IN THE TRIAL COURT OF THE KIOWA TRIBE
AT
CARNEGIE, OKLAHOMA

LAWRENCE SPOTTEDBIRD,	)	
	)	
Plaintiff,	)	
	)	
v.	)	**Case No. KT-CV-2026-4**
	)	
KIOWA TRIBE LEGISLATURE, et al.,	)	
	)	
Defendants.	)	

BRIEF IN RESPONSE TO COMPLAINT FOR TEMPORARY RESTRAINING ORDER AND/OR INJUNCTIVE AND DECLARATORY RELIEF

COME NOW Defendants, the Kiowa Tribe Legislature, Michael Primus, II, Timothy Satepahoodle, Cole Delaune, Kyle Ataddelty, Tiya Rosario, Ben Lucero and Warren Queton by and through their undersigned legal counsel to provide this brief in response to certain complaints by Lawrence SpottedBird.

FACTUAL BACKGROUND

This is a case about impeachment. Impeachment is a unique process – described as political, or "political-legal."[1] The United States Supreme Court in *Nixon v. United States* held that whether the Senate chose appropriate procedures for impeachment was a nonjusticiable political question.[2] The Kiowa Constitution gives the Legislature the sole authority to conduct impeachment trials, just as the United States Constitution gives the Senate that same sole authority. And, as with the United States Senate, since the duty to conduct the impeachment of the Kiowa

[1] Charles Tiefer, *The Senate Impeachment Trial for President Clinton*, 28 HOFSTRA L. REV. 407, 408 (1999).

[2] 506 U.S. 224, 229 (1993).

Chairman is left to the Kiowa Legislature – solely – it alone has the authority to proscribe the rules and procedures of impeachment.

Which is not to say that the Kiowa Legislature can be unfair or deny due process. Rather, the Kiowa Constitution at Article XII, Section 3, provides for a very particular process for Impeachment which the Legislature has undertaken with care:

> Section 3. Impeachment and Removal of a Chairman and Vice-Chairman. The Legislature shall have the power to impeach and remove a Chairman or Vice-Chairman for good cause beyond a reasonable doubt by a unanimous vote of the Legislature. The Legislature shall have the burden of proving good cause beyond a reasonable doubt. A Chairman or Vice-Chairman subject to removal shall be provided with adequate notice, be informed of the charges in writing, be given an opportunity to address the Legislature in a public hearing, and be given an opportunity to contest the charges, and prepare and present a defense including presenting witnesses and other evidence. The process to seek the impeachment and removal of the Chairman or Vice-Chairman shall not extend beyond ninety days. The Chairman and Vice-Chairman shall not be subject to impeachment and removal at the same time.

The Kiowa Constitution also provides that the Kiowa Legislature is immune from suit at Article X, Section 4 except where it is "exercising an executive function":

> Section 4. Suits against the Legislature and Legislators. Because the Legislature has no authority to take executive actions except those specifically authorized by this Constitution, the Legislature and individual legislators acting in their official capacity shall be immune from suit in law and equity. When the Legislature is exercising an executive function specifically authorized by this Constitution, the Legislature shall not be immune from suit in equity filed exclusively in the Judicial Branch by any party subject to the Jurisdiction of the Tribe.

As discussed herein, impeachment is not an executive function. Rather impeachment is a core legislative function. It allows the Legislature to serve as a check and balance on a Chairman who violates the law and who is himself immune from suit while serving as Chairman.[3] If

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[3] Impeachments are rare. In the federal system:

> Throughout American history, only a total of 19 federal officeholders have faced impeachment charges, including President Andrew Johnson in 1868 and President William Clinton in 1998 (both were acquitted by the Senate). Since 1876, the only federal officers to be impeached (except for Clinton) were federal judges; only six of those 10 judges were convicted by the Senate, removing them from office; others resigned.

Available at https://constitutioncenter.org/blog/the-presidency-impeachment-and-an-enduring-dilemma (accessed Feb. 26, 2026).

anything, the process of impeachment is more judicial in nature, and as discussed below, Defendants in this matter are shielded with immunity from SpottedBird's suit.

Plaintiff complains that his "rights" of due process were trampled by the Legislature. That is far from the case. Rather, the facts that lead the Kiowa Tribal Chairman, Lawrence SpottedBird, to the filing of this lawsuit are well documented in the Exhibits he attached to his Complaint for Temporary Restraining Order and/or Injunctive and Declaratory Relief (herein the "Complaint.").[4] The following is a bullet pointed summary for the Court's convenience:

- Starting in the fall of 2024, the Legislature sent letters to Plaintiff seeking information. For the most part those letters went unanswered. The Legislature then inquired of executive staff. In response, Plaintiff issued an edict that no executive staff could answer any questions from the Legislature without his approval.
- In the summer of 2025 the Kiowa Legislature, acting upon information received in the course of its work and after numerous letters were left unanswered, issued a series of subpoenas – pursuant to longstanding Kiowa Law – for records from Lawrence SpottedBird, William Weaver, Marland Toyekoyah, and Richard McMahon.
- The documents received in response were reviewed, hearings were scheduled at times convenient to Plaintiff, and the hearings were completed in October 2025 where Lawrence SpottedBird, William Weaver, Marland Toyekoyah, Richard McMahon, and others testified under oath.
- The documents and testimony were compiled into a 29 page report which is publicly available here (Plaintiff attached a draft copy of the report to his Complaint):

[4] While the Complaint does not comport with the usual requirements for a pleading, and also is not the type of motion one would usually receive in litigation, the undersigned has attempted to draft a short and plain response in a form the Court would expect from a lawyer.

https://www.kiowatribe.org/sites/default/files/inline-files/2.14.26%20Final%20Report%20October%202025%20Legislative%20Inquiry%20Hearings.pdf

- The press recently synthesized the Legislature's report: https://nondoc.com/2026/02/25/toilets-t-shirts-and-tribal-finances-kiowa-legislature-moves-to-impeach-chairman-lawrence-spottedbird/
- On February 12, 2026, the Kiowa Legislature met to discuss the report and to consider the preparation of charges against Plaintiff. The documents Plaintiff attached as his exhibits to his Complaint are copies of the legislative briefing packet from that day.
- The Legislature prepared charges based upon its factual inquiry which are described by the undersigned counsel as follows:
    - **Charge 1:** Failure to Safeguard Financial Assets, Corruption, Gross Incompetence, and Violation of the Kiowa Law. First, Chairman Spottedbird oversaw the creation and operation of Indian City Screen Printing, which spent more than its internal budget, generated less than $11,000 in revenue, and expended more than $440,000 of Tribe monies. Second, Chairman SpottedBird failed to conduct any due diligence before commencing the enterprise and failed to develop a business plan for its operation. Third, Chairman SpottedBird engaged in nepotism by hiring at least one unqualified family member to manage the undertaking, paying them an exorbitant salary and allowing them personal use of Tribe utilities. Fourth, Chairman SpottedBird failed to account for remaining inventory of the enterprise after its closure, testifying that he failed to keep the assets of Indian City Screen Printing from being stolen.
    - **Charge 2:** Failure to Safeguard Financial Assets, Malfeasance, Gross Incompetence, and Violation of Kiowa Law. In June 2023, Chairman SpottedBird promised, and ultimately gave, $50,000 of Tribal Funds to a Kiowa Citizen as a purported "business investment." There was no written contract for the repayment of the funds or any form of profit sharing for the purported business, which had not commenced operations as of October 2025, and has not commenced operations since. Nor was the expenditure of the Tribal Funds appropriated in a Tribal Budget, which is a violation of Kiowa Law. Finally, Chairman SpottedBird could not account for how the Tribal Funds were ultimately used, speculating that the recipient used the funds for personal purposes rather than legitimate business applications.

- **Charge 3:** Failure to Safeguard Financial Assets, Corruption, and Violation of Kiowa Law. Over a period of several years, Chairman SpottedBird directed the Tribe's casino operations to expend Tribal Funds in the form of donations and sponsorships, in violation of Kiowa Law. These donations and sponsorships were not appropriated in a Tribal Budget, a violation of Kiowa Law. Additionally, these expenditures were made in violation of the Kiowa Tribe Sponsorship Act of 2023 and the Kiowa Tribe Sponsorship Act of 2024.

- **Charge 4:** Failure to Safeguard Financial Assets, Embezzlement, and Violations of Kiowa Law. Chairman SpottedBird used Tribal Funds to pay for personal expenses. First, Chairman SpottedBird allowed his spouse to purchase personal items from Costco using the Tribe's credit card. Second, in the summer of 2024, Chairman SpottedBird used Tribal Funds to purchase personal airfare for his spouse's trip to South Korea. While the airline expenditure was apparently reimbursed to the Tribe, both of these disbursements of Tribe funds were made without authorization in law. The Korean organization Chairman SpottedBird affiliated with has been implicated in the abuse and death of a child with developmental disabilities.

- **Charge 5:** Contempt and Violations of Kiowa Law. In violation of Kiowa law, Chairman SpottedBird failed to respond to a Legislative Subpoena requesting the production of credit card statements for Tribal credit cards issued and used in the name of Chairman SpottedBird.

- **Charge 6:** Failure to Safeguard Financial Assets, Malfeasance, Gross Misconduct, Failure to Protect the Tribe's Best Interest. On November 2, 2023, the National Indian Gaming Commission (NIGC) Compliance Division issued a Letter of Concern (LOC) to the Kiowa Tribe regarding the overpayment of stipends in total cumulative excess of $300,000 to Trustees of the Kiowa Casino Operations Authority (KCOA) Board from 2017 to 2020. On February 1, 2024, Chairman SpottedBird responded with a corrective action plan that included repayment of the unlawful stipends from the Trustees of the KCOA Board. However, on June 27, 2024, Chairman SpottedBird reversed course, writing to the NIGC that the Tribe would no longer seek recovery of the unlawful stipend payments. On March 11, 2025, the NIGC responded, criticizing Chairman SpottedBird's reversal of course and stating that he had failed to provide an accounting or justification of the unlawful payments. The NIGC directed Chairman SpottedBird to either justify the overpayments or resume recovery of the overpayments. On April 10, 2025, acting through the Tribe's Attorney General, Chairman SpottedBird stated the Tribe would return to its original corrective action plan and restart efforts to recover overpayments from the former KCOA Trustees. However, Chairman SpottedBird never approached the former KCOA Trustees about recovery of the overpayments after the April 2025 letter. In fact, during the October 2025 legislative inquiry, Chairman SpottedBird testified under oath that he believed the unlawful overpayments were justified and that he would not be seeking reimbursement of

the unlawful overpayments. Because the Tribe's gaming enterprises are core to funding Tribe operations, misrepresentations to the NIGC by Chairman SpottedBird threaten the financial wellbeing of the Tribe. In October 2025, Chairman SpottedBird confirmed that the NIGC could penalize the Tribe in this matter. His misrepresentation to the NIGC seriously threatened the interests of the Kiowa Tribe and its citizens.

- **Charge 7:** Failure to Safeguard Financial Assets, Fraud, Malfeasance, Violation of Kiowa Law, and Failure to Protect the Tribe's Best Interests. Without authorization by law, Chairman SpottedBird attempted to purchase a building located at 804 West Petree Road in Anadarko for use as a clinic and pharmacy. This facility had originally been planned to be opened in Carnegie. The Executive Branch provided no detailed budget for the prospective business, nor did it provide any other required elements mandated by Tribe law through the Economic Due Diligence Act of 2018. In fact, the Chairman had already unlawfully deposited $14,500 of Tribal Funds in "earnest money" to Caddo County Abstract Co, Inc. Additionally, the payment in question bore the signature of former Vice-Chairman Jacob Tsotigh, who had been discharged from office by Chairman SpottedBird approximately ten months prior. When asked how many transactions had included Tsotigh's facsimile signature since his departure from office, Chairman SpottedBird replied, "a lot." An unsigned memorandum delivered by the Executive Branch to the Legislature indicated that "over 13,000 Checks" had been printed with Tsotigh's signature between the affirmation of his removal by the Kiowa Court in November 2024 and July 2025. Tribal law authorizes signatory authority for the Chairman and Vice-Chairman only in their formal capacity as occupants of elected office. In December 2024 and January 2025, the Legislature amended three banking resolutions to remove Tsotigh as a signatory and reassign the power to endorse checks (in varying capacities and in conjunction with Chairman SpottedBird) to Treasurer/Chief Financial Officer William Weaver, Deputy Chief Financial Officer Summer Palmer, and General Ledger Accountant Violet Kay Langley. Despite the legal requirement to remove the former Vice-Chairman from the Tribe's bank accounts, Chairman SpottedBird failed to do so, which is a clear violation of Tribal Law which he used to circumvent the Economic Due Diligence Act of 2018.

- On February 12, 2026 the Legislature agreed to consider charges against Plaintiff in an Order Session which was duly noticed to all legislators to occur on February 14, 2026.
- On February 14, 2026, upon proper procedure under the Kiowa Constitution, and by Order, six of the seven legislators met and six voted to issue the charges of impeachment, which are outlined above. All six legislators voted to publish the report which summarizes the facts and evidence received by the Legislature in response to its Summer 2025 Subpoenas

and its October 2025 hearings. KLO-CY-2026-009 contains the official Charges of Impeachment against Lawrence SpottedBird. The same day, the Legislature published KLO-CY-2026-009 on its website along with the report summarizing the facts obtained by the Legislature.

- A copy of KLO-CY-2026-009 and the Legislature's report was hand-delivered to Lawrence SpottedBird's home on February 14, 2026.
- The undersigned contacted Legal Counsel for the Executive Branch on February 14, 2026 and requested them to accept service for Mr. SpottedBird to allow him to avoid the embarrassment of personal service at his home that Monday (the tribe was closed for President's day).
- On Monday, February 16, 2025 Legal Counsel for the Executive Branch agreed to accept service for Lawrence SpottedBird, and formal service was completed on Lawrence SpottedBird that day.
- In KLO-CY-2026-009 the Legislature also provided for rules. The Kiowa Constitution provides that "[t]he Legislature shall have the power to convene at any time to consider Legislative Orders." (Article 6, Section 7(d)). Further, "[t]he legislature shall have the power to set its own procedures consistent with the Constitution." (Article 6, Section 6(e)). And finally, "[t]he Legislature shall have the power to pass Legislative Orders to approve Internal administrative and operational matters, and other specified matters." (Article 6, Section 6(c))
- The rules found in KLO-CY-2026-009 implement each of the Kiowa Constitutional requirements for an impeachment hearing by:

- Providing for notice to Lawrence SpottedBird before February 20, 2026 (it was done on February 14 and February 16, 2026); (Rule 3(a))
    - The Constitution only requires "adequate notice" (Article XII, Section 3)
- Providing the charges in writing (they were incorporated into the Order at the First Resolution Clause, starting at page 2 of the Order)
    - The Constitution requires the Chairman to "be informed of the charges in writing" (Article XII, Section 3)
- Providing for a public hearing (Rule 3(a))
    - The Constitution requires the Chairman "be given opportunity to *address* the Legislature in a public hearing" (Article XII, Section 3, emphasis added)
- Providing for a statement and to offer testimony or other evidence (Rules 6 & 7)
    - The Constitution requires the Chairman "be given an opportunity to contest the charges, and prepare and present a defense including presenting witnesses and other evidence." (Article XII, Section 3)

- There are no other Kiowa Constitutional requirements for notice and hearing (due process) for the impeachment of a Chairman.
- There is no requirement in the Kiowa Constitution that a Chairman facing impeachment would have the right to legal counsel, but the Kiowa Legislature in its Rules extended that right to the Chairman.

LEGAL AUTHORITY

There are four main issues Defendants wish the Court to consider and which they respectfully suggest should result in this Court dismissing the Complaint and denying the relief requested by Plaintiff:

First, the implementation of the Constitution's delegation of authority to conduct the impeachment of a Chairman of the Kiowa Tribe should be considered a political question, just in the same way the United States Supreme Court held that the process of impeachment of a judge pursuant to the United States Constitution was a political question for the United States Senate.

Second, the Legislature is imbued with immunity under the Kiowa Constitution, except when it undertakes executive actions. The process of impeachment is not an executive action, and there is no basis for disregarding the Legislature's (and each Legislator's) immunity.

Third, on the merits of Plaintiff's Complaint (should the merits be reached), Chairman Lawrence SpottedBird has been afforded more process than the Kiowa Constitution and longstanding Kiowa Law require. Indeed, the Executive Branch Code of Ethics (Resolution KL-CY-2017-025), a law that has been in force nearly as long as its Constitution, only requires five (5) days' of notice to a Chairman before an impeachment hearing. In this case, Plaintiff had at least fifteen (15) days notice (not the ten days he complains is inadequate). As demonstrated above, the Legislature has by Order provided for every requirement of the Kiowa Constitution and there is no reason to believe that it will fail now to abide by its own rules that it took care to prepare so that there could not be a credible challenge to their action.

Fourth, Plaintiff invokes the notion of injunction, but fails to even cite, much less attempt to satisfy, the traditional four-part test for injunction: 1) Irreparable Harm; 2) Likelihood of success on the merits; 3) Balancing of the Equities; and 4) that Public Policy favors injunction.

I. Political Question.

The following is a synopsis of the Political Question Doctrine as applied to the rules of impeachment as reported by the Library of Congress:

> In 1993, the Court applied the political question doctrine to a judicial challenge to impeachment proceedings. In *Nixon v. United States*, a former federal judge

> challenged his removal by the Senate. *See* 506 U.S. 224 (1993). He argued that the Senate proceedings used to convict him, which allowed a committee of Senators, rather than the whole Senate, to hear evidence against him after he was impeached by the House, violated the constitutional requirement that the Senate try all Impeachments. *Id*. at 229. In an opinion by Chief Justice William Rehnquist, the Court held that *Nixon* presented a nonjusticiable political question. *Id*. at 238. A few primary considerations motivated the Court's conclusion. First, the Court noted that the text of the Constitution gives the Senate sole authority to try impeachments, which, according to the Court, amounted to a sufficient textual commitment of the question as to what try meant to a coordinate department. *Id*. at 235-236. Second, the Court noted that the existence of a firm textual commitment was strengthened by a lack of judicially manageable standards in the vagueness of the word try; the Court contrasted that vague term with the concrete requirement that convictions require a two-thirds vote, concluding that the Senate was intended to have discretion over the precise procedures for impeachments. *Id*. at 228-229. The Court distinguished the alleged textual commitment that was insufficient in *Powell v. McCormack*, maintaining that the textual commitment to the Senate of defining try did not undermine any other provision to the Constitution, such as the enumerated qualifications set forth in Article I, Section 5 that were at stake in *Powell*. *Id*. at 237–238 (citing *Powell v. McCormack*, 395 U.S. 486, 519 (1969)). Altogether, the Court concluded that without a judicially manageable standard to limit the Senate's authority, such as the specific textual rules on qualifications that were present in *Powell*, it could not overturn the Senate's judgment. *Id*."

See ArtIII.S2.C1.9.8 *Impeachment and Political Question Doctrine*, available at https://constitution.congress.gov/browse/essay/artIII-S2-C1-9-8/ALDE_00001290/ (accessed Feb. 26, 2026).

While the Kiowa and United States Constitutions are different, they both provide their respective legislatures, and no other political body, with the power to impeach and try the Chief Executive of their respective governments. Both constitutions are permissive in establishing *how* the legislature is to conduct the impeachment trial. Beecause of the uniqueness of impeachments (there have been less than 25 federal impeachments in United States History, and only one other Kiowa impeachment) there is no other Kiowa case law. However, there are two United States Supreme Court opinions which demonstrate that, when a person subject to impeachment argues

that the rules which are imposed on him fall to a lesser standard than required by the Constitution, then that issue is a political question and is not one that can be considered by the courts.

Charitably, that is the argument Lawrence SpottedBird makes here: that the Legislature's timing requirements, its rules stating that he may not employ Legal Counsel with government funds to prepare his personal defense, or the inability to call Legislators as witnesses,[5] violate "due process." As Justice Rehnquist held in *Nixon*, they are the kinds of claims that present nonjusticiable political questions which must be dismissed. This Honorable Court should, therefore dismiss the Complaint because the Plaintiff's allegations are about issues that the Kiowa Constitution refers to the Kiowa Legislature's judgment and they should not be overturned by this Court.

This Court addressed a similar issue in the case of *Tsotigh v. SpottedBird*, Case No. KT-CV-24-006 (November 8, 2024). That case involved a challenge by the vice-Chairman to his termination by Chairman SpottedBird. In that case, this Honorable Court stated,

> "Ultimately, this is a narrow issue for the Court to consider, It is not the place of the Court to pass judgment as to the decision made by the Chairman; it is the function of the Court solely to decide whether the Chairman had the power to take the action he took and whether he did so in a manner that complied with the Kiowa Constitution. The Court finds that he did as to both questions."

Id. at page 1. In the same way that the termination of the vice-Chairman was a political question dedicated to the Chairman under the Constitution, the impeachment of the Chairman by the legislature is solely for it to decide, and this Court should, at most, inquire as to whether the requirements of the Constitution were met for impeachment (they were).

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[5] Regarding the latter, this Rule was adopted because the Legislators sit effectively as "jurors" in the impeachment trial. Allowing a litigant to call jurors as witnesses is not only improper, it would be bad trial strategy as it would likely upset the juror the litigant is trying to persuade.

II. Sovereign Immunity.

The Kiowa Constitution couldn't be clearer:

> Section 4. Suits against the Legislature and Legislators. Because the Legislature has no authority to take executive actions except those specifically authorized by this Constitution, the Legislature and individual legislators acting in their official capacity shall be immune from suit in law and equity. When the Legislature is exercising an executive function specifically authorized by this Constitution, the Legislature shall not be immune from suit in equity filed exclusively in the Judicial Branch by any party subject to the Jurisdiction of the Tribe.

Plaintiff asserts that the due process provisions of the Constitution which protect employees from discharge without due process allow him to sue the Legislature and the Legislators. *See* Kiowa Constitution Art. 1, Sec. 1(f). Compare, Complaint at Page 2. Article 1, Section 1 of the Kiowa Constitution is the Kiowa Bill of Rights, and it says in relevant part, "The government of the Tribe shall not make or enforce any law which: … (f) discharges any person from employment without due process, or takes any private property or possessory interest in private property for public use without due process and just compensation[.]"

Plaintiff's reliance on Article 1, section 1(f) is misplaced for three main reasons: ***First***, the predicate is missing: "Tribe [is] not mak[ing] or enforce[ing] any law…" Rather the Legislature is conducting an impeachment against a Chairman as laid out in the Kiowa Constitution. Plaintiff is being asked to stand trial for what the Legislature may decide is good cause for his impeachment. Plaintiff has every opportunity to defend himself, and in any event this is not the making or enforcing of a law.

Second, Plaintiff is not an employee of the Tribe or the Legislature, he is an elected government official. He is not being discharged from employment. He is being impeached. If the Legislature votes by a 7 to 0 vote to convict him of impeachment, Plaintiff will then be removed from office, not discharged from employment. To hold otherwise would presumably fold the

Office of the Kiowa Chairman under the Kiowa Legislature (insofar as the Legislature can only terminate its own employees). Such an outcome would be absurd.

Third, while it is not evident in Plaintiff's papers that he makes the argument that the bill of rights pierces the Legislature's (and each Legislator's) immunity, were he to make such a case he would have to grapple with whether impeachment is an "executive function." The process of impeachment is discussed in cases and literature as being judicial in nature, insomuch as it resembles the traditional construct of charges and conviction.[6] As one recent law review article examining the Trump impeachments notes, "[t]he formal impeachment process is analogous to the federal criminal grand jury process insofar as they both define the parameters of the charges against an individual." Brian Owsley, *Due Process and the Impeachment of President Donald Trump,* 2020 Univ. of Illinois Law Review Online 75 (2020). And, as Mr. Owsley points out, "[t]he impeachment trial by the Senate provides an analogy to a criminal trial." *Id*. at 78.

It may be that Plaintiff made no attempt to argue that impeachment is executive in nature because there would be no rational basis for such an argument. The undersigned cannot find any such rational basis for such an argument, and urges the Court to reject the inference and hold that the Legislature and each Legislator is immune from this suit.

III. Plaintiff's Argument Fails on the Merits

Were the Court to breach the Legislators' immunity *and* find that the impeachment of a Chairman is not a political question, then Plaintiff's assertions would still fail on their own merits. Essentially, Plaintiff urges that he was given only ten (10) days prior notice of the hearing for his impeachment and that simply is not enough time to mount a defense. ***First***, this assertion is not accurate. Plaintiff had at least fifteen (15) days' notice. And, even if Plaintiff's assertions were

[6] Defendants maintain, however, that impeachment, despite resembling a judicial proceeding, is constitutionally a core legislative power under the Kiowa Constitution.

true, such assertions are something of a surprise given that Plaintiff has not asked the Legislature for an extension of time in which to prepare his defense, instead he is seeking relief from this Court on the eve of his impeachment trial.

Additionally, Plaintiff fails to address the 2017 Executive Branch Code of Ethics (Resolution KL-CY-2017-025), which at Section 1.9 provides in relation to impeachment hearings: "The Legislature shall provide the Chairman or Vice Chairman with due process including a written list of charges, at least five days prior notice of the date, time, and location of a scheduled Public Hearing." Available at: https://law.kiowatribe.org/us/nsn/kiowa/council/resolutions/2017/KL-CY-2017-025/ When Plaintiff was sworn into office, this law was on the books of the Kiowa Tribe, and it remains good law today. He was given more than three times as long as Kiowa Law provides as being necessary to establish due process for an impeachment hearing.

Despite Plaintiff's assertion that the Rules and Procedures for Impeachment specifically named him and therefore are a bill of attainder, this is not the case. The section of the Order regarding Rules and Procedures contains no reference to Plaintiff. Instead, they were adopted as a separate section of the same Order so as to provide notice to Plaintiff of the Rules and Procedures that would be used in the hearing. Clearly, Plaintiff, or whoever wrote his Complaint, does not understand the definition of a bill of attainder. A bill of attainder is a legislative action that *declares* a person guilty. The Rules and Procedures certainly do not do that; they merely provide the procedure for the impeachment trial. If Plaintiff is refencing his name being included in the charges, that is an equally misplaced argument. The charges of impeachment are just that – charges. The trial on whether Plaintiff will be convicted is scheduled for March 2, 2026. Clearly there would not be a need for a trial if the Order already declared Plaintiff guilty.

Plaintiff also complains that he should be permitted to use tribal resources and the Executive Branch Attorneys to defend himself.[7] There is no precedent for such a request. For instance, when President Trump and President Clinton faced impeachment, they hired independent legal counsel. And there is good reason for that. Executive Counsel represents the Tribe, and should they defend a Chairman – and lose – then they have taken positions which are contrary to the position of the Tribe, placing them in conflict with the Tribe and their post as Executive Counsel. Such an outcome is harmful to the Tribe because it would deny the Tribe access to legal counsel retained for the Tribe. While it may be expedient for Plaintiff, it is a poor risk for everyone else. And, most importantly, it is bad government. It is even more important here, where the charges touch on actions that are outside the scope of Plaintiff's position as Chairman.[8]

Finally, Plaintiff asserts there was no notice of the Order hearing at which KLO-CY-2026-009 was adopted. In making this argument, Plaintiff seems to assert that an Order is a Law or a Resolution of the Legislature. It is neither. The reference to notice is clearly a matter of internal notice between the legislators since the Kiowa Constitution does not require public notice of an Order Session, nor any public attendance at a hearing in which an order is considered. Where laws can only be considered in legislative sessions (there is only one regular legislative session each month), orders can be considered at any time. See Article 6, Section 7(d), "(d) The Legislature shall have the power to convene at any time to consider Legislative Orders." The confusion in the Plaintiff's reading of the Kiowa Constitution lends no weight to his argument.

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[7] It must be noted that through the Rules and Procedure for the Impeachment Hearing, the Legislature attempted to go beyond what is required by the Constitution, which is silent on the issue.

[8] For instance, some of the charges allege that Plaintiff allowed his spouse, who has previously pled guilty to a misdemeanor where she stole a postal money order while working for the United State's Postal Service, to use Plaintiff's tribal credit card for personal expenses.

IV. There is No Basis for Issuing an Injunction

While the Undersigned has not found any Kiowa law requiring the traditional 4-part test for the issuance of an injunction, the Court is urged to consider adopting the traditional test: 1) Irreparable Harm, 2) Likelihood of success, 3) Balancing of the Equities, and 4) that Public Policy favors injunction. None of these factors can be supported by any facts which would result in this Court holding that a preliminary injunction should issue.

The United States Supreme Court recently held,

> "We therefore conclude that district courts must use the traditional four-part test when evaluating the Board's request for a preliminary injunction under § 10(j).
>
> A preliminary injunction is an "extraordinary" equitable remedy that is "never awarded as of right." *Winter*, 555 U.S. at 24, 129 S.Ct. 365. Its purpose "is merely to preserve the relative positions of the parties until a trial on the merits can be held." *University of Tex. v. Camenisch*, 451 U.S. 390, 395, 101 S.Ct. 1830, 68 L.Ed.2d 175 (1981). The default rule is that a plaintiff seeking a preliminary injunction must make a clear showing that "he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest." *Winter*, 555 U.S. at 20, 22, 129 S.Ct. 365. "These commonplace considerations applicable to cases in which injunctions are sought in the federal courts reflect a 'practice with a background of several hundred years of history.' " *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 313, 102 S.Ct. 1798, 72 L.Ed.2d 91 (1982) (quoting *Hecht Co. v. Bowles*, 321 U.S. 321, 329, 64 S.Ct. 587, 88 L.Ed. 754 (1944)); *see also Georgia v. Brailsford*, 2 Dall. 402, 406, 1 L.Ed. 433 (1792) (opinion of Iredell, J.); *id*., at 407 (opinion of Blair, J.).

Starbucks Corp. v. McKinney, 602 U.S. 339, 345–46, 144 S. Ct. 1570, 1576, 219 L. Ed. 2d 99 (2024).

> A showing of irreparable harm is "the single most important prerequisite for the issuance of a preliminary injunction." *Faiveley Transp. Malmo AB v. Wabtec Corp*., 559 F.3d 110, 118 (2d Cir. 2009) (quoting *Rodriguez v. DeBuono*, 175 F.3d 227, 234 (2d Cir. 1999)); *see also Doe v. Rensselaer Polytechnic Inst*., No. 18-cv-1374, 2019 WL 181280, at *2, 2019 U.S. Dist. LEXIS 5396 (N.D.N.Y. Jan. 11, 2019). "Irreparable harm is 'injury that is neither remote nor speculative, but actual and imminent and that cannot be remedied by an award of monetary damages.' " *New York ex rel. Schneiderman v. Actavis PLC*, 787 F.3d 638, 660 (2d Cir. 2015) (quoting *Forest City Daly Hous., Inc. v. Town of N. Hempstead*, 175 F.3d 144, 153 (2d Cir.

> 1999)). "The relevant harm is the harm that (a) occurs to the parties' legal interests and (b) cannot be remedied after a final adjudication, whether by damages or a permanent injunction." *Salinger v. Colting*, 607 F.3d 68, 81 (2d Cir. 2010) (internal footnote omitted).

Gazzola v. Hochul, 645 F. Supp. 3d 37, 55 (N.D.N.Y. 2022), *aff'd*, 88 F.4th 186 (2d Cir. 2023)

Plaintiff cannot satisfy the irreparable harm standard. He asserts – at most – a "right" to "employment" as Chairman. It is not clear whether he will be convicted on impeachment, but if he is, then the question will become whether that conviction is wrong. And if he is an employee (and not a constitutional officer of the Kiowa Tribe), then he might have a claim for damages. Of course, there are a lot of "ifs" in that argument – and such a sandwiching of "ifs" and "mights" is exactly the remote and speculative fodder that can never be irreparable harm.

The question of likelihood of success is addressed above. Because this case is one that should fall under the political doctrine theory, because Defendants are immune, and because there is no logical nor legal basis for categorizing the Chairman as an employee such that he would fall under the aegis of the Kiowa Bill of Rights, he is *not* likely to succeed.

The balancing of the equities and public policy also militate *against* Plaintiff's avoidant approach to impeachment. As an initial matter, the Constitution clearly contemplates that impeachment matters be resolved quickly. *See* Art. XII, § 3 (providing that the impeachment process "shall not extend beyond ninety days"). Additionally, the Tribe's citizens, and the public at large, are aware of these proceedings. The facts are, at best, messy. An end needs to be reached in this matter, and that end is literally less than a business day away. As noted above, Plaintiff had three-times more time to prepare than Kiowa law would otherwise require for an impeachment.

Plaintiff did not even ask the Legislature for an extension of time before alleging the absence of time as his main reason for being denied due process. To prolong this matter so that Plaintiff can have more time he never even asked for does nobody any service (and everyone a

disservice). Plaintiff had as much time as anyone else to address these matters. He could have responded to letters over a year ago, but despite the passage of time they, too, remain unanswered. More delay will beget only more delay. A trial on the impeachment will end – or at least lead towards the end – of this sad chapter.

Plaintiff does not so much challenge the Legislature's actions but, more basically, he seeks to prevent the Legislature from acting – for a while. He does not even propose how much more time he needs. Plaintiff's complaint is a rather incredible proposal. Quite simply, there is no basis in law or fact to enjoin the Legislature from undertaking an impeachment. Indeed, Plaintiff's own papers implicitly recognize impeachment as within the purview and authority of the Legislature. Accordingly, Plaintiff's end complaint is that he is the subject of that action – a matter outside judicial review, requiring his requested relief be denied.

CONCLUSION

For the foregoing reasons, Defendants respectfully urge that Plaintiff's requested relief be denied and that his Complaint be dismissed.

Respectfully Submitted this 28th day of February 2026,

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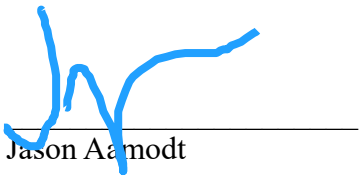
CERTIFICATE OF SERVICE

The foregoing instrument was emailed to the Court with copy to the following by email:

Lawrence SpottedBird, Plaintiff *in propria persona* at

on February 28, 2026.



Jason Aamodt