

## Tribal Court State Court Forum (TCSCF)

### Quarterly Meeting Summary

3/15/2024

Hosted by White Earth Band of Ojibwe  
Shooting Star Casino and Event Center Mahnomen, MN

The purpose of the Tribal Court State Court Forum is 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.

#### 1. Welcome, Blessing, and Introductions:

White Earth Band members began with a prayer and a song.

Judge Brodeen shared some of the history of The White Earth Band of Ojibwe and its land and led introductions.

#### 2. Agenda and Meeting Summary:

The Forum approved the meeting summary for the Dec 6 meeting. Approval was moved by Judge Gaïtas and seconded by Judge Harralson.

The Forum discussed future agenda items.

- Judge Treuer was unable to make the meeting but had suggestions for future agendas, including:
  - Lori Thompson (White Earth Court Administrator) and I would like to discuss the cover sheet for entering tribal OFPs into the nationwide database. Lori is able to lead this discussion. *There was discussion about this at the meeting. There is inherent conflict because District Court full faith and credit requires service. Service of a tribal OFP must be completed before filing with district court and until this occurs, district court cannot see the OFP.*
  - In speaking with Justice McKeig and Judge Wahwassuck, we (as in the Tribal State Forum) would like to put together a proposal to do a presentation at the Annual Conference of Judges on tribal courts and the Tribal State Forum in general. Should we do a motion to submit this proposal? I have offered to assist with the presentation itself. I am hoping some of my colleagues will join me of course, especially founding members of the forum.
  - Shauna Coons and I would like to discuss recording land transfers (for privately owned land) from tribal court orders in June. Both she and I will be gone for the March meeting. There have been some questions about this recently. County recorders can issue titles pursuant to tribal court orders. There was a divorce case out of White Earth recently where the recorder felt a Rule 10 order was required. This meant the

individual had to do two cases to get divorced once and pay two filing fees. Can we discuss this further in June when Judge Coons and I are in attendance?

- Additional agenda items include
  - Justice Thissen speaking on the Paralegal Pilot Program
  - Continued communication between Tribal and State Courts regarding orders, including collaborative training, fact sheets and bench cards.

### 3. Creation of a Searchable Database for Tribal Court Decisions

Liz Reppe led a follow up discussion on creating a database for searching tribal court opinions. Judge Soule shared that he sits on 5 appeals courts and would really like to have this available, noting that access is currently very sketchy. White Earth shared they have 2-3 cases that go to the Court of Appeals each year and would look into sharing.

Judge Hogen believes it would be helpful to have attorneys know the law of not only their tribe but also other tribes, and not just the federal law. Mdewakanton has updated their digest from 2014-2023 and would be willing to share their process.

Judge Brodeen said each tribe has had discussions about whether certain laws and other information should be made accessible outside of that local court. He said it is time to rethink and modernize that process, and suggested creating a template of how it is done in White Earth to share with others.

Most tribal courts use a system called "Full Court." This system allows searches, but it is not currently set up to use that function. There is concern with asking tribes to share on a state-based system, tribal cases are entirely confidential.

There was a suggestion to utilize the resources of the Minnesota American Indian Bar Association to assist in the creation and uploading of documents to a database. White Earth thought they may be able to share 20-30 opinions. There was discussion that each tribe would discuss participation in this effort and if they participated, what they would choose to share. Each tribe will have differing regulations regarding this and will discuss internally if they are interested and what each tribe will need to do if they choose to participate.

Judge Ringhand believes Red Lake would be hesitant to make their Code public. She said it is always under construction and their committee meets every two weeks. She is not sure they would be willing to put this information online but did think it would be helpful to have a book that shows decisions and case law.

The idea is to start proactively and then work toward including older opinions. If it was set up using the same search functions as the current State Court of Appeals, it would be most helpful and user friendly.

Next steps would be for Liz Reppe to get some of the decisions to review. A sampling of the decisions would give a feel for how they are structured, how long they are and give her a better idea of how to put a database together. There are currently some available online (White Earth).

A smaller group will begin this work, and Judge Soule, Judge Hogen, and Lori Thompson will get together to further discuss. Judge Soule suggested that Judges could prepare a letter or resolution stating that a database or other case storage solution would be helpful to judges and attorneys who appear before judges.

There was also agreement that if tribes choose not to share, Liz Reppe can help tribes organize their own on an individual basis.

4. Samantha Hermsen, Hogen Adams PLLC, Outside Council for the Lower Sioux Community led a discussion Rule 10 in Real Life: Experience with Getting Tribal Court Orders in State Court

Ms. Hermsen described the process often used by Lower Sioux Tribal Court. Most often used in Tribal Court for cases of adult mental health, chemical use or guardianships, they will file a motion asking for approval of their proposed plan and include a proposed order. They will present testimony if needed. The proposed order will include a provision that they have authority of filing this in state court for the purpose of obtaining a Rule 10. These orders include a great deal of confidential information. Once they have the tribal court order, they will use the Rule 10 orders (circulated at the meeting), including the petition, declaration, and proposed order. This will typically be filed in Redwood County as that is where Lower Sioux is. They will also communicate with local courts for other needs related to the case. They have never had a problem with filing, and usually get an order back from Redwood County the same day.

Difficulties may occur when interacting with people from state hospitals or treatment facilities re: when they need to see a tribal order or a Rule 10 state court order.

Lower Sioux now typically gets a Rule 10 for everything because some facilities won't comply with or honor tribal court orders.

Judge Jones asked if all counties are requiring the filing of an original action to honor a tribal court order with a filing fee or do some allow the notice of filing of foreign judgement with the small fee associated with that. Ma. Hermsen indicated when the tribe is filing a Rule 10 there is no filing fee.

Judy Nord shared the background and plan for the new State/Tribal Partnership Committee. The power point is attached. The Committee's overarching goal is to ensure [American Indian children are protected in their homes, removal is prevented so long as children are safe, families and tribes are preserved, and children remain connected to their families, communities, and](#)



State-Tribal  
Partnership Grant O  
[culture.](#)

5. Updates and Future Meetings:

Future topics listed above. The next meeting is tentatively set for June 21 at the [Dakota County Northern Service Center in West St. Paul.](#)