

Deborah A. Ferguson, ISB No. 5333
Craig H. Durham, ISB No. 6428
FERGUSON DURHAM, PLLC
223 N. 6th Street, Suite 325
Boise, Idaho 83702
T: (208) 345-5183
F: (208) 906-8663
daf@fergusondurham.com
chd@fergusondurham.com

Attorneys for Petitioner

RECEIVED
IDAHO SUPREME COURT
COURT OF APPEALS
2015 JUN 10 PM 1:38

IN THE SUPREME COURT OF THE STATE OF IDAHO

COEUR D'ALENE TRIBE

Petitioner,

v.

LAWERENCE DENNEY, Secretary of
State of the State of Idaho, in his official
capacity,

Respondent.

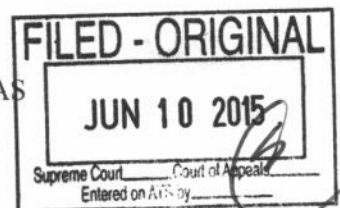
No. 43169 - 2015

**PETITIONER'S MOTION TO
DENY COEUR D'ALENE
RACING, LTD.'S PETITION
TO APPEAR AS AMICUS
CURIAE**

COMES NOW the Coeur d'Alene Tribe, by and through counsel, and hereby moves the Court under Idaho Appellate Rules 8 and 32 to deny the Petition to Appear as Amicus Curiae, filed by Coeur d'Alene Racing, Ltd., on June 9, 2015.

Under Idaho Appellate Rule 8, an "attorney, or person or entity through an attorney," may appear as amicus curiae in any "appeal or proceeding" upon the filing of an application and with leave of the Court. *Id.* "Any objection to the appearance of an amicus curiae must be made by motion . . . in the manner provided for motions under Rule 32." *Id.* For the reasons that follow, the Tribe objects to Coeur d'Alene Racing's participation in this original proceeding as an amicus.

MOTION TO DENY COEUR D'ALENE RACING, LTD.'S PETITION TO APPEAR AS
AMICUS CURIAE - 1



The proposed amicus apparently wishes to be heard on the merits of S.B. 1011 and the repeal of Idaho Code § 15-2514A. *See* Petition to Appear as Amicus Curiae, ¶2. Those subjects are not at issue in this proceeding, which instead focuses on the actions of the Governor and the Senate regarding the purported veto of the bill. Moreover, the proposed amicus has already been heard on the merits of S.B. 1011 in the legislative process through its representative in both the senate and house hearings on the bill. Those arguments were rejected, and S.B. 1011 passed by a super majority of both houses.

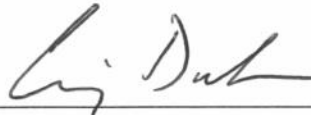
To the extent that the Coeur d'Alene Racing's position on the veto "would be most closely aligned with Respondent's position," *see id.*, that interest is already well represented in this case and need not be duplicated. This proceeding is on an expedited track, and allowing the amicus to intervene threatens the schedule set by the Court.

If the Court is inclined to allow Coeur d'Alene Racing to appear, the Tribe requests that its appearance be limited to the filing of a brief without participation in oral argument, should the Court set oral argument.

WHEREFORE, Petitioner Coeur d'Alene Tribe moves this Court to deny Coeur d'Alene Racing's Petition to Appear as Amicus Curiae.

Dated: June 10, 2015

Respectfully submitted,



Deborah A. Ferguson
Craig H. Durham
FERGUSON DURHAM, PLLC

Attorneys for Petitioner
COEUR D'ALENE TRIBE

CERTIFICATE OF SERVICE

I hereby certify that on this 10th day of June, I caused a true and correct copy of the foregoing Petitioner's Motion to Deny Coeur d'Alene Racing, Ltd.'s Petition to Appear as Amicus Curiae to be sent by US Mail to the following:

Idaho Secretary of State Lawrence Denney
Attn: Office of the Secretary of State
PO Box 83720
Boise, Idaho, 83720-0080

Brian Kane
Deputy Attorney General
Office of the Idaho Attorney General
PO Box 83720
Boise, Idaho, 83720-0010
Attorney for the Secretary of State

David H. Leroy
Attorney at Law
1130 East State Street
Boise, ID 83712
Attorney for Coeur d'Alene Racing, Ltd.



Craig H. Durham
Attorney for Petitioner