AGUA CALIENTE BAND OF CAHUILLA INDIANS

TRIBAL COURT

WILLIAM ULYSSES McGLAMARY, II, Plaintiff, v. HALLVIEW MANAGEMENT, INC, Defendants.	Case No.: CV-2026-0003-GC **ORDER GRANTING MOTION TO DISMISS**

I. INTRODUCTION

Pending before the Court on Defendant Hallview Management Co., Inc.'s ("HMI") Motion to Dismiss the Complaint filed by Plaintiff William Ulysses McGlamary, II ("McGlamary"). The Complaint asserts three causes of action: tortious interference with contract, tortious interference with prospective economic advantage, and declaratory relief, each of which are premised on HMI's initiation of the BIA administrative appeal process. In his Prayer for Relief McGlamary asks the Court to, among other things, "permanently enjoin[] and prohibit[] [HMI], and its agents or attorneys, from further prosecution of the BIA appeal or any other administrative or judicial action intended to obstruct the approval of Plaintiff's Successor Leases.".

HMI moves to dismiss the complaint on four separate grounds: (1) the Tribal Court lacks subject matter jurisdiction to enjoin or otherwise interfere with a pending federal administrative appeal before the Department of the Interior; (2) McGlamary claims are barred by the Noerr-

Pennington doctrine, the Indian Civil Rights Act, and California anti-SLAPP principles applicable under ACBCI Code § 2.60.030(k); (3) the Complaint fails to state legally cognizable claims for tortious interference with contract, tortious interference with prospective economic advantage, or declaratory relief; and (4) the relief requested would improperly interfere with an ongoing federal administrative proceeding.

Not surprisingly, McGlamary's Opposition to HMI's Motion to Dismiss frames the case differently, and argues:

> Plaintiff brought this action in Tribal Court seeking a declaration of rights regarding the parties' respective interests and obligations in connection with Plaintiff's successor leasing program and seeking damages. Plaintiff did not bring this action seeking Tribal Court review of an administrative appeal pending before the Bureau of Indian Affairs ("BIA"), as HMI asserts. Rather it is a tort action seeking damages for Defendant's misuse of that process, and prospective relief to ensure such conduct does not reoccur . . . . Plaintiff does not seek to enjoin or adjudicate the merits of the BIA appeal, Instead, Plaintiff seeks to recover damages caused by Defendant's invocation of an administrative process which it lacked a cognizable basis, and to obtain prospective declaratory relief clarifying the parties' respective rights to prevent similar interference going forward. These claims fall squarely within this Court's jurisdiction and are not barred as a matter of law at the pleading stage.

Pls.' Opp'n. to Mot. to Dismiss, 1:2-7; 18-22.

On April 21, 2026, the Court heard oral arguments and, thereafter, took the matter under submission. Having considered the pleadings, oral arguments, and relevant law, and as more fully set forth below, the Court hereby **GRANTS** HMI'S Motion to Dismiss.

II. STATEMENT OF CASE

On February 9, 2026, McGlamary filed his Complaint alleging three causes of action: (1) Tortious Interference with Contract; (2) Tortious Interference with Prospective Economic Advantage, and (3) Declaratory Relief. The Complaint alleges that this Court has subject matter jurisdiction over this action because "it involves a lease of ACBCI tribal lands held in trust by the federal government

which is beneficially owned by Plaintiff McGlamary." *Compl.*, 2:19-21. It also alleges that the Court has personal jurisdiction over HMI because "Defendant transacts business on ACBCI lands and has engaged in tortious conduct within the Tribe's territory that directly harms Plaintiff's interest. Id., 2:22-23; 3:1. Attached to the Complaint are four Exhibits Exhibits consisting of 100 pages. On March 5, 2026, HMI filed a Motion to Dismiss the Complaint, arguing, among other things, that the Court lacks jurisdiction and requesting the Court to dismiss the action in its entirety.

McGlamary filed an Opposition to the motion on April 1, 2026, and HMI filed a Reply to Opposition to Motion to Dismiss on April 6, 2026. Thereafter, on April 8, 2028, , and over HMI written objection, the Court granted McGlamary leave to file a Sur Reply, which he did the next day on April 9, 2026. On April 21, 2026, the Court heard oral arguments on the issues.

III. STATEMENT OF FACTS

The material facts pertinent to HMI's Motion to Dismiss are drawn from the allegations of the Complaint, including the attached Exhibits, which, as discussed below, the Court accepts as true solely for purposes of deciding the motion. McGlamary is an enrolled member of the Agua Caliente Band of Cahuilla Indians (the "Tribe") and the equitable owner of allotted tribal land subject to a master lease designated PSL-129. HMI is a California corporation that serves as the master lessee under PSL-129 and manages 115 sub-lessees across three residential developments known as Diplomat, Saddlerock Estates, and Saddlerock Gardens. Under the master lease, HMI collects rents from the 115 sub-lessees and remits fifty percent (50%) of all rental income to McGlamary. PSL-129 grants HMI no options to renew, no rights to extend, and no right of first refusal.

McGlamary entered into 46 instruments he denominates "Successor Leases" with current sub-lessees of PSL-129. The Successor Leases will take effect after PSL-129 expires in 2042, but require each sub-lessee to make an immediate upfront payment of $100,000 plus $15,000 to McGlamary's attorney, payable during the active term of PSL-129. The instruments impose concurrent financial obligations on the very sub-lessees already paying rent under the existing PSL-129 subleases administered by HMI. The Bureau of Indian Affairs ("BIA") approved six of these Successor Leases without, it appears, providing notice to, or obtaining consent from, HMI as the current master lessee.

On January 30, 2026, HMI filed a Notice of Appeal and Appeal Brief with the Interior Board of Indian Appeals ("IBIA"), challenging the BIA's approval of the Successor Leases. HMI's appeal contends that the Successor Leases function as de facto amendments to the existing master lease and that BIA approval without notice to or consent of the current master lessee violates 25 C.F.R. §§ 162.345 and 162.449. The IBIA did not summarily dismiss the appeal; instead, on February 10, 2026, it transferred the matter to the Pacific Regional Director, where it remains pending.[1]

IV.LEGAL STANDARD

ACBCI Code § 2.60.030(l) provides that in all civil cases the Court applies Tribal law first, and "[i]f there is no applicable Tribal law, the Tribal court shall apply federal law. Currently, there is no substantive Tribal law addressing the standard the Court should use in evaluating a motion to dismiss at the pleading stage of the case. Consequently, the Court will look to and apply the relevant federal law.

1. Rule 12(b)(1) of Federal Rules of Civil Procedure

Rule 12(b)(1) of the Federal Rules of Civil Procedure ("F.R.Civ.P.") governs motions to dismiss for lack of subject matter jurisdiction, and 12(b)(6) governs motions to state a claim upon which relief can be granted. Under 12(b)(1), the plaintiff bears the burden of establishing subject matter jurisdiction. *Kokkonen v. Guardian Life Insurance Co. of America*, 511 U.S. 375, 377 (1994) ("It is to be presumed that a cause lies outside [federal courts'] limited jurisdiction, and the burden of establishing the contrary rests upon the party asserting jurisdiction.").

A motion under Rule 12(b)(1) challenges a court's jurisdiction to decide any claims alleged. Fed. R. Civ. P. 12(b)(1); *see also Robinson v. U.S.*, 586 F.3d 683, 685 (9th Cir. 2009) (holding the court may determine jurisdiction on a Rule 12(b)(1) motion unless "the jurisdictional issue is inextricable from the merits of a case") (internal citations omitted). A Rule 12(b)(1) motion attacking subject matter jurisdiction may be either facial or factual. *White v. Lee*, 227 F.3d 1214, 1242 (9th Cir. 2000). When the motion is a facial attack, the court only considers the allegations in the pleading and

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[1] Ten days after HMI filed its Notice of Appeal, McGlamary filed suit in the Tribal Court. Thereafter, McGlamary lodged a copy of the Complaint in the pending BIA administrative proceeding as "Supplemental Authority," describing it as "Evidence of Frivolousness."

any documents attached to or referenced in that pleading. *Gould Electronics Inc. v. U.S.*, 220 F.3d 169, 176 (3rd Cir. 2000). In such circumstances, the court accepts all the material factual allegations as true. *Cahill v. Liberty Mut. Ins. Co.*, 80 F.3d 336, 337–38 (9th Cir. 1996). "[J]urisdiction must be shown affirmatively, and that showing cannot be made by drawing from the pleadings inferences favorable to the party asserting it." *Shipping Financial Services Corp. v. Drakos*, 140 F.3d 129, 131 (2nd Cir. 1998) (citing *Norton v. Larney*, 266 U.S. 511, 515 (1925)).

In general, courts distinguish between two types of challenges under Rule 12(b)(1) — facial attack, where the defendant argues that the complaint, even taken as true, fails to allege facts supporting jurisdiction. With a facial challenge, the court accepts the well-pleaded factual allegations as true and draws reasonable inferences in the plaintiff's favor — essentially the same standard as Rule 12(b)(6). *Safe Air for Everyone v. Meyer*, 373 F.3d 1035, 1039 (9th Cir. 2004); *Wright v. Incline Village General Improvement District*, 665 F.3d 1128, 1134 (9th Cir. 2011).

The other is factual attack, where the defendant disputes the truth of the allegations that, by themselves, would otherwise invoke jurisdiction. The court may consider evidence outside the pleadings — affidavits, declarations, testimony — without converting the motion to one for summary judgment. *Safe Air*, 373 F.3d at 1039; *Thornhill Publishing Co. v. General Telephone & Electronics Corp.*, 594 F.2d 730, 733 (9th Cir. 1979). With a factual attack, the presumption of truthfulness does not attach to the plaintiff's allegations, and the plaintiff must support jurisdictional facts with competent proof. *Land v. Dollar*, 330 U.S. 731, 735 n.4 (1947).

Subject matter jurisdiction can be challenged at any time, by any party, or by the court *sua sponte*, and it cannot be waived or conferred by consent. *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 514 (2006); *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702 (1982). If subject matter jurisdiction is found lacking at any point, the court must dismiss. Fed. R. Civ. P. 12(h)(3); *Steel Co. v. Citizens for a Better Environment*, 523 U.S. 83, 94–95 (1998).

Nevertheless, where the jurisdictional question is intertwined with the merits, courts generally must assume jurisdiction and resolve the dispute on the merits rather than dismissing under Rule 12(b)(1). *Bell v. Hood*, 327 U.S. 678, 682 (1946), *see also*, *Sun Valley Gas, Inc. v. Ernst Enterprises*, 711 F.2d 138, 139–40 (9th Cir. 1983); *Augustine v. United States*, 704 F.2d 1074, 1077

(9th Cir. 1983). In such cases, the court can address the merits either through Rule 12(b)(6) or summary judgment after appropriate factual development. The rationale is straightforward: a plaintiff should not be deprived of an adjudication of the merits simply because the jurisdictional and substantive inquiries overlap. A claim should be dismissed for lack of jurisdiction only if the federal claim is "so insubstantial, implausible, foreclosed by prior decisions of this Court, or otherwise completely devoid of merit as not to involve a federal controversy." *Steel Co.*, 523 U.S. at 89 (quoting *Oneida Indian Nation v. County of Oneida*, 414 U.S. 661, 666 (1974)).

2. Rule 12(b)(6) of Federal Rules of Civil Procedure

A motion to dismiss for failure to state a claim upon which relief can be granted under Rule 12(b)(6) tests the legal sufficiency of a complaint. *Navarro v. Block*, 250 F.3d 729, 732 (9th Cir. 2001). Rule 8(a) requires that a pleading contain "a short and plain statement of the claim showing that the pleader is entitled to relief." *See Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009). The complaint must "give the defendant fair notice of what the claim...is and the grounds upon which it rests." *Bell Atlantic v. Twombly*, 550 U.S. 544, 555 (2007) (internal quotations omitted).

On a motion to dismiss, the factual allegations of the complaint must be accepted as true. *Cruz v. Beto*, 405 U.S. 319, 322 (1972), overruled on other grounds. A court is bound to give the pleader the benefit of every reasonable inference to be drawn from the "well-pleaded" allegations of the complaint. *Retail Clerks Int'l Ass'n v. Schermerhorn*, 373 U.S. 746, 753 n.6 (1963). A pleader need not allege "'specific facts' beyond those necessary to state his claim and the grounds showing entitlement to relief." *Twombly*, 550 U.S. at 570.

Ultimately, a court may not dismiss a complaint in which the pleader has alleged "enough facts to state a claim to relief that is plausible on its face." *Iqbal*, 556 U.S. at 697 (quoting *Twombly*, 550 U.S. at 570). "A claim has facial plausibility when the plaintiff pleads factual content that allows the court to draw the reasonable inference that the defendant is liable for the misconduct alleged." *Id.* at 680. While the plausibility requirement is not akin to a probability requirement, it demands more than "a sheer possibility that a defendant has acted unlawfully." *Id.* at 678. This plausibility inquiry is "a context-specific task that requires the reviewing court to draw on its judicial experience and common sense." *Id.* at 679.

3. The scope of the Tribal Court's jurisdiction.

The Agua Caliente Tribal Court is a court of limited jurisdiction. ACBCI Code § 2.60.030(a) provides in pertinent party that "[t]he Tribal Court is a court of limited jurisdiction and is therefore restricted to hearing and deciding cases that Tribal law authorizes the court to hear and decide." Subsection (c) states:

> The Tribal court may exercise the Tribe's territorial, personal, and subject matter jurisdiction the fullest extent possible strictly as set forth in Tribal law. The civil jurisdiction of the Tribal court shall include:
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> (1) *Territorial jurisdiction*. The jurisdiction of the Tribal court shall extend to all Indian lands and all other lands as provided for in other applicable law.
> (2) *Personal Jurisdiction*. The jurisdiction of the Tribal court shall extend to all persons to the fullest extent permitted by federal law, including but not limited to the following:
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> a. All persons whose conduct threatens or has some direct effect on the political integrity, the economic security, or the health and welfare of the Tribe, Tribal Members, and others residing on or visiting the Reservation.
> b. All Persons who consent, through conduct commercial dealing, contract, or otherwise, to Tribal court jurisdiction; and
> c. All persons residing on, doing business on, owning, or leasing real property . . . shall have deemed to have impliedly consented to the jurisdiction of the Tribal court.

The Code also instructs that in all civil cases the Court applies Tribal law first, and "[i]f there is no applicable Tribal law, the Tribal court shall apply federal law," ACBCI Code § 2.60.030(l). In the absence of either, however, "the Tribal court may apply . . . the law of the State of California," ACBCI Code § 2.60.030(k). The Court also possesses the inherent authority to "take all necessary and proper actions" to ensure that its jurisdiction is properly exercised. ACBCI Code § 2.60.030(f)(2).

V. DISCUSSION AND ANALYSIS

1. The Tribal Court lacks subject matter jurisdiction over McGlamary's claims.

a. General Principles

HMI's jurisdictional attack on McGlamery's Complaint can be viewed as a facial attack. HMI does not submit affidavits or extrinsic evidence to support its argument. Instead, HMI explicitly argues that, on its face, the Complaint, asks the Tribal Court to enjoin a federal administrative proceeding — relief HMI contends is categorically beyond the court's authority regardless of any factual development. According to HMI, every claim rests on a single act: HMI's filing of a Notice of Appeal with the BIA. And, argues HMI, McGlamary's "Prayer for Relief" makes the Complaint's true objective plain — the shutting down of the administrative appeal. This characterization matters because it constrains how the court analyzes the motion. Under a facial standard, the court must accept McGlamary's well-pleaded allegations as true and draw all reasonable inferences in his favor. Although this standard cuts in the plaintiff's favor when a court is confronted with a facial challenge to its jurisdiction, the burden nevertheless remains with the plaintiff to show than jurisdiction does indeed exist by pointing to a specific grant of jurisdiction or otherwise.

Here, McGlamery does not point to any specific Tribal law that authorizes the Tribal court hear this case. Instead, he argues that because the dispute arises from conduct on tribal land and directly concerns the use, possession, and disposition of that land, the tribal court has inherent sovereign authority to adjudicate it under *Water Wheel Camp Recreational Area, Inc. v. LaRance*, 642 F.3d 802 (9th Cir. 2011). *Pls.' Opp'n. to Mot. to Dismiss*, 6:8-20. There are at least three problems with this argument. First, as noted above, the Tribal Court can hear only those cases and controversies that the Tribal Council gives it specific authority to hear, and there is there is nothing in the Tribal Code that grants—or even acknowledges— the Court "inherent authority" to *adjudicate* claims involving tribal lands. It's true that under ACBCI Code § 2.60.030 the territorial jurisdiction of the Tribal Court extends to "all Indian lands," however, territorial jurisdiction is distinct from subject matter jurisdiction, and, as HMI argues, there is no specific Tribal law vesting the Tribal court to hear the types of claims McGlamery is asserting, notwithstanding that fact that his cause of action relate to tribal land.

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Second, *Water Wheel* is distinguishable from the facts here. In *Water Wheel*, the plaintiff in the underlying tribal court action was the Colorado Indian River Tribes (CRIT), which sued Water Wheel and its owner for failure to pay rent and for trespass after a lease involving tribal land expired. Here, in contrast, the Agua Caliente Tribe is not a counterpart to the leases in dispute or party to the action, and McGlamery—although a member of the Tribe—is suing in his own name and seeking damages for himself and not for the Tribe.

And third, although the Tribal Court does possess a degree of "inherent authority" that authority does not give it unfettered power to hear any case involving tribal lands, but, instead, concerns powers "necessarily vested in courts to manage their own affairs so as to achieve the orderly and expeditious disposition of cases." *Link v. Wabash Railroad*, 370 U.S. 626 (1962); *see also Roadway Express, Inc. v. Piper*, 447 U.S. 752 (1980) (noting that inherent generally cannot be used to expand subject matter jurisdiction, and federal court without diversity or federal question jurisdiction can't manufacture jurisdiction by claiming it inherently).

In his Opposition, McGlamery also minimizes the significance of *Montana v. United States*, 540 U.S. 544 (1981), considered a path marking case regarding a Tribe's civil jurisdiction over nonmembers. According to McGlamary, "*Montana* addresses the limitations on tribal authority over nonmembers in certain contexts but does not displace the inherent authority recognized in *Water Wheel* where the dispute arises from conduct on tribal land effecting possessory interest." *Pls.' Opp'n. to Mot. to Dismiss*, 7:8-11 (citations omitted). And, according to McGlamary, "[e]ven if Montana is applicable, its exceptions would be satisfied. [HMI's] asserted rights arise directly from their consensual relationship with Plaintiff under PSL-129[,] [and] [HMI's] conduct-asserting control over the landowner's disposition of future interest and interfering with approved and pending lease transactions threatens the [T]ribe's ability to reguate the use and alienability of its land, an interest at the core of tribal self-government." *Id.* 7:13-18

To properly analyze the merits of McGlamary's argument, a walk through the post-*Montana* forest is necessary. The first exception in *Montana v. United States*, 450 U.S. 544 (1981), was originally framed broadly. The Court stated that a tribe may regulate "the activities of nonmembers who enter consensual relationships ***with the tribe or its members***, through commercial dealings,

contracts, leases, or other arrangements." 450 U.S. at 565 (emphasis added). So, at the threshold, the text supports both readings — relationships with the tribe itself *or* with tribal members can satisfy the exception. McGlamary's Opposition relies on this language directly, arguing that HMI's master lease relationship under PSL-129 (which involves both the tribe as lessor and McGlamery as the tribal member with equitable ownership) satisfies *Montana*'s first exception.

Yet, that doctrine didn't stay where *Montana* left it. Three Supreme Court decisions have progressively narrowed when consensual relationships with tribal members support tribal jurisdiction. First, in *Strate v. A-1 Contractors*, 520 U.S. 438 (1997), the Court held that a tribal court lacked jurisdiction over a tort claim arising from a highway accident on a state right-of-way running through reservation land. Even though one of the parties was the widow of a tribal member, the Court held that the consensual relationship exception requires more than a connection to a tribal member — the underlying conduct must arise *from* the consensual relationship and have some nexus to tribal self-government interests.

Then, in *Atkinson Trading Co. v. Shirley*, 532 U.S. 645 (2001), the Court held that a Navajo hotel occupancy tax could not be imposed on nonmembers staying at a non-Indian-owned hotel on non-Indian fee land, even though guests received tribal services. This was a significant narrowing of the doctrine, because the Court held that the consensual relationship must have a "nexus" to the regulation imposed and that a tribe's regulatory authority over nonmembers is "presumptively invalid." *Atkinson* essentially established that incidental commercial relationships involving tribal members are insufficient — there must be a direct connection between the consensual relationship and the conduct being regulated.

And, finally, in *Plains Commerce Bank v. Long Family Land & Cattle Co.*, 554 U.S. 316 (2008), the Court held that a tribal court lacked jurisdiction over a discrimination claim by tribal members against a non-Indian bank, even though there was an undisputed consensual commercial relationship (a loan agreement) between the bank and the tribal members. The Court explained that the consensual relationship exception "concerns *activities* of nonmembers" and "does not permit the regulation of nonmember conduct on land owned in fee by nonmembers." 554 U.S. at 332. This is the most restrictive recent statement by the Court, which can be summarized as follows: (1) tribal

jurisdiction over nonmembers is the exception and not the rule; (2) the conduct being regulated must implicate tribal self-government; and (3) consensual relationships with tribal members support jurisdiction only when the regulated conduct has a meaningful connection to the relationship and to tribal interest.

The takeaway from all this is that although *Water Wheel* held that on tribal trust land, the tribe's right to exclude provides an independent source of jurisdiction that doesn't require a *Montana* analysis at all, it did not hold that in the absence of a specific grant of jurisdiction, a Tribal Court can adjudicate a purely private tort claim between a tribal member and a nonmember, when the alleged tortious conduct does not adversely impact identifiable tribal interest. And a private right of action for purely tort claims is precisely what McGlamary argues his case about.

With *Water Wheel* out of the equation, and assuming for argument's sake that Tribal law permitted the Court to hear the types of claims McGlamary raises, the next question is whether the Court has jurisdiction under *Montana* and the post-*Montana* precedents reference above. A simple look at McGlamary's Complaint provides a ready answer—he frames HMI's alleged conduct as tortious that "occurred within the Tribe's territory that directly harms Plaintiff's interest." But nowhere in his Complaint does McGlamary allege that HMI' s conduct has adversely affected the Tribe's political integrity or economic well-being. More on that issue below.

b. ACBCI Code § 2.60.030(d).

Although McGlamary styles his causes of action as tort claims, as HMI points out, every claim in his Complaint rests on a single act: HMI's filing of a Notice of Appeal with the IBIA. The Complaint does not allege any independent tortious conduct — no fraud, no trespass, no breach of any duty owed to McGlamary apart from the appeal itself. And McGlamary's Prayer for Relief confirms what appears to be the Complaint's true purpose—obtain an order "permanently enjoin[ing] and prohibit[ing] [HMI] "from "further prosecution of the BIA appeal." In essence, McGlamary asks this Court to enjoin a pending federal administrative proceeding, which he conceded at oral arguments HMI had the right to pursue. The Court has no authority to do so.

First, ACBCI Code § 2.60.030(d) confers jurisdiction only over "all civil cases or controversies in law or equity which Tribal law authorizes the Tribal court to hear." The obvious

import of this Code provision is abundantly clear: Tribal court jurisdiction only exists when Tribal law clearly allows for it, and this means that a plaintiff in a civil suit must point to a specific provision of Agua Caliente Tribal law that authorizes the Tribal court to hear the matter. Only when the plaintiff satisfies this requirement, can the Court move forward with adjudicating the case.

It bears repeating that the jurisdictional grant in § 2.60.030(d) is not open-ended; it is expressly limited to matters that Tribal law affirmatively authorizes the Court to adjudicate. And no provision of the Tribal Code authorizes the Court to review, invalidate, or restrain a party's participation in a federal administrative proceeding, and McGlamary has identified none. In addition, McGlamary's request that the Court determine whether HMI's federal administrative appeal is a "sham," and enjoin its prosecution, would require this Court to evaluate the propriety of an appeal pending before the IBIA — a task the Tribal Code does not authorize and that federal law assigns elsewhere. Under 25 C.F.R. Part 2, the Regional Director is the Department of the Interior's designated decisionmaker for that purpose. The federal regulatory scheme vests the authority to assess the validity of the appeal exclusively in that forum.

Even if the Tribal Court had the authority to hear the tort claims McGlamary alleges, and by some leap of pretzel logic concluded it had the authority to restrain a party from pursuing an appeal it was legally entitled to pursue, this Court would not inject itself into a *live* case pending before a federal agency. At a minimum, the principle of comity and respect for legitimate foreign tribunals requires no less.

Second, as HMI correctly notes, the administrative appeal at issue arises entirely under federal law. The BIA administrative review process is established and governed by 25 C.F.R. Part 2, and is administered by the Department of the Interior. Nothing in the Code of Federal Regulations give a Tribal Court the power to intervene into an ongoing administrative review. The Pacific Regional Director, a federal official exercising delegated federal regulatory authority, is the designated decisionmaker on the pending appeal. The authority to review, affirm, modify, or reverse a BIA decision therefore derives *exclusively* from federal law and exists within a federal administrative framework created by Congress and implemented by the Department of the Interior. Consequently,

even if McGlamary were correct that the Tribal Court had inherent jurisdiction to adjudicate claims involving tribal lands, it still would have no power to interfere with a federal administrative appeal.

And, finally, as already discussed above, under ACBCI Code § 2.60.030(l), the Court applies Tribal law first; "[i]f there is no applicable Tribal law, the Tribal court shall apply federal law." Since no provision of the Tribal Code addresses immunity for petitioning activity before government agencies, the Court must look to federal law, which provides a ready answer.

c. McGlamary has failed to establish that the Tribal Court can exercise jurisdiction over HMI, a nonmember of the Tribe.

The Supreme Court has repeatedly recognized that tribal jurisdiction — while an aspect of inherent sovereignty — is limited, particularly where the asserted authority would regulate the conduct of nonmembers or interfere with governmental functions of separate sovereigns. In *Montana v. United States*, 450 U.S. 544 (1981), the Court held that "the inherent sovereign powers of an Indian tribe do not extend to the activities of nonmembers of the tribe." *Id.* at 565. Under *Montana*, tribal authority over nonmembers may be exercised in two, distinct situations: (1) the nonmember has entered a consensual relationship with the tribe through commercial dealings, contracts, leases, or similar arrangements, or (2) the nonmember's conduct threatens or directly affects the political integrity, economic security, or health or welfare of the tribe. *Id.* at 565–66. The Court reaffirmed this limitation in *Nevada v. Hicks*, 533 U.S. 353, 358–60 (2001), holding that tribal jurisdiction over nonmembers cannot exceed the tribe's regulatory authority and must satisfy the *Montana* framework. The *Hicks* Court specifically held that tribal courts lacked jurisdiction over civil claims against state officials executing state law on tribal land because such regulation was not necessary to protect tribal self-government or internal relations. *Id.* at 364–66.

Here, assuming arguendo that Tribal law gives the Court subject matter jurisdiction over tort claims, McGlamary has failed to establish that an of jurisdiction over HMI would satisfy one of the *Montana* exceptions. That is, McGlamary failed to establish—over even allege—that his business relationship was with the Tribe, or that it was sufficiently connected to the Tribe to conclude that HMI entered a contract or other consensual relationship with the Tribe. Nor did he establish that HMI activities adversely impacted the Tribe's political integrity, economic well-being or self-government.

And, tellingly, the Tribe is not a party to the case. The only salient fact McGlamary points to is that the land in question is Tribal land, but that is not enough.

Although in his *Opposition* McGlamary abandoned his prayer that the Court enjoin the BIA administrative appeal process, he is nevertheless seeking damages for HMI availing itself of that process. However, McGlamary has failed to establish that HMI's participation in that federal appellate process arises from, or presently concerns, a consensual relationship with the Tribe within the meaning of *Montana*. Nor does McGlamary show how HMI's administrative appeal implicates the Tribe's internal governance or threaten its political integrity or economic security. In short, permitting the relief McGlamary seeks would impermissibly expand tribal jurisdiction beyond the limits recognized in *Montana* and reaffirmed in *Hicks*.

d. Personal Jurisdiction Over HMI Does Not Cure the Jurisdictional Defect.

To the extent McGlamary relies on ACBCI Code § 2.60.030(c)(3)(b), (e) to argue that HMI is subject to personal jurisdiction because it conducts business on tribal lands or is a party to a master lease, that premise does not resolve the jurisdictional defect presented here. The question is not whether the Court may exercise jurisdiction over HMI as a defendant; it is whether the subject matter of the dispute falls within the Court's authority. As the Supreme Court explained in *Insurance Corp. of Ireland v. Compagnie des Bauxites de Guinee*, 456 U.S. 694, 702 (1982), "[n]o action of the parties can confer subject-matter jurisdiction upon a federal court," a principle of universal force: even if HMI is properly before the Court as a party, that fact does not empower the Court to adjudicate matters that fall outside its jurisdictional authority. Moreover, the conduct McGlamary characterizes as a "tortious act" does not arise from HMI's on-reservation business activities; it is the filing of an administrative appeal with a federal agency pursuant to 25 C.F.R. Part 2. That act occurs within a federal administrative forum and is governed by federal regulatory law, not by any business transaction on tribal lands.

Accordingly, even assuming personal jurisdiction exists, the Court lacks authority to adjudicate the subject matter of the claims, and the action must be dismissed for lack of jurisdiction.

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2. The Noerr-Pennington doctrine is an independent bar to jurisdiction.

The Noerr-Pennington doctrine provides broad immunity from civil liability for legitimate petitioning activity before government bodies. In *Eastern Railroad Presidents Conference v. Noerr Motor Freight, Inc.*, 365 U.S. 127 (1961), the Supreme Court held that civil liability may not "be predicated upon mere attempts to influence the passage or enforcement of laws," *id.* at 135, because imposing liability on petitioning activity would raise serious First Amendment concerns. *Id.* at 138–41. The Court extended this immunity in *United Mine Workers v. Pennington*, 381 U.S. 657, 670 (1965), holding that "concerted efforts to influence public officials do not violate the antitrust laws even though intended to eliminate competition." The doctrine's protections extend beyond legislative lobbying to all branches of government, including administrative proceedings. *California Motor Transport Co. v. Trucking Unlimited*, 404 U.S. 508, 510 (1972) (First Amendment protects efforts to petition "all departments of the government").

The Ninth Circuit has consistently extended Noerr-Pennington to bar tort claims, including the precise causes of action McGlamary alleges here. *Sosa v. DIRECTV, Inc.*, 437 F.3d 923, 929–30 (9th Cir. 2006) (Noerr-Pennington "extends beyond antitrust to immunize petitioning activity from state tort claims"); *Theme Promotions, Inc. v. News America Marketing FSI*, 546 F.3d 991, 1007 (9th Cir. 2008) (applying Noerr-Pennington to bar tortious interference claims, because conduct "incidental to a lawsuit" and petitioning activity "falls within Noerr-Pennington protection" and bars claims for "interference with contractual relations or prospective economic advantage"); *Empress LLC v. City & County of San Francisco*, 419 F.3d 1052, 1056–57 (9th Cir. 2005) ("Noerr-Pennington is a label for a form of First Amendment protection" and a petitioner's motives do not strip that protection).

McGlamary argues, on the other hand, that the Noerr-Pennington doctrine does not apply to sham proceedings. In other words, proceeding filed in bad faith or with fraudulent intent. He's right, but he goes a step further and asks this Court to inject itself into an on-going proceeding and decide whether HMI appeal is in fact a sham. That's a bridge too far. If HMI's appeal is a sham, that is for the Feds to decide.

But even if the Court would to consider McGlamary's argument that HMI's appeal is nothing more than a sham, he would lose. To prevail on the "sham exception" McGlamary must satisfy a two-part showing. *Professional Real Estate Investors, Inc. v. Columbia Pictures Industries, Inc.*, 508 U.S. 49, 60–61 (1993) ("*PRE*"). Under *PRE*'s first prong, objective baselessness, the plaintiff must prove the challenged proceeding is "objectively baseless in the sense that no reasonable litigant could realistically expect success on the merits." 508 U.S. at 60. Here, HMI's appeal raises cognizable regulatory issues under 25 C.F.R. §§ 162.345 and 162.449 regarding whether the BIA properly approved the "Successor Leases" without the current lessee's consent considering their impact on the underlying master lease. The appeal presents genuinely debatable questions, since the Successor Leases were executed with HMI's existing sub-tenants during the active term of PSL-129; they require immediate upfront payments of $100,000 plus $15,000 in attorney's fees to McGlamary's counsel; and they appear to impose concurrent rental obligations overlapping the same residency period covered by the existing subleases administered by HMI. Whether instruments imposing these substantial present-term financial obligations on existing sub-tenants constitute de facto amendments to the master lease requiring lessee consent is a genuinely debatable question, which, as noted above, is better left for the administrative body to sort out.

Under *PRE*'s second prong, subjective intent, McGlamary must prove HMI's subjective intent was to use "the governmental process — as opposed to the outcome of that process — as an anticompetitive weapon." 508 U.S. at 61. The Court in *PRE* emphasized that "[t]he legality of objectively reasonable petitioning 'directed toward obtaining governmental action' is 'not at all affected by any anticompetitive purpose [the actor] may have had.'" *Id.* at 58 (quoting *Noerr*, 365 U.S. at 140). A petitioner's hope that a successful appeal will disadvantage a competitor does not satisfy this prong; only using the process itself — rather than seeking its outcome — as a weapon suffices. Here, HMI seeks a substantive ruling from the Regional Director on the propriety of the BIA's approvals, and, despite McGlamary's protestations to the contrary, there is no evidence that HMI is using the process itself as a weapon.

Applying the foregoing principles to the case at bar, provides a clear answer. HMI filed a Notice of Appeal and Appeal Brief with the IBIA challenging the BIA's approval of the Successor

Leases. That is petitioning a federal agency for redress of grievances — the very activity Noerr-Pennington was designed to protect. Each of McGlamary's tort claims targets that single act of petitioning, and because the gravamen of his lawsuit arises solely from HMI's filing of a federal administrative appeal, the Noerr-Pennington doctrine warrants dismissal of the Complaint.

3. The Complaint Independently Fails to State a Legally Cognizable Claim.

Even if the jurisdictional, constitutional, and immunity defenses above did not require dismissal, the Court agrees with HMI's argument that the Complaint would still fail because it does not state a legally cognizable cause of action. This Court has inherent authority to dismiss claims that fail to state legally cognizable causes of action, and the Tribal Code authorizes the Court to "take all necessary and proper actions" to ensure its jurisdiction is properly exercised. ACBCI Code § 2.60.030(f)(2). To the extent gap-filling is required, California's demurrer standard under CCP § 430.10(e) provides the equivalent mechanism for testing the legal sufficiency of a complaint. The court accepts as true all material factual allegations, but not "contentions, deductions or conclusions of fact or law." *Blank v. Kirwan*, 39 Cal.3d 311, 318 (1985).

a. First Cause of Action — Tortious Interference with Contract.

Tortious interference with contract requires: (1) a valid contract between plaintiff and a third party; (2) the defendant's knowledge of that contract; (3) intentional acts designed to induce a breach or disruption of the contract; (4) actual breach or disruption; and (5) resulting damages. *Pacific Gas & Electric Co. v. Bear Stearns & Co.*, 50 Cal.3d 1118, 1126 (1990). Critically, the interference must involve conduct that is "wrongful by some legal measure other than the fact of interference itself." *Della Penna v. Toyota Motor Sales, U.S.A., Inc.*, 11 Cal.4th 376, 393 (1995). The wrongful conduct must be "proscribed by some constitutional, statutory, regulatory, common law, or other determinable legal standard." *Ixchel Pharma, LLC v. Biogen, Inc.*, 9 Cal.5th 1130, 1142 (2020).

Filing a BIA administrative appeal is a lawful act expressly authorized by 25 C.F.R. Part 2. Exercising a statutory right to seek administrative review of a federal agency decision does not meet the "independently wrongful" standard — it is the opposite of wrongful conduct; it is the exercise of a right specifically conferred by federal regulation. To hold otherwise would chill every party's right to seek administrative review of agency actions.

The Complaint alleges that existing contracts "may be disrupted" (Compl. ¶ 24). This speculative, conditional allegation is insufficient to state a claim. There is no evidence that any existing contract has been breached; no sub-lessee has terminated or repudiated a Successor Lease because of HMI's appeal. More fundamentally, an administrative appeal seeking regulatory review of the government's approval of the Successor Leases cannot, as a matter of law, constitute a breach or disruption of those leases. The appeal challenges the BIA's decision-making process, not the contractual relationship between McGlamary and his sub-lessees. Any disruption that might flow from a successful appeal would result from the BIA's own regulatory determination, not from HMI's act of seeking review. *Pacific Gas & Electric*, 50 Cal.3d at 1137 ("[A]llowing either cause of action to be stated when the only interference alleged is that defendant induced the bringing of potentially meritorious litigation would be an unwarranted expansion of the scope of these torts.").

b. Second Cause of Action — Tortious Interference with Prospective Economic Advantage.

Tortious interference with prospective economic advantage requires: (1) an economic relationship between plaintiff and a third party with a probability of future economic benefit; (2) defendant's knowledge of that relationship; (3) independently wrongful conduct by the defendant; (4) actual disruption of the relationship; and (5) resulting damages. *Korea Supply Co. v. Lockheed Martin Corp.*, 29 Cal.4th 1134, 1153–54 (2003). The "independently wrongful" element requires conduct "proscribed by some constitutional, statutory, regulatory, common law, or other determinable legal standard." *Id.* at 1159.

This claim fails for the same reasons as the contract claim: filing a lawful BIA appeal cannot constitute independently wrongful conduct. In addition, McGlamary's prospective relationships are entirely speculative. The Complaint alleges negotiations for additional Successor Leases with homeowners but does not identify any specific third party who refused to enter a Successor Lease because of HMI's appeal. The allegation that "substantial deposits have been received for nine such units" does not establish that HMI's appeal disrupted any of these prospective transactions.

c. Third Cause of Action — Declaratory Relief.

The declaratory relief claim fails for three independent reasons. First, declaratory relief is derivative of the tort claims; if the underlying tort claims fail, declaratory relief fails with them. Second, the declarations McGlamary seeks ask this Court to rule on the merits of the BIA appeal — specifically, whether HMI has cognizable interests in the Successor Leases and whether HMI's appeal is a "sham." Those questions are properly before the Regional Director, not this Court. Third, the Prayer for permanent injunctive relief asks the Court to restrain HMI from "further prosecution of the BIA appeal or any other administrative or judicial action," which would directly interfere with a pending federal administrative process and exceeds this Court's jurisdictional authority for all the reasons set forth in Section A above.

VI. CONCLUSION AND ORDER

What this case is essentially about is *tribal member* who has been in a long-term business relationship with a *nonmember* that involves Indian trust land, and that relationship has soured. Now McGlamary wants this run-of-the-mill business dispute to be heard in Tribal Court, even though there is no explicit authority to do so, and federal case law prohibits it.

In short, McGlamary's Complaint seeks to impose tort liability on HMI for a single act: filing an administrative appeal with the Bureau of Indian Affairs. That petitioning activity is protected by the Noerr-Pennington doctrine, all of which apply under ACBCI Code § 2.60.030(k) and (l). The appeal raises legitimate regulatory issues currently pending before the Pacific Regional Director, and this Court will not allow its process to be used to punish or interfere with that federal administrative proceeding. Independently, this Court lacks subject matter jurisdiction to enjoin a federal administrative appeal, and the Complaint fails to state a legally cognizable cause of action. Considering the foregoing, the Court need not address the remaining two arguments HMI raises to support dismissal of the Complaint—the Indian Civil Rights Act, and California's anti-SLAPP statute.

For the foregoing reasons, **IT IS HEREBY ORDERED** that Defendant Hallview Management Co., Inc.'s Motion to Dismiss is **GRANTED** in its entirety. Accordingly, the Complaint filed by Plaintiff William Ulysses McGlamary, II is **DISMISSED WITH PREJUDICE** in its entirety.

The Court further **ORDERS** that pursuant to Rule 8(b), Defendant Hallview Management Co., Inc. may be entitled to an award of reasonable attorney's fees and costs as the prevailing party on this Motion. Defendant Hallview shall file a memorandum of fees and costs within thirty (30) days of this Order, to which Plaintiff may respond within fourteen (14) days of service thereof.

Any pending hearings on this matter are **VACATED**. The Clerk of the Court is directed to close this case.

IT IS SO ORDERED.

Dated: May 6, 2026

JOSEPH J. WISEMAN
Chief Judge
Agua Caliente Band of Cahuilla
Indians Tribal Court

In the matter of: William Ulysses McGlamary, II vs. Hallview Management, Inc.	CASE NUMBER: CV-2026-0003-GC

CLERK'S CERTIFICATE OF MAILING

I certify that I am not a party to this case. I certify that a true copy of the attached Order Granting Motion to Dismiss was mailed following standard court practices, addressed as indicated below. The mailing and this certification occurred at Palm Springs, California, on May 6, 2026.

Tribal Court Clerk, by: J. McCormies

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