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**UNITED STATES DISTRICT COURT DISTRICT OF UTAH, CENTRAL DIVISION**

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| CHELSEA FARRER AND CHAD YOUNG<br><br>Plaintiffs,<br><br>v.<br><br>WANEKA ROSEBUD CORNPEACH, in her individual capacity; JOHN DOES 1-5, in their individual capacity<br><br>Defendant(s). | **DEFENDANT'S MOTION FOR DECLARATORY JUDGMENT AND MEMORANDUM IN SUPPORT OF FEDERAL QUESTION JURISDICTION**<br><br>Civil No. 2:25-cv-00551-JNP<br><br>Judge: Jill Parrish |

# DEFENDANT'S MOTION FOR DECLARATORY JUDGMENT AND MEMORANDUM IN SUPPORT OF FEDERAL QUESTION JURISDICTION

Defendant Waneka Cornpeach ("Defendant"), by and through her attorneys, respectfully submits this Motion for Declaratory Judgment and Memorandum in Support of Federal Question Jurisdiction. Defendant seeks a declaratory judgment from this Court pursuant to 28 U.S.C. § 2201(a) that as a matter of federal law, state court jurisdiction is improper due to the state court's infringement of the Ute Indian Tribe's sovereignty and the

authority of the Ute Indian Tribal Court. This filing also serves as a response to Plaintiffs' Complaint pursuant to Federal Rule of Civil Procedure ("F.R.C.P.") 81(c)(2). For the reasons stated below, this Court should hold that the Utah state courts lack jurisdiction and that therefore the removed matter must be dismissed for lack of state court jurisdiction.

## INTRODUCTION AND SUMMARY

Federal courts have jurisdiction to police the line between state court and tribal court jurisdiction. This is true on both sides of that line. If a tribal court suit is beyond the scope of federally imposed limitations on tribal court jurisdiction, federal courts enjoin that tribal court action. *See e.g.*, *Brown on Behalf of Brown v. Rice*, 760 F. Supp. 1459, 1465 (D. Kan. 1991). And conversely, if a state court action is beyond the scope of the federal constitutional and statutory provisions through which states agreed to federal control of the powers of Indian Tribes, the federal court enjoins state jurisdiction. *See e.g. Ute Indian Tribe v. State of Utah*, 790 F.3d 1000, 1013 (10th. Cir. 2015).

This case presents a simple example of a matter over which any substantive claims could only be brought in the Tribe's Court, not in Utah State Court (and therefore not in a suit removed from state court to federal court). The alleged wrongs occurred on the Tribe's Reservation, and the Defendant is an Indian. Any claims regarding those alleged wrongs must be brought in the Tribe's Court. Additionally, the definitions of torts, and then whether Defendant committed any tort are therefore determined under the laws of the Tribe, not the foreign laws of the State of Utah.

Plaintiffs seem to be seeking to avoid the settled law above by making a factually frivolous assertion in their state court complaint that the alleged wrong occurred outside of the Reservation. This Court is not bound by that false factual allegation.

Defendant removed this matter from Utah State Court to have this Court resolve the federal question presented regarding infringement, and then to dismiss this case because the matter plainly should not have been filed in the State Court. The State Court lacks subject matter jurisdiction based upon the federal law issue presented.

## BACKGROUND

Plaintiffs Chelsea Farrer and Chad Young ("Plaintiffs") filed their Complaint ("ECF No. 1, Ex. 3") against Ms. Cornpeach on July 15, 2024. Plaintiffs are non-Indian, and Ms. Cornpeach is a member of the Ute Indian Tribe of the Uintah and Ouray Reservation. Plaintiffs' Complaint contains various tort claims under Utah law against Defendant, and Plaintiffs assert jurisdiction in the state court is proper because the incident giving rise to this lawsuit "occurred on federal land and outside of the boundaries of the Uintah and Oray [sic] Indian reservation, and/or outside of any other tribal reservation boundary." ECF No. 1, Ex. 3.

That allegation is false. The Bureau of Indian Affairs, applying the settled law from *Ute Indian Tribe v. Utah*, issued the official land status report for the location. The location is Indian Country. Ex. 1, 2. [1]

[1] Because this motion raises questions of state jurisdiction, this Court is not bound by Plaintiff's factually false allegation. Defendant's view is that even if the issue were not jurisdiction, this Court could take judicial notice that the location of the offense is Indian Country on the Tribe's Reservation based upon the holdings and "Jenkins maps" in *Ute Indian Tribe v. Utah*, D. Utah Case No. 75-708.

This Court has also determined that the location is in the Ute Indian Tribe's Indian Country as part of the related criminal case against Ms. Cornpeach. *United States v. Cornpeach*, D. Utah Case No. 2:23-cr-00434. In *Cornpeach*, the United States alleged that the location was Indian Country and that therefore the offense was under 18 U.S.C. § 1153. *Id.* This Court was required to conclude that it was Indian Country when the Court considered and accepted Ms. Cornpeach's guilty plea in the case.

Defendant pleaded guilty under the Major Crimes Act because Defendant is an Indian and this Court found that the crime occurred on tribal land. *Id.* If Plaintiffs' claims regarding the alleged location were true, Defendant could not have been convicted under the Major Crimes Act, codified in 18 U.S.C. § 1153.[2] These facts from Ms. Cornpeach's federal criminal case prove that contrary to Plaintiffs' assertions, the incident giving rise to this suit occurred on tribal land, on the Reservation, between above mentioned non-Indian Plaintiffs, and Indian Defendant—Ms. Cornpeach.

Plaintiffs received multiple extensions to effectuate service claiming they could not locate Ms. Cornpeach after diligent efforts to serve her. ECF No. 1, Ex. 2. Plaintiffs then filed a motion to allow service by alternative means, namely, through text message and email to Greg Skordas and undersigned counsel, due to their representation of Defendant in her criminal case—despite the fact they had not entered into the civil case on behalf of Defendant. *Id.* That motion was

[2] If, as Plaintiffs falsely allege, the crime occurred *"on federal land* and outside of the boundaries of the Uintah and Oray [sic] Indian reservation," federal prosecution for crimes on a federal enclave, 18 U.S.C. § 13 might have been possible.

granted, and Mr. Skordas and undersigned counsel were "served" on June 10, 2025, and June 12, 2025, respectively.[3] *Id.*

Defendant removed the state court action on July 10, 2025, pursuant to 28 U.S.C. § 1441 and § 1331 because this case involves a federal question related to the infringement doctrine found within the realm of federal Indian law. ECF No. 1, Ex. 1. Namely, that exercising state court jurisdiction over Ms. Cornpeach, a tribal member, for alleged tortious conduct that occurred on tribal land, is improper because the state court's jurisdiction on these facts is precluded by the federally imposed limitation known as the infringement doctrine. This federally imposed limitation on a state court's jurisdiction comes into play when the exercise of said jurisdiction infringes on a Tribe's sovereignty, more specifically, the right of a Tribe's courts to adjudicate claims involving their members, such as Ms. Cornpeach. For reasons stated below, this issue concerning the scope of the state court's jurisdiction as it relates to infringement gives rise to federal question jurisdiction under § 1331, and also provides a basis for this Court to enter the requested declaratory relief that the state court lacks jurisdiction due to infringement as a matter of federal law.

## LEGAL AUTHORITY AND ARGUMENT

### I. The infringement doctrine gives rise to a federal question under 28 U.S.C. §1331.

A court's subject-matter jurisdiction "is derived from the law, particularly the law that creates and organizes the courts, and is vested in the courts by the constitution or statutes." 21 C.J.S. *Courts* § 15 (1955). Separately, there are two "independent but related" federal law barriers to

[3] Defendant does not concede that service through this manner was proper.

the exercise of state jurisdiction over Indians for legal claims arising inside an Indian reservation. State jurisdiction may be preempted by federal law, or alternatively, the exercise of state jurisdiction may impermissibly infringe on the "right of reservation Indians to make their own laws and be ruled by them." *Ramah Navajo Sch. Bd., Inc. v. Bureau of Revenue,* 458 U.S. 832, 837 (1982) (citing *White Mountain Apache Tribe v. Bracker*, 448 U.S. 136 (1980) (quoting *Williams v. Lee*, 358 U.S. 217, 220 (1959)). In *Bracker*, the Supreme Court explained that although the two federal law barriers are related, the barriers are separate and "independent" of one another:

> The two barriers are independent because *either, standing alone,* can be a sufficient basis for holding state law inapplicable to activity undertaken on the reservation by tribal members. (Emphasis added).

*Bracker,* 448 U.S. at 143.

The lodestar for this Court to follow regarding the infringement doctrine is *Williams v. Lee*, 358 U.S. 217, 220 (1959). As the Supreme Court noted in *Willams*, "absent governing Acts of Congress, the question has always been whether the state action infringed on the right of reservation Indians to make their own laws and be ruled by them." *Id.* Williams, a non-Indian, brough suit in the Arizona state courts, asserting that Lee, a member of the Navajo Tribe, had breached a contract by failing to make all monetary payments required under a contract. *Id.* Though the claim arose on Indian land within the Navajo Reservation, Arizona's courts held they had jurisdiction over the suit. However, the United States Supreme Court unanimously held the Navajo court system had exclusive jurisdiction over the claim, reasoning that because Tribes retain the sovereign authority to make their own laws and be ruled by them, including laws exercising sovereign regulatory and adjudicatory power over all tribal owned land in Indian Country, the Navajo Tribal Court properly had jurisdiction of the case. It held, "there can be no

doubt that to allow the exercise of state jurisdiction here would undermine the authority of the tribal courts over Reservation affairs, and hence would infringe on the right of the Indians to govern themselves. It is immaterial that respondent is not an Indian. He was on the Reservation, and the transaction with an Indian took place there." *Id.*

State court jurisdiction over this matter involving alleged tortious conduct committed by a tribal member on tribal land infringes upon the right of Ute Indian Tribe to make its own laws, and consequently, for its members, like Ms. Cornpeach, to be ruled by those laws pursuant to *Williams*. As a result, any claims against Ms. Cornpeach by the non-member Plaintiffs must be brought in tribal court under tribal law—not under state law in state court. The Ute Indian Tribal Court has a right to adjudicate a claim involving a tribal member for alleged tortious conduct that occurred on tribal land, and the fact Plaintiffs are non-Indian is irrelevant for reasons elaborated upon below. In the same vein, on the facts at hand, Ms. Cornpeach, as a tribal member, has a right to defend herself against these allegations in her Tribe's Court (with those claims properly brought under tribal law) and not the foreign Utah State Court.

**II. Tribal courts are the proper forum for cases like the one at bar.**

The sovereign status of Indian tribes has been recognized since the earliest recorded interactions between European and Indian people. As Indigenous peoples with powers of self-government, the United States was compelled to treat with the Indians, and to establish government-to-government relationships with Indian tribes. The status of Indian tribes in the law is unique, for they are "domestic dependent nations," which exercise inherent sovereignty. *Cherokee Nation v. Georgia*, 8 L.Ed. 25 (1831). The sovereignty of Indian tribes is not delegated by the federal government, *United States v. Wheeler, 435 U.S. 313, 328 (1978)*, created by the

United States Constitution, or granted by any federal act, for the powers of Indian tribes are "inherent powers of a limited sovereignty which has never been extinguished." *Id.* at 322, (citing F. Cohen, *Handbook of Federal Indian Law*, 122 (1945)). Indian tribes function as "distinct, independent political communities, retaining their original natural rights," *Worcester v. Georgia*, 31 U.S. (6 Pet) 515, 559 (1832); *see also Santa Clara Pueblo v. Martinez,* 436 U.S. 49, 51 (1978), exercising powers of self-government over their territories and the persons within those territories. *United States v. Mazurie*, 419 U.S. 544 (1975).

Even though the exercise of powers of self-government in the sphere of civil jurisdiction is subject to Congress' plenary control, *see, e.g.*, 25 U.S.C. § 476 [Indian Reorganization Act]; 25 U.S.C. § 1302 [Indian Civil Rights Act], none of those laws created Indians' power to govern themselves. They are powers existing at law already; *Wheeler,* 435 U.S. at 315; *see also National Farmers Union Ins. Co. v. Crow Tribe*, 471 U.S. 845, 854-855 (1985), and are retained to the extent "not withdrawn by treaty or statute, or by implication as a necessary result of their dependent status," *Wheeler*, 435 U.S. at 323*; Oliphant v. Suquamish Indian Tribe*, 435 U.S. 197 (1978); see also 55 Interior Dec. 14 (1934). Consequently, Indian tribes retain civil regulatory jurisdiction, *Bryan v. Itasca County*, 426 U.S. 373, 393 (1976) (holding that states are without civil regulatory jurisdiction over Indian tribes), even over non-Indians on fee lands within the boundaries of an Indian reservation. *Montana v. United States*, 450 U.S. 544, 566 (1981) (holding that tribes retain civil regulatory jurisdiction over those activities of non-members who enter into consensual relations with the tribe, or where the conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe).

Similarly, the civil adjudicative jurisdiction of Indian tribes has not been circumscribed, for tribal courts retain jurisdiction unless that jurisdiction is affirmatively limited by treaty or statute. *Iowa Mutual Ins. Co. v. LaPlante*, 480 U.S. 9, 18 (1987). In fact, tribal courts retain jurisdiction over tribal entities, including tribal governments and governmental entities: *Weeks Construction, Inc. v. Oglala Sioux Hous. Auth*., 797 F.2d 668 (8th Cir. 1986) (holding that tribal court had jurisdiction over breach of contract action brought by contractor against tribal housing authority); *Burlington Northern Railroad Co. v. Crow Tribal Council*, 940 F.2d 1239, 1245 (9th Cir. 1991) (holding that tribal court had jurisdiction over suit by non-Indian entity against Tribal Council); *United States ex rel. Kishell v. Turtle Mountain Hous. Auth*., 816 F.2d 1273, 1276 (8th Cir. 1987) (tribal court had jurisdiction over action brought by estate of tribal member against tribal housing authority); over tribal members; *Williams,* 358 U.S. at. 217 (1959) (tribal courts' jurisdiction is exclusive over claims by any person against Indians arising in Indian country); *Fisher v. District Court*, 424 U.S. 382 (1976) (tribal court had exclusive jurisdiction over adoption and custody of Indian children); and over non-members; *Iowa Mutual*, 480 U.S. at 18 (civil jurisdiction over non-Indians on reservation lands "presumptively lies in the tribal courts"); *Nat'l Farmers Union Ins. Co*, 471 U.S. at 845 (tribal court had jurisdiction over tort action involving non-Indian); *City of Timber Lake v. Cheyenne River Sioux Tribe*, 10 F.3d 554 (8th Cir. 1993), *cert. denied*, 512 U.S. 1236 (1994) (tribal court had jurisdiction over non-Indian operators of liquor establishments on fee-patented land in cities within reservation); *Hinshaw v. Mahler*, 42 F.3d 1178; (9th Cir. 1994) (tribal court had subject matter jurisdiction over wrongful death claim arising out of an on-reservation accident involving non-members).

## III. The federal Indian law infringement doctrine divests the state court of subject matter jurisdiction.

In the absence of "clear federal authorization, state courts lack jurisdiction to hear actions against Indians arising within Indian country." *Cohen's Handbook of Federal Indian Law* § 7.03[1][a][ii], p. 608. Moreover, "[t]he policy of leaving Indians free from state jurisdiction and control is deeply rooted in the Nation's history." *Rice v. Olson*, 342 U.S. 786, 789 (1945). Further, "the Supreme Court has made clear that state adjudicative authority over Indians for on-reservation conduct is greatly limited by federal law." *Ute Indian Tribe v. Lawrence*, 875 F.3d 539, 542 (10th Cir. 2017). As cited above, in 1959, the United States Supreme Court ruled that state courts lack adjudicatory jurisdiction over civil suits brought by non-Indians against Indians when the cause of action arises on an Indian reservation. In language that could apply just as easily to the case at hand, the Supreme Court said in *Williams v. Lee*:

> There can be no doubt that to allow the exercise of state jurisdiction here would undermine the authority of the tribal courts over Reservation affairs and hence would infringe on the right of the Indians to govern themselves. It is immaterial that respondent is not an Indian. He was on the Reservation and the transaction with an Indian took place there. [citations omitted] The cases in this Court have consistently guarded the authority of Indian governments over their reservations. Congress recognized this authority in the Navajos in the Treaty of 1868, and has done so ever since.

*Williams,* 358 U.S. at 223. Seventeen years later, the United States Supreme Court reversed the Montana Supreme Court and ruled that Montana state courts lack jurisdiction over an adoption proceeding that arose on the Northern Cheyenne Indian Reservation:

> No federal statute sanctions this interference with tribal self-government. Montana has not been granted, nor has it assumed, civil jurisdiction over the Northern Cheyenne Indian Reservation, either under the Act of Aug. 15, 1953, 67 Stat. 588 [*the original Public Law 280*], or under Title IV of the Civil Rights Act of 1968, 82 Stat. 78, 25 U.S.C. § 1321 et seq [*the amendments to Public Law 280*].

*Fisher* 424 U.S. at. 388 (1976).

The right of Indian tribes and individual Indians to be free from state court infringement is deeply rooted in history and tradition. In a landmark case nearly two centuries ago, Chief Justice John Marshall ruled that the attempt to extend state adjudicatory jurisdiction over Indian country was "repugnant to the constitution, treaties, and laws of the United States." *Worcester* 31 U.S. at. 561-63 (1832). In doing so, the Marshall court struck down the State of Georgia's attempt to extend its state laws extra-territorially inside the Cherokee Nation to prosecute two white missionaries who were living in Cherokee territory with the consent of the Cherokees and federal authorities. The two white men were arrested, convicted, and sentenced to four years of hard labor in the Georgia state penitentiary for violating a state law that, *inter alia*, made it a crime for non-Indians to live inside Cherokee territory without the state of Georgia's permission.

Justice Marshall's eloquent words in striking down the Georgia state law ring down through the centuries with a simple clarity as appropriate to this case at hand as it was to the *Worcester* case in 1832: "The defendant [Georgia] is a state, a member of the union, which has exercised the powers of government over a people [the Cherokee Nation] who deny its jurisdiction, and are under the protection of the United States." *Id.* According to Cohen's treatise on Federal Indian law:

> [T]he Supreme Court repeatedly has affirmed the *Worcester* decision. Thus, as a general rule, matters affecting Indians in Indian country are excepted from the usual application of state law to the ordinary affairs of state inhabitants. ... [and] ... both [the Congress and the Supreme Court] have largely adhered to the basic holding of *Worcester* despite the vast changes that have taken place in American society since 1832. The limitation on state power in Indian country stems from the Indian Commerce Clause, which vests exclusive legislative authority over Indian affairs in the federal government. This constitutional vesting of federal authority vis-à-vis the states allows tribal sovereignty to prevail in Indian country, unless Congress legislates to the contrary. Because of plenary

federal authority in Indian affairs, there is no room for state regulation.

*Cohen's Handbook of Federal Indian Law*, § § 6.01[2], pp. 492-94; § 6.03[1], p. 512. Thus, *Worcester's* principle of tribal authority in Indian country was adopted with approval by Congress, and since then all three branches of the federal government have "assumed the continued force of *Worcester's* principle of Indian self-government within tribal territory." *Id.* at § 6.01[4], p. 500. For its part, the United States Supreme Court has repeatedly made clear that state courts are prohibited from exercising adjudicatory jurisdiction over tribal Indians for activity undertaken inside their reservations unless the "*Congress has expressly so provided*." *California v. Cabazon Band of Indians*, 480 U.S. 202, 207 (1987) (emphasis added) (upholding an injunction to enjoin the application of California law inside California Indian reservations); *see also Williams*, 358 U.S. at 220; *State ex rel. Peterson v. Dist. Court*, 617 P.2d 1056, 1060-70 (Wyo. 1980).

**A. Neither Congress nor the Tribe has expressly authorized or consented to the exercise of state court jurisdiction.**

Since Congress ratified the Ute Treaties of 1863 and 1868, the United States has never authorized the State of Utah to exercise jurisdiction over the Ute Indian Tribe for actions undertaken by the Tribe inside the boundaries of its own Reservation. To the contrary, in 1894, when the State of Utah applied for admission to the Union, the Utah Enabling Act, passed by Congress, expressly required the State of Utah to "forever disclaim all right and title to … all lands … owned or held by … Indian tribes." Act of July 16, 1894, Chapter 138 (28 Stat. 107). The disclaimer is repeated verbatim in the Utah Constitution, art. III, §2.[4] The foregoing language

[4] Beginning in 1836, it was "the congressional practice in most organic acts establishing new territories . . . to include clauses expressly preserving Indian rights and federal control over tribes." COHEN'S HANDBOOK OF FEDERAL INDIAN LAW, §6.01[4], p. 510. Congress followed that

constitutes the State of Utah's disclaimer of both proprietary and governmental authority over the Ute Indian Tribe. *See McClanahan v. Ariz. Tax Comm'n*, 411 U.S. 164, 173-74, 179-80 (1973) (based on the disclaimer in the Arizona Enabling Act, which is identical to the Utah Enabling Act, the Arizona tax code could not be extended extra-territorially inside the Navajo Reservation to apply to Navajo Indians); *Seneca-Cayuga Tribe of Okla. v. Okla.*, 874 F.2d 709, 710, 716 (10th Cir. 1989) (interpreting the disclaimer in the Oklahoma Enabling Act which is identical to the Utah Enabling Act).

The Ute Indian Tribe has never consented to state civil or criminal jurisdiction over the Ute Indian Reservation of the Uintah and Ouray Indian Reservation. Indeed, in 2014, the Ute Indian Tribe amended Section 1-2-1 of the Tribe's Law and Order Code to make clear that the Ute Tribe has never consented to state jurisdiction in accordance with the Congressionally-mandated process required by 25 U.S.C. § 1326:

> [T]he Ute Indian Tribe has never consented to the State of Utah having jurisdiction over civil causes of action between Indians or to which Indians are parties which arise in the areas of Indian country situated within the State of Utah pursuant to 25 U.S.C. § 1322(a), nor has the Ute Indian Tribe ever consented to or agreed to allow the State of Utah to assume criminal jurisdiction over Indians and Indian territory, country, and lands or any portion of lands within the State of Utah in accordance with 25 U.S.C. § 1321(a). The Tribe hereby proclaims that the Ute Indian Tribe has never conducted a special election of adult Indians of the Tribe to allow the State of Utah to assume civil or criminal jurisdiction over the Tribe and its lands under PL-280 and will never consent to the State of Utah assuming civil or criminal jurisdiction over the Ute Indian Tribe pursuant to the requirements of PL-280.

In 1934, Congress enacted the Indian Reorganization Act, 25 U.S.C. § 5101 *et seq*. ("the IRA"). The IRA is "a statute specifically intended to encourage Indian tribes to revitalize their self-

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policy in the Kansas Statehood Act of 1861, and in the enabling acts for each state that was admitted to the union between 1889 and 1959, including the State of Utah. *Id*.

government." *Fisher*, 424 U.S. at 387. The IRA implements a federal policy of reestablishing tribal governments, reconstituting tribal land bases, and revitalizing tribal economies and cultures. *See Cohen's Handbook of Federal Indian Law,* §4.04[3][a], p. 256. Like the Northern Cheyenne Tribe in *Fisher*, the Ute Indian Tribe adopted a constitution and bylaws pursuant to the IRA, and then pursuant to its Tribal Constitution and Bylaws, the Tribe enacted a Law and Order Code. The Law and Order Code was established:

> … for the purposes of strengthening Tribal self-government, providing for the judicial needs of the Reservation, and thereby assuring the maintenance of law and order on the Reservation.

(Preamble to the Tribe's Law and Order Code).

Clearly, Indian tribes, including the Ute Indian Tribe, have not given up their sovereignty. *Williams*, 358 U.S. at 220; *see also Wheeler*, 435 U.S. at 323. As stated above, The *Williams* infringement doctrine acts as a bar to the exercise of jurisdiction by state courts, or instrumentalities of state courts, over matters arising in Indian country, for where state action will infringe on the "right of reservation Indians to make their own laws and be ruled by them," *Williams*, 358 U.S. at 220, or where state jurisdiction otherwise interferes with the tribe's right to govern itself, or interferes with the jurisdiction of a tribal court, such exercise of jurisdiction infringes on tribal sovereignty, and thus is precluded by federal law. *Id*. at 223. In such a case, "[i]f state court jurisdiction over Indians or activities on Indian lands would interfere with tribal sovereignty and self-government, the state courts are generally divested of jurisdiction as a matter of federal law." *Iowa Mutual*, 480 U.S. at 15.

Therefore, in a case such as the one at bar, the analysis of state court jurisdiction under the infringement doctrine is a prerequisite to any exercise of jurisdiction, unless Congress or the Tribe has expressly consented to the exercise of state court jurisdiction. *See Id.* at 14. This is

so because "[c]ivil jurisdiction over tribal-related activities on reservation land presumptively lies in tribal courts unless affirmatively limited by a specific treaty provision or by federal statute." *Id* at 18. Because unconditional access to a forum other than a tribal court for resolution of disputes arising in Indian country would place that forum in direct competition with the tribal courts, thereby diminishing and impairing tribal court authority, *Id.* at 14-15; *see also Santa Clara Pueblo*, 436 U.S. at 59; *Klammer v. Lower Sioux Indian Community Convenience Store*, 535 N.W.2d 379, 381 (Minn. Ct. App. 1995), and because the adjudicative authority tribal courts exercise is protected from diminishment, *Iowa Mutual*, 480 U.S. at 14-15, state court action where there is a tribal court with jurisdiction over the matter at issue is precluded by federal law. See *Kennerly v. District Court of Montana*, 400 U.S. 423, at 423 (1971). Thus, the tribal court is generally the exclusive forum for adjudicating actions arising from activity occurring in Indian country, *R.J. Williams Co. v. Ft. Belknap Hous. Auth*., 719 F.2d 979 (1983); *Stock West Corp. v. Taylor*, 964 F.2d 912 (9th Cir. 1992). As noted above, where a tribal court has jurisdiction over a claim, federal law precludes any exercise of jurisdiction by a state court or state court instrumentality, for such an exercise of jurisdiction would infringe on tribal sovereignty. *Williams,* 358 U.S. at 217.

## IV. Plaintiffs failed to state a claim against Defendant because Plaintiffs failed to state any claim under the laws of the Tribe.

Ms. Cornpeach is a member of the Ute Indian Tribe, and she lives on the Uintah & Ouray Reservation. Given the fact she pleaded guilty to, and is awaiting sentencing for, a crime under the Major Crimes Act—there is no disputing the incident giving rise to the tort claims occurred outside the Tribe's jurisdiction. This presents two closely related issues based upon these facts: (1) have Plaintiffs stated a cause of action under Utah law; and (2) would Utah state courts have

jurisdiction over the claims even if they arose under Utah law. The answer to both of these questions is found in *Williams* 358 U.S. at 217, which holds the civil law applicable to Ms. Cornpeach's acts would be the law of her Tribe, and that the case would have to be brought in the Tribe's judicial forum.[5] Plaintiffs stated their cause of action under the law of the State of Utah. However, because these claims must be stated under the Tribe's tort laws, in tribal court, Plaintiff has not stated a claim upon which relief can be granted.

## CONCLUSION

In the case at hand, if Plaintiffs wish to assert claims against Ms. Cornpeach, they are free to do so in the Ute Indian Tribal Court. To bring tort claims under state law in state court against a tribal member for allegedly tortious conduct that occurred on tribal land is quintessential infringement into the "right of reservation Indians to make their own laws and be ruled by them." *Id.* at 220. As part of its sovereign authority, the Ute Indian Tribe, through its court system, has the exclusive right to preside over a tort claim (properly brought under tribal law) allegedly committed by one of its own tribal members on its own tribal lands. To find otherwise flies in the face of over two centuries of legal precedent dating back to the Marshall court, and the sovereignty of Native Nations since time immemorial. Moreover, Ms. Cornpeach, as a tribal member, has a right to defend herself against these allegations in her Tribe's Court (with those claims properly brought under tribal law) and not the foreign Utah State Court.

[5] See Section I for a detailed summary of the facts in *Williams*.

As noted in *Williams*, the fact Plaintiffs are not Indian is "immaterial." *Williams*, 358 U.S. at 223. Here, to allow Plaintiffs' unconditional access to the state court despite facts involving allegedly tortious actions committed by a tribal member on tribal land—thus demanding that jurisdiction lie with tribal court—means the inherent authority of the tribal court is necessarily being diminished, impaired, and infringed upon. By allowing state court jurisdiction to contribute to the diminishment, impairment, and infringement of a tribal court's authority, in turn does the same to tribal sovereignty—totally inapposite to Congressional polices supporting tribal sovereignty and self-determination.

Neither Congress nor the Tribe has consented to state court jurisdiction in case such as this. Consequently, given the plenary power of the federal government in Indian affairs, amongst the reasons mentioned above, the state court lacks jurisdiction as a matter of federal law because it is infringing into the exclusive province of the tribal court. In sum, this Court should find federal question jurisdiction exists and enter the requested declaratory relief that the state court action is barred by the infringement doctrine as a matter of federal law.

Dated this 15th day of August, 2025.

PATTERSON, REAL BIRD, AND RASMUSSEN LLP

/s/ Ethan Tourtellotte
Ethan Tourtellotte

*Counsel for Defendant*

J. PRESTON STIEFF LAW OFFICES, LLC

*/s/ J. Preston Stieff*
J. Preston Stieff

*Counsel for Defendant*

**CERTIFICATE OF SERVICE**

I certify that on the 15th day of August, 2025, I caused a true and correct copy of the foregoing **DEFENDANT'S MOTION FOR DECLARATORY JUDGMENT MEMORANDUM IN SUPPORT OF FEDERAL QUESTION JURISDICTION** to be filed electronically with the Clerk of the Court using the CM/ECF System which will send notification of such filing to all parties of record.

/s/ Ethan Tourtellotte
Ethan Tourtellotte

*/s/ J. Preston Stieff*
J. Preston Stieff