



**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

(Approving and directing Offer to Settle *Valinda Jo Elliott vs. White Mountain Apache Tribal Court, et al., United States Court of Appeals for the Ninth Circuit, No. 07-15041 and White Mountain Apache Tribe vs. Valinda Jo Elliott, White Mountain Apache Tribal Court, No. C. 03-97*)

WHEREAS, on October 23, 2008, following oral argument on October 22, 2008, the Ninth Circuit Court of Appeals, in *Valinda Jo Elliott vs. White Mountain Apache Tribal Court, et al.*, No. 07-15041, deferred submission of the case for a written opinion to allow the parties to consider settlement through the Court's Mediation Office; and

WHEREAS, the Tribal Council, participated in a Mediation Conference on Wednesday, December 17, 2008, with the Mediator assigned to the case and met with Valinda Jo Elliott and her attorney, to discuss settlement terms for the pending Ninth Circuit Court of Appeals case, where Valinda Jo Elliott is the named plaintiff, as well as settlement of the pending White Mountain Apache Tribal Court civil case, where Valinda Jo Elliott is named as a defendant; and

WHEREAS, the parties were unable to reach a settlement acceptable to both parties at the Mediation Conference, but agreed to review their respective positions and to continue discussion on possible common grounds for a settlement; and

WHEREAS, after considerable discussion amongst the Tribal Council and with the Tribe's attorney of record, Robert C. Brauchli, about the facts, applicable law, potential appeal to the U.S. Supreme Court, the reality of not being able to recover any compensation from Valinda Jo Elliott, an indigent person, the considerable outlay of tribal funds and legal expense to pursue the case to date and in the future, limited tribal resources, and the fact that the White Mountain Apache Tribe successfully defended the Tribe's sovereignty and jurisdiction of its Tribal Court as recognized by the U.S. District Court, District of Arizona, in the case entitled *Valinda Jo Elliott vs. White Mountain Apache Tribal Court, et al.*, No. 05-4240-PCT-MHM, in a published court opinion beneficial to all Indian Country, the Tribal Council concludes that an offer of settlement should be made to the Ninth Circuit Mediator and Valinda Jo Elliott and her attorneys as discussed herein; and

WHEREAS, the Tribal Council's offer of settlement is confidential and settlement proceedings are confidential as required by the Confidentiality Agreement with the Ninth Circuit Mediator, and therefore the Tribal Council directs that this resolution and the contents thereof not be distributed to the public until such time as a formal settlement has been completed and confirmed by the Tribal Council; and

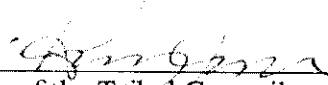
WHEREAS, the Tribal Council directs Special Counsel, Robert C. Brauchli, attorney of record in the Ninth Circuit Valinda Jo Elliott case to contact the Ninth Circuit Mediator assigned to the

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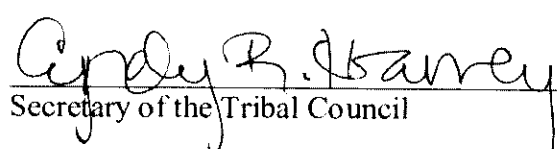
case and the attorneys for Valinda Jo Elliott, and make the following Settlement Offer: (1). That Valinda Jo Elliott dismisses with prejudice her Ninth Circuit appeal challenging the U.S. District Court opinion in favor of the White Mountain Apache Tribal Court's subject matter and personal jurisdiction over her for acts committed on the Reservation; (2) that Valinda Jo Elliott consent to the jurisdiction of the White Mountain Apache Tribal Court; (3) that Valinda Jo Elliott consent to a judgment entered in the White Mountain Apache Tribal Court permanently excluding her from the Fort Apache Indian Reservation, except with the written permission of the Tribal Council; and (4) that Valinda Jo Elliott cooperate and assist the Tribe's attorneys, forest fire consultants and experts, in regards to the events surrounding the Chediski Fire.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that the Tribal Chairman, and in his absence, the Vice Chairwoman, and Special Counsel, Robert C. Brauchli, are authorized to submit the above described Settlement Offer to the Ninth Circuit Mediator and to the attorneys for Valinda Jo Elliott, and to sign any and all necessary court documents or other agreements and documents to carry out and effectuate the Tribe's Settlement Offer.

The foregoing resolution was on January 14, 2009, duly adopted by a vote of 7 for and 0 against by the Tribal Council of the White Mountain Apache Tribe, pursuant to the authority vested in it by Article IV, Section 1 (a), (f), (i), (k), (q) (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).



Chairman of the Tribal Council



Secretary of the Tribal Council