



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, and submit this memorandum in support of their motion to alter or amend judgment.

The Tribe’s Rule 59 motion was timely filed on March 11, 2022, within 28 days of entry of judgment, as evidenced by the stamped copy of the motion attached hereto as Exhibit A. Parenthetically, that day, March 11th, there was a system outage on the district court’s CMECF electronic filing system, and the Tribe’s undersigned counsel was instructed by the Court’s Clerk’s office to email the Rule 59 motion to the Clerk’s office, which in turn stamped the motion as timely filed on March 11, 2022.

In their motion, Defendants identified outstanding issues that were still pending and invoked the rule against piecemeal appeals as grounds for amending the judgment to include a resolution of the post-remand issues then pending. Items still unresolved on March 11, 2022, included a cost award and Defendants’ motion to recover on the injunction bonds that Mr. Becker was required by the court to post in this case, ECF Nos. 9-1 and 159-1.

The Court Clerk taxed costs against Plaintiff Becker on March 10, 2022, ECF No. 301, and the seven (7) day period for Mr. Becker to seek judicial review of the cost award under DUCivR 54-2(d) has now expired. Therefore, the judgment entered on February 11, 2022, ECF No. 300, should be amended to reflect the cost award.

In addition, Defendants filed a “Verified Motion Under Rule 65.1 to Recover Costs and Damages Against the Injunction Bonds Issued in this Case,” ECF No. 302, on March

11, 2022. Mr. Becker did not file a response to Defendants' motion within the 14 day response period under DUCivR 7-1(b)(3)(B). Accordingly, Defendants today have filed a request to submit their unopposed motion for recovery on the injunction bonds for a decision by the Court. Defendants request that the Court's ruling on their motion also be reflected in an amended judgment.

Another matter still pending is the Defendants' motion for stay pending appeal, ECF No. 304. Defendants note that Mr. Becker and Movant John P. Jurrius have filed memoranda opposing the Defendants' request to waive, or reduce the amount, of a supersedes bond. Defendants' deadline for filing a reply to that opposition is Monday, April 4, 2022. Over the last week, the Defendant Tribe has established a litigation reserve fund sufficient to cover the sanction awards to Messrs. Becker and Jurrius. Therefore, on Monday, April 4, 2022, the Defendant Tribe will submit information to the Court concerning its litigation reserve fund, and will ask the Court to accept the reserve fund as the functional equivalent of a supersedes bond, sufficient to permit stay of the Court's judgment pending appeal.

Respectfully submitted this 1st day of April 1, 2022.

PATTERSON EARNHART REAL BIRD & WILSON LLP

/s/ Frances C. Bassett

Frances C. Bassett, *Pro Hac Vice*  
Jeremy J. Patterson, *Pro Hac Vice*  
Thomasina Real Bird, *Pro Hac Vice*  
Jeffrey S. Rasmussen, *Pro Hac Vice*  
1900 Plaza Drive  
Louisville, Colorado 80027  
Telephone: (303) 926-5292  
Facsimile: (303) 926-5293  
Email: fbassett@nativelawgroup.com

**J. PRESTON STIEFF LAW OFFICES, LLC**

J. Preston Stieff (4764)  
110 South Regent Street, Suite 200  
Salt Lake City, Utah 84111  
Telephone: (801) 366-6002  
Email: [jps@stiefflaw.com](mailto:jps@stiefflaw.com)

*Attorneys for Defendants, Counterclaimants,  
and Third-Party Plaintiffs*