



Lower Sioux Indian Community

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March 17, 2017

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

Mr. Johnson:

Thank you for the opportunity to provide written comment regarding this important Amendment to Rule 10. I request to also provide live testimony at the hearings scheduled in this matter, along with Judge Rohland of the Fifth Judicial District.

Within the past year, I was appointed to serve as the Chief Judge of the Lower Sioux Indian Community Tribal Court. In that capacity, I have had several opportunities to work collaboratively with Judge Patrick R. Rohland, who serves as District Court Judge in the Fifth Judicial District at Redwood County. I have also had the opportunity, although less frequently, to work with Judge Slieter of the Eighth Judicial District – Renville County. The District Courts and the Lower Sioux Indian Community Tribal Court have worked to implement Rule 10 in a good and efficient manner; however, it is not implemented in an equal and efficient manner across the various State Court venues. Adoption of the proposed Amended Rule 10 will move all of us closer to that goal – so that there is equal access to all of Minnesota's citizen's, to the streamlined process of implementation, and to demonstrate in a concerted way the respect and deference that should be afforded to Orders of other sovereign nations.

Prior to my appointment to the Bench, I have served as an attorney for approximately 18 years in the field of Federal Indian Law, representing Tribal governments located in Minnesota. In that capacity, I had many opportunities to seek to implement civil Tribal Court orders, for a large variety of purposes, including child welfare/child protection; conservatorship/guardianship matters; name changes; property related matters; child support matters; civil money judgment proceeds, to name a few. I participated in the initial efforts to secure Rule 10 and honestly believe that much positive progress has been made during that time. However, there needs to be

greater progress in this area. It is my firm belief that the Amendments proposed will improve equal access to justice and provide for more uniform application and implementation of the Rule.

I concur with the additional reasons articulated by so many of my colleagues on the Tribal and State Court Benches; as well as the attorney practitioners supporting adoption of the proposed Amendments to Rule 10.

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, most 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 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.

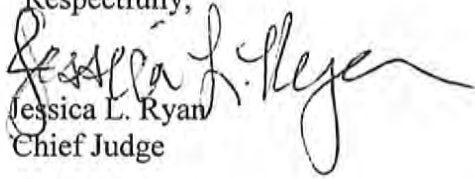
Second, we need a more robust rule for recognition of tribal court orders and judgments to ensure that we can administer justice effectively in our courts. Without such a rule and the greater certainty that it provides, we often cannot safeguard the welfare of the children, vulnerable adults, families, 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. 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 unbridled discretion in the hands of state court judges. Rather than embody the principles of respect and comity, it betrays a perception of inferiority 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, I support the petition to amend Rule 10 of the General Rules of Practice. Current Rule 10 undermines our efforts to effectively and efficiently administer justice in our communities. Proposed Rule 10 addresses these concerns in a meaningful way and improves fairness for all Citizens in Minnesota, Indian and non-Indian, seeking to enforce Orders issued by the Tribal Courts in a fair and efficient manner.

Respectfully,

A handwritten signature in black ink, appearing to read "Jessica L. Ryan". The signature is fluid and cursive, with a long, sweeping tail that extends to the right.

Jessica L. Ryan
Chief Judge