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## SUPREME COURT OF WISCONSIN

No. 07-11 and 07-11A

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In the matter of review of Wis. Stat. § 801.54,  
discretionary transfer of cases to tribal court

Testimony of  
Wisconsin Tribal  
Judges Association

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Honorable Chief Justice and Members of the Supreme Court of Wisconsin, we thank you for this opportunity to express our views at this review hearing on Wis. Stat. §801.54. This Rule was created by the Court on July 31, 2008 and amended on July 1, 2009. The Order enacting this Rule on July 31, 2008 stated that a review of its operation would happen in two years. It is that scheduled review that brings us here today.

We begin by thanking the Court for allowing our relatively late submission of this testimony. The Wisconsin Tribal Judge's Association (WTJA) had its Annual Meeting on October 8, 2010 and we wanted to compare notes at that time in preparation for submitting this testimony as contemporaneously as possible in the event relevant information emerged on the efficacy of §801.54. We are pleased to report nothing unusual emerged as we assessed the usage of the Rule.

Our informal survey indicates sporadic usage of §801.54, with some tribal courts indicating a few cases over the past two years, and some tribal courts indicating none. The one exception to this being the Oneida judicial system which, in conjunction with Brown County, has made ample use of §801.54 and is being described in some detail in a separate report to this Court.

This idea of transferring cases from state to tribal court came out of the State-Tribal Judges Forum and the Wisconsin Tribal Judges Association. The Forum, in particular, developed the concept and in so doing it was generally understood from the beginning that this Rule would not see a lot of usage. Rather, it was conceived as a handy and practical tool to use where appropriate for the convenience of the parties and judicial economy.

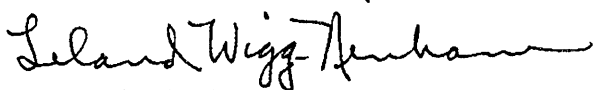
In that regard, §801.54 has fulfilled our expectations, and when it has been appropriate to use this Rule it has avoided the formality of the Teague Protocol process, which was the hope of both the Forum and WTJA.

As this Rule gains more usage over time one of the key factors will be the familiarity of the court clerks (perhaps particularly the tribal court clerks) with the procedure, the criteria and the forms. Toward that end, on October 6<sup>th</sup> of this year (just last week) the clerks of WTJA's member courts met at the Ho-Chunk Nation Court for a training that specifically included §801.54, how it works and the forms that parties may use to initiate a transfer request.

It is our experience that Wis. Stat. §801.54, as amended, is working as it was intended, with the valuable benefit of improving tribal and state court communication and cooperation. It has value for the parties and the courts when it is used. WTJA would recommend the continuation of this Rule as is for the foreseeable future, and thanks this Court for its consideration.

Respectfully submitted,

October 8, 2010



Hon. Leland Wigg-Ninham  
President, Wisconsin Tribal Judges Association