

No. 141, Original

**In the
SUPREME COURT OF THE UNITED STATES**

STATE OF TEXAS,

**Plaintiff,
v.**

**STATE OF NEW MEXICO and
STATE OF COLORADO,**

Defendants

**UNITED STATES' MOTION FOR JUDGMENT ON THE PLEADINGS AGAINST
NEW MEXICO'S COUNTERCLAIMS 2, 3, 5, 6, 7, 8, AND 9.**

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The United States of America (“United States”), Plaintiff in Intervention in this Original Action, respectfully moves for judgment on the pleadings, pursuant to Rule 17.2 of the Rules of the Supreme Court, and Federal Rules of Civil Procedure 12(c), 12(h)(2)(B), and 12(h)(3), with respect to Counterclaims Nos. 2, 3, 5, 6, 7, 8, and 9 brought by the State of New Mexico (“New Mexico”) against the United States. Through this motion, the United States seeks dismissal of all counterclaims asserted by New Mexico against the United States on grounds that as sovereign, the United States has not consented to suit on New Mexico’s above-referenced counterclaims; and that New Mexico also lacks standing to assert these counterclaims against the United States, and that accordingly jurisdiction is lacking over these counterclaims. FED. R. CIV. P. 12(h)(3). Through this motion, the United States also seeks dismissal of New Mexico’s counterclaims Nos. 2, 5, 6, 7, 8, and 9 for failure to state claims upon which this Court can grant relief. FED. R. CIV. P. 12(b)(6); 12(c); 12(h)(2)(B). The grounds for the United States’ motion for judgment on the pleadings are set forth more fully in the accompanying memorandum of points and authorities, any reply memorandum filed by the United States, and arguments made at the hearing.

The Special Master will hear oral argument on the United States’ motion for judgment on the pleadings on February 19, 2019, beginning at 9:00 a.m. Mountain Standard Time, in the Division II Courtroom, U.S. Court of Appeals for the Tenth Circuit, Byron White United States Courthouse, 1823 Stout Street, Denver, Colorado.

Respectfully submitted on the 21st day of December, 2018,

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OFFICE OF THE SPECIAL MASTER

CERTIFICATE OF SERVICE

This is to certify that on the 21st day of December, 2018, I caused a true and correct copy of **UNITED STATES' MOTION FOR JUDGMENT ON THE PLEADINGS AGAINST NEW MEXICO'S COUNTERCLAIMS 2, 3, 5, 6, 7, 8, AND 9** to be served via electronic mail and/or U.S. Mail as indicated, upon those individuals listed on the Service List, attached hereto

Respectfully submitted,

/s/ Seth C. Allison _____

Seth C. Allison
Paralegal Specialist
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(Service via E-Mail and U.S. Mail)

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