

J. KAHLE BECKER (ISB # 7408)

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Attorney for Plaintiff

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT

OF THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

JOHN HASTINGS, Jr.,
Plaintiff,

vs.

THE STATE OF IDAHO DEPARTMENT
OF WATER RESOURCES, a Political
Subdivision of the STATE OF IDAHO

Defendant.

Case No. CV01-21-17825

**DEMAND FOR JURY TRIAL AND
MOTION FOR AMENDED
SCHEDULING ORDER AND TO
CONTINUE SCHEDULING
CONFERENCE**

COMES NOW the above-named Plaintiff, by and through his attorney of record, J. Kahle Becker, and Pursuant to IRCP 38 and 39, hereby demands a jury trial in this matter. Plaintiff will not stipulate to a jury less than 12 people.

**MOTION FOR AMENDED SCHEDULING ORDER OR TO CONTINUE
STATUS CONFERENCE**

- 1) The *Stipulation for Scheduling and Planning* filed on December 20, 2021 reflected an agreement of the parties based on the claims stated in the *First Amended Action for Declaratory Judgment*.
- 2) On December 21, 2021 for the first time, Defendant's counsel informed counsel for Plaintiff that it was pursuing counterclaims by filing its

Defendant's Answer to First Amended Action for Declaratory Judgment and Counterclaim.

- 3) To date, a scheduling order has not been issued and a trial date has not been assigned in this matter.
- 4) However, the Court's December 15, 2021 *Order for Scheduling Conference and Order Re; Motion Practice* has set a scheduling conference for January 4, 2022 at 2:30 P.M.
- 5) Pursuant to IRCP 16, Plaintiff hereby Moves this Court to take appropriate action to address the changed nature of this case.
- 6) The addition of this Counterclaim necessitates a new scheduling stipulation be completed to reflect deadlines which would be applicable to Counterclaimant as a party seeking affirmative relief.
- 7) Furthermore, the fact that this case will now be tried before a jury and involves additional complexities incumbent with the addition of a counterclaim, requires additional time for conducting trial in this matter.
- 8) Plaintiff/Counterdefendant's counsel is unavailable on January 4, 2022, the date provided for the status conference in the Court's December 15, 2021 *Order for Scheduling Conference and Order Re; Motion Practice*.
- 9) Due to the Holiday break and Plaintiff's counsel's obligations with his 2 children who are out of school (December 24, 2021- January 10, 2022) and other holiday related family & travel obligations, a hearing is not requested on this motion.
- 10) Plaintiff/Counterdefendant's counsel understood the January 4, 2021 hearing

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 23rd day of December, 2021, I caused to be served the foregoing First Amended Action for Declaratory Judgment to the following persons by email:

Meghan Carter and Garrick Baxter
Attorney for Defendant,
Idaho Department of Water Resources

via I-Court/Odyssey

/s/ J. Kahle Becker
J. KAHLE BECKER
Attorney for the Plaintiff/Counterdefendant