

May 26, 2017

VIA EMAIL TO: [LegalCounselRules@courts.state.mn.us](mailto:LegalCounselRules@courts.state.mn.us)

Michael B. Johnson, Senior Legal Counsel  
State Court Administration  
125H Minnesota Judicial Center  
25 Rev. Dr. Martin Luther King, Jr. Blvd.  
St. Paul, MN 55155

RE: Responses to Supplemental Questions from the Minnesota Supreme Court Advisory Committee on General Rules of Practice ("Committee") on the Petition of the Minnesota Tribal Court/State Court Forum to Amend Rule 10

Dear Mr. Johnson and Members of the Committee,

As an enrolled Band member for both the White Earth Band of Chippewa Indians and the Minnesota Chippewa Tribe, I provided testimony on March 31, 2017 in opposition of the Petition of the Minnesota Tribal Court/State Court Forum to Amend Rule 10. This statement supplements that testimony.

**Response to Honorable Justice Megan Treuer, Bois Forte Band of Chippewa Indians**

On April 24, 2017, the Honorable Justice Megan Treuer, Bois Forte Band of Chippewa Indians, provided the Rules Committee with supplemental testimony. I wish to address her clarifications with counterpoints that the committee should consider:

- **MCT Resolution No. 2-80:** Honorable Justice Treuer stated that each Band is independent of the other and that Resolution No. 2-80, "expressly recognizes the right of each Band to operate an independent court...[and] should evaluate the testimony and submissions provided by each tribe, its officers, and its members independently."
- **Counterpoint:** Resolution No. 2-80 established Tribal Courts through Ordinance, but Article 13, Section 1 of the MCT Constitution, calls for a Referendum to occur after resolutions are passed by the Tribal Executive Committee (TEC). In other words, the MCT has yet to hold a

Referendum for Resolution No. 2-80, which created Tribal Courts. As I stated in March 31, 2017, the TEC will attempt to address this issue through a Constitutional Convention. The order of business should proceed as follows: the MCT legitimizes its courts through a Constitutional Convention, followed by a subsequent Referendum, followed by Minnesota Supreme Court considerations.

- **Constitutional Relevancy:** Honorable Treuer stated, “neither a referendum nor a convention on the MCT’s Constitution has anything to do with the Committee’s decision to adopt the proposed rule...Certainly, nothing in the MCT Constitution—or that of any other tribe—should have a bearing on the Committee’s deliberation and ultimate recommendation.”
- **Counterpoint:** How does the Honorable Justice Treuer justify these claims? As a citizen of the United States, are my rights not protected Constitutionally—Tribally or Federally? How can the Honorable justice deny me the same rights and protections afforded to other citizens? How can resolutions supersede federal laws and Constitutional protections?

Everything in the MCT Constitution should have a bearing on the Committee’s deliberation and ultimate recommendation. In no uncertain terms, the Committee witnesses a power struggle between executive powers and judicial powers—established through ordinance—within the MCT. Yet, the judiciary is still controlled by executive powers. A mountain of resolutions and debate could not overcome this predicament. We have no separation of powers. If a separation of powers exists, then I respectfully request the Honorable Justice Treuer to produce evidence that supports this claim constitutionally. As I stated in previous testimony, the Honorable Justice Robert Blaeser writes laws and interprets them at his pleasure, which is likely the case in Bois Forte and Leech Lake as well.

More importantly, from where does the Honorable Justice Treuer derive her authority to speak on this matter without a clear mandate from the TEC or its respective

Band members? Her position exists through Ordinance alone, and is not mentioned once in the MCT Constitution—no judicial power exists. She says the MCT Constitution doesn't matter, I say it does.

As MCT Resolutions No. 1-80 and 2-80 indicate, the TEC is the sole interpreter of the MCT Constitution. The Honorable Justice Treuer's interpretations and recommendations are frivolous without the TEC's support.

### **Conclusion**

I respectfully, and forcefully, urge the Committee to recommend the Minnesota Supreme Court delay the Petition and temporarily halt the proposed Rule 10 as it will significantly decrease access to justice for the people who appear before Tribal Courts wherever their location.

Humbly,

*Leonard Roy*

Leonard Roy