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By Troy LittleAxe at 1:55 pm, Jul 28, 2022

FILED

**IN THE COURT OF THE
MODOC NATION
MIAMI, OKLAHOMA**

MODOC NATION, a federally recognized)
Indian Tribe, by and through its Elected)
Council,)
Plaintiff,)

Case No.: CIV-22-001

vs)

KIRK MILLER, BEN KARNES, DANNY)
BURKYBILE, EDD MILLER, ANITA)
WILLIAMS, and JASON CLARK,)
Defendants.)

ORDER OF CONTEMPT

NOW on this 28th day of July, 2022, this matter comes before the undersigned Special Judge for consideration on the merits of the Plaintiff’s Motion for Show Cause Hearing at to contempt as well as Plaintiff’s Motion for Default Judgement as to Defendant Jason Clark. The Plaintiffs are present by and through counsel, Conley Shulte. The Defendants are present by and through counsel, Joe Keene. Having reviewed the pleadings in this matter, heard the arguments of counsel and being fully advised in the premises, this Court does hereby FIND and ORDER as follows:

1. That the Motion for Default Judgement as to Defendant Jason Clark is hereby SUSTAINED and will be addressed in a separate order.

2. That the conduct of Ben Karnes of continually publicizing his perceived status as an elected official of the Modoc Nation is a violation of this Court’s Orders of June 29, 2022 and July 20, 2022. This Court has left no doubt as to its order demanding that the Defendant cease and desist publicly acting or holding himself out as an elected official. This Court has on multiple occasions held the elections of May 7, 2022 as null and void and has specifically stated

that the “Defendants are not properly elected...and therefore have no authority to act as elected officials of the Modoc Nation...”¹

3. That this Court FINDS Ben Karnes’ conduct to be in indirect contempt of this Court. After consideration, the Court does hereby SENTENCE the Defendant, Ben Karnes, to a sanction of \$100.00 per day for each day he has publicly held himself out as an elected Modoc Nation official. The Court further FINDS the Defendant is liable for these sanctions covering a period of 28 days. The total amount of punitive sanctions is \$2800.00 for this offense. In addition, the Defendant is ORDERED to pay \$1,000.00 in Plaintiff’s attorney fees.

4. That this Court FINDS the conduct of Kirk Miller in issuing a letter on July 8, 2022, on Modoc Nation letterhead, specifically the Office of the Chief, in which the primary purpose was to convey a message to tribal members, and in which he signed as “Chief” is a violation of this Court’s Orders of June 29, 2022.

5. That this Court FINDS Kirk Miller’s conduct to be in indirect contempt of this Court. After consideration, the Court does hereby SENTENCE the Defendant, Kirk Miller, to a sanction of \$1,000.00. The Court further FINDS the Defendant should be, and is hereby ORDERED to pay \$1,000.00 in Plaintiff’s attorney fees.

6. That in a subsequent but related incident involving Defendant Ben Karnes, the Court FINDS Defendant Karnes to have violated this Court’s order of June 29, 2022 by publicizing Defendant Miller’s correspondence on or about July 8, 2022.

¹ “IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendants are hereby temporarily restrained from holding themselves out as elected governmental officials and thereby acting as Modoc Nation officials, until such time as this Court may hear the case on the merits.” Order of June 14, 2022 at p. 2

“IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Defendants are not properly elected as a result of the invalid annual meeting and therefore have no authority to act as elected officials of the Modoc Nation and are hereby enjoined from acting in any capacity as a governmental official of the Modoc Nation.” Order of June 29, 2022 at p 7

“That this Court’s Order of June 29, 2022 remains in full force and effect and all parties are admonished to abide by the provisions therein, including but not limited to the Order Restraining Defendants from holding themselves out as duly or validly elected officers of the Modoc Nation.” Order of July 20, 2022 at p. 3.

7. That the Court FINDS the conduct of Ben Karnes to publicize the Kirk Miller letter of July 8, 2022 is indirect contempt. In consideration of this finding, the Court does hereby further SENTENCE Ben Karnes to an additional sanction of \$500.00. The Court also FINDS and ORDERS the Defendant Karnes to pay an additional \$500.00 in Plaintiff's attorney fees.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the Court FINDS and ORDERS that Defendant, Ben Karnes,, is guilty of indirect contempt.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Karnes is to pay a total of \$3,300.00 in sanctions as set out fully above.

IT IS FURTHER ORDERED ADJUDGED AND DECREED that Defendant Karnes is to pay \$1,500.00 in Plaintiff's attorney fees as set out more fully above.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Karnes is to pay all sanctions and attorney fees on or before 4:00 p.m. on August 2, 2022 at the Modoc Nation Finance Department and shall be paid in the form of a cashier's check.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court FINDS and ORDERS that Defendant Kirk Miller, is guilty of indirect contempt.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Miller is to pay a total of \$1,000.00 in sanctions as set forth above.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Miller is to pay an additional \$1,000.00 to Plaintiff's attorney fees as set out more fully above.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that Defendant Miller is to pay all sanctions and attorney fees on or before 4:00 p.m. on August 2, 2022 at the Modoc Nation Finance Department and shall be paid in the form of a cashier's check.

IT IS FINALLY ORDERED, ADJUDGED AND DECREED that this Court will review this matter on **August 8, 2022 at 10:00 a.m.**

IT IS SO ORDERED.



**MARSHA HARLAN
SPECIAL ASSOCIATE JUDGE**