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NO. 137, ORIGINAL

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IN THE SUPREME COURT OF THE UNITED STATES

STATE OF MONTANA,	)
Plaintiff,	)
vs.	) No. 220137 ORG
STATE OF WYOMING and	)
STATE OF NORTH DAKOTA,	)
Defendants.	)
_____	)

TRANSCRIPT OF TELEPHONIC PROCEEDINGS

STATUS CONFERENCE

June 26, 2015

Reported by: Antonia Sueoka, RPR, CSR No. 9007

1 TELEPHONIC APPEARANCES:

2  
3 SPECIAL MASTER:

4 STANFORD LAW SCHOOL

5 HON. BARTON H. THOMPSON, JR., ESQUIRE

6 559 Nathan Abbott Way

7 Stanford, California 94305-8610

8 655-723-2465

9  
10 ASSISTANT TO SPECIAL MASTER:

11 STANFORD UNIVERSITY

12 SUSAN M. CARTER

13 473 Via Ortega, Suite 225

14 Mail Code 4205

15 Stanford, California 94305

16 605.721.1488

17 susan.carter@stanford.edu

1 TELEPHONIC APPEARANCES (CONTINUED)

2 FOR THE STATE OF MONTANA:

3 MONTGOMERY & ANDREWS, P.A.

4 BY: JOHN B. DRAPER, ESQUIRE

5 JEFFREY J. WECHSLER, ESQUIRE

6 325 Paseo de Peralta

7 Santa Fe, New Mexico 87501

8 505.982.3873

9 And

10 MONTANA ATTORNEY GENERAL'S OFFICE

11 BY: ALAN JOSCELYN, DEPUTY ATTORNEY GENERAL

12 215 North Sanders

13 Helena, Montana 59620-1401

14 406.444.5894

15 And

16 FOR THE DEPARTMENT OF NATURAL RESOURCES & CONSERVATION OF

17 MONTANA:

18 DEPARTMENT OF NATURAL RESOURCES & CONSERVATION OF

19 MONTANA:

20 BY: ANNE YATES, ESQUIRE

21 1625 11th Avenue

22 Helena, Montana 59601

23 202-514-8976

24

25

## 1 TELEPHONIC APPEARANCES (CONTINUED)

2  
3 FOR THE STATE OF WYOMING:

4 WYOMING ATTORNEY GENERAL'S OFFICE

5 BY: PETER K. MICHAEL, ATTORNEY GENERAL

6 JOHN KNEPPER, CHIEF DEPUTY ATTORNEY GENERAL

7 JAMES KASTE, ESQUIRE

8 CHRISTOPHER BROWN, ESQUIRE

9 ANDREW KUHLMANN, ESQUIRE

10 200 West 24th Street

11 123 Capitol Building

12 Cheyenne, Wyoming 82002

13 307.777.7841

14  
15  
16  
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18  
19  
20  
21 TRANSCRIPT OF TELEPHONIC PROCEEDINGS,

22 reported at Kramm Court Reporting, San Diego, California

23 92101, commencing on Friday, June 26, 2015, at

24 11:03 a.m., before Antonia Sueoka, Certified Shorthand

25 Reporter, CSR No. 9007, RPR.

1 SAN DIEGO, FRIDAY, JUNE 26, 2015, 11:03 A.M.

2 - - -

3 SPECIAL MASTER THOMPSON: So this is a Status  
4 Conference in State of Montana vs. State of Wyoming,  
5 which is Number 137, Original, in the Supreme Court of  
6 the United States.

7 And why don't we start with having counsel for  
8 the parties identify themselves. So we will start with  
9 the State of Montana.

10 MR. DRAPER: Good morning -- or good afternoon,  
11 Your Honor. This is John Draper. We also have on the  
12 phone Alan Joscelyn, Chief Deputy, and Ann Yates, Special  
13 Assistant Attorney General, and Jeff Wechsler, also,  
14 Special Assistant Attorney General.

15 SPECIAL MASTER THOMPSON: Okay. Thank you,  
16 Mr. Draper.

17 And so next for Wyoming?

18 MR. MICHAEL: Your Honor, this is Peter Michael.  
19 With me is James Kaste, Chris Brown, and Andrew Kuhlmann,  
20 and John Knepper.

21 SPECIAL MASTER THOMPSON: Okay. Thank you,  
22 Attorney General Michael.

23 And I will check again. Is there anyone on the  
24 line right now for North Dakota?

25 Okay. Why don't we go off the record at this

1 point for a few minutes.

2 (Recess taken.)

3 SPECIAL MASTER THOMPSON: Let's go back on the  
4 record.

5 So counsel for the parties and I had a  
6 discussion off the record regarding settlement  
7 possibilities. And on May 18th, I had issued Case  
8 Management Order Number 16 discussing that Case  
9 Management Order with the parties. I have learned that  
10 there will not be any accepted offer forthcoming as a  
11 result of that particular order.

12 I have discussed with the parties whether or not  
13 there is anything else at this particular point in time  
14 that I could be doing beyond Case Management Order  
15 Number 16 to promote settlement and to help the parties  
16 reach a settlement, and neither side sees a role that I  
17 could play at the moment.

18 Both sides have reported that the parties are  
19 continuing discussions of a possible comprehensive  
20 settlement. And I would urge both of the parties to,  
21 obviously, continue those discussions as expeditiously as  
22 possible because of the United States Supreme Court has  
23 emphasized before it is always preferable that the states  
24 reach an accord on their own, rather than having to have  
25 the United States Supreme Court ultimately intervene.

1           At this particular point in time, though, given  
2 that the parties don't see any additional actions that I  
3 can take, I would not propose that we schedule another  
4 status conference.

5           The parties have submitted their exceptions to  
6 the United States Supreme Court, and the briefing on  
7 those exceptions is complete; so it's now in the Supreme  
8 Court's hands to decide what to do with those particular  
9 exceptions.

10           I want to emphasize again, however, to both  
11 sides, that I am more than willing to be involved at any  
12 point where my involvement would be appropriate and would  
13 be helpful to the two parties.

14           When we first discussed settlement possibilities  
15 after the Supreme Court's earlier order, I also suggested  
16 the parties might want to consider mediation. And I  
17 talked again to both of the parties while we were off the  
18 record. It does not appear at this particular point in  
19 time that either party sees any value to that.

20           Let me stop there, and see whether or not either  
21 Montana or Wyoming wanted to add anything to what I've  
22 just said.

23           MR. DRAPER: Your Honor, this is John Draper  
24 from Montana. I have nothing further to add to that.

25           I would ask if you would have Ms. Carter re-send

1 Case Management Order Number 16 to us, so that we have a  
2 copy of that, if you please.

3 SPECIAL MASTER THOMPSON: I would be happy to  
4 have Ms. Carter do that.

5 And I should note for the record that Montana  
6 was not sure whether it had actually received a copy of  
7 the Case Management Order, but discussing the Case  
8 Management order with the parties, it is apparent that  
9 there would not be a value at this stage of issuing any  
10 additional order in follow-up to it.

11 But I will definitely have Ms. Carter send you  
12 an additional copy of Case Management Order Number 16.

13 MR. DRAPER: Thank you.

14 MR. MICHAEL: Your Honor, this is Peter  
15 Michael.

16 SPECIAL MASTER THOMPSON: Yes.

17 MR. MICHAEL: I have nothing to suggest to add  
18 to what you stated on the record.

19 SPECIAL MASTER THOMPSON: Okay. Thank you very  
20 much.

21 So the other thing is that I will be putting  
22 together another motion for fees to the United States  
23 Supreme Court that will cover the time period following  
24 the time period covered in the last motion. I'm going to  
25 try and get that together by the beginning of next week.



1 And my plan this time will be to, well, circulate a draft  
2 of that to both sides; in part, because one of the things  
3 that, as you know, is attached to those motions is a  
4 brief description of the work that has gone on during the  
5 time period covered by the motion. And since a portion  
6 of that period involved the conversations regarding  
7 settlement, I want to make sure that both sides are  
8 comfortable with that before I send it to United States  
9 Supreme Court.

10 If either of you have any questions regarding  
11 the fees and other disbursements that you want to bring  
12 to my attention before I send it to the Supreme Court  
13 because you think it's something that I should change  
14 before submitting it, you should also feel free to do  
15 that.

16 The actual motion to the United States Supreme  
17 Court, however, will be the same as in the past, so that  
18 I will be submitting the motion to the Supreme Court.  
19 Once the Supreme Court receives that motion, they will  
20 then have a period of time where both sides can also  
21 communicate directly with the Supreme Court with --  
22 without a copy going to -- well, to me.

23 So, again, the motion itself will be the same  
24 process as before, but I'll be sending a draft around as  
25 soon as I've finished it, both so you can look at the

1 narrative, and then, in addition to that, if you do have  
2 any questions regarding the fees or disbursements that  
3 you think could be clarified before I send it to the  
4 Supreme Court, then you would also have that additional  
5 opportunity to raise it to me.

6 So any questions regarding that, or any special  
7 requests?

8 MR. KASTE: Your Honor, this is Mr. Kaste. I  
9 don't have a question or special request, but I wanted to  
10 advise you to make sure that you're aware of our  
11 processing procedure here that has been in the past.  
12 We're required to wait for the order from the Court  
13 approving those fees in order to draw a warrant for  
14 payment. And so I don't want it to be a source of  
15 irritation or surprise to you if our response to the  
16 motion from a writing-the-check standpoint doesn't occur  
17 until the Court begins its next term and has an  
18 opportunity to issue its order.

19 SPECIAL MASTER THOMPSON: Thank you, Mr. Kaste.  
20 I really appreciate that. And I assumed that it would be  
21 the same as in the past. It has never been a source of  
22 irritation to me in the past. I certainly understand the  
23 State of Wyoming's process on that. And I realize that  
24 by submitting at this particular point in time, it is  
25 unlikely that the Court would issue any type of order in

1 connection with it until the -- until the fall.

2 I also, however, because of our experience the  
3 last time around, will also follow up with the clerk of  
4 the Court about a week after I actually submit the motion  
5 to the Court to make sure that the clerk has received it,  
6 so that we don't end up with a situation we did last time  
7 where it was not just a couple of months, but -- you  
8 know, but six months before the Court was actually able  
9 to, well, address it, and where I know, Mr. Kaste, you  
10 were the one that actually ferreted out that they had not  
11 received it. So I appreciate that.

12 MR. KASTE: You're welcome.

13 SPECIAL MASTER THOMPSON: Okay. Anything else  
14 that either Montana or Wyoming would like to raise during  
15 this status conference?

16 MR. DRAPER: Nothing from Montana.

17 SPECIAL MASTER THOMPSON: I'm sorry to talk over  
18 you, Mr. Draper.

19 MR. DRAPER: Nothing from Montana, Your Honor.

20 SPECIAL MASTER THOMPSON: And Wyoming?

21 MR. MICHAEL: Nothing, Your Honor. Thank you.

22 SPECIAL MASTER THOMPSON: Okay. And let me just  
23 check, did anyone from North Dakota ever join the  
24 conference call?

25 Okay. I will make sure that North Dakota does

1 receive a copy of the transcript, however, so that they  
2 know what has gone on during this particular telephone  
3 call.

4 So at this point, as I think I've mentioned  
5 before, I'm not going to schedule another status  
6 conference because at the moment, it doesn't appear to be  
7 necessary. But, again, if either party sees a value to  
8 having another status conference at any point, please  
9 just notify Ms. Carter.

10 And so at this point, this case is in the hands  
11 of the United States Supreme Court, which obviously has  
12 been busy on some other matters the past couple of days.  
13 And I think we'll have at least one or two more sessions  
14 next week. I think there's still five cases that are  
15 outstanding -- four or five cases that are outstanding at  
16 this particular point.

17 But with that, I wish everyone a good day, and I  
18 will, I'm sure, at some point be speaking to you all  
19 again.

20 MR. DRAPER: Very well, Your Honor.

21 MR. MICHAEL: Thank you.

22 SPECIAL MASTER THOMPSON: Okay. Thank you all.

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24 (End of proceedings at 11:25 A.M.)

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STATE OF CALIFORNIA )  
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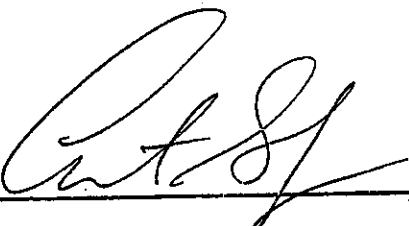
I, ANTONIA SUEOKA, Certified Shorthand Reporter  
No. 9007, State of California, do hereby certify:

That said proceedings were taken at the time and  
place therein named and were reported by me in shorthand  
and transcribed by means of computer-aided transcription,  
and that the foregoing pages are a full, complete, and  
true record of said proceedings.

And I further certify that I am a disinterested  
person and am in no way interested in the outcome of said  
action, or connected with or related to any of the  
parties in said action, or to their respective counsel.

The dismantling, unsealing, or unbinding of the  
original transcript will render the reporter's  
certificate null and void.

IN WITNESS WHEREOF, I have hereunto set my hand  
this 8th day of July, 2015.

  
\_\_\_\_\_  
Antonia Sueoka, RPR, CSR NO. 9007