

1 George Forman (SBN 047822)  
Jay B. Shapiro (SBN 224100)  
2 Margaret C. Rosenfeld (SBN 127309)  
FORMAN & ASSOCIATES  
3 4340 Redwood Highway, Suite E352  
San Rafael, CA 94903  
4 Telephone: 415/491-2310  
Facsimile: 415/491-2313  
5 Attorneys for Plaintiffs  
6  
7

8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 SOBOBA BAND OF LUISEÑO  
INDIANS, a federally-recognized Indian  
11 Tribe, on its own behalf and on behalf of  
its individual Citizens; and Rosemary  
12 Morillo, Isaiah Vivanco, Monica Herrera,  
Kelli Hurtado, Rose Salgado, individually  
13 and in their respective official capacities,

14 Plaintiffs,

15 vs.

16 COUNTY OF RIVERSIDE,  
CALIFORNIA; STAN SNIFF, individually  
17 and in his capacity as Sheriff of Riverside  
County; NELSON GOMEZ, individually  
18 and in his capacity as Deputy Sheriff of  
Riverside County; MARK RIGALI,  
19 individually and in his capacity as Deputy  
Sheriff of Riverside County; HERMAN  
20 LOPEZ, individually and in his capacity as  
Deputy Sheriff of Riverside County;  
21 MAREK JANECKA, individually and in  
his capacity as Deputy Sheriff of Riverside  
22 County; AND RIVERSIDE COUNTY  
SHERIFF'S DEPUTIES DOES 1-10,  
23

24 Defendants.  
25

CASE NO.:

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF, AND  
MONEY DAMAGES**

26 **INTRODUCTION**

27 During the period of May 26 - 31, 2016, agents of the Riverside County  
28 Sheriff's Office invaded the Soboba Indian Reservation ("Soboba Reservation" or

1 "Reservation") of the Soboba Band of Luiseño Indians ("Soboba Band" or "Band") to  
2 execute a search warrant that was issued based on false statements of an RSO deputy.  
3 Having trespassed on the Soboba Reservation to execute its unlawful warrant, the  
4 RSO then seized the Tribal Administration building, commandeered the Band's  
5 employees to download hundreds of hours of video surveillance from over 100  
6 cameras, seized additional video surveillance footage outside the scope of the  
7 unlawful warrant, and searched a location on the Reservation without the Tribe's prior  
8 consent or lawful authority. In the course of this unlawful undertaking, the RSO  
9 deployed a SWAT team, helicopter, canine units, and countless RSO officers and  
10 vehicles, all for the purpose of downloading video surveillance and searching a single  
11 site on the Reservation. These actions violated the rights of the Band to exercise  
12 governmental authority over its Reservation, the rights of individual members of the  
13 Band's government to be free of unreasonable search and seizure, and the rights of the  
14 Band's citizens to be free of invasion of their privacy through seizure of records of  
15 their activities on the Reservation.

16 Plaintiff Soboba Band of Luiseño Indians, on its own behalf and on behalf of  
17 its individual Citizens, and plaintiffs Rosemary Morillo, Scott Cozart, Isaiah Vivanco,  
18 Monica Herrera, Kelli Hurtado and Rose Salgado, individually and in their official  
19 capacities as the former and/or current elected members of the Soboba Tribal Council,  
20 by and through their attorneys of record herein, complain and allege as follows:

### 21 JURISDICTION

22 1. This Court has jurisdiction over Plaintiffs' action pursuant to 28 U.S.C.  
23 §§ 1331 and 1362, in that Plaintiffs' claims arise under the Constitution and/or laws  
24 of the United States, including Article I, § 8, Cl. 3 of the Constitution, 42 U.S.C. §§  
25 1983 and 1988, 18 U.S.C. § 1162, and federal common law. This Court has  
26 supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. §  
27 1367.

1 **VENUE**

2 2. Venue in this action lies in this District pursuant to 28 U.S.C. § 1391(b),  
3 because the events, acts and/or omissions giving rise to Plaintiffs' respective claims  
4 occurred in this District.

5 **PARTIES**

6 3. Plaintiff Soboba Band is a federally recognized Indian tribe. The Band  
7 is suing on its own behalf and on behalf of its tribal citizens.

8 4. When the events upon which this action is based occurred, Plaintiff  
9 Morillo was the Band's Chairperson, and in that capacity presided over the Band's  
10 elected governing body, the Soboba Tribal Council ("Tribal Council"). Plaintiff  
11 Morillo, who is no longer a member of the Soboba Tribal Council, sues in both her  
12 individual and former official capacity.

13 5. Plaintiff Cozart currently is the Soboba Band's Chairperson; Plaintiff  
14 Vivanco is the Soboba Band's Vice-Chairperson; and Plaintiffs Herrera, Hurtado and  
15 Salgado are the other incumbent members of the Tribal Council. The Plaintiff Tribal  
16 Council members sue in both their official and individual capacities.

17 6. Defendant County of Riverside, California ("County") is a subdivision of  
18 the State of California. The exterior boundaries of the County encompass the Soboba  
19 Indian Reservation ("Soboba Reservation"), which is located in the unincorporated  
20 area of the County.

21 7. Defendant Stan Sniff ("Sniff") is the duly-elected Sheriff and chief law  
22 enforcement officer of Riverside County, California, and in that capacity exercises  
23 supervisory authority over the operations of the Riverside County Sheriff's Office  
24 ("RSO"). Defendant Sniff is sued in both his official and individual capacities for  
25 acts committed under color of the laws of the State of California but that Sniff knew,  
26 or reasonably should have known, as a matter of federal law, he and his subordinates  
27 lacked lawful authority to commit.

28 8. Defendant Nelson Gomez ("Investigator Gomez"), RSO Badge #3018, is

1 an employee of defendant County and a sworn deputy of defendant Sniff.

2 Investigator Gomez is sued in both his official capacity and as an individual for acts  
3 committed under color of the laws of the State of California, but that defendant  
4 Investigator Gomez knew, or reasonably should have known, as a matter of federal  
5 law he lacked lawful authority to commit. At all times relevant hereto, defendant  
6 Investigator Gomez was acting under the control and at the direction of defendant  
7 Sniff.

8 9. Defendant RSO Lieutenant Mark Rigali ("Lt. Rigali") was, at all times  
9 relevant hereto, an employee of defendant County, a sworn deputy of defendant Sniff,  
10 and is sued in both his official capacity and as an individual for acts committed under  
11 color of the laws of the State of California, but that defendant Lt. Rigali knew, or  
12 reasonably should have known, as a matter of federal law, he lacked lawful authority  
13 to commit. At all times relevant hereto, defendant Lt. Rigali was acting under the  
14 control and at the direction of defendant Sniff.

15 10. Defendant RSO Lieutenant Herman Lopez ("Lt. Lopez") was, at all times  
16 relevant hereto, an employee of defendant County, a sworn deputy of defendant Sniff,  
17 and is sued in both his official capacity and as an individual for acts committed under  
18 color of the laws of the State of California, but that defendant knew, or reasonably  
19 should have known, as a matter of federal law he lacked lawful authority to commit.  
20 At all times relevant hereto, defendant Lt. Lopez was acting under the control and at  
21 the direction of defendant Sniff.

22 11. Defendant RSO Detective Marek Janecka ("Det. Janecka") was, at all  
23 times relevant hereto, an employee of Defendant County, a sworn deputy of  
24 Defendant Sniff, and is sued in both his official capacity and as an individual for acts  
25 purportedly committed under color of the laws of the State of California, but that  
26 Defendant knew, or reasonably should have known, that as a matter of federal law, he  
27 lacked lawful authority to commit. At all times relevant hereto, defendant Det.  
28 Janecka was acting under the control and at the direction of Defendant Sniff.

1           12. Defendants Riverside County Sheriff's Deputies Does 1 - 50 are sued in  
2 their official capacities and as individuals for acts purportedly committed under color  
3 of the laws of the State of California in connection with the acts and events of which  
4 Plaintiffs complain, but that the defendants knew, or reasonably should have known,  
5 as a matter of federal law they lacked the authority to commit. At all times relevant  
6 hereto, defendants Sheriff's Deputies Does 1- 50 were acting under the control and at  
7 the direction of Defendant Sniff. Doe Defendants include agents and contractors of  
8 Defendant County and RSO. When Plaintiffs have ascertained the true identities of  
9 the Doe Defendants, Plaintiffs will seek leave to amend this Complaint to state their  
10 true identities.

11                   **ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

12           13. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 12  
13 above, and by this reference incorporate each such allegation herein as if set forth in  
14 full.

15           14. The Soboba Band is the beneficial owner of the Soboba Reservation  
16 located in an unincorporated portion of Riverside County, California. The Soboba  
17 Band has the exclusive right to determine access to their reservation, in compliance  
18 with applicable federal law.

19           15. The United States of America holds legal title to the lands of the Soboba  
20 Reservation in trust for the Soboba Band's exclusive use and benefit; the lands of the  
21 Soboba Reservation have not been allotted in severalty. The Soboba Reservation is  
22 "Indian country" within the meaning of 18 U.S.C. §§ 1151 and 1162, and 28 U.S.C. §  
23 1360.

24           16. The seat of the Soboba Band's government is the Administration  
25 Building, which is located on a portion of the Reservation that is accessed by a  
26 portion of Soboba Road that is maintained by the Soboba Band, not by Riverside  
27 County.

28           17. Access to the segment of Soboba Road on the Reservation on which the

1 Soboba Band's Administration Building is located is closed to the general public, and  
2 is controlled by a guard kiosk staffed by officers of the Soboba Band's Department of  
3 Public Safety.

4 18. The Soboba Band's government operates a video surveillance system that  
5 covers most areas of the Soboba Reservation that are normally closed to the general  
6 public. The purpose of this video surveillance system is to enable the Soboba Band's  
7 government to protect the safety of tribal members, residents of the Reservation, and  
8 visitors to the Reservation. The tribal government's video surveillance consists of  
9 more than 100 cameras that are connected to the tribal government's computer servers  
10 located in the Tribal Administration Building. The establishment, maintenance, and  
11 use of this video surveillance system are functions of the governmental authority of  
12 the Soboba Band over its lands and persons who enter onto its lands.

13 19. The Soboba Band owns and operates the Soboba Casino on the Soboba  
14 Reservation. Public access to the Soboba Casino is via a segment of Soboba Road  
15 that, although maintained by the Soboba Band, is generally open to the public and is  
16 west of the Department of Public Safety guard kiosk that controls access to the  
17 portion of the Reservation that generally is closed to the public.

18 20. Gaming activities at the Soboba Casino are overseen and regulated by  
19 the Soboba Tribal Gaming Commission ("Gaming Commission"), an agency of the  
20 Soboba Band's tribal government that was created by the Soboba Band's Gaming  
21 Ordinance ("Gaming Ordinance"). The Gaming Ordinance was approved by the  
22 Chairman of the National Indian Gaming Commission pursuant to the Indian Gaming  
23 Regulatory Act of 1988, 25 U.S.C. § 2701, *et seq.* ("IGRA"). The Gaming  
24 Commission is primarily responsible for enforcing compliance with the IGRA, the  
25 Ordinance, the Class III Gaming Compact ("Compact") between the Soboba Band  
26 and the State of California, and the Gaming Commission's own rules and regulations  
27 concerning the operation of the Casino. The NIGC's regulations, the Ordinance and  
28 the Compact require that the Gaming Commission, as part of its oversight and

1 protection of the integrity of the conduct of the games themselves, protection of tribal  
2 assets from theft or embezzlement by gaming facility employees and patrons, and  
3 enforcing health and safety standards in connection with gaming facility operations,  
4 operate a video surveillance system that continuously covers the interior and  
5 immediate exterior premises of the Soboba Casino. The exterior premises covered by  
6 the Gaming Commission's video surveillance system include the entrances to the  
7 Soboba Casino's parking lots from Soboba Road, but the system does not monitor  
8 areas as far east of the Soboba Casino as either the Tribal Department of Public  
9 Safety's guard kiosk on Soboba Road or the Administration Building.

10 21. The video footage from the Gaming Commission's surveillance cameras  
11 is stored on the Gaming Commission's own computer servers, which are not  
12 connected to the Soboba Band's governmental computer servers that are housed in a  
13 locked, temperature-controlled room in the Administration Building.

14 22. The Gaming Commission's Executive Director is Celeste Hughes  
15 ("Hughes"). In May, 2016, Hughes had been employed by the Gaming Commission  
16 for approximately 17 years, and had been the Executive Director for approximately  
17 six years, a position she continues to hold. During Hughes's tenure, the Gaming  
18 Commission received many requests from the RSO for copies of video surveillance  
19 footage or freeze-frame photographs, whether in connection with the investigation of  
20 criminal activity on or around the Soboba Casino, or in connection with  
21 investigations of persons of interest suspected of involvement in criminal activity  
22 elsewhere. In virtually every instance of which Hughes is aware, the Gaming  
23 Commission timely provided the requested footage in the form requested.

24 23. In May, 2016, defendant Lt. Rigali was the RSO's Tribal Liaison Officer,  
25 primarily responsible for communicating with various tribal governments within  
26 Riverside County, including the Soboba Band, and facilitating cooperative  
27 interactions among the RSO and those tribal governments and their respective  
28 agencies, including tribal gaming commissions.

1           24.    On May 22, 2016, Hughes received a telephone call from defendant Lt.  
2 Rigali in which he informed her that RSO was conducting a "missing persons  
3 investigation" into the whereabouts of an individual named Jerome Salgado, whom  
4 defendant Lt. Rigali described as the brother of the Chairman of the Cahuilla Band of  
5 Indians.

6           25.    Later on May 22, 2016, defendant Lt. Rigali sent an e-mail to Hughes in  
7 which he informed her that, "Hemet Station investigators have been called in to  
8 assume primary responsibility for this investigation. Once they have an opportunity  
9 to interview [Cahuilla Tribal] Chairman Salgado about his missing brother Jerome,  
10 they will contact you to request video from the Soboba Reservation. I have provided  
11 Detective Sergeant Bob Duckett your cell number. He is cc'd on this email, along  
12 with Hemet Station Lieutenant Dean Spivacke. Thank you in advance for your  
13 assistance."

14           26.    Hughes promptly acknowledged receipt of defendant Lt. Rigali's e-mail,  
15 and informed the Tribal Council that the RSO would be seeking Gaming Commission  
16 video surveillance footage covering the period from 6:00 p.m. on Friday, May 20,  
17 2016, through 5:00 p.m. on Sunday, May 22, 2016, and including the portion of  
18 Soboba Road immediately adjacent to the Soboba Casino. Because the footage  
19 covered an area outside Soboba Casino's premises, Hughes asked the Tribal Council  
20 to authorize the release of the requested video surveillance footage to the RSO.

21           27.    Still later on May 22, 2016, Hughes sent an e-mail to defendant Lt.  
22 Rigali informing him about video footage showing a vehicle and individuals in the  
23 vicinity of Soboba Casino at approximately 6:34 p.m. on May 22, 2016.

24           28.    Later in the evening of May 22, 2016, Hughes sent an e-mail to  
25 defendant Lt. Rigali about additional observations recorded on video footage, that the  
26 footage had been saved, that review of footage was continuing, that the Tribal  
27 Council had authorized release of the video footage and that defendant Lt. Rigali  
28 could pick up the video footage at his convenience. Defendant Lt. Rigali responded

1 by thanking Hughes and the Tribal Council for their assistance, and noted that RSO  
2 Sgt. Duckett would come to the Gaming Commission's office to review or pick up the  
3 referenced video footage.

4 29. Just after midnight on Monday, May 23, 2016, Hughes informed her  
5 staff that defendant RSO Detective Janecka would be coming shortly to pick up saved  
6 video footage. Minutes later, Hughes instructed her subordinates to advise defendant  
7 Detective Janecka when any additional footage was ready.

8 30. On May 26, 2016, defendant Detective Janecka requested that  
9 Commission staff review surveillance video footage from May 20, 2016, between  
10 6:00 a.m. and 8:30 p.m., a different time period than originally requested by  
11 defendant Lt. Rigali.

12 31. During the morning of May 20, 2016, one of the Gaming Commission's  
13 computer servers was out of service. As a result, no video surveillance footage from  
14 any cameras connected to that server was recorded between 6:00 a.m. and 7:52 a.m.  
15 on May 20, 2016.

16 32. As far as can be determined, no video surveillance footage covering a  
17 period of time requested by the RSO ever was deleted from the Gaming Commission's  
18 computer servers.

19 33. On Monday, May 23, 2016, defendant Lt. Rigali contacted the Band's  
20 tribal government directly to inform them that RSO detectives were investigating a  
21 "missing person" report.

22 34. Also on Monday, May 23, 2016, defendant Lt. Rigali sent Hughes an  
23 e-mail to which was appended a letter requesting additional surveillance video  
24 footage from the Gaming Commission. Hughes forwarded the letter to the Tribal  
25 Council and directed her staff to begin preparing the additional footage for provision  
26 to the RSO. Hughes informed RSO Lt. Spivacke that approximately 60 hours of  
27 footage would be ready for delivery by the end of the Gaming Commission's swing  
28 shift, and he agreed to pick up the copied footage the next morning. The footage,

1 saved to a flash memory drive, was released to RSO Investigator Randall Wortman on  
2 May 24, 2016. Wortman issued a property receipt acknowledging receipt of that flash  
3 memory drive.

4 35. On May 26, 2016, defendant Lt. Rigali requested permission to search a  
5 site on the Soboba Reservation that he described as a "makeshift dump", where the  
6 RSO apparently believed evidence related to the missing person investigation might  
7 be located.

8 36. Also on May 26, 2016, defendant Lt. Rigali requested information and  
9 documents from the Soboba Band's Department of Public Works regarding any work  
10 orders for a residence on Soboba Road that may have been associated with the RSO's  
11 missing person investigation. These requests were conveyed to the Tribal Council,  
12 which gave RSO access to the "makeshift dump" without need for a search warrant.  
13 The RSO also was provided with the requested work orders from the Soboba Band's  
14 Department of Public Works.

15 37. On the evening of May 26, 2016, defendant RSO Investigator Gomez  
16 applied to Judge Jacqueline Jackson of the Juvenile Division of the Riverside County  
17 Superior Court for a warrant (the "Warrant") to search and seize computers located in  
18 the Soboba Band's Administration Building on which video surveillance footage  
19 allegedly was stored. Before the application for the warrant was submitted, it was  
20 reviewed and approved by Deputy District Attorney Jose De Limon. Because the  
21 affidavit of probable cause in support of the application was submitted under seal, the  
22 full contents of the documentation submitted in support of the application for the  
23 warrant are unknown to Plaintiffs. The portion of defendant Investigator Gomez's  
24 application for the Warrant, together with the Warrant as presented to plaintiff Tribal  
25 Council Members, is attached to this Complaint as Exhibit 1, and by this reference is  
26 incorporated herein as if set forth in full.

27 38. In the application for the Warrant, defendant Investigator Gomez swore  
28 under penalty of perjury that the property to be seized – video surveillance footage

1 stored on the Soboba Band's government computer servers from cameras in the area  
2 of the Soboba Band Department of Public Safety's guard kiosk – "was used as the  
3 means of committing a felony," "is possessed by a person with the intent to use it as  
4 means of committing a public offense or is possessed by another to whom he or she  
5 may have delivered it for the purpose of concealing it or preventing its discovery,"  
6 and "tends to show that a felony has been committed or that a particular person has  
7 committed a felony."

8 39. Plaintiffs are informed and believe, and on that basis allege, that  
9 defendant Investigator Gomez's application for the warrant made no mention of the  
10 vast quantity of video surveillance footage that the Gaming Commission and the  
11 Soboba Band's government already had voluntarily turned over to the RSO, other  
12 aspects of the Gaming Commission's and the Soboba Band's total cooperation with  
13 the RSO's investigation to that point (as well as on many previous occasions), or that  
14 the RSO never had made any request to the Soboba Band's government that video  
15 surveillance footage from the tribal government's surveillance system for the  
16 period(s) of interest to the RSO not be deleted.

17 40. In the predawn hours of Friday, May 27, 2016, a large, heavily armed  
18 force of RSO personnel, including SWAT officers and vehicles, a canine unit and a  
19 helicopter, entered the Soboba Reservation and presented two warrants, and  
20 proceeded to a private residence on Soboba Road to serve the first warrant.  
21 Subsequently, by 8:00 a.m., this same force seized and occupied the Soboba Band's  
22 Tribal Administration Building, barred persons with lawful business therein from  
23 entering the building, threatened to break down the door to the secured room in which  
24 the tribal government computer servers were located, threatened to remove the tribal  
25 government's computer servers from the Soboba Reservation for an indefinite time  
26 period, and continuously preempted the use of the tribal government's computer  
27 servers until almost noon on Monday, May 30th.

28 41. As part of defendant RSO's initial seizure and occupation of the tribal

1 government's Administration Building, defendant Lt. Lopez threatened to destroy the  
2 Soboba Band's property by breaking down the door to the secured room in which the  
3 tribal government computer servers are located unless plaintiff Tribal Council  
4 Members present at the time – none of whom had a key to the server room –  
5 immediately opened the door. Before defendant Lt. Lopez could act on that threat, a  
6 Soboba Band staff member with a key to the server room arrived and opened the door  
7 so that RSO personnel could enter the room.

8 42. During the course of the day on May 27, 2016, numerous RSO personnel  
9 and vehicles entered and exited the Soboba Reservation. Defendant Investigator  
10 Gomez arrived at the tribal government's Administration Building early in the day,  
11 left, and returned shortly after 5:00 p.m. on May 27, 2016.

12 43. Installed on the Soboba Band's government computer servers are all of  
13 the computer programs and data used by the tribal government in all aspects of its  
14 operations, as well as highly confidential information about the Soboba Band's  
15 revenues and budgets, sensitive personal information relevant to its citizens' family  
16 histories and circumstances, information related to income and other tax reporting to  
17 the Internal Revenue Service and the California Franchise Tax Board, grants from  
18 and contracts with other federal, state and tribal government agencies, land  
19 assignments and other records pertaining to the unallotted lands of the Soboba  
20 Reservation, as well as video surveillance footage from more than 100 cameras  
21 installed at various locations on the Reservation, including several cameras at the  
22 guard kiosk at the entrance/exit to the portion of the Reservation east of the Casino  
23 that generally is closed to the public. The Soboba Band's tribal government takes  
24 great care to protect the computer system and the data stored on it from unauthorized  
25 access and the introduction of viruses and malware.

26 44. Plaintiffs are informed and believe, and on that basis allege, that  
27 defendant Investigator Gomez had no reasonable, good-faith basis for believing or  
28 swearing under penalty of perjury that video surveillance footage or any other data

1 stored on the Soboba Band's government computer servers "was used as the means of  
2 committing a felony," "is possessed by a person with the intent to use it as means of  
3 committing a public offense or is possessed by another to whom he or she may have  
4 delivered it for the purpose of concealing it or preventing its discovery," and/or  
5 "tends to show that a felony has been committed or that a particular person has  
6 committed a felony."

7 45. Had defendant Lt. Lopez carried out his threat to break down the door to  
8 the tribal government's computer server room and remove the tribal government's  
9 computer servers from the Soboba Reservation, the tribal government would have had  
10 to shut down, and would not have been able to function effectively again until after  
11 the servers had been returned and checked to determine that the data and programs  
12 stored thereon had not been compromised and would operate properly, a process that  
13 could take many days or even weeks.

14 46. By threatening to break down the door to the tribal government's  
15 computer server room and remove the tribal government's computer servers from the  
16 Reservation, thereby effectively shutting down the tribal government and  
17 jeopardizing the health, safety and welfare of the Reservation community for  
18 potentially an indefinite period of time, the heavily-armed RSO defendants coerced  
19 plaintiff Tribal Council members into cooperating with the RSO defendants, and  
20 thereafter to remain at the Administration Building in order to protect the tribal  
21 government's property and the rights of the Soboba Band's citizens.

22 47. By threatening to remove the tribal government's computer servers from  
23 the Reservation unless the Soboba Band provided defendant RSO with copies not  
24 only of the video surveillance footage described in the Warrant, but also footage from  
25 a far longer period than that described in the Warrant, the RSO coerced the Soboba  
26 Band into making its own computer technology personnel available for nearly two  
27 hundred person-hours to assist RSO defendants in downloading the surveillance  
28 video footage described in defendant Gomez's application for the Warrant onto

1 RSO's own external hard drives, which initially were incapable of receiving the large  
2 files of which the footage consisted and thereby increased the amount of time needed  
3 to copy the files.

4 48. The RSO did not limit its seizure of video surveillance footage to the  
5 footage recorded by the cameras at the guard kiosk and described in the application  
6 for the Warrant; instead, by the time the last RSO officer left the Administration  
7 Building at approximately noon on Monday, May 30, 2016, defendant RSO had  
8 downloaded fourteen days of video surveillance footage from more than 100 cameras  
9 located throughout the Reservation, thus capturing a complete video record of two  
10 weeks of the doings, comings and goings of the entire Reservation community.

11 49. The overwhelming RSO presence on the Soboba Reservation, including  
12 the constant shuttling of RSO personnel in and out of the Soboba Reservation on May  
13 27, 2016, the low-altitude hovering and flights over the Soboba Reservation by an  
14 RSO helicopter, and the use of the Administration Building's parking lot as the  
15 staging area for numerous RSO vehicles and heavily-armed officers, terrorized and  
16 intimidated the Soboba Reservation community, necessitated the closing of two  
17 nearby tribal schools on May 27, 2017, and prevented the tribal community from  
18 accessing the Tribal Administration Building for the ensuing three and one-half days.

19 50. Subsequent to the search and seizure of the video surveillance footage,  
20 the Soboba Band demanded that RSO return to the Soboba Band and permanently  
21 delete from the computer system(s) of defendant County and the RSO any video  
22 surveillance footage seized from the Soboba Band under the Warrant and otherwise  
23 not needed as evidence for the prosecution of any person(s) in connection with the  
24 homicide investigation concerning Jerome Salgado, but defendants have refused to  
25 return any of the seized video surveillance footage or to permanently delete such  
26 footage from defendants' respective computer system(s), thereby enabling defendants  
27 to subject the entire Soboba Reservation community to continuing retroactive scrutiny  
28 for the period covered by the seized video surveillance footage. In making this

1 request, the Soboba Band clearly communicated its intention to cooperate with the  
2 initial missing person investigation and subsequent homicide investigation related to  
3 Jerome Salgado as it has cooperated with other criminal investigations.

4 **FIRST CLAIM FOR RELIEF:**  
5 **DEFENDANTS LACKED AUTHORITY TO EXECUTE THE WARRANT.**

6 51. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 50  
7 above, and by this reference incorporate each such allegation herein as if set forth in  
8 full.

9 52. Plaintiffs are informed and believe, and on that basis allege, that  
10 defendants sought and executed the Warrant on the basis that 18 U.S.C. § 1162  
11 conferred upon the Superior Court the jurisdiction to issue, and RSO defendants to  
12 execute, the Warrant pursuant to which RSO defendants committed the acts described  
13 in Paragraphs 24-48 above and thus that defendants executed the Warrant, seized and  
14 occupied the Administration Building for three and one-half days, threatened to  
15 destroy the Soboba Band's government property if defendants were not immediately  
16 granted access to the Soboba Band's government computer servers, required the  
17 presence of the Soboba Band's elected officials and staff during defendants'  
18 occupation of the Administration Building, commandeered the Soboba Band's  
19 computer systems staff and seized two weeks of the Soboba Band's video surveillance  
20 footage.

21 53. Neither 18 U.S.C. § 1162 nor any other Act of Congress conferred upon  
22 defendant Superior Court any jurisdiction to authorize defendants to commit any of  
23 the acts described in Paragraphs 24-48 above, rendering the Warrant void *ab initio*  
24 and rendering defendants' commission of said acts *ultra vires* and contrary to federal  
25 law governing jurisdiction in Indian country.

26 54. Neither the State of California nor its courts or governmental  
27 subdivisions, including defendant County and defendants Sniff and his deputies, has  
28 jurisdiction over the Soboba Band's government or property within the Soboba

1 Reservation in the absence of an express conferral of jurisdiction from the United  
2 States by an Act of Congress or some other applicable source of federal law.

3 55. An actual controversy exists between plaintiffs and defendants, in that  
4 plaintiffs contend that under controlling principles of federal statutory and common  
5 law, the Warrant was and remains legally invalid for lack of jurisdiction, and thus  
6 defendants had no authority or jurisdiction to enter the Reservation and commit the  
7 acts described in Paragraphs 24-48 above, while defendants contend that under 18  
8 U.S.C. § 1162, the Warrant was valid and defendants' commission of each of the acts  
9 described in Paragraphs 24-48 above was within their lawful jurisdiction.

10 WHEREFORE, plaintiffs pray as hereinafter set forth.

11 **SECOND CLAIM FOR RELIEF:**  
12 **AS A MATTER OF FEDERAL LAW, DEFENDANTS LACKED**  
13 **JURISDICTION TO SEIZE, AND LACK JURISDICTION TO CONTINUE TO**  
14 **HOLD, THE SOBOBA BAND'S PROPERTY SEIZED PURSUANT TO THE**  
15 **WARRANT.**

16 56. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 55  
17 above, and by this reference incorporate each such allegation herein as if set forth in  
18 full.

19 57. In the absence of an express conferral of jurisdiction by an Act of  
20 Congress or some other applicable source of federal law, plaintiff Soboba Band has  
21 the right to control access to the lands of the Reservation, including access by  
22 defendants County, Sniff and RSO personnel. Without the Soboba Band's consent,  
23 said defendants had and have no lawful authority to enter the Soboba Reservation,  
24 had no jurisdiction to execute the Warrant, and have no jurisdiction to continue  
25 holding the Soboba Band's governmental property seized under the Warrant and in  
26 excess of the scope of the Soboba Band's property that the Warrant authorized to be  
27 searched and seized.

28 58. No Act of Congress or other applicable source of federal law has  
conferred upon defendants County, Sniff or his deputies any jurisdiction to authorize  
said defendants or their officers, agents or employees to enter the Soboba Reservation

1 without the Soboba Band's prior consent, seize and occupy the Administration  
2 Building, threaten to or actually destroy the Soboba Band's tribal governmental  
3 property, and/or seize the Soboba Band's governmental property, including video  
4 surveillance footage recorded by the Soboba Band's tribal government video  
5 surveillance cameras and stored on the Soboba Band's tribal governmental computer  
6 servers.

7 59. Defendants County, Sniff, and their respective officers, agents and  
8 employees had no lawful authority to enter the Reservation and execute the Warrant,  
9 seize and occupy the Administration Building purportedly pursuant to the Warrant,  
10 commandeer the Soboba Band's staff in aid of seizing the Soboba Band's  
11 governmental property, and thereafter to continue to hold the Soboba Band's property  
12 seized in the execution of the Warrant and in excess of the scope of the Soboba  
13 Band's property that the Warrant authorized to be searched and seized.

14 60. An actual controversy exists between plaintiffs and defendants, in that  
15 plaintiffs contend that under controlling principles of federal statutory and common  
16 law, defendants had no authority or jurisdiction to enter the Reservation and commit  
17 the acts described in Paragraphs 24-48 above, while defendants contend that under  
18 U.S.C. § 1162, the Warrant was valid and defendants' commission of each of the acts  
19 described in Paragraphs 24-48 above was within their lawful jurisdiction.

20 WHEREFORE, Plaintiffs pray as hereinafter set forth.

21 **THIRD CLAIM FOR RELIEF:**  
22 **DEPRIVATION OF THE SOBOBA BAND'S FEDERALLY-PROTECTED**  
23 **RIGHT TO SELF-GOVERNMENT**

24 61. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 60  
25 above, and by this reference incorporate each such allegation herein as if set forth in  
26 full.

27 62. Defendants' entry onto the Reservation, seizure and occupation of the  
28 Administration Building, commandeering of the Soboba Band's staff, and seizure and  
retention of the Soboba Band's tribal government property violated, and continues to

1 violate, the Soboba Band's right to self-government under the Constitution and laws  
2 of the United States, including federal common law, and including the Soboba Band's  
3 right under federal law to be free from defendants' interference with internal matters  
4 and immunity from process issued by the courts of the State of California.

5 63. The Soboba Band's rights of self-governance are unique, and deprivation  
6 of those rights is not readily compensable in money damages, thus requiring specific  
7 relief in order to be protected. Because the Soboba Band has no plain, speedy or  
8 adequate remedy at law to protect its rights to self-government and freedom from  
9 interference by defendants, and because plaintiff Soboba Band will be irreparably  
10 harmed unless defendants are enjoined from continuing to retain the Soboba Band's  
11 governmental property, the Soboba Band is entitled to an order permanently enjoining  
12 defendants from entry onto portions of the Reservation closed to the general public,  
13 seizing and occupying the Band's Administration Building, and/or seizing and  
14 retaining the Band's governmental property, except pursuant to the Soboba Band's  
15 government's consent, or under the authority of a warrant validly issued by a federal  
16 court, or by permission granted by an agency of the federal government having  
17 jurisdiction to grant such permission, or in the exercise of the State of California's  
18 jurisdiction to enforce its criminal laws against individuals.

19 WHEREFORE, plaintiffs pray as hereinafter set forth.

20 **FOURTH CLAIM FOR RELIEF:**  
21 **TRESPASS COMMITTED BY UNPERMITTED ENTRY ONTO THE**  
22 **RESERVATION**

23 64. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 63  
24 above, and by this reference incorporate each such allegation herein as if set forth in  
25 full.

26 65. Plaintiffs allege that in violation of state law, defendants Sniff, County,  
27 Gomez, Lopez, Rigali and Doe Defendants 1 - 50 trespassed on the Soboba  
28 Reservation by entering onto the Soboba Reservation and into the Tribal  
Administration Building without permission and under threat of force, that defendants

1 entered intentionally, that actual harm was caused to plaintiffs as a result of such  
2 trespass and that such entry was a substantial factor in the harm caused to plaintiffs.

3 66. Plaintiffs have complied with California Government Code Section 810  
4 by filing with Riverside County an administrative claim on November 28, 2016,  
5 attached hereto as Exhibit 2 and incorporated herein by this reference as if set forth in  
6 full. This administrative claim was denied on December 21, 2016; notice of said  
7 denial is attached hereto as Exhibit 3, and incorporated herein by this reference as if  
8 set forth in full. The administrative claim set out the factual bases for claims asserted  
9 under California law.

10 67. This trespass by defendants resulted in defendants seizing tribal  
11 property, limiting access to the Tribal Administration Building which prevented the  
12 Band from engaging in normal governmental operations during this time period,  
13 forcing the closure of two schools, and coercing tribal employees and plaintiff Tribal  
14 Council members by threat to remain in the Administration Building over a period of  
15 three and one-half days to safeguard tribal property while copies of the video  
16 surveillance were being prepared by tribal employees for defendants.

17 WHEREFORE plaintiffs pray as hereinafter set forth.

18 **FIFTH CLAIM FOR RELIEF:**  
19 **NUISANCE COMMITTED BY DEFENDANTS BY ENTRY ONTO THE**  
20 **RESERVATION.**

21 68. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 67  
22 above, and by this reference incorporate each such allegation herein as if set forth in  
23 full.

24 69. Plaintiff Soboba Band alleges that defendants Sniff, County, Gomez,  
25 Lopez, Rigali, and Doe Defendants 1 - 50 created a nuisance by entering onto the  
26 Reservation and into the Tribal Administration Building without permission or  
27 authority, and thereby interfered with plaintiffs' interest in their Reservation lands, the  
28 Tribal Administration Building, and tribal schools and in the use and enjoyment of  
that property interest.

1 WHEREFORE plaintiffs pray as hereinafter set forth.

2  
3 **SIXTH CLAIM FOR RELIEF:**  
4 **VIOLATION OF THE REASONABLE EXPECTATION OF PRIVACY HELD**  
5 **BY TRIBAL MEMBERS ON THE RESERVATION.**

6 70. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 69  
7 above, and by this reference incorporate each such allegation herein as if set forth in  
8 full.

9 71. Plaintiff Soboba Band, on behalf of its tribal citizens, alleges that the  
10 seizure of fourteen days of video surveillance from tribal government cameras located  
11 on the Reservation violated and continues to violate the reasonable expectation of  
12 privacy as against government entities external to the Soboba Band held by tribal  
13 citizens whose daily activities, comings and goings recorded on video surveillance  
14 between May 17 and approximately May 30, 2016 are now possessed by defendants  
15 Sniff, County, RSO and those acting in concert with them. The possession of this  
16 information by defendants Sniff, County, RSO and those acting in concert with them  
17 subjected and continues to subject the Soboba Band's citizens to ongoing violations  
18 of their right to privacy as the uses to which the video surveillance footage has been  
19 put or is being put is completely unknown to plaintiffs and has been achieved through  
20 unauthorized means never anticipated by the Soboba Band or its citizens.

21 72. Defendants' possession of two weeks of video surveillance footage  
22 originally recorded on the Soboba Band's tribal government video surveillance  
23 system represents a dragnet surveillance of activities on the Reservation by  
24 authorities lacking jurisdiction to conduct such surveillance. These activities are far  
25 outside the scope of the Warrant, challenged herein as without authority in any event.

26 73. Defendants Sniff, County, Gomez, Lopez, Rigali, and Does 1 - 50 could  
27 not directly engage in such surveillance activities on the Reservation, as there is no  
28 federal or state authority for such activity, and yet by virtue of seizing copies of  
fourteen days of this video surveillance footage of activity by tribal citizens on the

1 Reservation, defendants have accomplished what is otherwise not permitted and in  
2 the course of doing so have violated the reasonable expectation of privacy held by  
3 tribal citizens whose interests are represented herein by the Soboba Band.

4 74. The reasonable expectation of privacy to which tribal citizens are  
5 entitled is set out in Article I, Section 1 of the California Constitution and is also  
6 encompassed by the common law tort of the invasion of privacy.

7 75. An actual controversy exists between plaintiffs and defendants, in that  
8 plaintiffs contend that under controlling principles of federal statutory and common  
9 law, defendants had no authority or jurisdiction to enter the Reservation and seize  
10 fourteen days of video surveillance images of tribal citizens from 100 cameras on the  
11 Reservation, while defendants contend that they had and have the right to do exactly  
12 that.

13 WHEREFORE Plaintiffs pray as hereinafter set forth.

14 **SEVENTH CLAIM FOR RELIEF:**  
15 **FALSE IMPRISONMENT OF PLAINTIFF COUNCIL MEMBERS.**

16 76. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 75  
17 above, and by this reference incorporate each such allegation herein as if set forth in  
18 full.

19 77. Plaintiffs Morillo, Salgado, Vivanco, Herrera and Hurtado allege that  
20 defendants Sniff, County, Gomez, Lopez, Rigali, and Does 1 - 50 intentionally  
21 deprived said plaintiffs of their freedom of movement by threat of force and  
22 unreasonable duress, that said actions compelled said plaintiffs to remain in the Tribal  
23 Administration Building for an appreciable period of time, that said actions were  
24 without authority, that said plaintiffs did not consent to remain there, that said  
25 plaintiffs were harmed by this restriction on their freedom of movement and that the  
26 defendants' conduct was an substantial factor in causing this harm.

27 WHEREFORE Plaintiffs pray for relief as hereinafter set forth.  
28

1 **EIGHTH CLAIM FOR RELIEF:**  
2 **DECLARATORY RELIEF AGAINST ALL DEFENDANTS FOR VIOLATION**  
3 **OF THE SOBOBA BAND'S CITIZENS.**

4 78. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 77  
5 above, and by this reference incorporate each such allegation herein as if set forth in  
6 full.

7 79. Plaintiffs are informed and believe and upon that basis allege that in  
8 taking the actions recited herein, defendants RSO, Sniff, Gomez, Lopez, Rigali,  
9 Janecka and Doe Defendants 1 - 50 acted consistently with the policies of defendant  
10 County and defendant Sniff on behalf of defendant County, and approved and  
11 directed the seizure of the Soboba Band's property through defendant Sniff's own  
12 actions and the actions of those of his subordinates whose actions he directed.

13 80. In the alternative, if it is not the custom, habit, or policy of defendants  
14 County, Sniff, Gomez and those acting in concert with them to act in the manner  
15 described above, then this single decision to apply for and execute this single search  
16 warrant on the Soboba Band's Tribal Administration Building and property was made  
17 by defendants Sniff and others acting in concert with him who are officials with the  
18 responsibility to interpret and implement the laws of the State of California.

19 81. Plaintiffs are informed and believe and upon that basis allege that in  
20 applying to the Superior Court for a warrant to search the reservation, defendants  
21 Sniff and Investigator Gomez knew there was no reasonable basis upon which to  
22 believe that defendant RSO had jurisdiction to execute such the Warrant pursuant to  
23 18 U.S.C. § 1162 or any other law.

24 82. Plaintiffs are informed and believe and upon that basis allege that  
25 defendants Sniff and Investigator Gomez acted under color of the laws of the State of  
26 California in obtaining the Warrant from the Superior Court of Riverside County on  
27 May 26, 2016, and that but for defendants Sniff and Investigator Gomez's actions,  
28 said Superior Court would not have issued the Warrant and thus plaintiffs would not  
have sustained the damage which resulted from the execution of the Warrant by

1 defendants.

2 83. Each of the defendants individually and in concert with others acted  
3 under pretense and color of law and in their official capacity. Their acts were beyond  
4 the scope and jurisdiction of their authority and each defendant acted with specific  
5 intent to deprive the Soboba Band and its citizens of rights secured by the Fourth and  
6 Fourteenth Amendments to the Constitution of the United States and by 42 U.S.C. §  
7 1983 as well as Article 1, Sec. 8, Cl. 3 of the Constitution of the United States.

8 84. As a direct and proximate result of the acts of defendants, plaintiff  
9 Soboba Band on behalf of its tribal citizens has suffered an injury in fact including  
10 invasion of privacy through seizure of video surveillance footage of the activities of  
11 tribal citizens over a period of 14 days, conversion of the Soboba Band's property by  
12 unreasonable seizure of video surveillance footage, infringement of tribal citizens'  
13 right to self-governance by the seizure and occupation of the Tribal Administration  
14 Building for three and one-half days, infringement of their right to self-governance  
15 by coercing tribal employees to perform work on behalf of defendant County, and  
16 forcing the closure of two tribal schools due to their proximity to the Administration  
17 Building parking lot used as a staging area for the RSO SWAT unit.

18 WHEREFORE Plaintiffs pray for relief as hereinafter set forth.

19 **NINTH CLAIM FOR RELIEF:**  
20 **CONVERSION OF THE BAND'S PROPERTY BY DEFENDANTS.**

21 85. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 84  
22 above, and by this reference incorporate each such allegation herein as if set forth in  
23 full.

24 86. Plaintiff Soboba Band on its own behalf and on behalf of its tribal  
25 citizens alleges that without consent the defendants wrongfully seized tribal property  
26 – fourteen days of video surveillance footage recorded from more than 100 cameras  
27 on the Soboba Reservation – from the tribal government's computer servers located in  
28 the Tribal Administration Building on the Soboba Reservation.

1 87. Defendants have refused to return such property despite requests from  
2 plaintiff Soboba Band for such return.

3 88. Defendants continue to possess such property in violation of the property  
4 rights of plaintiff Soboba Band and the privacy rights of its citizens.

5 89. Plaintiff Band and its citizens have been harmed by such seizure and  
6 ongoing possession.

7 90. Defendants' conduct in seizing and maintaining possession of the video  
8 surveillance footage and in using them for unknown purposes is a substantial factor in  
9 causing harm to the privacy interests of the citizens of the Soboba Band and to the  
10 property interests of the Soboba Band.

11 WHEREFORE Plaintiffs pray for relief as hereinafter set forth.

12 **TENTH CLAIM FOR RELIEF:**  
13 **VIOLATION OF THE CALIFORNIA ELECTRONIC COMMUNICATION**  
14 **PROTECTION ACT.**

15 91. Plaintiffs reallege each of the allegations set forth in Paragraphs 1 - 90  
16 above, and by this reference incorporate each such allegation herein as if set forth in  
17 full.

18 92. On May 26, 2016, defendant Investigator Gomez presented to tribal  
19 employee Steve Nino ("Nino") a document entitled "Consent to Search Computer  
20 Equipment/Electronic Data" and requested that Nino sign the Consent form.

21 93. The Consent Form referenced the California Electronic Communication  
22 Protection Act ("ECPA") at Penal Code § 1546 as the basis for the consent to the  
23 search and seizure of the Band's computer system and files stored thereon.

24 94. Through the use of the form, defendants County and Investigator Gomez  
25 relied upon that provision of state law as a basis for seizure of the Soboba Band's  
26 property, whether or not the law is in fact applicable to the Soboba Band.

27 95. Defendants County, Sniff and Investigator Gomez did not comply with  
28 the other provisions of the EPCA in seizing the Band's property in the form of video  
surveillance images.



1           2.       That judgment be entered in favor of plaintiffs and against defendants  
2 declaring that the defendants may not make unconsented entry onto portions of the  
3 Soboba Reservation that are closed to the public except for the purpose of pursuing or  
4 apprehending persons suspected of having committed a public offense, or serving or  
5 executing warrants for the arrest of individuals or authorizing the search of individual  
6 residences, or otherwise in compliance with federal law;

7           3.       That judgment be entered in favor of plaintiffs and against defendants  
8 enjoining defendants, and each of them, from failing to return all copies of the seized  
9 property and failing to account for the use of the seized property while in defendants'  
10 possession at which time the Soboba Band would consider requests for those  
11 segments of video surveillance footage containing direct evidence pertaining to the  
12 homicide investigation concerning Jerome Salgado;

13           4.       That judgment be entered permanently enjoining defendants from  
14 entering the portions of the Soboba Reservation closed to the general public,  
15 including the Tribal Administration Building, except with the express prior consent of  
16 the Soboba Band's tribal government, under the authority of a warrant validly issued  
17 by a federal court or permission granted by an agency of the federal government  
18 having jurisdiction to grant such permission, or in the exercise of the State of  
19 California's jurisdiction to enforce its criminal laws against individuals;

20           5.       That judgment be entered in favor of plaintiffs and against defendants  
21 awarding plaintiff Soboba Band money damages in the amount of the costs incurred  
22 by the Soboba Band in providing tribal employees to perform work on behalf of  
23 defendants in the course of copying hundreds of hours of video surveillance footage  
24 onto hard drives provided by defendants;

25           6.       That judgment be entered in favor of plaintiffs and against defendants  
26 awarding plaintiffs money damages for the annoyance, distress, and interruption of  
27 their possessory interest in Soboba Reservation land, the Tribal Administration  
28 Building, and the tribal schools due to defendants' trespass and commission of

1 nuisance;

2 7. That judgment be entered in favor of plaintiffs and against defendants  
3 awarding money damages to plaintiffs Morillo, Vivanco, Salgado, Herrera, and  
4 Hurtado in amounts according to proof, for the emotional harm, loss of time, physical  
5 discomfort and inconvenience, and interruption of their normal business activities,  
6 caused by the false imprisonment of said plaintiffs, and such exemplary damages as  
7 may be deemed appropriate to deter such conduct in the future;

8 8. That judgment be entered in favor of plaintiffs and against defendants  
9 awarding plaintiffs money damages in amounts according to proof for the violation of  
10 civil rights suffered by the Soboba Band's tribal citizens whose interests are  
11 represented by the Soboba Band, due to defendants' seizure of video surveillance  
12 footage of said citizens' innocent activities, comings and goings during the fourteen  
13 day period covered by the video surveillance footage seized by defendants;

14 9. That judgment be entered in favor of plaintiffs and against defendants  
15 awarding plaintiffs money damages in amounts according to proof for the violation of  
16 civil rights suffered by plaintiffs Morillo, Vivanco, Salgado, Herrera and Hurtado due  
17 to the actions of defendants in seizing the Tribal Administration Building for  
18 purposes of executing the unlawful Warrant;

19 10. That the Court award such other declaratory and injunctive relief as is  
20 necessary to protect the rights declared by this Court; and

21 11. Awarding plaintiffs their reasonable attorneys' fees, costs and expenses  
22 incurred in this litigation.

23

24 Dated: June 9, 2017

Respectfully submitted,

25

26

By: /s/ George Forman  
George Forman  
FORMAN & ASSOCIATES  
Attorneys for Plaintiff

27

28

# EXHIBIT 1



WARRANT # \_\_\_\_\_  
STATE OF CALIFORNIA - COUNTY OF RIVERSIDE  
**SEARCH WARRANT AND AFFIDAVIT**  
**(AFFIDAVIT)**

Master Investigator Nelson E. Gomez, declares under penalty of perjury that the facts expressed by him in the attached and incorporated *Statement of Probable Cause*, are true and that based thereon he has probable cause to believe and does believe that the articles, property and persons described below are lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and are now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

  
\_\_\_\_\_  
(Signature of Affiant)

NIGHT SEARCH REQUESTED:  YES  NO  
SEALING ORDER REQUESTED:  YES  NO  
NOTIFICATION DELAY:  YES  NO

**(SEARCH WARRANT)**

THE PEOPLE OF THE STATE OF CALIFORNIA To any Sheriff, Constable, Marshal or Police Officer in the County of Riverside: proof by affidavit, under penalty of perjury, having been made before me by Master Investigator Nelson E. Gomez, That There is Probable Cause for Believing that the property and/or person(s) described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "X"(s) in that it:

- it was stolen or embezzled;
- it was used as the means of committing a felony;
- it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery;
- it tends to show that a felony has been committed or that a particular person has committed a felony;
- it tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring;
- there is a warrant to arrest the person;
- a provider of electronic communication service or remote computing service has records of evidence, as specified in Penal Code Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in possession of any person with intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery;

**YOU ARE THEREFORE COMMANDED TO SEARCH:**  
(See Attachment -A, Page 3)

**FOR THE FOLLOWING PROPERTY AND/OR PERSONS:**  
(See Attachment -A, Page 3)

AND TO SEIZE IT/THEM IF FOUND and bring it/them forthwith before me, or this court, at the courthouse of this court. This Search Warrant and Affidavit and attached and incorporated *Statement of Probable Cause* were sworn to as true under penalty of perjury and subscribed before me on (date) 5-26-16 at 6:14 AM (P.M.) Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

FURTHER, It is the order of this court that the service and execution of the search warrant not be disclosed to any individuals and or organization what so ever without authorization from this court by any employee of the firm upon which this warrant was served, its parent company and/or affiliated organization(s) or any other individual authorized to have knowledge of its execution.

ADDITIONALLY, Good cause having been shown, the contents of this search warrant affidavit are ordered sealed and are to remain sealed and in the custody of the court clerk until further order of this court of any other competent court.

NIGHT SEARCH APPROVED:  YES  NO  
SEALING ORDER APPROVED:  YES  NO  
NOTIFICATION DELAY APPROVED:  YES  NO

  
\_\_\_\_\_  
(Signature of Magistrate)

Judge of the Superior Court of California, County of Riverside, ~~Southwest Branch~~ Dept J1

Jacqueline C. Jackson  
(Printed Name of Magistrate)

DDA D. DeLimon  
(Printed Name of District Attorney)

Date of service: \_\_\_\_\_

Time of service: \_\_\_\_\_

WARRANT#

STATE OF CALIFORNIA - COUNTY OF RIVERSIDE  
ATTACHED AND INCORPORATED  
**ATTACHMENT-A**

**YOU ARE THEREFORE COMMANDED TO SEARCH:**

Your affiant requests permission to search the Soboba Band of Luiseno Indians-Government Administration building and the Public Safety building. These buildings are located on the Soboba Indian Reservation, with the address of 23904 Soboba Rd., San Jacinto, CA 92583.

The specific location/physical address has multiple buildings: with the Public Safety Building and the Administration building in the same general area and connected by a single parking lot.

Your Affiant has learned that The Soboba Indian Reservation has surveillance cameras at the main gate/entrance to the Reservation on Soboba Road. These cameras are connected to a server that stores and maintains the recordings. It is the specific experience of the Riverside County Sheriff Station in Hemet, that the cameras located at the main gate do in fact record activity at that location and the recordings are maintained for seven days or less. The recordings are maintained on computer equipment/servers in the Public Safety Building and the Administration Building.

**THE FOLLOWING ARE PHOTOGRAPHS OF THE LOCATION & VEHICLES:**



**FOR THE FOLLOWING PROPERTY AND/OR PERSONS:**

Media, or images of the media that are connected to cameras by cable or wireless, able to store video recordings from the cameras, such as:

- Computer hard drives/ servers
- Digital video recorders
- Network video recorders and servers
- Digital storage devices affixed to cameras
- Any other recording devices connected to the cameras

**WHERE AS IT IS FURTHER DIRECTED:**

With respect to the surveillance video, and whether they are stored and maintained on a server, computer system or any other digital media device, that members of the Riverside County Sheriff's Departments Computer and Technology Crime High Task Force "C.A.T.C.H." Team are authorized to conduct a complete download/transfer and/or mirror images of the servers, computer system or any other digital media device, which are found to store and/or maintain the surveillance videos, whether in the Police Safety Building or in the Administration Building.



WARRANT # \_\_\_\_\_  
STATE OF CALIFORNIA - COUNTY OF RIVERSIDE  
**SEARCH WARRANT AND AFFIDAVIT**  
**(AFFIDAVIT)**

Master Investigator Nelson E. Gomez, declares under penalty of perjury that the facts expressed by him in the attached and incorporated *Statement of Probable Cause*, are true and that based thereon he has probable cause to believe and does believe that the articles, property and persons described below are lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and are now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

(Signature of Affiant)

NIGHT SEARCH REQUESTED:  YES  NO  
SEALING ORDER REQUESTED:  YES  NO  
NOTIFICATION DELAY:  YES  NO

**(SEARCH WARRANT)**

THE PEOPLE OF THE STATE OF CALIFORNIA To any Sheriff, Constable, Marshal or Police Officer in the County of Riverside: proof by affidavit, under penalty of perjury, having been made before me by Master Investigator Nelson E. Gomez. That *There is Probable Cause for Believing* that the property and/or person(s) described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "X"(s) in that it:

- it was stolen or embezzled;
- it was used as the means of committing a felony;
- it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery;
- it tends to show that a felony has been committed or that a particular person has committed a felony;
- it tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring;
- there is a warrant to arrest the person;
- a provider of electronic communication service or remote computing service has records of evidence, as specified in Penal Code Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in possession of any person with intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery;

**YOU ARE THEREFORE COMMANDED TO SEARCH:**

(See Attachment -A, Page 3)

**FOR THE FOLLOWING PROPERTY AND/OR PERSONS:**

(See Attachment -B, Page 4 & 5)

AND TO SEIZE IT/THEM IF FOUND and bring it/them forthwith before me, or this court, at the courthouse of this court. This Search Warrant and Affidavit and attached and incorporated *Statement of Probable Cause* were sworn to as true under penalty of perjury and subscribed before me on (date 5-26-16 at 6:14 PM). Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

**FURTHER**, *It is the order of this court that the service and execution of the search warrant not be disclosed to any individuals and or organization what so ever without authorization from this court by any employee of the firm upon which this warrant was served, its parent company and/or affiliated organization(s) or any other individual authorized to have knowledge of its execution.*

**ADDITIONALLY**, *Good cause having been shown, the contents of this search warrant affidavit are ordered sealed and are to remain sealed and in the custody of the court clerk until further order of this court of any other competent court.*

NIGHT SEARCH APPROVED:  YES  NO  
SEALING ORDER APPROVED:  YES  NO  
NOTIFICATION DELAY APPROVED:  YES  NO

(Signature of Magistrate)

Judge of the Superior Court of California, County of Riverside, Indio Branch, Dept J1

Jacquette C. Jackson  
(Printed Name of Magistrate)

DDA Dan DeLimon  
(Printed Name of District Attorney)

Date of service: \_\_\_\_\_

Time of service: \_\_\_\_\_

WARRANT # \_\_\_\_\_

STATE OF CALIFORNIA - COUNTY OF RIVERSIDE  
ATTACHED AND INCORPORATED  
**ATTACHMENT-A**

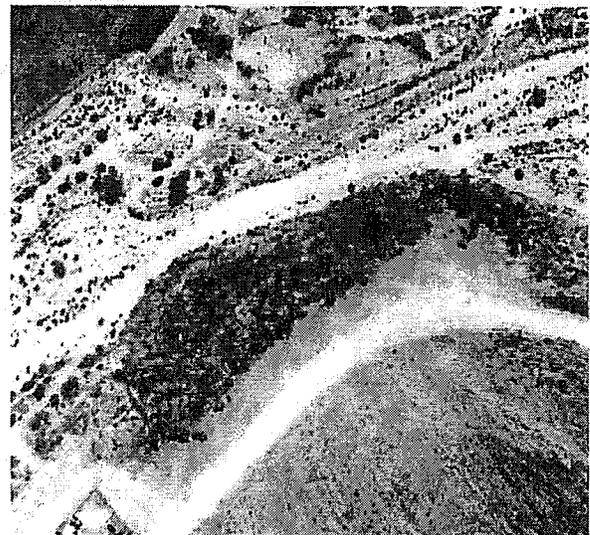
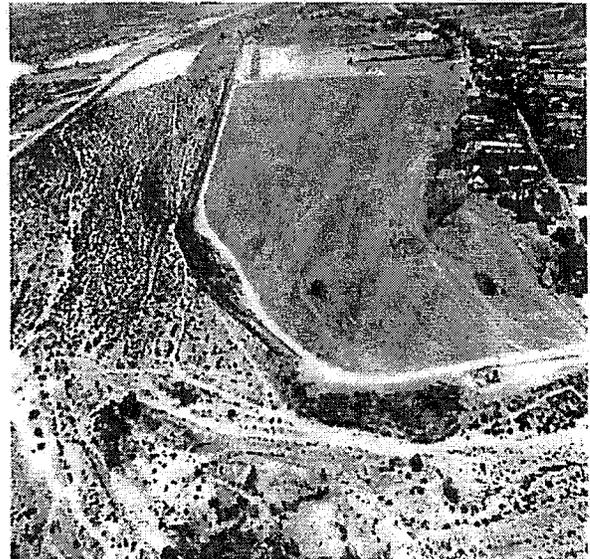
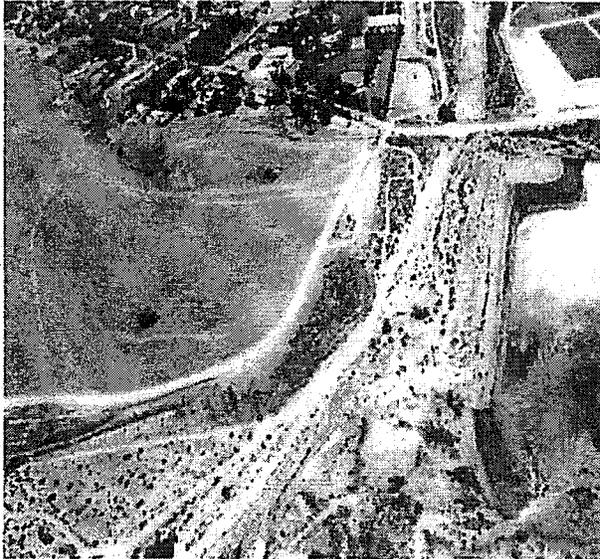
**YOU ARE THEREFORE COMMANDED TO SEARCH:**

**THE PREMISES** and/or terrain and dry riverbed area along the southeast border of the Soboba Indian Reservation, which is southeast of the Soboba Public Workers facility and Fire Station, located at 24099 Soboba Rd., San Jacinto, County of Riverside, California; further described as a large dirt field and dry riverbed area that is within a 1+acre of parcel of land that is undeveloped and rural

This area is further described as an unofficial makeshift land fill/dump site that is known to be used by Soboba Tribal members and their families. There are no known signs or addresses associated with this area of the Soboba Indian Reservation. A GPS coordinates for this location were identified as 33 46.053 -116 54.657.

The search shall extend to any and all areas within this unofficial makeshift land fill/dump site, where trash and a large dirt berms are clearly visible and identified.

**THE FOLLOWING ARE PHOTOGRAPHS OF THE LOCATION & VEHICLES:**



WARRANT # \_\_\_\_\_

**STATE OF CALIFORNIA - COUNTY OF RIVERSIDE  
ATTACHED AND INCORPORATED  
ATTACHMENT-B**

**FOR THE FOLLOWING PROPERTY AND/OR PERSONS:**

1. Any articles of personal property tending to establish the identity of persons who may be directly connected with this investigation and used this makeshift dump site to dispose of evidence items, such as bills, utility bills, telephone bills, miscellaneous addressed mail, personal letters, personal identification, purchase receipts, rent receipts, sales receipts, tax statements, payroll check stubs, keys and receipts for safe deposit box(s), keys and receipts for rental storage space, keys and receipts for post office box or mail drop rentals, ignition keys, car door and trunk keys, vehicle ownership certificates or "pink slips," and/or vehicle registration slips, recordation of voice transmissions on telephone answering machines, audio tapes and telephone message receipt books, and written phone messages, and photographs tending to show occupation of the residence/business and connection between co-conspirators, whether identified, or unidentified.
2. Any and all, firearms and shotguns and any ammunition for any handguns or shotguns, and any miscellaneous gun pieces, gun cleaning items, or kits, holsters, ammunition, belts original packaging, targets, expended pieces of lead, any photographs of firearms, and any paperwork, showing purchases, storage, disposition, or dominion and control over any guns, any ammunition, or any of the above items.
3. Any and all other possible weapons, knives and items that may have been used to beat, stab or kill.
4. Any notes depicting any plans to commit the crime of murder including but not limited to written notes, newspaper clippings, magazines articles, internet articles, diaries, photographs and maps.
5. Any items of biological evidence including, but not limited to, hairs, blood, saliva, and fingerprints.
6. Any items of trace evidence including, but not limited to fibers, clothing, gunshot residue, glass, paint, soil, vegetation, etc.
7. Any clothing, bedding, or other items that may have been used during the commission of the murder.
8. A possible body, that may have been transported and possibly buried and/or dumped, so as to delay its discovery.

WARRANT # \_\_\_\_\_

**STATE OF CALIFORNIA - COUNTY OF RIVERSIDE  
ATTACHED AND INCORPORATED  
ATTACHMENT-B  
(CONTINUED)**

**WHERE AS IT IS FURTHER DIRECTED:**

That the Riverside County Sheriff's Department be allowed to utilize specialized "*Cadaver*" and "*Blood Hound*" dogs and any other equipment, which may assist with the search for any and all evidence related to this investigation, as well as a possible body and/or evidence of its disposal.

# EXHIBIT 2

**COUNTY OF RIVERSIDE**

**CLAIM FOR DAMAGES TO PERSON OR PROPERTY**



**INSTRUCTIONS:**

1. Read claim *thoroughly*.
2. Fill out claim as indicated; attach additional information if necessary.
3. This office needs the original completed claim form and clear readable copies of attachments (if any) if originals are not available.
4. This claim form *must* be signed.

OFFICE USE ONLY

RECEIVED  
493-16  
SUM#

NOV 28 2016

CLERK OF THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

BY: *cpj*

TIME STAMP HERE

**DELIVER OR U.S. MAIL TO:** CLERK OF THE BOARD OF SUPERVISORS  
ATTN: CLAIMS DIVISION  
P.O. BOX 1147, 4080 LEMON ST, 1<sup>ST</sup> FL.  
RIVERSIDE, CA. 92502-1147 (951) 955-1060

|  |   |   |                                     |
|--|---|---|-------------------------------------|
| 1. FULL NAME OF CLAIMANT<br><b>Soboba Band of Luiseno Indians</b>  |   | 8. WHY DO YOU CLAIM THE COUNTY IS RESPONSIBLE?<br><b>See attachment.</b>  |                                     |
| 2. MAILING ADDRESS (STREET / PO BOX)<br><b>P.O. Box 487</b>  |   |   |                                     |
| CITY<br><b>San Jacinto</b>   | STATE<br><b>CA</b>                        | ZIP CODE<br><b>92583</b>  |                                     |
| HOME TELEPHONE<br>( )  | BUSINESS TELEPHONE<br><b>951 654-5544</b> |   |                                     |
| 3. WHEN DID DAMAGE OR INJURY OCCUR (PLEASE BE EXACT)<br><b>See attachment.</b>   |   | 9. NAMES OF ANY COUNTY EMPLOYEES (AND THEIR DEPARTMENTS) INVOLVED IN INJURY OR DAMAGE (IF APPLICABLE).<br><b>See attachment.</b>  |                                     |
| 4. WHERE DID DAMAGE OR INJURY OCCUR?<br><b>See attachment.</b>   |   | 10. WITNESSES TO DAMAGE OR INJURY: LIST ALL PERSONS AND ADDRESSES OF PERSONS KNOWN TO HAVE INFORMATION:<br><b>See attachment.</b> |                                     |
| STREET   | CITY                                      | STATE   | ZIP CODE                            |
| 5. DESCRIBE IN DETAIL HOW DAMAGE OR INJURY OCCURRED:<br><b>See attachment.</b>   |   | ADDRESS   |                                     |
|  |   | NAME  | PHONE                               |
|  |   | ADDRESS   |                                     |
|  |   | NAME  | PHONE                               |
|  |   | ADDRESS   |                                     |
| 11. LIST DAMAGES INCURRED TO DATE (attach copies of receipts or repair estimates)<br><b>See attachment.</b>                                  |   |   |                                     |
| 6. WERE POLICE OR PARAMEDICS CALLED? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO                                     |   |   |                                     |
| 7. IF PHYSICIAN/HOSPITAL WAS VISITED DUE TO INJURY, INCLUDE DATE OF FIRST VISIT AND HOSPITAL'S NAME, ADDRESS AND PHONE NUMBER:<br><b>N/A</b> |   |   |                                     |
| DATE OF FIRST VISIT  | PHYSICIAN'S/HOSPITAL'S NAME               |   |                                     |
| PHYSICIAN'S/HOSPITAL'S ADDRESS   | PHONE:<br>( )                             |   |                                     |
|  |   | TOTAL DAMAGES TO DATE   | TOTAL ESTIMATED PROSPECTIVE DAMAGES |
|  |   | \$ _____  | \$ _____                            |

**THIS CLAIM MUST BE SIGNED TO BE VALID. NOTE: PRESENTATION OF A FALSE CLAIM IS A FELONY (PENAL CODE SECTION 72.)**

**WARNING :**

- > CLAIMS FOR DEATH, INJURY TO PERSON OR TO PERSONAL PROPERTY MUST BE FILED NOT LATER THAN SIX (6) MONTHS AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)
- > ALL OTHER CLAIMS FOR DAMAGES MUST BE FILED NOT LATER THAN ONE (1) YEAR AFTER THE OCCURRENCE. (GOVERNMENT CODE SECTION 911.2)
- > SUBJECT TO CERTAIN EXCEPTIONS. YOU HAVE ONLY SIX (6) MONTHS FROM THE DATE OF THE WRITTEN NOTICE OF REJECTION OF YOUR CLAIM TO FILE A COURT ACTION. (GOVERNMENT CODE SECTION 945.6)
- > IF WRITTEN NOTICE OF REJECTION OF YOUR CLAIM IS NOT GIVEN, YOU HAVE TWO (2) YEARS FROM ACCRUAL OF THE CAUSE OF ACTION TO FILE A COURT ACTION. (GOVERNMENT CODE SECTION 945.6)

2016 NOV 28 PM 1:03  
 CLERK OF THE BOARD OF SUPERVISORS  
 COUNTY OF RIVERSIDE, STATE OF CALIFORNIA

|  |  |  |                  |
|--|--|--|------------------|
| 12. CLAIMANT OR PERSON FILING ON HIS/HER BEHALF<br><i>Margaret Crow Rosenfeld</i> Attorney |  | 13. PRINT OR TYPE NAME<br>FORMAN & ASSOCIATES<br>Margaret Crow Rosenfeld | DATE<br>11/21/16 |
| SIGNATURE  |  | RELATIONSHIP TO CLAIMANT   |                  |

COUNTY OF RIVERSIDE CLAIM FOR DAMAGES TO PERSON OR PROPERTY

ATTACHMENT TO CLAIM FORM: Supplemental and Primary Responses

1. Claimant is the Soboba Band of Luiseño Indians ("Band"), a federally recognized Indian tribe, on its own behalf and on behalf of all tribal citizens residing on the Soboba Indian Reservation.
2. Address on claim form is the Claimant's, but the Band is represented by Forman & Associates and all notices should be sent to:

Margaret Crow Rosenfeld  
Forman & Associates, Attorneys at Law  
4340 Redwood Highway, Suite E352  
San Rafael, CA 94903  
(415) 491-2310  
(415) 491-2313 (FAX)  
Margaret@gformanlaw.com

3. When did the damage or injury occur:

The incidents which form the bases of this claim occurred starting May 26, 2016 and continuing through June 2, 2016. The wrongful seizure of property continues since none of the property (video surveillance images) seized at that time has been returned as of the date of the filing of this claim.

4. Where did the damage or injury occur?

The incidents which form the bases of this claim occurred on the unallotted lands of the Soboba Indian Reservation, legal title to which is held by the United States of America in trust for the Band, and which lands are "Indian country" within the meaning of 18 U.S.C. §§ 1151 and 1162, and 28 U.S.C. § 1360.

5. Describe in detail how damage or injury occurred:

**Trespass on the Reservation**

On May 27, 2016, employees and representatives of the Riverside County Sheriff's Office (RSO) entered the Soboba Indian Reservation, occupied the Tribal Administration Building without either jurisdiction or legal justification to do so, took over the Band's government computer servers and seized property in the form of fourteen days of surveillance video footage created by and belonging to the Band's government. The pretext for entry onto the Reservation was the execution of a Search Warrant issued by the Riverside Superior Court in excess of its jurisdiction, based upon an application

reviewed by the office of the District Attorney and filed by RSO Detective Nelson Gomez ("Gomez"), Badge #3108. (See Exhibit 1.)

The Search Warrant was issued based on an application and affidavit signed by Gomez under penalty of perjury. The Band has requested, but never been provided with a full and complete copy of the warrant application, so that all of the purported facts upon which the application was based remain unknown to the Band. However, the Band can still determine that at least some of the facts alleged in support of the warrant were known by Gomez to be patently false because:

1. Gomez claimed that the property being sought, surveillance video footage from the Band's government servers, would be destroyed by the Band so a search warrant was urgently needed. This assertion ignored the fact that the Band had been fully cooperating with the RSO during the preceding week by promptly providing copies of video surveillance footage from the Band's Tribal Gaming Commission, and inviting RSO personnel to come to the Gaming Commission to view footage, in response to oral and written requests from the RSO regarding a missing person investigation. Prior to applying for the warrant, RSO personnel had requested and received video surveillance footage from cameras at the entry kiosk, in addition to other areas of the reservation, that are connected to the Band's government computer servers. RSO personnel also had been invited to come to the Reservation and view that footage.

2. Gomez's affidavit claimed that the surveillance video was necessary because it "was used as the means of committing a felony..., is possessed by a person with intent to use it for the purpose of committing a felony [or] it tends to show that a felony has been committed or that a particular person has committed a felony." See Exhibit 1. Gomez had no reasonable or good-faith basis for swearing under penalty of perjury that either the Band's government computer servers or video surveillance footage stored thereon could have been used to commit a felony, or was possessed by a person with the intent to use it for the purpose of committing a felony, because both the servers and the video surveillance footage stored thereon are the property of the Band itself, and the Band is a government that exists apart from any of its citizens, and thus is not a "person" capable of committing a felony or any other public offense. Neither did Gomez have either a reasonable or good-faith basis for swearing under penalty of perjury that the Band's government computer servers or the video surveillance footage stored thereon tended to show either that a felony has been committed or that a particular person has committed a felony, given that the footage seized covered the entire Soboba Indian Reservation for a period of two weeks preceding the execution of the warrant. For these reasons, the Band's property never was the proper subject of the warrant and both the presence of RSO on the Reservation and the execution of the warrant never were properly authorized, even if the Superior Court had possessed jurisdiction to issue the warrant.

3. The Search Warrant was sought and issued in excess of the jurisdiction of the State of California, the Superior Court and the RSO, because neither the State, the Superior Court nor the RSO has any jurisdiction over the Band or its governmental property. The jurisdiction conferred upon the State of California and its subdivisions under 18 U.S.C. §

1162 allows the enforcement of state criminal laws of general application only to individuals, not tribal governments.

4. Because the Band has never been permitted to learn the facts upon which the warrant was based because neither the Band nor its counsel have been permitted to review the full affidavit or the sealed confidential informant statement in support of the warrant, there may be additional grounds for questioning the validity of the warrant, and the Band specifically reserves the right to do so.

Entry to the Reservation is controlled by the Band through a guard kiosk and is limited to residents and to people having legitimate reasons for entering. The RSO's presence on the Reservation to execute the warrant was unauthorized as noted above, and the RSO ignored the requirement to stop routinely at the guard kiosk to check in. RSO personnel came and went constantly with different vehicles and different personnel between May 27 through May 30, often without stopping to check in with the guards, preventing the Band from controlling access to its Reservation. This also prevented the Band from identifying all of the employees or agents of the RSO for purposes of this claim. There may be additional Riverside County employees or agents who engaged in the activity forming the bases of this claim, but the Band is not able to identify them at this time. For the purposes of this claim, it extends to all County employees who entered the Reservation in connection with the service and execution of the warrant.

The presence of the RSO on the Reservation to execute the warrant for video surveillance footage stored on the Band's government computer servers included a SWAT vehicle and officers, a canine unit, a helicopter, and numerous officers conspicuously armed with assault weapons, coming and going from the Reservation and from the Tribal Administration Building from May 27<sup>th</sup> through May 30<sup>th</sup>. This show of force was extraordinarily disproportionate to the execution of the warrant on the tribal government and was intended to intimidate tribal members and employees and coerce them into assisting RSO personnel in copying fourteen days of surveillance footage from more than 100 cameras located throughout the Reservation. The presence of the SWAT vehicle and armed RSO personnel in the parking lot adjacent to a preschool necessitated closure of the school on Friday, May 27, 2016, in order to lessen the trauma to the children in attendance, causing the children to lose a day of education.

### **Execution of Search Warrant**

In addition, although the scope of the warrant was limited by its very terms to recordings from surveillance cameras at the main gate/entrance to the Reservation, in fact the RSO coerced the Band into permitting the copying of fourteen days of camera coverage from more than 100 other surveillance cameras located throughout the Reservation. The RSO threatened to remove computer servers from the Tribal Administration Building if the Band did not permit this extensive downloading; removing the servers would have paralyzed the functioning of the tribal government for at least several weeks. The cameras from which surveillance footage was copied covered the Band's schools, recreation center, roads, many homes, and the Administration and other government

buildings. By seizing footage from cameras far in excess and for a much longer period than described in the application for the warrant, the RSO invaded the privacy of all tribal citizens residing on the Reservation by capturing a complete video record of their comings, goings, and doings every day, all day, for fourteen days. While tribal citizens are aware of the existence of the Band's surveillance cameras, their and the Band's expectation is that this footage could be accessed only by the Band for purposes of public safety and security, or in response to a warrant issued by a federal court with jurisdiction over the Band. Tribal citizens had no reason to believe that the footage would be accessible by the RSO without the Band's consent in response to a proper request and demonstration of need, nor to expect that such footage would be kept indefinitely for viewing by unknown persons for unknown purposes. Due to the false allegations in the affidavit supporting the warrant, tribal citizens cannot know the true purposes for which the RSO sought this information nor the uses to which this information has been put. There is no way for the Band or its citizens to determine who has access to the copies of video surveillance in the possession of the RSO, nor to know to whom the copies of video surveillance has been or will be shown. This violates the expectation of privacy that the Band and its citizens have about daily life on the Reservation.

In addition, the warrant authorized use of cadaver dogs in specific areas of the reservation defined in the warrant by GPS coordinates and geographic descriptions. See Ex. 1, Attachment B *infra*. However, on June 2, 2016, RSO took the cadaver dogs to a different site near the water tower thus exceeding the physical and temporal scope of the warrant and constituting a trespass.

### **Occupation of Tribal Administration Building**

The RSO occupied the Tribal Administration Building from the early morning of Friday May 27th through approximately noon on Monday May 30th, preventing the Band, its citizens, and its employees from using the Administration Building for its governmental purposes and from using the tribal government computer servers. Tribal citizens were not able to use or access the building in a routine manner. Some employees were barred by RSO personnel from accessing the building and so was a member of the Tribal Council, the Band's elected governing body. The RSO occupied the Tribal Administration Building to the effective exclusion of the Band's government continuously through approximately noon on May 30, 2016, although Tribal Council members were allowed to be present, and through their presence were able to avoid actual destruction of the Band's property by RSO personnel, physical removal of the Band's government computer servers and an even more severe intrusion into the Band's governmental affairs and invasion of the privacy of the Band's citizens.

During the period of occupation, the RSO copied fourteen days of camera footage from the guard kiosk and from more than 100 other cameras located throughout the Soboba Reservation. Due to the threat by RSO to remove the computer servers from the Reservation, the Band was coerced into providing its own IT personnel to assist the RSO in copying many terabytes of surveillance video footage onto the RSO's own external hard drives. Tribal personnel, paid by the Band, worked around the clock on behalf of the

RSO's effort to download these enormous quantities of data onto media storage provided by the RSO, which initially was not adequate for the task and therefore significantly prolonged the time needed to complete the copying process.

6. Answered.
7. Answered.
8. The RSO carried out this operation on the Reservation and the individuals involved were the employees, representatives or agents of the RSO or other agencies of Riverside County.
9. Names of county employees (and their departments) involved in injury or damage (if applicable):
  - a. Investigator Nelson Gomez, RSO
  - b. RSO Captain Joseph Borja
  - c. RSO Lieutenant Dan Florez
  - d. RSO Lieutenant Herman Lopez
  - e. RSO personnel in the SWAT vehicles.
  - f. RSO personnel with the canine unit.
  - g. RSO IT personnel involved in copying the surveillance video.
  - h. RSO personnel entering into the Reservation without identifying themselves at the guard kiosk.
  - i. Riverside County employees or agents involved in applying for and approving the Search Warrant.

10. Witnesses to the damage:

The Government Code does not require Claimant to provide this information, but Claimant voluntarily provides the following information:

- a. Tribal Council members at the time of the occurrence:
  - Rosemary Morillo, Chair
  - Isaiah Vivanco, Vice Chair
  - Rose Salgado, Sergeant at Arms
  - Monica Herrera, Secretary
  - Kelli Hurtado, Treasurer
- b. Steve Nino, Director of the Band's IT Department
- c. Michael Castello, Tribal Administrator
- d. Celeste Hughes, Chairperson, Soboba Tribal Gaming Commission
- e. Robert Schrek, IT Department

11. List damages incurred to date (attach copies of receipts or repair estimates):

Pursuant to Government Code Sec. 910(f), the Claimant states that the amount of damages is over \$10,000 and there is no obligation to itemize said damages. Pursuant to Government Code Sec.910(f), the Claimant states this would not be a limited civil case.

# EXHIBIT 1



**CENTRAL HOMICIDE UNIT**

Riverside Sheriff's Department - Special Investigations Bureau  
1500 Castellano Road., Riverside, CA 92509 (951)955-2777  
72248 North Shore St., #101, Thousand Palms, CA 92276 (760) 393-3500

**SEARCH WARRANT**

**NOTICE OF SERVICE**

**TO WHOM IT MAY CONCERN:**

On, 05-27-16, an Investigator with the Riverside County Sheriff's Department  
*(Date of Execution)*

served a search warrant at the premises at 23904 Soboba Rd., San Jacinto, CA 92583,  
*(Address)*

and seized property identified in the accompanying receipt. The search warrant was issued on

05/26/16, by the Honorable Jacqueline Jackson, Judge of the  
*(Date Issued)* *(Name)*

Juvenile Court, Department #J1, and  
*(Superior/Municipal)* *(Location of court branch)*

is filed under the court number \_\_\_\_\_ *[If no number is provided,*

*contact the Clerk of the Court]*. For further information concerning this warrant, contact

Inv. Nelson Gomez #3018 at (760)393-3527.  
*(Name of case Agent/Supervisor)* *(Phone Number)*

Be advised that pursuant to California Penal Code sections 1539 and 1540, you may file a written motion in the court of the above-mentioned judge who issued the warrant, seeking return of the property seized pursuant to this warrant.



WARRANT # \_\_\_\_\_  
STATE OF CALIFORNIA - COUNTY OF RIVERSIDE  
**SEARCH WARRANT AND AFFIDAVIT**  
**(AFFIDAVIT)**

Master Investigator Nelson E. Gomez, declares under penalty of perjury that the facts expressed by him in the attached and incorporated *Statement of Probable Cause*, are true and that based thereon he has probable cause to believe and does believe that the articles, property and persons described below are lawfully seizable pursuant to Penal Code Section 1524, as indicated below, and are now located at the locations set forth below. Wherefore, affiant requests that this Search Warrant be issued.

  
\_\_\_\_\_  
(Signature of Affiant)

NIGHT SEARCH REQUESTED:  YES  NO  
SEALING ORDER REQUESTED:  YES  NO  
NOTIFICATION DELAY:  YES  NO

**(SEARCH WARRANT)**

THE PEOPLE OF THE STATE OF CALIFORNIA To any Sheriff, Constable, Marshal or Police Officer in the County of Riverside: proof by affidavit, under penalty of perjury, having been made before me by Master Investigator Nelson E. Gomez, That There is Probable Cause for Believing that the property and/or person(s) described herein may be found at the locations set forth herein and that it is lawfully seizable pursuant to Penal Code Section 1524 as indicated below by "X"(s) in that it:

- it was stolen or embezzled;
- it was used as the means of committing a felony;
- it is possessed by a person with the intent to use it as means of committing a public offense or is possessed by another to whom he or she may have delivered it for the purpose of concealing it or preventing its discovery;
- it tends to show that a felony has been committed or that a particular person has committed a felony;
- it tends to show that sexual exploitation of a child, in violation of Penal Code Section 311.3, or possession of matter depicting sexual conduct of a person under the age of 18 years, in violation of Section 311.11, has occurred or is occurring;
- there is a warrant to arrest the person;
- a provider of electronic communication service or remote computing service has records of evidence, as specified in Penal Code Section 1524.3, showing that property was stolen or embezzled constituting a misdemeanor, or that property or things are in possession of any person with intent to use them as a means of committing a misdemeanor public offense, or in the possession of another to whom he or she may have delivered them for the purpose of concealing them or preventing their discovery;

**YOU ARE THEREFORE COMMANDED TO SEARCH:**  
(See Attachment -A, Page 3)

**FOR THE FOLLOWING PROPERTY AND/OR PERSONS:**  
(See Attachment -A, Page 3)

AND TO SEIZE THEM IF FOUND and bring it/them forthwith before me, or this court, at the courthouse of this court. This Search Warrant and Affidavit and attached and incorporated *Statement of Probable Cause* were sworn to as true under penalty of perjury and subscribed before me on (date) 5-26-16 at 6:14 PM. Wherefore, I find probable cause for the issuance of this Search Warrant and do issue it.

FURTHER, It is the order of this court that the service and execution of the search warrant not be disclosed to any individuals and or organization what so ever without authorization from this court by any employee of the firm upon which this warrant was served, its parent company and/or affiliated organization(s) or any other individual authorized to have knowledge of its execution.

ADDITIONALLY, Good cause having been shown, the contents of this search warrant affidavit are ordered sealed and are to remain sealed and in the custody of the court clerk until further order of this court of any other competent court.

  
\_\_\_\_\_  
(Signature of Magistrate)

NIGHT SEARCH APPROVED:  YES  NO  
SEALING ORDER APPROVED:  YES  NO  
NOTIFICATION DELAY APPROVED:  YES  NO

Judge of the Superior Court of California, County of Riverside, Juvenile Southwest Branch, Dept J1

Jacqueline C. Jackson  
\_\_\_\_\_  
(Printed Name of Magistrate)

DDA D. DeLimon  
\_\_\_\_\_  
(Printed Name of District Attorney)

Date of service: \_\_\_\_\_

Time of service: \_\_\_\_\_

WARRANT # \_\_\_\_\_

STATE OF CALIFORNIA - COUNTY OF RIVERSIDE  
ATTACHED AND INCORPORATED  
**ATTACHMENT-A**

**YOU ARE THEREFORE COMMANDED TO SEARCH:**

Your affiant requests permission to search the Soboba Band of Luiseno Indians-Government Administration building and the Public Safety building. These buildings are located on the Soboba Indian Reservation, with the address of 23904 Soboba Rd., San Jacinto, CA 92583.

The specific location/physical address has multiple buildings: with the Public Safety Building and the Administration building in the same general area and connected by a single parking lot.

Your Affiant has learned that The Soboba Indian Reservation has surveillance cameras at the main gate/entrance to the Reservation on Soboba Road. These cameras are connected to a server that stores and maintains the recordings. It is the specific experience of the Riverside County Sheriff Station in Hemet, that the cameras located at the main gate do in fact record activity at that location and the recordings are maintained for seven days or less. The recordings are maintained on computer equipment/servers in the Public Safety Building and the Administration Building.

**THE FOLLOWING ARE PHOTOGRAPHS OF THE LOCATION & VEHICLES:**



**FOR THE FOLLOWING PROPERTY AND/OR PERSONS:**

Media, or images of the media that are connected to cameras by cable or wireless, able to store video recordings from the cameras, such as:

- Computer hard drives/ servers
- Digital video recorders
- Network video recorders and servers
- Digital storage devices affixed to cameras
- Any other recording devices connected to the cameras

**WHERE AS IT IS FURTHER DIRECTED:**

With respect to the surveillance video, and whether they are stored and maintained on a server, computer system or any other digital media device, that members of the Riverside County Sheriff's Departments Computer and Technology Crime High Task Force "C.A.T.C.H." Team are authorized to conduct a complete download/transfer and/or mirror images of the servers, computer system or any other digital media device, which are found to store and/or maintain the surveillance videos, whether in the Police Safety Building or in the Administration Building.

WARRANT # \_\_\_\_\_

**STATE OF CALIFORNIA - COUNTY OF RIVERSIDE  
ATTACHED AND INCORPORATED  
ATTACHMENT-B**

**FOR THE FOLLOWING PROPERTY AND/OR PERSONS:**

1. Any articles of personal property tending to establish the identity of persons who may be directly connected with this investigation and used this makeshift dump site to dispose of evidence items, such as bills, utility bills, telephone bills, miscellaneous addressed mail, personal letters, personal identification, purchase receipts, rent receipts, sales receipts, tax statements, payroll check stubs, keys and receipts for safe deposit box(s), keys and receipts for rental storage space, keys and receipts for post office box or mail drop rentals, ignition keys, car door and trunk keys, vehicle ownership certificates or "pink slips," and/or vehicle registration slips, recordation of voice transmissions on telephone answering machines, audio tapes and telephone message receipt books, and written phone messages, and photographs tending to show occupation of the residence/business and connection between co-conspirators, whether identified, or unidentified.
2. Any and all, firearms and shotguns and any ammunition for any handguns or shotguns, and any miscellaneous gun pieces, gun cleaning items, or kits, holsters, ammunition, belts original packaging, targets, expended pieces of lead, any photographs of firearms, and any paperwork, showing purchases, storage, disposition, or dominion and control over any guns, any ammunition, or any of the above items.
3. Any and all other possible weapons, knives and items that may have been used to beat, stab or kill.
4. Any notes depicting any plans to commit the crime of murder including but not limited to written notes, newspaper clippings, magazines articles, internet articles, diaries, photographs and maps.
5. Any items of biological evidence including, but not limited to, hairs, blood, saliva, and fingerprints.
6. Any items of trace evidence including, but not limited to fibers, clothing, gunshot residue, glass, paint, soil, vegetation, etc.
7. Any clothing, bedding, or other items that may have been used during the commission of the murder.
8. A possible body, that may have been transported and possibly buried and/or dumped, so as to delay its discovery.

WARRANT # \_\_\_\_\_

**STATE OF CALIFORNIA - COUNTY OF RIVERSIDE**  
**ATTACHED AND INCORPORATED**  
**ATTACHMENT-B**  
**(CONTINUED)**

**WHERE AS IT IS FURTHER DIRECTED:**

That the Riverside County Sheriff's Department be allowed to utilize specialized "*Cadaver*" and "*Blood Hound*" dogs and any other equipment, which may assist with the search for any and all evidence related to this investigation, as well as a possible body and/or evidence of its disposal.

ORIGIN ID:SRFA (415) 491-2310  
MARGARET ROSENFIELD  
FORMAN & ASSOCIATES  
4340 REDWOOD HWY STE E352  
SAN RAFAEL, CA 94903  
UNITED STATES US

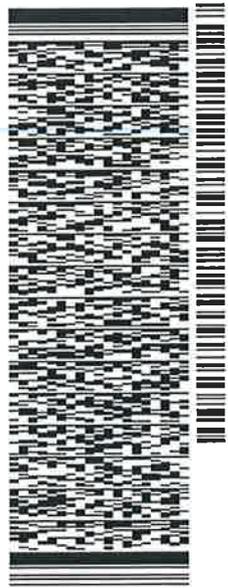
SHIP DATE: 21NOV16  
ACTWGT: 1.00 LB  
CAD: 9636719INNET3790  
BILL SENDER

TO CLERK OF THE BOARD OF SUPERVISORS

COUNTY OF RIVERSIDE  
4080 LEMON STREET  
1ST FLOOR  
RIVERSIDE CA 92502

REF: (951) 955-1060  
PO: NV

DEPT:



J162016101201uv

544J3/CBB1/14E8

TRK# 7777 6804 0731  
0201

TUE - 22 NOV 10:30A  
PRIORITY OVERNIGHT

92502  
CA-US ONT  
WWM ONTA



**After printing this label:**

1. Use the 'Print' button on this page to print your label to your laser or inkjet printer.
2. Fold the printed page along the horizontal line.
3. Place label in shipping pouch and affix it to your shipment so that the barcode portion of the label can be read and scanned.

**Warning:** Use only the printed original label for shipping. Using a photocopy of this label for shipping purposes is fraudulent and could result in additional billing charges, along with the cancellation of your FedEx account number.

Use of this system constitutes your agreement to the service conditions in the current FedEx Service Guide, available on [fedex.com](http://fedex.com). FedEx will not be responsible for any claim in excess of \$100 per package, whether the result of loss, damage, delay, non-delivery, misdelivery, or misinformation, unless you declare a higher value, pay an additional charge, document your actual loss and file a timely claim. Limitations found in the current FedEx Service Guide apply. Your right to recover from FedEx for any loss, including intrinsic value of the package, loss of sales, income interest, profit, attorney's fees, costs, and other forms of damage whether direct, incidental, consequential, or special is limited to the greater of \$100 or the authorized declared value. Recovery cannot exceed actual documented loss. Maximum for items of extraordinary value is \$1,000, e.g. jewelry, precious metals, negotiable instruments and other items listed in our ServiceGuide. Written claims must be filed within strict time limits, see current FedEx Service Guide.

2016 NOV 28 PM 1:03  
CLERK OF THE BOARD OF SUPERVISORS  
COUNTY OF RIVERSIDE



# Express

## Extremely Urgent

### Helping the environment.

When you use envelopes that are part of our FedEx carbon-neutral envelope shipping program, you're helping support sustainable projects like wind farms and reforestation. Our investments in these projects help neutralize the carbon emitted when shipping, all at no extra cost to you. Now that's a breath of fresh air.

See how FedEx connects the world in responsible and resourceful ways at [earthsmart.fedex.com](http://earthsmart.fedex.com). Join our efforts by recycling this envelope.



### For FedEx Express® Shipments Only

Contents should be compatible with the container and packed securely. For shipping terms and conditions and our limits of liability, refer to the applicable FedEx Express shipping document, the current FedEx Service Guide, or conditions of carriage.

For more information on FedEx Express services, solutions, and shipping locations, go to [fedex.com](http://fedex.com), or contact your nearest FedEx location.

© 2013 FedEx 155475/155476 REV 9/13



2016 NOV 23 PM 12:05

Insert shipping document here.

# EXHIBIT 3



OFFICE OF  
CLERK OF THE BOARD OF SUPERVISORS  
1<sup>st</sup> FLOOR, COUNTY ADMINISTRATIVE CENTER  
P.O. BOX 1147, 4080 LEMON STREET  
RIVERSIDE, CA 92502-1147  
Office: (951) 955-1060 FAX: (951) 955-1071

KECIA HARPER-IHEM  
Clerk of the Board

KIMBERLY A. RECTOR  
Assistant Clerk of the Board

December 21, 2016

SOBOBA BAND OF LUISENO INDIANS  
c/o MARGARET CROW ROSENFELD, ATTORNEY  
FORMAN & ASSOCIATES  
P.O. BOX 487  
SAN JACINTO, CA 92583

**RE: NOTICE OF REJECTION OF CLAIM**

**Claimant(s):** SOBOBA BAND OF LUISENO INDIANS  
**Date of Loss:** 05/26/16 – 06/02/16  
**Claim No:** 493-16  
**Date Claim Received:** 11/28/16

Notice is hereby given that the claim you presented to the Clerk of the Board of Supervisors was rejected by the Board on December 21, 2016.

**Warning**

Subject to certain exceptions, you have only six (6) months from the date this notice was personally delivered or deposited in the mail to file a court action on this claim. See Government Code section 945.6.

You may seek the advice of any attorney of your choice in connection with this matter. If you desire to consult an attorney, you should do so immediately.

This warning, and the six-month deadline, only apply to the extent a lawsuit would be based on California law, and do not apply to the extent a lawsuit would be based on federal law.

Kecia Harper-Ihem  
Clerk to the Board of Supervisors

By: *Cecilia Gil*  
Board Assistant

I declare that my business address is 1<sup>st</sup> Floor, County Administrative Center, 4080 Lemon Street, Riverside California, that I am a citizen of the United States of America, employed by the County of Riverside and am not a party to the action. On the date stated below I mailed the foregoing notice by depositing a copy thereof in the outgoing mail at Riverside, California, in a sealed envelope, with postage prepaid, addressed to the person(s) listed above. I declare under penalty of perjury that the foregoing is true and correct.

Executed at Riverside, California on December 21, 2016.

*Cecilia Gil*  
Cecilia Gil, Board Assistant