

MEETING SUMMARY

Tribal Court State Court Forum
January 22, 2016
Hennepin County Ridgedale Library

FORUM MEMBERS PRESENT

- Tribal Court:
 - Paul Day, Leech Lake Tribal Court
 - Christina DeSchampe, Grand Portage Tribal Court
 - John Jacobson, Shakopee Mdewakanton Sioux Tribal Court
 - Mary Ringhand, Red Lake Nation Tribal Court
 - Andrew Small, Lower Sioux Tribal Court (co-chair)
 - Megan Treuer, Bois Forte Tribal Court
- State Court:
 - Steve Askew, 10th Judicial District, Anoka County (retired)
 - David Lillehaug, Minnesota Supreme Court
 - Ann McKeig, 4th Judicial District, Hennepin County
 - Ann Offermann, 1st Judicial District, Scott County
 - Randy Slieter, 8th Judicial District, Renville County
 - John Smith, Minnesota Court of Appeals (co-chair)
 - Larry Stauber, Minnesota Court of Appeals (co-chair)
- Guests:
 - Liz Reppe, State Law Library
 - Peter Rademacher (Hogan Adams)
 - Lauren Dwyer, Law Clerk - Court of Appeals
- Forum Staff:
 - Judy Nord, Staff Attorney, State Court Administration

WELCOME AND OVERVIEW OF AGENDA

The co-chairs welcomed the attendees, provided an overview of the agenda, and solicited additional agenda topics (none were received).

APPROVAL OF MEETING SUMMARY

The October 2015 meeting summary was reviewed and approved without change.

Why Treaties Matter – Traveling Exhibit

Liz Reppe, State Law Librarian, described "[Why Treaties Matter](#)," a nationally-recognized, award-winning, traveling exhibit developed by the Minnesota Indian Affairs Council, the Minnesota Humanities Center, and the Smithsonian Institution's National Museum of the American Indian. The exhibit will be on display at the Minnesota State Law Library from March 15 through March 31.

Ms. Reppe asked whether the TCSC Forum would be interested in cohosting the exhibit, and the Forum members agreed to do so. She also solicited the names of potential presenters for the opening event. It was agreed that the event will feature a short presentation by Professor Colette Routel, Co-Director of the Indian Law Program at Mitchell Hamline School of Law, titled, "Finding the Indian Understanding of Treaties."

Proposed Amendments to Rule 10 of the General Rules of Practice

The Forum first began discussing proposed amendments to [Rule 10 of the General Rules of Practice](#) dealing with full faith and credit of tribal court orders in 2009. At that time, the proposed amendments were not accepted because the Supreme Court had implemented a moratorium on rules committee meetings. There also was concern that the proposed amendments were premature because of extra scrutiny of tribal court orders. Two years later, revisions were made and amendments were adopted in 2011.

Since then, Andrew Small and several other Forum members have worked on a revised version of the proposed amendments. The Forum members reviewed the proposed amendments, discussed various issues (including the following), and agreed upon additional changes:

- Should a filing fee be charged upon the filing of a tribal court order or judgment? Could a filing fee be waived? Agreed to bring the issue to Judicial Council so implement a policy waiving filing fees for tribal court orders and judgments.
- Mandatory eFiling and eService begins July 1, 2016. Must a tribal court order be efiled or can that be waived? Use of eFiling is waived for other tribal court filings, such as in CHIPS cases.
- Change language to state "including, but not limited to, the following acts:".
- Agreed not to include language about how to file court orders as attorneys know that information.
- Does the order need to be final and not on appeal to be enforceable? Under VAWA, orders are enforceable even when temporary and not finalized.
- Andrew Small and Peter Rademacher agreed to draft a revised version of the proposed amendments.
- Peter Rademacher agreed to draft a Petition to accompany the proposed amendments.
- Agreed to reach out to county attorneys and others to generate support for proposed amendments.
- Agreed to solicit resolution from tribes supporting proposed amendments.

Next Steps:

- Revise proposed amendments and draft petition: Andrew Small and Peter Rademacher
- Once proposed amendments are promulgated, submit to Judicial Council proposed policy waiving filing fees for tribal court orders and judgments.
- Solicit support for proposed amendments from Minnesota County Attorneys Association
- Solicit from all tribes a resolution supporting the proposed amendments.

Creation of a Tribal Court State Court Forum Website

Creation of a Forum website was again discussed. Judge McKeig agreed to send an email to Jeff Shorba, State Court Administrator, seeking approval to move forward with a page on the

Judicial Branch website. Justice Lillehaug agreed to inform Mr. Shorba of the Court's support for a website.

Among the purposes of a Forum website is to more broadly share information about the work of the Forum and enhance the tribal court state court relationship building process. Discussion about website content:

- List of Minnesota's 11 federally recognized tribes and links to their websites
- Members of the TCSC Forum
- TCSC Forum meeting agendas and meeting summaries (if agendas are posted prior to meetings, members of the public may see them as "invitations" to attend Forum meetings)
- History of TCSC Forum
- Upcoming trainings and conferences
- Statutes, rules, policies, case law, and agreements (e.g., Tribal State Agreement)
- Links to other state and federal resources (e.g., ICWA, BIA Guidelines, Ombudsperson for Indian Families, etc.)

Next Steps:

- Judge McKeig will send an email to Jeff Shorba seeking approval to use the Judicial Branch website.
- Staff will use today's discussion to draft proposed content of website and share at next meeting.

Status of MNCIS access for tribal courts through "New MGA" User Agreements

The Minnesota Judicial Branch offers "[New Minnesota Government Access](#)" ("New MGA") accounts to Minnesota Government Agencies. A New MGA account allows a Government Agency to access appropriate electronic court records and documents stored in the Minnesota Court Information System (MNCIS) for cases in Minnesota district courts. New MGA is an Internet browser-based application that requires no installation. Users access New MGA through individual login accounts.

Judge McKeig reported that the New MGA process is being tried out by White Earth. Chief Judge Blaeser signed the New MGA agreement, found on the Judicial Branch website. Hopefully in the coming months other tribal courts will take advantage of this opportunity to electronically access state court case records.

Judicial Education: Inclusion of state court / tribal court relationship building in New Judge Orientation and Bridging the Gap

Judge McKeig reported that ICWA education will now be part of New Judge Orientation and Bridging the Gap (which takes place the day before the start of the State Court Annual Judges Conference).

Status of TCSC Forum Operational Plan items on FY16-17 Minnesota Judicial Branch Strategic Plan

Following is the information listed in the current version of the Judicial Branch Strategic Plan for FY2016-2017. It was agreed that “committee” should be changed to “Forum” and no. 2 should be changed to “discuss how to expand joint jurisdiction and collaborative efforts.” No other changes were offered.

Priority 3C: Promote communication and collaboration between the Minnesota Judicial Branch and Minnesota Tribal Courts.

Initiative	FY16 Tasks
1. Continue to foster relationships between state courts and tribal courts through education, training, meetings and ride-alongs.	The State Court/Tribal Court Committee will: <ol style="list-style-type: none"> 1. Continue to improve Indian Law Education Programs using new resources. 2. Expand joint jurisdiction and collaborative efforts. 3. Participate in efforts to reduce disparity of Native Americans in criminal justice system such as the Cass County/Leech Lake MacArthur Foundation grant application.

Identification of upcoming educational opportunities (e.g., 2016 Annual Judges Conference, bench meetings)

The following upcoming educational opportunities were identified:

- 2016 Annual Judges Conference
- District bench meetings

Next Steps:

- Judge Stauber will send an email to Susan Love asking for a “place holder” for the AJC.

Update: Visitations and Ride-A-Longs

- Judge Slieter reported that the chief judges of each district previously sent an email to judges to encouraging tribal court ride-alongs.
- Judge Small reported that ride-alongs and visitations are challenging due to busy schedules.
- Judge Offermann reported that she and Judge Buffalo are working on a date for a ride-along.
- Judges Looby, Vandelist, and Bibus are also interested in doing ride-alongs.

Update: Development of Minnesota Judicial Branch ICWA training curriculum

Judge McKeig reported that the Minnesota Judicial Branch (through the Children’s Justice Initiative (CJI)) has created an ICWA Curriculum Workgroup designed to “Minnesotaize” the national ICWA curriculum drafted by the National Center for Tribes and the National Council of Juvenile and Family Court Judges. The curriculum was pilot tested during a training held January 14 at Grand Casino Hinckley. The 76 attendees included judges, attorneys, social

workers, GALs, tribal representatives, and others from Pine, Isanti, Chisago, Kanabec, and Mille Lacs Counties. The trainers were Judge Korey Wahwassuck, Itasca County; Judge Ann McKeig, Hennepin County; Jessica Ryan, Tribal Attorney, BlueDog, Paulson & Small; Shannon Smith, Executive Director, Indian Child Welfare Act Law Center; and Joe Nayquonabe, Tribal Elder, Mille Lacs Band of Ojibwe. All materials are posted on the [Children's Justice Initiative website](#). After receiving feedback from the attendees, the curriculum will be revised and additional regional trainings will be offered statewide.

The evening prior to the training, the TCSC Forum sponsored a dinner, which was well-attended by 34 Tribal Court and State Court judges.

Updates

- [NICWA Conference](#): April 3-6, 2016 - 34th Annual "Protecting Our Children" National American Indian Conference on Child Abuse and Neglect, St. Paul
- [Goldwater Institute lawsuit seeks to overturn ICWA](#) (1-4-16 Star Tribune article)
- Judge Askew reported that the Judicial Council is discussing prioritizing appointments of guardians ad litem.

Future 2016 meetings

- Friday April 22 – 10:00 a.m. – Tribal court host – location TBD
- Friday July 22 – 10:00 a.m. – Tribal court host – Northern Lights Casino
- Friday October 21 – 10:00 a.m. – State Court hosts – location TBD

Respectfully submitted,

Judith Nord, Staff Attorney, State Court Administration