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ATTORNEY FOR DEFENDANT
REGINA CUELLAR, individually as
party in interest seeking guardianship
of the minors

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

EFRIM RENTERIA, TALISHA RENTERIA

v.

REGINA CUELLAR, individually as party
in interest seeking guardianship of the
minors, et al.,

DEFENDANTS.

) Case No.: 2:16-cv-1685- MCE-AC

) **SPECIAL APPEARANCE**

) NOTICE OF MOTION AND
) MOTION WITH MEMORANDUM
) OF LAW IN SUPPORT FOR
) RECONSIDERATION OF THE
) COURT'S SEPTEMBER 2, 2016
) RULING ON THE MOTION TO
) DISMISS FOR LACK OF
) SUBJECT MATTER
) JURISDICTION

) LOCAL RULE 230; FEDERAL
) RULES OF CIVIL PROCEDURE
) RULE 60(B)(6)
) DATE: NOVEMBER 3, 2016
) TIME: 2:00 p.m.
) COURTROOM: 7, 14TH FLOOR
) JUDGE: HONORABLE
) MORRISON C. ENGLAND, JR.

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD

Please take notice that on November 3, 2016, at 2:00 p.m., or as soon thereafter as the matter may be heard, in the courtroom of the Honorable Morrison C. England, Jr., United States District Judge for the Eastern District of California, Department 7, 14th Floor, located at 501, I Street, Sacramento, California 95814, individual Defendant Regina Cuellar will and hereby does move for a motion for reconsideration by this Court of this Court's September 2, 2016 Order (See Docket # 58), attached to the Memorandum of law as Exhibit A.

Individual Defendant Regina Cuellar makes this motion pursuant to Local Rule 230 and Federal Rule of Civil Procedure 60(b)(6).

Individual Defendant moves for a motion for reconsideration because:

The Court made clear manifest error of law by failing to abide by Congressional legislation, the Indian Child Welfare Act, which grants to Indian Tribes either exclusive jurisdiction or presumptive primary jurisdiction over tribal minors regardless of where they are domiciled or reside and failing to follow Federal Rules of Civil Procedure, Rule 19's required dismissal when indispensable, necessary and required parties, the Tribe and the Tribal defendants, have been dismissed pursuant to Tribal sovereignty.

The Court made clear manifest error of law by failing to abide by Congressional legislation, the Indian Child Welfare Act, which grants to Tribes the use of any State Court to ensure that the Tribes exclusive jurisdiction or presumptively primary jurisdiction is maintained by attempting to limit the Tribes jurisdiction under ICWA.

The Court made clear manifest error of law in ruling that this Court has subject matter jurisdiction over Regina Cuellar, sued as an individual, under the theory that

1 Regina Cuellar, as an individual, violated the Plaintiffs' Fourteenth Amendment Due
2 Process Rights as an individual when there is no case from any Court, Federal or State,
3 that so holds. The Constitution of the United States Fourteenth Amendment clear text
4 limits such a violation to government action, never action by an individual viz a viz
5 another individual or individuals.
6

7 Further, this Court made clear manifest error of law in ruling this Court has
8 subject matter jurisdiction over Regina Cuellar, sued as an individual, under the theory
9 that once the Tribe (Shingle Springs Band of Miwok Indians), the Tribal Council, the
10 Tribal Court, the Tribal Judge, and Regina Cuellar, sued as a Tribal Council member,
11 were all dismissed from this case, that Rule 19 required this case to be dismissed
12 against Regina Cuellar, sued as an individual, as the indispensable, necessary and
13 required defendants could not legally be joined in this case.
14

15 Finally, this Court made clear manifest error of law in ruling that Regina Cuellar,
16 sued as an individual, could legally adequately represent the interests of the dismissed
17 Tribe, the Tribal Council, the Tribal Court, the Tribal Judge and Regina Cuellar as a
18 Tribal Council member, in Regina Cuellar's capacity being sued as an individual in this
19 matter in clear violation of the Indian Child Welfare Act.
20

21 These rulings by the Court are a clear manifest error of law, that is clear error
22 and an abuse of discretion, such that a manifest injustice unsupported by law is
23 continuing by this Court's September 2, 2016 ruling that it has subject matter over
24 Regina Cuellar as an individual, by Regina Cuellar violating the Plaintiffs Fourteenth
25 Amendment due process rights which no court has so held.
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1 Defendant Regina Cuellar files this motion for reconsideration and requests a
2 hearing to allow the Court to reconsider its September 2, 2016 ruling and ultimately
3 dismiss this case with prejudice against Regina Cuellar sued herein as an individual.
4

5 This Motion is based upon this Notice, the pleadings on file in this case,
6 any other pleadings filed regarding this motion and any and all oral argument and any
7 and all evidence admitted in the hearing of this motion.
8

9 DATED: September 16, 2016

10 Respectfully submitted
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14 /s/ JAMES R.GREINER

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LAW OFFICES OF JAMES R. GREINER
17 ATTORNEY FOR INDIVIDUAL DEFENDANT
18 REGINA CUELLAR
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EASTERN DISTRICT OF CALIFORNIA
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EFRIM RENTERIA, TALISHA RENTERIA	)	Case No.: 2:16-cv-1685- MCE-AC
	)	
	)	CERTIFICATE OF SERVICE
	)	
v.	)	
	)	
	)	
REGINA CUELLAR, individually as party	)	
in interest seeking guardianship of the	)	
minors, et al.,	)	
	)	
	)	
	)	
DEFENDANTS.	)	
	)	

I hereby certify that, on September 16, 2016, I electronically filed the foregoing document with the Clerk of the Court for the U.S. District Court for the Eastern District of California using the CM/ECF system, which sent notification of such filing to counsel of record in this case. I also certify that I sent an electronic copy of this filing

1 separately to both Jeff Reich at jreich@reichlaw.com and Shane Reich at
2 sreich@reichlaw.com, attorneys for the Plaintiffs.

3 Dated: September 16, 2016 Respectfully submitted
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7 /s/ JAMES R.GREINER

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9 _____
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11 ATTORNEY FOR INDIVIDUAL DEFENDANT
12 REGINA CUELLAR
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