

EBCI  
CHEROKEE TRIBAL COURT  
CHEROKEE, NC

2012 APR 10 AM 9:33

FILED

THE CHEROKEE COURT  
EASTERN BAND OF CHEROKEE INDIANS  
QUALLA BOUNDARY  
CHEROKEE, NORTH CAROLINA

~~EBCI  
CHEROKEE TRIBAL COURT  
CHEROKEE, NC~~

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Peggy Hill-Kerbow on behalf of herself )  
and members of the Eastern Band of )  
Cherokee Indians whose signatures )  
appear on the attached pages, )

Plaintiff (s), )

vs. )

EASTERN BAND OF CHEROKEE )  
INDIANS, the EBCI TRIBAL COUNCIL )  
REPRESENTATIVES in their Official )  
Capacity, EBCI ELECTION BOARD, )  
TRIBAL ALCHOLIC BEVERAGE )  
CONTROL COMMISSION and )  
PRINCIPAL CHIEF, MICHELL HICKS )  
in his individual and official capacity. )

Defendants )

EBCI NO. CV 12-184

**COMPLAINT AND REQUEST FOR INJUNCTIVE RELIEF**

Plaintiff (s), Peggy Hill-Kerbow and members of the Eastern Band of Cherokee Indians whose signatures appear on the following pages, now come complaining of the Defendants, and alleges and says as follows:

**Jurisdiction and Venue**

1. This action is brought at the request of enrolled members of the Eastern Band Cherokee Indians to restrain and enjoin the EBCI Tribal Election Board from engaging in conduct that substantially interferes with the administration and laws of the Eastern Band of Cherokee Indians,

2. Specifically, defendants chose to ignore Tribal Law Cherokee Code Chapter 161-9 Referendum/Initiatives and passed the Resolution to hold a referendum vote on April 12, 2012 the sale of alcoholic beverages on Tribal Trust lands,

3. That Cherokee Code Chapter 161-9 (10) states: "An issue that has been voted upon in a referendum/initiative may not be voted upon again until a period of five years have passed,"

4. Further, that the Tribal Alcoholic Beverage Control Commission has acted over and beyond their realm of authority, Cherokee Code Chapter 18B, Article II. Sec 18-200.

5. The Eastern Band of Cherokee Indians is a federally recognized tribe under the laws of the Federal Government and within the boundaries of the United States.

6. Plaintiffs and defendants are all members of the Eastern Band of Cherokee Indians.

7 Jurisdiction and venue are proper in this Court.

**Injunction under Cherokee Code 161-9 (10)**

8. The plaintiffs incorporate by reference the allegations in paragraphs 1 through 3.

**Injunction under Cherokee Code 18B, Article II, Sec. 18-200**

9. Realm of Authority: Tribal Alcoholic Beverage Control Commission has acted illegally by proposing and promoting the expansion of their own authority and are going beyond their realm of authority and powers that were created and established and therefore, are in violation of existing Law. CHEROKEE CODE CHAPTER 18B REGULATION OF ALCOHOLIC BEVERAGES, ARTICLE II, SEC. 18-200 ALCOHOLIC BEVERAGE CONTROL COMMISSION.


10. Tribal Alcoholic Beverage Control was created and established to regulate the alcoholic beverages control on the premises of Harrah's Cherokee Casino and Hotel Property only by legislation submitted by Tribal Casino Gaming Enterprise, Ordinance 903, 2009, after the 2009 Referendum to allow alcohol to be sold on the premises of Harrah's Cherokee Casino and Hotel property only. And, in violation of existing laws, Cherokee Code 181B, Regulation of Alcoholic Beverages, Article 6 Elections Sec. 18B-600 Alcoholic Beverage elections: all alcohol referendum questions shall be conducted in accordance with tribal law and its election procedures as set forth in Sec. 161-9.

11. Through the conduct described above, the defendants have engaged in unlawful conduct that interferes with the enforcement and administration of Tribal Law. Unless enjoined by this Court, the defendants are likely to continue the disregard of Tribal Law, causing irreparable injury to the Eastern Band of Cherokee Indians, and the Eastern Band of Cherokee Indians has no adequate remedy at law.

WHEREFORE, the plaintiffs, Peggy Hill-Kerbow and members of the Eastern Band of Cherokee Indians whose names appear on the attached sheets, respectfully prays for the following:

- A. That the Court finds the defendants have engaged in conduct that violates Tribal Law, and
- B. That the Court finds the defendants have engaged in conduct that Interferes with the proper administration and enforcement of Tribal Law, and that injunctive relief is appropriate to prevent the recurrence of such conduct pursuant to Cherokee Code 18B and Sec. 161-9, and
- C. That the Court enter a permanent injunction to cease and desist all operation and preparation for the April 12<sup>th</sup>, 2012 Referendum and that all the absentee votes remain closed.
- D. That this Court order that the plaintiffs are permitted to engage in post-judgment discovery to insure compliance with the permanent injunction; and,
- E. That the Court grant the plaintiffs such other relief, including costs, as is just and equitable.

Dated April 9, 2012

  
PEGGY HILL-KERBOW, &  
EBCI enrolled members  
See attached pages