

David K. Isom (4773)
ISOM LAW FIRM PLLC
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Attorney for Plaintiff Lynn D. Becker

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

<p>Lynn D. Becker,</p> <p>Plaintiff,</p> <p>vs.</p> <p>Ute Indian Tribe of the Uintah and Ouray Reservation, a federally chartered corporation; Ute Indian Tribe of the Uintah and Ouray Reservation, a federally recognized Indian tribe; the Uintah and Ouray Tribal Business Committee, and Ute Energy Holdings, LLC, a Delaware LLC,</p> <p>Defendants</p>	<p>NOTICE OF INTENT TO SERVE SUBPOENA DUCES TECUM UPON SNOW CHRISTENSEN & MARTINEAU</p> <p>Civil No. 2:16-cv-958</p> <p>Judge Clark Waddoups</p>
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PLEASE TAKE NOTICE pursuant to Fed. R. Civ. P. 45(a)(4) that plaintiff Lynn D. Becker intends to serve the subpoena attached hereto upon the law firm Snow Christensen & Martineau.

Date: August 13, 2020.

ISOM LAW FIRM PLLC

/s/ David K. Isom
Attorney for Plaintiff Lynn D. Becker

CERTIFICATE OF SERVICE

The undersigned certifies that on this 13th day of August 2020, the foregoing was served upon counsel of record by email as follows:

/s/ David K. Isom

UNITED STATES DISTRICT COURT

for the

Lynn Becker

District of Utah

*Plaintiff*

v.

2:16-cv-00958

Ute Indian Tribe, et al.,

Civil Action No.

Defendant

SUBPOENA TO PRODUCE DOCUMENTS

To:

Snow Christensen & Martineau

(Name of person to whom this subpoena is directed)

☒ **Production:** **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information and other material: See Exhibit A.

☐ **Inspection of Premises:** **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place: By email to david@isomlawfirm.com or by other form of production at Becker's counsel's address stated below.

Date and Time: On or before August 20, 2020 at 9:00 a.m.

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 8/13/2020

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk

/s/ David K. Isom

Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing (name of party) Lynn Becker

_____, who issues or requests this subpoena, are:
David Isom, Isom Law Firm, 299 S. Main St., # 1300, Salt Lake City, Utah 84111, david@isomlawfirm.com, 801.209.7400

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 2:16-cv-00958

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)*

I received this subpoena for *(name of individual and title, if any)* _____
 on *(date)* _____.

☐ I served the subpoena by delivering a copy to the named person as follows: _____
 _____ on *(date)* _____; or

☐ I returned the subpoena unexecuted because: _____
 _____.

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
 tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
 \$ _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ 0.00 _____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's

study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

EXHIBIT A

**DOCUMENTS TO BE PRODUCED IN RESPONSE
TO THE SUBPOENA SERVED UPON
SNOW, CHRISTENSEN & MARTINEAU**

1. All correspondence between counsel for the Ute Indian Tribe of the Uintah and Ouray Reservation ("Tribe") and any attorney at Snow, Christensen & Martineau in calendar year 2020 referring or relating to Lynn Becker ("Becker") or John Jurrius ("Jurrius").
2. With respect to the arbitration ("Arbitration") referred to in the July 29, 2020 email from Frances Bassett to David Isom ("Isom") attached hereto as Exhibit B, the complaint, demand and/or other Arbitration statement that set forth the Arbitration claims by the Tribe against Jurrius, including all amendments and all attachments thereto.
3. The subpoenas (including drafts of subpoenas) that the Tribe's counsel claims or claimed that they were intending to serve upon Becker and David K. Isom ("Isom").
4. All documents that the Tribe has produced in the Arbitration that relate or refer to Becker.
5. All documents that the Tribe has produced in the Arbitration that relate or refer to the litigation in any forum between Becker and the Tribe, including the Ute tribal court, the United States district court, the Utah state district court and all related appellate courts.
6. All documents that the Tribe has produced in the Arbitration that relate or refer to Jurrius' testimony at the January 6 & 7, 2020 hearing before Judge Clark Waddoups in response to subpoena.
7. All documents that the Tribe has produced in the Arbitration that constitute, relate or refer to the documents that Jurrius produced under subpoena in connection with the January 6 & 7, 2020 hearing before Judge Clark Waddoups.
8. The written agreement between the Tribe and Jurrius (and/or his companies) effective December 1, 2000 that is referenced in the complaint in the Colorado federal action between Jurrius and the Tribe, Case No. 1:08-cv-1888 ("Colorado Federal Action"), and all amendments to that agreement.
9. All documents filed by either party in the Arbitration.

10. The settlement agreement and attachments pursuant to which the Colorado Federal Action was settled, together with all documents that refer to that settlement.

EXHIBIT B

From: [David Isom](#)
To: [Frances Bassett](#)
Cc: [Debbie Foulk](#)
Subject: RE: Service of subpoenas
Date: Wednesday, July 29, 2020 3:29:10 PM

Frances:

We will be happy to stipulate to service once we have evaluated your request. Please provide the following to me for that evaluation.

1. A copy of the complaint or demand or other documents defining the claims in arbitration, the location and law governing the arbitration, and a copy of any contract provisions requiring or authorizing the arbitration.
2. A copy of the proposed subpoenas, including the definitions of the documents subpoenaed and the deadline for production.
3. If depositions or other testimony are sought, the date and location of any such testimony. We would want to schedule any such testimony by mutual agreement.
4. Any legal authority that you contend demonstrates that the subpoenas are enforceable.

Once we have received and reviewed these materials, we will promptly evaluate your request.

David

David K. Isom
Isom Law Firm PLLC
299 South Main Street
Suite 1300
Salt Lake City, Utah 84111
801.209.7400

From: Frances Bassett <FBassett@nativelawgroup.com>
Sent: Wednesday, July 29, 2020 11:36 AM
To: David Isom <david@isomlawfirm.com>
Cc: Debbie Foulk <DFoulk@nativelawgroup.com>
Subject: Service of subpoenas

Hello David,

I hope you are doing well. A panel of AAA arbitrators has approved the Ute Tribe's request for issuance of two subpoenas duces tecum, one directed to you, and another directed to Lynn Becker. The arbitration in question involves the Ute Tribe and John Jurrius.

I can arrange for service of the subpoenas by a process server, but I thought I would first check to see if you are agreeable to accepting both subpoenas electronically via email, with hard-copies to

follow?

If you prefer service by a process server, please let me know what address you prefer for service of the subpoena directed to you.

My regards,

Frances C. Bassett

357 S. McCaslin Blvd, Ste. 200

Louisville, CO 80027

Phone: 303-926-5292

Cell: 303-926-5293

fbassett@nativelawgroup.com



PATTERSON EARNHART
REAL BIRD & WILSON LLP