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Plaintiff's Attorneys

**UNITED STATES DISTRICT COURT**

## DISTRICT OF WYOMING

IRON BAR HOLDINGS, LLC, a North Carolina limited liability company registered to do business in Wyoming,

Plaintiff,

VS.

Case No. 22-CV-00067-SWS

BRADLY H. CAPE, an individual,  
ZACHARY M. SMITH, an individual,  
PHILLIP G. YEOMANS, an individual, and  
JOHN W. SLOWENSKY, an individual,

Defendants.

## PLAINTIFF'S WITHDRAWAL OF REMAINING CLAIM

COMES NOW Plaintiff Iron Bar Holdings, LLC, by and through its attorney M. Gregory Weisz of Pence and MacMillan LLC, and takes action with respect to the one remaining claim in this matter, following the Court's *Order on Cross Motions for Summary Judgment*, ECF 83, as follows:

1. The Court’s summary judgment ruling notes that disputed issues of material fact exist with respect to the “Waypoint 6” issue, as to whether Defendant Zachary Smith and/or any of the other Defendants physically trespassed on the surface of the Iron Bar Holdings, LLC real property.

2. After considering the matter, Plaintiff Iron Bar Holdings, LLC has determined the interests of judicial economy and justice warrant Plaintiff withdrawing the claims related to the Waypoint 6 issue and possible physical surface trespass by any of the Defendants on Plaintiff's real property.

3. Plaintiff hereby withdraws any claim that any of the Defendants physically trespassed on the surface of the Iron Bar Holdings, LLC real property in 2020 and/or 2021, with prejudice.

4. Plaintiff's counsel advises the Court he conferred with counsel for the Defendants about the withdrawal of the remaining claim and Defendants' attorneys have no objection to the withdrawal.

5. Moreover, Plaintiff's counsel and Defendants' counsel determined that the trial set for June 26-June 29, 2023 should be vacated and the Court should issue a final order and judgment in the case.

6. The undersigned states that the withdrawal of the remaining claim obviates the need to submit a proposed final pretrial order, which would otherwise be due today.

7. Finally, Plaintiff's counsel and Defendants' counsel parties agree that attorneys' fees are not recoverable in this action by either party, and the undersigned represents that Defendants' attorneys and the undersigned agree the Court's final order in this matter should include a provision stating as such. As to potential recoverable costs, counsel for all parties agree that U.S.D.C.L.R. 54.2 shall govern recovery of any allowable costs.

RESPECTFULLY SUBMITTED this 1st day of June, 2023.

/s/ M. Gregory Weisz  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this 1st day of June, 2023, a true and correct copy of the above and foregoing document was served by CM/ECF upon the following:

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*Attorneys for Wyoming Stockgrowers Association and Wyoming Wool Growers Association*

/s/ M. Gregory Weisz

Pence and MacMillan LLC