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May 15, 2017

VIA EMAIL

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Utah Supreme Court
Attn: Appellate Clerks' Office
450 South State, Fifth Floor
PO Box 140210
Salt Lake City, Utah 84114-0210

**Re: Ryan Uresk Harvey, et al. v. Ute Indian Tribe, et al., Appellate Case
No. 20160362-SC, Trial Court No. 130000009
Rule 24(j) Response of Appellees Ute Indian Tribe of the Uintah and
Ouray Reservation; L.C. Welding & Construction, Inc.; and Huffman
Enterprises, Inc.**

Dear Clerk:

Pursuant to Utah R. App. P. 24(j), this letter responds to Appellants' May 4, 2017 letter citing *Lewis v. Clark*, No. 15-1500, slip. op. (U.S. Apr. 25, 2017), as supplemental authority. Appellants contend *Lewis* supports their claim that the Appellee tribal officials are not protected by the Ute Indian Tribe's sovereign immunity. The *Lewis* Court, however, based its holding on its finding that the employee, not the Tribe, was the real party in interest because "the remedy sought [was not] truly against the sovereign" (slip op. at 5) and "the judgment will not operate against the Tribe" (*id.* at 7). The defendant in *Lewis* was an ordinary employee, not a Tribal governmental official, as is the case here. Here, Judge Chiara properly ruled that granting the relief sought by Appellants would require the court to determine whether the Tribe's officials have authority to send directives such as the one at issue here, which involves "a critical interest of the Tribe." (*Judg.* at pp. 13-14, ¶ 22) (R. at 2053-54). Further, injunctions against UTERO officials prohibiting them from issuing such directives effectively serve as injunctions against the Tribe. (*Id.*). The Tribe is therefore the real party in interest with respect to the injunctions sought by Appellants, distinguishing the facts and reasoning in *Lewis*.

Appellants also contend that *Lewis* supports their claim that the Tribe is not an indispensable party. *Lewis* did not involve indispensability questions. *Lewis* was based in part on the Court's finding that the suit would not "disturb the sovereign's property" (slip op. at 7). Here, in contrast, Judge Chiara ruled that, "A judgment rendered ... in the

Tribe's absence that purports to limit the Tribe's ability to sanction or exclude businesses from Tribal property ... creates a significant potential for prejudice against a key interest in tribal self-governance." (*Id.*). Appellants' claims rest on their contention that the tribal officials acted outside the scope of their authority. A judgment defining that authority would affect the Tribe's ability to govern its own affairs. Even were another Appellee not protected by the Tribe's immunity, *Lewis* does not support Appellants' indispensability argument.

Sincerely,

/s/ J. Preston Stieff

J. Preston Stieff

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing **APPELLEES' LETTER OF SUPPLEMENTAL AUTHORITIES** was sent via email and U.S. first class mail, postage prepaid, unless otherwise noted below, this 15th day of May, 2017 to the following:

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/s/ J. Preston Stieff _____