



THE MILLE LACS BAND OF
OJIBWE INDIANS
Legislative Branch of Tribal Government

JOINT RESOLUTION 18-01-79-18

**A JOINT RESOLUTION AUTHORIZING THE BAND'S SOLICITOR
GENERAL AND EXTERIOR LEGAL COUNSEL TO DEFEND AGAINST
A COUNTERCLAIM AND CROSS-CLAIM FILED AGAINST THE BAND
AND BAND OFFICIALS, IN THEIR OFFICIAL AND INDIVIDUAL
CAPACITIES, IN PENDING LITIGATION**

WHEREAS, the Mille Lacs Band Assembly is a duly elected governing body of the Mille Lacs Band of Ojibwe (also known as the Mille Lacs Band of Chippewa Indians), a federally recognized Indian Tribe and a constituent member of the Minnesota Chippewa Tribe (MCT); and

WHEREAS, pursuant to 3 MLBSA § 2(d), the Band Assembly is empowered to adopt resolutions to promote the general welfare of the people of the Band; and

WHEREAS, pursuant to 4 MLBSA § 2, the Chief Executive of the Band is empowered to exercise the Executive Branch powers of the Band; and

WHEREAS, the Band Assembly and Chief Executive have established as a priority the improvement of spiritual, physical, mental, social and economic wellbeing of the people of the Band; and

WHEREAS, Article VI, sec. 1(b) of the MCT's Revised Constitution authorizes each constituent Band government to administer funds within the control of the Band and expend Band funds for Band purposes; and

WHEREAS, Article VI, sec. 1(c) of the MCT's Revised Constitution authorizes each constituent Band government to consult, negotiate and enter into agreements with Federal, State and local governments on all matters with the power of the Band, to manage or otherwise deal with Band lands or interests in lands, and to manage or otherwise deal with MCT lands or interests in lands within the Band's jurisdiction when authorized to do so by the Tribal Executive Committee; and

WHEREAS, 2 MLBSA section 5(a) delegates to the Band Assembly the authority to direct in what manner the Band may be subject to suit; and

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- WHEREAS, 4 MLBSA sections 18(a) and 18(c) authorize the Solicitor General to represent the Band's interests in all legal proceedings in exterior courts of competent jurisdiction and to initiate any legal action necessary that is brought in the name of the Band to protect the rights of enrolled members of the Band; and
- WHEREAS, the Band has retained the Ziontz Chestnut Law Firm to represent the Band because of its expertise with respect to Indian treaty rights, reservation boundaries and related matters; and
- WHEREAS, on November 16, 2017, in Resolution No. 17-04-36-18, the Band Assembly, with the concurrence of the Chief Executive, authorized the Solicitor General and the Ziontz Chestnut Law Firm to commence litigation on behalf of the Band, Band Police Chief Sara Rice and Band Police Sergeant Derrick Naumann against Mille Lacs County, Mille Lacs County Attorney Joseph Walsh and Mille Lacs County Sheriff Brent Lindgren in federal court, asking the court to declare that, as a matter of federal law, the inherent law enforcement authority possessed by the Band and the law enforcement authority delegated to the Band by the Federal Government: (1) extends throughout the Mille Lacs Indian Reservation as established in the 1855 Treaty with the Chippewa; (2) authorizes Band officers to investigate any person suspected of violating federal, state or tribal law within the Reservation; and (3) authorizes Band officers to apprehend and turn over suspects to federal, state or tribal government jurisdictions with authority to prosecute such persons; and
- WHEREAS, the Solicitor General and the Ziontz Chestnut Law Firm filed the lawsuit, entitled *Mille Lacs Band et al. v. Mille Lacs County et al.*, Case No. 17-cv-05155-SRN-LIB, in federal district court of the District of Minnesota on November 17, 2017; and
- WHEREAS, on December 21, 2017, Mille Lacs County, the Mille Lacs County Attorney and the Mille Lacs County Sheriff filed answers to the Band's complaint; and
- WHEREAS, also on December 21, 2017, Mille Lacs County filed a counterclaim and cross-claim against the Band and against Band Police Chief Rice, Band Police Sergeant Naumann, Band Chief Executive Melanie Benjamin, Band Secretary-Treasurer Carolyn Beaulieu, Band District 1 Representative Sandra Blake, Band District 2 Representative David Aubid, and Band District 3 Representative Harry Davis (collectively, "Band Officials"), in both their individual and official capacities; and

WHEREAS, the Band's Solicitor General and the Ziontz Chestnut Law Firm have advised the Band that a suit against an official in his or her official capacity is a suit against the entity such that, in this case, the claims against the Band Officials in their official capacities are claims against the Band; and

WHEREAS, the only particular relief Mille Lacs County seeks in its counterclaim and cross-claim is: (1) a declaration that the Mille Lacs Reservation has been disestablished or diminished; (2) an injunction barring the Band and the Band Officials from exercising tribal inherent or federally delegated criminal authority outside of trust lands except as otherwise permitted by law; (3) a declaration that the Band and the Band Officials are estopped from contesting the disestablishment or diminishment of the Reservation; (4) a declaration that the 1946 Indian Claims Commission Act bars the alleged "resurrection" of the 1855 Reservation boundaries; (5) an order dismissing the Band's complaint in its entirety, with prejudice and at its costs; and (6) an order allowing the County its costs and disbursements; and

WHEREAS, Mille Lacs County's counterclaim and cross-claim make no factual allegations with respect to any actions (or inactions) of the Band Officials and seeks no relief against any Band Official in his or her individual capacity; and

WHEREAS, the County's counterclaim and cross-claim does not seek an award of money damages against the Band or any Band Official in his or her official or individual capacity; and

WHEREAS, all of the relief the County seeks in its counterclaim and cross-claim is a direct response to the Band's complaint, addresses issues raised in the Band's complaint, and addresses the official, sovereign and governmental interests of the Band; and

WHEREAS, the Band's Solicitor General and the Ziontz Chestnut Law Firm have advised the Band and the Band Officials that under present circumstances they are not aware of any conflict of interest between the interests of the Band and the Band Officials in their official or individual capacities with respect to the County's counterclaim and cross-claim.


NOW, THEREFORE, BE IT RESOLVED that the Band Assembly authorizes and directs the Solicitor General and the Ziontz Chestnut Law Firm to fully and vigorously defend the Band and the Band Officials in their official capacities against the counterclaim and the cross-claim; and

BE IT FURTHER RESOLVED that the Band Assembly and Chief Executive authorize and direct the Solicitor General and the Ziontz Chestnut Law Firm to fully and vigorously defend the Band Officials in their individual capacities against the counterclaim and cross-claim, subject to the right of any Band Official to seek separate representation in his or her individual capacity, including such separate representation as may be available under the Band's insurance policies; and

BE IT FURTHER AND FINALLY RESOLVED that the Band Assembly and Chief Executive will pay all costs and fees necessary to defend the Band, the Band Officials in their official capacities and the Band Officials in their individual capacities, should they choose to be represented by the Solicitor General and the Ziontz Chestnut Law Firm, against the counterclaim and cross-claim, including payment of any award of costs or disbursements to the County made against the Band Officials in their individual capacities.

WE DO HEREBY CERTIFY that the foregoing resolution was duly concurred with and adopted at a regular session of the Band Assembly in Legislative Council assembled, a quorum of legislators being present, held on the 11th day of January, 2018 at Minisinaakwaang, Minnesota by a vote of 3 FOR, 0 AGAINST, 0 SILENT.

IN WITNESS WHEREOF, we, the Band Assembly hereunto cause to have set the signature of the Speaker of the Assembly.


Carolyn Beaulieu, Speaker of Assembly

IN CONCURRENCE, with the action of the Speaker of the Assembly, I hereunto set my hand to this resolution.


Melanie Benjamin, Chief Executive

OFFICIAL SEAL OF THE BAND