

David K. Isom (4773)
ISOM LAW FIRM PLLC
358 South 700 East
Suite B-123
Salt Lake City, Utah 84102
Telephone: (801) 209 7400
david@isomlawfirm.com
Attorney for Plaintiff Lynn D. Becker

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH

Lynn D. Becker,

Plaintiff,

vs.

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,

Defendants

**Reply in Support of Plaintiff's
Motion for Preliminary Injunction**

Civil No. 2:25-cv-00643-DAK

Judge: Dale A. Kimball

One of defendants' ("Tribe") denials merits reply. The denial is demonstrably, categorically false. All of the Tribe's arguments are built upon and therefore fall with this false denial. Other than by this false denial, the Tribe fails to respond to the law or facts supporting Becker's motion for preliminary injunction, and the Court should enter the requested preliminary injunction.

I. THE TRIBE'S PIVOTAL DENIAL IS FALSE

The Tribe denies Becker's averment that "all parties now agree, and the tribal court has finally held, that Section 1-2-3(5)¹ deprives the tribal court of jurisdiction over Becker's claims" ("Becker's Statement"). Becker's Statement is accurate and fully supported by admissible evidence. The Tribe's denial is unsupported and demonstrably contrary to the facts.

Becker's Statement in on page 4 of his Motion for Preliminary Injunction which incorporates facts and exhibits from the Verified Complaint. Becker's Statement is supported by numerous verified factual statements, including the following verified Facts from the Verified Complaint:

55. On February 22, 2018, Becker filed a motion to dismiss his counterclaims in the Tribal Court Action for lack of jurisdiction based upon Section 1-2-3(5) ("Becker's 2018 Motion to Dismiss") (Exh 17).

56. On February 26, 2018, the Tribe responded, agreeing that Section 1-2-3(5) prohibited tribal court jurisdiction over Becker's counterclaims: "Becker's claims against the Tribe have been destroyed by §1-2-3(5).... Accordingly, this Court should enter an order dismissing all of Becker's counterclaims" (Exh 18).

58. More than six years later, on November 26, 2024, the tribal court finally ruled that, because of Section 1-2-3(5), the tribal court lacks jurisdiction of Becker's counterclaims: "Becker and his counsel agree ... that §1-2-3(5) ... deprives this Court of any jurisdiction seeking relief from the Tribe. No further discussion is necessary." (Exh 20).

59. On November 26, 2024, the tribal court therefore dismissed Becker's counterclaims with prejudice for lack of tribal court jurisdiction of Becker's counterclaims based upon the jurisdictional prohibition of Section 1-2-3(5) (Exh 21).

¹ Section 1-2-3(5) provides: "The Courts of the Ute Indian Tribe shall not have jurisdiction to hear claims against the Ute Indian Tribe ... [or] the Tribal Business Committee...." Fact 47. The Facts stated here are all from Becker's Verified Complaint in this action.

These facts were supported by documentary evidence, including the Tribe's concession in its tribal court brief attached as Exhibit 18 to the Verified Complaint and the tribal court orders attached as Exhibits 19 and 20 to the Verified Complaint that held, respectively, that the tribal court lacked jurisdiction to adjudicate Becker's claims and that dismissed Becker's claims because jurisdiction was prohibited by Section 1-2-3(5).

The Tribe flat out denies that the tribal court held that the tribal court lacked jurisdiction of Becker's claims. For example, the Tribe asserts that the tribal court "has also upheld on at least three occasions ... that it has jurisdiction over Becker's claims." Opposition p. 6. (Emphasis added.) See also Opposition pp. 11-12 & 14. This is false: the three rulings referred to were rulings that the tribal court had jurisdiction over the Tribe's claims and not over Becker's claims.

The Tribe also argues that Becker's claims were actually dismissed on account of the statute of limitations, lack of waiver of sovereign immunity and failure to join an indispensable party. Opposition pp. 14-15. While it is true that early on the tribal court made these rulings, the rulings are null because, as the tribal court later ruled, it lacked jurisdiction over Becker's claims.

The Tribe acknowledges that Becker can come to this federal court after exhaustion, but contends that exhaustion is not complete until Becker appeals to the tribal appellate court the ruling that the tribal court lacks jurisdiction of Becker's claims. Opposition p. 13. The problem with this is that no appeal to the tribal appellate court is required or possible since all parties agreed with the tribal court's ruling that the unambiguous language of Section 1-2-3(5) prohibits tribal court jurisdiction of Becker's claims. Fact 60.

II. THE COURT SHOULD ENTER THE REQUESTED PRELIMINARY INJUNCTION

The Tribe's arguments are limited to those built upon the above the Facts and exhibits falsely characterized to support the Tribe's false denials.

Other than those arguments, for example, the Tribe does not challenge the accuracy of the other Facts supporting Becker's motion. Nor does it otherwise challenge Becker's legal arguments. For example, the Tribe accepts that the doctrine of tribal court exhaustion is subject to three exceptions – (1) patent violation of an express jurisdictional prohibition, (2) clear lack of tribal court jurisdiction resulting in unwarranted delay, and (3) the tribal court's bad faith and harassment but falsely argues that they do not apply here because of the Tribe's false denials.

All of the Tribe's resistance to Becker's satisfaction of the four elements of preliminary injunction is limited to arguments built upon the Tribe's false denial.

For example, the Tribe's argument that Becker is unlikely to succeed on the merits here – indeed, that he “has absolutely no chance of success on the merits” – is premised upon the denial that the parties have agreed and the tribal court has held that the tribal court has jurisdiction of Becker's claims.

The Tribe's arguments about the other three requirements for a preliminary injunction – irreparable harm, balance of equities and public interest – likewise depend upon and fall because of the Tribe's critical, false denial of the tribal court's ruling that it lacks jurisdiction of Becker's claims.

III. THIS ACTION IS NOT FILED IN BAD FAITH OR FOR DELAY

The Tribe argues that Becker filed this action and the Motion in bad faith and for delay. These arguments are not correct.

Alleged Delay

Becker agrees that the length of this dispute – now more than 12 years – is deplorable. But he has from the beginning tried to resolve this dispute speedily. Becker Declaration ¶¶ 2-12. Exh A. Becker has no reason to seek delay and has not taken any steps for the sake of delay. Becker Declaration ¶¶ 2-3. Exh A. Becker believes that the granting of his Motion for Preliminary injunction will speed – not delay – resolution of this dispute. The Tribal Court Action itself has been the most egregious and unwarranted delay because, as the Tribe knew when it filed the tribal court action, the tribal court lacks jurisdiction over Becker’s claims pursuant to the clear prohibition of Section 1-2-3(5).

The Tribe argues that Becker seeks “self-induced prolongment of litigation”, causing the Tribe to spend money on litigation that should go to the Tribe’s children and elders. But Tribe could have given to the children and elderly the millions of dollars it has spent for attorney fees had the Tribe paid Becker in 2012 what it owed or at least had it not filed the prohibited and unwarranted Tribal Court Action.

The Tribe argues that Becker “plays fast and loose” and “perpetually hamstring[s] any attempt to move forward.” No facts support this. Just rhetoric.

The Tribe charges that Becker has filed “multiple lawsuits” to “unreasonably multiply proceedings.” He has filed only the four actions summarized in Becker’s declaration. Becker Declaration ¶¶ 7-13. Exh A. None was filed for delay. *Id.*

Much of the “delay” that the Tribe asserts was consumed by the Tribe’s appeals to the Tenth Circuit. For example, the Tribe’s appeals caused the Tribal Court Action to be delayed from 2018 to 2021.

Alleged Bad Faith

The Tribe's assertions of bad faith by Becker are unseemly rhetoric with no substance.

The tribe argues that Becker is trying to "palm off" arguments that are "red herrings" and "vexatious." The Tribe falsely claims that Becker has knowingly presented false statements of fact, that he "blinks" the tribal court record, that he "regurgitates" arguments that are "borderline slanderous" and that he seeks to "cause our constitutional democracy to backslide."

The Tribe says that Becker implies that the Tribal Court has a system of "Basmanly justice", a critical term for practices of Russian courts corruptly serving the interests of the Kremlin. Becker does not believe or claim or imply that the tribal courts are Russian-like.

He does claim, however, that two of its judges – Terry Pechota and Thelma Stiffarm – acted in bad faith to harass Becker sufficient to create an exception to any tribal exhaustion duty. He argues that the Tribe and tribal court were and are acting in bad faith because these claims are true and because bad faith is relevant to well-recognized exceptions to the tribal court exhaustion rule and relevant to numerous claims and defenses in this action. Fact 96.

CONCLUSION

Becker has shown that he is entitled to a preliminary injunction staying the tribal court action. The Tribe's contrary argument that the tribal court did not rule that it lacked jurisdiction of Becker's counterclaims is simply and demonstrably false. The Tribe's other arguments depend upon and fall with the collapse of the Tribe's claim that the tribal court has not held that the tribal court lacks jurisdiction of Becker's claims.

Becker respectfully requests that the Court grant Becker's motion for preliminary injunction.

ISOM LAW FIRM PLLC

/s/ David K. Isom

David K. Isom

Attorney for Defendant Lynn D. Becker

CERTIFICATE OF NOTICE

The undersigned certifies that on this 16th day of September, 2025, the foregoing was served by emailing it to the following:

J. Preston Stieff, jps@stiefflaw.com

Ethan Tourtellotte, etourtellotte@nativelawgroup.com

/s/ David K. Isom
