

March 1, 2017

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125H Minnesota Judicial Center  
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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. And our cases impact both citizens and noncitizens of Indian tribes. Combined, we have administered justice in Indian country for decades. 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. While we may provide testimony independently, with respect to the content of this letter, we do not request an opportunity to testify.

We believe Rule 10 should be revisited for three reasons. First, in 2002 and 2003, the Minnesota Supreme Court adopted current Rule 10 in part due to testimony and written submissions concerning the quality of justice administered in tribal courts. But as experienced tribal court judges, we can attest that those concerns have no merit today. Today, many of our judges hold law degrees from some of the finest schools in the country. Others have demonstrated success in academia and practice. And many of us continue to practice law outside of our courts' jurisdictions, allowing us to stay up-to-date on technologies and the law, making our courtrooms more effective and efficient forums for the administration of justice. In addition, our courthouses are receiving significant upgrades in facilities and staffing, funded by tribes or the federal government. These upgrades are enhancing the experience of those that come before us and are ensuring that we can handily manage our growing dockets. In addition, most of us 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, as tribal court judges, 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 simply 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. This delay in the recognition process can at times 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 our orders and judgments in the unbridled hands of state court judges. Rather than embody the principles of respect and comity, it betrays the state judiciary's perception of its own superiority to and distrust of tribal courts. Because of this, litigants often do not see tribal courts or their orders and judgments as having the same degree of authority as state courts or their orders and judgments and therefore do not treat them with the same degree of respect. Proposed Rule 10 manifests a far greater degree of respect for 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 our efforts to effectively and efficiently administer justice in our communities. Proposed Rule 10 addresses these major concerns in a meaningful way.

Sincerely,

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1854 Treaty Court

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Bois Forte Tribal Court

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Fond du Lac Band of Chippewa Tribal Court

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Grand Portage Tribal Court

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Leech Lake Band of Ojibwe Tribal Court

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Lower Sioux Community in Minnesota Tribal Court

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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 Lenor Scheffler Blaeser

Print Lenor Scheffler Blaeser

Upper Sioux Community Tribal Court

Sign Robert A. Blaeser

Print Robert A. Blaeser

White Earth Band of Chippewa Tribal Court