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**UNITED STATES DISTRICT COURT
 DISTRICT OF UTAH, CENTRAL DIVISION**

LYNN D. BECKER,
 Plaintiff,
 v.
 UTE INDIAN TRIBE, et al.,
 Defendants,
 Counterclaimants, and
 Third-Party Plaintiffs.

**DEFENDANTS' RULE 59 MOTION
 TO ALTER OR AMEND JUDGMENT,
 OR ALTERNATIVELY,
 A RULE 60 MOTION FOR
 RELIEF FROM JUDGMENT**

Case No.
 2:16-cv-00958

Senior Judge Tena Campbell

COMES NOW Defendants, the Ute Indian Tribe of the Uintah and Ouray Reservation (“Tribe” or “Ute Tribe”) and affiliated parties, pursuant to Rule 59(e) of the Federal Rules of Civil Procedure, with a motion to alter or amend the judgment that was entered on February 11, 2022, ECF No. 300. Alternatively, Defendants move the Court for relief from that judgment under Rule 60(b)(1). The motion is timely filed within 28 days of entry of the judgment as required by Rule 59(e). As grounds, Defendants state:

1. The judgment entered on February 11, 2022, was entered prematurely before the Court had resolved various post-appeal matters, including a cost award and Defendants’ entitlement to recover on the injunction bonds that were entered in this case. The premature entry of judgment is contrary to the final judgment rule, and thus, will likely result in piecemeal litigation, judicial inefficiency, and duplicative costs to the parties. The 2/11 judgment should be suspended and then be amended to reflect the Court’s disposition of all the post-appeal issues that are presented by the parties.

2. In addition, the judgment entered on February 11, 2022, should be amended to more accurately reflect the nature of the judicial proceedings and court rulings that have transpired in case number 2-16-cv-00958, including a specification of the claims and counterclaims that have been fully and finally adjudicated.

3. The following chronology provides the backdrop against which this motion should be considered:

01/18/2022 The Tenth Circuit entered an order taxing costs on appeal to Plaintiff Becker. That order is entered in the district court docket, ECF No. 292.

01/20/2022 The Tenth Circuit mandate issues, including the appellate judgment, and the mandate is entered in the district court docket, ECF No. 293. As the prevailing parties, Defendants have until February 3, 2022, in

which to seeks costs and file a cost bill. Fed. R. Civ. P. 54(d)(1).

- 01/28/2022 Plaintiff Becker files a motion requesting a post-appeal status conference. Defendants file a response and expressly inform the Court that Defendants will be seeking recovery of costs and damages under the injunction bonds that Plaintiff Becker was required to file in this case. ECF No. 296.
- 01/28/2022 Later that same day, the district court enters an order dismissing the case altogether. ECF No. 297.
- 02/03/2022 Defendants timely file a cost bill and supporting affidavit and documentation. ECF No. 298.
- 02/11/2022 Notwithstanding the pendency of Defendants' cost bill, final judgment is entered, ECF No. 300.
- 03/10/2022 The clerk enters a cost award to Defendants in the amount of \$13,065.93. ECF No. 301. Plaintiff Becker has until March 17, 2022, in which to challenge the award.
- 03/11/2022 Defendants file a motion under Fed. R. Civ. P. 65.1 to recover costs and damages against the injunction bonds that were issued in this case.
- 03/11/2022 Defendants file a timely motion to alter or amend the judgment entered on February 11, 2022, to include the disposition of these post-appeal issues.

LEGAL ARGUMENT

A final decision is one that fully terminates all matters as to all parties and causes of action and leaves nothing for the district court to do but execute the judgment. *Quackenbush v. Allstate Ins. Co.*, 517 U.S. 706, 712 (1996); *Harolds Stores, Inc. v. Dillard Dep't Stores, Inc.*, 82 F.3d 1533, 1541 (10th Cir. 1996).

"The finality rule is designed to avoid piecemeal trial and appellate litigation and the delays and costs of multiple appeals upon both parties and courts, as well as to provide a clear test so that needless precautionary appeals need not be taken lest

substantive rights be lost.” *Newpark Shipbuilding & Repair, Inc. v. Roundtree*, 723 F.2d 399, 401 (5th Cir. 1984) (citing *Wright, Miller & Cooper*, certiorari denied 469 U.S. 818).

From the chronology set forth above, there clearly remain at least two legal issues that are still pending before the district court, including the allowance of costs and a resolution of the Defendants’ motion to recover costs and damages under Rule 65.1. Insofar as a district court ruling on either of those issues is reviewable on appeal, and could very well be appealed in this case, the entry of judgment on February 11, 2022, was premature.

WHEREFORE, Defendants urge the Court to suspend the judgment entered on 2/11/2022, and to then amend the judgment to reflect the Court’s disposition of all the post-appeal issues that are presented by the parties.

Respectfully submitted this 11th day of March 11, 2022.

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