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10 *In Pro Per and on Behalf of*  
11 *the Tribal Court of the*  
12 *Blue Lake Rancheria*

13 **UNITED STATES DISTRICT COURT**  
14 **NORTHERN DISTRICT OF CALIFORNIA**

15 JAMES ACRES,  
16 Plaintiff,  
17 v.  
18 BLUE LAKE RANCHERIA TRIBAL  
19 COURT, *et al.*,  
20 Defendants.

Case No. 3:16-cv 05391-LB

**DECLARATION OF LESTER J. MARSTON**

Date: December 7, 2016  
Time: 2:00 p.m.  
Courtroom: 2, 17<sup>th</sup> Floor  
Judge: Hon. William H. Orrick

21 I, Lester J. Marston, declare:

22 1. I am the Chief Judge of the Tribal Court of the Blue Lake Rancheria  
23 (“Tribe”). I am submitting this declaration in response to the allegations contained in  
24 Plaintiff’s opposition (“Opposition”) to the Blue Lake Rancheria’s Motion to Dismiss  
25 the Complaint. The information contained in this declaration is of my own personal  
26 knowledge and, if called as a witness in these proceedings, I can competently testify  
27 thereto.

28 2. In both this suit and the previous federal court suit brought by Plaintiff  
against me, the Tribal Court, and the Tribe, I have sought to remain at a distance from

1 the litigation, to the greatest extent possible, in order to maintain my neutrality and I  
2 will continued to do so. I am, however, obligated to correct for this Court’s record the  
3 numerous misrepresentations made by Plaintiff in the Opposition regarding my working  
4 relationship with the Tribe, which directly attack my personal integrity.

5 3. I have been the Tribal Court’s Chief Judge, and only its Chief Judge, since  
6 March 15, 2007. I am not the Tribe’s Tribal Attorney. The only contract I have with the  
7 Tribe is a judicial services contract under which I provide judicial services to, and for  
8 the benefit of, the Tribal Court. I do not act on behalf of the Tribe in any capacity other  
9 than as the Chief Judge of the Tribal Court. The Tribe does not compensate me, directly  
10 or indirectly, for any services other than the services I provide under my judicial  
11 services contract.

12 4. I do not represent, nor am I paid by, the Tribe or the Blue Lake Casino &  
13 Hotel with respect to renegotiating tribal-state gaming compacts.

14 5. I am not involved in the representation of any party in the case *Blue Lake*  
15 *Rancheria et al. v. Marty Morgenstern, et al.*,<sup>1</sup> United States District Court for Eastern  
16 District of California Case No. 2:11-cv-01124-JAM-JFM. I have no knowledge of the  
17 circumstances of that case. I receive no compensation—neither direct nor indirect—  
18 from the representation of the Tribe or any tribal entity in that case. I have no  
19 relationship with Boutin Jones Inc. or any of its attorneys.

20 6. In my capacity as Chief Judge, I advocate on behalf of the Tribal Court for  
21 strengthening the relationship between tribal courts, federal courts, state courts, and  
22 state agencies. This includes participation in the California Tribal Court-State Court  
23 Forum (the “Forum”), a coalition of various tribal court and state court leaders, the  
24 majority of whom are judges, who come together as equal partners to address areas of  
25 mutual concern.

26  
27 <sup>1</sup> Plaintiff has cited the case as “*Blue Lake v. Lanier.*” See Opposition, p. 14.

1           7.     The Forum is a formal advisory committee to the California Judicial  
2 Council and makes recommendations to the Council for improving the administration of  
3 justice in all proceedings in which the authority to exercise jurisdiction by the state  
4 judicial branch and the tribal justice systems overlap. One of the Forum’s primary duties  
5 is to make recommendations relating to the recognition and enforcement of court orders  
6 that cross jurisdictional lines, the determination of jurisdiction for cases that might  
7 appear in either court system, and the sharing of services between jurisdictions.

8           8.     In this capacity and in support of the Forum’s stated objectives, I have  
9 advocated for a bill that will enhance the procedure by which California agencies,  
10 including the California Department of Motor Vehicles (“DMV”), will recognize and  
11 enforce tribal court marriages and resulting name changes through an amendment to the  
12 Family Code that authorizes Tribal Court judges to solemnize marriages.

13           9.     I have also acted to support marriage and name change orders I issued as  
14 Chief Judge by asking a state court to order the DMV to recognize and enforce marriage  
15 and name change orders issued by the Tribal Court.

16           10.    I have also appeared, in my capacity as Chief Judge of the Blue Lake  
17 Tribal Court, before the California State Judiciary Committee in support of passage of  
18 SB 406, which establishes a streamlined procedure in State Court for the recognition  
19 and enforcement of tribal court money judgments.

20           11.    All of the above mentioned actions were taken on behalf of, and for the  
21 benefit of, the Tribal Court.

22           12.    I diligently and actively protect the Tribal Court’s independence from the  
23 Tribe’s executive body, the Business Council. As part of these efforts, I have, in my  
24 capacity as Chief Judge on behalf of the Tribal Court, engaged with the Tribal Justice  
25 Support Directorate, Office of Justice Services, Bureau of Indian Affairs, which  
26 provides guidance, technical support, and advisory services to tribal courts. *See* 25  
27 U.S.C. § 3612. The Tribal Justice Support Directorate works with Indian tribes to  
28

1 conduct tribal court assessments and audits by using a modified model of the Tribal  
2 Court Performance Standards. In using a modified model of the Tribal Court  
3 Performance Standards, the Tribal Justice Support Directorate works with non-federal  
4 contractors to assist tribal courts, like the Blue Lake Rancheria Tribal Court, in  
5 identifying existing problems and formulating strategies for improvement of tribal  
6 courts.

7 13. In my order denying Plaintiff's motion to remove me as the Judge in the  
8 underlying Tribal Court action, *see* Exhibit 2 to the Complaint, I did not address  
9 Plaintiff's current allegations against me because: (1) the circumstances described above  
10 do not create a conflict of interest such that I may not preside over a case in which the  
11 Tribe appears as a party since I am not the Tribe's attorney, do not represent the Tribe,  
12 and have no financial interest in the Tribe other than my judicial services contract; and  
13 (2) Plaintiff did not raise any of these issues in his motion—had he, I would have  
14 addressed them.

15 14. My review of Plaintiff's Opposition brought to my attention that my  
16 Facebook profile page was set to "public" viewing, meaning that anyone could view my  
17 posts. This was not my intent when I set up my Facebook profile. Accordingly, I have  
18 changed the settings on my Facebook profile page to "friends," meaning that only those  
19 persons I have approved as a friend can view my profile page.

20 I declare under penalty of perjury under the laws of the United States of America  
21 that the foregoing is true and correct; executed this 8th day of November 2016, in  
22 Ukiah, California.

23 /s/ Lester J. Marston

24 LESTER J. MARSTON, Declarant

