

David K. Isom (4773)
ISOM LAW FIRM PLLC
299 South Main Street, Suite 1300
Salt Lake City, Utah 84111
Telephone: (801) 209 7400
david@isomlawfirm.com

Attorney for Lynn D. Becker

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION

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

vs.

HONORABLE BARRY G. LAWRENCE
& LYNN BECKER,
Defendants

LYNN D. BECKER,

Plaintiff,

vs.

UTE INDIAN TRIBE OF THE UINTAH
AND OURAY RESERVATION, ET AL.,

Defendants.

**OPPOSITION TO TRIBE'S
MOTION TO QUASH BECKER'S
SUBPOENA TO SNOW,
CHRISTENSEN & MARTINEAU**

Civil Nos.
2:16-cv-00579
2:16-cv-00958

Judge Clark Waddoups

Plaintiff Becker asks the Court to deny the Tribe's Motion to Quash. Becker's subpoena to Snow, Christensen & Martineau ("Subpoena") seeks evidence to confirm that the Tribe is retaliating against and intimidating and harassing a witness in this action.

During the January 7, 2020 hearing, witness Jurrius expressed concern that the Tribe would retaliate against him for producing documents and testifying in this Court. Exh. A pp. 277 – 281. The Court ordered the Tribe's able counsel to raise any objections to the Jurrius documents and testimony the Tribe had. *Id.* Instead, the Tribe's lawyers stood mostly silent. Thereafter the Tribe brought claims against Jurrius in another forum (arbitration). Recent communications to Becker from the Tribe suggest that those claims are intended to punish Jurrius for providing documents and testimony herein and to send Jurrius a warning message if he is called again to testify. It appears Jurrius must now dedicate substantial time and expense defending the retaliation in arbitration. This Court already confirmed that this is the forum to raise any objections, including confidentiality. This Court should enjoin the Tribe's contemptuous attempt to punish Jurrius for his compliance with this Court's subpoenas.

On July 29, 2020, the Tribe informed Becker the Tribe had commenced arbitration claims against Jurrius and planned to subpoena Becker and his attorney David Isom in the arbitration. Exh. B. The subpoenas seek communications between Jurrius and Becker/Isom from 2015, including documents specific to the January 7 hearing. The Tribe has represented that the arbitration concerns "matters that are wholly unrelated to the remand proceeding" in this Court. Exh. C. Becker believes this assurance is false.

Becker seeks evidence to confirm the Tribe is retaliating against Jurrius for having produced documents and testified here.

ARGUMENT

The Tribe's principal argument¹ is this Court is not the proper forum to adjudicate the subpoena issues because the arbitration is "wholly unrelated" to the subpoena issues. To the contrary, this Court is the proper – indeed, the only – forum to vindicate its own dignity and power and enjoin the Tribe from retaliating against Jurrius for complying with this Court's subpoenas and obstructing his future likely testimony and related involvement.

This Court has inherent power to control its proceedings and sanction a party for bad-faith conduct, including power to punish and enjoin the wrongful intimidation of witnesses. See generally *Chambers v. NASCO, Inc.*, 501 U.S. 32, 35 (1991). The proper sanction depends on the egregiousness of the offending party's conduct. Permissible sanctions range from tailored injunctions, orders to pay attorney fees, contempt and terminating sanctions. *Chambers, supra*. The Subpoena the Tribe would have this Court quash is necessary to obtain evidence the Court will need to assess the Tribe's retaliation and to fashion the appropriate sanction to vindicate this Court's authority and integrity and to protect Becker's ability to obtain crucial evidence in the future.

¹ The Tribe's other argument, that contractual confidentiality provisions erect barriers impermeable to subpoena, does not include any legal or factual basis worthy of response in 500 words.

DATED: August 24, 2020.

ISOM LAW FIRM PLLC

/s/ David K. Isom

David K. Isom
Attorney for Lynn D. Becker

CERTIFICATE OF SERVICE

The undersigned certifies that on this 24th day of August 2020, the foregoing was served upon counsel of record through the Court's CM/ECF system.

/s/ David K. Isom
