

(ms)

A RESOLUTION ENTITLED "A RESOLUTION AUTHORIZING THE TRIBAL ATTORNEY TO ENTER INTO A STIPULATED AGREEMENT OF SETTLEMENT WITH FELICIA FELIX FOX IN THE AMOUNT OF \$3,000.00 AND FOR OTHER PURPOSES".

Whereas, this Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act;

Whereas, the Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof;

Whereas, Felicia Felix Fox was employed by the Tribe as the Coordinator of the MR&I Project within the Natural Resources Department;

Whereas, she was released from her position for allegedly speaking on behalf of the Tribe when she was cautioned not to do so; (See attached memorandum of adverse action dated 8-6-92 and marked Exhibit "A")

Whereas, she appealed her termination; however, the grievance committee did not convene to hear and consider her appeal;

Whereas, she filed a lawsuit for wrongful termination in the Tribal Court naming the Tribal Business Council of the Three Affiliated Tribes and Cheryl White, individually and in their official capacity; (See attached complaint marked exhibit "B")

Whereas, the Tribal Business Council appointed an ad hoc grievance committee to hear her appeal on May 19, 1994, consisting of Jim Mossett, Ivan Johnson, and George Fast Dog by Resolution No., 94-41-JJR; (See attached Res. No. 94-41-JJR dated 5/19/94 marked as Exhibit "C")

Whereas, the above-referred to committee convened on June 23, 1994, to hear this appeal; however, when the first hearing took more time than expected, Felicia Felix Fox and her attorney, Jim Fitzsimmons, abruptly left the Tribal Administration Building where the hearings were being convened;

Whereas, there were further attempts by the ad hoc grievance committee to hear the personnel appeal of Felicia Felix Fox;

Whereas, Felicia Felix Fox by and through her attorney has offered to settle this case for \$3,000.00; and,

Whereas, the ad hoc grievance committee had agreed to settlement in the amount of \$1,750.00, and this was conveyed to plaintiff,



THREE AFFILIATED TRIBES • FORT BERTHOLD RESERVATION
Mandan, Hidatsa and Arikara Tribes
NATURAL RESOURCES DEPARTMENT

P.O. Box 460 • New Town, North Dakota 58763 • (701) 827-3827 • FAX (701) 827-3805

MEMORANDUM

Felicia Felix-Fox. MR&I Coordinator
FROM: Donald Morgan, NRD Administrator
DATE: August 6, 1992
RE: Adverse Action - Termination

8-6-92
[Signature]

This is to inform you that you are terminated from your duties effective August 6, 1992, C.O.B.

This termination is based on the fact that you were previously suspended for making remarks against the tribal administration at a community meeting. Also, you were informed not to make media comments on behalf of the Tribal Business Council. However, on August 5, 1992, at the State Northwest Area Water Supply Advisory Committee meeting, in Minot, you held a interview with a TV station. During this interview you expressed views on the effects the states decision to drop the Three Affiliated Tribes from the NAWS Project would have on the Tribe.

You are hereby terminated from your duties effective 5:00 P.M., August 6, 1992. Should you wish to appeal this action, you may do so according to the tribal personnel procedures.

xc: Dennis Burr, CEO
C.White, Personnel
102.1

IN TRIBAL COURT
THREE AFFILIATED TRIBES

FORT BERTHOLD RESERVATION
MANDAREE, NORTH DAKOTA

FELICIA R.FELIX - FOX,)
)
 PLAINTIFF,)
)
 vs.)
)
 THE TRIBAL BUSINESS COUNCIL)
 OF THE THREE AFFILIATED)
 TRIBES AND CHERYLE WHITE,)
 INDIVIDUALLY AND IN THEIR)
 OFFICIAL CAPACITY,)
)
 DEFENDANTS.)

COMPLAINT

Civil No. _____

COMES NOW the Plaintiff and for her cause of action states as follows:

I.

She is an enrolled resident member of the Three Affiliated Tribes.

II.

That Defendants, the seven (7) members of the Tribal Business Council of the Three Affiliated Tribes and Cheryle White, are enrolled members of the Three Affiliated Tribes and reside on the Fort Berthold Indian Reservation.

III.

That Defendant Three Affiliated Tribes is a quasi sovereign entity authorized and recognized under the Indian Reorganization Act of 1934, (48 Stat. 934).

IV.

That the Defendant Tribal Business Council is the governing body of the

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quasi sovereign Three Affiliated Tribes as established by the 1937 Constitution of the Three Affiliated Tribes. Defendant White is the Tribal Personnel Director and an agent for the Tribal Business Council.

V.

That in August of 1990 Defendants did hire Plaintiff as an employee to work in the Three Affiliated Tribes Legal Department.

VI.

That in October 1990 the Plaintiff was hired by the Defendants to serve as the Municipal, Rural and Industrial (MR & I) Project Coordinator.

VII.

That from October 1990 until August of 1992 Plaintiff began, organized, developed and operated a MR & I Project for the Three Affiliated Tribes as an employee of the Three Affiliated Tribes.

VIII.

That Plaintiff performed all of the duties and assumed all of the responsibilities and authority inherent in the position of MR & I Project Coordinator of the Three Affiliated Tribes and faithfully and diligently fulfilled the terms and conditions of her employment.

IX.

That the Defendants wrongfully terminated the Plaintiff without adequate notice or opportunity for a hearing in August of 1992.

X.

Pursuant to the Three Affiliated Tribes Policies and Procedures manual, Plaintiff filed a timely appeal alleging her wrongful termination with the Three Affiliated Tribes Personal Department.

XI.

That in blatant violation of tribal law, Plaintiff's timely appeal has never been heard or acted on by the Defendants. In excess of Six (6) months have passed since the appeal and absolutely no action has been taken. This inaction violates the due process right of the Plaintiff under the Indian Civil Rights Act, the Three Affiliated Tribes Constitution and Laws, and the Three Affiliated Tribes Personnel Policy and Procedures manual.

XII.

That the Plaintiff has exhausted her administrative remedies.

XIII.

That the Defendants have affirmatively waived their governmental immunity from suit in the Three Affiliated Tribes Constitution VI-3(b).

XIV.

That the Plaintiff has property interest in her position as Mr & I Project Coordinator.

XV.

That the Defendants have acted beyond the scope of their authority in

interfering with Plaintiff's property interest.

XVI.

That Defendants have, through their improper actions, violated the Plaintiff's rights under the Indian Civil Rights Act and the Constitution and Laws of the Three Affiliated Tribes.

XVII.

As a result of the above listed actions, Plaintiff has suffered an injury of monetary losses and continues to incur losses including but not limited to loss of earnings, retirement, employee medical, dental, & life insurance as well as relocation and job seeking expenses.

XVIII.

The actual amount of damages will be shown at trial.

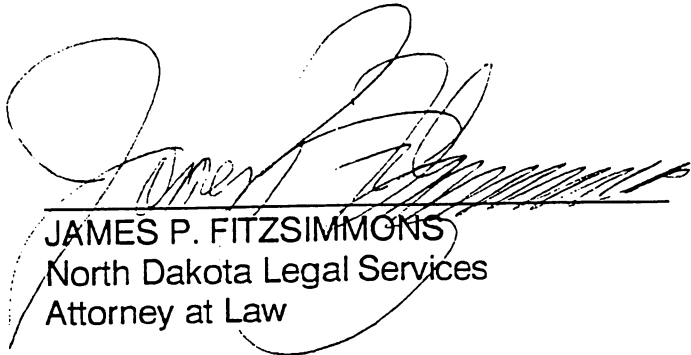
WHEREFORE, Plaintiff requests the Court to award her the following relief:

1. That an injunction be entered under Three Affiliated Tribes Constitution Article VI, Section 3 (b) ordering the Defendants Tribal Business Council to reinstate the Plaintiff to her former position.
2. That a judgment be entered against the Defendants in a sum to be determined by the trier of fact for the loss of Plaintiff's past and future compensation, employment benefits, and other expenses.
3. That the Plaintiff be awarded her lost wages and benefits or the monetary value thereof.

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4. That the Plaintiff be awarded her costs, disbursements, attorneys fees and any other relief the Court deems fair and equitable.

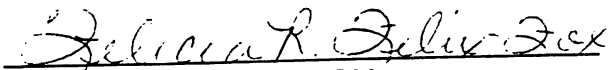
Dated this 4th day of March, 1993.


JAMES P. FITZSIMMONS
North Dakota Legal Services
Attorney at Law

VERIFICATION

Felicia R. Felix - Fox, being duly sworn, deposes and says:

That she is the Plaintiff herein; that she has read the foregoing Complaint and knows the contents thereof and the same is true of her own knowledge, except as to the matters stated on information and belief, and as to those matters, she believes them to be true.


FELICIA R. FELIX - FOX

Subscribed and sworn to me this 4 day of March, 1993.

(SEAL)

CLARINE R. JACKSON
Notary Public
Mountrail County, State of North Dakota
My Commission Expires July 11, 1994


Notary Public

IN TRIBAL COURT
FORT BERTHOLD RESERVATION

THREE AFFILIATED TRIBES
MANDAREE, NORTH DAKOTA

RECEIVED

FELICIA R. FELIX - FOX,

PLAINTIFF,

VS.

THE TRIBAL BUSINESS COUNCIL,
OF THE THREE AFFILIATED TRIBES
AND CHERYLE WHITE, INDIVIDUALLY
AND IN THEIR OFFICIAL CAPACITY.

DEFENDANT.

APR 1 1993

TAT LEGAL DEPT.

CIVIL NO. -

STATE OF NORTH DAKOTA)

COUNTY OF MOUNTRAIL)

) SS.

AFFIDAVIT OF SERVICE BY MAIL

Clarine Jackson, being first duly sworn, deposes and says that on the 31st day of March, 1993, she served the attached: SUMMONS AND COMPLAINT upon Urban Bear Don't Walk, by placing a true and correct copy thereof in an envelope addressed as follows:

Urban Bear Don't Walk
Three Affiliated Tribes
Legal Dept.
New Town, ND 58763

and depositing the same, with postage prepaid, in the United States mails in New Town, North Dakota.

Clarine Jackson
Clarine Jackson

Subscribed and sworn to me this 31 day of March, 1993.

Sharon K. Johnson

Notary Public

(SEAL)

Sharon K. Johnson, Notary Public
Mountrail County, North Dakota
My Commission Expires Dec. 8, 1995

RESOLUTION NO. 94-41-JJR

A RESOLUTION ENTITLED " A RESOLUTION REAFFIRMING THE TRIBAL APPEALS PROCESS REGARDING PERSONNEL GRIEVANCES; GRANTING A HEARING BEFORE A THREE MEMBER PANEL CONSISTING OF JIM MOSSETT, IVAN JOHNSON AND GEORGE FAST DOG FOR FELICA FELIX FOX, VERNON YOUNG BEAR, MAXINE HARRISON AND GEORGIA FOX FOR AND OTHER PURPOSES."

WHEREAS, This Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act;

WHEREAS, The Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof;

WHEREAS, Article VI, Section 5(1) of the Constitution of the Three Affiliated Tribes specifically authorizes and empowers the Tribal Business Council to adopt resolutions regulating the procedure of Tribal agencies;

WHEREAS, The Tribal Business Council is authorized to hear all personnel appeals;

WHEREAS, Felicia Felix Fox, Vernon Young Bear, Maxine Harrison and Georgia Fox all have appeals pending before the Tribal Business Council; and,

WHEREAS, The Tribal Business Council hereby appoints a three member board to hear these appeals.

NOW THEREFORE BE IT RESOLVED THAT, the Tribal Business Council delegates to the Three member board consisting of Jim Mossett, Ivan Johnson and George Fast Dog to serve in its stead as the personnel appeals board and further to make any and all decision regarding the appeals of the above-named individuals.

FURTHER BE IT RESOLVED, that the above-referred to three member panel shall set a time and place to hear these appeals; insure that procedural and substantive due process is rendered to the individuals; and written decisions including findings of fact, conclusions of law and decision are made.

RES. NO. _____ DATED _____.

A RESOLUTION ENTITLED "A RESOLUTION AMENDING THE TRIBE'S INDIAN CHILD WELFARE CODE AND FOR OTHER PURPOSES".

Whereas, this Nation having accepted the Indian Reorganization Act of June 18, 1934, and the authority under said Act;

Whereas, the Constitution of the Three Affiliated Tribes generally authorizes and empowers the Tribal Business Council to engage in activities on behalf of and in the interest of the welfare and benefit of the Tribes and of the enrolled members thereof;

Whereas, the Tribe adopted an Indian Child Welfare Code to parallel the federal Indian Child Welfare Code, 25 U. S. C. § 1901 et seq.;

Whereas, personnel with the Department of Social Services has encountered difficulty in working with the Tribe's Indian Child Welfare Code; and,

Whereas, there exists a need to make a number of technical changes in the Tribe's Indian Child Welfare Code.

NOW THEREFORE BE IT RESOLVED that the Indian Child Welfare Code, Title 8A, of the tribal code of the Three Affiliated Tribes, is hereby amended as follows:

[Amendments].

CERTIFICATION

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, _____ were present at a _____ meeting thereof duly called, noticed, convened, and held on the _____ day of December, 1994; that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of _____ members, _____ members opposed, _____ members abstained, _____ members not voting, and that said Resolution has not been rescinded or amended in any way.

Secretary - Tribal Council

ATTEST;

Chairman - Tribal Council

94-41-J

C E R T I F I C A T I O N

I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of 7 members of whom 5 constitute a quorum, 7 were present at a Regular Meeting thereof duly called, noticed, convened, and held on the 19th day of May, 1994; that the foregoing Resolution was duly adopted at such Meeting by the affirmative vote of 4 members, 1 members opposed, 0 members abstained, 2 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated the 19th day of May, 1994.

John J. Rabbithead Jr
Secretary, Tribal Business Council

ATTEST:

Willow
Chairman, Tribal Business Council

Felicia Felix Fox, who rejected the counteroffer.

NOW THEREFORE BE IT RESOLVED that the Tribal Attorney is hereby authorized to settle the above-entitled alleged wrongful termination case filed against the Wilkinson administration with Felicia Felix Fox for and in the amount of \$3,000.00;

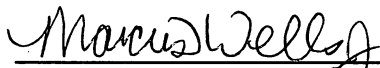
FURTHER BE IT RESOLVED that settlement is based upon the condition precedent of Felicia Felix Fox agreeing to have the above-entitled case dismissed with prejudice and her signing the appropriate settlement agreements prepared by the Legal Department; and,

FINALLY BE IT RESOLVED that the Tribe by entering into this settlement agreement in no way admits to any liability.

CERTIFICATION

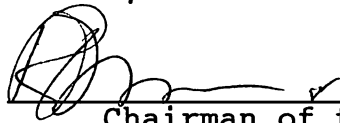
I, the undersigned, as Secretary of the Tribal Business Council of the Three Affiliated Tribes of the Fort Berthold Reservation, hereby certify that the Tribal Business Council is composed of seven (7) members of whom five (5) constitute a quorum, 7 were present at a Regular meeting thereof duly called, noticed, convened, and held on the 8th day of December, 1994; that the foregoing Resolution was duly adopted at such meeting by the affirmative vote of 7 members, 0 members opposed, 0 members abstained, 0 members not voting, and that said Resolution has not been rescinded or amended in any way.

Dated this 13th day of December, 1994.



Secretary of the
Tribal Business
Council

ATTEST;



Chairman of the
Tribal Business
Council