

NEWS RELEASE- FOR IMMEDIATE RELEASE

## TENTH CIRCUIT PERMANENTLY ENJOINS UTAH STATE COURT LAWSUIT AGAINST THE UTE TRIBE

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Today the United States Court of Appeals for the Tenth Circuit has permanently enjoined a state court lawsuit brought against the Ute Indian Tribe of the Uintah and Ouray Reservation in 2014 by Lynn Becker, a former contract manager for the Tribe. Becker's state court suit seeks more than seven million dollars in damages against the Tribe, plus attorney's fees and costs.

The Tenth Circuit explained that when a case is brought against an Indian tribe or its members and the case "arises from conduct" on the Tribe's reservation, state courts lack jurisdiction to decide the case "absent clear congressional authorization," citing numerous prior United States Supreme Court and Tenth Circuit rulings to that effect.

The Tenth Circuit noted that the U.S. District Court had conducted an evidentiary hearing to determine whether Becker's claims against the Tribe arose out of conduct occurring on or off of the Uintah and Ouray Reservation. The Tenth Circuit said the Tribe's contract with Becker was "executed ... on the Reservation," and that while "Becker may have performed some" of his contract duties "off [of] tribal land," the court concluded that Becker's off-reservation conduct was always in furtherance of his role" of managing the Tribe's on-reservation land and mineral resources. Slip op. at 13.

Under these facts, the Tenth Circuit held that Federal law prohibits the Utah state court from adjudicating Becker's claims against the Tribe. The Tenth Circuit rejected the District Court's contrary ruling, agreeing with the Tribe that a waiver of tribal sovereign immunity is insufficient, by itself, to vest a state court with subject matter jurisdiction over claims that arise within the Tribe's reservation, the Tenth Circuit saying that the U.S. District Court had improperly "conflated tribal sovereign immunity with subject-matter jurisdiction." Slip op. at 20.

The Tenth Circuit also agreed with the Ute Tribe that the Tribe was entitled not merely to a preliminary injunction, but to a permanent injunction against the Utah state court proceeding. Commenting on the lengthy drawn-out litigation with Becker—and the fact that the federal court had conducted a "two-day evidentiary hearing resembling a full-blown trial," hearing "testimony from fifteen witnesses" and receiving "over 140 exhibits"—the Tenth Circuit ruled that "[t]he circumstances here warrant a judgment on the merits." Slip op. at 25.

The Tenth Circuit said it had "no trouble concluding that the Tribe satisfies all four requirements" for issuance of a permanent injunction. Slip op. at 27. The Tenth Circuit therefore remanded the case to U.S. District Court Judge Clark Waddoups with instructions to "enter an order permanently enjoining Becker's lawsuit in Utah state court." Slip op. at 30.

The litigation between the Tribe and Becker has been ongoing for ten (10) years, in federal, state and tribal forums. Today's decision marks the Ute Tribe's fourth consecutive victory over Mr.

Becker in the Tenth Circuit in the past eight years, the first two wins coming in 2014, in *Becker v. Ute Tribe*, 770 F.3d 944 (10th Cir. 2014); and in 2017, in *Becker v. Ute Tribe*, 868 F.3d 1199 (10th Cir. 2017).

The third victory came in August 2021 when the Tenth Circuit agreed with the Ute Tribe that jurisdiction over the Becker contract dispute properly lies with the Ute Indian Tribal Court. *Becker v. Ute Tribe*, 11 F.4th 1140 (10th Cir. 2021). Now today, the Tenth Circuit has ordered the U.S. District Court to permanently enjoin Becker’s state court lawsuit, *Becker v. Ute Tribe*, Third Judicial District Court, Salt Lake County, Utah, case number 140908394.

Shaun Chapoose, Chairman of the Ute Indian Tribe Business Committee and Uncompahgre Band Representative, hailed the Tenth Circuit ruling, saying, “This is an important victory for tribal sovereignty—not just for the Ute Tribe, but for Indian tribes across the United States.” Chairman Chapoose noted that the decision upholds nearly two centuries of federal law and policy first articulated in the landmark case of *Worcester v. Georgia* in 1832—that is, “that Indian nations are ‘distinct communities,’ occupying their own territories, ‘free from state jurisdiction and control.’” *Worcester v. Georgia*, 31 U.S. 515, 561-63 (1832). “The Ute Tribe appreciates the Tenth Circuit’s strong endorsement of tribal sovereignty reflected in the Court’s ruling,” said Chairman Chapoose.

**About the Ute Indian Tribe-**The Ute Indian Tribe resides on the Uintah and Ouray Reservation in northeastern Utah. Three bands of Utes comprise the Ute Indian Tribe: the Whiteriver Band, the Uncompahgre Band and the Uintah Band. The Tribe has a membership of more than three thousand individuals, with over half living on the Uintah and Ouray Reservation. The Ute Indian Tribe operates its own tribal government and oversees approximately 1.3 million acres of trust land which contains significant oil and gas deposits. The Tribal Business Committee is the governing council of the Tribe.