’s mineral resources, set aside for the membership’s benefit rather than spent on government operations. In effect, the TBC, when establishing the People’s Fund, allocated a portion of corporate profit to a reserve intended for per capita distribution to members (not just once, but perpetually each year). The federal oversight inherent in the Fund (with the U.S. holding it in trust) and the requirement in the Charter that large distributions be approved by the Interior Department underscore that these assets are being managed with the members’ ownership interests in mind. Under the Charter, each member’s “share” in tribal assets may not be individually alienated or sold (hence non-transferable certificates), but it is recognized as a real, if intangible, property right. This is very much analogous to a share of stock in a corporation – one that pays dividends when the company is profitable. The annual People’s Fund payments are like dividends from tribal corporate earnings. Just as shareholders have a property interest in dividends declared under corporate law, tribal members have a property interest in the distributions declared (indeed promised by law) under the People’s Fund Plan.

To illustrate the significance: in the corporate world, if a board of directors announced a policy of paying shareholders a regular dividend, and shareholders came to expect that income, a

sudden decision to divert the funds elsewhere without any process could give rise to claims by shareholders. In the tribal world, the members are both citizens and the economic owners of the nation's communal assets; the law of the Three Affiliated Tribes, through the Charter and tribal resolutions, affirms their economic rights. It would be a strange result if tribal members – who are beneficial owners of trust funds and have explicit guarantees of equal shares – were deemed to have no property interest, when analogous stakeholders in other contexts do have such interests protected. We urge the Court to affirm that under MHA Nation's own laws, the People's Fund distributions are part of the bundle of property rights that each tribal member possesses.

V. The TBC's \$250 Million Withdrawal from the People's Fund Without Notice or Referendum Vote Violated ICRA's Due Process Clause.

Having established the property interest, we turn to the crux of the matter: the process (or lack thereof) that accompanied the deprivation. Procedural due process under ICRA requires that when the tribal government takes an action that deprives a person of life, liberty, or property, it must afford fundamentally fair procedures. At minimum, this typically means reasonable notice of the intended action and a meaningful opportunity to be heard and influence the decision before the deprivation occurs. What process is due can vary with context, but secret or surprise government action that affects individuals' rights is anathema to due process norms.

In this case, the process that was due was clear from the Tribe's own laws and the circumstances: before the TBC made a momentous decision to remove \$250 million from a trust fund designated for member distributions, it should have informed the membership and allowed input — ideally through the referendum mechanism that the Tribe's Constitution makes available for precisely such consequential decisions. Article VIII of the MHA Constitution (by reference in Resolution 13-004) provides the people with the right to approve or disapprove certain actions via referendum. Even if one argues that a referendum was not strictly required prior to this particular

transfer (since the Plan itself didn't explicitly say every withdrawal needs a new vote), at the very least, basic due process required transparency and an opportunity for the people to voice concerns, either through public meetings, consultations, or by petitioning for a referendum before the transfer was finalized. The TBC chose a completely opposite path: it acted in a closed session, gave no prior notice on the meeting agenda that the People's Fund would be addressed, and took the vote on the \$250 million transfer behind closed doors. The resolution authorizing the withdrawal (No. 24-248-FWF) was not made public until much later, after members pressed for answers. By concealing the action until it was a *fait accompli*, the Council effectively denied the people any opportunity to be heard at a time when it could have made a difference.

This covert procedure starkly violated due process. Even in internal tribal affairs, when an individual right is at stake, some form of notice and hearing is generally required. To draw a parallel, consider a tribal member's lease or allotment: if the tribal government were to cancel a member's land assignment or take their lease without notice or hearing, which would plainly offend ICRA's due process clause (and courts have so held in ICRA cases). Here, instead of land, the resource is a financial entitlement, but the principle is the same. The members should have been treated fairly and given a chance to object or insist on conditions. Procedural fairness could have been accomplished by informing the public of the proposal to withdraw funds (so members could organize or respond), or by putting the question to a referendum (given the enormity of the amount and the deviation from the original preservation purpose), or at least by allowing comment and considering alternatives.

The Council's failure to do any of these things meant that when it took the \$250 million, members were blindsided and powerless. By the time Appellants learned of the transaction, the money had been moved out of the trust account; realistically, the horse had left the barn. This

timing effectively nullified Appellants' right to petition for a preventative referendum. While Appellants and others scrambled to file a referendum petition after the fact (indeed, petition drives began in late August 2024 to limit future withdrawals and to potentially reverse the transaction), those efforts were hampered because the action had already occurred. In due process terms, the Council's secret action foreclosed the members' ability to utilize the very process the tribal constitution provides to challenge or approve major decisions.⁴ That is equivalent to denying them a hearing altogether.

It is no answer to say that the members, through elections, can hold the Council politically accountable for its decision. While political accountability is important, it is not a substitute for due process of law when a protected interest is at stake. ICRA was enacted precisely because Congress understood that tribal members might need judicial recourse beyond the political process to protect their individual rights. Here, waiting for the next election (or the next referendum opportunity) does not remedy the immediate and concrete harm to Appellants' property interest. The notion of due process is that certain decisions should not be made unilaterally in the first place, because if they are, the damage is done. That is why injunctive relief is appropriate – to prevent or correct an illegal deprivation that the political process either enabled or failed to check in time. Thus, an order preventing the TBC from making any future transfers out of the People's Fund is

⁴ ¶ 36 of Plaintiffs' Amended Complaint states:

“The agenda for the August 6, 2024, meeting did not put tribal members on any meaningful notice whatsoever that the Council was going to act on the People's Fund or withdraw \$250,000,000 from it. The agenda was intentionally vague on these points so that the Council would not have to answer any questions or tolerate any comments on the matter. The Council's actions were underhanded and intended to approve the \$250,000,000 withdrawal from the People's Fund as quietly as possible and without any opposition from Tribal members.” The Plaintiffs attached the agenda and minutes from the August 6, 2024, meeting to their complaint. The pertinent pages from the August 6, 2024, meeting agenda and minutes are attached. They are intentionally vague and do not put any Tribal member on notice of a large \$250,000,000 transfer of money from the People's Fund. These documents only refer to a “Trust Account” withdrawal. It is important to know the Tribe has more than one trust account with the Bureau of Trust Fund Administration.

necessary so that the Tribal members can rest assured their efforts in collecting signatures and signing petitions will not be frustrated or otherwise circumvented by the TBC.⁵

The District Court's ruling discounted the lack of process by focusing only on the end result (that distributions had not yet been canceled). But due process is concerned with how decisions are made, not just what the final consequence is. The Council might argue it had good reasons for the investment and that ultimately the money might earn more elsewhere. Even if that were true, a good motive or potential good outcome does not excuse bypassing required procedure. The ends do not justify the means in a system that adheres to the rule of law. If the Council believed removing the funds was in the Tribe's best interest, it should have had no fear of presenting that plan to the people or at least to an open forum. Due process would have allowed members to weigh in, perhaps suggest conditions (like a guarantee of using new investment returns for distributions), or at minimum brace for the change. None of that happened, which is precisely why the process was unfair.

In conclusion on this point, Appellants were entitled under ICRA to fundamental fairness before being deprived of their property interest in the People's Fund distributions. The TBC's clandestine withdrawal of \$250 million violated that entitlement. No notice + no hearing = no due process. For that reason alone, the District Court should not have dismissed the case; rather, it should have enjoined the TBC from further depleting the Fund until proper procedures (including a possible referendum) could occur. This Court should now recognize the due process violation and set the stage for appropriate injunctive relief.

⁵ As noted in ¶ 46 of Plaintiffs' Complaint, others have submitted signed petitions to the Secretary of the TBC only to have them ignored. Given this history, the TBC cannot be trusted to follow Article VIII of the Tribe's Constitution.

V. The Rights of Tribal Members in the People's Fund Are Analogous to Shareholder Property Rights Recognized in *American Premier Underwriters v. Amtrak* and Warrant Similar Protection.

Our discussion of *American Premier Underwriters (APU) v. Amtrak* has already been previewed in the Summary of Argument, but it merits a fuller treatment as part of the legal argument. Tribal courts may certainly draw guidance from federal jurisprudence on due process, especially where the contexts are comparable. In *APU v. Amtrak*, a private corporation (Amtrak) was subject to a federal law directing it to buy back stock from a shareholder by a certain deadline. The failure to do so was essentially a government-sanctioned breach of the shareholder's expectation because Amtrak, though a corporation, was found to be enough of a government actor for constitutional claims to apply. The Sixth Circuit concluded that the shareholder's expectation of stock redemption was a property interest created by law, and thus Amtrak's non-redemption could violate due process absent proper procedure. The court allowed the shareholder's procedural due process claim to proceed (eventually remanding the case for a determination on the statute of limitations, as the opinion notes).

Why is this relevant here? There are strong parallels between that situation and the one before this Court. Replace "shareholder" with "tribal member," "stock redemption at fair market value" with "distribution of People's Fund benefits," and "statutory mandate (ARAA §415(b))" with "tribal resolutions/Charter mandate," and the scenarios align closely.⁶ In both cases, an entity that manages assets on behalf of others was obligated by law to convey a monetary benefit to those others. In *APU*, it was Amtrak's duty to redeem shares; in our case, it is the TBC's self-imposed duty (via tribal law) to distribute fund earnings. In both cases, the managing entity failed to make

⁶ A side-by-side comparison of the rights and interests of an Amtrak shareholder and a Tribal member's right and interest in the Tribe's § 17 Charter is provided in the Appendix attached hereto.

the expected payment (Amtrak by refusing to redeem, the TBC by diverting funds that generate the payments). And importantly, in both, the deprived party had no say in the decision – APU could not force redemption, tribal members could not stop the transfer.

The Sixth Circuit’s recognition of a property interest in APU’s claim validates Appellants’ position that their interests here are likewise property. If anything, the moral claim is stronger here because the People’s Fund was explicitly created to benefit the people, whereas Amtrak’s shareholders were engaged in a more arm’s-length commercial relationship. Additionally, in APU, the right to redemption was directly established by federal law; here, the right to distribution is established by tribal law (and a federally approved charter). Tribal law, however, is the operative “independent source” for property interests in the ICRA context, just as state law is in the Fourteenth Amendment context. There should be no bias against recognizing an entitlement just because it arises from tribal legislation rather than federal – especially since the Tribe’s charter has federal imprimatur.

To further the analogy, consider that shareholders generally cannot dictate corporate policy, but they have certain rights that corporations ignore at their peril (like the right to vote on fundamental changes or the right to their shares’ value). Likewise, tribal members entrust the elected Council to manage resources, but when the Council undertakes a fundamental change that harms the value or purpose of those resources, members have rights to insist on legality and fairness. If Amtrak had to answer in court for short-changing its shareholders, the TBC should have to answer in court for (potentially) short-changing the Tribe’s own people.

It is also noteworthy that after the Sixth Circuit’s decision, on remand the only defense left was a technical statute of limitations issue – the substantive due process claim was solid. Here, too, if one removes procedural obstacles (sovereign immunity, political question) which we have

shown should not apply, the substantive claim of a due process violation is solid. We have the necessary elements: (1) a law-based expectation of benefit = property, (2) government action impairing that benefit = deprivation, (3) no adequate process given. APU supports element (1) strongly, and by extension the rest.

In summary, this Court can take guidance from *American Premier Underwriters* to hold that the People's Fund distribution rights are property interests protected by due process. Doing so would be consistent with the broader trend of courts recognizing that property is not limited to land or chattels or traditional contracts – it includes a variety of entitlements that people depend on, including financial ones, so long as those entitlements have a basis in law. The Tribe's laws here provide that basis in abundance. Thus, Appellants' rights deserve protection "similarly under due process doctrine," just as the question presented asks.

VI. The Political Question Doctrine Does Not Bar Judicial Review of This Dispute, Which Involves Enforceable Legal Rights Rather Than a Policy Determination Committed Solely to the Council

The final issue is whether the judiciary should refrain from deciding this case under the political question doctrine. The District Court hinted that questions of how tribal funds are managed might be reserved to the political branches of tribal government. Respectfully, that view overextends the political question doctrine and mischaracterizes the nature of Appellants' claims.

The political question doctrine in American jurisprudence is a limited exception to the general rule that courts must decide cases within their jurisdiction. It typically applies in contexts where the U.S. Constitution textually commits an issue to another branch (e.g., impeachment to Congress, or foreign affairs to the executive) or where there are no judicial standards to resolve the issue, among other factors (*Baker v. Carr*, 369 U.S. 186, 217 (1962)). In tribal law, an analogy can be made: certain disputes are considered internal political matters not suitable for court

intervention – for example, the internal procedures of a legislature, purely political disputes between factions, or discretionary policy allocations where no law constrains the decision. However, when a dispute requires interpretation of the tribal constitution, enforcement of statutes, or protection of individual rights, tribal courts generally regard those as justiciable questions, not political ones.

This case is fundamentally a legal dispute: do tribal members have a right under ICRA and tribal law to have their People’s Fund distributions protected from arbitrary diminution, and did the Council violate that right? Answering that does not entail the Court telling the Council how to spend money in a general sense or making budgetary policy. It entails the Court saying: “Even the Council must follow the law. If the law says due process, you must give due process.” That is a classic judicial function. The fact that the subject matter involves tribal finances does not make it nonjusticiable. Courts regularly adjudicate cases involving governmental finances – for instance, claims of unlawful expenditures, unconstitutional taxes, denial of benefits, etc. They do so not to second-guess the wisdom of the spending, but to ensure legality.

The manageable standard here is the due process standard – was there notice and opportunity to be heard? – and the property entitlement standard – do tribal laws create an entitlement? These are well-trod judicial criteria, not policy judgments. There is also no provision in the MHA Constitution that “textually commits” the question of individual rights violations exclusively to the TBC. Quite the opposite: the Constitution commits enforcement of ICRA rights to the Tribal Court (Article VI, §3(b)). Thus, far from ousting the Court, the tribal constitution invites judicial review in cases like this.

It is true that the TBC has broad authority over economic decisions. Appellants do not dispute that under ordinary circumstances the Council can decide to invest tribal funds as it sees

fit. If, for example, the Council wanted to create a new investment fund with surplus money and it followed all required procedures, a member could not sue simply because they disagree with the policy – that would be a political question. But here, the allegation is that the Council exceeded or disregarded legal limits (no notice, no vote, contrary to the Plan’s spirit, etc.). When government officials act outside the bounds of law, it is the courts’ role to say so. A helpful analogy is the role of courts in reviewing administrative agency actions in federal or state government: agencies have discretion, but if they violate someone’s rights or fail to follow required procedure, courts step in to correct that, and it’s not considered a political question to do so.

Tribal jurisprudence provides examples where courts differentiate between non-reviewable political matters and reviewable legal issues. For instance, in *Benjamin v. Weyaus (Mille Lacs Band Court of Appeals, 1997)*, the court held that while it would not involve itself in the internal legislative debate over removing an official (an intra-parliamentary matter), it would review whether the removal process followed the procedures laid out in the Band’s laws. That is analogous here: the decision to invest money might be political, but whether the Council followed the required procedure (giving the people a voice as promised) and respected individual rights is a legal question. Similarly, the District Court cited tribal cases where budget allocations were deemed political, but those involved situations where no individual right was implicated, and no law constrained the allocation. In stark contrast, the People’s Fund is encircled by laws (the Charter, the Plan, ICRA) that create rights and constraints. Enforcing those is this Court’s proper domain.

We also emphasize the broader ramifications: if the political question doctrine were misapplied to bar this suit, it would set a dangerous precedent that tribal officials could evade judicial scrutiny simply by labeling an action “policy” or doing it through a budgeting process. In

theory, a council could eliminate all per capita payments and claim it's just a budget decision, even if done discriminatorily or arbitrarily, and members would have no recourse. That cannot be what ICRA, or the MHA Constitution intended. The ICRA is about striking a balance – not undermining self-government, but ensuring basic fairness and rights are upheld in Indian Country. Dismissing genuine rights claims as political questions would tilt that balance too far, gutting the protections ICRA offers. It would also conflict with the Tribe's own choice to subject the Council to court jurisdiction for ICRA issues – why have a waiver and a court system if not to adjudicate these controversies?

This Court should confidently hold that it can and should decide this case on the merits. The controversy is justiciable. The presence of a constitutional right (due process) and a concrete legal standard (fair procedure for property deprivation) takes it out of the realm of purely political discretion. The TBC must answer in this Court for whether it complied with the law. That is not an infringement on tribal sovereignty – it is an affirmation of the Tribe's commitment to law and order as set forth in its Constitution. The political question doctrine does not shield the Council's conduct from review, and the District Court's reliance on that doctrine was in error. This Court should therefore reach the merits of Appellants' claims and provide the judicial check that the Tribe's constitutional system envisions.

CONCLUSION

For the foregoing reasons, Appellants respectfully request that this Court reverse the District Court's dismissal of their Amended Complaint and hold that the Tribe's sovereign immunity is waived for this ICRA action, that Appellants have stated a valid claim for violation of due process, and that the case is not barred by the political question doctrine. Appellants further request that the case be remanded to the District Court with instructions to proceed to the merits

and grant appropriate injunctive relief. Such relief should include, at minimum, an order enjoining the TBC from any further transfers or expenditures of the People's Fund principal without providing notice to the membership and obtaining membership approval (for example, via a referendum), and ensuring that tribal members are given a meaningful opportunity to exercise their rights regarding the \$250 million already withdrawn (whether by a retroactive ratification vote or other appropriate measure). The MHA Nation's laws and the ICRA promise the tribal membership a degree of oversight and protection in matters of fundamental importance – here, the preservation of a financial legacy for the people. The judiciary's role is to uphold that promise. Appellants ask this Court to do so by recognizing their property rights and due process rights, and by directing that the TBC honor those rights henceforth.

RESPECTFULLY SUBMITTED on this 22nd day of April, 2025.


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THREE AFFILIATED TRIBES
FORT BERTHOLD RESERVATION

MHA SUPREME COURT
NEW TOWN, NORTH DAKOTA

Terrance Fredericks and Carol Good Bear,

Plaintiffs/Appellants,

v.

Mark N. Gox, As Three Affiliated Tribes' Tribal
Chairman, Corey Spotted Bear, as Three
Affiliated Tribes' Vice-Chairman, Fred Fox, as
Three Affiliated Tribes' Executive Secretary,
Mervin Packineau, as Three Affiliated Tribes'
Treasurer, Robert White, as Three Affiliated
Tribes' Councilman, Sherry Turner-Lone Fight,
as Three Affiliated Tribes' councilwoman,
Monica Mayer, as three Affiliated Tribes'
Councilwoman and the Three Affiliated Tribes'
Tribal Business Council,

Defendant/Appellees.

Case No. CV-2024-0357
Supreme Court Case No. AP-2025-001

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on April 15, 2025, true and correct copies of the following documents:

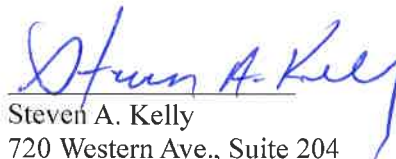
1. Plaintiffs/Appellants' Brief on Appeal & Appendix attached thereto
2. Certificate of Service

Were filed with the Court and sent to Defendants/Appellees as indicated below:

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RESPECTFULLY SUBMITTED on this 22nd^h day of April, 2025.



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MHA SUPREME COURT CASE NO. AP-2025-001

DISTRICT COURT CASE NOS. CV-2024-0357

IN THE SUPREME COURT OF THE
MANDAN, HIDATSA & ARIKARA NATION

Terrance Fredericks & Carol Goodbear,

Plaintiffs-Appellants,

v.

Mark N. Fox, as Three Affiliated Tribes' Tribal Chairman
Corey Spotted Bear, as Three Affiliated Tribes' Vice-Chairman
Fred Fox, as Three Affiliated Tribes' Executive Secretary,
Mervin Packineau, as Three Affiliated Tribes' Treasurer,
Robert White, as Three Affiliated Tribe' Councilman
Sherry Turner-Lone Fight, as Three Affiliated Tribes Councilwoman
Monica Mayer, as Three Affiliated Tribes' Councilwoman, and the

Defendants-Appellees.

ON APPEAL FROM THE MHA NATION DISTRICT COURT FOR THE FORT
BERTHOLD RESERVATION, NEW TOWN, NORTH DAKOTA

APPENDIX TO PLAINTIFFS/APPELLANT'S BRIEF

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