

Nos. 14-35420, 14-35421

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**IN THE UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT**

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SUSAN LATTA, et al.,  
*Plaintiffs-Appellees,*

v.

C.L. "BUTCH" OTTER, et al.,  
*Defendants-Appellants,*

and

STATE OF IDAHO,  
*Defendant-Intervenor-Appellant.*

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On Appeal from the United States District Court for the District of Idaho  
No. 1:13-cv-00482-CWD (The Honorable Candy W. Dale)

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**PLAINTIFFS-APPELLEES' UNOPPOSED MOTION TO TRANSFER  
CONSIDERATION OF ATTORNEYS' FEES ON APPEAL TO THE  
DISTRICT COURT**

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### **Request to Transfer Consideration of Attorneys' Fees**

Plaintiffs-Appellees respectfully request, pursuant to Ninth Circuit Rule 39-1.8, that this Court transfer consideration of attorneys fees on appeal to the United States District Court for the District of Idaho, the district court from which this appeal was taken.

Ninth Circuit Rule 39-1.8 provides; “[a]ny party who is or may be eligible for attorneys fees on appeal to this Court may, within the time permitted in Circuit Rule 39-1.6, file a motion to transfer consideration of attorneys fees on appeal to the district court...from which the appeal was taken.” If a “timely petition for rehearing has been filed,” Circuit Rule 39-1.6 provides that a request for attorneys fees “shall be filed no later than fourteen (14) days after the Court’s disposition of the petition.” Defendants-Appellants filed a petition seeking rehearing en banc, which this Court denied on January 9, 2015. Because a timely petition for attorney fees is due on or before January 23, 2015, this request for transfer is timely.

Counsel for Plaintiffs-Appellees contacted counsel for Defendants-Appellants and Defendants-Intervenor-Appellants and they do not oppose this request. The district court has already adjudicated Plaintiffs-Appellees’ initial motion for reasonable attorneys’ fees and costs. In the interest of judicial economy, the Plaintiffs-Appellees request that the district court consider subsequent fee motions.

If this Court is not inclined to grant this motion, Plaintiffs-Appellees respectfully request that the Court extend their time to file a motion for attorneys fees and costs incurred on appeal until February 5, 2015.

Accordingly, Plaintiffs-Appellees respectfully request that this Court transfer consideration of attorney fees on appeal to the United States District Court for the District of Idaho, the district court from which the appeal was taken. If this Court declines to grant the request for transfer, Plaintiffs-Appellees request that the Court extend the time to file a motion for attorneys fees and costs incurred on appeal until February 5, 2015.

Dated: January 16, 2015

Respectfully submitted,

By: /s/ Deborah A. Ferguson

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## **CERTIFICATE OF SERVICE**

I hereby certify that I electronically filed the foregoing with the Clerk of the Court for the United States Court of Appeals for the Ninth Circuit by using the appellate CM/ECF system on January 16, 2015.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Deborah A. Ferguson