

No. 17-024

**In The
Supreme Court of the Yuma Indian Nation**

Smith (Carol and Thomas),
Petitioners,

v.

Yuma Indian Nation,
Respondent.

On Appeal to the Trial Court of the Yuma Indian Nation

BRIEF FOR THE PETITIONERS

Team Number: 232

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QUESTIONS PRESENTED

1. Whether another competent court such as federal court may settle a dispute between a tribally created entity and non-Indian entity originating from the crime of the attempted manufacturing of marijuana, when both operate outside of that tribe's authority.
2. Whether a tribe or its created business entity are protected by sovereign immunity from suit, where the tribe's government operational code, intratribal commercial code, and business contract all waive immunity; permitting both to be sued in a court of competent jurisdiction.

STATEMENT OF THE CASE

Statement of the Proceedings

The Yuma Indian Nation (YIN) filed suit in its trial court against the Smiths, Carol and Thomas Smith (Siblings). The suit was for violation of fiduciary duty and breach of confidentiality. Both claims are about financial consultation contracts between the YIN and Smith. Record of Interlocutory Appeal at 3.

Carol and Thomas (Smith) filed a motion to dismiss the YIN's suit for lack of personal and subject matter jurisdiction. *Id.* Smith also filed a second motion for postponement to ask the Arizona Federal District Court, if the YIN's trial court had jurisdiction to rule on the dispute. *Id.* The YIN trial court dismissed both of Smith's motions. *Id.* Smith answered the YIN's claim denying breach of contractual duty and confidentiality, therefore Smith filed a counter suit against the YIN for unpaid services and discrediting their business reputation. *Id.*

Smith included in their suit against the YIN the tribal business entity Economic Development Corporation (E.D.C.), and two of its administrative officials. *Id.* The YIN trial court dismissed Smith's counter claim against all three parties: YIN, E.D.C., and its officials. Smith therefore appealed to the YIN Supreme Court and review was granted. *Id.*

Statement of the Facts

In 2007, Thomas Smith a financial advisor, met the YIN officials at his office in the City of Phoenix, Arizona. *Id.* at 1. Both parties signed a consultation contract, which stipulated Smith would consult on financial matters regarding the YIN's business development plans. *Id.* The contract also contained language as to how disputes would be

settled arising from the contract itself. The YIN and Smith agreed on the method of settlement, which are that all disputes are to be settled in court, and that court be of competent jurisdiction. *Id.* The contract had provisions about confidentiality, and how Smith would comply with communications with the YIN. *Id.* Smith was not to disclose any economic development plans by the YIN to anyone. *Id.* From 2007 to 2009, Smith advised on financial issues and communicated by email and phone with various YIN tribal officials and directly communicated by written report/presentation every three months. *Id.*

During this same time the YIN created an intratribal commercial code with the purpose of creating and chartering public and private corporations. *Id.* The corporations were to function both in and outside the YIN territory. *Id.* In 2009, the YIN created the E.D.C. to develop business ventures on the reservation and produce money-making projects all over the State, and was provided a one-time ten-million-dollar loan at its inception. *Id.*

The YIN under its commercial code labeled the E.D.C. as an “arm of the tribe” controlled by directors under the code language, as a wholly owned subsidiary. *Id.* In the beginning the YIN selected the E.D.C.’s board and elected or re-elected all future directors with no input from the YIN, which created a stipulation three of the five E.D.C.’s directors must be tribal citizens. *Id.* The other two directors are required to be either non-Indian or citizens of other tribes. *Id.* The YIN’s government council could also by three-fourths vote, remove a director off the board with or without cause and the E.D.C. had to do financial record reports up to four times a year. *Id.*

The YIN stipulated by code that the E.D.C. could not borrow or lend in the name of YIN, and not allow liens or interests connected to YIN's assets. *Id* at 2. It could buy and sell property on and off the YIN territory without prior approval by the YIN requiring it to give half of its profits back to the YIN. To date only two million dollars have been paid. *Id*. The E.D.C. was authorized by the YIN to sue any party over any issues with no prior approval to bring suit, and YIN authorized to be sued by any party. *Id*. The E.D.C.'s corporate charter employed an average twenty-five tribal citizens. *Id*. The YIN mandated in its charter the E.D.C., its board, and its employees were under the protection of tribal sovereign immunity. *Id*. YIN's charter stated the purpose of this mandate is to protect the E.D.C. and the YIN from unconsented litigation. *Id*.

From 2009—since the E.D.C.'s creation—until 2017, Thomas communicated on financial matters with E.D.C. officials. *Id* at 1. He emailed and phoned daily its C.E.O. Fred Captain and Accountant Molly Bluejacket. *Id*. In 2010, Thomas' sister Carol Smith, who is from Portland Oregon, began consulting with the E.D.C. on the stock market. *Id* at 2. Carol also signed a consulting contract with YIN. *Id*. Carol signed an identical contract that Thomas signed, and contained the same terms regarding confidentiality on YIN's economic development plans. *Id*. From 2010 until 2017, Carol communicated by email, phone, and mail with Thomas, and he forwarded her communications to YIN and the E.D.C.'s officials Captain and Bluejacket. *Id*. She submitted her bill by email to the E.D.C.'s officials and received payment by mail. *Id*. Carol visited the YIN reservation on vacation with Thomas twice during her consulting contract. *Id*.

In 2016, the E.D.C. lobbied a business venture to the YIN with plans to legalize the manufacture and sale of marijuana. The YIN would grow and sell marijuana as a legal

product, although the State of Arizona allowed medicinal use of marijuana, but not recreational use. *Id.* Smith is contacted by the E.D.C. about the marijuana operation in the YIN and communications occurred between all parties several times about financial issues regarding the marijuana project. *Id.* Smith contacted the Arizona's Attorney General about the marijuana operation between the E.D.C. and the YIN which led to the YIN receiving a cease and desist letter from Attorney General to stop all development of marijuana operation. *Id.* In response, the YIN started litigation in its court against Smith. *Id.* at 3.

SUMMARY OF THE ARGUMENT

The dispute arises from the YIN, the E.D.C., and Smith attempting to manufacture an illegal narcotic for profit. Prior to passing a tribal ordinance legalizing one type of narcotic, there was no provisions regulating narcotics within the YIN territory. However, the tribal code does contain a provision that allows the application of federal law if tribal code is absent. Federal law provides civil action arising from a federal offense is suited to be settled in federal court, not in tribal court.

In addition, the YIN trial court may not have exclusive personal and subject matter jurisdiction over this dispute. This is due to its tribal code's definition of jurisdictions not met regarding the dispute over Smith notifying the State of Arizona on the marijuana operations. Smith was advised by the E.D.C. after it convinced the YIN to legalize marijuana for profit, which occurred outside the YIN territory. Smith had no participation with the E.D.C. or the YIN about the legalization of marijuana on tribal territory, therefore exercising good faith and not breaching fiduciary duty. As to the breach of confidentiality, Smith did inform state authorities, but it was in a response to all

the parties committing a federal offense. Therefore, with the dispute arising from an issue occurring outside the YIN's boundaries, the application of federal law is appropriate and determine the jurisdiction over the dispute.

Lastly, the YIN, the E.D.C. and both of their officials are not protected from Smith's law suit by sovereign immunity due of the YIN's tribal code, intratribal commercial code, and the tribal business contract with Smith. The documents that control this dispute all waive sovereign immunity, and permit litigation in a court of competent jurisdiction. Accordingly, this Court may determine a stay on the YIN's suit, permitting Smith to ask whether the YIN trial court has exclusive jurisdiction or if the Arizona Federal Court has jurisdiction to settle dispute.

ARGUMENT

A. The YIN's tribal code is silent on the federal offense of attempt of the manufacture of marijuana, but contains in that absence the application of federal law, which states federal court is proper jurisdiction to decide on civil actions arising from drug offenses

The first issue is whether the dispute arising from Smith notifying the state authorities of YIN's marijuana operation, maybe heard in tribal court or federal court. The analysis begins with the tribe's governmental code that controls its courts, which states tribal court shall apply tribal code, but if it does not cover a dispute in a civil action, application of federal law is appropriate. YUMA INDIAN NATION TRIBAL CODE, June 16, 2010, Title 2, Art. 1, prov. 2-111. The tribal code has no regulation of narcotics, therefore the dispute falls under federal authority. That offense being the

parties attempt to manufacture an illegal narcotic, which provides the application of federal law.

The authority by the tribal code permits the application federal law, leaving the next issue as to which court can hear this case. Applying federal law, the suitable court is defined in Title 28: Judiciary & Judicial Procedure, which states a federal question in any civil action that arises from federal law, federal court has original jurisdiction. Judiciary and Judicial Procedure, 28 U.S.C.A. § 1331 (1948). The federal question here is whether the dispute between the YIN and Smith arise from a federal offense of attempted manufacturing of marijuana. The application of federal law is proper when the tribal code is silent. This provides that attempting to manufacture marijuana is a prosecutable federal offense. Food and Drug, 21 U.S.C.A., Attempt and Conspiracy § 846 (1948); and Prohibited Acts a, § 841 (b) (1)(A) (vii) (1978). This federal offense is committed by first the E.D.C. persuading the YIN to pass the marijuana ordinance, and the E.D.C. contacting Smith to consult on ways to profit from legalization. These actions by the E.D.C. involving the YIN and Smith, are the origins of this civil dispute. Hence, the YIN's tribal code provision that permits adopting federal law permits this dispute to be heard under the jurisdiction of the Arizona Federal Court in compliance with § 1331.

The YIN may argue the United States Supreme Court holding that non-tribal governments may not, "infringe on the right of the Indians to govern themselves." *Williams v. Lee*, 79 S.Ct. 269, 272 (1959). This ruling is not applicable here because the E.D.C. is an entity that under YIN commercial code may purchase properties, execute legal litigation, and pursued business ventures outside of YIN territory, without any YIN control. This dispute was triggered by communication occurring outside of the YIN

territory. Smith had no contact in the YIN territory with the YIN about the legalization of marijuana. Although the E.D.C. was created and labeled by the YIN as a tribal business entity, it did not operate as one, and was free to operate outside of tribal government control.

Another U.S. Supreme Court holding that the YIN may present is the exhaustion doctrine, which holds a party currently involved in a lawsuit in tribal court must first exhaust judicial process before seeking “federal question whether a tribal court has exceeded the lawsuits limit of its jurisdiction,” before seeking remedy in federal court. *Nat’l Farmers Union Ins. Co. v. Crow Tribe*, 105 S.Ct. 2447, 2454 (1985). This litigation has reached exhaustion because it is before this Court and the proceedings have just commenced. These current early court proceedings are seeking a federal question to be heard in federal court. Thus, the exhaustion doctrine applied here would be satisfied.

Finally, the YIN may argue that it could adopt the entire federal law on narcotics and exercise regulation in its own court. An example of the U.S. Congress passing a law on prohibited activity within Indian country is legalizing Indian gaming operations. The Indian Gaming Regulations Act, 25 U.S.C.A. §§ 2701-2721 (1988). I.G.R.A. provided a process to regulate tribal gaming facilities. This Act involved tribes and states settling on a gaming compact that benefitted both parties, while promoting federal policy of tribal self-sufficiency. Here, it may be daunting to regulate all narcotics especially without federal support and state cooperation. Even in the judicial arena, the YIN is currently designed to manage a court docket of tribal territory and its residents, not the regulation of narcotics on much larger scale.

B. Personal jurisdiction as detailed in the tribal code is not met in this dispute because Smith did not engage in a tortious conduct causing harm or violation of contractual agreements with the YIN, therefore civil action is suited for federal court.

next issue presented is whether the dispute arising from Smith notifying the state would meet the YIN's tribal court definition of personal jurisdiction. This can be determined first by examining the tribal code, which states that tribal courts have personal jurisdiction over any civil cause of action arising from a tortious conduct, or act by any person committed off the reservation that results in harm to YIN. YUMA CODE. Title 1, Art. 1, prov. 1-104. Although Smith's notification may have interrupted YIN's marijuana operation. It would not likely not reach the level of tortious for the entire tribal government. Because, the letter by the State of Arizona Attorney General was for YIN to stop the operation and nothing more. No other action or litigation against YIN followed the letter. The notification was appropriate for the circumstances. YIN's marijuana ordinance according to federal law was illegal, and Smith an involved conspirator after the fact.

Additionally, even the limited financial consultation with the E.D.C. was a prosecutable federal offense. If the E.D.C. and the YIN manufactured the illegal narcotic and began selling it, Smith would be implicated for a serious federal offense. It is unknown when Smith was finally told of the marijuana operation and how far the marijuana operation was taken. If Smith did not alert authorities, Smith was committing a wrongful act by withholding information from both state and federal officials of illegal activity.

Furthermore, state notification was not harmful to the YIN because a letter to stop operation resulted in no detrimental impact other than having YIN implementing its marijuana plan. The letter did not result in substantial loss economically or otherwise to the YIN.

Regarding the YIN's allegation against Smith violating fiduciary duties and breach of confidentiality, the issue is whether indirect consultation on narcotics satisfies these claims. The E.D.C. did not involve Smith when it convinced the YIN to legalize marijuana. Smith was not involved as a third party with the passing of the marijuana ordinance. The obligation was followed and not violated because Smith did not disclose to anyone and financial information regarding the YIN.

The YIN could argue that Smith's consulting while on the YIN territory meets the U.S. Supreme Court ruling of the "minimum contacts" doctrine. This is where a defendant has sufficient business contact and may be brought into that jurisdiction for a dispute arising from that contact. *International Shoe v. St. of Wash.*, 66 S.Ct. 154, 158 (1945). Smith for the first two years of the contract consulted with the YIN officials daily. The E.D.C. was created by the YIN and daily communications shifted to the E.D.C. officials for nine-years. This dispute occurred at the end of that nine-year period with Smith consulting the E.D.C. on marijuana operations. Consulting never occurred about the marijuana ordinance between Smith and YIN.

The YIN may contend the quarterly reports Smith reported with the E.D.C. to the YIN meets minimum contacts threshold. Tribal courts may have personal jurisdiction because of the number of direct contacts over the ten-year period that satisfies the minimum contact standard. However, those reports did not involve the legalization of

marijuana or consultations between Smith and the YIN. Therefore, Smith did not violate any breach of duty or confidentiality regarding the YIN's economic plans.

An alternative definition of personal jurisdiction is readily available other than the YIN's. The U.S. Supreme Court's holds a party may be brought into court for a dispute by another under general jurisdiction, which means the party is domiciled or is operating within the territory; or specific jurisdiction, that dispute is directly connected to the contact between parties. *Bristol-Myers Squibb Co. v. Superior Ct. of Calif.*, 137 S.Ct. 1773, 1780 (2017). General jurisdiction is not met here because Smith consultations on marijuana operations were in the YIN's boundaries. As to specific jurisdiction, this may be met due to Smith reporting four times a year to the YIN. This dispute arises from Smith notifying the State of Arizona outside of the YIN. Since the dispute does not involve consulting between Smith and the YIN, specific jurisdiction is most likely not met.

The YIN may argue the E.D.C. is a business entity of the tribe and the consultations between Smith with the E.D.C. meets *Bristol-Myers Squibb's* specific personal jurisdiction. The E.D.C. could not access the YIN's financial assets or borrow in the YIN's name and was responsible for its own debt. Therefore, the dispute arising from Smith consulting with the E.D.C. outside of YIN authority would not meet criteria for specific personal jurisdiction by *Bristol-Myers* holding.

In conclusion, Smith notification of the YIN's illegal marijuana operation to state authorities was appropriate and was not wrongful against the YIN. Also, notification did not breach contractual obligation because it involved direct consultation with the E.D.C.

a separate entity from the YIN. This civil cause of action over a dispute arising from Smith's notification to the State of Arizona is appropriately suited for federal court.

C. The dispute over Smith notifying state authorities about the YIN's marijuana operation, fits the federal definition of subject matter jurisdiction that is far clearer, compared to the YIN's tribal code definition, and provides that federal court is the appropriate authority to hear this case.

The issue present is whether the tribal code's definition of subject matter jurisdiction is reasonable to decide disputes arising from the YIN's claim regarding Smith breaching contractual duties. The tribal code provides that tribal court has subject matter jurisdiction on, "[c]ivil disputes and civil causes of action of any kind whatsoever" Yuma Tribal Code, Title 1, Art. 1, prov. 1-106(1)(b). The YIN's claim of breach of duty by Smith would fit this rule. Alternatively, the provision does not provide any clear criteria and would allow all civil actions to be heard in tribal court. This provision is vague and lacks clarity as to what disputes a court may determine it has jurisdiction over. The rule is too broad, and would cast too large a net, making it difficult to determine whether a court's subject matter jurisdiction is reasonable.

The ruling by the U.S. Supreme Court provides that federal court shall have subject matter jurisdiction on civil action that arise under a question of federal law, §1331. *Arbaugh v. Y&H Corp.*, 126 S.Ct. 1235, 1236 (2006). Applying this holding, the federal law that disputes arises from is that the marijuana operation is an attempted manufacturing of an illegal narcotic. *Arbaugh's* definition provides readily identifiable limitation, while the YIN's definition allows wide discretion to the point it would unfairly claim jurisdiction over any civil action.

The YIN may contend applying U.S. Sup. Ct. holding, that tribal courts have jurisdiction over disputes arising from a non-Indian entering a consensual relationship with a tribe; or when a non-Indian's conduct threatens vital intratribal interests. *Montana v. U.S.*, 101 S.Ct. 1245, 1258 (1981). The consensual relationship rule may be met because Smith signed a contract to consult with the YIN. After two years of direct consultation with the YIN, the following nine years Smith exclusively consults with the E.D.C. Smith does maintain contact with the YIN, but only reports four times a year, with no set conditions. Also, the YIN did appoint the E.D.C.'s board members, but after member's election or re-elections they were under complete control by the active board. The consensual relationship rule is met if a dispute arose from an occurrence during the first two years of the contract between Smith and the YIN. After nine years, this dispute arises from the relationship between Smith and the E.D.C., a relationship that has no significant connection to the YIN.

The second rule in *Montana* is a tribal court has jurisdiction over the dispute arising from conduct by a non-Indian that threatens tribal interests. The YIN chose to involve itself in a federal offense without any consultation by Smith. Smith did not have knowledge of the YIN's marijuana operation until after marijuana ordinance is passed. It could be argued that Smith's notification to state authorities disrupted plans to profit from the marijuana legalization, but not to the extent that it threatens vital interests. A letter received by the state to stop an operation that may be illegal if it is not severely damaging. Subsequently, the second rule would most likely not be satisfied just like the first *Montana* rule.

A more applicable holding other than *Montana* is, “we [U.S. Sup. Ct.] have never upheld under *Montana* the extension of tribal civil authority over nonmembers on non-Indian land.” *Nevada v. Hicks*, 121 S.Ct. 2304, 2310 (2001). Smith is a non-Indian entity operating their business outside of the YIN’s boundaries. Therefore, they have limited direct contact within the YIN territory consulting on tribe’s economic plans. Smith previously did have daily contact with the YIN, but those consultations were nine years ago. Also, the direct contact was consultations regarding reports four times a year.

In conclusion, this dispute arising from Smith’s notification to state authorities complies with a clearer *Arbaugh* definition of subject matter jurisdiction. The YIN’s tribal code definition is too vague and lacks fair parameters. Therefore, tribal court would not be suitable to decide dispute

D. The YIN’s tribal code explicitly waives sovereign immunity for a business entity it creates when it becomes involved in a civil dispute, therefore making the entity open to suit in federal court.

Another issue present is whether the E.D.C. is protected by sovereign immunity by the YIN’s tribal code. We begin with evaluating the YIN’s tribal code which states that a tribal corporation is open to suit in a court of competent jurisdiction. Additionally, there are three factors that need to be satisfied for this rule to apply. These factors are the explicit waiver of consent, a waiver in a written contract that the tribal corporation is a party to, and the approval by a tribal corporation’s board of directors. YUMA INDIAN NATION TRIBAL CODE December 10, 2015, Title 11, Art. 10, Prov. 11-1003.

First, the E.D.C. is a tribal corporation created by the YIN from the intratribal commercial code. Second, the explicit waiver of consent provision is met because the YIN and Smith agreed to a contract that contained a provision for disputes arising from the contract. Third, the provision requiring a waiver in a written contract is met due to the YIN signing the contract with Smith, which contained the waiver.

There is a point of contention that the E.D.C.'s board of directors did not approve of this contractual deal. At the time the contract was signed the tribal council agreed for all disputes to be settled in court. Therefore, all the YIN's tribal code provisions are met which waives sovereign immunity. By permitting litigation in a court of competent jurisdiction, the E.D.C. may be sued by Smith over disputes arising from the contract.

E. The YIN has waived its sovereign immunity from suit because its contract with Smith explicitly permits all disputes arising from said contract to be settled in a court of competent jurisdiction, therefore allowing the dispute regarding the marijuana operation to be settled in federal court.

The next issue surrounding contractual language is whether the YIN's contract with Smith permitted litigation in a court of competent jurisdiction. The YIN's contract provides all disputes arising between the contractual parties to be litigated in a court of competent jurisdiction. Inclusion of the phrase, "any court of competent jurisdiction," in sue-and-be-sued language, permits suit in any federal court that has subject-matter jurisdiction over the suit. *Lightfoot v. Cendant Mortgage Corp.*, 137 S. Ct. 553, 561 (2017). For Smith to agree and sign a contract that would be unfair to on their behalf is irrational. The contractual language waives the tribe's ability to limit suit in tribal court only, because it does explicitly restrict suit to a tribal court. A court of competent

jurisdiction includes federal court because there is no language restricting that interpretation. Thus, *Lightfoot*'s holding is applicable because of the lack of clear and explicit language restricting suit to only a tribal court system.

Another applicable holding to determine a tribe waiving its sovereign immunity comes from the United States Supreme Court. A tribe, while in contract with another party, waives sovereign immunity from suit when that party meets a two-prong test. The contract must contain language that states all disputes arising from the contract may be settled by arbitration in court, and the arbitration process relies on state law. *C & L Enterprises, Inc. v. Citizen Band Potawatomi Indian Tribe of Oklahoma*, 121 S.Ct. 1589, 1594 (2001). The standard from *C&L* had disputes resolved by arbitration, which provided the courts with jurisdiction to enter an arbitration award. This provision allowed the application of state law. This same idea can be applied to the YIN and Smith dispute, allowing a federal court to see this case under federal question.

C & L explains that there must be language expressing a waiver of immunity. The YIN did provide clear and explicit language for suits to be heard in a court of competent jurisdiction, which makes federal court a viable option. *C&L*'s two prong test is satisfied in the YIN's contract with Smith because the contract allowed settlement from disputes arising from the contract. Therefore, the YIN waived its sovereign immunity and permits litigation in federal court.

F. Sovereign immunity is waived when the YIN does not control or have financial obligations with the E.D.C., therefore an “arm of the tribe” argument does not exist.

Lastly, the issue concerning the E.D.C not being an arm of the Tribe, due to a lack of control and Financial obligation by the YIN, will now be assessed. There is a multi-factor tests that examines the relationship between an entity and a tribe to determine an arm of the tribe connection. Currently, there is no uniformity and due to this there is room for interpretation as to what constitutes an arm of the tribe. In determining whether an entity is entitled to sovereign immunity as an arm of the tribe, courts examine multiple factors. These include, the method of creation of the economic entities, their purpose, their structure, ownership, and management, including the amount of control the tribe has over the entities, the tribe's intent with respect to the sharing of its sovereign immunity and lastly, the financial relationship between the tribe and the entities. *White v. Univ. of California*, 765 F.3d 1010, 1025 (9th Cir. 2014). Again, to meet the requirements to show sovereign immunity, there must be both a close connection between the entity through various factors and the tribe must have substantial control over the entity.

The YIN created the E.D.C. with the intent to promote prosperity for the YIN and its citizens. The YIN however created a separate board of directors to oversee the E.D.C. These directors are made up of three tribal citizens and two non-tribal/non-Indian board members. Turn over for these directors is yearly and is never under full-control of the YIN. The E.D.C. was awarded a onetime ten-million-dollar loan by the YIN, and to date only two-million has been paid back.

Additionally, a tribe may run an entity as a separate business for legal and taxation purposes. When sovereign immunity is waived, business entities will not be considered an arm of the tribe. Smith reported to the YIN quarterly and communicated daily with two employees of the E.D.C. This quarterly meeting hardly provides for a close connection between the E.D.C. and Smith. The fact that a separate board was created, instead of the tribe directly having control over the E.D.C., shows a relinquishment of control over the E.D.C.

Furthermore, the E.D.C. also does not possess the power to borrow or lend money in the name of or on behalf of the tribe, nor grant/permit liens/interests to attach to the assets of the Nation. The E.D.C. also can buy and sell real property in fee simple on/off reservation, and sue and be sued. Evidence provides for the separation between the E.D.C. and the YIN. Under the YIN's own tribal code, contract, and charter, the E.D.C. is open to suit and thus not operating as an arm of the tribe.

CONCLUSION

In summation, the request before this Court is to grant a stay in the YIN's suit and permit Smith's request asking whether the Arizona Federal Court may decide on this dispute. In addition, we request the court to not permit the YIN, E.D.C. and their officials the shield of sovereign immunity or another form of immunity from suit by Smith.

Respectfully submitted.

Team Number 232.

JANUARY 2018