

Dear Committee Members,

As you deliberate about Rule 10, please consider these remarks. Of greatest significance in the Forum’s proposal are two key amendments: including a presumption in favor of recognizing tribal court orders and judgments and removing the “any other factors” provision from the list of comity considerations. The Forum has exhaustively explained the importance and benefits of these amendments. And the legal community—including the Minnesota District Judges Association (and many District Judges), the Minnesota County Attorneys Association, and the Minnesota State Bar Association—has shown overwhelming support for them.

At your June meeting, the Committee voted not to support the Forum version *as written*. Presumably, that meant that the Committee supported adding language to guide courts and practitioners in the procedure to be used to obtain enforcement of a tribal court order in state court. While the Reporter has added those procedures in his proposal, he has removed the heart of the Forum’s proposal—the presumption in favor of recognition of tribal court orders and judgments and removal of the “any other factors” provision from the list of comity considerations. In short, the Reporter’s proposal does not address the concerns that led to the Forum’s Petition.

While the Forum does not contest the proposed procedures to be followed in seeking enforcement of a tribal court order, the Forum respectfully requests that the Committee support the Forum’s proposal for the criteria to be used by the Court in determining whether the tribal court order should be enforced. As we have observed the Committee’s deliberations, we believe that a majority of Committee members support the Forum’s substantive proposals.

The Reporter’s proposal goes far beyond your request that he add a provision regarding notice and hearings. The Reporter’s proposal removes all of the key amendments in the Forum’s proposal, and it incorporates an entirely new set of provisions for tribal-court commitment orders.¹ The Forum has no explanation for these drastic alterations, and the record does not support them.

The Forum requests that, aside from the additions concerning procedures for enforcing a tribal court order, you decline the Reporter’s proposal, and restore the Forum’s substantive amendments to the proposed rule.

Thank you for considering these remarks. Please let us know if we can be of any further assistance to you.

Sincerely,

Petitioners

¹ The Reporter’s new proposal incorporates and directs courts and parties to follow Minn. Stat. § 253B.212. But this statute does not govern state-court proceedings. It enables tribes to contract with U.S. Indian Health Services and the Minnesota Commissioner of Human Services to obtain services for vulnerable adults without first engaging in state-court proceedings.