

1 **James Acres**

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3 Encinitas, CA 92024

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7 ***In Pro Per***

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9  
10 UNITED STATES DISTRICT COURT  
11 NORTHERN DISTRICT OF CALIFORNIA  
12

13 JAMES ACRES,

14 Plaintiff,

15 v.

16 BLUE LAKE RANCHERIA TRIBAL  
17 COURT, *et al.*,

18 Defendants.  
19

Case No.: 3:16-cv-05391-WHO

**Declaration of James Acres responding  
to the Declaration of Lester J. Marston  
at Dkt. No. 22.**

**Date: December 7, 2016**

**Time: 2pm**

**SF Div., 17th Floor, Courtroom 2**

**Honorable William H. Orrick**

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21  
22 1. My name is James Acres and I'm the plaintiff in the above  
23 captioned action.

24 2. On November 8th, 2016, Defendant Marston submitted a  
25 declaration at Dkt. No. 22 supporting Blue Lake's motion to dismiss at Dkt.  
26 No. 8.  
27  
28

1           3. Marston’s declaration contains several statements that are  
2 factually untrue. I submit this declaration to correct those inaccuracies.

3  
4           4. There is currently a lawsuit pending in the Superior Court for  
5 Humboldt County, Blue Lake Rancheria, et al., v. J. Shiomoto, et al., case  
6 number CV140799.

7           5. Attached as Exhibit 1 is the “Register of Actions” from Blue  
8 Lake v. Shiomoto, current as of November 9th, 2016. For reference, I’ve  
9 also included the cover page of the Shiomoto complaint. *Exhibit 1*, p 5.<sup>1</sup>

10  
11           6. Attached as Exhibit 2 is a true and complete copy of a  
12 declaration by Lester J. Marston in Blue Lake v. Shiomoto. I believe it is the  
13 November 6, 2015 declaration referenced in the Registrar of Actions.  
14 *Exhibit 1*, p 3.

15           7. On November 8th, 2016, Marston declared under penalty of  
16 perjury that he is not “[Blue Lake]’s Tribal attorney.” *Dkt. No. 22*, ¶ 3, line 6.

17  
18           8. However, please see *Exhibit 1*, p 2, where Lester Marston is  
19 listed as the attorney for Blue Lake Rancheria in Blue Lake v. Shiomoto.

20  
21           9. On November 8th, 2016, Marston declared under penalty of  
22 perjury that he “[does] not act on behalf of [Blue Lake] in any capacity  
23 other than as the Chief Judge of the Tribal Court.” *Dkt. No. 22*, ¶ 3, lines 8 –  
24 9.

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25  
26  
27  
28 <sup>1</sup> In all citations to exhibits, I refer to the ECF generated page numbers, which includes the front page of the exhibit itself.





**Superior Court of the State of California  
County of Humboldt  
Register of Actions**

**CV140799: Blue Lake Rancheria vs. J. Shiomoto**

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**Case Type: Civil - Civil Comp: Other (42)**

**Filing Date: 12/03/2014**

**Disposition:**

**Disposition Date:**

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**Party**

**Attorney**

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Plaintiff: Blue Lake Rancheria	Lester Marston
Plaintiff: Jennifer Ann Ramos	Lester Marston
Plaintiff: Arla Ramsey	Lester Marston
Defendant: Jean Shiomoto-Responsive Pleading	Christopher Young
Defendant: Mary Galvan-Responsive Pleading	Christopher Young
Defendant: Angelica Matias	
Defendant: Ann Geiger-Responsive Pleading	Christopher Young

## Register of Actions

## CV140799: Blue Lake Rancheria vs. J. Shiomoto

## Documents

12/03/2014	Civil Case Cover Sheet:	Filed by: Plaintiff
12/03/2014	Complaint: Declaratory & Injunctive Relief	Filed by: Plaintiff
12/03/2014	Summons: Issued:	Filed by: Clerk
12/03/2014	Memo: Points and Authorities: Support of App for Temp REstraining Orc	Filed by: Plaintiff
12/03/2014	Declaration: Support of Motion for Temp restraining Order/OSC	Filed by: Plaintiff
12/03/2014	Summons/Proof of Service:	Filed by: Plaintiff
12/03/2014	Proof: Service: Atty. General-Overnight delivery	Filed by: Plaintiff
12/03/2014	Application: Other: Temporary Restraining Order & OSC re: Prelim Injur	Filed by: Plaintiff
12/03/2014	Motion: & Temporary Restraining Order	Filed by: Plaintiff
12/04/2014	Order: Sched hearing re plf ex parte applic for TRO/OSC	Filed by: Clerk
12/09/2014	Declaration: L. Marston re: Notice to Def's	Filed by: Plaintiff
12/09/2014	Declaration: L. Martson in support of Temporary Restraining Order	Filed by: Plaintiff
12/09/2014	Memo: Points and Authorities: Supplemental-support of Motion for TRO.	Filed by: Plaintiff
12/11/2014	Proof: Service: Personal - A. Geiger	Filed by: Plaintiff
12/15/2014	Minutes: - Ex Parte Hearing on 12/15/2014	Filed by: Clerk
12/15/2014	Opposition: Plf's Request TRO & OSC - J Shiomoto	Filed by: Defendant
12/15/2014	Notice: Acknowledgement/Receipt: Summons & Complaint - Att General	Filed by: Defendant
12/15/2014	Proof: Service: J Shiomoto - PERSONAL	Filed by: Plaintiff
12/15/2014	Proof: Service: M. Galvan - PERSONAL	Filed by: Plaintiff
12/15/2014	Proof: Service: Hearing for TRO & OSC - A. Geiger - MAIL	Filed by: Plaintiff
12/15/2014	Notice: Entry: Judgment or Order - Hearing for TRO & OSC - DENIED	Filed by: Plaintiff
12/19/2014	OSC and TRO:	Filed by: Judge
12/29/2014	Memo: Points and Authorities: Supplimental in Support of Motion for OS	Filed by: Plaintiff
12/30/2014	Minutes: - OSC Hearing on 12/30/2014	Filed by: Clerk
02/10/2015	Ruling: & Order re OSC/PI	Filed by: Judge
03/02/2015	Preliminary Injunction: J Shiomoto - DMV	Filed by: Judge
08/31/2015	Motion:	Filed by: Plaintiff
08/31/2015	Memo: Points and Authorities: in Support of Motion	Filed by: Plaintiff
08/31/2015	Statement: Undisputed Facts:	Filed by: Plaintiff
08/31/2015	Declaration: L Marston in Support of Motion	Filed by: Plaintiff
08/31/2015	Declaration: S Rau in Support of Motion	Filed by: Plaintiff
08/31/2015	Declaration: A Ramsey in Support of Motion	Filed by: Plaintiff
08/31/2015	Declaration: J Ramos in Support of Motion	Filed by: Plaintiff
09/04/2015	Answer: Shiomoto Galvan & Geiger	Filed by: Defendant
09/15/2015	Stipulation and Order:	Filed by: Judge
10/26/2015	Opposition: Motion for Summary Judgment	Filed by: Defendant
10/26/2015	Objection: Evidence Submitted in Support of MSJ	Filed by: Defendant
10/26/2015	Declaration: C Young Supporting Opposition to MSJ	Filed by: Defendant
10/26/2015	Statement: Undisputed Facts: & Suporting Evidence in Support of Opposi	Filed by: Defendant
11/03/2015	Declaration: C Young Supporting Opposition to MSJ	Filed by: Defendant
11/06/2015	Reply: to Opposition to Motion	Filed by: Plaintiff
11/06/2015	Reply: to Separate Statement of Undisputed Facts/Opposition	Filed by: Plaintiff
11/06/2015	Reply: to Objections to Evidence in Support of Motion	Filed by: Plaintiff
11/06/2015	Declaration: J Ramos in Support of Reply to Opposition to Motion	Filed by: Plaintiff
11/06/2015	Declaration: L Marston in Support of Reply to Opposition to Motion	Filed by: Plaintiff
11/09/2015	Declaration: A Ramsey in Support of Reply to Opposition to Motion	Filed by: Plaintiff
11/10/2015	Objection: to Evidence Filed w/ Reply in Support of Motion	Filed by: Defendant
11/10/2015	Minutes: - Motion Hearing on 11/10/2015	Filed by: Clerk
02/08/2016	Order: denying motion for summary adjudication	Filed by: Judge
02/08/2016	Order: ruling on deft obj to evidence in supp of mtn for summ judg	Filed by: Judge
09/27/2016	Notice: Change Address/Firm Name:	Filed by: Plaintiff

**Register of Actions****CV140799: Blue Lake Rancheria vs. J. Shiomoto**

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**Scheduled Events**

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12/15/2014	Ex Parte Hearing	Result: Heard: Orders Made	Honorable W. Watson
12/30/2014	OSC Hearing - Other	Result: Heard: Taken Under Submission	Honorable Dale Reinholtsen
11/10/2015	Motion Hearing - Summary Adjudication	Result: Heard: Taken Under Submission	Honorable Dale Reinholtsen

**Under Submission**

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12/30/2014	Orders Made on 2/9/2015	OSC Hearing	Submitted By: Dale Reinholtsen
11/10/2015	Motion Denied on 2/8/2016	Motion Hearing	Submitted By: Dale Reinholtsen

**Special Status**

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3/27/2015	U/D Judgment: DEF Prevails
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**Judgments**

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03/02/2015	Court Judgment	\$0.00	Jean Shiomoto
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\$435  
/

1 LESTER J. MARSTON - California State Bar No. 081030  
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2 RAPPORT AND MARSTON  
405 West Perkins Street  
3 Ukiah, CA 95482  
Telephone: (707) 462-6846  
4 Facsimile: (707) 462-4235

5 *Attorneys for Plaintiffs*

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DEC 03 2014 B.  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF HUMBOLDT

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8 SUPERIOR COURT OF CALIFORNIA  
9 COUNTY OF HUMBOLDT  
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11 BLUE LAKE RANCHERIA, a federally )  
recognized Indian tribe, JENNIFER ANN )  
12 RAMOS, an individual and ARLA )  
RAMSEY, in her official capacity as Tribal )  
13 Administrator and associate Tribal Court )  
Judge, )

14  
15 Plaintiffs,

16 v.

17 JEAN SHIOMOTO, in her official capacity )  
as Director of the California Department of )  
Motor Vehicles, MARY GALVAN, in her )  
18 official capacity as Regional Director of )  
Redding Regional Office of the Department )  
19 of Motor Vehicles, and ANN GEIGER, in )  
her official capacity as Office Manager, )  
20 Eureka Office, California Department of )  
Motor Vehicles, )

21  
22 Defendants.  
23

Case No. **CV 140799**

**COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF**

24 INTRODUCTION

25 1. This is an action brought by the Blue Lake Rancheria ("Tribe") against officials of  
26 the California Department of Motor Vehicles ("DMV"), who have refused to recognize marriage  
27 certificates issued by the Tribe's Tribal Court ("Tribal Court") as the requisite proof of a name  
28 change for the purpose of issuing new driver's license in the name of the married person. Tribal



# Exhibit 2

1 LESTER J. MARSTON  
California State Bar No. 081030  
2 RAPPORT AND MARSTON  
405 West Perkins Street  
3 Ukiah, California 95482  
Telephone: 707-462-6846  
4 Facsimile: 707-462-4235  
Email: marston1@pacbell.net

5 Attorney for Plaintiffs  
6 Blue Lake Rancheria, Jennifer Ann Ramos,  
and Arla Ramsey  
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
9 COUNTY OF HUMBOLDT

10 BLUE LAKE RANCHERIA, *et al.*,  
11 Plaintiffs,  
12 v.  
13 JEAN SHIOMOTO, *et al.*,  
14 Defendants.

Case No.: CV 140799

**DECLARATION OF LESTER J.  
MARSTON IN SUPPORT OF  
PLAINTIFFS' REPLY TO  
DEFENDANTS' OPPOSITION TO  
PLAINTIFFS' MOTION FOR  
SUMMARY JUDGMENT**

Date: November 10, 2015  
Time: 1:45 p.m.  
Dept.: 8  
Judge: Hon. W. Dale Reinholtsen  
Action Filed: December 3, 2014

18 I, LESTER J. MARSTON, declare:

19 1. I am the attorney for the Plaintiffs, the Blue Lake Rancheria ("Tribe"), Jennifer  
20 Ann Ramos, and Arla Ramsey in the above-entitled action. I am also the Chief Judge of the  
21 Tribal Court of the Blue Lake Rancheria. I am submitting this declaration in support of  
22 Plaintiffs' reply to Defendants' opposition to Plaintiffs' motion for summary judgment in the  
23 above-entitled action. The information contained in this declaration is of my own personal  
24 knowledge and, if called as a witness in these proceedings, I could competently testify thereto.

25 2. After plaintiffs filed their motion for summary judgment in this case, on  
26 September 16, 2015, Defendants' counsel sent a letter to me, which is attached to the  
27 Declaration of Christopher M. Young Supporting Defendants' Opposition to Plaintiffs' Motion  
28

1 for Summary Judgment (“Young Declaration”) as Exhibit B. Enclosed with the September 16,  
2 2015 letter was the Department of Motor Vehicles’ (“DMV”) Administrative Message ADM  
3 2015-26 (“Administrative Message”) which is attached as Exhibit D to the Young Declaration.

4 3. In response, on October 8, 2015, I sent a letter to Defendants’ counsel stating  
5 that, if indeed, the DMV’s policy is to recognize tribal marriage certificates, there was an  
6 obvious basis for settling the case. I enclosed with the letter a proposed stipulation  
7 memorializing the DMV’s policy of recognizing tribal marriage certificates and acknowledging  
8 that the policy would apply to the Tribe’s marriage certificates. A true and correct copy of the  
9 October 8, 2015 letter and proposed stipulation is hereby incorporated by this reference and  
10 is attached hereto as **Exhibit A**.

11 4. In an effort to enhance the possibility of reaching a settlement and in order to  
12 ensure that there would be no disagreements about whether the tribal marriage certificate  
13 would meet the criteria listed in the Memorandum and 13 C.R.R. 20.04, the Tribal Court  
14 issued a revised marriage certificate, which is attached as Exhibit C to the Young Declaration.  
15 That marriage certificate included a section allowing for a request for a name change and the  
16 name to which the party wished to change his/her name. The added language was taken from  
17 the marriage certificate form used by Humboldt County. The revised certificate was enclosed  
18 with the October 8, 2015 letter to Defendants’ counsel, along with the proposed settlement  
19 stipulation.

20 5. Based on the proposed stipulation and the revised marriage certificate, I  
21 engaged in negotiations to settle this dispute and dismiss the complaint in this matter.  
22 Counsel for the Defendants stated that the Defendants would be willing to consider the  
23 settlement, but only if Plaintiffs waived all attorney’s fees. I offered to waive some of the  
24 potential attorneys’ fees leaving the remaining issue of fees left to the Court to decide, in the  
25 event that Plaintiffs’ decided to file a motion for the fees based on the Court’s issuance of an  
26 order directing the DMV to issue a modified driver’s license. Defendants rejected the offer of  
27 settlement.

