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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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LYNN D. BECKER,

Plaintiff,

v.

UTE INDIAN TRIBE OF THE UINTAH  
AND OURAY RESERVATION, et al.,

Defendants, Counterclaim and  
Third-Party Plaintiffs,

v.

LYNN D. BECKER, et al.,

Counterclaim and Third-Party  
Defendants.

**DEFENDANTS/COUNTERCLAIMANTS  
AND THIRD-PARTY PLAINTIFFS'  
REPLY IN SUPPORT OF THEIR  
MOTION FOR EMERGENCY INTERIM  
INJUNCTIVE RELIEF, DKT. 75**

Case No. 2:16-cv-00958

**JUDGE CLARK WADDOUPS**

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The Ute Indian Tribe hereby replies in support of its motion for emergency interim injunctive relief, filed twenty days ago on January 11, 2018. Dkt. 75.

Judge Lawrence has not filed an objection to the Tribe's motion for interim injunctive relief.

And while Mr. Becker filed a response, Dkt. 84, in his response, Becker has neither objected to, nor disputed, either (i) the evidentiary facts that are contained in the Tribe's emergency motion for interim injunctive relief, nor (ii) the legal authorities the Tribe relies upon in support of its motion for injunctive relief.

Mr. Becker's sole objection to the Tribe's emergency motion for interim injunctive relief is based on a misreading of the Tenth Circuit's holding in *Ute Indian Tribe of the Uintah & Ouray Reservation v. Lawrence*, 875 F.3d 539 (10th Cir. 2017).

Mr. Becker asserts:

Like the Companion Case (*Lawrence*), this action consists of a claim based upon this Court's original (Section 1331) jurisdiction, with the remainder based upon this Court's Section 1367 supplemental jurisdiction.

Becker, Rep. at 2. Mr. Becker is incorrect. Count 1 of the Tribe's Second Amended Complaint, Dkt. 84, is a *combined* claim for *both* declaratory judgment *and* injunctive relief based on the State of Utah's lack of territorial and subject-matter jurisdiction, and the federal barriers of federal preemption and infringement on tribal sovereignty.

Becker is also incorrect in his description of the holding in *Lawrence*. The decision in *Lawrence* makes clear that original jurisdiction exists under 28 U.S.C. §§ 1331 and 1362 to hear the Tribe's claims for *both* declaratory *and* injunctive relief:

We hold that the Tribe's claim—that federal law precludes state-court jurisdiction over a claim against Indians arising on the reservation—

presents a federal question that sustains federal jurisdiction.

*Id.* at 540.

The only remaining question is whether the Tribe's suit seeking an injunction to halt the proceedings in state court is an action "arising under" federal law (so that there is jurisdiction under 28 U.S.C. § 1331) or whether "the matter in controversy [in this suit] arises under" federal law (so that there is jurisdiction under 28 U.S.C. § 1362) ... We hold that the jurisdiction predicate is satisfied.

*Id.* at 543.

Accordingly, there is no basis for to Mr. Becker mischaracterization of the holding in *Lawrence*, nor the application of that holding to the Tribe's Second Amended Complaint in this action.

On this record, there are no evidentiary objections nor meritorious legal objections to the Tribe's motion for interim injunctive relief. Therefore, the Tribe urges the Court to grant the Tribe's emergency motion for interim injunctive relief.

Respectfully submitted this 30th day of January, 2018.

FREDERICKS PEEBLES & MORGAN LLP

s/ Frances C. Bassett

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### CERTIFICATE OF SERVICE

I hereby certify that on the 30th day of January, 2018, I electronically filed the foregoing **DEFENDANTS/COUNTERCLAIMANTS AND THIRD-PARTY PLAINTIFFS' REPLY IN SUPPORT OF THEIR MOTION FOR EMERGENCY INTERIM INJUNCTIVE RELIEF, DKT. 75**, with the Clerk of the Court using the CM/ECF System which will send notification of such filing to all parties of record as follows:

Brent M. Johnson  
Nancy J. Sylvester  
**ADMINISTRATIVE OFFICE OF THE COURTS**  
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P.O. Box 140241  
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*Defendant Honorable Barry G. Lawrence*

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*Defendant Lynn D. Becker*

s/ Debbie A. Foulk  
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