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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

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Rahne Pistor et al,

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No. CV-12-00786-PHX-FJM

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Plaintiff,

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ORDER

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vs.

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Carlos Garcia et al,

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Defendant.

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The court has before it the Tribal Defendants’ Motion for Summary Judgment on Plaintiffs’ State Law Claims (doc. 75), plaintiffs’ Response (doc. 90), and the Tribal Defendants’ Reply (doc. 96).

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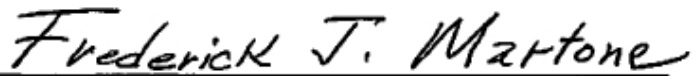
The Tribal Defendants’ sought and received a stay of discovery proceedings (doc. 82) as to the Tribal Defendants only, but that stay does not affect the non-Tribal Defendants, nor does it interfere with our authority to act on a previously filed motion by the Tribal Defendants that does not in any way depend upon discovery by or against the Tribal Defendants. Indeed, we earlier suggested in open court that even if plaintiffs could develop sufficient evidence to support a federal claim against the Tribal Defendants, only the § 1983 claim would lie(if the individuals were acting under color of state, not tribal law), not state claims because state law does not apply to on reservation conduct by members of the Tribe on whose reservation the conduct occurs. It is on that basis that the Tribal Defendants move for summary judgment on the state law claims only.

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1 Plaintiffs mistakenly conflate their §1983 claim with their state law claims. As noted
2 by the Tribal Defendants, state law does not apply to the Tribal Defendants, *McClanahan v.*
3 *Arizona State Tax Commission*, 411 U.S. 164 (1973), even if tribal sovereign immunity does
4 not attach to their conduct in their individual capacities. On reservation conduct by tribal
5 members is subject to tribal law and federal law. But it is not subject to state law unless
6 Congress so directs. No such federal statute allows the assertion of state law here. And to
7 sustain the federal claim, plaintiffs will have to come forward with evidence that the tribal
8 members were acting under color of state law, i.e., they were acting on behalf of the state
9 instead of their tribe or on behalf of themselves. Order of Sept. 5, 2012 (doc. 44).

10 Accordingly, it is ORDERED GRANTING the Tribal Defendants' Motion for
11 Summary Judgment on Plaintiffs' State Law Claims (doc. 75).

12 DATED this 6th day of June, 2013.

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15 **Frederick J. Martone**
16 **Senior United States District Judge**
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