



# Office of the Tribal Attorney

## *St. Croix Chippewa Indians of Wisconsin*

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January 9, 2018

Office of the Clerk of Supreme Court of Wisconsin  
Attention: Deputy Clerk-Rules  
P.O. Box 1688  
Madison, WI 53701-1688  
clerk@wicourts.gov/ carrie.janto@wicourts.gov

RE: Rule Petition 17-09, In the matter of the petition for amendment to SCR 10.03(4)(b)2 relating to Pro Hac Vice Applications

The St. Croix Chippewa Indians of Wisconsin recognizes the importance of the work Wisconsin Access to Justice Commission (WATJC) is doing to serve our low-income communities in the pursuit of justice for all. We support the requested rule change by Petitioner 17-09 to increase the fee admission for pro hac vice under SCR 10.03 (4)(b)2 from \$250.00 to \$300.00, and to allocate the \$50.00 increase to WATJC, with the following caveat.

Any increase in the fee admission for pro hac vice under under SCR 10.03 (4)(b)2 is a direct increase in the costs federally recognized tribes incur when attempting to exercise their rights under the Indian Child Welfare Act and its counterpart the Wisconsin Indian Child Welfare Act. To that end, we further write to support the Menominee Indian Tribe of Wisconsin's request that the rule change also include an exemption to the fee admission for pro hac vice under SCR 10.03 (4)(b)2 for nonresident ICWA. We note that there is already an exemption for nonresident military counsel (*See* SCR, 10.03(4)(c)) and request that the exemption be expanded to include nonresident counsel in WICWA cases. To do otherwise would result in an undue burden on Tribes and their already limited resources.

The St. Croix Chippewa Indians of Wisconsin presents the following language as appropriate to ensure tribes are effectively represented within the state of Wisconsin.

A court in this state shall allow a nonresident attorney to appear and participate in any Indian child custody proceeding pursuant to the Indian Child Welfare Act (state and federal), while representing a tribe, without being in association with an active member of the state bar of Wisconsin and without being subject to any application fees required by this rule.

We note that many other states have taken this step to ensure Tribes do not face unnecessarily barriers to exercising the rights afforded by ICWA. Oregon and Michigan both have *pro hac vice* waivers for attorneys in ICWA cases. See OR. UNIFORM TR. CT. R. 3.170; MI. CT. R. 8.126. Nebraska likewise addresses this issue, but instead their tribal protections are found within state statute. Neb. Rev. Stat. § 43-1504(3)(declaring that “[t]he Indian child’s tribe or tribes and their counsel are not required to associate with local counsel or pay a fee to appear pro hac vice in a child custody proceeding under the Nebraska Indian Child Welfare Act”). Currently, Washington has their rule amendment published for comment through April of 2018. We respectively ask that Wisconsin add its name to the growing list of states promoting equal access to justice for tribes in Indian child custody proceedings within Wisconsin’s borders.

Thank you for your time and consideration of this petition for rule change and the request for amendment. Any questions can be directed by email or to any of the contact information found below.

Sincerely,

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cc:

Petitioner James A. Gramling, Jr., WATJC President  
Office of the Clerk of the Supreme Court by email and mail