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7 **SUPERIOR COURT OF THE STATE OF ARIZONA**  
8 **COUNTY OF MARICOPA**

9 FIERCE INVESTMENTS, LTD.,  
10 Plaintiff,

11 v.

12 AZTEC COPPER INC., an Arizona  
corporation;  
13 Defendant.

Case No.: CV2018-006866  
Case No.: CV2019-005943

**DEFENDANTS' SURREBUTTAL TO  
PLAINTIFF'S REPLY**

(Assigned to the Honorable Christopher  
Whitten)

14  
15 On the 17<sup>th</sup> of June 2019 Plaintiff Fierce Investments, Ltd. ("Fierce") moved this Court  
16 for Miscellaneous Relief. On the 12<sup>th</sup> of July, Defendant Aztec Copper Inc. ("Aztec") filed a  
17 Response. On the 24<sup>th</sup> of July, Fierce filed a Reply to Aztec's Response (the "Reply"). Aztec has  
18 prepared this Surrebuttal to disclose to this Court statements of Fierce in its Reply that may be  
19 misleading to the Court.

20 The Reply states that "Also, ironically, Aztec's principals have previously failed to appear  
21 for depositions ordered by this Court and sought delays with respect to even limited discovery"  
22 (Reply at 2). On May 9<sup>th</sup>, 2019, Aztec submitted its Principal Ms. Christine Reeves to deposition  
23 that took place at Fierce's counsel's office in Arizona, which resulted in significant travel  
24 expenses and legal fees. Leading up to that deposition and since then, Aztec has worked  
25 diligently and in good faith with Fierce to schedule deposition dates for Mr. Ronald Arnold.  
26

1 Two separate deposition dates have been scheduled by Fierce to question Mr. Arnold.  
2 First, on June 27<sup>th</sup>, 2019 and second, on July 22<sup>nd</sup>, 2019. Disingenuously and in bad faith and in  
3 both instances, counsel for Fierce unilaterally decided to cancel the scheduled depositions *1-2*  
4 *business days before they were scheduled to take place.* Accordingly, Aztec and Mr. Arnold  
5 incurred significant and unavoidable costs involved with scheduling, travel, preparation,  
6 document review, and meeting with counsel. Ironically, Fierce suggests in its Reply that the lack  
7 of discovery in this case is the sole responsibility of Aztec, when Fierce continues to cancel its  
8 scheduled depositions with next to no warning.

9 Aztec respectfully maintains its position that proper discovery still needs to occur in this  
10 matter—including adequate depositions of Fierce’s representative and Mr. Arnold, and an  
11 evidentiary hearing before this Court—before a ruling such as that contemplated in Fierce’s  
12 Motion for Miscellaneous Relief can be made.

13 DATED this 7<sup>th</sup> day of August 2019.

14 STEPHEN C. RICH, PLLC

15  
16 By /s/ Stephen C. Rich  
17 Stephen C. Rich  
18 3401 East Elwood, #101  
19 Phoenix, Arizona 85040  
20 Attorneys for Defendant

21 ORIGINAL OF THE FOREGOING FILED  
22 AND COPY MAILED

23 This 7<sup>th</sup> day of August 2019 to:

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8 BY           /s/ Stephen C. Rich          

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