

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA

Case No: 3:22-cv-00022

Turtle Mountain Band of Chippewa
Indians, Spirit Lake Tribe, Wesley Davis,
Zachary S. King, and Collette Brown.

Plaintiffs,

v.

Michael Howe, in his official capacity as
Secretary of State of North Dakota.

Defendant

**NOTICE OF APPEAL BY THIRD-
PARTIES NORTH DAKOTA
LEGISLATIVE ASSEMBLY, SENATOR
RAY HOLMBERG, SENATOR
RICHARD WARDNER, SENATOR
NICOLE POOLMAN,
REPRESENTATIVE MICHAEL
NATHE, REPRESENTATIVE WILLIAM
R. DEVLIN, REPRESENTATIVE
TERRY JONES, SENIOR COUNSEL AT
THE NORTH DAKOTA LEGISLATIVE
COUNCIL CLAIRE NESS.**

Third-Party Respondents North Dakota Legislative Assembly, Senator Ray Holmberg, Senator Richard Wardner, Senator Nicole Poolman, Representative Michael Nathe, Representative William R. Devlin, Representative Terry Jones and Senior Counsel at the North Dakota Legislative Council Claire Ness, hereby give notice of their appeal of the District Court's March 14, 2023 Order (Doc. 72) denying third-party respondents' appeal, and affirming the Magistrate Judge's Order Granting Plaintiffs Motion to Enforce Third-Party Subpoenas (Doc 63).

Further, Third-Party Respondents North Dakota Legislative Assembly and State Representative William Devlin, hereby give notice of their appeal of the District Court's March 14, 2023 Order (Doc. 71) denying third-party respondents appeal, and affirming the Magistrate Judge's Order Denying Third-Party Respondent's Motion to Quash Subpoenas. (Doc. 48).

In light of a circuit split with respect to jurisdictional issues related to this appeal, the Third-Party Respondents will also file a Petition for Writ of Mandamus with the Eighth Circuit

Court of Appeals pursuant to Fed. R. App. P. 21.

Dated this 27th day of March, 2023.

SMITH PORSBORG SCHWEIGERT
ARMSTRONG MOLDENHAUER & SMITH

By /s/ Scott K. Porsborg

Scott K. Porsborg (ND Bar ID #04904)

sporsborg@smithporsborg.com

Brian D. Schmidt (ND Bar ID #07498)

bschmidt@smithporsborg.com

Austin T. Lafferty (ND Bar ID #07833)

alafferty@smithporsborg.com

122 East Broadway Avenue

P.O. Box 460

Bismarck, ND 58502-0460

(701) 258-0630

Attorney for the North Dakota Legislative
Assembly, Senators Ray Holmberg, Nicole
Poolman, and Rich Wardner; Representatives
Bill Devlin, Mike Nathe, and Terry B. Jones,
and Former Senior Counsel Claire Ness

CERTIFICATE OF SERVICE

I hereby certify that on the 27th day of March, 2023, a true and correct copy of the foregoing **NOTICE OF APPEAL BY THIRD-PARTIES NORTH DAKOTA LEGISLATIVE ASSEMBLY, SENATOR RAY HOLMBERG, SENATOR RICHARD WARDNER, SENATOR NICOLE POOLMAN, REPRESENTATIVE MICHAEL NATHE, REPRESENTATIVE WILLIAM R. DEVLIN, REPRESENTATIVE TERRY JONES, SENIOR COUNSEL AT THE NORTH DAKOTA LEGISLATIVE COUNCIL CLAIRE NESS** was filed electronically with the Clerk of Court through ECF, and that ECF will send a Notice of Electronic Filing (NEF) to the following:

ATTORNEYS FOR PLAINTIFFS

Michael S. Carter
Matthew Campbell
Attorneys At Law
1506 Broadway
Boulder, CO 80301

carter@narf.org
mcampbell@narf.org

ATTORNEYS FOR PLAINTIFFS

Mark P. Garber
Molley E. Danahy
Attorneys At Law
1101 14th St. NW, Ste. 400
Washington, DC 20005

mgaber@campaignlegal.org
mdanahy@campaignlegal.org

ATTORNEY FOR PLAINTIFFS

Timothy Q Purdon
Attorney at Law
1207 West Divide Avenue, Suite 200
Bismarck, ND 58501

tpurdon@robinskaplan.com

ATTORNEY FOR PLAINTIFFS

Samantha B. Kelty
Attorney at Law
1514 P St. NW, Suite D
Washington, D.C. 20005

kelty@narf.org

ATTORNEY FOR PLAINTIFF

Bryan Sells
Attorney at Law
P.O. Box 5493
Atlanta, GA 31107-0493

bryan@bryansellslaw.com

ATTORNEYS FOR DEFENDANT MICHAEL HOWE

Matthew A Sagsveen
Assistant Attorney General
500 North 9th Street
Bismarck, ND 58501-4509

masagsve@nd.gov

David R. Phillips
Bradley N. Wiederholt
Special Assistant Attorney General
300 West Century Avenue
P.O. Box 4247
Bismarck, ND 58502-4247

dphillips@bgwattorneys.com
bwiederholt@bgwattorneys.com

By /s/ Scott K. Porsborg
SCOTT K. PORSBORG