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Attorneys for Petitioner

RECEIVED
IDAHO SUPREME COURT
COURT OF APPEALS
2015 SEP 28 PM 4: 51

IN THE SUPREME COURT OF THE STATE OF IDAHO

COEUR D'ALENE TRIBE,

Petitioner,

v.

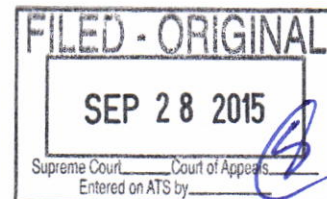
LAWRENCE DENNEY, Secretary of
State of the State of Idaho, in his official
capacity,

Respondent.

No. 43169 – 2015

Ref. 15-249

**PETITIONER'S MOTION TO
ENFORCE COURT'S ORDER
FOR ATTORNEY FEES AND
COSTS ON PETITION FOR
WRIT OF MANDAMUS**



On September 10, 2105 in a unanimous decision, this Court exercised its original jurisdiction and granted the Petitioner's request for a writ of mandamus compelling the Respondent to certify Senate Bill 1011 into law. In its decision, the Court also awarded the Petitioner its attorney fees and costs, excluding those fees and costs associated with responding to arguments by amici. Petitioner now seeks an order from this Court for fees and costs in the amount of \$95,057.84, as supported by attached Declaration of Deborah A. Ferguson, at ¶ 8. Documentation of counsel's time is supported by Exhibit B attached to the Declaration of Deborah A. Ferguson.

Petitioner requested attorney fees under Idaho Code § 12-117 and Idaho Code § 12-121 in a separate motion when it filed its Petition, and in its Petition. Idaho Code § 12-117(1) provides:

Unless otherwise provided by statute, in any administrative or civil judicial proceeding involving as adverse parties a state agency, a city, a county or other taxing district and a person, the court shall award the prevailing party reasonable attorney's fees, witness fees and reasonable expenses, if the court finds that the party against whom the judgment is rendered acted without a reasonable basis in fact or law.

In awarding fees, the Court held that “[t]his section requires an award of attorney fees to a prevailing party where one acted without a reasonable basis in fact or law” citing *Gunter v. Magic Valley Reg'l Med. Ctr.*, 143 Idaho 63, 69, 137 P.3d 450, 456 (2006) (emphasis in original). Opinion, at p. 21. “Based on our analysis in the sections above, we conclude that the Secretary of State acted without a reasonable basis in fact or law by defending this writ.” *Id.*

Counsel for the Petitioner contacted Deputy Attorney General Brian Kane, in an attempt to work out the specific amount of the fees, without further involvement of the

Court. (See Declaration of Deborah A. Ferguson, in support of this motion). Deputy Attorney General Mike Gilmore responded on Mr. Kane's behalf and indicated that the State would not pay any attorney fees and costs ordered by the Court, as counsel for the State has decided to treat this matter of original jurisdiction as if it were an appeal subject to a fourteen day deadline for a request for costs and fees. (Exhibit A to the Declaration of Deborah A. Ferguson).

With this motion, the Petitioner requests that the Court order the State to reimburse the Petitioner for its attorney fees and costs as previously ordered, for the following reasons.

1. Idaho Rules of Appellate Procedure 35(a)(5) and 41, which govern the procedure for requesting and awarding attorney fees on appeal, do not apply.

Respondent's counsel has notified Petitioner's counsel that Respondent intends to rely on Rules 40 and 41 of the Idaho Rules of Appellate Procedure to claim that Petitioner has not filed a timely request for attorney fees in this matter within 14 days of the issuance of the Court's opinion. Respondent misconstrues the nature of this proceeding and the governing rules.

Under Idaho Appellate Rule 32(a)(5), when a party claims a right to attorneys' fees *on appeal*, the party must include the request as an issue within its appellate brief. Moreover, Idaho Appellate Rule 41 reiterates this requirement for seeking attorney fees *on appeal* and further states that the party "shall file a claim concurrently with, or as part of, the memorandum of costs provided for by Rule 40." I.A.R. 41(a),(d). A memorandum of costs must be filed "within 14 days of the announcement of the opinion on appeal." I.A.R. 40.

This, however, is *not* an appeal and it is not governed by these particular appellate rules. It is instead an original proceeding, initiated by the Tribe's petition for writ of mandamus. Idaho Appellate Rule 5 grants the Court considerable discretion in how it wishes to proceed in an action that invokes its original jurisdiction which, by its very nature, will not follow the typical course of an ordinary appeal. For instance, the Court may summarily dismiss such a petition; or it may choose to order a response. If it wishes, it may set up a procedure for discovery and fact-finding. Indeed, Rule 5 specifically states that "briefs shall be in the form prescribed by Rule 32(e)," which governs procedures for the filing of motions, rather than Rule 35, which governs the filing of briefs on appeal. It was for these reasons that Petitioner submitted a stand-alone Motion for Reasonable Attorneys' Fees on June 3, 2015, and in its Petition, rather than in a section of its Brief.

In short, the Court exercised its original jurisdiction to consider the Petition under the Idaho Constitution, Article V § 9; Idaho Code § 1-203; Idaho Code § 7-302. Opinion, at p.3. It was not exercising appellate jurisdiction. It has already granted Petitioner's Motion for Reasonable Attorneys' Fees and the request for fees in the Petition.

There can be no dispute that Petitioner is owed reasonable fees because the Court has found that Respondent's arguments were without a reasonable basis in fact and law. Respondent instead apparently seeks to evade complying with the Court's order by artificially pigeonholing Petitioner into the procedures that apply to appeals rather than extraordinary actions like this one, and by claiming that the request is one day late.

The Court should not be persuaded. It should now grant this Motion and order Respondent to comply with its previous decision that Respondent must pay attorneys' fees (minus fees incurred in responding to amici).

2. In the alternative, the Court should grant petitioner an extension of time and find that this memorandum in support of fees is timely.

If the Court is inclined to find that Petitioner has not complied with a 14-day deadline for submitting its memorandum of costs detailing its attorney fees, Petitioner respectfully requests that the Court grant it a one-day extension of time and find that this memorandum is timely.

Under Idaho Appellate Rule 5, and in accordance with its inherent equitable powers, the Court has implicit discretion to grant an extension of time under these circumstances. More to the point, the Court has the express authority to extend the time, upon a showing of good cause, for "any act," excluding "the physical filing of a notice of appeal, a notice of cross-appeal, or petition for rehearing, or a challenge to a final redistricting plan." Filing a memorandum for attorney fees is not excluded.

Petitioner has shown good cause for a one-day extension of time. Because the Court found that fees and costs are explicitly and strongly warranted under the circumstances, the State should not be allowed to thwart the Court's Order on a technicality, where it is unclear at best, whether the appellate deadline applies to matters of original jurisdiction.

In addition, in a good faith attempt to come to an agreement over the amount of the fees to be paid, after the fees related to the amici were parsed out, counsel for the Petitioner offered to produce timesheets with these fees extracted. (The Court held

further that the Tribe is not entitled to attorney fees against the amici because they were not parties to this action. Opinion, at 22). This communication occurred via email the morning of September 28, 2015 and is attached to the Ferguson Declaration as Ex. A. This effort was made by counsel for the Tribe to work the matter out directly between counsel, in furtherance of the Court's order of fees, and to obviate the need for additional involvement of the Court. That is, to settle the issue between the parties. However, the State, while conceding that "Although Rules 40 and 41 by their terms apply only to appeals and not to writs . . .," the State construed the deadline as passed by a day, and as a waiver to the Tribe's right to recovery its fees.

To the extent that the Court intended that the Tribe apply the appellate rules governing fees to this original action, genuine confusion exists due to the extraordinary nature of this action. In light of this complexity and the uniqueness of the action, the Tribe should not be denied the fees and costs to which this Court has already ruled that the Tribe is entitled.

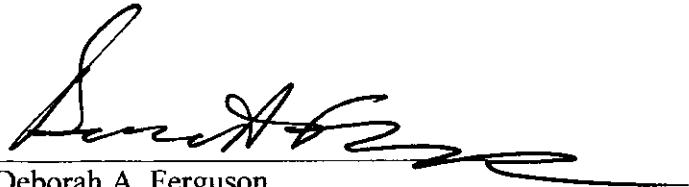
To the extent this one-day delay is neglectful of counsel, it is excusable. The Court made a strong and clear ruling that attorney fees are warranted based on Respondent's lack of good faith arguments. Petitioner's counsel did not, and does not, believe that Rules 40 and 41 applied to the fee request. Counsel reached out to opposing counsel in an effort to resolve the matter. If the request is late, it is late by a single day. For these reasons, the Court should exercise its discretion and find the memorandum supporting fees, file with this Motion, to be timely.¹

¹ Because this is an original action that shares some of the characteristics of civil cases that are filed in the District Court, this Court may also look to the Idaho Rules of Civil Procedure for analogous authority in permitting an extension under these circumstances. Rule 6(b) of the Rules of Civil Procedure provides a

Respectfully submitted this 28th day of September, 2015.

Respectfully submitted,

COEUR D'ALENE TRIBE



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

Attorneys for Petitioner

court with authority to extend the time to complete “an act is required or allowed to be done at or within a specified time.” The Court still has the authority to extend the time “upon motion made after the expiration of the specified period permit the act to be done where the failure to act was the result of excusable neglect,” except “the time may not be extended for taking any action under rules 50(b), 52(b), 59(b), (d), (e), and 60(b) except to the extent and under the conditions stated in them.” I.R.C.P. 6(b).

In a civil action in District Court, attorney fees are processed under Rules 54(d) and 54(e), which is not one of the listed exclusions. Therefore, a court has the authority to extend the time even after the expiration of the deadline upon excusable neglect.

CERTIFICATE OF SERVICE

I hereby certify that on this 28th day of September 2015, I served a copy of this
Petitioner's Motion to Enforce Court's Order for Attorney Fees and Costs on Petition for
Writ of Mandamus by mailing a copy, postage prepaid, to the following:

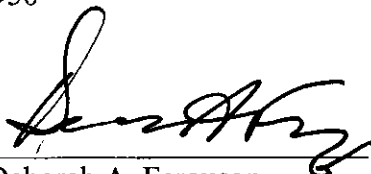
Deputy Attorney General Brian Kane
Idaho Attorney General's Office
PO Box 83720
Boise, ID 83720-0010
Attorney for Respondent Lawrence Denney

David F. Hensley
Cally Younger
Office of the Governor
PO Box 83720
Boise, ID 83720-0034

David Leroy
Attorney at Law
1130 East State Street
Boise, ID 83712

John K. Simpson
Shelley M. Davis
Barker, Rosholt & Simpson, LLP
1010 W Jefferson
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Boise, ID 83702-6138


Deborah A. Ferguson

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Attorneys for Petitioner

IN THE SUPREME COURT OF THE STATE OF IDAHO

COEUR D'ALENE TRIBE

Petitioner,

v.

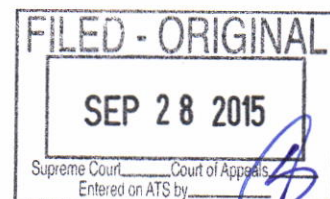
LAWRENCE DENNEY, Secretary of
State of the State of Idaho, in his official
capacity,

Respondent.

Supreme Court Docket
No. 43169-2015

Ref. 15-249

**DECLARATION OF
DEBORAH A. FERGUSON**



hand margin are for legal fees related to the amici. Entries with an "E" notation are for costs. All remaining entries are for legal services rendered.

7. As set forth in the time records attached as Exhibit B, the Tribe has paid the following sums to Ferguson Durham, PLLC in this matter. Total costs paid are \$321.84. Total attorney fees unrelated to the amici paid are \$94,736.00. Fees deducted for legal work attributed to amici total \$11,135.00

8. Counsel for the Tribe respectfully requests that the State reimburse the Tribe for its fees and costs as previously ordered, in the amount of \$95,057.84.

DATED this 28th day of September 2015.

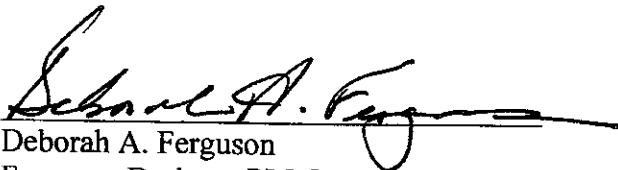

Deborah A. Ferguson
Ferguson Durham, PLLC

Exhibit A

Subject: FW: C'dL Tribe v. Denney- fees
From: "Gilmore, Mike" <mike.gilmore@ag.idaho.gov>
Date: Mon, Sep 28, 2015 12:31 pm
To: "'daf@fergusondurham.com'" <daf@fergusondurham.com>

Deborah.

Brian Kane is traveling today, and he asked me to handle this for him.

The Court's opinion in Coeur d'Alene Tribe v. Denney was issued on September 10, 2015. See <http://www.isc.idaho.gov/opinions/43169.pdf>.

Idaho Appellate Rule 40. Taxation of costs, Paragraph (c) Memorandum of Costs, provides that costs are waived if a Memorandum of Costs is not filed within fourteen days after issuance of the Opinion: "Within 14 days of the filing and announcement of the opinion on appeal. ... any party who claims costs shall file with this Court and serve upon all adverse parties a memorandum of costs, itemizing each claimed expense. ... Failure to file a memorandum of costs within the period prescribed by this rule shall be a waiver of the right to costs."

Idaho Appellate Rule 41. Attorneys fees on appeal, Paragraph (d) Amount of Attorneys Fees, provides that a claim for attorneys' fees must be filed in or with the Memorandum of Costs: "If a Court determines that a party is entitled to attorney fees on appeal, the party claiming attorney fees shall file a claim concurrently with, or as part of, the memorandum of costs provided for by Rule 40."

Although Rules 40 and 41 by their terms apply only to appeals and not to writs. I am not aware that the Idaho Supreme Court treats claims for costs or fees any differently in a special writ case than in an appeal. Accordingly, the deadline for filing a Memorandum of Costs and requesting attorneys' fees expired fourteen days after the opinion was issued, i.e., on September 24, 2015, and pursuant to Idaho Appellate Rule 40(c), the Tribe has waived its claim for costs and fees when it did not file a timely Memorandum of Costs and request for attorneys' fees.

Michael S. Gilmore
Deputy Attorney General, Civil Litigation Division
Statehouse Room 210
Boise, Idaho 83720-0010
Telephone: (208) 334-4130
FAX: (208) 854-8073
mike.gilmore@ag.idaho.gov

From: Kane, Brian
Sent: Monday, September 28, 2015 11:17
To: Gilmore, Mike; Smith, Clay
Subject: Fwd: C'dL Tribe v. Denney- fees

Sent from my iPhone

Begin forwarded message:

From: "daf@fergusondurham.com" <daf@fergusondurham.com>
Date: September 28, 2015 at 11:14:15 AM MDT
To: "Kane, Brian" <brian.kane@ag.idaho.gov>

Subject: C'dL Tribe v. Denney- fees

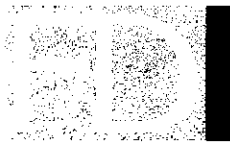
Brian: I need to discuss how we are going to handle the payment of the Tribe's fees ordered by the Court. I could give you a copy of my firm's invoices which the Tribe has paid, and indicate which tasks were done in response to the amici's filings, so they could be subtracted, in order to arrive at a total for the State. How does that sound to you? Please let me know your thoughts. Hope you are well. - Deborah

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O: 208.345.5183 ex. 802
C: 208.484.2253

This email may contain material that is confidential, privileged and/or attorney work product for the sole use of the intended recipient. Any review, reliance or distribution by others or forwarding without express permission is strictly prohibited. If you are not the intended recipient, please contact the sender and delete all copies.

Exhibit B



INVOICE

Invoice # 290
Date: 06/02/2015
Due Upon Receipt

Ferguson Durham, PLLC

223 N. 6th Street, Suite 325
Boise, Idaho 83702

Coeur d' Alene Tribe

00062-Coeur d' Alene Tribe

Challenge to Gov. Otter's veto attempt of Senate bill 1011

Type	Date	Description	Quantity	Rate	Total
Service	05/13/2015	DF- Phone conference with EV and HH re: background of case	0.80	\$350.00	\$280.00
Service	05/13/2015	DF- Review of letters emailed by EV re: communications with Sec'y of State	0.50	\$350.00	\$175.00
Service	05/14/2015	DF- Research and review of materials	1.80	\$350.00	\$630.00
Service	05/15/2015	CD- Review of additional background materials sent by EV.	0.70	\$250.00	\$175.00
Service	05/15/2015	DF- Strategy session with CD to development next steps.	1.00	\$350.00	\$350.00
Service	05/16/2015	CD- Strategy session with DAF regarding next steps.	1.00	\$250.00	\$250.00
Service	05/16/2015	DF- Legal research and analysis	5.30	\$350.00	\$1,855.00
Service	05/17/2015	DF- Legal research and analysis	5.60	\$350.00	\$1,960.00
Service	05/17/2015	CD- Reviewing case materials and conducting research on petitions for writ of mandamus.	0.70	\$250.00	\$175.00
Service	05/18/2015	DF- Confer with CD on research and next steps	1.00	\$350.00	\$350.00
Service	05/18/2015	DF- Research and analysis	6.50	\$350.00	\$2,275.00
Service	05/18/2015	CD- Confer with DAF on research and next steps.	1.00	\$250.00	\$250.00
Service	05/18/2015	CD- Researching petition for writ of mandamus in Idaho and other jurisdictions, specifically petitions from Indian Tribes.	1.00	\$250.00	\$250.00

Service	05/19/2015	CD- Research on vetoes - valid and invalid, ratification of invalid vetoes, definitions of adjournment and delivery, duties of Sec of State.	1.30	\$250.00	\$325.00
Service	05/19/2015	DF- Research and analysis; email to EV and HH re: factual issues	3.50	\$350.00	\$1,225.00
Service	05/20/2015	DF- Phone conference with HH - questions on factual issues	0.40	\$350.00	\$140.00
Service	05/21/2015	DF- Preparation of agenda for conference call	0.50	\$350.00	\$175.00
Service	05/21/2015	DF- Conference call with client on litigation strategy	0.60	\$350.00	\$210.00
Service	05/21/2015	DF- Review of Roden's reply to SOS on invalidity of veto	0.30	\$350.00	\$105.00
Service	05/21/2015	DF- Request to ID S Ct clerk's Office of search of records for wits of mandamus	0.20	\$350.00	\$70.00
Expense	05/22/2015	Reimbursable expense: S. Ct Clerk- retrieval fee for off site storage and copies	1.00	\$0.00	\$0.00
Service	05/22/2015	DF- Draft letter to EV and HH summarizing case strategy and decisions	0.40	\$350.00	\$140.00
Service	05/22/2015	DF- Visit to S Ct Clerk's Office to review archived filings	1.80	\$350.00	\$630.00
Service	05/22/2015	DF- Draft outline of Petition for Writ	2.00	\$350.00	\$700.00
Service	05/23/2015	DF- Initial draft of Petition for Writ of Mandamus, and supplemental research	7.50	\$350.00	\$2,625.00
Service	05/24/2015	CD- Revising Petition for Writ of Mandamus.	4.00	\$250.00	\$1,000.00
Service	05/24/2015	DF- Confer with CD on initial draft of Petition	0.50	\$350.00	\$175.00
Service	05/24/2015	DF- Revisions to initial draft Petition	0.90	\$350.00	\$315.00
Service	05/24/2015	CD- Confer on revisions to the Petition.	0.50	\$250.00	\$125.00
Service	05/25/2015	DF- Confer with CD on revised petition and edits, and outline brief in support of petition	2.50	\$350.00	\$875.00
Service	05/25/2015	CD- Confer with DAF regarding revisions to petition and outline for brief going forward.	2.50	\$250.00	\$625.00
Service	05/26/2015	DF- Research historical theme, Marbury v. Madison, ETC	1.20	\$350.00	\$420.00
Service	05/26/2015	DF- Meeting with [redacted] on constitutional issue and i	0.50	\$350.00	\$175.00
Service	05/26/2015	DF- Research prior tribal gaming measures and senate journal entries rule	3.10	\$350.00	\$1,085.00
Service	05/26/2015	DF- Initial draft of fact section of brief	2.90	\$350.00	\$1,015.00
Service	05/27/2015	DF- Revisions to fact section	1.50	\$350.00	\$525.00

Service	05/27/2015	DF- Research on recovery of attorney fees	1.00	\$350.00	\$350.00
Service	05/27/2015	DF- Email to EV and HH on status update and timing issues	0.30	\$350.00	\$105.00
Service	05/27/2015	CD- Drafting argument section of the brief.	7.00	\$250.00	\$1,750.00
Service	05/27/2015	DF- Responded to EV on naming Chief Allan individually as a petitioner	0.10	\$350.00	\$35.00
Service	05/28/2015	CD- Revising facts. Preparing motion to expedite. Revising brief structure with attorneys' fees provisions.	4.00	\$250.00	\$1,000.00
Service	05/28/2015	DF- Revising argument section, conferring with CD on same, additional research	7.20	\$350.00	\$2,520.00
Service	05/29/2015	CD- Revising brief, conferring with DAF on changes.	4.00	\$250.00	\$1,000.00
Service	05/29/2015	DF- Edit and review of brief, confer with CD re: same, revisions.	7.60	\$350.00	\$2,660.00
Service	05/30/2015	CD- Drafting and revising brief, petition, motion for attorneys' fed, motion to expedite. Consultations with DAF ion completing these matters	6.30	\$250.00	\$1,575.00
Service	05/30/2015	DF- Drafting and revision to petition for writ, verification, brief in support, motion to expiate, motion for attorney fees and review of appendixes	7.70	\$350.00	\$2,695.00
Service	05/31/2015	CD- revisions to brief and motions before sending to proofreader	2.90	\$250.00	\$725.00
Service	05/31/2015	DF- revisions and coordination of petition, verification, brief, motion for fees, and motion to expedite before sending for proof reading	3.00	\$350.00	\$1,050.00
				Total	\$37,120.00
				Payment (05/26/2015)	-\$15,000.00
				Balance Owing	\$22,120.00

Detailed Statement of Account

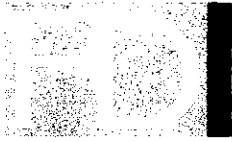
Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
290	06/02/2015	\$37,120.00	\$15,000.00	\$22,120.00
			Outstanding Balance	\$22,120.00

Total Amount Outstanding \$22,120.00

Please make all amounts payable to: Ferguson Durham, PLLC

Payment is due upon receipt.



INVOICE

Invoice # 321
Date: 07/01/2015
Due On: 07/31/2015

Ferguson Durham, PLLC

223 N. 6th Street, Suite 325
Boise, Idaho 83702
United States

Coeur d' Alene Tribe

00062-Coeur d' Alene Tribe

Challenge to Gov. Otter's veto attempt of Senate bill 1011

Type	Date	Description	Quantity	Rate	Total	
Service	06/01/2015	Review and revise Petition, brief in support, motion for attorneys' fees and expedited briefing; reviewed HH comments	4.10	\$350.00	\$1,435.00	
Service	06/01/2015	CHD: Reviewing and revising the brief, petition, and motions.	2.00	\$250.00	\$500.00	
Service	06/02/2015	Comments on briefing from EH and Bill Roden; changes re: same, and further edits; emails with Heather on press release and coverage, conversation with [redacted] on embargoed copies, final preparations of filings with Supreme Court	8.80	\$350.00	\$3,080.00	
Service	06/02/2015	CHD: Completing final revisions to briefing, petition, and motions. Incorporating suggested edits. Consultation with DAF regarding final revisions.	6.10	\$250.00	\$1,525.00	
Expense	06/03/2015	Reimbursable expense: FedEx Office- copies of pleadings for filing and service	1.00	\$104.36	\$104.36	E
Expense	06/03/2015	Reimbursable expense: Filing fee of Supreme Court	1.00	\$76.00	\$76.00	E
Expense	06/03/2015	Reimbursable expense: USPS- Postage	1.00	\$11.70	\$11.70	E
Service	06/03/2015	Final edits and proofing of all documents; filing with Supreme Court, service upon Sec'y of State and AG, and conversation with Brian Kane re: same, edits to press release, multiple media interviews - radio, TV and print outlets; confer with CD on defense's strategy; conversation with S CT Clerk on order and schedule, review of same; email on status to EV and HH	8.50	\$350.00	\$2,975.00	

Service	06/03/2015	CHD: Final revisions, completing briefing, petition, and motions. Filing at the Supreme Court and service on parties.	4.20	\$250.00	\$1,050.00	
Service	06/04/2015	Meeting with Bill Roden and CD on defense strategy and oral argument; respond to requests for petition, review of letter from AG on appropriateness of relief sought, research re: Wadsen case, confer with CD, draft email to EV and HH re: Ag letter; draft response to AG re: same	4.60	\$350.00	\$1,610.00	
Service	06/04/2015	CHD: Meeting with Bill Rhoden to discuss case going forward. Consultation with DAF regarding the same.	1.50	\$250.00	\$375.00	
Service	06/04/2015	CHD: Reviewing letter from the AG. Revising DAF's letter and drafting response.	0.40	\$250.00	\$100.00	
Service	06/04/2015	Oral argument preparation, review of final letter to AG, email from EV, review comments of BR	1.10	\$350.00	\$385.00	
Service	06/05/2015	Draft initial list of potential question re: oral argument, email CD re: Rule 5 service on real parties in interest	1.30	\$350.00	\$455.00	
Service	06/06/2015	Review, analysis and outline of Cenarrusa case	1.50	\$350.00	\$525.00	
Service	06/07/2015	Review of veto cases cite by AG in response	1.00	\$350.00	\$350.00	
Service	06/08/2015	Oral argument preparation	1.50	\$350.00	\$525.00	
Service	06/09/2015	Oral argument preparation and review of amicus, emails with CD, EV and BR re: same	2.00	\$350.00	\$700.00	A
Service	06/10/2015	CHD: Review of petition to appear as amicus. Discussion with DAF regarding the same. Drafting and filing our response.	2.50	\$250.00	\$625.00	A
Service	06/10/2015	CHD: reviewing Denney's reply. Email to DAF with initial responses.	0.70	\$250.00	\$175.00	
Service	06/10/2015	Initial outline of draft response to intervention; review articles on Grayhound race track background, email from AG with filings, email EV, HH and BR same; review of motion and briefing to intervene, review of 67-609, confer with CD on filings, email B Kane at AG re: response	4.50	\$350.00	\$1,575.00	A
Service	06/11/2015	CHD: research on intervention in mandamus actions.	0.60	\$250.00	\$150.00	A
Service	06/11/2015	CHD: telephone conference with DAF regarding how to respond to motion to intervene.	0.50	\$250.00	\$125.00	A
Service	06/11/2015	CHD: Drafting opposition to petition to TVR's petition to appear as party. Finalizing with DAF and filing.	3.10	\$250.00	\$775.00	A
Service	06/11/2015	Review our final draft of our response objecting to intervention of TV Racing, review of Greyhound objection of our response to it leave to file as amicus,	4.10	\$350.00	\$1,435.00	A

		review of Governor's motion to file as amicus, confer with CD on filings				
Service	06/12/2015	Review of S Court's order granting amici filings, denying intervention, and ordering our further response on July 10th	0.30	\$350.00	\$105.00	A
Service	06/15/2015	Review of motion to file amicus brief from Intermountain Racing, email same to EV and HH	0.30	\$350.00	\$105.00	A
Service	06/15/2015	Confer with CD on current status, multiple filings of last week	0.50	\$350.00	\$175.00	
Service	06/15/2015	Email to BR on AG's response brief	0.20	\$250.00	\$50.00	
Service	06/15/2015	Email to BR on AG's response	0.20	\$350.00	\$70.00	
Service	06/16/2015	Review of BR response on duty of Senate to transit bill	0.30	\$350.00	\$105.00	
Service	06/16/2015	Phone conference with Stephen Kenyon on scheduling of oral argument, confer with CD	0.20	\$350.00	\$70.00	
Service	06/16/2015	Email from Ct Clerk with modification of hearing dates, request for new dates, confer with CD and email EV with same.	0.40	\$350.00	\$140.00	
Service	06/17/2015	Analysis of AG response to petition, discussion with CD	2.50	\$350.00	\$875.00	
Service	06/17/2015	Responded to Court with unavailable dates for hearing.	0.20	\$350.00	\$70.00	
Service	06/17/2015	CHD: Reviewing the Attorney General's filings.	0.60	\$250.00	\$150.00	
Service	06/17/2015	CHD: Consultation with DAF regarding Attorney General's filings and our response.	1.20	\$250.00	\$300.00	
Service	06/17/2015	Review of responsive pleadings and preparation of agenda for phone conference on status	1.50	\$350.00	\$525.00	
Service	06/18/2015	CHD: telephone call with client counsel.	0.75	\$0.00	\$0.00	
Service	06/18/2015	Conference call with EV, HH and BR	0.75	\$350.00	\$262.50	
Service	06/18/2015	Draft of cost proposal and email same to EV	0.30	\$350.00	\$105.00	
Service	06/19/2015	Phone call from HH on C'dL Racing conflict issues	0.20	\$350.00	\$70.00	
Service	06/21/2015	Preparation for oral argument	0.80	\$350.00	\$280.00	
Service	06/22/2015	Received Court Order setting hearing date, forwarded same to EV and HH; returned completed Notice to Court	0.20	\$350.00	\$70.00	
Service	06/23/2015	Radio interview on status of case, email EV and HH re: Gov.'s comments	0.30	\$350.00	\$105.00	
Service	06/23/2015	Research re: reply	0.50	\$350.00	\$175.00	
Service	06/24/2015	CHD: research on standing issues.	0.50	\$250.00	\$125.00	

Service	06/25/2015	CHD: consultation with DAF regarding oral argument and structure of our response. Legal research.	1.50	\$250.00	\$375.00	
Service	06/26/2015	Preparation for oral argument and response brief	2.80	\$350.00	\$980.00	
Service	06/26/2015	Review of C'DL Racing amicus brief and notes re: same	1.00	\$350.00	\$350.00	A
Service	06/27/2015	Review of amici briefs of Gov., Intermountain racing, and Treasure Valley Racing	2.80	\$350.00	\$980.00	A
Service	06/28/2015	Research on standing in response to amici filings	2.20	\$350.00	\$770.00	A
Service	06/29/2015	Research and analysis of standing; email to EV and HH with comments on 4 amici briefs	3.00	\$350.00	\$1,050.00	A
Service	06/30/2015	CHD: Reviewing all filings by amici.	1.30	\$250.00	\$325.00	A
Service	06/30/2015	Initial draft of standing response and additional research	4.80	\$350.00	\$1,680.00	
Total					\$31,084.56	

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due
321	07/31/2015	\$31,084.56	\$0.00	\$31,084.56
Outstanding Balance				\$31,084.56
Total Amount Outstanding				\$31,084.56

Please make all amounts payable to: Ferguson Durham, PLLC

Please pay within 30 days.



INVOICE

Invoice # 324
Date: 08/10/2015
Due On: 09/09/2015

Ferguson Durham, PLLC

223 N. 6th Street, Suite 325
Boise, Idaho 83702
United States

Coeur d' Alene Tribe

00062-Coeur d' Alene Tribe

Challenge to Gov. Otter's veto attempt of Senate bill 1011

Type	Date	Description	Quantity	Rate	Total
Service	07/01/2015	Phone conference with EV, HH, BR to discuss amici and standing issues	0.80	\$350.00	\$280.00
Service	07/01/2015	Research re: uniqueness to mandamus standing	1.20	\$350.00	\$420.00
Service	07/02/2015	CHD: researching standing in mandamus. Drafting section of brief re: relaxed standard of standing for mandamus with public duty.	3.20	\$250.00	\$800.00
Service	07/02/2015	Draft Affidavit of Chief Allan	1.00	\$350.00	\$350.00
Service	07/02/2015	Research and review additional standing cases	1.80	\$350.00	\$630.00
Service	07/03/2015	CHD: Drafting mandamus standing section of response brief.	3.10	\$250.00	\$775.00
Service	07/03/2015	Email draft Affidavit of Allan with request	0.20	\$350.00	\$70.00
Service	07/03/2015	Confer with CD on reply outline	0.50	\$350.00	\$175.00
Service	07/04/2015	CHD: Outlining/introduction to response brief.	1.20	\$250.00	\$300.00
Service	07/04/2015	Drafting of standing injury argument	2.50	\$350.00	\$875.00
Service	07/05/2015	Revision to standing of response brief, section on standing, outlining of merits section	4.50	\$350.00	\$1,575.00
Service	07/05/2015	CHD: Drafting merits section of reply/response brief.	6.80	\$250.00	\$1,700.00
Service	07/06/2015	CHD: Drafting merits section of reply/response brief.	6.20	\$250.00	\$1,550.00
Service	07/06/2015	Drafting and revisions to reply memorandum	3.80	\$350.00	\$1,330.00

Service	07/07/2015	Drafting and revisions to reply memorandum and affidavit is support. Research at legistaltive library	7.80	\$350.00	\$2,730.00	
Service	07/08/2015	CHD: Revising response brief.	3.10	\$250.00	\$775.00	
Service	07/08/2015	CHD: Revising response brief.	1.20	\$250.00	\$300.00	
Service	07/08/2015	Revisions to brief and affidavit, confer with CD, EV and BR, incorporation of changes re: same	7.20	\$350.00	\$2,520.00	
Service	07/09/2015	Incorporation of HH edits, revisions to affidavit, review and final edits to brief	4.10	\$350.00	\$1,435.00	
Service	07/09/2015	CHD: Final edits to brief.	2.10	\$250.00	\$525.00	
Service	07/10/2015	Review of Sec'y State's response brief and affidavit	0.40	\$350.00	\$140.00	
Service	07/10/2015	Respond to issue with Clerk of Court re: filing of response brief and related Court order	0.20	\$350.00	\$70.00	
Expense	07/13/2015	Reimbursable expense: Fed Ex office- 451 pages for copies of Response brief for filing with Court	1.00	\$52.59	\$52.59	E
Service	07/13/2015	Schedule moot court for 7/28 in Boise	0.10	\$350.00	\$35.00	
Service	07/14/2015	Preparation for oral argument	1.20	\$350.00	\$420.00	
Service	07/15/2015	Preparation for oral argument	0.50	\$350.00	\$175.00	
Service	07/17/2015	Reviewed C'DL Racing 2nd request to present oral argument, emailed same to EV and HH	0.30	\$350.00	\$105.00	A
Service	07/18/2015	Preparation of oral argument	1.00	\$350.00	\$350.00	
Service	07/20/2015	Respond to email on standing from HH	0.10	\$350.00	\$35.00	
Service	07/21/2015	Review of Court order granting C'DL Racing request to present oral argument, email to client re: same	0.30	\$350.00	\$105.00	A
Service	07/22/2015	Initial draft of motion to reconsider amici's permission to present oral argument	1.00	\$350.00	\$350.00	A
Service	07/22/2015	Review of Amicus Treasure Valley's request to argue	0.30	\$350.00	\$105.00	A
Service	07/23/2015	CHD: preparing DAF for oral argument with moot court questions and comments.	1.40	\$250.00	\$350.00	
Service	07/23/2015	Presenting initial argument to CHD	1.40	\$350.00	\$490.00	
Service	07/23/2015	Revise and file motion to reconsider amici's permission to present oral argument	2.50	\$350.00	\$875.00	A
Service	07/23/2015	Rescheduling of moot court for 7/28	0.10	\$350.00	\$35.00	
Service	07/24/2015	CHD: Oral argument prep; moot court; consultation with DAF	0.50	\$250.00	\$125.00	
Service	07/24/2015	Oral argument moot with CHD	0.50	\$350.00	\$175.00	

Service	07/24/2015	Oral argument preparation	2.50	\$350.00	\$875.00
Service	07/25/2015	Oral argument preparation, revision of outline	1.00	\$350.00	\$350.00
Service	07/28/2015	Oral argument preparation	2.00	\$350.00	\$700.00
Service	07/28/2015	Oral argument preparation- revision to standing argument	2.10	\$350.00	\$735.00
Service	07/29/2015	CHD: Moot court with Helo, Eric, Bill, Deborah.	2.00	\$250.00	\$500.00
Service	07/30/2015	Moot court with EV, HH and BR	3.00	\$350.00	\$1,050.00
				Total	\$27,317.59

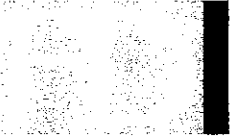
Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due	
324	09/09/2015	\$27,317.59	\$0.00	\$27,317.59	
				Outstanding Balance	\$27,317.59
				Total Amount Outstanding	\$27,317.59

Please make all amounts payable to: Ferguson Durham, PLLC

Please pay within 30 days.



INVOICE

Invoice # 326
Date: 08/27/2015
Due On: 09/26/2015

Ferguson Durham, PLLC

223 N. 6th Street, Suite 325
Boise, Idaho 83702
United States

Coeur d' Alene Tribe

00062-Coeur d' Alene Tribe

Challenge to Gov. Otter's veto attempt of Senate bill 1011

Type	Date	Description	Quantity	Rate	Total	
Service	08/01/2015	Preparation for oral argument	2.50	\$350.00	\$875.00	
Service	08/03/2015	Preparation for oral argument	1.00	\$350.00	\$350.00	
Service	08/04/2015	Preparation for oral argument	2.10	\$350.00	\$735.00	
Service	08/06/2015	Preparation for oral argument	4.20	\$350.00	\$1,470.00	
Service	08/07/2015	Preparation for oral argument	3.80	\$350.00	\$1,330.00	
Service	08/08/2015	Review of Maine's S Ct's veto decision, review of supplemental authority rules, draft letter to Clerk of the Court with supplemental citation, email to clients with same.	3.00	\$350.00	\$1,050.00	
Service	08/09/2015	Preparation for oral argument	3.70	\$350.00	\$1,295.00	
Expense	08/10/2015	Reimbursable expense: Fex Ex office- 662 pages 9copies of supplemental authority for Court filing)	1.00	\$77.19	\$77.19	E
Service	08/10/2015	Revision to supplemental authority letter, email to counsel of record re: notification of same, and confirmation to EV and HH.	0.30	\$350.00	\$105.00	
Service	08/10/2015	CHD: practice oral argument with DAF.	0.70	\$250.00	\$175.00	
Service	08/10/2015	Review supplemental authority filed at 5 p.m. by Greyhound Racing	0.70	\$350.00	\$245.00	A
Service	08/10/2015	Preparation for oral argument	4.20	\$350.00	\$1,470.00	
Service	08/10/2015	Emails to BR re: Senate procedure	0.20	\$350.00	\$70.00	

Service	08/11/2015	CHD: prepare for oral argument with DAF. Attend oral argument.	1.50	\$250.00	\$375.00
Service	08/11/2015	Final preparation before argument	1.00	\$350.00	\$350.00
Service	08/11/2015	Oral argument at Supreme Court	1.00	\$350.00	\$350.00
Service	08/11/2015	Client de-briefing after oral argument	1.00	\$350.00	\$350.00
				Total	\$10,672.19

Detailed Statement of Account

Current Invoice

Invoice Number	Due On	Amount Due	Payments Received	Balance Due	
326	09/26/2015	\$10,672.19	\$0.00	\$10,672.19	
				Outstanding Balance	\$10,672.19
				Total Amount Outstanding	\$10,672.19

Please make all amounts payable to: Ferguson Durham, PLLC

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