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Attorney for Petitioner

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
MISSOULA DIVISION**

RYNE MATHIAS

Plaintiff,

and

JAMIE BALDWIN,

Defendant.

Cause No. CV-25-217-M-KLD

**MOTION FOR REMAND AND BRIEF  
IN SUPPORT**

Plaintiff Ryne Mathias, through his attorney, Justin Kalmbach of Kalmbach Law Office, PLLC, moves to remand this matter to the Tribal Court of the Confederated Salish and Kootenai Tribes as the removal is untimely and was waived.

**Legally Relevant Facts**

Mr. Mathias filed for a petition to establish a parenting plan for the parties' son on March 25, 2024. Exhibit D to Notice of Removal. Mr. Mathias

is an enrolled member of the Confederated Salish and Kootenai Tribe (CSKT) and resides within the exterior boundaries of the Flathead Indian Reservation. Id. Ms. Baldwin, the removing Defendant, was served with the Petition and Summons on March 25, 2024. Exhibit 2.

The matter was contested and proceeded to a bench trial on November 20, 2025. The Court took the matter under advisement and later issued a parenting plan on December 8, 2025. Exhibit A to Notice of Removal. Ms. Baldwin filed the Notice of Removal to this Court on December 18, 2025. Doc. 1.

Mr. Mathias moves to remand this matter back to CSKT Tribal Court as the Notice of Removal is untimely. Further, any right to remove the matter was waived by Ms. Baldwin's significant participation in the underlying matter.

### **Applicable Law**

"A defendant or defendants desiring to remove any civil action from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or

defendants in such action.” 28 USCS § 1446(a). “The notice of removal of a civil action or proceeding shall be filed within 30 days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based, or within 30 days after the service of summons upon the defendant if such initial pleading has then been filed in court and is not required to be served on the defendant, whichever period is shorter.” Id. at (b)(1).

### **Argument**

The underlying matter Ms. Baldwin seeks to remove is a common parenting plan case. Ms. Baldwin, the Respondent in the underlying case, was served with the Petition and Summons on March 25, 2024. Exhibit 2. Ms. Baldwin’s time to remove the matter from CSKT Tribal Court, even if permissible, was due on or before April 24, 2024. 28 USCS § 1446(b)(1). Ms. Baldwin filed her Notice of Removal on December 18, 2025 – 603 days passed the deadline.

Removal of a lawsuit to federal court is creature of statute and as such must strictly comply with applicable statutes. Jennings Clothiers of Ft. Dodge, Inc. v. United States Fidelity & Guaranty Co., 496 F. Supp. 1254, 1255, 1980 U.S. Dist. LEXIS 13839 (N.D. Iowa 1980); Murphy v. Newell Operating Co., 245 F. Supp. 2d 316, 318, 2003 U.S. Dist. LEXIS 2444 (D.

Mass. 2003). Ms. Baldwin did not strictly comply with the requirements of 28 USCS § 1446 and the removal is now time barred.

Ms. Baldwin further waived any right to remove she may have had by participating and completing the custody trial in the underlying case. District Courts have dismissed or remanded cases where the removing Defendant significantly participated in the underlying case. “To maintain this suit in federal court after the extensive motion practice already conducted in state court would promote a duplicative and wasteful policy of judicial administration.” Boland v. Bank Sepah-Iran, 614 F. Supp. 1166, 1169-70 (S.D.N.Y., 1985). The Court additionally stated “[i]t is notable that defendant did not petition for removal until after the state court denied its motions to dismiss and for summary judgment. To allow a defendant to remove the case after such extensive motion practice provides the defendant with a ‘second bite at the apple,’ a practice that is generally frowned upon.” Id. at Footnote 5.

In the instant case, Ms. Baldwin was served March 25, 2024. She appeared, answered, and vigorously participated in the case as it progressed. She filed numerous motions on her behalf and was represented by counsel at one point. After holding a contested hearing, the Court issued a final parenting plan on December 8, 2025. Exhibit A of Notice of Removal.

Ms. Baldwin is clearly unhappy with the result and wants a “second bite of the apple.” This Court should not permit her to do so.

### **Conclusion**

Ms. Baldwin’s Notice of Removal is significantly untimely. Further, Ms. Baldwin waived any right to removal she may have had by allowing the case to progress all the way through trial before seeking removal. Ms. Baldwin cannot remove the matter from Tribal Court simply because she does not like the outcome. Accordingly, Mr. Mathias respectfully requests that the Court remand this matter back to the CSKT Tribal Court.

RESPECTFULLY submitted this 6<sup>th</sup> day of January, 2026.

**Kalmbach Law Office, PLLC**

/S/ Justin Kalmbach

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Justin Kalmbach

### **CERTIFICATE OF COMPLIANCE**

Justin Kalmbach of Kalmbach Law Office, hereby certifies that this document complies with L. R. 7.1. The document is double spaced, 14-point Arial font. The word count is 849. This calculation excludes the caption, certificate of compliance, proposed order, and certificate of service.

/s/ Justin Kalmbach

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Justin Kalmbach  
Attorney for Ryne Mathias

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 6<sup>th</sup> day of January, 2026, a true and correct copy of the foregoing document was served on the following individual(s) as indicated below:

Ms. Jamie Baldwin	<input checked="" type="checkbox"/> U.S. Mail
P.O. Box 435	<input type="checkbox"/> Hand Delivery
Pablo, MT	<input type="checkbox"/> Federal Express
59855	<input type="checkbox"/> Facsimile

/s/ Justin Kalmbach

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