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FILED  
U.S. DISTRICT COURT

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DISTRICT OF UTAH

UNITED STATES DISTRICT COURT BY: \_\_\_\_\_  
DISTRICT OF UTAH, CENTRAL DIVISION DEPUTY CLERK

ANGELITA M. CHEGUP, et al.,  
00286

Case No. 2:19-CV-

Plaintiff(s),

MOTION FOR LEAVE TO  
FILE AMICUS CURIAE  
AND TO INTERVENE  
ON UTE TRIBE'S  
SOVEREIGN IMMUNITY

v.

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

Judge Dale A. Kimball  
Magistrate Judge  
Paul M. Warner

Defendant(s),

Now Comes, Mr. Gardner Uinta Indian, respectfully  
moves this Court to Motion For Leave To File Amicus  
Curiae And To Intervene On Ute Tribe's Sovereign  
Immunity as of right as Plaintiff Mr. Gardner Uinta  
Indian in this action Amicus Curiae Brief, Fed. Rule  
App. P. 29(a)(2), and pursuant to Motion to Intervene,  
Fed. Rule Civ. P. 24(a)(2) of the Federal Rule of Civil  
Procedure or, in the alternative, for permissive  
intervention pursuant to Rule 24(b)(1)(B) of the Federal  
Rules of Civil Procedure. In support of this motion, Mr.  
Gardner Uinta Indian as follows:

1. With reference to the approval of proposed regulation for the selection of principal tribal officials by Indians of the Chickasaw, Choctaw, Creek, Seminole and Cherokee Indians pursuant to the Act of October 22, 1970 (84 Stat. 1091), it is not necessary that each of these bands have identical or similar regulations. However, the following three conditions are deemed fundamental to the democratic selection of the principal Indian official, and will be considered to be essential to the approval of any proposed selection regulations.

2. Basic to the position on the above matters is the fact that the act of Uinta, Whitever, Tabeguache as (Uncompahgre), Indian bands, did affect the Sovereign Immunity, other than change the matter of selection of principal Indian officials. Otherwise the provisions of the Act and Treaty rights, as it has been in Ute Indian Tribe of the Uintah and Ouray Indian Reservation v. United States of America, Case No. 18-357L, dated November 4, 2019, remains in effect. The federal claims Court dismisses 2 of 3 counts against United States of America in Ute Trust Breach suit. Breach of Trust; Taking; Indian Tribal Claims; Indian Trust Accounting

Statute; Continuing Claims Doctrine; Settlement Agreements; Statute of Limitations; Indian Claims Commission Act; Recognized Title; Accounting Claims.

3. Mr. Gardner Uinta Indian is entitled to intervene as of right in this action due to its substantial interest in protecting to Indian sovereignty of Uintah and Ouray Indian Reservation, Its own federal recognition as governing body of the Uintah and Ouray reservation, as Uintah and Ouray financial resources. The federal agency decisions at issue were the protuct of an adversarial process in which Mr. Gardner Uinta Indian ultimately prevailed against the Defendants in this action. Mr. Gardner Uinta Indian has the direct and substantial interest in this litigation that could be impaired by the Court's disposition of the action.

4. The information that impacts this Ute Tribe of the 1934, as the Defendant Ute tribal council member sovereign immunity in this case, namely Indian Reorganization Act of 1934, also known as the Wheeler-Howard Act, determining that 25 U.S.C. 479's plain language defining "Indian" language defines "Indian" "recognized In Tribe now under federal jurisdiction in 1934", Information regarding the historical interests

and current and prior adjudications over the disputed area and the primary rights in Carcieri v. Salazar, 555 U.S. 379 (2009), In Carcieri, the Supreme Court held that land could not be taken into trust for the Narragansett Tribe of Rhode Island under Section 5 of the Indian Reorganization Act of 1934 because the Tribe was not under Federal jurisdiction in 1934. This decision prevented the Ute Tribe from completing Sovereign Immunity. In the wake of Carcieri decision.

5. The Deputy Secretary explained that he concurred with the Solicitor's Opinion issued by the principal Deputy Solicitor on the applicability of Ute Tribe's restoration request, Solicitor's Opinion M-37051 (Solicitor's Opinion).

6. On March 2, 2018, The Deputy Secretary of the Interior, David L. Bernhardt issued the letter denying the Ute Tribe's restoration request. In Ute Tribe v. United States of America, In Case No. 1:18-CV-00546-RCL, date filed 03/08/18, The Subject: The Authority of the Secretary to Transfer Area Within the Uncompahgre Reservation under Section 3 of the Indian Reorganization Act, dated Feb 21, 2018.

7. Mr. Gardner Uinta Indian motion to intervene is timely, granting the motion will not cause any disruption or delay to the proceeding. Nor will any of the existing parties be prejudiced.

8. Mr. Gardner Uinta Indian interests are not adequately represented by the existing parties. Mr. Gardner Uinta Indian seeks to defend the Indian Sovereignty of the Uinta Indians, its own recognition as the governing body of the Uinta Reservation, and the Uinta financial resources. Defendants by contrast, represent the public interest of the Uinta citizens of the United States as the whole. Mr. Gardner Uinta Indian thus seeks to file the motion to grant this action at the outset, as has been permitted in other Ute Indian Tribe case in this Circuit. As no stay of the Sovereign Immunity in Carcieri v. Salazar decision has been sought, Defendant Ute Tribal Council may be indifferent to this interest in expedited proceedings.

9. The Court should exercise its discretion to grant permissive intervention. Mr. Gardner Uinta Indian has the defense that share the common question of law or fact with that of the Plaintiffs, for, like Defendants, Mr. Gardner Uinta Indian maintain that the Carcieri v.

Salazar decision at issue were not arbitrary and capricious or otherwise unlawful.

10. Mr. Gardner Uinta Indian regarding this motion to intervene.

WHEREFORE, For these reasons and those set forth in the authorities, Mr. Gardner Uinta Indian respectfully requests that this motion be granted.

Respectfully submitted this 14 day of November 2019.

  
Edson Gardner

**CERTIFICATE OF SERVICE**

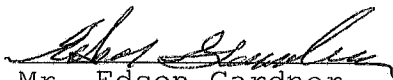
Hereby certify that on 14, day of November 2019,  
has filed the foregoing; **MOTION FOR LEAVE TO FILE AMICUS  
CURIAE AND TO INTERVENE ON UTE TRIBE'S SOVEREIGN  
IMMUNITY**, which caused parties of record to be served:

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Respectfully submitted.

  
Mr. Edson Gardner  
Uinta Indian