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TRIBAL COURT OF THE  
COLORADO RIVER INDIAN TRIBES

1 ERIC SHEPARD (Ariz. State Bar No. 21323)  
2 COLORADO RIVER INDIAN TRIBES  
3 Office of the Attorney General  
4 26600 Mohave Road  
5 Parker, AZ 85344  
6 Telephone: (928) 669-1271  
7 Facsimile: (928) 669-5675

8 ELLISON FOLK (State Bar No. 149232)  
9 WINTER KING (State Bar No. 237958)  
10 AMANDA R. GARCIA (State Bar No. 248462)  
11 SHUTE, MIHALY & WEINBERGER LLP  
12 396 Hayes Street  
13 San Francisco, CA 94102  
14 Telephone: (415) 552-7272  
15 Facsimile: (415) 552-5816

16 Attorneys for Colorado River Indian Tribes

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18 **IN THE TRIBAL COURT**  
19 **OF THE COLORADO RIVER INDIAN TRIBES**  
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21 COLORADO RIVER INDIAN TRIBES,  
22  
23 Petitioner and Plaintiff,  
24  
25 v.  
26 WATER WHEEL CAMP RECREATIONAL  
27 AREA, INC., ROBERT JOHNSON, AND DOES  
28 1-20,  
Respondents and Defendants.

Case No. CV-CO-2007-0100

**REPLY IN SUPPORT OF MOTION FOR  
ISSUANCE OF WRIT OF RESTITUTION**

Defendants Water Wheel and Johnson (together, "Water Wheel") make just one argument in opposition to CRIT's Motion for Issuance of Writ of Restitution ("Motion"): that this Court should not take any action to enforce the judgment entered against Water Wheel while Water Wheel's appeal in the related federal court action is pending. However, as this Court is aware, the federal district court of Arizona upheld this Court's jurisdiction over Water Wheel and declined to enjoin the Court from enforcing its judgment against the company. Notice of Motion and Motion for Issuance of Writ of Restitution; Memorandum of Points and Authorities in Support, Ex. 6. Similarly, the Ninth Circuit refused to enjoin this Court from issuing a writ of restitution evicting Water Wheel. Order (Sept. 8,

1 2010), attached hereto as Ex. 1. As a result, this Court has jurisdiction to issue the Writ. *See In re*  
2 *Combined Metals Reduction Co.*, 557 F.2d 179, 190 (9th Cir. 1977) (prevailing party is entitled to  
3 enforce a district court judgment while an appeal is pending, absent a stay or an injunction); *see also*  
4 Tribal Court Order at ¶ D (November 3, 2009) (noting, after federal district court decision, that, except  
5 with respect to Robert Johnson, “the Judgment and orders of this Court in this action, as modified by the  
6 March 10, 2009, Opinion and Order of the Court of Appeal . . . remain in effect”); Opposition to CRIT’s  
7 Motion for Issuance of Writ of Restitution (“Opp.”) Ex. 1 at 11 (noting that, if no federal court stay is  
8 entered, “Judge LaRance can execute the proposed Writ at any time . . .”).

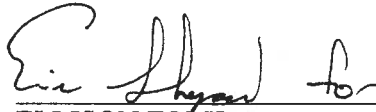
9 Nor is there any reason that this Court should delay issuing the Writ absent a federal court  
10 injunction. In its 2008 judgment, this Court found that Water Wheel’s lease expired in 2007 and that  
11 Water Wheel had no authority to remain on CRIT’s property after the expiration of the lease. Judgment  
12 at 15. The Court further determined that CRIT was entitled to a Writ of Restitution ordering Water  
13 Wheel’s eviction and delivery of the property to CRIT. Judgment at 2, ¶ 8. Delaying the issuance of the  
14 Writ would only allow Water Wheel to extend its unlawful occupation of CRIT’s property. Such a  
15 result is not supported by the Court’s judgment in this case, or by tribal or federal law.

16 **CONCLUSION**

17 For the reasons set forth in the Motion and this Reply, CRIT respectfully requests that this Court  
18 grant CRIT’s Motion for Issuance of a Writ of Restitution.

19 DATED: September 8, 2010


Respectfully submitted,  
SHUTE, MIHALY & WEINBERGER LLP

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21 By:   
22 \_\_\_\_\_  
ELLISON FOLK  
WINTER KING  
23 AMANDA R. GARCIA

24 Attorneys for Colorado River Indian Tribes

25 DATED: September 7, 2010

COLORADO RIVER INDIAN TRIBES

26 By:   
27 \_\_\_\_\_  
ERIC SHEPARD

28 Attorneys for Colorado River Indian Tribes

# **EXHIBIT 1**

FILED

UNITED STATES COURT OF APPEALS

SEP 08 2010

FOR THE NINTH CIRCUIT

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

WATER WHEEL CAMP  
RECREATIONAL AREA, INC. and  
ROBERT JOHNSON,

Plaintiffs - Appellees/Cross-Appellants,

v.

GARY LARANCE, The Honorable Judge  
in his capacity as the Chief and Presiding  
Judge of the Colorado River Indian Tribes  
Tribal Court and JOLENE MARSHALL,

Defendants - Appellants/Cross-Appellees.

Nos. 09-17349, 09-17357

D.C. No. 2:08-cv-00474-DGC

District of Arizona,  
Phoenix

ORDER

Before: CLIFTON and BYBEE, Circuit Judges.

Colorado River Indian Tribes' motion to file amicus curiae brief in response to Water Wheel's emergency motion is granted. *See* 9th Cir. R. 29-2.

Water Wheel Camp Recreational Area's emergency motion for injunctive relief is denied.

Briefing is complete.

**CERTIFICATE OF SERVICE**

I hereby certify that on September 8, 2010, the foregoing REPLY IN SUPPORT OF MOTION FOR ISSUANCE OF WRIT OF RESTITUTION was personally delivered to the Tribal Court of the Colorado River Indian Tribes for filing to:

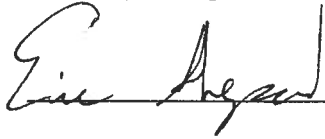
Clerk of the Tribal Court  
Colorado River Indian Reservation  
26600 Mohave Road  
Parker, AZ 85344

I further certify that on September 8, 2010, I caused to be served via U.S. Certified Mail, Return Receipt one copy of REPLY IN SUPPORT OF MOTION FOR ISSUANCE OF WRIT OF RESTITUTION to the following:

Michael L. Frame  
Attorney at Law  
1308 Joshua Avenue  
Parker, AZ 85344  
Tel: (928) 669-6565  
Fax: (928) 669-6868  
*Attorney for Defendant Water Wheel Camp  
Recreational Area*

Dennis J. Whittlesey  
DICKINSON WRIGHT PLLC  
International Square  
1875 Eye St., N.W., Suite 1200  
Washington, D.C. 20006  
Tel: (202) 659-6928  
Fax: (202) 659-1559  
*Attorney for Defendant Robert Johnson*

8 I declare the above to be true and correct under penalty of perjury. Executed this day of September, 2010, at Parker, Arizona.

  
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