

MEETING SUMMARY
Tribal Court State Court Forum
Thursday, December 7, 2017

Annual Conference of Judges
Radisson Blu Hotel, Mall of America

The purposes of the Tribal Court State Court Forum are to enhance tribal court and state court relationships, provide an opportunity to address issues arising from the courts' concurrent jurisdictions, collaborate on development and delivery of judicial education and training, recommend revisions to Minnesota's procedural rules of court, and work on issues that cross jurisdictional boundaries.

[Link to TCSC Forum website](#)

Attendees

Forum Members:

Hon. Amber Ahola
Hon. Jeffrey Bryan
Hon. Henry Buffalo
Hon. Peter Cahill
Hon. Paul Day
Hon. Karen Duncan

Hon. David Harrington
Hon. Stoney Hiljus
Hon. David Lillehaug
Hon. Anne McKeig
Hon. Mary Ringhand
Hon. Patrick Rohland

Hon. Jessica Ryan
Hon. Lenor Scheffler
Hon. Randy Slieter
Hon. Sally Tarnowski
Hon. Megan Treuer
Judy Nord, Staff Attorney

Guests:

Hon. Jana Austad
Hon. Charles LeDuc
Hon. David Minge

Hon. Anne Rassmussen
Hon. Robert Tiffany

Hon. Korey Wahwassuck
Peter Rademacher, Hogan
Adams

Welcome

Co-chair Sally Tarnowski facilitated the meeting. She welcomed everyone and introductions were made.

Status of Proposed Amendments to Rule 10 of the General Rules of Practice

Peter Rademacher provided an update regarding the status of the proposed amendments to Rule 10 of the General Rules of Practice. In December 2016, the Forum was celebrating the filing of the petition. This year, the Forum is celebrating the positive results of the General Rules Committee that voted 10 to 2 to adopt most of the amendments proposed by the Forum. March 14 is the date of the hearing at which the Supreme Court will supporting and opposing comments regarding the proposed amendments. The Forum identified members who were nominated to submit written comments and testify at the hearing. Justice Lillehaug recognized Judge Minge, former Forum co-chair, for his past work and leadership on changing Rule 10.

Overview of Judicial Council and Purpose (carried over from November meeting)

Judge Tarnowski presented an overview of the structure and purpose of the Judicial Council, which is the governing body of the Minnesota Judicial Branch. Minnesota has 319 district court judges, in 106 locations. The Judicial Branch employs 2,500 staff. In 2017, there were 1.3 million cases filed and decided. The budget is \$345 million.

Proposed ICWA Amendments to Rules of Juvenile Protection Procedure

Hon. Jessica Ryan was appointed by the Minnesota Supreme Court as the Co-Chair (along with Judge John McBride) of the ICWA Subcommittee of the Juvenile Protection Rules Committee. The ICWA was passed in 1978. Regulations were also passed in 1978, followed later by BIA Guidelines. In December 2016, Congress passed new ICWA regulations and Guidelines. The ICWA Subcommittee began meeting in November 2017 to draft proposed rules amendments designed to make the rules consistent with the Regulations and Guidelines, as well as the MN Indian Family Preservation Act (MIFPA). The proposed amendments will be reviewed by the full Rules Committee, with the goal of submitting the proposed amendment to the Supreme Court in spring 2018. The Supreme Court will submit the proposed amendments for public comment, and will promulgate revisions with an effective date in summer 2018.

The Forum members also briefly discussed several pending challenges to the constitutionality of the ICWA, including by Minnesota attorneys and the Goldwater Institute.

The Forum members also briefly discussed issues involving First Nations from Canada, including dual citizenship and border rights issues. ICWA excludes Canadian tribes, but they may still be involved in CHIPS cases.

Potential Priorities for 2018 – 2019

During the November 2017 meeting the Forum members identified potential focus areas and strategic priorities for 2018 – 2019. A summary of those suggestions is included below and additional comments were received during the meeting. At the February meeting, the Forum will review the suggestions and attempt to arrive at a list of priorities for the next year.

1. Given the stated purposes of the Forum, what do you see as the Forum's role?

- Raising questions/issues on topics of mutual interest and identifying potential answers/resolutions
- Providing information and education to other judges, especially in judicial districts where there are no tribal courts
- Providing cultural education to help state court judges understand some of the cultural differences between various tribal courts and communities
- Helping state court judges understand the implications of how Indian people experience courtrooms and what state court judges can do to help litigants
- Cooperating on issues of common concern; specialty courts
- Continuing to build relationships
- Making recommendations to improve state court and tribal court systems
- Serving as a clearinghouse for issues and ideas
- Sharing ideas nationally
- Sharing resources in this time of limited resources
- Building consensus, communicating, collaborating, coordinating, and cooperating

2. On what issues or topics should the Forum focus its attention?

- Allowing tribal court orders to be uploaded to MNCIS so state court judges have access to and so they can be passed to the BCA for enforcement if needed
- Allowing tribal court judges access to MNCIS so not just one-way flow of information
- Ensuring implementation of both the letter and spirit of the Indian Child Welfare Act (ICWA)
- Including state court judges in judicial listening sessions through local CJE or EJC. For example, if listening session in Red Lake, then have state court judges attend to listen to concerns
- Maintaining contact between tribal court and state court systems
- Monitoring federal and state law changes and pending legislation that may impact state or tribal courts
- Communicating with MN County Attorneys' Association and Law Enforcement Associations to ensure they are knowledgeable about tribal court and state court issues
- Connection with MNCIS so orders can be moved quickly
- Tribal privacy concerns are not open to public

3. What is working well with the Forum?

- 20 years of successful cooperation and sharing
- Positive relationships
- Forum still going, despite recent issues regarding membership

4. What could the Forum do better?

- Finding ways to get all Forum members energized and re-engaged in Forum – this comment stemmed from limited turn out at November meeting and “resent unpleasantness”
- Encourage districts courts to invite tribal court judges to district bench meetings
- Ensure tribal court judges are invited to Annual Conference of Judges (need accurate email/phone information for tribal court judges)
- Include one non-voting seat on the Judicial Council for tribal court judge
- Invite court administrators from tribal court and state court to Forum meetings
- Recruit more Forum members
- Provide more training to judges, including at bench meetings
- Provide “Tribal Court 101” training sheriffs’ association and MN County Attorney’s Association
- Develop a map showing overlap of districts and tribes

5. What do you or your tribe or district hope to get out of the Forum?

- Determine who will testify during Supreme Court hearing regarding Rule 10
- Better understand “One-Court” – state court initiative designed to ensure consistent court administration case processing across county lines and allow courts in all counties to remain open. Concern about name of initiative.

6. What can the Forum do to more effectively communicate with judges (and others)?

- Include training/education about Forum topics every year at MN Association of Judges Conference (Maddens) and Annual Conference of Judges
- Send Forum meeting summaries to colleagues (agendas and meeting summaries are posted on the Forum website)
- Include “Tribal Court State Court Forum Update” as standing item at quarterly state court bench meetings
- Include “Tribal Court State Court Forum Update” as standing item at Judicial Council
- Develop an electronic quarterly newsletter to communicate to tribal court and state court judges and court administration

Future Meetings

- Friday, February 23, 2018 – Hosted by state court
- Friday, June 29, 2018 – Hosted by Grand Portage
- Friday, October 26, 2018 – Hosted by state court

Respectfully submitted,

Judy Nord, Staff Attorney