



## LEECH LAKE BAND OF OJIBWE TRIBAL COURT

Paul Day, Chief Judge  
Jacquelyn Wright, Court Administrator  
Amanda Richardson, Court Clerk

Megan Treuer, Associate Judge  
Dynell Morris, Court Clerk

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March 16, 2017

Michael Johnson,  
Senior Legal Counsel  
State Court Administration  
125H Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King, Jr. Blvd.  
Saint Paul, MN 55155  
LegalCounselRules@courts.state.mn.us

Re: Petition of Minnesota Tribal Court/State Court Forum to Amend Rule 10

Mr. Johnson:

We are judges from each of the tribal judiciaries within the boundaries of the State of Minnesota. We exercise jurisdiction over a broad spectrum of matters: civil, criminal, domestic-relations, child-welfare, and treaty-rights cases. Our cases impact both citizens and noncitizens of Indian tribes. Combined, we have administered justice in Indian country for decades, a point we illustrate with our attached biographies. We jointly submit this letter in full support of the petition to amend Rule 10 of the Minnesota General Rules of Practice for the District Courts.

We believe Rule 10 should be revisited for three reasons.

First, in 2002 and 2003, the Minnesota Supreme Court adopted the current Rule 10 in part due to testimony and written submissions concerning the quality of justice administered in tribal courts. Today we can attest that those concerns have no merit, as most of our judges hold law degrees from some of the finest schools in the country. Other judges have demonstrated success in academia and practice. Many of us continue to practice law outside of our courts' jurisdictions, allowing us to stay up-to-date on technologies and the law, thereby making our courtrooms more efficient forums for the administration of justice. In addition, some of our Judicial Centers – such as the one constructed at Leech Lake for \$7,000,000 – are new. Other tribes are receiving significant upgrades of their facilities and staffing, funded by tribes and/or the federal government. The upgrades are enhancing the experience of those who come before us and are ensuring that we can manage our growing dockets. In addition, we act with significant independence from other branches of tribal government thus empowering us to make independent, unbiased decisions that accord with principles of law and equity. Finally, our codified laws, rules, and decisions are very accessible to the public. These circumstances make tribal courts exceptional forums for dispute resolution: forums where the quality of justice cannot

be questioned. As such, our orders and judgments deserve greater deference than current Rule 10 provides. Proposed Rule 10 does exactly that.

Second, we need a more robust rule for recognition of tribal court orders and judgments to ensure that we can administer justice effectively in our courts. Without such a rule and the greater certainty that it provides, we often cannot safeguard the welfare of the children, vulnerable adults, families, and other civil and criminal litigants that come before us. Unfortunately, current Rule 10 provides far too much deference to state court judges to provide the type of certainty that we need. Even were we to assume that most state court judges ultimately favor recognition of tribal court orders and judgments, current Rule 10 creates the strong possibility of delay in the recognition process, a consequence that we have seen all too often. Any delay in the recognition process can undermine the administration of justice just as much as denial of recognition altogether. Proposed Rule 10 remedies these problems by establishing a more streamlined and focused process that will afford us the security we need to effectively administer justice in Indian country.

Third, Indian tribes are sovereign nations, vested with inherent authority to regulate both their members and their territories. And the United States Supreme Court has made clear that tribal courts play a vital role in each Indian tribe's exercise of self-government, so much so that the federal government has made it a policy to encourage their development. Current Rule 10 undermines both this policy and our courts themselves. Rather than impose upon our orders and judgments an objective, reasonable, and consistent vetting process, it places unbridled discretion in the hands of state court judges. Rather than embody the principles of respect and comity, the present rule betrays a perception of inferiority and distrust of tribal courts. As a result, litigants often do not see tribal courts or their orders and judgments as having the same degree of authority as state courts and therefore do not treat them with the same degree of respect. Proposed Rule 10 manifests a far greater degree of respect and trust of tribal courts and is likely to improve the public perception of and respect for tribal courts and their orders and judgments.

In conclusion, we, being judges from each of the tribal judiciaries within the boundaries of the State of Minnesota, support the petition to amend Rule 10. Current Rule 10 is the product of outdated concerns about the quality of justice administered in tribal courts and it undermines efforts to effectively and efficiently administer justice in our communities. Proposed Rule 10 addresses these major concerns in a meaningful way.

Sincerely,

Sign \_\_\_\_\_

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1854 Treaty Court

Sign \_\_\_\_\_

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Bois Forte Tribal Court

Sign \_\_\_\_\_

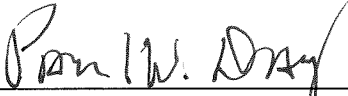
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Fond du Lac Band of Chippewa Tribal Court

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Grand Portage Tribal Court

Sign  \_\_\_\_\_

Print Paul W. Day, Chief Judge

Leech Lake Band of Ojibwe Tribal Court

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Lower Sioux Community in Minnesota Tribal Court

Sign \_\_\_\_\_

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Mille Lacs Band of Ojibwe Court of Central Jurisdiction

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Prairie Island Mdewakanton Dakota Tribal Court

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Red Lake Nation Tribal Court

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Tribal Court of the Shakopee Mdewakanton Sioux (Dakota) Community

Sign \_\_\_\_\_

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Upper Sioux Community Tribal Court

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White Earth Band of Chippewa Tribal Court