

RESOLUTION NO. 2019 - _____

RESOLUTION TERMINATING THE REPRESENTATION OF SAN JUAN COUNTY BY THE MOUNTAIN STATES LEGAL FOUNDATION AND WILLIAM PERRY PENDLEY IN *HOPI TRIBE, et al. v. DONALD TRUMP, et al.*, CASE NO. 1-17-CV-2590; *UTAH DINÉ BIKÉYAH, et al. v. DONALD TRUMP, et al.*, CASE NO. 1:17-CV-2605 (TSC); and *NATURAL RESOURCES DEFENSE COUNCIL, INC., et al. v. DONALD TRUMP, et al.*, CASE NO. 17-CV-2606 (TSC) AND DIRECTING THAT NO FURTHER PAYMENT SHALL BE MADE FOR SERVICES RENDERED BY MOUNTAIN STATES LEGAL FOUNDATION AND WILLIAM PERRY PENDLEY AFTER THE DATE OF THIS RESOLUTION.

WHEREAS, San Juan County has filed various pleadings in three cases filed in the United States District Court for the District of Columbia. These cases are as follows: *HOPI TRIBE, et al. v. DONALD TRUMP, et al.*, CASE NO. 1-17-CV-2590; *UTAH DINÉ BIKÉYAH, et al. v. DONALD TRUMP, et al.*, CASE NO. 1:17-CV-2605 (TSC); and *NATURAL RESOURCES DEFENSE COUNCIL, INC., et al. v. DONALD TRUMP, et al.*, CASE NO. 17-CV-2606 (TSC) (referred to below as "the Cases").

WHEREAS, the County is represented in these cases by the Mountain States Legal Foundation and William Perry Pendley.

WHEREAS, the San Juan County Commission has reconsidered its position regarding the Bears Ears National Monument and no longer supports the unlawful reduction of the Monument by President Donald Trump.

WHEREAS, in San Juan County Commission Resolution No. 2019-06, the Commission directed the County Attorney to file a motion to withdraw San Juan County from the Cases and to terminate the representation agreement between the County and Mountain States Legal Foundation and William Perry Pendley.

WHEREAS, on March 15, 2019, attorneys for Mountain States Legal Foundation, Zhonette Brown and David C. McDonald, acting in disregard of Resolution No. 2019-06, filed a *CONSOLIDATED REPLY BRIEF OF INTERVENORS STATE OF UTAH, SAN JUAN COUNTY, AMERICAN FARM BUREAU FEDERATION, AND UTAH FARM BUREAU FEDERATION SUPPORTING FEDERAL DEFENDANTS' MOTION TO DISMISS* stating that they are directed by an unidentified "County official" and that they need not withdraw the County from the Cases.

WHEREAS, it is apparent that the County Attorney and Mountain States Legal Foundation have not complied with the directives contained in Resolution No. 2019-06.

WHEREAS, a client has an absolute right to discharge a lawyer at any time, with or without cause, as stated in Rule 1.16, Comment 4, Utah Rules of Professional Conduct.

WHEREAS, Mountain States Legal Foundation represents San Juan County in the Cases, the County is the client in the Cases and it is the Commission, through official actions taken by resolution, that speaks for the client, not an unidentified "County official." *See, Salt Lake County*

Commission v. Salt Lake County Attorney, 985 P.2d 899, 905 (1999); *see also*, Utah Code Section 17-18a-802.

WHEREAS, in light of the refusal of the County Attorney and Mountain States Legal Foundation to comply with the directives of their client as stated in Resolution No. 2019-06, additional action is needed to make the intention of the County unequivocally clear.

NOW, THEREFORE, BE IT RESOLVED:

Section 1: The representation agreement between San Juan County, Mountain States Legal Foundation, William Perry Pendley and any other attorney working in conjunction with Mountain States Legal Foundation on the Cases, including Zhonette Brown and David C. McDonald, is hereby immediately terminated.

Section 2: Any work performed by Mountain States Legal Foundation, William Perry Pendley and any other attorney working in conjunction with Mountain States Legal Foundation on the Cases after the date on which this resolution is approved is unauthorized and no payment shall be made by or from San Juan County for such work.

Section 3: The County Attorney and the County Administrator are directed to immediately forward a copy of the signed and attested version of this resolution to Mountain States Legal Foundation, William Perry Pendley and any other attorney working in conjunction with Mountain States Legal Foundation on the Cases.

Section 4: The County Attorney is directed to immediately forward a copy of the signed and attested version of this resolution to the attention of the Honorable Judge Tanya Sue Chutkan of the United States District Court for the District of Columbia and to submit a written report to the Commission that he has taken that action.

Section 5: In the event the County Administrator or the County Attorney fail to take any of the actions directed in this resolution, the Chairman of the Commission is also authorized to initiate appropriate personnel action against the County Administrator and to take such actions concerning the County Attorney as are authorized in *Salt Lake County Commission v. Salt Lake County Attorney*, including filing a complaint with the Utah Office of Professional Conduct and retaining outside counsel to initiate a declaratory judgment or mandamus action against the County Attorney.

Section 6: In the event that Mountain States Legal Foundation, William Perry Pendley and any other attorney working in conjunction with Mountain States Legal Foundation on the Cases continue to state that they retain authority to represent San Juan County and continue to take actions on behalf of the County after the date on which this resolution is approved, the Chairman of the Commission is authorized to file ethics complaints with the attorney disciplinary authorities of the jurisdictions in which those attorneys are licensed to practice law.

PASSED, ADOPTED AND APPROVED by the Board of San Juan County Commissioners this
____ day of _____ 2019.

Those voting aye:

Those voting nay:

Those abstaining:

Absent:

Board of San Juan County Commissioners

Kenneth Maryboy, Chairman

ATTEST:

John David Nielson, County Clerk/Auditor