

1 Iris Thornton, *pro hac vice*  
 2 Advocates for Community and Environment  
 3 P.O. Box 1075  
 4 El Prado, New Mexico 87529  
 5 Phone: (575) 758-7202  
 6 Fax: (575) 758-7203  
 7 Email: iris@communityandenvironment.net

8 Sean A. Rowe, Nevada Bar No. 10977  
 9 Mineral County District Attorney  
 10 P.O. Box 1210  
 11 Hawthorne, Nevada 89415  
 12 Phone: (775) 945-3636  
 13 Fax: (775) 945-0740  
 14 Email: srowe@mineralcountynv.org

15 *Attorneys for Mineral County*

**UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEVADA**

16 UNITED STATES OF AMERICA, )  
 17 )  
 18 Plaintiff, )  
 19 )  
 20 WALKER RIVER PAIUTE TRIBE, )  
 21 )  
 22 Plaintiff-Intervenor, )  
 23 vs. )  
 24 )  
 25 WALKER RIVER IRRIGATION DISTRICT, )  
 26 a corporation, et al., )  
 27 )  
 28 Defendants. )  
 \_\_\_\_\_ )  
 29 MINERAL COUNTY, )  
 30 )  
 31 Proposed-Plaintiff-Intervenor, )  
 32 vs. )  
 33 )  
 34 WALKER RIVER IRRIGATION DISTRICT, )  
 35 a corporation, et al., )  
 36 )  
 37 Proposed Defendants. )  
 38 \_\_\_\_\_ )

IN EQUITY NO. C-125-MMD  
 Subproceeding: 3:73-CV-00128-MMD-WGC

**STIPULATION AND [PROPOSED]  
 ORDER CONCERNING BRIEFING  
 DEADLINES ON PRINCIPAL  
 DEFENDANTS' MOTION TO DISMISS  
 MINERAL COUNTY'S SECOND  
 AMENDED COMPLAINT IN  
 INTERVENTION**

26 STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES ON  
 27 PRINCIPAL DEFENDANTS' MOTION TO DISMISS MINERAL COUNTY'S SECOND  
 28 AMENDED COMPLAINT IN INTERVENTION

1           1.       On July 19, 2021, the Court entered the *Order Relating to Completion of Service and*  
2 *Schedule for Responses to Mineral County's Second Amended Complaint in Intervention* (the  
3 "*Order*"). ECF 943.

4           2.       The *Order* provided that Defendants who were served or returned *Waivers of*  
5 *Personal Service of Notice in Lieu of Summons* forms prior to its entry were to file and serve  
6 responses to Mineral County's *Second Amended Complaint In Intervention* no later than September  
7 28, 2021. ECF 943.

8           3.       On September 16, 2021, Mineral County and the Principal Defendants submitted  
9 a *Stipulation and [Proposed] Order Concerning Responses to Second Amended Complaint in*  
10 *Intervention*, which provided that Defendants would have until October 29, 2021, in which to file  
11 and serve a joint Motion to Dismiss Mineral County's *Second Amended Complaint in*  
12 *Intervention* and a joint memorandum of points and authorities in support thereof. ECF 975.  
13 The stipulation further provided that Mineral County's response to said joint motion would be  
14 due by January 31, 2022, and a joint reply in support of said joint motion would be due by March  
15 31, 2022. *Id.* The stipulation also requested relief from LR 7-3's page limit. *Id.*

16           4.       On September 17, 2021, the Court approved the stipulation with regard to the  
17 deadline modifications, but denied the requested page limit relief, stating that the parties "shall  
18 follow the normal process for seeking to exceed the page limit and be prepared to be precise as to  
19 the page limit and the reason." ECF 979.

20           5.       On October 28, 2021, Principal Defendants filed a *Joint Motion to Dismiss*  
21 *Mineral County's Second Amended Complaint In Intervention Pursuant To Fed. R. Civ. P.*  
22 *12(B)(1), 12(B)(6) and 12(B)(7)*, ECF 994, a *Motion for Leave to File Excess Pages*, ECF 995,

23  
24  
25  
26 STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES ON  
27 PRINCIPAL DEFENDANTS' MOTION TO DISMISS MINERAL COUNTY'S SECOND  
28 AMENDED COMPLAINT IN INTERVENTION

1 and *Points and Authorities in Support of Motion to Dismiss Mineral County's Second Amended*  
2 *Complaint in Intervention Pursuant to Fed. R. Civ. P. 12(B)(1), 12(B)(6) and 12(B)(7)*, ECF 996.

3           6.       Several weeks after Defendants’ motion to dismiss filing, just after the status  
4 conference held by the Court on November 16, 2021, and in the midst of managing follow-up  
5 diagnostic appointments related to lymphoma treatment, lead attorney for Mineral County,  
6 Simeon Herskovits, was hospitalized with COVID-19 and has been unable to work since that  
7 time. He was released from the hospital briefly in late November, but when symptoms returned  
8 he was re-admitted.

9  
10           7.       Mr. Herskovits remains hospitalized with a serious case of COVID-19  
11 pneumonia, and while his prognosis remains unclear, his doctors do not expect him to be able to  
12 return to work for several months under the best case scenario. *See* Exhibit A.

13           8.       Because Mr. Herskovits has primary responsibility for drafting Mineral County’s  
14 response to Principal Defendants’ joint motion to dismiss, and because that work has not yet  
15 begun due to Mr. Herskovits’ health challenges since the filing of the joint motion to dismiss, it  
16 will not be possible for Mineral County to meet the previously-stipulated January 31, 2021,  
17 deadline for Mineral County’s response to Principal Defendants’ October 28, 2021, motion to  
18 dismiss.

19  
20           9.       At this time, Mineral County intends to meet the service-related deadlines set by  
21 the Court in its November 16, 2021, *Minutes of Proceedings*. *See* ECF 1002. Consistent with  
22 those deadlines, Mineral County plans to file returns of service for personally-served California  
23 riparian Defendants by the end of 2021, and a final service report addressing all California  
24

25  
26 STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES ON  
27 PRINCIPAL DEFENDANTS’ MOTION TO DISMISS MINERAL COUNTY’S SECOND  
28 AMENDED COMPLAINT IN INTERVENTION



1 Date: December 15, 2021

STATE OF NEVADA OFFICE OF THE  
ATTORNEY GENERAL  
100 N. Carson Street  
Carson City, Nevada 89701-4717

2  
3  
4 By: /s/ (per authorization)  
Anthony J. Walsh, NSB # 14128  
5 *Attorney for Nevada Department of Wildlife*

6 Date: December 15, 2021

SCHROEDER LAW OFFICES, P.C.  
10615 Double R. Blvd. #100  
7 Reno, NV 89521

8 By: /s/ (per authorization)  
9 Therese Ure Stix, NSB # 10255  
*Attorney for The Schroeder Group*

10 Date: December 15, 2021

THE COUNTY OF MONO (CA)  
11 P.O. Box 2415A  
12 Mammoth Lakes, California 93546-2415

13 By: /s/ (per authorization)  
14 Stacey Simon, County Counsel  
Emily Fox, Dep. County Counsel  
*Attorneys for Mono County*

15 Date: December 15, 2021

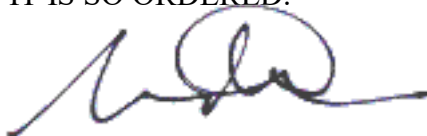
SIMONS HALL JOHNSTON PC  
16 22 State Route 208  
17 Yerington, Nevada 89447

18 By: /s/ (per authorization)  
19 Brad M. Johnston, NSB # 8515  
*Attorney for Desert Pearl Farms, Peri Family  
20 Ranch, LLC, Peri & Peri LLC, and Frade Ranches*

21  
22  
23  
24  
25  
26 STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES ON  
27 PRINCIPAL DEFENDANTS' MOTION TO DISMISS MINERAL COUNTY'S SECOND  
28 AMENDED COMPLAINT IN INTERVENTION

**ORDER**

Dated: December 15, 2021. IT IS SO ORDERED.



MIRANDA M. DU,  
CHIEF U.S. DISTRICT JUDGE

STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES ON  
PRINCIPAL DEFENDANTS' MOTION TO DISMISS MINERAL COUNTY'S SECOND  
AMENDED COMPLAINT IN INTERVENTION

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on this 15th day of December, 2021, I electronically filed the  
3 foregoing **STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING**  
4 **DEADLINES ON PRINCIPAL DEFENDANTS' MOTION TO DISMISS MINERAL**  
5 **COUNTY'S SECOND AMENDED COMPLAINT IN INTERVENTION** with the Clerk of  
6 the Court using the CM/ECF system, which will send notification of such filing to the email  
7 addresses that are registered for this case.  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

/s/Iris Thornton  
Iris Thornton

STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES ON  
PRINCIPAL DEFENDANTS' MOTION TO DISMISS MINERAL COUNTY'S SECOND  
AMENDED COMPLAINT IN INTERVENTION

**EXHIBIT A**

STIPULATION AND [PROPOSED] ORDER CONCERNING BRIEFING DEADLINES ON  
PRINCIPAL DEFENDANTS' MOTION TO DISMISS MINERAL COUNTY'S SECOND  
AMENDED COMPLAINT IN INTERVENTION





BRIGHAM AND  
WOMEN'S HOSPITAL

BWH SH 9E  
75 FRANCIS ST  
BOSTON MA 02115  
Dept Phone #: 857-307-4000

December 14, 2021

Patient: **Simeon Herskovits**  
Date of Birth: [REDACTED]  
Date of Visit: **12/3/2021**

To Whom It May Concern:

Our patient, Simeon Herskovits has been admitted with COVID-19 and will not be able to perform his professional duties for the foreseeable future while he fights and hopefully recovers from this illness.

If you have any questions or concerns, please don't hesitate to call.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Castro-Rivera'.

Cristina Castro-Rivera, MD, PhD

---