



GRAND PORTAGE RESERVATION TRIBAL COUNCIL

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To: Peter Rademacher

From: Judge Christina Deschamps

Comments: Letter support for Rule 10

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P.O. Box 428 Grand Portage, Minnesota 55605 (218) 475-2277 or 475-2239 Fax: (218) 475-2284



March 17, 2017

Michael Johnson,
Senior Legal Counsel
State Court Administration
125H Minnesota Judicial Center
25 Rev. Dr. Martin Luther King, Jr. Blvd.
Saint Paul, MN 55155
LegalCounselRules@courts.state.mn.us

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

Mr. Johnson: On behalf of the Grand Portage Tribal Court, this letter is submitted in full support of the petition to amend Rule 10 of the Minnesota General Rules of Practice for the District Courts. We believe Rule 10 should be revisited for the following 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. 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 our judges continue to practice law outside of tribal courts' jurisdictions, allowing the judges to stay up-to-date on technologies and the law, making tribal courtrooms more effective and efficient forums for the administration of justice. In addition, tribal 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 tribal judges. In addition, tribal judges act with significant independence from other branches of tribal government thus empowering the judges to make independent, unbiased decisions that accord with principles of law and equity. Finally, tribal court 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, orders and judgments deserve greater deference than current Rule 10 provides. Proposed Rule 10 does exactly that.

Second, there is a need for a more robust rule for recognition of tribal court orders and judgments to ensure that tribal courts can administer justice effectively. Without such a rule and the greater certainty that it provides, tribal courts often cannot safeguard the welfare of the children, vulnerable adults, families, and other civil and criminal litigants that come before them. Unfortunately, current Rule 10 provides far too much deference to state court judges to provide the type of certainty that is needed. Even if assumed 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 tribal court 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, for all the reasons expressed above the Grand Portage Tribal Court respectfully request the amendment to Rule 10. Thank you for your time and attention.

Sincerely,

Sign Christina Deschampe
Print Christina Deschampe

Grand Portage Tribal Court