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IN THE COURT OF THE SNOQUALMIE INDIAN TRIBE
Civil Division
Snoqualmie, Washington

Cheryl ENICK, Caroline GLENDALE, Marilyn
HENRY, Sandra PHILLIPS, and Jolene
WILLIAMS,

)
)
) Case No.: CV-0003-2009
)
)

Plaintiffs,

) ORDER AND JUDGMENT
)
)

vs.

Shelley BURCH, Nina REPIN, Tom
ZAMBRANO, Gabriel DE LOS ANGELES,

)
)
)
)
)

Defendants.

This matter comes before the Court on the hearing on the motion of defendants to dismiss and on the cross-motion of plaintiffs for summary judgment. Plaintiffs were represented by Kyme A.M. McGaw and defendants were represented by Jerrie M. Simmons. In addition, the court heard statements of plaintiff Jolene Williams, defendants Shelley Burch, Nina Repin, and other tribal members not parties to this matter. The Court has considered the record on file with the Court and the argument of counsel. Being fully advised, the Court issues the following opinion and order.

GOVERNING LAW

In a civil action, this Court first applies the law of the Snoqualmie Tribe. SNOQUALMIE TRIBAL CODE (STC), Title 3.1, § 11. If no tribal law governs the issues being heard by the Court, and there is no applicable choice of law provision, the Court shall apply, in order, (a) the laws of other Indian tribes, (b) federal statutory law, and (c) state statutory law. *Id.*

The Snoqualmie Constitution provides, in relevant part:

1 All meetings of the General Council shall be announced by the Tribal Council
 2 by mailing notices to each member at least ten (10) days in advance of the
 3 meeting and by publishing notice in newspapers of general circulation
 commonly read by the Tribal Membership.

4 Snoqualmie Const., art. III, § 3(b).

5 In addition to the constitutionally required 10-day notice of the annual General Council meeting,
 6 the Act Relating to Snoqualmie Tribal Elections, Tribal Council Act 2-2 (amended May 29, 2008; and
 7 April 2, 2009) (Elections Act), requires:

8 The Secretary of Tribal Affairs shall transmit the list of candidates to the
 9 eligible voters of the Snoqualmie membership as part of the notice of the
 10 annual meeting of the General Council.

11 Elections Act, § 14(d) (emphasis added).

12 **FINDINGS OF UNDISPUTED FACT**

- 13 1. The Snoqualmie Tribe is a federally recognized Indian Tribe.
- 14 2. The constitutionally required 10-day notice¹ of the annual General Council meeting was sent
 15 out on April 6, 2009.
- 16 3. The list of eligible candidates required by the Elections Act was not included with the 10-day
 17 notice of the annual meeting. The Court specifically finds that this failure was through no
 18 fault of the defendants newly elected to Council positions on May 9, 2009.
- 19 4. At the May 9, 2009, meeting, each defendant was elected to a position. Defendant Nina
 20 Repin was a sitting Tribal Council member at the time of the May 9, 2009, meeting and was
 21 elected for another term. Defendants Burch, Zambrano and de los Angeles were elected to
 22 positions as well, but were not sitting Tribal Council members on May 9.
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 27 ¹ "All meetings of the General Council shall be announced by the Tribal Council by mailing notices to each member
 28 at least ten (10) days in advance of the meeting and by publishing notice in newspapers of general circulation commonly read
 by the Tribal Membership." SNOQUALMIE CONST., art. III, § 3(b)..

1 5. Each plaintiff is an enrolled Snoqualmie tribal member, each was present and entitled to vote
 2 at the May 9, 2009, elections, and each timely filed an election challenge.
 3

4 **CONCLUSIONS OF LAW**

- 5 1. This Court has subject matter and personal jurisdiction over this matter pursuant to the
 6 Snoqualmie Constitution, article X, § 2, and the Snoqualmie Judiciary Act, § 5(a)(2).
 7
 8 2. Sovereign immunity does not bar this suit.
 9
 10 3. Rule 19 does not require dismissal of this suit because the Snoqualmie Tribe is not a required
 11 party.
 12
 13 4. The express purpose of the Elections Act is to ensure that all Snoqualmie tribal elections are
 14 (a) fair; (b) impartially conducted; and (c) carried out "in conformity with the Tribal
 15 Constitution and the Snoqualmie Tribal Code." Elections Act, § 3.0.
 16
 17 5. The goal of the Snoqualmie Constitution and Elections Act is for a representative
 18 government that is fairly elected and which represents the Snoqualmie People.
 19
 20 6. The right of each Snoqualmie tribal member to vote is a fundamental right.
 21
 22 7. The requirement of Section 14 of the Elections Act that a list of eligible candidates be
 23 included with the constitutionally required notice of the annual General Council meeting is
 24 mandatory.
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 26 8. Because it is mandatory, Section 14's requirement that the list of eligible candidates be
 27 included as part of the notice of the annual meeting of the General Council cannot be waived
 28 or ratified by either the Tribal Council or General Council.

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9. The elections conducted at the May 9, 2009, meeting were not carried out in conformity with the Tribal Constitution and the Snoqualmie Tribal Code.

10. Plaintiffs and other Snoqualmie voters were deprived of the fundamental right to vote by the failure to provide the list of eligible candidates in accordance with the Elections Act.

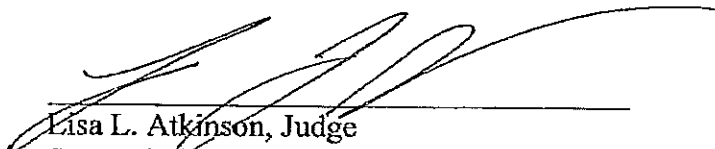
11. The elections conducted at the May 9, 2009, meeting are invalid.

12. Having found a violation of plaintiffs' rights under the Snoqualmie Constitution and Elections Act and having found no genuine issues of material fact, the Court grants plaintiffs' cross-motion for summary judgment, grants the requested permanent injunctive relief in the accompanying permanent injunction, and denies defendants' motion for dismissal.

13. Plaintiffs and defendants shall bear their respective fees and costs.

This order is a final decision for purposes of appeal. Any appeal hereof shall be made within 30 days of the date this order is issued by the Court. Judiciary Act, § 16.2.

SO ORDERED this 16th day of October, 2009.



Lisa L. Atkinson, Judge
Snoqualmie Tribal Court