

LEGISLATIVE ORDER OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing Representation in Tohono O'odham Judicial Court Case No. 2008-0283AV,
***In Re: Petition of the Judicial Branch*)**

LEGISLATIVE ORDER NO. 09-019

1 **WHEREAS, the members of the Tohono O'odham Nation adopted the Nation's Constitution, in**
2 **part, "to establish a responsive form of government, to provide for the free**
3 **expression of our people, to promote the rights, education and welfare of the present**
4 **and future generations of our people" (Constitution, Preamble); and**

5 **WHEREAS, the Constitution vests the Tohono O'odham Legislative Council with broad**
6 **legislative powers, including but not limited to the power to enact laws "to provide**
7 **for . . . the administration of justice," to set judicial compensation, appoint judges,**
8 **approve Judicial Branch budgets, and enact laws governing certain other aspects of**
9 **the Nation's courts (Constitution, Article V, Section 1, Article VI, Section 1 and Article**
10 **VIII); and**

11 **WHEREAS, in order to resolve conflicts in the Nation's laws and to ensure due process and equal**
12 **protection to all persons appearing within the Nation's Judicial Court, the**
13 **Legislative Council passed Resolution No. 08-704, "Repealing Papago Law and Order**
14 **Code Chapter One and Ordinance No. 01-89, and Enacting and Codifying Tohono**
15 **O'odham Code Title 6, Chapter 1, Courts and Procedures"; and**

16 **WHEREAS, although a subsequent veto of Title 6, Chapter 1 was overridden by Resolution No.**
17 **08-713, the Judicial Branch has obtained an emergency preliminary injunction in**
18 **Tohono O'odham Judicial Court Case No. 2008-0283AV enjoining the law's**
19 **implementation until the case is "fully and finally decided" (Order Granting**
20 **Emergency Preliminary Injunction, December 31, 2008); and**

21 **WHEREAS, this case raises significant legal issues for the Nation's members and government,**
22 **including whether due process and equal protection require the court to follow its**
23 **own rules of procedure, whether the public will have ready access to court rules and**
24 **cases, and the proper distribution of powers between the legislative and judicial**
25 **branches; and**

26 **WHEREAS, because the Council is not a named party and the Nation's Chairman, who vetoed**
27 **Title 6, Chapter 1, has been subpoenaed on behalf of the Executive Branch, it**
28 **appears that no party will argue in support of the law or fully develop the**
29 **underlying factual issues in the suit; and**

30 **WHEREAS, given the Council's interests in this case and the impact the court's ruling may have**
31 **on the future exercise of legislative powers, it is in the Council's best interest to**
32 **intervene this case; and**
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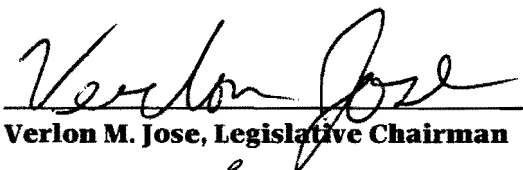
1 WHEREAS, pursuant to Legislative Order No. 06-047, "Amended Delegation of Authority to
2 Legislative Council Chairperson and Vice Chairperson," the Council Chairperson
3 and Vice Chairperson ("Legislative Officers") "[w]ith the consent of a majority of the
4 Legislative Council" are vested with the power to "authorize litigation on the
5 Council's behalf"; and

6 WHEREAS, the Legislative Officers and Judiciary Committee have jointly recommended that
7 the Council be represented in this case.

8 NOW, THEREFORE, BE IT ORDERED by the Tohono O'odham Legislative Council that
9 it hereby directs the Legislative Attorney's Office to move to join or intervene, and
10 to take all necessary actions to represent the Legislative Council in Tohono
11 O'odham Judicial Court Case No. 2008-0283AV, In Re: Petition of the Judicial
12 Branch; provided that the Legislative Attorney's Office shall act under the direction
13 of the Judiciary Committee and the Legislative Officers.

14 The foregoing Order was passed by the Tohono O'odham Legislative Council on the 08TH. Day of
15 JANUARY, 2009 at a meeting at which a quorum was present with a vote of 1,416.25 FOR; 921.75
16 AGAINST; -0- NOT VOTING; and 196.5[08] ABSENT, pursuant to the powers vested in the Council by
17 Article V Section 1 and Article VI, Section 1 (1) of the Constitution of the Tohono O'odham Nation,
18 adopted by the Tohono O'odham Nation on January 18, 1986; and approved by the Acting Deputy
19 Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act
20 of June 18, 1934 (48 Stat. 984).

21
22 TOHONO O'ODHAM LEGISLATIVE COUNCIL

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26 Verlon M. Jose, Legislative Chairman

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28 21 day of January, 2009

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30 ATTEST:

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34 Lucille Lopez, Acting Legislative Secretary

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36 08 day of January, 2009.

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ACTION: AUTHORIZING REPRESENTATION IN TOHONO O'ODHAM JUDICIAL COURT CASE NO. 2008-0283AV, IN RE: PETITION OF THE JUDICIAL BRANCH

MOVED: COUNCILWOMAN GLORIA RAMIREZ

SECOND: COUNCILMAN CHESTER ANTONE

DATE: JANUARY 08, 2009

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 316.9	1. FRANCES MIGUEL (Roberta Harvey)	158.45		X		
	2. FRANCES G. ANTONE (<i>Absent</i>) (Vernon Smith) (<i>Present</i>)	158.45		X		
CHUKUT KUK 264.8	1. ETHEL GARCIA ()	132.40	X			X
	2. VERLON M. JOSE ()	132.40	X			
GU ACHI 227.9	1. TIMOTHY L. JOAQUIN (Louis L. Johnson)	113.95		X		
	2. CYNTHIA E. MANUEL ()	113.95		X		X
GU VO 199.2	1. GRACE MANUEL ()	99.60	X			
	2. RAYMOND VICTOR ()	99.60	X			X
HICKIWAN 172.0	1. MICHELLE ORTEGA ()	86.00	X			
	2. SANDRA ORTEGA ()	86.00	X			X
PISINEMO 182.4	1. CHESTER ANTONE (<i>Absent</i>) (Tony Murrietta) (<i>Present</i>)	91.20	X			
	2. GERALD FAYUANT ()	91.20	X			
SAN LUCY 181.1	1. LORRAINE EILER ()	90.55	X			
	2. GLORIA RAMIREZ ()	90.55	X			
SAN XAVIER 196.5	1. FELICIA NUÑEZ (Adam P. Andrews)	98.25				X
	2. OLIVIA VILLEGAS-LISTON (Eileen A. Estrada-Lopez)	98.25				X
SCHUK TOAK 154.6	1. FRANCES B. CONDE (Fredrick Jose)	77.30		X		X
	2. PHYLLIS CACHORA (Agnes Joaquin)	77.30		X		
SELLS 444.7	1. KIMBERLY LISTO ()	222.35	X			
	2. EVELYN B. JUAN MANUEL ()	222.35		X		
SIF OIDAK 194.4	1. WAVALENE ROMERO ()	97.20	X			X
	2. MARY LOPEZ ()	97.20	X			
TOTAL		2,534.5	1,416.25	921.75	-0-	196.5[08]

****PASSED VOTES**