

NEWS RELEASE-FOR IMMEDIATE RELEASE

## **Ute Indian Tribe Presents Arguments on CARES Act Distributions to U.S. Supreme Court**

**Ft. Duchesne, UT (April 20, 2021)** — On Monday, April 19, 2021, the Ute Indian Tribe presented arguments before the U.S. Supreme Court on the distribution of Coronavirus Aid, Relief and Economic Security Act (CARES Act) funds to federally recognized tribal governments. The consolidated cases are known in the media as *Yellen v. Confederated Tribes of the Chehalis Reservation*, but actually include a number of separate cases brought by the Ute Indian Tribe, other Indian tribes, and Alaska Native Villages.

In its case, the Ute Indian Tribe raised issues that were central to the U. S. Court of Appeals for the District of Columbia Circuit’s decision in favor of tribal governments—whether ANCs were “recognized governing bodies of Indian tribes” as required by the CARES Act. Relying on the Ute Indian Tribe’s arguments, the Court of Appeals held, “[b]ecause no ANC has been federally ‘recognized’ as an Indian tribe, as the recognition clause [in the CARES Act] requires, no ANC satisfies the [Indian Self-Determination Act] definition.” In fact, ANCs are for-profit corporations organized under Alaska state law, and they include some of the largest and most profitable corporations in Alaska.

This issue was also the focus of discussion and briefs before the Supreme Court. The United States, which was still arguing to maintain its original CARES Act funding decisions, was so threatened by the Court of Appeals holding and Ute Indian Tribe’s argument that the United States actually said in its briefs that for-profit ANCs are “recognized governing bod[ies] of Indian Tribes.” The United States adoption of this extreme view threatens to undo a bedrock principle of federal Indian law that tribal governments have a political, not racial, relationship to the United States.

The Ute Indian Tribe and its attorneys worked cooperatively with the other tribes at every level of the case and in the days leading up to the Supreme Court argument. The arguments by the Ute Indian Tribe before the Supreme Court strongly represented the interests of all tribal governments against the distribution of CARES Act funds to ANCs and highlighted the key issue that the Ute Indian Tribe had argued and prevailed on before the Court of Appeals.

The Ute Indian Tribe is represented by a majority native-owned Indian law firm, Patterson Earnhart Real Bird & Wilson LLP, whose attorneys have spent decades working in Indian law and who also worked at one of the oldest and largest law firms dedicated solely to representing Indian tribal governments and tribal organizations. In addition, attorney Jeff Rasmussen, who argued the case for the Ute Indian Tribe, has more than 25 years’ experience litigating Indian law cases. Mr. Rasmussen’s experience includes successfully arguing cases before now Justice Gorsuch, whose decisions on the Tenth Circuit Court of Appeals affirmed and protected the Ute Indian Tribe’s Uintah and Ouray Reservation, ended decades of attacks on the Tribe’s Reservation by the State of Utah, and provided much of the foundation for Justice Gorsuch’s eventual decision in the *McGirt v. Oklahoma* case.

With limited oral argument time, the Supreme Court determined that the Ute Indian Tribe would present arguments on behalf of the 17 federally recognized tribal governments who were opposed to the distribution of CARES Act funds to ANCs. Media attempts to portray the Supreme Court’s decision as the result of “infighting” are absolutely false. These efforts in the media are an attempt to diminish the sovereign authority of individual tribal governments. In addition, attempts to overdramatize the Supreme

Court's process for determining who would argue the case are a disservice to Indian Country and sovereign tribal governments.

What you will not find published in the media is the first letter the Ute Indian Tribe sent to the Chairman of the Confederated Tribes of the Chehalis Reservation (Chehalis Tribes), seeking a cooperative agreement to split time before the Supreme Court. The Ute Indian Tribe was forced to send this letter after attorneys for the Tribe received threatening phone calls from attorneys representing the Chehalis Tribes. On a government-to-government basis, the Ute Indian Tribe respectfully requested in its letter that the Chehalis Tribes agree to split time before the Supreme Court.

An agreement to split time would have allowed each sovereign tribal government involved in the case to present the arguments significant to their tribe. Unfortunately, the Tribe's effort to work cooperatively was rejected, and the Chehalis Tribes filed a response in opposition to the Ute Indian Tribe's proposal to split time. While we appreciate that the Chehalis Tribes later withdrew their opposition after business hours on Thursday, April 15, this appears to have been too little too late, as the Court denied the Ute Indian Tribe's request the following morning. The Ute Indian Tribe was shocked to learn that some tribes would oppose the ability of another sovereign tribal government to present its own arguments before the Court.

The Ute Indian Tribe Business Committee stated, "It is unfortunate that other tribal governments were not willing to work on a government-to-government basis to resolve this issue, but we are pleased with the strong case made to the Supreme Court on behalf of all tribal governments. As we have argued at all levels, ANCs are not recognized governing bodies of Indian tribes eligible to receive CARES Act funding."

The Ute Indian Tribe works every day to protect and promote the sovereignty of its tribal government and other tribal governments throughout the United States. The Ute Indian Tribe is one of the founding members of the National Congress of American Indians, and we will always take a strong stand against attempts by some to "divide and conquer" Indian tribes. This includes inaccurate and overly dramatic reporting in the media attempting to pit tribes against each other.

There are too many who oppose us. Our sacred lands, waters, resources and political relationship to the United States must always be protected. The elected leadership of the Business Committee of the Ute Indian Tribe asks that all tribes and tribal media review the facts and work in solidarity against those that would attempt to diminish or sideline the sovereignty of tribal governments.

**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 significant oil and gas deposits on its 4.5 million acre Reservation. The Tribal Business Committee is the governing council of the Tribe.

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