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NORTHERN CHEYENNE COURT

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

IN RE THE UNLAWFUL REMOVAL OF TRIBAL PRESIDENT GENE SMALL, Petitioner, v. NORTHERN CHEYENNE TRIBAL COUNCIL, MELISSA FISHER, EVA FOOTE, NIZHONI FRIESZ, DONOVAN LIMBERHAND, MELISSA LONEBEAR, GWEN SPOTTED HORSE, STEFAN RAINING BIRD, TORREY DAVIE, AND HOWARD ONTIVEROS. Respondents.	Case No. CC2027-001 Judges: Steven T. Small Michael A. Monson Adrian A. Miller

RESPONDENT NORTHERN CHEYENNE TRIBAL COUNCIL'S MOTION TO DISQUALIFY, TO VACATE OR ALTER THE NOVEMBER 5, 2026, FINAL ORDER, AND FOR AN IMMEDIATE STAY

Respondent Northern Cheyenne Tribal Council (the "Council") moves under Judicial Rule 3.E; Northern Cheyenne Law and Order Code ("NCTLOC") §§ 2.9.1, 2.9.3–2.9.12, 2.10.2, 4.2.2(A), 4.2.6(A)–(B), 4.4.5(A), (E), 4.4.6(B), and 4.4.8(A)–(B); and any other applicable provision to disqualify Chief Appellate Judge Steven T. Small from further participation, obtain the disclosures and individualized determinations described below, vacate or alter the November 5, 2026, Final Order, and stay the Order's implementation pending decision on this Motion. The Council requests expedited consideration of the stay and, if material factual disputes remain, an evidentiary hearing before a properly constituted and qualified panel.

The Council's primary request is that an impartial panel reconsider the matter from the point necessary to cure established disqualification or procedural error. The Council requests that the

case be decided under the governing Tribal Code, on the operative pleadings and a fair record, by a panel whose impartiality is not reasonably questioned.

The Court issued a "Final Order" in this case on November 5, 2026. (A copy of the Final Order is attached as "Exhibit A") The Council requests an immediate stay of paragraphs 2 through 5 of the Final Order, or, at minimum, a stay of paragraph 3's categorical invalidation of later official and employment actions and paragraph 4's election injunction. The Council also requests express interim directions concerning officeholding, administrative authority, employment matters, election activity, and continuity of essential Tribal services.

Request for the October 6th Amended Petition

The Final Order identifies an amended petition filed October 6, 2026. The Council has never received this petition. The Council is and has always responded to a petition dated October 5, 2026. Neither the Council nor their advocated have received an amended petition. The Council therefore asks the Court to instruct the Clerk to identify the operative pleading, its attachments, and the returns of service and provide a copy to the Council's advocates.

I. Relevant procedural history

1. The Final Order states that the Council received the petition on October 14, 2026, filed its motion to dismiss on October 21, 2026, and had until November 3, 2026, to answer. It denied the motion as untimely, treated the motion to dismiss as the Council's answer, and decided the matter on the pleadings.
2. The October 21 motion raised threshold issues concerning jurisdiction, the effect of Article VII's finality language, the applicability of the general Council hearing ordinance, immunity, and the scope of available relief. It expressly reserved the Council's ability to answer and contest material allegations if a claim survived. The motion also requested

further proceedings to develop disputed facts. The Constitutional Court inexplicably ignored these reservations and requests and rushed to judgment on the word of the Petitioner and an inadequate record of the removal hearing.

3. The Final Order nevertheless states that the Council did not dispute its factual narrative, concludes that the Council was obliged to present material evidence in its responsive pleading, and holds that the removal hearing denied Gene Small a fair opportunity to defend himself. It purports to invalidate the removal, declares all actions taken by the President Pro Tem[1] after the purported removal invalid, including administrative actions terminating Tribal employees, enjoins a special election to replace Gene Small, and declares that he remains President.

4. The Final Order was signed by Chief Appellate Judge Steven T. Small and Judges Michael A. Monson and Adrian A. Miller. Three days earlier, in footnote 1 in an order dated November 2, 2026, the Appellate Court recorded that Chief Judge Small had recused himself from a different proceeding because Council Member Torrey Davie was within the third degree of relationship to Judge Small's spouse and had a more than de minimis interest in that proceeding. (A copy of this Order is attached as Exhibit B") The Court goes on to state that Chief Judge Small "did not participate in the consideration of or the vote on, the request for *en banc* review." (Exhibit B)

II. Post judgment relief and stay

The Final Order is a judgment under § 4.4.1(A). Under § 4.4.4(B), a judgment is complete and deemed entered for all purposes when signed and filed. The Final Order is dated November 5,

[1] Vice President Ernest Littlemouth has been designated as the "Interim President" and not a "President Pro Tem". There is a difference. A president pro tem fills in when the President is away. An Interim President fills the gap until a permanent replacement takes over.

2026. The ten-day periods in §§ 4.4.5(A) and (E) run from entry. The Council invokes § 4.4.5(A) to the extent the Motion seeks a new trial on an available ground and § 4.4.5(E) to the extent it seeks alteration or amendment; it also invokes § 4.4.6(B) to the extent its enumerated grounds or the provision for "any other reason justifying relief" are satisfied. This motion is timely as it has been filed within 4 days of entry.

Section 4.4.8(A) permits enforcement immediately upon entry absent a stay. Section 4.4.8(B) gives the Court discretion, on appropriate conditions, to stay enforcement pending disposition of the listed motions, including motions for new trial, to alter or amend, or for relief from judgment. The Council requests a stay under that provision.

III. Governing standards for disqualification of Judges.

Judicial Rule 3.E of Title X of the NCLOC supplies the Tribal standard for disqualification. The November 2 en banc order quotes the rule's general impartiality requirement and a family-relationship provision:

> "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.'"

The Court should apply that Tribal rule to each judge individually and to the circumstances of this proceeding. This rule should be applied uniformly in all cases.

For post-judgment relief, the Council invokes the applicable provisions of the Tribal Code, including §§ 4.4.5 and 4.4.6(B), to the extent their requirements are satisfied. It also invokes § 4.4.8(A)–(B), which the supplied Code identifies as authorizing a stay pending disposition of specified post-judgment motions. The Council requests that the Court determine the filing and service period from the actual entry date and the Code provisions applicable to this judgment.

IV. Chief Judge Small's participation presents a substantial disqualification question.

A. The November 2 order documents a family relationship that exists in this case.

The November 2 order states that Chief Judge Small recused himself from that proceeding because Council Member Torrey Davie was within the third degree of relationship to Judge Small's spouse and had a more than de minimis interest that could be substantially affected by that proceeding. Davie is identified as a respondent in the supplied October 5 petition. For whatever reason, the Final Order's shortened caption names only the Council. Torey Davie remains a member of the Tribal Council and is a party to this case. Mr. Davie participated in the removal hearing and voted to remove Gene Small. He has more than a *de minimis* interest in the outcome of this case.

The issue is that the Court's own recent order records a relationship and an interest that required recusal under Rule 3.E in one proceeding, while the supplied petition identifies Davie as an individual respondent in this constitutional action. The Final Order does not explain whether the relationship was considered here or, if so, why the circumstances differed. There does not appear to be any difference that would allow Chief Judge Small to participate in or vote on the outcome of this case. Furthermore, the Council believes that relationships between Chief Judge Small and the Judge Monson and Judge Miller tainted their decision to vote in the outcome of the case as well.

The Council requests that Judge Small disclose the relevant relationship and the basis for his participation in this case and openly determine whether the Rule 3.E's objective standard is met. The Council also reports that Judge Small is a second cousin to Gene Small. That Chief Judge Small supported Gene Small in his 2024 election and was appointed to the Northern Cheyenne Development Corporation by Gene Small. There is also the matter of the ex parte communication Chief Judge Small had in the case of *Gene Small v. Northern Cheyenne Tribe*

Tribal Council, CC 2026-001 which suggests that Chief Judge Small is close enough with Gene Small to engage in such unethical conduct as ex parte communications. The Council requests Chief Judge Small disclose his family relationship with Gene Small, his support for Gene Small and any contributions he or his firm may have contributed to Gene Small's 2024 election and all other associations he has with Gene Small whether such associations are personal or through an entity in which Chief Judge Small has an interest.

B. **The Council's earlier inquiry and ethics submission support disclosure, not an assumption of misconduct.**

In addition, the Tribal Council submitted an ethics complaint against Chief Judge Small with the Office of Disciplinary Counsel for the State of Montana after Chief Judge Small failed to answer a letter dated December 8, 2025, questioning him regarding potential conflicts of interest. (A copy of the Ethics Complaint, December 8, 2025 letter and Dana Eaglefeathers motion disclosing the ex parte communications mentioned above are all attached as "Exhibit C") The Council's December 8, 2025, letter requested disclosure concerning an alleged telephone communication with Gene Small in an earlier proceeding, an alleged appointment to an economic-development board, possible campaign assistance, and possible professional or financial relationships involving First Interstate Bank. The January 2026 disciplinary submission repeated some of those concerns. The Council believes that Chief Judge Small is aware of the ethics complaint and that it, the December 8, 2025, letter, and the record of his ex parte communications with Gene Small all warrant recusal under Rules 1, 2 & 3 of Title X of NCLOC. Disqualification of Chief Judge is warranted in this case and because of his business and close professional relationships with the remaining judges, there is at the very least an appearance of impropriety and bias concerning the Final Order.

C. The appropriate remedy is fresh consideration by an impartial panel of judges.

In *Liljeberg v. Health Services Acquisition Corp.*, the Supreme Court identified the risk of injustice to the parties, injustice in other cases, and harm to public confidence as considerations when deciding whether to grant relief from a judgment affected by disqualification. *Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847, 864 (1988).* Those considerations are relevant by analogy if the Court finds a violation of Tribal disqualification law. The judgment concerns governmental authority, was entered on the pleadings, and carries immediate consequences for officeholding, employment, and elections.

Furthermore, in *Williams v. Pennsylvania*, the Supreme Court explained that a disqualified judge's participation in a multimember court cannot be dismissed as harmless merely because that judge's vote was not decisive. *Williams v. Pennsylvania, 579 U.S. 1, 14–16 (2016.* This case illustrates that participation in collective judicial decision-making may affect the judgment beyond the formal vote.

The disqualification of Chief Judge Small is warranted and his participation in the deliberations and the vote in reaching the Final Order require that the Final Order be vacated and the petition reconsidered anew by a lawfully constituted, impartial panel.[2]

V. The other panel members' circumstances also require separate, evidence-based review.

A. Judge Monson

The Council requests disclosure and independent consideration of Judge Monson's relationship with Judge Small. The materials supplied with the prior motion describe them as members of the same private law firm and describe Judge Small as managing partner. If current and accurate, that is a continuing professional relationship, not merely a historical judicial association. The

[2] This is especially true if it was Chief Judge Small authored the opinion. The Council deserves to know if he is the author.

Council's motion asks the Court to assess Judge Small's participation and requests relief from a judgment he signed. Those circumstances warrant an individualized determination under Rule 3.E.

The Council does not assert that professional association automatically disqualifies Judge Monson, or that it proves bias. It requests relevant disclosure concerning any continuing ownership or management interests, financial obligations, shared business arrangements, or other interests that could be substantially affected by this motion. Any claim concerning current firm status should be supported by current, authenticated evidence before being treated as established.

B. Judge Miller

The Council's showing concerning Judge Miller is different. The information supplied describes a past professional association with Judges Small and Monson and identifies a current firm-address listing that may warrant clarification. Historical association or an address listing, standing alone, does not establish a current financial relationship, shared ownership, or disqualifying partiality.

The Council requests disclosure sufficient to determine whether any current office-sharing, staffing, expense-sharing, financial, or other business arrangement exists between Judge Miller's firm and Judge Small's firm, and whether any such arrangement could be substantially affected by this proceeding. The Council does not ask the Court to infer a present conflict from a former employer or a shared address alone.

Both Judge Monson and Miller should know that the Council regrets requesting these disclosures. However, given the current circumstances concerning Chief Judge Small's involvement in this case, and the fact his involvement may have tainted the way this case was

handled, it believes the requests for full disclosure is necessary and it asks that these two judges take precautions to ensure the integrity of the court.

C. The recusal questions should be decided without relying on unproven assumptions

The Council requests that the disqualification question be referred or assigned through the procedure authorized by Tribal law to a judge or panel not subject to the asserted ground for investigation and determination. At minimum, the judges whose impartiality is challenged should make individualized disclosures and determinations under Rule 3.E.

The Merits of the Decision

VI. The Council's October 21 motion is timely under the Code's five-day computation rule.

The Final Order accepts October 14, 2026, as the date the Council received the petition and applies the five-day period in § 4.2.6(B). It counts the deadline as October 19, 2026. Section 4.2.2(A), however, excludes the triggering day and excludes intermediate Saturdays, Sundays, and legal holidays for a period under seven days.

> "Any time period under seven (7) days will not include intermediate Saturdays, Sundays, or legal holidays in the period." Northern Cheyenne Law and Order Code § 4.2.2(A)

On the Final Order's own October 14 receipt date, the five counted days were October 15, 16, 19, 20, and 21. The intervening Saturday and Sunday, October 17 and 18, are excluded. The Council's October 21 filing was therefore made on the fifth counted day, absent a different controlling order or computation provision.

The October 21 motion should not have been denied as two days late on the stated dates. Dismissing the Council's response on this basis is clear error. That ruling was consequential because the Court treated the Council's motion as its answer and erroneously proceeded to judgment on the pleadings. The Council requests that the Court withdraw the untimeliness ruling and consider the motion under the correct computation rule.

VII. The motion's text specifically reserved an answer and requested alternative proceedings – not conversion into a merits answer.

The Council's October 21 filing raised threshold legal defenses and expressly reserved its right to answer and contest material allegations if the case proceeded.[3] The Final Order treated that motion as the Council's answer and characterized the factual narrative as undisputed. The motion did not purport to be a complete answer admitting or denying each allegation, nor did it concede every fact necessary to enter final judgment.

The Council contends that a threshold motion that specifically reserved factual disputes should not be converted into a merits answer and used as the basis to treat all factual allegations as conceded without identifying the procedural basis and providing a fair opportunity to respond. The Northern Cheyenne Rules of Civil Procedure distinguishes motions from pleadings and provides for answers and summary judgment procedures. Before the Court treated the Council's filing as an answer, it clearly should have allowed the Council an opportunity to file a pleading that responds to the allegations. If the Court intended to determine disputed facts on evidentiary materials, the Council should have been provided notice of the procedure, an opportunity to submit admissible evidence, and a hearing on any material factual disputes.

The motion did not admit or deny each claim as § 4.2.4(B) requires of an answer. The Council does not contend that the motion itself constituted an answer or adequately pleaded a factual denial. Its point is that the motion expressly distinguished threshold legal issues from a later answer and requested an opportunity to identify and contest material allegations if claims

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[3] The Council's motion made conditional requests that did not literally use the word "reserve." For instance It asked the Court not to resolve disputed hearing events against Gene Small without an evidentiary record (Motion at 2); sought determination of specific facts from authenticated records and stated that late-disclosure allegations should not be resolved against either party on dismissal (Motion at 10–12); and requested, if material claims survived, leave to answer, appropriate discovery, and evidentiary proceedings on a developed record (Motion. at 17 and prayer for relief ¶ 9). These requests identify the alternative course the Council sought if dismissal did not dispose of the claims.

survived. The Final Order first announced in its November 5 disposition that it would treat the motion as the answer and decide the matter on the pleadings. Before attributing admissions to the Council or treating allegations as undisputed on that basis, the Court should identify the legal basis for that treatment and afford the Council notice and a fair opportunity to address the proposed conversion, including the opportunity for leave to answer and identify disputed facts. Denying the Council this opportunity was unjust and the Court's decision on this issue needs to be reversed.

The Council obviously knows that the Court need not search a record for a party[4] and that factual defenses must be supported at the appropriate stage. But the absence of a complete evidentiary record accompanying a motion to dismiss does not establish that every allegation is admitted or undisputed. The Council requests that the Court distinguish what the Council expressly admitted from what it contested, reserved, or requested an opportunity to prove.

VIII. The Final Order does not address specific statements and attachments in the supplied petition. The hearing materials establish Gene Small's due process rights were not violated.

The following comparisons concern the supplied October 5 petition and attached materials, together with the September 11 sworn removal complaint and related hearing materials supplied with this Motion. Resolution DOI-009 (2026) states that the proceeding was intended to provide notice, review of evidence, representation, presentation, and response to evidence, and a fair

[4] The Court's suggestion to the contrary ignores the Council's repeated request to develop the record if the Court did not dismiss the Petition. This fact and this comment coupled with the Court's suggestion the removal hearing was a "sham" later in the Final Order suggests the Court, and specifically the author of the opinion which the Council believes to be Chief Judge Small, is biased. The Council suggests that these improper and untrue characterizations are intended to inflame and embolden Gene Small and his supporters. To the extent this is true, the comments the Tribal Council has received on social media and otherwise prove the Court was successful – whether intended or not. In any future Orders, the Council would appreciate it if the Court would refrain from using inflammatory language.

opportunity to be heard; the Court should consider that resolution with the complaint and hearing record. ("Exhibit D")

Paragraph 7 of the Petition alleges that Gene Small received by email on September 28 "a list identifying the witnesses that the Complainants intended to present along with a list of evidence," The September 11 sworn complaint described the charges and included a proposed-evidence-and-witness section identifying categories of evidence and potential witnesses. ("Exhibit E") Gene Small never mentioned this in his Petition nor did he provide it. The Hearing Officer Findings dated October 2 state that the sworn complaint was reviewed and entered into the record and that the officer found Gene Small had been provided the complaint, documentary exhibits, witness list, and hearing documentation. ("Exhibit F")

The September 25, 2026, Order Rescheduling Hearing and Setting Prehearing Submission Deadline reset the hearing from September 28th to September 30 at 9:00 a.m.. The deadline for exchanging documentary exhibits and witness lists and provided for 160 South Cheyenne Avenue if the Council lacked access to the Capitol. ("Exhibit G") Gene Small also receive the Complainants Prehearing Witness And Exhibit List Disclosure on September 28th ("Exhibit H") and Steve Kelly's Notice of Appearance ("Exhibit I") on September 29th. The Petition separately acknowledges notice of the exhibit and witness list at approximately 4:00 p.m. that day but alleges that Gene Small received no information directly from the Hearing Officer. Gene Small didn't receive anything from the Hearing Officer because up to the hearing, all information was conveyed through the Secretary or 7by Ryhal Rowland who served Gene Small notice of all documents through e-mail and regular mail.

Gene's Petition states that he was denied do process. His letters tell a different story, however. Gene Small's September 25 letter to Melissa Lonebear and Ryhal Rowland specifically states, "I

am ready to proceed with a removal hearing on Monday, September 28, 2026, beginning at 9:00 a.m. in the Tribal Council Chambers." ("Exhibit J") His September 30 letter states, "The Chiefs will be my witness," and that he was "ready to proceed" on September 30 at 9:00 a.m. in those Chambers. ("Exhibit K") The Hearing Officer Findings report that the September 30 letter was received by the Tribal Secretary on September 29. These letters establish Gene's stated readiness for the scheduled time and venue; the September 30 letter predates the later noon relocation. At no time up to the hearing did Gene Small state that his right to do process was being violated. The first time Gene Small made this claim was in his Petition.

The Hearing Officer Findings describe the September 30 events as follows:

> "A closed hearing was scheduled to be conducted on September 30, 2026, at 9:00AM, at the Little Wolf Capital Tribal Chambers, in accordance with the applicable rules and procedures outlined in the Resolution No. DOI-009 (2026). However, when the duly elected Tribal Council and Hearing Officer arrived at the Tribal Chambers, there were numerous individuals present in the Tribal Chambers. The Respondent, Gene Small-Tribal President, was also present. When the Sergeant at Arms, Meliss Fisher, announced that the hearing was a closed hearing, and everyone had to clear the Tribal Chambers chaos erupted. The duly elected Tribal Council and hearing Officer vacated the building for safety purposes. The duly elected Tribal Council and Hearing Officer attempted a second time to conduct the hearing at the Little Wolf Capitol Building Tribal Chambers; the Respondent Gene Small-Tribal President, was advised we were returning to conduct the hearing (in the Tribal Chambers). However, upon our arrival, the entrance doors to the Little Wolf Capitol Building were locked. The BIA Law Enforcement tried to negotiate entrance of the dule elected Tribal Council to no avail. The Hearing Officer advised the hearing will be moved to the alternate location (160 South Cheyenne Ave.) as described in the Order Rescheduling Hearing and Setting Prehearing Submission Deadline dated September 25, 2026. The Respondent, Gene Small – Tribal President, was notified via text and email that the hearing will be held at the alternative location at noon. All parties were provided with adequate notice of the hearing, had the opportunity to present exhibits and witness testimony, proved rebuttals, and make statements in support of their positions."

(Exhibit F, p. 1)

The findings further state that Gene did not appear at the alternate-location hearing, seven witnesses testified, many exhibits were introduced, admitted into evidence and the hearing concluded at 7:17 p.m. on September 30.

The Council contends that Gene called or caused supporters to attend and disrupt the hearing. That is a Council factual contention, not a finding in the Hearing Officer's written findings, and must be substantiated by the recording, witness testimony, contemporaneous communications, or other competent evidence. The Council requests consideration of the complete recording and reliable evidence concerning who organized attendance, what occurred, and its effect on the hearing. The present record reflects that Gene was at the Capitol at the scheduled 9:00 a.m. hearing and later did not appear at the alternate-location hearing after the noon relocation; the Council does not characterize that later absence as a waiver of due process.

Again, at no time up to the hearing, did Gene Small claim his right to due process was being violated.

The Final Order identifies late delivery of voluminous exhibits on September 29 and denial of a continuance as central grounds for its conclusion. (Exhibit A) These finding were without the benefit of the complaint which details the facts supporting the charges, the anticipated witnesses and the exhibits that would be introduced. That information never changed from the time the complaint was served on Gene Small up to the hearing. Furthermore, testimony would establish that much, if not all, of the information introduced at the hearing was available to Gene Small at the Tribal building.

Paragraphs 9 and 10 of the supplied petition allege that Gene received late notice on September 29 that Steve Kelly would represent the complainants, and that Gene requested more time to prepare and seek counsel considering the late changes in process and representation. Those

allegations, the Council's account, and the Hearing Officer Findings should be assessed on the complete record. Gene Small is on video stating that he was ready to proceed with the hearing until he saw Steve Kelly appear at the hearing. Choice of advocate is not a basis for claiming a violation of due process.

The Petition and attached materials also bear on the Council's access to the Capitol. The Final Order characterizes Gene's refusal to permit the Council's return to its offices as unrelated to the hearing. (Exhibit A) That description is too categorical: the September 25 rescheduling order expressly made the hearing location contingent on whether the Council had access to the Little Wolf Capitol Building and specified 160 South Cheyenne Avenue as the alternative if it did not. Access was therefore relevant to hearing logistics and the location contemplated by the governing order. The Council asserts that Gene had excluded the Council from its offices and that a September 23 court order addressed access, but the supplied materials do not establish the underlying order's terms, or the duration and circumstances of any restriction. Those matters should be determined from the order and competent evidence. Access to the building and the resources there, such as computers and printers, is obviously relevant to hearing logistics.

If the Court does not take Gene Small at his word that he was ready to proceed as he stated in his September 25th an 28th letters, the Court should determine the relationship between access and logistics, preparation time, and any prejudice Gene Small claims. The Council requests reconsideration of the "sham hearing" characterization on the complete record, without treating the characterization, the Hearing Officer's findings, or any adverse ruling alone as proof of disqualifying bias.

IX. The unsupportable "sham hearing" characterization should be reconsidered on the actual record.

The Final Order states: "The Tribal Constitution does not permit trial by ambush, and it does not tolerate sham hearings." The Council disputes the implication that the September 30 proceeding was a sham. The Council proffers that the hearing lasted approximately seven hours and that approximately ten witnesses testified. Those numbers must be verified through the recording, witness list, minutes, admitted exhibits, and any written findings before being presented as established facts.

The Final Order also relies on *Killsback* and describes the delivery of evidence the day before the hearing as inadequate. The Council requests that the panel compare the actual circumstances, including the September 11 notice of the sworn complaint, the September 28 lists, the September 29 exhibit delivery, access to records, the request for a continuance, the representation issue, the relocation, and the actual hearing record. Earlier notice of the exhibits and witnesses the Tribal Council would rely upon in presenting its case is relevant to the due process analysis.

X. The presumption and burden applicable to Council enactments should be addressed.

The October 21 motion invoked § 2.9.6(B), which requires the Court to apply a presumption of validity and a clear-and-convincing showing of invalidity for a Council enactment. The Final Order does not cite that provision or explain how it applies to the claims and relief before the Court.

The Council recognizes that the constitutional claim concerns the application of Article VII's fair-opportunity requirement and that the general presumption applicable to Council enactments may not resolve every constitutional question. The Court should identify the challenged enactment or action, determine whether § 2.9.6(B) applies, and explain the applicable burden

rather than treating the Council's failure to submit a complete merits record with a threshold motion as a substitute for that analysis.

The Council does not ask the Court to presume that the hearing was fair. It asks the Court to distinguish established facts from disputed facts and apply each governing burden to the claim and remedy for which it is relevant.

XI. Paragraph 3's categorical invalidation of later official acts requires narrowing or explanation.

The Final Order's refers to acts taken "in reliance on" the removal determination, but paragraph 3 invalidates "[a]ll actions taken by the President Pro Tem following the purported removal," including administrative actions terminating Tribal employees. The operative language is too broad.

The Constitution distinguishes the Vice President's role when the President does not preside from the Vice President's role when the Presidency becomes vacant. Article VII, § 4(a) provides that the Vice President serves as acting President when the office is vacant. It does not distinguish between lawful or unlawful vacancies.

Article VII, § 2 states that the Council's removal decision "shall be final." The Council submits that its decision was operative before the Final Order subject to confirmation that no stay or other controlling order prohibited implementation. The absence of a stay is relevant to official reliance, continuity of government, and the consequences of retrospective relief. It does not conclusively establish that the removal was constitutional or that every intervening act must be upheld. Nor does the Council contend that failure to obtain a stay necessarily waived Gene's challenge.

The Final Order does not identify acts, their decisionmakers, their legal authority, whether they depended on the purported vacancy, or the interests of persons who relied on them. In a distinct context, the Supreme Court has recognized that later invalidity does not invariably erase all prior

legal consequences. *Chicot County Drainage District v. Baxter State Bank, 308 U.S. 371, 374 (1940)* The Council cites that decision as an analogy supporting a reasoned inquiry into consequences.

The Council requests that paragraph 3 be vacated or narrowed to acts shown to depend on the challenged removal and to fall within relief authorized by Tribal law. At minimum, the Court should distinguish Council actions, Vice Presidential actions, and actions taken solely under authority claimed from the vacancy; identify the source of authority for each category; and address reliance and third-party consequences before declaring all post-removal acts invalid.

XII. The employment provision does not identify its factual or remedial basis

Paragraph 3 specifically includes "administrative actions terminating the employment of tribal employees." The supplied petition does not identify employees, terminations, layoffs, personnel decisions, decisionmakers, or budget actions. The Final Order identifies no affected employee, personnel notice, budget resolution, personnel rule or finding establishing that any employment action depended on the removal.

The Council asserts that the relevant employment actions that have been taken since Gene Small's removal included both terminations and layoffs attributable to budget reductions. That assertion requires proof through the relevant budget enactments, personnel records, notices, delegations, and testimony. A budget-related reason is not something that Interim President Ernes Littlemouth or Gene Small can exercise discretion. Also, the fact that an employee's separation occurred after the removal does not establish that it depended on the removal and those terminations also should not be subject to the court's order.

The Final Order does not expressly order reinstatement, back pay, restoration of eliminated positions, or payment of salaries. Its categorical wording could nevertheless be read to require

those consequences. The Council requests that the Court identify the pleading and evidence supporting this portion of paragraph 3 and clarify whether independently authorized budget reductions or layoffs are affected. The Council submits that ordering back-pay for employees is a violation of their sovereign immunity and well beyond the scope of the Court's authority as its authority is limited to declarations.

Pending disposition of this Motion, the Council requests a stay of any interpretation of paragraph 3 that would require individual reinstatement, back pay, restoration of a budget-eliminated position, or other employee-specific relief. This request does not seek to suspend an employment obligation arising independently under applicable law or a separate order.

XIII. Paragraph 4's election injunction requires identified remedial authority

Paragraph 4 prohibits and enjoins a special election to replace Gene Small, while excepting an election following a lawful removal. The supplied petition seeks declarations that the office did not become vacant, and that Gene Small remains President, and requests other relief necessary to restore constitutional governance. It does not expressly request an election injunction.

The absence of a specific demand, alone, does not resolve the issue. The Council recognizes that a court may, where authorized, award relief related to a claim even if the precise remedy was not demanded. The question is whether the Constitutional Court has authority under Chapter 9 and the applicable immunity provisions to impose this coercive injunction.

The supplied Code provisions identify limits on relief and the Council's waiver of immunity, including §§ 2.9.3, 2.9.8, and 2.9.9, and make Chapter 9 controlling over inconsistent general procedures under § 2.9.4(B). The Final Order does not identify the enactment authorizing this injunction or explain how the injunction fits those provisions . The Council requests that the Court identify its authority and allow the parties to address the permissible scope of relief.

XIV. An immediate stay is warranted

Section 4.4.8(A)–(B) authorizes a stay in connection with specified post-judgment motions, including motions to alter or amend, for relief from judgment, or for amended findings, as applicable. The Council requests an immediate written stay pending decision on this Motion. The Motion presents substantial issues, including the apparent miscalculation of the October 21 motion deadline, the documented recusal in the November 2 order, the conversion of a motion reserving factual disputes into an answer, and the breadth of the Final Order's consequential relief.

Without a stay, implementation will produce further governmental, employment, financial, and election consequences that are difficult to reverse or cause unnecessary harm. At the time of this filing, Gene Small is calling people back that were laid off for budgetary reasons that the Tribe will not be able to pay. The Council a recognizes the interests of employees, Tribal members, and the public in a stable government and essential services and an immediate stay is necessary to prevent further chaos and confusion.

XV. Requested relief

For these reasons, the Council respectfully requests that the Court:

1. Immediately stay enforcement and implementation of paragraphs 2 through 5 of the November 5, 2026, Final Order pending decision on this Motion, or, at minimum, stay paragraph 3's categorical invalidation of official and employment actions and paragraph 4's election injunction.
2. Disqualify Chief Appellate Judge Steven T. Small from further participation if the Court finds that Judicial Rule 3.E requires disqualification in this proceeding.

4. Require appropriate disclosure and separate determinations concerning Judges Michael A. Monson and Adrian A. Miller based on their respective circumstances, without treating historical association as proof of a current conflict.

5. If disqualification is established, vacate the Final Order and submit the petition for fresh adjudication before a lawfully constituted, qualified, impartial panel, selected under the applicable Tribal procedure.

6. Correct the five-day calculation under § 4.2.2(A), determine that the October 21 motion was timely on the Final Order's October 14 receipt date and withdraw the ruling denying it as untimely.

8. If any claim survives, permit the Council to file an answer and allow an orderly process to develop material factual disputes, including but not limited to the timing and content of the September 28 disclosures, the September 25 rescheduling notice, the basis for rescheduling, the actual hearing location, the complete relocation communications, the continuance request and ruling, access to relevant records, and the hearing record.

9. Vacate or narrow paragraph 3 unless the Court identifies the acts affected, their source of authority, their dependence on the challenged removal, and the legal authority for the remedy; clarify that no employee-specific reinstatement, back pay, restoration of a budget-eliminated position, or other personnel remedy has been adjudicated absent an identified claim, record, and authority.

10. Vacate or stay paragraph 4 unless the Court identifies the Tribal law authorizing the injunction and explains its relationship to the limits on relief and immunity in Chapter 9.

11. Grant such other relief as the Court determines is authorized by Tribal law.

RESPECTFULLY SUBMITTED, on this 9th day of November 2026.

Elmore Limberhand
Steven A. Kelly
Lay Advocate for Respondents
P.O. Box 988
Lame Deer, Montana 59043
(406) 477-6668

CERTIFICATE OF SERVICE

I certify that on November 9, 2026, I served a true and correct copy of this **RESPONDENT NORTHERN CHEYENNE TRIBAL COUNCIL'S MOTION TO DISQUALIFY, TO VACATE OR ALTER THE NOVEMBER 5, 2026, FINAL ORDER, AND FOR AN IMMEDIATE STAY** together with its supporting affidavit, on all counsel and parties entitled to service by the method authorized for this proceeding.

Gene Small
P.O. Box 696
Lame Deer, Montana 59043
Email: Heartx96@yahoo.com

Elmore Limberhand

EXHIBIT A

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

GENE SMALL, PETITIONER, v. NORTHERN CHEYENNE TRIBE TRIBAL COUNCIL, RESPONDENTS.	CAUSE NO. CC 2027-001 JUDGES: STEVEN T. SMALL MICHAEL A. MONSON ADRIAN A. MILLER **FINAL ORDER**

Before the Court is Gene Small's Amended Petition for Declaratory Judgment that The Removal of The Tribal President Is Unconstitutional and Void filed on October 6, 2026 ("Petition"). Respondents (the "Council") filed a Motion to Dismiss and Supporting Brief (the "Motion to Dismiss") on October 21, 2026. Upon review of the Petition and Motion to Dismiss, the Court finds and orders as follows:

PROCEDURAL HISTORY

The Council concedes that it was served with the Petition on October 14, 2026. Absent a conflict with a constitutional claim, claims

Exhibit A

in this Court are initiated and adjudicated "in accordance with all relevant trial-level rules and procedures," including the rules of civil procedure. Northern Cheyenne Law and Order Code ("Code") § 2.9.4(B). Those rules require that a motion to dismiss, or for a more definite statement, "be made within five days of receiving the opposing parties' pleadings." Code § 4.2.6(B). The Council's deadline therefore expired on October 19, 2026. It filed on October 21, two days late. The Motion to Dismiss is denied as untimely.

The Council had twenty days from service to answer, making its answer due November 3, 2026. Code § 4.2.6(A). The Motion to Dismiss is the only responsive pleading the Council filed within that period. The Court will therefore treat it as the Council's answer and decide this matter on the pleadings.

The Motion to Dismiss repeatedly asserts what the Court "must" do. These assertions misapprehend the Court's role. The Council bears the burden of defending its own conduct. If the Council believed certain evidence was material, it was obliged to place that evidence before the Court in its responsive pleading. This Court does not search for evidence on a party's behalf (*see Indep. Towers of Wash. v. Washington*,

350 F.3d 925, 929 (9th Cir. 2003) (("[J]udges are not like pigs, hunting for truffles.")(quoting *U.S. v. Dunkel*, 927 F.2d 955, 956 (7th Cir. 1991))), and it will not permit a party to delay a decision by imposing burdens on the Court that the law does not impose.

Mindful of its obligation to observe established principles of judicial restraint, the Court has determined this matter on the narrowest ground sufficient to resolve it. We will not reach every issue the parties raised.

FACTS

The following facts are drawn from the pleadings. The Council does not dispute them.

Small was elected President of the Northern Cheyenne Tribe in November 2024. On September 11, 2026, the Council adopted Resolution No. DO1-009(2026) entitled "Resolution Setting Removal Hearing and Establishing Procedures on Sworn Complaint Against Tribal President Gene Small" (the "Resolution"). The Resolution followed a Complaint for Removal submitted by Council member Melissa Lonebear ("Lonebear"). It set the removal hearing for September 28, 2026, at 9:00 a.m. *See* Resolution, p. 2, § C. It also

required each party to submit to the Tribal Secretary, by 5:00 p.m. on September 25, 2026, the "documentary exhibits and witness list that the party reasonably expects to call in its Case in Chief or Defense." *Id.* The Tribal Secretary was to make those materials available to the opposing party "as soon as practicable." *Id.*

On September 25, 2026, the day the exhibit and witness-list exchange was due under the Resolution, the Hearing Officer issued an Order Rescheduling Hearing and Setting Prehearing Submission Deadline (the "Rescheduling Order"). The Rescheduling Order reset the hearing for September 30, 2026, at 9:00 a.m., and moved the exhibit and witness disclosure deadline to 5:00 p.m. on September 28, 2026. According to Small, the Hearing Officer never served him with the Rescheduling Order. He received it from a Council member at 4:00 p.m. on September 25. The record does not explain why the hearing was rescheduled.

Small received no exhibits or witness lists on September 25, as the Resolution required. He received none by 5:00 p.m. on September 28, as the Rescheduling Order required. Instead, late in the afternoon of September 29, less than twenty-four hours before the hearing, he

received voluminous documentary exhibits. The Council concedes that both deadlines were missed. Its sole explanation is that on September 28, 2026, Lonebear, who is both the complainant and a member of the Council that set the hearing and its procedures, filed a "disclosure certificate" stating that documents were "forthcoming" because of printer problems.

Small appeared at the Tribal Council Chambers at the appointed time on September 30, 2026, and asked for additional time to prepare his defense in light of the late disclosures. The Council admits that Small made this request and that it denied it. The Council's stated reason is that Small had refused an unrelated request that the Council be permitted to return to its offices.

The hearing was not completed at the Little Wolf Capital Building, the venue designated in both the Resolution and the Rescheduling Order. After a disruption there, the Council left and did not return. At 11:49 a.m. on September 30, 2026, Small was notified by email that the proceeding would be reconvened at a different location at 12:00 p.m., eleven minutes later. The Council then held a hearing and voted to remove Small from office.

Small challenges his removal on several grounds. The Council does not contest the foregoing facts. It denies only that this Court has jurisdiction to review its decision and that it acted unlawfully.

ANALYSIS AND ORDER

Although the Motion to Dismiss is denied as untimely, the Court addresses its jurisdictional argument because the Court's authority to hear this case does not depend on the Council's diligence. The question is settled. In *Killsback v. Northern Cheyenne Tribe Tribal Council,* CC 2018-002, this Court held that it has exclusive and original jurisdiction over all Constitutional Claims between parties. A Constitutional Claim includes a claim that "a resolution, ordinance, code or other legislative enactment of the Tribal Council is in whole or in part invalid" because it violates the Tribal Constitution, its Bylaws, or other applicable law. Code § 2.9.2. The decision to convene the removal hearing was a resolution of the Council, and so was its decision to remove Small. *Killsback*, at 9. The Court, therefore, has jurisdiction to review the removal decision, within the limits the Code prescribes.

Article VII, Section 2 of the Tribal Constitution provides that "[a]ny officer or councilman who shall fail to perform the duties

assigned to him or shall be guilty of gross negligence may be removed by a two-third (2/3) vote of the Tribal Council, after affording the accused member a fair opportunity to be heard in his own defense." Small contends, among other things, that his removal violated this provision because- he was not afforded due process.

Killsback resolves the question. There the Court held that the constitutional guarantee of "a fair opportunity to be heard in his own defense" confers a right to procedural due process in any removal proceeding. At a minimum, a fair opportunity "encompasses the basic requirement of notice and a chance to be heard." *Killsback*, at 15. The Court held that delivering a hearing packet to the accused the day before the hearing was not adequate notice. *Id.* at 16. It further held that the Council denied Killsback a fair opportunity to be heard because one night was not enough time to prepare a defense after receiving documents. *Id.* The Council had, in the Court's words, conducted "a trial by ambush, which is the very antithesis of procedural due process." *Id.* at 16–17.

This case presents the same defect. Small received voluminous exhibits late in the afternoon before the hearing. Notably, the timing of

the disclosure violated the Council's own Resolution. Had the Council and complainant complied with it, Small would have had three days to review the exhibits before the originally scheduled September 28 hearing. The Court doubts that three days is sufficient to digest voluminous materials and prepare a defense to a proceeding that could end a President's term. Yet, Small received nothing close to that.

The late disclosure of documents also violated the Hearing Officer's Rescheduling Order. Compliance with that order would have given Small two days with the exhibits. The Court doubts that two days would have sufficed either. Small received less than one day.

The circumstances surrounding the Rescheduling Order also trouble the Court. The Rescheduling Order was issued on the very day the Resolution required disclosure of exhibits and witness lists. It was not served on Small by the Hearing Officer. And the record offers no explanation for the continuance. If the Hearing Officer communicated *ex parte* with Lonebear or the Council about rescheduling without affording Small an opportunity to be heard, that conduct was improper. The Court need not resolve the point, because the dispositive facts are undisputed.

After Lonebear missed the deadlines required by both the Resolution and the Rescheduling Order, the Council refused Small's request for more time. It justified the refusal by pointing to Small's rejection of a request that had nothing to do with the hearing.

Due process is not a matter of reciprocal favors. A person's entitlement to a fair hearing cannot be conditioned on his willingness to accommodate the body that is trying him. A constitutional right is inviolable, and it may not be converted into a bargaining chip.

The Council's refusal to grant Small an extension that would have given him adequate time to prepare denied him due process. The Council allowed Lonebear to violate both the Resolution and the Rescheduling Order without repercussion and failed to grant Small even the short time originally required by its own Resolution. As in *Killsback*, one night is not enough time for an accused to review exhibits and prepare a defense. Two or three days is not enough either when the exhibits are voluminous. The Tribal Constitution does not permit trial by ambush, and it does not tolerate sham hearings. The Council's decision to remove Small was unconstitutional under Article VII, Section 2 of the Tribal Constitution.

The Council's final decision to remove Small is invalid. Every action taken by the acting president in reliance on that determination is accordingly void, including administrative actions terminating the employment of tribal employees. Any special election to replace Small is prohibited and enjoined.

The Court strongly urges the parties to govern the Tribe as the voters elected them to do. The persistent bickering, procedural gamesmanship, and power plays evident in this case do not serve the people who placed these officials in office. The Court regrets that it has been called upon so often this past year to correct unlawful action, and it hopes not to be called upon again.

Accordingly, the Court **FINDS AND ORDERS** as follows:

1. The Council's Motion to Dismiss is DENIED as untimely.
2. The Council's removal hearing and its vote to remove Small were unconstitutional and are invalid.
3. All actions taken by the President Pro Tem following the purported removal are invalid, including any administrative actions terminating the employment of tribal employees

4. Any special election scheduled to replace Small as President is PROHIBITED and ENJOINED. This paragraph does not bar a special election that follows a lawful removal.

5. Small remains President of the Northern Cheyenne Tribe and may exercise all presidential authority conferred by the Constitution and the Code, subject to the limits they impose, including Article VII, Section 2.

Dated this 5th day of November, 2026.

Steven T. Small
CHIEF APPELLATE JUDGE

Michael A. Monson
ASSOCIATE JUDGE

Adrian A. Miller
ASSOCIATE JUDGE

NORTHERN CHEYENNE COURT
CERTIFIED COPY
CLERK OF COURT:
BY:
DATED: 11/5/2026

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

EXHIBIT B

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,

Exhibit B

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

EXHIBIT C

OFFICE OF DISCIPLINARY COUNSEL
for the State of Montana
P.O. Box 1099
Helena, Montana 59624-1099
406.442.1648

GRIEVANCE COVER SHEET

Date 1/5/2026

Your Name Melissa (First Name) R. (Middle Initial) Fisher (Last Name)

Mailing Address P.O. Box 613 (Street or Box No.) Lame Deer (City) mt (State) 59043 (Zip)

Work Phone _____ **Home Phone** Cell # 406.730.0854 **May we call you at work?** _____

Attorney's Name Steven (First Name) T. (Middle Initial) Small Jr. (Last Name)

Mailing Address 1555 Campus Way Suite 201 (Street or Box No.) Billings (City) mt (State) 59101 (Zip)

Date you Hired Attorney _____

Amount Initially Paid Attorney Unknown **Total Amount Paid** Unknown

Do You Presently Owe the Attorney Any Fees? No

Do You Have a Written Fee Agreement? Y / (N) **If Yes, Please Send Us a COPY.**

Type of Legal Problem Attorney was Hired to Handle? ethics complaint

Is This Matter Still Pending in Court? NO

If yes, Provide the Names of the Other Parties Involved and the Court File Number if You Have this Information:

CC 2026-001 Northern Cheyenne Tribal Council

Have You Previously Filed a Grievance Against an Attorney? Y / (N)
If yes, Please Provide the Details on a Separate Sheet of Paper.

1. **Attach a separate sheet of paper with a detailed explanation of the reasons you are filing a complaint against the attorney. Please print legibly.**

2. **Include as much factual data as possible (i.e., dates, names, phone numbers, amounts of money involved, witnesses, etc.). Please put the information in chronological order.**

3. **If you have any documents that will help to explain your complaint, please attach copies (Do not attach original documents).**

*See attached doaments.

Exhibit C

-WOHEHIV-
The Morning Star

NORTHERN CHEYENNE TRIBE
TRIBAL COUNCIL
P.O. BOX 128
LAME DEER, MONTANA 59043
Phone: (406) 477-8252 Fax: (406) 477-8324

-WOHEHIV-
The Morning Star

January 2, 2026

VIA U.S. MAIL AND EMAIL

Montana Supreme Court
Office of Disciplinary Counsel
P.O. Box 1099
Helena, MT 59624-1099

Re: Ethics Complaint Concerning Steven T. Small, Esq. – Failure to Disclose Conflicts, Ex Parte Communications, and Conduct Prejudicial to the Administration of Justice

Dear Disciplinary Counsel:

I submit this formal ethics complaint on behalf of the Northern Cheyenne Tribal Council, the lawfully elected governing body of the Northern Cheyenne Tribe, concerning Steven T. Small, Esq., who serves as Chief Appellate Judge of the Northern Cheyenne Constitutional Court and is licensed to practice law in the State of Montana.

This complaint is submitted pursuant to the Montana Rules of Professional Conduct and the Montana Code of Judicial Conduct. It does not allege criminal conduct. Rather, it requests investigation into whether Mr. Small complied with well-established Montana disciplinary standards governing conflicts of interest, ex parte communications, disclosure obligations, and conduct that undermines public confidence in the integrity and impartiality of the judiciary.

Jurisdiction and Applicable Montana Standards:

The Montana Supreme Court has repeatedly emphasized that attorneys licensed in Montana remain subject to disciplinary authority regardless of the forum in which they act, including when serving as judges in tribal courts. Montana disciplinary precedent likewise recognizes that failure to disclose conflicts or to respond to credible ethics inquiries may itself constitute conduct prejudicial to the administration of justice.

The issues raised in this complaint fall squarely within the scope of prior Montana disciplinary matters addressing:

- undisclosed conflicts of interest;
- improper or undisclosed ex parte communications;
- dual roles creating an appearance of partiality; and
- conduct that erodes public confidence in judicial neutrality.

Background and Undisputed Facts:

Mr. Small serves as Chief Judge of the Northern Cheyenne Appellate Court, including its Constitutional Court, while simultaneously maintaining a private law practice in Montana. During the relevant period, the Northern Cheyenne Tribe has been embroiled in an exceptionally contentious governance dispute involving President Gene Small, disputed control of tribal finances, and multiple high-stakes court proceedings.

On or about December 8, 2025, the Northern Cheyenne Tribal Council transmitted a detailed written inquiry to Mr. Small (copy enclosed). The letter raised specific, non-speculative concerns directly bearing on judicial ethics and impartiality, including:

- an express allegation in a filed court motion that Mr. Small engaged in ex parte telephone communication with President Gene Small during the pendency of Case No. CC 2026-001;
- Mr. Small's appointment by President Gene Small to the Northern Cheyenne Economic Development Board, including whether compensation, benefits, or influence accompanied that appointment;
- reports of political or campaign-related assistance provided to President Gene Small by Steve Small;
- potential financial or professional relationships with First Interstate Bank, an entity directly implicated in litigation concerning tribal accounts pending before the Tribal Court; and
- the need for formal disclosure and recusal analysis in matters where President Gene Small is a party or has a direct and substantial interest.

The Council requested a written response form Mr. Small and none was provided.

Ethical Concerns Warranting Investigation:

A. Alleged Ex Parte Communications.

A motion filed in Case No. CC 2026-001 states that Mr. Small contacted President Gene Small by telephone while the case was pending. Montana disciplinary precedent treats undisclosed ex parte communication with an interested party as a serious violation, particularly when it occurs in

matters involving governmental authority and control of public funds. At minimum, such contact requires disclosure and explanation.

B. Undisclosed Conflicts and Dual Roles.

Mr. Small's alleged appointment to a tribal economic development board by a litigant appearing before him raises concerns analogous to those addressed in Montana disciplinary cases involving judges who maintain financial, professional, or advisory relationships with parties to pending matters. Even absent proof of actual bias, Montana precedent makes clear that the appearance of partiality alone may warrant discipline or corrective action.

C. Political Activity Affecting Judicial Impartiality.

Information available to the Council suggests that Mr. Small may have provided political support or campaign assistance to President Gene Small. Montana ethics authorities have consistently treated undisclosed political activity benefiting a litigant as a matter requiring disclosure and, where appropriate, recusal.

D. Financial and Institutional Relationships Bearing on Pending Litigation

Disputes over control of Northern Cheyenne tribal bank accounts—particularly accounts held at First Interstate Bank—are central to litigation pending before the Tribal Court. Any professional or financial relationship between Mr. Small (or his firm) and that institution should have been disclosed under Montana standards governing judicial impartiality and conflict avoidance.

E. Failure to Respond or Disclose.

Perhaps most troubling under Montana disciplinary precedent is Mr. Small's complete failure to respond to a formal, good-faith ethics inquiry from the governing body of the Tribe whose constitutional court he presides over. Montana cases recognize that silence in the face of credible ethics concerns compounds potential violations and undermines public confidence in the administration of justice.

Rules Potentially Implicated (Non-Exhaustive):

The conduct described above may implicate:

- Mont. R. Prof. Conduct 1.7 (conflicts of interest).
- Rule 1.11 (special conflicts for current or former government officers);
- Rule 3.5 (ex parte communications);
- Rule 8.4(c) and (d) (conduct involving misrepresentation or conduct prejudicial to the administration of justice);

The Council's inquiry is not academic. If a judge presiding over matters involving President Gene Small has contemporaneous financial or professional ties to the Bank involved in controlling disputed tribal accounts—or participates in communications bearing on the validity of contested governance documents—public confidence in the judiciary is necessarily compromised. Full disclosure is therefore mandatory to protect the Court and the Tribe.

5. Request for disclosure and assurance of compliance with applicable recusal and ethics standards

The Council is not writing to argue the merits of any case in this letter. It is writing to ensure transparency and compliance with applicable judicial ethics and recusal standards.

Accordingly, the Council requests that you:

- Provide a written response to the above inquiries;
- Identify whether you have made any disclosures on the record in matters involving President Gene Small relating to any appointment, political support, bank representation, or communications; and
- Confirm what steps you have taken or will take to ensure compliance with applicable judicial ethics and recusal standards in cases where President Gene Small is a party or has a direct personal interest.

If you contend no disclosure is required, please state the basis for that conclusion and identify the authority you rely upon.

6. Request that this correspondence be docketed in CC 2026-001

Because the allegation of ex parte communication arises from a motion filed in Case No. CC 2026-001, the Council requests that this letter and your written response be filed and docketed in CC 2026-001 as part of the official court record. If the Court believes docketing must be accomplished by motion or through a particular procedure, please advise immediately and identify the appropriate mechanism so the record can be made promptly.

7. Time for response

Given the gravity and immediacy of these issues, the Council requests a written response within seven (7) calendar days of receipt. If you contend that any portion of this inquiry must be addressed through a formal judicial ethics channel rather than direct response, please state so explicitly and identify the controlling process and authority.

This correspondence is sent solely to protect the integrity of the Northern Cheyenne judiciary and the constitutional order of the Tribe. The Council reserves all rights.

Respectfully,

NORTHERN CHEYENNE TRIBAL COUNCIL

By: _____
Sergeant at Arms

Phone: (406) 720 0854

E-mail: melisfish79@gmail.com

Northern Cheyenne Tribal Council:

_____
Melissa Fisher, Tribal Council, Ashland

_____
Donavin Limberhand, Tribal Council, Lame Deer

_____
Eva Foote, Tribal Council, Ashland

_____
Stefan Rainingbird, Tribal Council, Busby

_____
Nizhoni Priesz, Tribal Council, Lame Deer

_____
Howard Ortiveros, Tribal Council, Muddy

_____
Owen Spotted Horse, Tribal Council, Birney

_____
Melissa Lonebear, Tribal Council, Lame Deer

NOV 10 2025
1:15 M.C.

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

Case# CC2026-001

Motion To Strike and Disqualify, AND Request For Clarification Of Constitutional Question.

Filed BY:
Dana Eaglefeathers, Advocate for President Gene Small
P.O Box 97
Busby MT, 59016
Phone:(406)720-3285

IN THE MATTER OF:
Constitutional Question filed October 1, 2025 —
"Whether the removal of President Gene Small was Constitutional under Article VII, Section 4(a) of theNorthern Cheyenne Constitution."

I.Introduction

Comes now the Advocate for President Gene Small, Respectfully requesting that this Honorable Court Strike all **responses filed by the Ousted 8 Council members** and **disqualify** itself from further action in this matter due to **Procedural irregularities, ex parte communications, and political entanglement** that have compromised the neutrality of the proceedings.

The Original filing was a **Constitutional question only** — asking whether the removal of President Small complied with **Article VII Section 4(a).** It did not name any respondents and did **not** request any political relief, only constitutional interpretation.

II.Factual Background

1. On **October 1, 2025,** Advocate Dana Eaglefeathers filed a constitutional question before this Court asking:
   "Was the removal of President Gene Small constitutional under Article VII, Section 4(a)?"
2. The Court issued an Order on **October 6, 2025,** allowing the **Ousted Council members**— who were **not listed as parties** — until given til **October 9, 2025** to file a response.
3. On that same day, Advocate filed a **motion to withdraw** the petition, wishing to prevent the matter from becoming politically entangled.
4. **The Chief Constitutional Judge, Hon. Steve Small Jr., contacted President Small directly by telephone,** stating that he intended to deny the **motion to withdraw** and

---

4. **Ensure that all further proceedings remain free of political interference** and consistent with due process and judicial impartiality.

Respectfully submitted,

Dana Eaglefeathers,
Advocate for President Gene Small
P.O box 97
Busby MT. 59016
(406)720-3285

-WOHEHIV-
The Morning Star

NORTHERN CHEYENNE TRIBAL COUNCIL
P.O. Box 128
LAME DEER, MONTANA 59043
(406) 477-6284
FAX (406) 477-6210

-WOHEHIV-
The Morning Star

VIA U.S. MAIL AND E-MAIL

December 8, 2025

Hon. Stephen T. Small
Chief Appellate Judge, Northern Cheyenne Constitutional Court
Billstein, Monson & Small PLLC
1555 Campus Way, Suite 201
Billings, Montana 59101
steve@bmslawmt.com

Re: Formal Inquiry Regarding Potential Conflicts of Interest; Alleged Ex Parte Communication; Request for On-the-Record Disclosure; and Bank-Related Communications Concerning Tribal Governance Dispute (Including Case No. CC 2026-001)

Chief Appellate Judge Small:

This letter is sent to you in your dual capacities as Chief Judge of the Northern Cheyenne Constitutional Court and as a practicing attorney and partner at Billstein, Monson & Small PLLC. The Northern Cheyenne Tribal Council (the "Council") writes to raise grave concerns regarding potential conflicts of interest and the appearance of partiality in any matter before the Northern Cheyenne Constitutional Court in which President Gene Small is a party, interested person, or principal beneficiary of the proceedings.

The Council makes this inquiry because the integrity of the Tribe's judiciary depends upon strict adherence to judicial impartiality, the avoidance of ex parte communications, and prompt disclosure and appropriate handling of conflicts—whether actual conflicts or appearances that would cause a reasonable person to question impartiality.

1. Alleged ex parte contact reported in a filed motion (Case No. CC 2026-001)

In Case No. CC 2026-001, President Gene Small's tribal advocate, Dana Eaglefeathers, filed a motion on or about November 10, 2025, in which he expressly states that you called President Gene Small in an ex parte communication. If accurately stated, that allegation is extraordinarily serious and requires immediate clarification on the record.

Accordingly, the Council requests that you promptly confirm, in writing:

1. Whether you communicated by telephone (or otherwise) with President Gene Small during the pendency of CC 2026-001 or any related matter;
2. The date(s), approximate time(s), and method(s) of any such communications;
3. The subject matter of any communication(s);
4. Whether any communication was disclosed on the record to all parties, and if so, when and how; and
5. Whether any staff, clerk, bailiff, or other court personnel participated in or facilitated any contact.

2. Appointment to the Northern Cheyenne Economic Development Board

The Council further understands that President Gene Small appointed you to the Northern Cheyenne Development Corporation Board where you serve as the Chair. Even if the appointment was made in good faith, it can create at minimum an appearance of alignment with the President in disputes involving his authority, actions, or interests.

Accordingly, the Council requests that you confirm:

1. Whether you were appointed by President Gene Small to the Northern Cheyenne Economic Development Board;
2. The date of appointment, term, and scope of duties;
3. Whether you have received any compensation, stipend, per diem, travel reimbursement, or other financial benefit associated with that role; and
4. Whether you currently hold that position or have held it at any time during the pendency of cases involving President Gene Small.
5. Whether you disclosed any of this during any cases before the Constitutional Court involving President Gene Small and/or the Northern Cheyenne Tribal Council.

3. Campaign support and political assistance

The Council has also become aware of information circulating within the community that you may have supported President Gene Small's campaign for tribal president, either through financial contributions or by assisting in the preparation of campaign materials or messaging.

Because this directly bears on impartiality, the Council requests that you respond plainly and directly:

1. Did you donate money, services, or anything of value to President Gene Small's campaign, political committee, or election-related efforts at any time?
2. Did you draft, edit, design, advise on, or otherwise assist with campaign materials, talking points, mailers, social media posts, speeches, or election-related communications for President Gene Small?
3. Did you participate in campaign meetings, strategy sessions, fundraising events, or otherwise act in a role supporting President Gene Small's candidacy?

4. If your answer to any of the above is yes, please provide the nature of the support, approximate dates, and whether any of it occurred within the last five (5) years.

4. Communications and relationships involving First Interstate Bank and counsel — governance dispute and account control

The Council has recently learned information suggesting that you and/or your firm may perform legal work for First Interstate Bank. The Council is presently engaged in a serious dispute with First Interstate regarding the Bank's decision to unfreeze tribal accounts and to recognize signatories and account directives issued by individuals aligned with President Gene Small and/or purported "chiefs" and their declaration, notwithstanding the absence of a federal recognition determination and notwithstanding the Council's constitutional position.

Given the direct intersection between (a) the Tribe's governance dispute, (b) control of tribal accounts, and (c) the adjudication of disputes in the Northern Cheyenne Tribal Court, the Council must inquire whether you have had any involvement—direct or indirect—with the Bank or its counsel concerning these matters.

Accordingly, please respond fully and directly to the following:

1. Do you or your firm currently represent, have you represented, or have you provided legal services to First Interstate Bank, First Interstate BancSystem, Inc., or any of their affiliates within the last five (5) years? If so, please identify the general nature of that work (without disclosing privileged communications) and whether it is ongoing.
2. Have you had any communications—formal or informal—with any First Interstate personnel, counsel, or representatives regarding:
   a. the alleged removal of President Gene Small;
   b. the purported "Chiefs' Declaration" and any asserted authority of "chiefs" over the Tribal Council;
   c. the validity of any resolution, declaration, or document purporting to remove or supplant the Tribal Council;
   d. the freezing or unfreezing of tribal accounts; or
   e. who is authorized to control or direct tribal finances?
3. Have you communicated with Jennifer Weddle (or any attorney associated with her) regarding any of the subjects identified above, including any opinion letter, advice, or analysis relating to the Bank's position on "authorized personnel" for the Northern Cheyenne accounts?
4. Have you been requested to provide, have you provided, or have you reviewed any written or oral "opinion," guidance, or analysis for any person or entity regarding the legitimacy of the purported chiefs, the "interim council," the validity of their actions, or the authority to direct tribal accounts?
5. If the answer to any of the above is yes, please identify the date ranges, the parties involved, and whether any such communications occurred during the pendency of matters before the Northern Cheyenne Constitutional Court involving President Gene Small or the governance dispute.

1. Investigate whether Mr. Small engaged in undisclosed or improper ex parte communications;

2. Determine whether Mr. Small failed to disclose conflicts of interest, appointments, political activity, or financial relationships requiring recusal;

3. Assess whether Mr. Small's failure to respond to the Council's written inquiry constitutes conduct prejudicial to the administration of justice under Montana precedent; and

4. Take whatever action is deemed appropriate to protect the integrity of the legal profession and the judiciary.

Please contact me my phone, email or mail as set forth below if you have any questions or need any documentation.

Thank you for your consideration.

Respectfully,

NORTHERN CHEYENNE TRIBAL COUNCIL

By: Melissa Fisher

Melissa Fisher, Sergeant at Arms
Northern Cheyenne Tribal Council

Phone: (406) 720-0854
Address: PO Box 804
Ponland, MT 59003
Email: Melisfish79@gmail.com

Enc: December 9, 2025, Letter to Chief Judge Small

cc: Andrew Werk, Superinendent, Lame Deer Agency

EXHIBIT D

RECEIVED
BRANCH OF ADMINISTRATION
SEP 11 2026
NORTHERN CHEYENNE AGENCY

TRIBAL COUNCIL OF THE NORTHERN CHEYENNE
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

RESOLUTION NO. DOI-009 (2026)

RESOLUTION SETTING REMOVAL HEARING AND ESTABLISHING PROCEDURES ON SWORN COMPLAINT AGAINST TRIBAL PRESIDENT GENE SMALL.

WHEREAS, the Northern Cheyenne Tribal Council is the governing body of the Northern Cheyenne Tribe, organized and operating under the Tribe's Amended Constitution and Bylaws approved by the Secretary of the Interior on May 31, 1996; and

WHEREAS, Article VII, Section 2 of the Constitution provides that any officer or councilman who fails to perform assigned duties or is guilty of gross neglect may be removed by a two-thirds vote of the Tribal Council after the accused is afforded a fair opportunity to be heard in his or her own defense, and further provides that the decision of the Tribal Council shall be final; and

WHEREAS, Article VII, Section 3 requires that any complaint against the President, a member, or officer of the Tribal Council be in writing and sworn to by the complainant; and

WHEREAS, the Tribal Council has received a written and sworn Complaint for Removal of President Gene Small submitted by Melissa Lonebear ("Complainant"), alleging that President Gene Small ("Respondent") failed to perform duties assigned to his office and engaged in gross neglect within the meaning of Article VII, Section 2; and

WHEREAS, Article IV, Section 1(r) authorizes the Tribal Council to adopt resolutions regulating the procedures of the Council, other Tribal agencies, and Tribal officials; and

WHEREAS, the Tribal Council intends to provide Respondent a meaningful and fair opportunity to receive notice of the charges, review the evidence to be presented, be represented by counsel, present evidence and witnesses, respond to adverse evidence, and be heard in his own defense, without prejudging the merits of the Complaint; and

WHEREAS, the Tribal Council wishes to set the removal hearing for Monday, September 28, 2026, designate a neutral Hearing Officer, and establish procedures governing the hearing; now

THEREFORE BE IT RESOLVED as follows:

1. **Removal Hearing.** There shall be a hearing on Monday, September 28, 2026, beginning at 9:00 a.m. in the Tribal Council Chambers at the Little Wolf Capitol Building, Lame Deer, Montana, or at another location publicly designated by the Tribal Council, if necessary, to determine whether President Gene Small should be removed from office under Article VII, Section 2 of the Constitution and Bylaws.
2. **Purpose and Scope.** The hearing is a constitutional removal proceeding, not a criminal trial. The question before the Tribal Council is whether the evidence establishes that Respondent failed to perform duties assigned to him or engaged in gross neglect within the meaning of Article VII, Section 2. No finding made in this proceeding shall constitute an adjudication of criminal guilt or civil liability.
3. **Procedure.** The following rules shall govern the hearing:

   A. The hearing shall proceed in the following order:

Exhibit D

Complainant's Opening Statement	up to 1 hour
Respondent's Opening Statement	up to 1 hour
Complainant's Case in Chief	up to 3 hours
Respondent's Defense	up to 3 hours
Complainant's Rebuttal	up to 1 hour
Respondent's Surrebuttal	up to 1 hour
Complainant's Closing Statement	up to 1 hour
Respondent's Closing Statement	up to 1 hour

B. The Hearing Officer may reasonably extend any time period, recess the hearing, or continue the hearing to the next available day if necessary to complete the evidentiary record and to ensure the fair opportunity to be heard required by Article VII, Section 2.

C. Each party may submit documentary and testimonial evidence. By 5:00 p.m. on Friday, September 25, 2026, each party shall deliver to the Tribal Secretary the documentary exhibits and witness list the party reasonably expects to use in its Case in Chief or Defense. The Tribal Secretary shall make the material received from each party available to the opposing party as soon as practicable. Evidence offered solely in response to evidence first presented at the hearing need not be provided in advance. **In the event Tribal President Gene Small does not allow the Complainants and/or their representative are not allowed access to the building, potential witnesses and/or records to support their case and allegations, the allegations in the complaint shall be deemed as admitted for purposes of the removal hearing only.**

D. Each party may be represented by legal counsel or another representative permitted by Tribal law. Each party may call witnesses and reasonably question witnesses presented by the opposing party. The Hearing Officer shall control the order and manner of questioning and may limit repetitive, irrelevant, or abusive questioning while preserving each party's meaningful opportunity to present and challenge evidence.

E. Because President Gene Small is the Respondent in the removal proceeding, he shall not preside over or exercise procedural control over his own removal hearing. The Vice President shall perform any presiding-officer functions required of the Tribal Council, while the Hearing Officer shall conduct the evidentiary proceeding and rule on procedural matters.

F. Only members of the Tribal Council who are present for the entire evidentiary course of the hearing, including any continuation of the hearing, shall be entitled to vote on whether Respondent should be removed from office. A Council member may ask reasonable questions of witnesses in the manner directed by the Hearing Officer.

G. The Tribal Secretary shall provide Respondent and Complainant with this Resolution as soon as practicable and shall maintain proof of service or delivery. Respondent shall also be provided the Sworn Complaint and all materials required to be exchanged under this Resolution.

H. If Respondent, after receiving notice of the hearing and a fair opportunity to appear and be heard, fails or refuses to attend, the hearing may proceed in his absence. A failure to appear shall not itself establish the allegations in the Complaint; the Tribal Council shall decide the matter on the evidence admitted at the hearing.

I. The hearing shall be closed to the public, consistent with the procedure used in Resolution DOI-119 (2013), unless the Tribal Council determines before the hearing that Tribal law requires or permits a different procedure. The Tribal Secretary shall maintain the official record of the proceeding, including admitted exhibits, rulings, and a recording or transcript if available.

J. The Hearing Officer shall remain neutral, shall disclose any material conflict of interest or relationship with either party, and shall have no ex parte communication with either party concerning the merits of the Complaint.

4. **Hearing Officer.** The Tribal Council hereby designates Jeromena Beartusk as the Hearing Officer. If that person is unwilling, unable, or disqualified to serve, the Tribal Council shall designate a substitute neutral Hearing Officer before commencement of the hearing.

5. **Findings and Decision.** After the evidentiary record is closed, the Hearing Officer shall prepare written recommended findings addressing the charges presented and shall provide those findings to the Tribal Council and the parties as promptly as practicable. The Hearing Officer shall not decide whether Respondent is removed. The final decision belongs exclusively to the Tribal Council under Article VII, Section 2.

6. **Removal Vote.** After the fair hearing required by Article VII, Section 2 and consideration of the record, the Tribal Council may deliberate and vote on removal. Because the Constitution establishes an eleven-member Tribal Council, removal requires at least eight affirmative votes. Only Council members qualified to vote under paragraph 3(F) of this Resolution may participate in the removal vote.

7. **Preservation of Rights.** Nothing in this Resolution constitutes a finding that any allegation in the Sworn Complaint has been proven. The purpose of this Resolution is to establish an orderly procedure that protects the Respondent's fair opportunity to be heard while permitting the Tribal Council to carry out its constitutional responsibility to decide the Complaint.

BE IT FINALLY RESOLVED, that the Hearing Officer shall receive reasonable compensation, if authorized by the Tribal Council, upon completion of the hearing and written recommended findings, and that the Tribal Secretary and appropriate Tribal personnel are directed to take the administrative steps necessary to implement this Resolution.

PASSED, ADOPTED AND APPROVED by vote of the Northern Cheyenne Tribal Council by 8 votes for passage and adoption, 0 votes against passage, and 0 abstentions, this 11th day of September, 2026

Ernest Littlemouth Sr.,Vice President
Northern Cheyenne Tribe

ATTEST:

Alicia Cano,Tribal Secretary
Northern Cheyenne Tribe

Gene Small

CERTIFICATE OF SERVICE

This is to certify that on the date and time stated below, I served the attached: (mark one)

____ Motion
____ Response/Answer
____ Notice of Appearance
____ Request
__X__ Other: Sworn complaint for removal of President Gene Small

Upon: (mark one)

____ **The Prosecutor:** _____

____ Name of Person: _____

____ Name of Program/Business: _____

__X__ **Personally serve at:** 6th Ave. N. Billings, MT 59101
(describe location below)
North Parks Pavillion
*personally handed Gene Small compaint

Or by: (mark one)

____ **Regular 1st Class Mail:** _____
Mailing/Physical address

_____ _____ _____
City State Zip Code

____ **Certified Mail:** _____
Mailing/Physical address

_____ _____ _____
City State Zip Code

Date: 9/11/2026 Time: 5:50 PM

Signature: [signature]

EXHIBIT E

BEFORE THE NORTHERN CHEYENNE TRIBAL COUNCIL
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

RECEIVED
BRANCH OF ADMINISTRATION
SEP 11 2026
NORTHERN CHEYENNE AGENCY
LAME DEER, MT 59043

MELISSA LONEBEAR, RYHAL ROWLAND
Complainants,

v.

GENE SMALL, President of the
Northern Cheyenne Tribe,
Respondent.

SWORN COMPLAINT FOR REMOVAL OF PRESIDENT GENE SMALL

NATURE OF THE COMPLAINT

1. Complainants Melissa Lonebear and Ryhal Rowland submit this written and sworn complaint under Article VII, Section 3 of the Amended Constitution and Bylaws of the Northern Cheyenne Tribe. They ask the Tribal Council to notice and conduct a fair removal hearing under Article VII, Section 2 and, after hearing competent evidence, to determine whether President Gene Small has failed to perform assigned duties or committed gross neglect warranting removal from office.

2. This Complaint incorporates all grounds and conduct alleged for removal, including President Small's public statements; repeated lockdowns of the Little Wolf Capitol Building; the use of administrative leave and access controls to prevent the elected Council from returning to work; the September 12, 2025 interference and intimidation incident; the October 8, 2025 power-shutoff and arrests; the engagement and direction of outside prosecutors and investigators; the May 1, 2026 GableGotwals Report on Misuse of Federal Funds; interference with and alleged retaliation against Northern Cheyenne Investigation Services personnel; alleged political-loyalty restrictions on Tribal investigators; alleged interference connected to the Larry Medicine Bull investigation; continued reliance on actions of the replacement Council after the August 18, 2026 judgment; alleged executive interference with the Northern Cheyenne Tribal School and its governing board; and alleged depletion, diversion, or expenditure of restricted Tribal funds without authorization by the lawful Tribal Council.

3. The allegations below are charges to be proved at a fair hearing. This removal proceeding does not ask the Tribal Council to determine criminal guilt. The issue is whether President Small's own conduct, considered individually and cumulatively, constitutes failure to perform assigned duties or gross neglect under Article VII, Section 2.

CONSTITUTIONAL AND ETHICAL STANDARDS

4. Article VII, Section 2 authorizes removal by a two-thirds vote of the Tribal Council when an officer fails to perform assigned duties or is guilty of gross neglect, after the accused has been afforded a fair opportunity to be heard. Article VII, Section 3 requires a complaint against the President to be written and sworn. Because the Tribal Council consists of eleven members, a two-thirds vote requires eight affirmative votes.

5. Article XI, Section 1 divides Tribal authority among separate Legislative, Executive, and Judicial Branches and prohibits any branch or person exercising powers belonging to another branch except as expressly directed or permitted by the Constitution, Tribal law, or federal law.

Exhibit E

6. Article IV, Section 1(b) places the employment of legal counsel and the fixing of counsel fees within the Tribal Council's authority, subject to applicable federal approval. Article IV, Section 1(f) places administration of Tribal funds and expenditures within the Tribal Council's authority and requires expenditures of Tribal funds to be authorized by resolution adopted in legal session and made a matter of public record. Bylaws Article I, Section 4 makes the Tribal Council Treasurer custodian of all moneys under the Council's jurisdiction or control and requires payment of Tribal money in accordance with the orders and resolutions of the Council.

7. Bylaws Article I, Section 1 gives the President administrative responsibility, requires the President to see that Tribal Council enactments, orders, and resolutions are properly executed, and imposes a duty to convene extra sessions of the Tribal Council. Bylaws Article V permits an extra session to be requested by three Tribal Council members in writing to the President.

8. The oath of office requires elected officials to faithfully and impartially discharge their duties, promote and protect the best interests of the Tribe, and preserve and protect the Constitution and Bylaws.

9. The constitutional Code of Ethics requires every Tribal Official to exercise the powers of office in good faith and in a manner believed to best serve the Tribe; not use Tribal money, property, or personnel for personal benefit; not disclose or use confidential Tribal information for personal gain; not knowingly falsify, alter, conceal, or destroy official records; not present, allow, or pay claims known to be improper; and not knowingly make materially harmful false statements in official statements, reports, certificates, or other documents presented to or on behalf of Tribal government or the Tribal membership.

10. The Code of Ethics does not state that every ethics violation results in automatic removal. The ethical provisions are therefore pleaded here as duties of office and as evidence bearing on whether President Small failed to perform assigned duties or engaged in gross neglect within the meaning of Article VII, Section 2.

FACTUAL BACKGROUND

11. Gene Small was elected President of the Northern Cheyenne Tribe and at all relevant times exercised or claimed the powers of that office. The Tribal Council, not the President acting alone, is the governing body and Legislative Branch of the Tribe.

12. In March 2025, the Tribal Council approved a forensic review of COVID-era federal funding, including through Resolutions DOI-100 and DOI-122. President Small later publicly acknowledged that he did not have unilateral authority to order such an audit, stating in substance that the authority belonged to the Tribal Council and that his job was to carry out resolutions and ordinances after the Council adopted them.

13. Despite that public acknowledgement, the May 1, 2026 GableGotwals report states in its Background section that, in March 2025, President Gene Small initiated a forensic examination of portions of federal funds allocated to the Tribe. The report further states that BradyMartz performed forensic-accounting work under attorney supervision and that GableGotwals special prosecutors directed investigative work. This description is material because it identifies President Small as the initiator of the examination while he publicly portrayed the process as a Council-directed audit that he merely implemented.

14. Beginning in June 2025, Council members and constituents sought extra sessions concerning allegations of executive interference with the Judicial Branch, the discharge of a court employee, and related due-process concerns. Records identify a June 27 request signed by three Council members, delivery to the President's office on June 30, a further request on July 1, and another request on August 11.

15. President Small did not convene the requested extra sessions and repeatedly failed or refused to facilitate Council consideration of the complaints. In an August executive session, when the Council attempted to address the matters, President Small left and the meeting ended. Council members made repeated efforts to obtain acknowledgement and action before removal proceedings were scheduled.

16. The Council initiated written removal proceedings in September 2025. A hearing was conducted on September 11 under Resolution DOI-174. The legal effect of that earlier removal proceeding was later disputed and was ruled procedurally invalid. This Complaint does not depend on the validity of that earlier proceeding and instead states the grounds and conduct supporting removal, including conduct occurring before and after September 2025.

17. On September 12, 2025, President Small signed Executive Order No. 1-2025 purporting to suspend the actions, resolutions, and directives of the existing Tribal Council and declaring that the President would exercise complete executive and administrative authority over Tribal programs, agencies, and government operations. On September 15, 2025, he signed Executive Order No. 2-2025 endorsing the first order, contemplating appointments and a special election, and stating that the orders would remain in effect until a new Council was installed.

18. President Small publicly aligned himself with the September 2025 Declaration of the Chiefs that purported to remove eight elected Council members. He participated in implementing the resulting displacement by recognizing or supporting replacement officials, using executive control over facilities and personnel, and treating the elected Council as removed even though the Constitution's Article VII removal process had not been completed against those Council members.

19. On September 12, 2025, following the Council's September 11 removal action against President Small, members of the elected Council returned to the Little Wolf Capitol Building for government business and a scheduled legal conference. Witnesses state that printers, copier access, Wi-Fi, and other meeting equipment in the Council area had been disconnected. Reuben Roundstone was present and was observed speaking by telephone with President Small and reporting that the Council members were in the building. Shortly thereafter a large group entered or gathered at the building; a Finance employee who had been directed by her supervisor to process checks reported being confronted and accused of stealing; and Council members and employees were surrounded, heckled, photographed, and blocked as they attempted to leave. Witnesses state that 911 was called and that portions of the incident were recorded.

20. Complainant alleges that President Small was kept informed in real time concerning the Council's presence and that the September 12 incident formed part of the broader course of conduct used to prevent or discourage elected Council members and supporting employees from carrying out governmental duties. This allegation concerns interference with official functions and use of executive influence; it does not ask the Council to determine criminal liability for the conduct of any third person.

21. On October 8, 2025, elected Council members entered the Little Wolf Capitol Building asserting that they remained in office. Time-stamped video and witness materials identify a police call at approximately 9:46 a.m., officers proceeding toward President Small's office shortly thereafter, the power being shut off around 11:07 a.m., and arrests beginning thereafter. Witness materials attribute to President Small directions concerning security and agreement that power or lights should be shut off, and state that keys to the electrical area were returned to him.

22. Criminal complaints were then filed against Council members and others arising from the building incident. Defense materials identify material discrepancies between the charging allegations and firsthand observations, including uncertainty concerning the defendants' lawful Council status, access authority, alleged threats, alleged assaultive conduct, and the basis for characterizing their presence in a government building as unauthorized.

23. There is additional firsthand evidence concerning the October 8 power shutoff. Torrey Davie and other participants identify Corey Spotted Elk as the person who actually opened the electrical box with a key and shut off power to the Council wing. The discussion states that Spotted Elk will testify that the direction was transmitted through Darrell Medicine Bull and Reuben Roundstone at President Small's direction or request, and that Howard Ontiveros later restored the power. If credited, this evidence materially contradicts any charging or public narrative that attributed the original power shutoff to the elected Council members or their supporters.

24. Complainant further alleges that President Small knew or should have known the circumstances under which the power was shut off and nevertheless supported or permitted criminal and public accusations based on a materially different account. The relevance to this removal proceeding is not whether any person committed a crime, but whether the President used executive and prosecutorial authority in bad faith, permitted materially inaccurate official accusations to proceed, or failed to correct them after learning the true facts.

25. President Small personally initiated the GableGotwals special-prosecutor relationship. In a December 23, 2025 public announcement, he described Trent Shores as "my appointment" and announced that Shores and his team would investigate misuse of Tribal and federal funds. Shores stated publicly that President Small had contacted him about serving as special prosecutor. President Small simultaneously represented that the prosecutors would exercise independent judgment, would not be subject to political influence, and would follow the facts and evidence.

26. Complainant has a firsthand witness who will testify that President Small personally hand-picked every person and entity that GableGotwals was instructed to investigate and that GableGotwals knew the targets had been selected by President Small. The selected targets included elected Council members, Tribal officials and employees, PPCD, and other persons or entities identified in the later report.

27. A witness who worked directly with the special prosecutors and had access to the President's Office described President Small as the client for the engagement and stated that, in a meeting with the prosecutors, Small directed them to look at the removed Council members and other selected persons associated with unreconciled travel, grants, or transactions he considered suspicious. The witness stated that GableGotwals and BradyMartz thereafter worked in tandem to focus on those persons, tracing resolutions, requesters, authorizers, checks, and financial transactions. The same witness described BradyMartz as having lacked direction before the special prosecutors came on board and stated that the prosecutors then supplied the focus for the review.

28. This testimony is significant because it comes from a participant who worked with the prosecutors rather than from an outside critic of the investigation. If credited, it supports the allegation that the investigation was not merely an independent review that happened to identify President Small's political opponents, but was affirmatively directed toward persons he selected while he was publicly representing the investigation and prosecution function as independent and free from political influence.

29. The May 1, 2026 GableGotwals report corroborates the existence of a preselected target structure. It repeatedly refers to "identified individuals" and to an "identified persons list." It states that four primary fund sources were reviewed for direct payments to identified individuals. The report also lists persons such as Stefan Raining Bird and Shawna Cooper even though the review identified no direct payments to them from the reviewed fund sources, demonstrating that placement on the target list preceded any finding of a questionable payment.

30. The GableGotwals document is titled "Report on Misuse of Federal Funds" and its subject is "Potential Criminal Liability for Identified Tribal Members." It is a special-prosecutor investigative memorandum incorporating selected forensic-accounting work, travel-fraud investigation, witness interviews, ledger review, and other investigative material. It is not itself the final independent BradyMartz forensic audit

authorized by the Tribal Council, does not contain an audit opinion, does not reconcile the full body of COVID-era federal funds, and does not present a comprehensive accounting of how all relevant federal funds were spent.

31. President Small nevertheless repeatedly described the process and its product to the Tribal membership as a "forensic audit" and as an "audit" that had produced findings. In a public update discussing approximately $17 million of reviewed funds and a BradyMartz cost he described as approximately $47,000 to $50,000, he stated, "I think that's a forensic audit," told the public there were findings in the audit, and said he wanted the people to know what was in it.

32. The May 1 report expressly warns that it is confidential and contains attorney work product prepared in connection with ongoing criminal proceedings, and states that public distribution should be coordinated with the Special Prosecutors. The report further states that it is not a complete or exhaustive accounting and that inclusion of an individual does not constitute a finding of criminal guilt or civil liability.

33. The report nevertheless contains highly sensitive material, including names and dates of birth of minors, images of Tribal checks and financial account identifiers, individual HAF and assistance information, travel information, family relationships, and other personal details. The report also contains allegations that are expressly described as still under investigation or requiring additional verification.

34. The PPCD section illustrates the targeted nature of the investigation. The report devotes a separate section to PPCD, identifies named recipients of PPCD assistance, discusses eligibility concerns, identifies minors, and emphasizes family relationships. Complainant alleges that PPCD was not identified through a neutral transaction-first process; it was one of the persons or entities President Small specifically selected for investigation before GableGotwals conducted its review.

35. There was a HAF transaction involving President Small's mother that, according to HAF Committee participants, had previously been raised with Tribal officials and referred for investigation or prosecution. Those participants state that the matter was known within Tribal government but was not included in the GableGotwals report. This complaint does not allege criminal guilt by President Small's mother. The allegation is that, if President Small selected the investigative targets and a known family-associated matter was omitted while the report included other selected persons even where no direct payment was identified, the omission is probative of selective scope, conflict of interest, and lack of investigative neutrality.

36. On August 19, 2026, after the Tribal Court issued its August 18 ruling in favor of the elected Council, President Small publicly discussed releasing the GableGotwals report. He acknowledged that the report contained names and dollar figures, acknowledged prior discussion about not releasing names before the investigation was complete, admitted that he did not know the status of the FBI and OIG investigations, and nevertheless stated that he believed it was necessary to put the report out.

37. In the same August 19 statement, President Small tied publication of the report directly to whether the elected Council would be allowed to return to the Capitol, stating in substance that he would put the report up and "let the people decide if that's OK to have them back in here." Earlier, on June 1, 2026, while discussing the governance case and the audit, he publicly stated that he was "not gonna allow" some elected Council members to return to the building, that the Chiefs' declaration stood, and that he would continue to stand his ground. He concluded that he "just can't have them back in this office" and referred to "People that steal from our people."
38. Those statements are significant because the GableGotwals report itself disclaims any finding of guilt. President Small nevertheless used the existence of the report and the underlying accusations as a reason for refusing to permit elected officials to return to office and for asking the Tribal membership to judge their right to return, even though the Constitution assigns removal authority and procedure to the Tribal Council and the courts had ruled on the elected Council's status.

39. The contrast between President Small's treatment of favorable and unfavorable court rulings further shows a selective approach to judicial authority. In a September 5, 2026 video, after receiving a ruling he viewed as allowing an election to proceed, he emphasized that "now we got a judge's order," called the ruling good news, and announced that he would post it. By contrast, when prior rulings required or supported restoration of the elected Council, he publicly disputed their validity, service, or effect and refused to permit the Council to return to the Capitol.

40. The Tribal Court entered multiple orders during April and May 2026 concerning the elected Council's status and access, including temporary and permanent injunctive relief. Appellate stays, modifications, and later reversal affected the operative status of some of those orders at different times. Complainant alleges that on at least three separate occasions when judicial relief restoring or recognizing the elected Council was issued and operative, President Small responded by ordering, authorizing, ratifying, or maintaining a lockdown of the Little Wolf Capitol Building rather than permitting the elected Council to return to work.

41. On those occasions, President Small also placed or caused employees working in the Little Wolf Capitol Building to be placed on paid administrative leave, purportedly for their "safety." The timing and repeated use of administrative leave had the practical effect of closing the seat of Tribal government, preventing the elected Council from returning to its offices, eliminating employees who would otherwise staff the building, and frustrating implementation of judicial relief.

42. The repeated lockdowns were not merely acts of unidentified security personnel. President Small publicly accepted personal responsibility for continued exclusion. In his June 1 statement he said that, until an appeal was heard, he would not allow the elected Council members to come back into the office. After the August 18 ruling, he again publicly opposed their return and used the GableGotwals report as a justification for keeping them out.

43. On August 18, 2026, the Tribal Court ruled that the Chiefs' declaration was unlawful, that the elected Council members had never been lawfully removed, that no vacancies existed for the October 2025 special election to fill, and that the special election was void. The court directed the defendants to peaceably surrender and permit access to the building, records, computers, phones, and other resources needed for the elected Council to perform its duties. A September 4 order again stated that the plaintiffs remained Council members.

44. The replacement Council had previously purported to adopt Resolution DOI-058 establishing the 2026 election schedule and Resolution DOI-059 appointing the Voters Committee. After the August 18 judgment held that the Chiefs' Declaration created no lawful vacancies and that the replacement election did not create a lawful replacement Council, President Small continued publicly to describe the replacement body as the 'current Tribal Council' and continued to rely on its election actions. In a September 7, 2026 public statement, he stated that he and the 'current Tribal Council' were continuing the election process and referred to the election schedule as already established, while acknowledging that the August judgment was on appeal and that a stay had been requested.

45. Complainant alleges that DOI-058 and DOI-059 were not valid acts of the Tribal Council because they were adopted by a body that the August 18 judgment determined lacked lawful authority to occupy or exercise the Council offices. Continuing to implement those acts after the judgment, rather than permitting the elected Tribal Council to enact lawful election resolutions, further interfered with the Legislative Branch and failed to give effect to the Court's determination of who constituted the lawful Council.

46. The repeated lockdowns and closures prevented the elected Council from entering offices, accessing records and electronic systems, holding meetings, managing finances, communicating with employees, carrying out legislative duties, and restoring normal Tribal government operations. Administrative leave also imposed costs on the Tribe while preventing employees from performing ordinary duties.

47. Council-member accounts further establish that President Small publicly disclosed individual HAF or assistance information while criticizing named officials. The conduct is relevant not because criticism is prohibited, but because the information was obtained through Tribal government programs and was used in public political communications concerning officials with whom he was in conflict.

48. Complainant also alleges that President Small used executive influence in a Judicial Branch personnel matter involving the termination of a court employee during a controversy connected to his mother and a disputed HAF -funded trailer transaction. The complaint does not allege that President Small personally received HAF funds. It alleges that using executive influence to affect a Judicial Branch employee in a family-related dispute violated separation of powers and the duty to exercise office in good faith.

49. Additional testimony from August "Tiger" Scalpcane and Robert "Bobby" Grinsell, former Northern Cheyenne Investigation Services personnel, describes a separate pattern of alleged executive interference with Tribal investigative functions. Scalpcane states that during an attempt by the elected Council to return to the Little Wolf Capitol Building after a court order, NCIS personnel responded after dispatch requested assistance as a precautionary and de-escalation presence. While Scalpcane was with Grinsell, President Small called Grinsell on speakerphone, was told that they were at the building because dispatch had requested assistance and that they were there to observe and prevent escalation, and ordered them to leave, stating that he did not want them there. Scalpcane states that he was also coordinating with an FBI contact who had asked to be kept informed of developments.

50. Scalpcane further states that shortly after that incident, Grinsell received a written warning concerning "unloyalty" and restrictions on going to the Tribal building without permission. When Grinsell and Scalpcane telephoned President Small about the warning, Small allegedly asked what the memorandum said and then responded in substance that he had not realized it said that and that perhaps he needed to look at documents before signing them. If credited, this testimony is relevant both to whether retaliation followed the investigators' presence during the Council-access dispute and to whether the President signed an official disciplinary or supervisory directive without first reviewing its substance.

51. Scalpcane and Grinsell also describe later changes at NCIS in which Grinsell was removed from the lead criminal-investigator position and his pay reduced without a stated reason, Carolyn Brady was installed as lead while she was still in training and, according to Grinsell, was not yet authorized to perform criminal-investigator duties, and employees were directed to sign renewed confidentiality documents based on asserted "loyalty" concerns. Scalpcane states that employees were told they could not communicate with elected Council members, including family members, and could face termination if they did. Those allegations, if established as directives authorized, ratified, or knowingly permitted by President Small, support the allegation that Tribal employment and investigative communications were conditioned on political loyalty during the governance dispute.

52. The testimony further concerns an older criminal investigation involving Chief Larry Medicine Bull. Grinsell states that after he completed and submitted that matter to Tribal prosecution, his supervisor repeatedly questioned why he had submitted it and whether Scalpcane had directed him to do so; required review of that case; removed the physical case materials from the secure investigative office for review; demanded a written case list specifically identifying his submission of the Medicine Bull matter; and shortly thereafter took his office and case-file keys, firearm, vehicle, work phone, and laptop and restricted his ability to continue ordinary investigative work. Grinsell ultimately resigned. Scalpcane separately describes restrictions on investigators' access, equipment, communications, and work after the Medicine Bull matter became a subject of interest.

53. Neither Scalpcane nor Grinsell claims personal knowledge that President Small personally issued every later NCIS directive. Their testimony is nevertheless relevant to the President's conduct because Small allegedly

ordered them directly away from the Capitol during the Council-access event; the later warning concerning disloyalty was signed by Small; Tribal administrative personnel allegedly directed questions about the NCIS leadership change back to Small; and the challenged employment and investigative restrictions arose during the same governance conflict. Complainant alleges that President Small authorized, ratified, directed, or knowingly permitted these measures and asks the Tribal Council to determine that issue from the testimony and records presented at the removal hearing.

54. There is a separate alleged exercise of executive power at the Northern Cheyenne Tribal School (NCTS). Torrey Davie states that the NCTS policy manual was amended in 2016 to establish an election process for the school board, that the amended policy was ratified by Tribal Council resolution, and that the revised governance structure was recognized through the applicable federal process. Davie states that, after he was purportedly removed from Council in 2026, President Small relied on an older policy manual that did not contain the 2016 changes, removed the existing NCTS Board, declared himself to be the Board or Board Chair, and supplied the outdated policy to persons working with the Bureau of Indian Education.

55. The same discussion states that President Small then caused or signed termination actions against NCTS legal advocate Dana Eagle Feathers and Superintendent Teresa McMakin, despite the asserted 2016 governance rules and contractual limits on termination authority. Participants state that they possess the amended policy manual, the Tribal Council resolution ratifying it, the older policy relied upon by Small, the document by which Small declared himself Board Chair, the termination letters, and related correspondence. If proved, these actions constitute a separate exercise of executive authority over a Tribal institution and contracts that the President did not possess, and a knowing or reckless reliance on an obsolete governance document to justify that authority.

56. In a January 20, 2026 written statement, Chief Judge Curtis Elkshoulder, Jr. accused President Small of acting beyond constitutionally delegated executive authority by disabling the Tribal Council, interfering with the independence and procedures of the Tribal Court, allowing or authorizing abuse of prosecutorial authority, and participating in an unsupported removal complaint against the Chief Judge. The Chief Judge called for restoration of constitutional order and an end to executive interference with the Court.

57. Elmore Limberhand further reports communications in which President Small sought delay of a Council inquiry into court interference. Limberhand also reports that an acting prosecutor was directed to provide prosecution files and dispositions to the President's office and, after refusing, was demoted and placed on probation. These facts support the allegation that executive power was used to reach into prosecutorial and Judicial Branch functions.

58. The elected Council and appointed officials were also removed from payroll and personnel systems, issued final paper checks and exit paperwork, denied access to Tribal systems and records, and cut off from bank access and governmental functions. President Small publicly stated in December 2025 that the "opposition" had been cut out of bank access and that remote access had been shut off. Those administrative steps were part of implementing the extra-constitutional displacement of elected officials.

59. Complainant also relies on records concerning the use of outside security, including a Wolf Soldier Security arrangement and related payments, and the use of security personnel, locks, keys, access controls, power controls, and building-management authority during the governance dispute. To the extent those resources were used to enforce President Small's political position rather than lawful governmental authority, their use constitutes misuse of Tribal property, personnel, and funds.

60. Outside-counsel and special-prosecutor contracting presents an additional separation-of-powers and expenditure issue. President Small signed an engagement with GableGotwals in November 2025 before lawful Council authorization by the elected Council. Later disputed resolutions purported to authorize substantial payments, including a $325,000 authorization and references elsewhere to a larger engagement

amount. President Small also previously signed the Cedar Tree engagement and approved a payment while federal approval and the proper funding source were disputed.

61. The Council had authorized an independent forensic audit. That authorization did not authorize the President to substitute his own target list for an evidence-led process, to direct outside prosecutors toward persons he selected, to convert a Council-authorized audit into a tool for determining who should remain in elected office, or to publicly disseminate confidential prosecutorial work product as if it were a completed independent audit finding guilt.

62. Kristi Killsnight, who has direct knowledge of Tribal Finance operations and account structure, states that when she left Finance in approximately August 2025, roughly $3.2 million remained in a Tribal Water Settlement account. She states that by early September 2026 she was informed that approximately $1.5 million remained. Killsnight explains that, in her understanding, the Water Settlement funds are restricted to purposes associated with the water system, land acquisition, and related authorized uses, and are not a general operating account. She further states that Finance had not been receiving ordinary BIA drawdowns because valid budget and expenditure resolutions from the lawful Tribal Council were not in place, and that the Water Settlement account was instead being used to pay general operating expenses such as salaries and bills. She specifically identifies a GableGotwals payment as having been paid from that account. Based on the balances reported to her, she estimates approximately $1.7 million was depleted from the account during this period.

63. Killsnight further states that a separate General Fund Restricted account contained approximately $365,000 before the disputed period and approximately $64,000 by early September 2026. She describes that account as containing revenues and allocations associated with programs and entities including Land Authority, Range, TERO, Morning Star Propane, Morning Star Sanitation, and the five districts. She estimates that approximately $291,000 was spent from the account and states that, without valid Tribal Council resolutions authorizing the budget, draws, transfers, and expenditures, use of those restricted revenues to sustain other operations would be unauthorized. She distinguishes between expenses that might be proper if supported by lawful appropriations and valid draws and the use of restricted accounts as substitute operating funds without such authorization.

64. Killsnight also states that consultant or investigative expenses for Brady Martz and former FBI agent J.D. Teeling were paid from Local Assistance and Tribal Consistency Fund (LATCF) money. She candidly states that she is less familiar with the precise restrictions governing that fund, but understood it to have been allocated for other governmental purposes and did not understand those consultant payments to be permitted uses. This allegation is included as corroborating evidence concerning funding-source selection and should be determined at hearing from the governing award terms, resolutions, accounting records, payment vouchers, and testimony of Finance personnel.

CHARGES FOR REMOVAL

CHARGE I - FAILURE TO CONVENE AND SUPPORT LAWFUL COUNCIL SESSIONS

65. President Small repeatedly failed or refused to convene extra sessions properly requested by Council members to address separation-of-powers complaints, court-personnel concerns, and official misconduct. Because the Bylaws impose a presidential duty to convene extra sessions and permit three Council members to request them, repeated nonperformance after notice constitutes failure to perform assigned duties and may constitute gross neglect under Article VII, Section 2.

CHARGE II - INTERFERENCE WITH AND USURPATION OF THE LEGISLATIVE BRANCH

66. President Small signed Executive Orders 1-2025 and 2-2025 purporting to suspend the elected Council and its official acts, consolidate governmental administration in the President's office, recognize or facilitate

replacement officials, and establish a path to a replacement Council. He then used executive control over personnel, facilities, records, systems, security, payroll, and access to implement that displacement. If proved, this conduct exercised legislative power that the Constitution places in the Tribal Council and violated Article XI separation of powers.

CHARGE III - REPEATED LOCKDOWNS AND USE OF ADMINISTRATIVE LEAVE TO PREVENT THE ELECTED COUNCIL FROM WORKING

67. On at least three separate occasions following judicial relief recognizing or restoring the elected Council, President Small ordered, authorized, ratified, or maintained lockdowns of the Little Wolf Capitol Building and caused employees working there to be placed on paid administrative leave for stated safety reasons. The repeated timing and effect of those actions prevented the elected Council from returning to its offices and performing constitutional duties. If the evidence establishes that building closure and employee leave were used to defeat operative judicial relief or prevent a coordinate branch from functioning, the conduct constitutes failure to perform presidential duties and gross neglect.

CHARGE IV - FAILURE TO EXECUTE COURT ORDERS AND SELECTIVE RECOGNITION OF JUDICIAL AUTHORITY

68. President Small had a presidential duty to see that lawful orders and enactments were properly executed. During the governance litigation he repeatedly resisted or refused to implement rulings that restored or recognized the elected Council, publicly disputing their validity, service, or effect and announcing that he would not allow the Council back into the Capitol. Yet when later rulings favored an election process he supported, he emphasized that the Tribe had a judge's order and treated it as controlling. The Council may determine that selective adherence to judicial authority, together with lockouts during periods when restoration orders were operative, constitutes gross neglect and failure to perform assigned duties.

CHARGE V - SEPTEMBER 12, 2025 INTERFERENCE, INTIMIDATION, AND OBSTRUCTION OF COUNCIL BUSINESS

69. Witnesses state that on September 12, 2025 elected Council members returned to the Little Wolf Capitol Building to conduct official business and found Council equipment and connectivity disabled; that Reuben Roundstone reported their presence to President Small by telephone; and that a large group then entered or gathered at the building, confronted a Finance employee, surrounded and heckled Council members, and impeded their departure until police arrived. If the hearing establishes that President Small directed, encouraged, coordinated, ratified, or knowingly used this conduct to obstruct the elected Council's work, it constitutes misuse of executive influence, interference with the Legislative Branch, and gross neglect.

CHARGE VI - MISUSE OF SECURITY, FACILITIES, PROPERTY, POWER CONTROLS, AND TRIBAL PERSONNEL

70. The September 12 incident, the October 8 building incident, and the later lockdowns show alleged use of security personnel, keys, locks, access controls, electrical controls, facilities authority, and administrative personnel to suppress or exclude elected officials. Corey Spotted Elk is a witness who states that he shut off power to the Council wing on October 8 using a key and pursuant to direction transmitted through persons acting for President Small. Scalpcane and Grinsell additionally state that, during a later Council-access event, Small personally ordered the NCIS personnel to leave the Capitol area even after Grinsell explained that dispatch had requested their presence and that they were there to observe and help prevent escalation. If credited, this evidence links the President personally to the removal of a neutral investigative presence during the governance dispute and to the earlier power-control issue. Use of Tribal property, personnel, or executive authority to advance one side of a governance dispute rather than carry out lawful governmental functions may constitute gross neglect and misuse of office.

CHARGE VII - RETALIATORY AND UNAUTHORIZED USE OF PROSECUTORIAL POWER

71. President Small personally initiated the GableGotwals special-prosecutor relationship, announced the appointment, and supported criminal proceedings against members of the elected Council and others aligned against him. The prosecution-file demand, alleged retaliation against a prosecutor who refused executive access, displacement of the regular prosecutor, and criminal cases arising from the October 8 building

incident support the allegation that executive and prosecutorial machinery was used for retaliatory or political purposes. The Corey Spotted Elk evidence is especially material because, if true, it shows that President Small supported accusations concerning the power shutoff while knowing or having reason to know that the shutdown occurred at his own direction or request. The Scalpcane and Grinsell testimony provides a parallel allegation on the investigative side: after an NCIS investigator submitted an older case involving Chief Larry Medicine Bull to Tribal prosecution, management scrutiny and restrictions escalated and the investigator was deprived of keys, equipment, vehicle, firearm, phone, and laptop before resigning. If the Council finds that Small directed, ratified, or knowingly permitted those measures because the investigation concerned a political ally, that conduct further supports retaliatory or unauthorized use of executive and investigative power.

CHARGE VIII - SELECTIVE AND POLITICALLY DIRECTED USE OF AUDIT, INVESTIGATIVE, AND PROSECUTORIAL RESOURCES

72. President Small publicly promised that the special prosecutors would be independent and free from political influence. Complainant will present firsthand testimony from a participant who worked with the prosecutors that Small personally directed them to focus on the removed Council members and other selected persons, and that GableGotwals and BradyMartz thereafter worked together to vet those selected targets. The May 1 report itself refers to an identified-persons list and review of identified individuals. If proved, directing Tribal-funded lawyers, accountants, investigators, subpoenas, and prosecutorial resources toward a President-selected target list while representing the process as independent and evidence-led constitutes bad-faith exercise of office and gross neglect.

CHARGE IX - SELECTIVE OMISSION OF KNOWN MATTERS AND CONFLICTS FROM THE INVESTIGATIVE REVIEW

73. HAF Committee participants state that a disputed HAF transaction involving President Small's mother had been reported within Tribal government and referred for investigation or prosecution, yet the matter was not included in the GableGotwals report. This charge does not allege criminal wrongdoing by a family member. Rather, when considered with the testimony that President Small selected the investigative targets, the omission of a known family-associated matter while political opponents and other selected persons were scrutinized supports an inference of selective scope, conflict of interest, and failure to maintain an impartial investigative process.

CHARGE X - MISREPRESENTATION OF THE NATURE, SCOPE, AND INDEPENDENCE OF THE PURPORTED FORENSIC AUDIT

74. President Small repeatedly told the Tribal membership that a forensic audit was being performed and that the audit had produced findings. He publicly acknowledged that only the Tribal Council had authority to authorize the audit and that his role was to carry out Council action. The GableGotwals report, however, identifies itself as a special-prosecutor memorandum concerning potential criminal liability for identified Tribal members and is not the final independent BradyMartz audit authorized by the Council. If the Council finds that Small knowingly presented a targeted prosecution memorandum as the completed independent forensic audit, or materially overstated what it proved, the conduct implicates the Code of Ethics prohibition on materially harmful false official statements and may constitute gross neglect.

CHARGE XI - PUBLIC RELEASE AND POLITICAL USE OF CONFIDENTIAL, NONFINAL INVESTIGATIVE MATERIAL

75. The May 1 GableGotwals report identifies itself as confidential attorney work product, says public distribution should be coordinated with the Special Prosecutors, states that it is incomplete and non-exhaustive, and disclaims any finding of guilt. President Small nevertheless publicly announced that he believed it necessary to release the report even though he did not know the status of FBI and OIG investigations, and he tied its publication to whether the elected Council should be allowed back into office. If proved, using confidential, nonfinal prosecutorial material to influence the membership and justify excluding elected officials constitutes bad-faith exercise of office and gross neglect.

CHARGE XII - DISCLOSURE OF SENSITIVE TRIBAL INFORMATION, INCLUDING INFORMATION CONCERNING MINORS AND FINANCIAL ACCOUNTS

76. The publicly released report contains names and dates of birth of minors, images of Tribal checks and financial account identifiers, individual assistance information, and other sensitive personal and governmental data. President Small also separately disclosed or used HAF assistance information in public communications about named officials. Causing or authorizing public release of such material without adequate redaction or lawful governmental necessity may violate the duty to protect Tribal information and supports a finding of gross neglect; to the extent the constitutional elements are established, it may also implicate the Code of Ethics provisions concerning confidential information and official statements.

CHARGE XIII - UNAUTHORIZED LEGAL CONTRACTING AND EXPENDITURE OF TRIBAL FUNDS

77. The Constitution places retention of legal counsel, fixing of counsel fees, and expenditure of Tribal funds within the Tribal Council's authority. President Small personally initiated and signed outside-counsel and special-prosecutor engagements, including GableGotwals, before lawful authorization by the elected Council, and disputed bodies later purported to authorize substantial payments. The Cedar Tree engagement and related payment records present similar authorization questions. Entering or implementing legal engagements, approving invoices, or causing payment outside lawful Council authorization and required approval constitutes usurpation of Council power and may constitute failure to perform assigned duties and gross neglect. Kristi Killsnight further states that at least one GableGotwals payment was made from the Water Settlement account and that BradyMartz and J.D. Teeling expenses were paid from LATCF funds, adding a separate question whether even otherwise payable professional-services expenses were charged against legally restricted or unauthorized funding sources.

CHARGE XIV - UNAUTHORIZED DEPLETION, DIVERSION, AND EXPENDITURE OF RESTRICTED TRIBAL FUNDS

78. Kristi Killsnight states that during the period in which President Small and the replacement Council exercised control over Tribal administration, approximately $1.7 million was depleted from a Water Settlement account and approximately $291,000 was spent from a General Fund Restricted account while ordinary BIA draws were unavailable because valid budget and expenditure resolutions from the lawful Tribal Council were not in place. She states that the Water Settlement account was restricted principally to water-system, land-acquisition, and related authorized purposes, yet was used to support general operations and to pay at least one GableGotwals expense; and that the General Fund Restricted account contained dedicated program and district revenues that were used to sustain operations without lawful Council authorization. She further identifies BradyMartz and J.D. Teeling payments from LATCF funds as transactions whose funding source, in her understanding, was not authorized for those purposes. If the Council finds that President Small directed, approved, knowingly permitted, or caused restricted Tribal funds to be spent outside their authorized purposes or without the resolutions required by Article IV, Section 1(f), particularly to finance the disputed replacement government or the President-directed investigative effort, that conduct constitutes usurpation of the Tribal Council's exclusive fiscal authority, failure to safeguard Tribal assets, bad-faith exercise of office, and gross neglect under Article VII, Section 2. To the extent the evidence establishes that President Small knowingly allowed claims against restricted funds that he knew were improper, the conduct also implicates Bylaws Article VII, Section 2(f).

CHARGE XV - EXECUTIVE INTERFERENCE WITH THE JUDICIAL BRANCH AND PROSECUTORIAL INDEPENDENCE

79. President Small is alleged to have influenced or procured the termination of a Judicial Branch employee, sought to delay Council inquiry into court interference, demanded access to prosecution files, supported personnel action against a prosecutor who refused executive demands, and participated in efforts directed at the Chief Judge. These acts, together with the Chief Judge's January 20, 2026 written statement, support the allegation that the Executive Branch exercised or attempted to exercise authority belonging to the Judicial Branch in violation of Article XI. The Council should determine this charge on evidence linking the President personally to the challenged actions.

CHARGE XVI - ADMINISTRATIVE REMOVAL OF ELECTED OFFICIALS FROM PAYROLL, SYSTEMS, BANK ACCESS, AND GOVERNMENT FUNCTIONS WITHOUT CONSTITUTIONAL REMOVAL

80. The elected Council and appointed officials were offboarded from payroll and personnel systems, denied remote and bank access, denied records, and treated administratively as removed from office even though the August 18, 2026 judgment later held that the Council members had never been lawfully removed. President Small's own statements acknowledged that opposing officials had been cut off from bank and remote access. Implementing an extra-constitutional removal through administrative controls constitutes interference with the Legislative Branch and may constitute gross neglect.

CHARGE XVII - EXECUTIVE INTERFERENCE WITH NCIS, RETALIATION AGAINST INVESTIGATORS, AND POLITICAL LOYALTY REQUIREMENTS

81. President Small is alleged to have used or permitted executive authority over Northern Cheyenne Investigation Services to interfere with neutral investigative functions during the governance dispute. The evidence includes Small's direct order that Scalpcane and Grinsell leave the Little Wolf Capitol Building after they responded following a dispatch request while the elected Council was attempting to return; a subsequent warning concerning "unloyalty" that Small signed and then allegedly acknowledged he had not fully reviewed before signing; administrative changes removing Grinsell from the lead-investigator role and reducing his pay without a stated reason; directives requiring renewed confidentiality based on loyalty concerns and threatening termination for communication with elected Council members; and escalating restrictions on investigators after Grinsell submitted the Larry Medicine Bull matter to prosecution. If the Council finds that Small directed, ratified, or knowingly permitted Tribal investigators to be removed, disciplined, restricted, or deprived of equipment because they cooperated with the elected Council or pursued a case involving a political ally, that conduct constitutes bad-faith use of executive personnel authority, interference with investigative independence, failure to protect Tribal public-safety functions, and gross neglect under Article VII, Section 2.

CHARGE XVIII - UNAUTHORIZED TAKEOVER OF NORTHERN CHEYENNE TRIBAL SCHOOL GOVERNANCE AND CONTRACTUAL AUTHORITY

82. Torrey Davie states that a 2016 NCTS policy revision, ratified by Tribal Council action, established the governing process for the NCTS Board and displaced the older appointment framework on which President Small later relied. After Davie and others were purportedly removed from Tribal office, President Small allegedly used the obsolete policy manual to remove the NCTS Board, declare himself Board or Board Chair, provide the obsolete policy to persons working with the Bureau of Indian Education, and terminate NCTS legal advocate Dana Eagle Feathers and Superintendent Teresa McMakin despite asserted limits on his authority. If the policy documents, resolutions, termination letters, and testimony establish those facts, the conduct constitutes exercise of authority not assigned to the President, interference with the Tribal Council's governing authority, knowing or reckless use of an obsolete official document, and gross neglect.

CHARGE XIX - CONTINUED RELIANCE ON ACTS OF AN INVALID REPLACEMENT COUNCIL AFTER THE AUGUST 18, 2026 JUDGMENT

83. The replacement Council purported to adopt DOI-058 and DOI-059 concerning the 2026 election schedule and Voters Committee. The August 18 judgment held that the Chiefs' Declaration created no lawful vacancies and that the replacement election did not create a lawful Council. President Small nevertheless continued after that judgment to describe the replacement body as the 'current Tribal Council' and to implement its election actions while a stay had only been requested. If the judgment remained operative, continuing to rely on acts of a body judicially determined to lack authority, rather than permitting the elected Council to exercise the legislative power assigned to it, constitutes failure to execute the Court's ruling, interference with the Legislative Branch, and gross neglect.

CHARGE XX - ATTEMPTED SUSPENSION OF CONSTITUTIONAL GOVERNMENT

84. By signing Executive Orders 1-2025 and 2-2025, aligning executive power with the Chiefs' extra-constitutional declaration, recognizing replacement officials, supporting a special election to fill seats that had not lawfully become vacant, preventing the elected Council from returning to the Capitol, and continuing to rely on replacement-Council actions after the August 18 judgment, President Small allegedly attempted to disable the constitutional governing body and replace it with a government operating through authority not provided by the Constitution. The August 18 judgment that no lawful vacancies existed and that the special election was void gives this course of conduct direct constitutional significance.

CHARGE XXI - CUMULATIVE GROSS NEGLECT AND BREAKDOWN OF CONSTITUTIONAL GOVERNMENT

85. The Tribal Council may consider the cumulative effect of President Small's repeated refusal to convene meetings; interference with the Legislative and Judicial Branches; executive orders purporting to suspend the Council; September 12 interference and intimidation; alleged direction of the October 8 power shutoff; use of locks and administrative leave to prevent restoration of elected officials; interference with NCIS personnel and investigative functions; alleged political-loyalty restrictions on Tribal investigators; alleged retaliation and investigative interference connected to the Larry Medicine Bull matter; selective use of prosecutors and investigators; President-selected investigative targets; omission of known family-associated matters; disputed legal contracting; alleged depletion or diversion of restricted Water Settlement, General Fund Restricted, and LATCF funds without lawful Council authorization; release of confidential investigative material; public treatment of unproven allegations as established misconduct; removal of officials from payroll and systems; alleged takeover of NCTS governance; continued reliance on actions of the invalid replacement Council; and prolonged interruption of ordinary government operations. The Council may determine that a proven continuing pattern disabling constitutional government, compromising neutral investigative functions, and conditioning governmental service on political loyalty constitutes gross neglect under Article VII, Section 2 even if not every individual allegation is independently sufficient for removal.

REQUESTED PROCEDURE AND RELIEF

86. Accept this written and sworn Complaint and enter it in the official Tribal Council record.

87. Serve President Small with the complete complaint and supporting exhibits, provide reasonable notice of the hearing, and afford him a meaningful opportunity to be represented, present evidence, challenge adverse evidence as Tribal law permits, and be heard in his own defense.

88. Use a neutral presiding officer and parliamentarian, require disclosure of conflicts, and ensure that the hearing record clearly identifies the evidence received and the rulings made on each charge.

89. Direct preservation of all evidence relevant to the charges, including emails, text messages, social-media posts, security video, access logs, administrative-leave directives, keys and lock records, personnel and payroll records, bank-access records, contracts, invoices, resolutions, audit work papers, Water Settlement account statements and ledgers, General Fund Restricted account records, LATCF award and expenditure records, BIA draw requests and responses, transfer records, the identified-persons list, GableGotwals and BradyMartz communications, court records, and communications with prosecutors, attorneys, security, the Chiefs, the BIA, and financial institutions.

90. Make separate written findings on each charge, identifying whether the evidence proves failure to perform assigned duties, gross neglect, or both.

91. If, after the fair hearing required by Article VII, Section 2, at least eight members of the Tribal Council vote for removal, remove President Gene Small from office and proceed under Article VII, Section 4 concerning interim presidential authority and a special election to fill the vacancy.

PROPOSED EVIDENCE AND WITNESSES

The following categories are non-exhaustive and are intended to organize the hearing record. The complainant may supplement exhibits and witnesses consistent with the notice and fairness requirements of Article VII, Section 2. It is noted that President Gene Small has a access to all records and/or individuals that are employed by the Tribe in preparation of his defense.

Issue	Primary evidence	Likely witnesses
Extra-session obstruction	June 27, June 30, July 1, and August 11 requests; delivery records; agenda notices; minutes; President-office responses	Melissa Lonebear; Elmore Limberhand; signatory Council members; President-office staff
Executive Orders / suspension of Council	Signed Executive Orders 1-2025 and 2-2025; September Chiefs declaration; BIA received copies; implementing directives	Council Secretary; records custodian; BIA recipients; President Small
October 8 building incident	Time-stamped video; dispatch and body-camera records; access records; electrical-box key records; facilities logs; Corey Spotted Elk statement/testimony; Howard Ontiveros evidence; affidavits; charging documents	Corey Spotted Elk; Howard Ontiveros; Ryhal/Rhyal Rowland; Peter Rodrigues; Cordell Anthony; Dana Eagle Feathers; Melissa Fisher; facilities/security staff; Darrell Medicine Bull; Reuben Roundstone
Repeated lockdowns after court orders	April-May 2026 orders; August 18 and September 4 orders; lockdown directives; door/access logs; photographs; video; security instructions	Melissa Lonebear; Melissa Fisher; Council members; facilities, security, IT and court personnel
Administrative leave used during lockdowns	Administrative-leave memoranda/emails; payroll records; employee notices; reopening instructions; security communications	Employees assigned to Little Wolf Capitol; HR staff; President-office staff; payroll personnel
President Small public statements	June 1, August 19, September 5 and other Facebook videos/posts; preserved video and metadata; transcripts	President Small; communications staff; records custodian; persons who preserved the posts
GableGotwals engagement and appointment	November 2025 engagement; December 23 appointment announcement; Shores statement; oath/appointment records; invoices	Trent Shores; Hillary Stuart; Ryan Heatherman; President Small; Finance/contracting staff
President-selected target list	Original identified-persons list.	Witness who worked directly with prosecutors and President's Office; President Small; Trent Shores; Hillary Stuart; GableGotwals personnel; BradyMartz personnel; Finance staff
May 1, 2026 GableGotwals report	Complete unredacted original; distribution list; report metadata; supporting prosecution memorandum and attachments	Trent Shores; Hillary Stuart; GableGotwals records custodian
Forensic-audit scope and representations	DOI-100; DOI-122; BradyMartz engagement/scope; BradyMartz work product; public statements describing the audit; May 1 report	BradyMartz personnel; Treasurer; Council members; President Small
Confidentiality and public release of report	Report confidentiality language; emails authorizing or discussing disclosure; August 19 post; website/Facebook posting records	President Small; GableGotwals personnel; communications/IT staff; records custodian
Sensitive information disclosed	Publicly released PDF; redacted comparison copy; minors information; check/account images; HAF /assistance data	Records custodian; HAF personnel; Finance personnel; affected individuals
PPCD targeting	PPCD section of report; target-list communications; subpoenas; PPCD records requests; Gene Small communications; comparison of persons/entities selected for review	Target-selection witness; Sharon Small; GableGotwals personnel; PPCD and Morning Star custodians

Issue	Primary evidence	Likely witnesses
Prosecutor-file demand and retaliation	Written file demand; email/access logs; demotion/probation records; personnel actions	Acting prosecutor; Elmore Limberhand; HR and prosecution-office custodians
Judicial-branch interference	January 20, 2026 Chief Judge statement; court personnel records; communications with President; termination records	Chief Judge Curtis Elkshoulder, Jr.; affected court employee; Elmore Limberhand; court administrators
HAF / confidential public disclosures	Original Facebook posts; HAF confidentiality rules; underlying benefit records; metadata	HAF staff; records custodian; Melissa Lonebear; affected officials
Council offboarding and payroll removal	EANs; personnel-system audit logs; final checks; exit forms; written directives; payroll packets	Ryhal/Rhyal Rowland; Denise Swank; Torrey/Tory Davey; payroll and HR personnel
Bank and remote-access cutoff	Bank correspondence; online-access audit logs; signatory records; December 2025 public statement	Finance Director; Treasurer; bank representatives; IT staff; President Small
Restricted-fund depletion and funding-source selection	Kristi Killsnight statement; Water Settlement account statements and ledgers; General Fund Restricted account ledgers; LATCF award terms and expenditure records; BIA draw requests and denials; valid and disputed budget/expenditure resolutions; GableGotwals, BradyMartz, and J.D. Teelinginvoices and payment vouchers; transfer records; general ledger and bank records	Kristi Killsnight; Kayla Russell; Ruthie Big Left Hand; Terrance Limpy; Treasurer and Finance personnel; BIA/OST personnel; accounts-payable staff; President Small
Security contracts and conflicts	Wolf Soldier Security contract; procurement file; invoices/payments; scope; conflict disclosures	John Grinsell; Reuben Roundstone; President Small; procurement and Finance staff
Outside-counsel expenditures	GableGotwals and Cedar Tree engagements; DOI-023/024; DOI-072; invoices; payment vouchers; BIA approval records	Finance personnel; BIA officials; counsel billing custodians; President Small
Governmental impact	Cancelled meetings; denied access; payroll and program disruptions; finance correspondence; service interruptions	Secretary; Treasurer; Finance Director; program directors; BIA officials; Council members
September 12, 2025 Council-office incident	Video and photographs; 911/dispatch records; Council-office connectivity and equipment records; Reuben Roundstone communications; Velma Fisher statement/complaint; witness statements; security/police records	Melissa Lonebear; Torrey Davie; Velma Fisher; Melissa Fisher; Howard Ontiveros; Ryhal/Rhyal Rowland; Reuben Roundstone; Council and Finance witnesses; responding officers
Corey Spotted Elk power-shutoff evidence	Corey Spotted Elk statement/testimony; electrical-box key records; maintenance records; October 8 video; charging documents; Howard Ontiveros evidence; communications involving President Small, Darrell Medicine Bull, and Reuben Roundstone	Corey Spotted Elk; Howard Ontiveros; Darrell Medicine Bull; Reuben Roundstone; maintenance director; President Small; investigating/prosecuting personnel
HAF matter omitted from targeted report	HAF Committee minutes/records; application and payment records; committee referrals; prosecution or NCIS referral materials; BradyMartz/GableGotwals scope and report; target-selection communications	HAF Committee members; Sandy Bruised Head; Melissa Lonebear; Torrey Davie; Melissa Fisher; Finance/HAF custodians; GableGotwals/BradyMartz personnel

HAF matter omitted from targeted report	HAF Committee minutes/records; application and payment records; committee referrals; prosecution or NCIS referral materials; BradyMartz/GableGotwals scope and report; target-selection communications	HAF Committee members; Sandy Bruised Head; Melissa Lonebear; Torre Davie; Melissa Fisher; Finance/HAF custodians; GableGotwals/BradyMartz personnel
NCTS governance and terminations	2016 amended NCTS policy manual; prior policy manual; Tribal Council ratifying resolution; BIA/BIE recognition or approval records; President Small board-chair declaration; Dana Eagle Feathers termination; Teresa McMakin termination; Rachel Soldier Wolf correspondence; NCTS contracts and board records	Torrey Davie; Dana Eagle Feathers; Teresa McMakin; former NCTS Board members; Rachel Soldier Wolf; BIE personnel; President Small; NCTS records custodian
DOI-058 / DOI-059 and post-August 18 election actions	August 18, 2026 judgment; DOI-058; DOI-059; September 7, 2026 President Small post; September 8 election agenda/resolutions; election notices and implementation directives	Council Secretary; Election/Voters Committee personnel; Melissa Lonebea President Small; records custodian; BL recipients
Council discussion	Individual statements	Torrey Davie; Melissa Lonebear; Lorenzo Roanbear
NCIS interference, loyalty directives, and Larry Medicine Bull investigation	Tiger Scalpcane statement; Bobby Grinsell statement; dispatch records; FBI/BIA communications; warning concerning "unloyalty"; NCIS leadership/demotion and payroll records; Carolyn Brady appointment/training and certification records; confidentiality/loyalty directives; Larry Medicine Bull case-submission and chain-of-custody records; case-file access logs; key, firearm, vehicle, phone, laptop and equipment records; resignation records; related emails and text messages	August "Tiger" Scalpcane; Robert "Bobby" Grinsell; Carolyn Brady; Denise Swank; Rachel Soldier Wolf; Virgil Weasel Bear; Peter Rodriguez; relevant NCIS, BIA, FBI and prosecution personnel; President Smal

VERIFICATION

I, Melissa Lonebear, declare under penalty of perjury under the laws of the Northern Cheyenne Tribe that I have read this Sworn Complaint for Removal of President Gene Small; that the matters stated from my personal knowledge are true and correct; and that matters stated on information and belief are believed by me to be true. I understand that this complaint initiates a removal process in which President Gene Small must receive the fair opportunity to be heard required by Article VII, Section 2.

DATED this 11th day of September, 2026.

Melissa Lonebear, Complainant

SUBSCRIBED AND SWORN before me this 11th day of September, 2026.

Notary Public / Authorized Tribal Official
My commission or authority expires: May 25, 2030

AMY M. OLD MOUSE NOTARIAL SEAL STATE OF MONTANA

AMY M. OLD MOUSE
NOTARY PUBLIC
for the State of Montana
Residing at Busby, Montana
My Commission Expires
May 25, 2030

VERIFICATION

I, Ryhal Rowland, declare under penalty of perjury under the laws of the Northern Cheyenne Tribe that I have read this Sworn Complaint for Removal of President Gene Small; that the matters stated from my personal knowledge are true and correct; and that matters stated on information and belief are believed by me to be true. I

understand that this complaint initiates a removal process in which President Gene Small must receive the fair opportunity to be heard required by Article VII, Section 2.

DATED this 11th day of September, 2026.

Ryhal Rowland, Complainant

SUBSCRIBED AND SWORN before me this 11th day of September, 2026.

Notary Public / Authorized Tribal Official
My commission or authority expires: May 25, 2030

AMY M. OLD MOUSE
NOTARY PUBLIC
for the State of Montana
Residing at Busby, Montana
My Commission Expires
May 25, 2030

EXHIBIT F

Hearing Officer Findings

Summary of Evidence and Conclusions

Introduction

This document presents the findings of the Hearing Officer following a thorough review of all exhibits, witness testimony, and documentation submitted in relation to Hearing Number 001-2026, as authorized by Resolution No. DOI-009 (2026). The purpose of these findings is to provide a clear, factual, and unbiased summary of the case, the issues presented, and the rationale for final determination.

Procedural Background

A closed hearing was scheduled to be conducted on September 30, 2026, at 9:00AM, at the Little Wolf Capital Building Tribal Chambers, in accordance with the applicable rules and procedures outlined in Resolution No. DOI-009 (2026). However, when the duly elected Tribal Council and Hearing Officer arrived at the Tribal Chambers, there were numerous individuals present in the Tribal Chambers. The Respondent, Gene Small-Tribal President, was also present. When the Sergeant at Arms, Melissa Fisher, announced that the hearing was a closed hearing and everyone had to clear the Tribal Chambers chaos erupted. The duly elected Tribal Council and Hearing Officer vacated the building for safety purposes. The duly elected Tribal Council and Hearing Officer attempted a second time to conduct the hearing at the Little Wolf Capital Building Tribal Chambers; the Respondent, Gene Small-Tribal President, was advised we were returning to conduct the hearing (in the Tribal Chambers). However, upon our arrival, the entrance doors to the Little Wolf Capital Building were locked. The BIA Law Enforcement tried to negotiate entrance of the duly elected Tribal Council, to no avail. The Hearing Officer advised the hearing will be moved to the alternate location (160 South Cheyenne Ave.), as described in the Order Rescheduling Hearing and Setting Prehearing Submission Deadline dated September 25, 2026. The Respondent, Gene Small-Tribal President, was notified via text and email that the hearing will be held at the alternate location at noon. All parties were provided with adequate notice of the hearing, had the opportunity to present exhibits and witness testimony, provide rebuttals, and make statements in support of their positions.

Summary of Evidence

- Sworn Complaint was reviewed and entered into the record.

Exhibit P

- All exhibits submitted timely by the Complaintants, Melissa Lonebear-Northern Cheyenne Tribal Council and Ryhal Rowland-Northern Cheyenne Tribal Employee, were entered into the record.
- The Complainant's Case in Chief, Steve Kelly, presented relevant documentary exhibits and testimony was provided by seven (7) witnesses.
- All witnesses were sworn in prior to providing testimony; testimony of all witnesses was entered into the record.
- The Complainant, Ryhal Rowland-Northern Cheyenne Tribal Employee, provided a closing statement.
- The Respondent, Gene Small-Tribal President, failed to appear at the hearing.

Finding of Fact

1. Established procedural requirements were met and the hearing was conducted fairly and impartially.
2. A Request for Documents supporting the Sworn Complaint for Removal was issued to the Respondent, Gene Small-Tribal President, dated September 22, 2026; the Respondent, Gene Small-Tribal President, issued a response dated September 25, 2026, which indicated he will not respond to the Request for Production. The Respondent, Gene Small-Tribal President, issued another response to Request for Documents supporting Sworn Complaint for Removal dated September 30, 2026 (was received by Tribal Secretary on September 29, 2026), again, indicating he would not respond to the Request for Production. This document also indicated he was ready to proceed with the removal hearing on Wednesday, September 30, 2026.
3. Witness testimony and documentary exhibits presented by Steve Kelly, Case in Chief, for the Complainant's, Melissa Lonebear-Northern Cheyenne Tribal Council and Ryhal Rowland-Northern Cheyenne Tribal Employee were credible and relevant for 20 of the 21 charges as contained in the Sworn Complaint: CHARGE I – FAILURE TO CONVENE AND SUPPORT LAWFUL COUNCIL SESSIONS; CHARGE II – INTERFERENCE WITH AND USURPATION OF THE LEGISLATIVE BRANCH; CHARGE III – REPEATED LOCKDOWNS AND USE OF ADMINISTRATIVE LEAVE TO PREVENT THE ELECTED COUNCIL FROM WORKING; CHARGE IV – FAILURE TO EXECUTE COURT ORDERS AND SELECTIVE RECOGNITION OF JUDICIAL AUTHORITY; CHARGE V – SEPTEMBER 12, 2025, INTERFERENCE, INTIMIDATION, AND OBSTRUCTION OF COUNCIL BUSINESS; CHARGE VI – MISUSE OF SECURITY, FACILITIES, PROPERTY, POWER CONTROLS, AND TRIBAL PERSONNEL; CHARGE VII – RETALIATORY AND UNAUTHORIZED USE OF PROSECUTORIAL POWER; CHARGE VIII – SELECTIVE AND POLITICALLY DIRECTED USE OF AUDIT, INVESTIGATIVE, AND PROSECUTORIAL RESOURCE; CHARGE X – MISREPRESENTATION OF THE NATURE,

SCOPE, AND INDEPENDENCE OF THE PURPORTED FORENSIC AUDIT; CHARGE XI – PUBLIC RELEASE AND POLITICAL USE OF CONFIDENTIAL, NON-FINAL INVESTIGATIVE MATERIAL; CHARGE XII – DISCLOSURE OF SENSITIVE TRIBAL INFORMATION, INCLUDING INFORMATION CONCERNING MINORS AND FINANCIAL ACCOUNTS; CHARGE XIII – UNAUTHORIZED LEGAL CONTRACTING AND EXPENDITURE OF TRIBAL FUNDS; CHARGE XIV – UNAUTHORIZED DEPLETION, DIVERSION, AND EXPENDITURE OF RESTRICTED TRIBAL FUNDS; CHARGE XV – EXECUTIVE INTERFERENCE WITH THE JUDICIAL BRANCH AND PROSECUTORIAL INDEPENDENCE; CHARGE XVI – ADMINISTRATIVE REMOVAL OF ELECTED OFFICIALS FROM PAYROLL, SYSTEMS, BANK ACCESS, AND GOVERNMENT FUNCTIONS WITHOUT CONSTITUTIONAL REMOVAL; CHARGE XVII – EXECUTIVE INTERFERENCE WITH NCIS, RETALIATION AGAINST INVESTIGATIONS, AND POLICIAL LOYALTY REQUIREMENTS; CHARGE XVIII – UNAUTHORIZED TAKEOVER OF NORTHERN CHEYENNE TRIBAL SCHOOL GOVERNANCE AND CONTRACTURAL AUTHORITY; CHARGE XIX – CONTINUED RELIANCE ON ACTS OF AN INVALID REPLACEMENT COUNCIL AFTER THE AUGUST 18, 2026, JUDGEMENT; CHARGE XX – ATTEMPTED SUSPENSION OF CONSTITUTIONAL GOVERNMENT; CHARGE XXI – CUMULATIVE GROSS NEGLECT AND BREAKDOWN OF CONSITUTIONAL GOVERNMENT.

4. Documentary exhibits or witness testimony were not available to support the charge: CHARGE IX-SELECTIVE OMISSION OF KNOWN MATTERS AND CONFLICTS FROM THE INVESTIGATIVE REVIEW.
5. Neither documentary exhibits nor a witness list was submitted by Respondent, Gene Small-Tribal President.
6. The Respondent, Gene Small-Tribal President, failed to appear at the hearing.

Conclusions

Based on the findings of fact and the analysis above, the Hearing Officer concludes that:

- The Respondent, Gene Small-Tribal President, was provided with the Sworn Complaint, documentary exhibits, witness list, and documentation on the proceedings of the hearing. He failed to appear at the hearing.
- The Respondent, Gene Small-Tribal President, did not submit documentary exhibits or witness list in response to the charges identified in the Sworn Complaint.
- The witness testimonies and exhibits presented during the hearing support the claims made by the Complainant's, Melissa Lonebear- Northern Cheyenne Tribal Council and Ryhal Rowland-Northern Cheyenne Tribal Employee, for 20 of 21 Charges, as identified in Finding of Fact, 3.

- Insufficient documentary exhibits or witness testimony were not available to support one of the Charges, as identified in Finding of Fact, 4.
- Hearing was completed at 7:17 PM on September 30, 2026, and is now considered closed.

Certification

These findings are issued on this date, 10/02/2026, by the undersigned Hearing Officer.



Jeromena Beartusk,
Hearing Officer

EXHIBIT G

BEFORE THE NORTHERN CHEYENNE TRIBAL COUNCIL
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

MELISSA LONEBEAR, RYHAL ROWLAND
Complainants

v.

GENE SMALL,
Respondent.

ORDER RESCHEDULING HEARING AND SETTING PREHEARING SUBMISSION DEADLINE

The Hearing Officer, having considered the need to reschedule the hearing in this matter based upon the present circumstances at the Little Wolf Capitol Building and hereby ORDERS:

1. **Hearing date.** The hearing is rescheduled to Wednesday, September 30, 2026, at 9:00 a.m..
2. **Hearing location.** The hearing shall be held at the Little Wolf Capitol Building, provided the Tribal Council has access to the building on the hearing date. If the Tribal Council does not have access to the Little Wolf Capitol Building, the hearing shall be held at 160 South Cheyenne Ave., Lame Deer.
3. **Exchange of exhibits and witness lists.** No later than 5:00 p.m. on Monday, September 28, 2026, each party shall deliver to the Tribal Secretary:

   a. Copies of the documentary exhibits the party reasonably expects to offer in its case-in-chief or defense; and

   b. A list identifying the witnesses the party reasonably expects to call in its case-in-chief or defense.
4. **Service on opposing party.** At the same time, each party shall provide the opposing party with copies of its documentary exhibits and witness list.

SO ORDERED.

DATED: September 25, 2026

Hearing Officer

Exhibit G

CERTIFICATE OF SERVICE

This is to certify that on the date and time stated below, I served the attached: (mark one)

_____ Motion
_____ Response/Answer
_____ Notice of Appearance
_____ Request
__X__ Other: ORDER Rescheduling hearing & setting prehearing submission deadline

Upon: (mark one)

_____ The Prosecutor: _____

_____ Name of Person: _____

_____ Name of Program/Business: _____

__X__ **Personally serve at:** email → gene.small@cheyennenation.com
(describe location below)

Or by: (mark one)

__X__ **Regular 1st Class Mail:** ~~PO BOX 128~~ + PO BOX 1694
Mailing/Physical address

Lame Deer MT 59043
City State Zip Code

_____ **Certified Mail:** _____
Mailing/Physical address

_____
City State Zip Code

Date: 9/25/2024 Time: VS Mail @ 3:53pm

Signature: Ryhal Rauland emailed @ 3:59pm

EXHIBIT H

BEFORE THE NORTHERN CHEYENNE TRIBAL COUNCIL
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

MELISSA LONEBEAR and RYHAL ROWLAND,
Complainants,

v.

GENE SMALL,
Respondent.

COMPLAINANTS' PREHEARING WITNESS AND EXHIBIT DISCLOSURE

For the hearing scheduled for Wednesday, September 30, 2026, at 9:00 a.m.

Complainants Melissa Lonebear and Ryhal Rowland submit this disclosure under Resolution No. DOI-009 (2026) and the Hearing Officer's Order Rescheduling Hearing and Setting Prehearing Submission Deadline. This disclosure identifies the witnesses and documentary exhibits Complainants reasonably expect to use in their case-in-chief. It does not represent that every listed item is presently available or authenticated; Complainants will offer an item only if it is obtained, relevant, and properly supported.

I. Delivery and Exchange

By 5:00 p.m. on Monday, September 28, 2026, Complainants shall deliver to the Tribal Secretary:

1. This witness list;
2. Copies of the documentary exhibits Complainants reasonably expect to offer in their case-in-chief; and

At the same time, Complainants shall provide the same materials to President Gene Small or his representative. Complainants should keep proof of both deliveries.

The governing resolution requires advance delivery to the Tribal Secretary and makes the material available to the opposing party. The later Hearing Officer order expressly requires service on the opposing party at the same time. Evidence offered solely in response to evidence first presented at the hearing need not be disclosed in advance under the resolution; any later-disclosed evidence remains subject to the Hearing Officer's directions and applicable fairness requirements.

II. Witness List

The witnesses below are listed because the complaint identifies them as having potentially relevant personal knowledge, records, or testimony. Complainants should remove any person

Exhibit H

they do not reasonably expect to call, and should correct names, titles, and contact information where needed.

A. Witnesses Complainants presently expect to call

1. **Melissa Lonebear, Complainant.** Expected testimony concerning her personal observations and participation; Council access and meetings; extra-session requests and related communications; the lockdowns and their effects on Council work; and other matters within her personal knowledge.

2. **Ryhal Rowland, Complainant.** Expected testimony concerning matters within personal knowledge, including the October 8, 2025 events, video or other records personally observed or preserved, and the effects of Council exclusion on governmental work.

3. **Melissa Fisher.** Expected testimony concerning her personal observations and participation; Council access and meetings; extra-session requests and related communications; the lockdowns and their effects on Council work; and other matters within her personal knowledge.

4. **Elmore Limberhand III, Tribal Advocate.** Expected testimony concerning his work as advocate for the elected Council; the June 27, July 1, and August 11, 2025 extra-session requests; delivery, receipt, and follow-up communications; efforts to obtain President Small's acknowledgment or participation; and communications concerning alleged interference with the Tribal Court and prosecutorial functions. He may also testify about the reported request for prosecution files and case dispositions and the reported personnel action against an acting prosecutor. For matters not personally observed by Mr. Limberhand, Complainants will identify the source and, where appropriate, call the person with firsthand knowledge or offer authenticated records.

5. **Corey Spotted Elk, former Wolf Soldier Security guard.** Expected testimony concerning the October 8, 2025 building incident, including the discussion about shutting off the lights, the direction he recalls receiving, his actions at the electrical panel, the keys, and what he observed concerning the restoration of power. His written statement and interview contain differing accounts; Complainants will rely on his testimony and the original recording or statement, as available, and will not treat inconsistencies as resolved without examination.

6. **Dana Eaglefeathers.** Expected testimony, if based on personal knowledge, concerning the October 8, 2025 incident and any relevant events involving Tribal facilities, the Chiefs and societies, and/or the Northern Cheyenne Tribal School.

7. **Chief Judge Curtis Elkshoulder, Jr.** Expected testimony concerning the January 20, 2026 "Constitutional Crisis Email," the communications and events described in it, and

any alleged executive interference with the Judicial Branch within his personal knowledge.

8. **Kristi Killsnight.** Expected testimony concerning her personal knowledge of Finance operations, account structure, restricted-fund balances, and the records or sources supporting her knowledge. Any balance, expenditure, or funding-source claim should also be supported by original financial records and, where needed, the appropriate custodian.

9. **August "Tiger" Scalpcane.** Expected testimony concerning his own observations and communications involving Northern Cheyenne Investigation Services, including the Council-access event, the alleged direction to leave the Capitol, and any personnel or investigative restrictions he personally experienced or observed.

10. **Robert "Bobby" Grinsell.** Expected testimony concerning his own communications, personnel actions, investigative duties, and the Larry Medicine Bull investigation, to the extent based on personal knowledge.

11. **Torrey Davie.** Expected testimony, if based on personal knowledge, concerning Northern Cheyenne Tribal School governance documents, the 2016 policy changes and related Council action, and subsequent actions involving the school board or school personnel.

12. **Theresa McMakin.** Expected testimony concerning her September 2025 work assignment, the Finance-area incident, accusations that she was taking records, her departure from the building, and her later termination. She has stated she had no personal interaction with President Small; Complainants will not offer her as a witness to prove that he personally directed the accusations, police response, or termination.

B. Additional witnesses Complainants may call if needed

The following witnesses are identified in the complaint as having potentially relevant firsthand knowledge or records. Complainants expect to call them only if the evidence they can provide is material, available, and not needlessly cumulative:

12. **Council members** who signed or participated in the extra-session requests, including any member with personal knowledge of delivery, follow-up, meetings, or President Small's response.

13. **Edina Red Star and Alicia Cano,** Tribal Secretary, and the appropriate Council-records custodian. Expected testimony concerning receipt and maintenance of Council requests, minutes, resolutions, notices, and hearing records.

14. Finance, payroll, Human Resources, and information-technology custodians, including personnel with firsthand knowledge of Council-member payroll, personnel-system, email, bank-access, or building-access changes.

15. The building, facilities, security, dispatch, and law-enforcement witnesses with firsthand knowledge of the October 8 incident or later access restrictions, including Daryl Medicine Bull, Reuben Roundstone, Howard Ontiveros, Peter Rodriguez, and Cordell Anthony, if they have relevant personal knowledge.

16. The custodian of the GableGotwals, BradyMartz, Cedar Tree, and Wolf Soldier Security contracting and payment records, and any Finance or procurement witness needed to explain authorization, invoices, funding source, and payment.

17. **Larenzo Roanbear.** Expected testimony, if based on personal knowledge, concerning the selection of investigative targets, communications with prosecutors, and the scope or direction of the review.

18. HAF, PPCD, Northern Cheyenne Tribal School, BIA/BIE, or other program personnel with firsthand knowledge necessary to authenticate particular records or explain applicable policies. Identify each intended witness by full name and role before filing.

Complainants reserve the right to call a witness solely to authenticate or explain a document, subject to the Hearing Officer's control of the proceedings and any applicable notice requirements. This is not a representation that every person in the conditional list will be called.

III. Exhibit List

Instructions: Insert the actual documents being delivered, assign each exhibit a number, and remove any item that is unavailable or will not be offered. Do not list a document merely because the complaint requests it or because it may exist. Preserve original electronic files and metadata where available. Redact sensitive personal information only as permitted by the Hearing Officer, and seek direction before offering confidential, privileged, or protected information.

Proposed exhibit	Document to include, if available and intended for use	Principal issue
C-1	Northern Cheyenne Constitution and Bylaws, including Article VII, Article XI, Bylaws Article I, and Code of Ethics	Governing duties, removal standard, ethics provisions, and separation of powers
C-2	Resolution No. DOI-009 (2026), including the hearing procedures and disclosure requirements	Hearing procedure and witness/exhibit exchange
C-3	Hearing Officer's order rescheduling the hearing and setting the September 28 disclosure deadline	Hearing date, location, and exchange obligations
C-4	June 27, July 1, and August 11, 2025 extra-session requests, plus proof of delivery, receipt,	Alleged failure to convene or facilitate Council sessions.

	and responses	**Requested but not received from President Small.**
C-5	Relevant Council agendas, minutes, notices, attendance records, and records of the August executive session	Council proceedings and President Small's participation or departure. **Requested but not received from President Small.**
C-6	Executive Order Nos. 1-2025 and 2-2025, including available originals and distribution records	Alleged suspension or displacement of the elected Council. **Requested but not received from President Small.**
C-7	The September 10, 2025 declaration referenced in the complaint, if relevant and authenticated	Events surrounding the claimed displacement of Council members. **Requested but not received from President Small.**
C-8	Certified Tribal Court orders in Cause No. C2026-079.A, including the August 18 and September 4, 2026 orders	Council status, building access, and obligations imposed by the Court
C-9	The Declaration	Invalid
C-10	January 20, 2026 "Constitutional Crisis Email," with complete headers, attachments, and related communications	Alleged Judicial Branch interference.
C-11	Written requests for prosecution files or case dispositions and related emails or access records, if obtained	Alleged executive demand for prosecutorial records. **Requested but not received from President Small.**
C-12	Relevant prosecutor appointment, contract, invoice, payment, and personnel-action records, if obtained	Prosecutorial authority, contracting, and alleged retaliation. **Requested but not received from President Small.**
C-13	Relevant building-access directives, security instructions, access logs, photographs, or video concerning the alleged post-order lockdowns	Access restrictions and implementation of court orders. **Requested but not received from President Small.**

C-14	Administrative-leave notices, related payroll records, and communications concerning building closures.	Alleged use of administrative leave during access restrictions. **Requested but not received from President Small.**
C-15	Authenticated original public statements or posts specifically relied upon in the complaint, with dates, URLs or source information, and available metadata	Public statements and any alleged use or disclosure of information. **Requested but not received from President Small.**
C-16	The May 1, 2026 GableGotwals report, with the version and source clearly identified, if Complainants intend to offer it	Scope, disclaimers, target-list references, and alleged public use.
C-17	Relevant Council resolutions and contracts concerning outside counsel, special prosecutors, forensic accounting, or security, including DOI-023, DOI-024, DOI-072, DOI-100, or DOI-122 if they are relied upon	Council authorization and scope of engagements.
C-18	Invoices, vouchers, ledger entries, bank statements, BIA approvals, and reimbursement records for any expenditures.	Authorization, payment, and funding source. **Requested but not received from President Small.**
C-19	Water Settlement and General Fund Restricted account records, and LATCF award terms and expenditure records, if obtained and relied upon	Alleged restricted-fund use. **Requested but not received from President Small.**
C-20	Payroll, personnel-system, EAN, bank-access, email, and IT audit records concerning elected officials, if obtained	Alleged administrative offboarding or denial of access. **Requested but not received from President Small.**
C-21	Relevant NCIS warning, personnel, leadership, equipment, and case-file records, if obtained	Alleged interference with investigators or retaliation. **Requested but not received from President Small.**
C-22	The 2016 Northern Cheyenne Tribal School governing documents	Alleged school-governance actions

Proposed attachments not offered as proof unless adopted and supported

EXHIBIT I

BEFORE THE NORTHERN CHEYENNE TRIBAL COUNCIL
NORTHERN CHEYENNE RESERVATION
LAME DEER, MONTANA

MELISSA LONEBEAR and RYHAL ROWLAND,
Complainants,

v.

GENE SMALL, President of the Northern Cheyenne Tribe,
Respondent.

ENTRY OF APPEARANCE OF STEVE KELLY AS COMPLAINANTS' REPRESENTATIVE

Steven A. Kelly enters his appearance as the representative of Complainants Melissa Lonebear and Ryhal Rowland in this removal proceeding against President Gene Small. Mr. Kelly appears as a representative authorized to practice before the Northern Cheyenne Tribal Court.

Please direct notices and communications concerning the presentation of Complainants' case to Mr. Kelly using the contact information below. Complainants remain parties and retain responsibility for their claims, testimony, and submissions.

Respectfully submitted on this 29th day of September, 2026.

Steven A. Kelly
Representative for Complainants
1101 47th Ave. S.W.
Minot, ND 58701
701 421 7930
Steve.kelly@trustlandllc.com

CERTIFICATE OF SERVICE

I certify that on September 29th, 2026, I delivered a copy of this Entry of Appearance to:

Tribal Secretary Alicia Canno by Personal Delivery; and

President Gene Small by e-mail at: Gene.Small@Cheyennenation.com

Steve Kelly

Exhibit I

EXHIBIT J

-WOHEHIV-
The Morning Star

NORTHERN CHEYENNE TRIBE
ADMINISTRATION
P.O. BOX 128
LAME DEER, MONTANA 59043
(406) 477-6284
FAX (406) 477-6210

-WOHEHIV-
The Morning Star

September 25, 2026

To: Melissa Lonebear and Ryhal Rowland

From: Gene Small, President of the Northern Cheyenne Tribe

Re: Request for Documents supporting the Sworn Complaint for Removal

I am in receipt of your 11-page September 22, 2026 Request for Documents Supporting the Sworn Complaint for Removal. In your Request, you have asked me to produce documents that are relevant to whether you can prove the substance of your Complaint for Removal against me.

Neither Article VII, Sections 2 or 3 of the Northern Cheyenne Constitution and Bylaws nor the claimed due process requirements applicable to the removal proceeding require me to provide evidence to support my removal. Therefore, I will not respond to your Requests for Production.

The due process requirement outlined in Article VII, Section 2 is a right that belongs to me, not to those attempting to remove me as complainants, witnesses, judges, and rule makers for such hearing. I do not admit the allegations in the complaint for removal solely because I refuse to provide you alleged evidence to support your complaint for removal.

I am ready to proceed with a removal hearing on Monday, September 28, 2026, beginning at 9:00 a.m. in the Tribal Council Chambers at the Little Wolf Capitol Building.

Thank You,

Gene Small, President of the Northern Cheyenne Tribe

Exhibit T

EXHIBIT K

NORTHERN CHEYENNE TRIBE

ADMINISTRATION

.WOHEHIV-
The Morning Star

-WOHEHIV-
The Morning Star

P.O. Box 128
LAME DEER, MONTANA 59043
(406) 477-6284
FAX (406) 477-6210

September 30, 2026

To: Melissa Lonebear and Ryhal Rowland

From: Gene Small, President of the Northern Cheyenne Tribe

Re: Request for Documents supporting the Sworn Complaint for Removal

I am in receipt of your 11-page September 22, 2026 Request for Documents Supporting the Sworn Complaint for Removal. In your Request, you have asked me to produce documents that are relevant to whether you can prove the substance of your Complaint for Removal against me.

Neither Article VII, Sections 2 or 3 of the Northern Cheyenne Constitution and Bylaws nor the claimed due process requirements applicable to the removal proceeding require me to provide evidence to support my removal. Therefore, I will not respond to your Requests for Production.

The due process requirement outlined in Article VII, Section 2 is a right that belongs to me, not to those attempting to remove me as complainants, witnesses, judges, and rule makers for such hearing. I do not admit the allegations in the complaint for removal solely because I refuse to provide you alleged evidence to support your complaint for removal.

The Chiefs will be my witness.

I am ready to proceed with a removal hearing on Wednesday, September 30, 2026, beginning at 9:00 a.m. in the Tribal Council Chambers at the Little Wolf Capitol Building.

Thank You,

Gene Small, President of the Northern Cheyenne Tribe

Exhibit K

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

IN RE THE UNLAWFUL REMOVAL OF TRIBAL PRESIDENT GENE SMALL, Petitioner, v. NORTHERN CHEYENNE TRIBAL COUNCIL, MELISSA FISHER, EVA FOOTE, NIZHONI FRIESZ, DONOVAN LIMBERHAND, MELISSA LONEBEAR, GWEN SPOTTED HORSE, STEFAN RAINING BIRD, TORREY DAVIE, AND HOWARD ONTIVEROS. Respondents.	Case No. CC2027-001 Judges:

PROPOSED ORDER ON RESPONDENT'S MOTION FOR STAY

The Court has considered Respondent's Motion to Disqualify, to Vacate or Alter the November 5, 2026 Final Order, and for an Immediate Stay; any response and reply; and the record. Having considered the Motion under NCTLOC §§ 4.4.8(A)–(B), the Court hereby ORDERS:

1. Pending further written order, enforcement and implementation of paragraphs 2 through 5 of the November 5, 2026 Final Order are stayed. This stay does not determine the validity of the September 30, 2026 removal, the identity of the lawful officeholder, or the ultimate merits of the petition.
2. No person shall treat paragraph 3 as an adjudication of an individual employee's right to reinstatement, back pay, restoration of an eliminated position, or other employee-specific relief unless that relief is separately authorized by law or order. This provision clarifies

the present scope of the Final Order and does not suspend an obligation arising independently under applicable law or a separate order.

3. No replacement election shall be completed while this stay remains in effect. This provision does not determine the legal consequences of any separate election requirement or future lawful removal.
4. The parties shall preserve records relevant to the petition, removal proceeding, governmental actions, employment actions, budget decisions, and election matters, including the sworn complaint and proposed-evidence-and-witness material; the September 25 rescheduling order and its service record; the September 25 and September 30 letters; text messages, emails, and other communications concerning notice, service, the relocation, and the hearing; the hearing recording, minutes, admitted exhibits, and related records. Nothing in this Order suspends essential Tribal services or an obligation imposed by an independent law or order.
5. The Court does not by this Order designate an officeholder or prescribe an interim executive arrangement. The interim allocation of officeholding and administrative authority, if further directions are necessary, shall be determined by separate written order under the Constitution, Bylaws, and applicable Tribal law:
6. The Clerk shall identify the operative initiating pleading and its attachments, including whether the October 5, 2026 petition or October 6, 2026 amended petition is operative and send the same to the parties.
7. Before further merits consideration, the Court shall address the recusal request and require Judge Small's disclosure, as relevant to this proceeding, concerning the family relationships; campaign support or contributions; the Economic Development Board or

development-corporation appointment; the alleged prior calls to Gene Small; and the NCDC and private-practice roles or communications described in the Motion.

8. For Judges Monson and Miller, disclosure and recusal analysis are required only to the extent competent evidence supports a current financial, business, or other relationship materially implicated by this proceeding. The Court shall determine the procedure and deadline applicable to the recusal request under the complete, current Rules of Court and Code and make individualized determinations under Judicial Rule 3.E for any judge whose qualification is properly at issue. The complaints referenced in the Motion are allegations, not findings of misconduct Any replacement or assignment shall proceed under NCTLOC §§ 2.9.1 and 2.10.2, as applicable. No procedure for removal of a judge is invoked as the procedure for assigning a replacement in this proceeding.
9. Before attributing admissions to the Council or treating the factual allegations as undisputed based on the October 21 motion, the Court shall identify the legal basis for treating that motion as an answer and the particular statements, if any, treated as admissions, and provide the parties an opportunity to address that proposed treatment. This paragraph does not decide the merits, determine that the motion constituted an answer, or require an evidentiary hearing.
10. If any claim survives, the Council may file an answer under NCTLOC §§ 4.2.3(B) and 4.2.6 as directed by the Court. The parties shall have a fair opportunity under the applicable rules to identify disputed issues and present and respond to relevant evidence. If material factual disputes remain, the Court may set a hearing if beneficial or otherwise required. The Court shall identify the applicable response and decision schedule under § 4.2.3(C)(2), Rule 39 of the supplied Rules of Court to the extent applicable and consistent

with the Code, and Judicial Rule 3.B.12. Nothing in this paragraph determines that any party had an automatic right to submit all merits evidence with a motion to dismiss or that an evidentiary hearing is categorically required.

The Court reserves decision on vacatur, amendment, disqualification, jurisdiction, immunity, the merits, and the permissible scope of relief.

DATED this ____ day of _____, 2026.

_____
Judge

_____
Judge

_____
Judge

FINE	BOND	FILING FEE	RESTITUTION	MISCELLANEOUS FEE	CHILD SUPPORT
		X			

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NORTHERN CHEYENNE COURT № 41940

Case Number CC2027-004 Date 11/9/26

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DEPUTY CLERK OF COURT

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Appearance time _____

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Money Order Fee			$2.65
Total			$22.65
Grand Total:			$22.65
Debit Card Remit			$22.65

Card Name: MasterCard
Account #: XXXXXXXXXXXX2994
Approval #: 193532
Transaction #: 562
Receipt #: 025489
Debit Card Purchase: $22.65
AID: A0000000042203 Chip
AL: US Debit
PIN: Verified