Stockbridge-Munsee Community
BAND OF MOHICAN INDIANS

LEGAL OFFICE

September 30, 2015

RECEIVED
OCT 02 2015
CLERK OF SUPREME COURT
OF WISCONSIN

Clerk of Supreme Court
Attention: Deputy Clerk-Rules
P.O. Box 1688
Madison, WI 53703-1688

RE: Stockbridge-Munsee Community Letter in Support of Wisconsin Statute § 801.54

Dear Clerk of Supreme Court:

I am the President of the Stockbridge-Munsee Community ("Tribe"), a federally recognized Indian Tribe located in northeast Wisconsin and I write today to advance the Tribe's full support for Wisconsin Statute § 801.54. To provide some context for the Tribe's position on this matter, it should be noted that the Tribe has a fully functional Tribal Court which exercises civil adjudicatory jurisdiction. The Tribal Court's rules and procedures are easily accessible on the Tribe's website. The Tribe also operates a child support agency under Title IV-D of the Social Security Act, and the Tribe's Child Support Ordinance is on the Tribe's website as well.

The Tribe has supported Wisconsin Statute § 801.54 since its inception. To date, eighty-eight child support cases have been transferred from the Circuit Court to the Tribal Court. Quite certainly, these transfers would not have occurred but for Wis. Stat. § 801.54. As you know, prior to the creation of Wis. Stat. § 801.54, Tribal Courts and Circuit Courts did not have a consistent, statewide process to transfer cases in instances of concurrent jurisdiction. Thus, the transfer process was often burdensome, time consuming and did not further judicial economy or advance efficient access to the courts by litigants.

Wis. Stat. § 801.54 on the other hand, provides a workable solution in instances when Tribal Courts and Circuit Courts have concurrent jurisdiction. It provides clear guidance for the Circuit Courts to utilize their discretion to transfer cases to Tribal Courts. Wis. Stat. § 801.54 also includes several important safeguards to ensure that case transfers are done in the proper manner, namely: 1) requirement that the Circuit Court find that concurrent jurisdiction exists prior to any transfer, 2) inclusion of a list of factors for the Circuit Court to consider prior to ordering a transfer, 3) confirmation of a litigant's right to appeal a transfer, and 4) stay of the Circuit Court case for five years.

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The Tribe believes that the Wisconsin Supreme Court was extraordinarily wise to give Circuit Courts in Wisconsin such guidance on these matters through Wis. Stat. §801.54. Absent such a paradigm, the Circuit Court would be in a difficult position to expeditiously determine whether a case should be transferred from the Circuit Court to the Tribal Court. Wis. Stat. § 801.54 works and should be maintained. It provides Circuit Courts with a framework to transfer civil cases and alleviates the long and complicated process to transfer cases which was in place prior to its implementation.

Such a practical method is needed because it is clear that Tribes in Wisconsin possess civil adjudicatory authority. Wis. Stat. § 801.54 neither creates nor dispossesses this authority, nor can it. The civil adjudicatory authority of Tribes will not go away if Wis. Stat. § 801.54 is rescinded. Therefore, it is crucial that Wis. Stat. § 801.54 be maintained to continue the workable process by which civil cases may be transferred from Circuit Courts to Tribal Courts, when those courts possess concurrent jurisdiction.

Thank for taking the time to consider the Tribe's views on this matter. The Tribe intends to have a representative provide oral testimony at the Court's hearing on November 10, 2015 to provide the Supreme Court, and we will provide the name of the representative prior to the deadline of October 16, 2015.

Respectfully yours,

Wallace A. Miller
President

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