

**LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS  
APPELLATE COURT**

**PHIL BELLFY:** Director of Article32.org  
**TIM LACROIX:** LTBB Member

Plaintiffs/Appellants,

Case No.: **A-026-0415 (C-200-0914)**

v.

**RICK SNYDER:** Michigan Governor  
**DAN WYANT:** MI DEQ Director  
**HAROLD R. FITCH:** MI DEQ Oil, Gas, and Minerals Chief  
**RICK HENDERSON:** MI DEQ Field Operations Supervisor  
**JILL VAN DYKE:** MI DEQ Senior Geologist, Water  
Resources Division  
**ANDREW LEBARON:** MI DEQ Environmental Quality  
Analyst  
**MARIO FUSCO:** MI DEQ Environmental Engineer

Defendants/Appellees.

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**Plaintiffs/Appellants, appearing in pro per**

Phil Bellfy, PhD  
Executive Director, Article32.org  
White Earth Nation Citizen  
5759 S. Ridge Road  
Sault Ste. Marie, MI 49783  
(906) 632-8060  
[Phil.bellfy@gmail.com](mailto:Phil.bellfy@gmail.com)

Article32.org  
5759 S. Ridge Road  
Sault Ste. Marie, MI 49783  
(906) 632-8060

Tim LaCroix  
LTBB Tribal Member  
1384 S. Wilson Road  
Boyne City, MI 49712

**Attorney for Defendants/Appellees**

Jaclyn Shoshana Levine (P58938)  
Assistant Attorney General  
Michigan Department of Attorney  
General, Environment, Natural  
Resources, and Agriculture Division  
P.O. Box 30755  
Lansing, MI 48909  
(517) 373-7540  
[Levine2@michigan.gov](mailto:Levine2@michigan.gov)

## ORDER DENYING PLAINTIFF-APPELLANTS' MOTION FOR APPEAL

### Procedural History

On September 23, 2014, Plaintiffs Article32.org, an advocacy group incorporated under the laws of the Little Traverse Bay Bands of Odawa Indians ("LTBB"); Timothy LaCroix, an LTBB Tribal Citizen and board member of Article32.org; and Phil Bellfy, board member of Article32.org, filed a Complaint in Tribal Court ("Court") seeking immediate injunctive relief against the named Defendants in this case. Upon receipt of the Plaintiffs' Complaint, but prior to receiving Defendants' Response, the Court issued an Order of Dismissal for Lack of Subject Matter Jurisdiction. *LaCroix, et al. v. Snyder*, No. C-200-0914 (Oct. 2, 2014).

In response to the Court's actions, Plaintiffs filed an appeal of the Court's Order of Dismissal with the Tribal Appellate Court ("Appellate Court"). The Appellate Court did not issue an opinion on Plaintiffs' appeal on the merits, and instead vacated the Court's Order of Dismissal and remanded the case in order to provide Defendants with an opportunity to file a formal response to Plaintiffs' original Complaint. *LaCroix & Bellfy v. Snyder et al.*, No. A-024-1014 (LTBB Ct. App. Dec. 12, 2014).

On March 4, 2015, after oral arguments, the Court granted Defendants' Motion to Dismiss and issued an Order of Dismissal for Lack of Personal and Subject Matter Jurisdiction and Certificate of Service. In response to the Court's actions, on April 8, 2015, Plaintiffs filed this Motion for Appeal of Order granting Defendants' Motion to Dismiss.

### Discussion

"An appeal to the Tribal Appellate Court in civil cases must be filed no later than twenty-eight (28) calendar days after the entry of the final written Tribal Court judgment, order or decision." *LTBB Appellate Procedures Section 7.401*. Therefore, in order for the Appellate Court

to have jurisdiction to review a decision by the lower Court, the appeal must be filed timely. *Id.* In *Harrington v. LTBB Election Bd.*, No. A-019-1011 (LTBB Ct. App. 2012), the Appellate Court held that “calendar days” is “consecutive days without regard for weekends, holidays, or days when tribal administrative offices are open or closed.” However, when the last day to file “falls on a legal holiday, a Saturday, a Sunday, or a day when the Tribal Court is otherwise not accessible, a plaintiff may have until the close of business on the next day that the Tribal Court is open.” *Fred Kiogima & Debbie DeLeon v. LTBB Election Board*, No. A-025-1214 (LTBB Ct. App. 2015).

In this case, the Court entered a final order on March 4, 2015. *LaCroix, et al. v. Snyder*, No. C-200-0914 (Mar. 4, 2015). Plaintiffs were served with a copy of the final Order by First-Class and/or Internet Mail on March 6, 2015. *Id.* Recognizing that 28 days after March 4, 2015 was April 1, 2015, Plaintiffs had until Wednesday, April 1, 2015, to file their appeal. Since Plaintiffs’ appeal was filed on Wednesday, April 8, 2015, it was untimely and not in accordance with *LTBB Appellate Procedures Section 7.401*.

Conclusion of Law

This Court lacks subject matter jurisdiction to hear Plaintiffs’ appeal of the Court’s Order dated March 4, 2015 because it was untimely under *LTBB Appellate Procedures Section 7.401*.

**THEREFORE, BASED UPON ALL OF THE ABOVE, PLAINTIFF-APPELLANTS’ MOTION FOR APPEAL IS DENIED IN ACCORDANCE WITH THE TRIBE’S LAWS AND PROCEDURES.**

**SO ORDERED.**

Date: May 22, 2015

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Chief Justice Wenona T. Singel