

**RESOLUTION NO. 2021 - \_\_\_\_\_**

**STATEMENT OF INTENT AND POSITION REGARDING THE STIPULATED SETTLEMENT AGREEMENT IN *NAVAJO NATION HUMAN RIGHTS COMMISSION, et al. v. SAN JUAN COUNTY, et al.*, CASE NO. 2:16-cv-00154 JNP, FOR THE PURPOSE OF MEETING IN GOOD FAITH TO DISCUSS THE MODIFICATION AND EXTENSION OF THE STIPULATED SETTLEMENT AGREEMENT DATED FEBRUARY 22, 2018.**

**WHEREAS**, San Juan County was a defendant in a lawsuit, *Navajo Nation Human Rights Commission, et al. v. San Juan County, et al.*, initiated by the Navajo Nation Human Rights Commission and several named plaintiffs challenging the voting procedures in San Juan County, specifically with respect to polling places and mail-in ballots.

**WHEREAS**, on February 22, 2018, the parties reached a Stipulated Settlement agreement regarding plaintiffs' claims that San Juan County did not provide effective language assistance to Navajo-speaking voters and that Navajo voters had unequal voting opportunities in the County, and further stipulating that the Court would maintain jurisdiction to enforce the terms of the Stipulated Settlement Agreement. STIPULATED SETTLEMENT AND MOTION TO DISMISS ¶ 19, attached hereto.

**WHEREAS**, the Court issued an Order on February 22, 2018, dismissing the case, and incorporating the terms of the Stipulated Settlement agreement into its Order and further Ordered that the Court would retain jurisdiction to enforce the terms of the Settlement Agreement going forward. ORDER re: STIPULATED SETTLEMENT AND MOTION TO DISMISS , ¶ 23, attached hereto.

**WHEREAS**, the Order states that after the 2020 general election the parties shall "meet, in good faith, through designated representatives within 60 days to review the data collected and determine if procedures should be altered or services reduced, increased, or held the same" and further, if the parties cannot agree on the next steps, "they shall submit their dispute to the Court for resolution." ORDER re: STIPULATED SETTLEMENT AND MOTION TO DISMISS, ¶¶ 18-19, attached hereto.

**WHEREAS**, on December 28, 2020, having reviewed the parties' Stipulated Modification to Settlement Agreement, the Court Ordered that the modification be granted, and that the deadline set forth in ¶ 19 of the Stipulated Settlement Agreement be extended to March 3, 2021, with the Court retaining jurisdiction over the parties, to allow the parties to meet and discuss the terms of the Stipulated Settlement and whether they should be modified. ORDER GRANTING STIPULATED MODIFICATION TO SETTLEMENT AGREEMENT, attached hereto.

**WHEREAS**, the San Juan County Commission values fair and accessible elections and wants to negotiate the modification and extension of the Settlement Agreement and “Settlement Terms Rule 408 Communications” (attached hereto) to insure fair and accessible elections are maintained in San Juan County in coming years.

**WHEREAS**, the County has reviewed and concurs with the redlined Revised Settlement Agreement. Redlined REVISED SETTLEMENT AGREEMENT attached hereto.

**WHEREAS**, the redlined Revised Settlement Agreement incorporates the election procedures the County utilized to conduct the 2020 General Election and makes other minor modifications to ensure fair and accessible elections for County voters in coming years.

**WHEREAS**, the County, through this official action of the San Juan County Commission, intends to exercise its sole authority to choose the legal options pursued by the County and to choose its legal counsel for negotiating the modification and extension of the Settlement Agreement.

**WEREAS**, the County has previously been represented in this matter by the Switter Axland law firm and Jesse Trentadue, who is a member of the Switter Axland firm.

**WHEREAS**, the County believes it is in the best interests of the County to terminate its relationship with the Switter Axland law firm and Mr. Trentadue.

**WHEREAS**, the San Juan County Attorney, Kendall Laws, is required to implement the directives of his client, San Juan County, as those directives are expressed in official actions of the County Commission. *See, Salt Lake County Commission v. Salt Lake County Attorney*, 985 P.2d 899, 905 (1999); UCA § 17-18a-802; Rules 1.2 and 1.13, Utah Rules of Professional Conduct.

**WHEREAS**, the County, through this official action, will exercise its authority to direct the County Attorney to immediately terminate the representation agreement between the County and Switter Axland, including Mr. Trentadue, and to ensure that the Switter Axland firm and Mr. Trentadue immediately take steps to withdraw their appearances in *Navajo Nation Human Rights Commission, et al. v. San Juan Count, et al.*

**WHEREAS**, the County believes it is in its best interests to be represented in this matter by legal counsel who are familiar with election issues in San Juan County and that the County Attorney and the County Administrator should take steps to secure the representation of Steven Boos and/or David Irvine as the County’s representatives in the meet and confer process established in the Order, at rates comparable to what the County has been paying the Switter Axland firm.

**NOW, THEREFORE, BE IT RESOLVED:**

**Section 1:** The “Redlined REVISED SETTLEMENT AGREEMENT” represents San Juan County’s intent and position for the purposes of negotiating with the opposing parties in *Navajo Nation Human Rights Commission, et al. v. San Juan County, et al.*, pursuant to the Stipulated Settlement and Order to “review the data collected and determine if procedures should be altered or services reduced, increased, or held the same” in accordance with the Court’s ORDER.

**Section 2:** The San Juan County Commission directs the County Administrator, Mack McDonald, to immediately, but no later than February 22, 2021, contact the parties to *NAVAJO NATION HUMAN RIGHTS COMMISSION, et al. v. SAN JUAN COUNTY, et al.*, for the purpose of setting a date for a meeting to discuss the modification and extension of terms of the stipulated Settlement Agreement dated February 22, 2018.

**Section 3:** The County directs the County Attorney to immediately terminate the representation agreement between the County and Sutter Axland, including Jesse Trentadue, and to ensure that the Sutter Axland firm and Mr. Trentadue immediately take steps to withdraw their appearances in *Navajo Nation Human Rights Commission, et al. v. San Juan Count, et al.*

**Section 4:** The San Juan County Commission directs the County Attorney and the County Administrator to immediately take steps to secure the representation of Steven Boos and/or David Irvine as the County’s representatives in the meet and confer process established in the Order.

**PASSED, ADOPTED AND APPROVED** by the Board of San Juan County Commissioners this \_\_\_\_ day of \_\_\_\_\_ 2021.

Those voting aye:

Those voting nay:

Those abstaining:

Absent:

**Commissioners**

**Board of San Juan County**

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Willie Grayeyes, Chairman

**ATTEST:**

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John David Nielson, County Clerk/Auditor

**Attachments:**

- \* STIPULATED SETTLEMENT AND MOTION TO DISMISS
- \* ORDER GRANDING STIPULATED MODIFICATION TO SETTLEMENT AGREEMENT
- \* SETTLEMENT TERMS RULE 408 COMMUNICATIONS
- \* Redlined REVISED SETTLEMENT AGREEMENT