
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

LYNN D. BECKER,

Plaintiff,

v.

UTE INDIAN TRIBE OF THE UINTAH
& OURAY RESERVATION, a federally
recognized Indian Tribe and a federally
chartered corporation, the UINTAH AND
OURAY TRIBAL BUSINESS
COMMITTEE, and UTE ENERGY
HOLDINGS LLC, a Delaware LLC,

Defendants.

ORDER

Case No. 2:16-cv-00958-TC

District Judge Tena Campbell

On January 20, 2022, a mandate issued from the United States Court of Appeals for the Tenth Circuit. (ECF No. 293.) The Tenth Circuit remanded the case “with directions to DISMISS Becker’s pending federal action without prejudice pursuant to the tribal exhaustion rule.” Becker v. Ute Indian Tribe of Uintah & Ouray Rsrv., 11 F.4th 1140, 1150 (10th Cir. 2021).

There is still a pending motion for reconsideration here. (ECF No. 270.) United States District Judge Clark Waddoups, who previously presided over this case, ordered the Defendants (“Tribe”) to pay Plaintiff Lynn D. Becker’s and Movant John P. Jurrius’s fees incurred in prosecuting an arbitration that the Tribe initiated. (ECF No. 260.) Mr. Becker and Mr. Jurrius each filed an attorneys’ fees affidavit, in which they claim fees of \$236,392.75 and \$94,502.50, respectively. (ECF Nos. 262 & 263.) The Tribe objects to these sums. (ECF Nos. 273 & 274.) Mr. Jurrius concedes that his total should be reduced by \$623.00 to \$93,879.50. (ECF No. 280.)

Plaintiff Lynn D. Becker has also moved for a post-appeal status conference to “consider the steps that should be taken and the timing and order of those steps” following this mandate. (ECF No. 295.) He identifies two issues to be discussed. First is the pending motion for

reconsideration mentioned above, and second is the possibility that Mr. Becker will petition the Supreme Court of the United States for a writ of certiorari. Addressing the second issue first, the court sees no need to delay implementing the Tenth Circuit's mandate because of the chance for Supreme Court review. If the Court takes the case and reverses the Tenth Circuit's decision, the case may later be reopened.

Now, to the pending motion for reconsideration:

Grounds warranting a motion to reconsider include (1) an intervening change in the controlling law, (2) new evidence previously unavailable, and (3) the need to correct clear error or prevent manifest injustice. Thus, a motion for reconsideration is appropriate where the court has misapprehended the facts, a party's position, or the controlling law.

Servants of Paraclete v. Does, 204 F.3d 1005, 1012 (10th Cir. 2000) (citing Brumark Corp. v. Samson Res. Corp., 57 F.3d 941, 948 (10th Cir. 1995)). After reviewing Judge Waddoups's twenty-eight-page memorandum decision and order (ECF No. 260), the court is confident that Judge Waddoups did not misapprehend the facts, a party's position, or the controlling law. Nor has the Tribe shown "clear error" or "manifest injustice." Judge Waddoups's order was unequivocal: "[T]he Tribe's initiation of Arbitration against Jurrius was done in bad faith and was an abuse of process." (Mem. Decision & Order at 26, ECF No. 260.) The court sees no reason to second-guess the reasoning underlying these firm conclusions. After considering the Tribe's bad-faith, punitive tactics, Judge Waddoups properly exercised his discretion to award Mr. Becker and Mr. Jurrius their attorneys' fees.

Accordingly,

IT IS ORDERED that the Tribe's motion for reconsideration (ECF No. 270) is DENIED.

IT IS FURTHER ORDERED that the Tribe shall pay Mr. Becker \$236,392.75 and Mr. Jurrius \$93,879.50 in attorneys' fees as a sanction.

IT IS FURTHER ORDERED that Mr. Becker's motion for status conference (ECF No. 295) is DENIED.

IT IS FINALLY ORDERED that this action is DISMISSED WITHOUT PREJUDICE.

DATED this 28th day of January, 2022.

BY THE COURT:

A handwritten signature in black ink that reads "Tena Campbell". The signature is written in a cursive, flowing style.

TENA CAMPBELL
United States District Judge