



Supreme Court of Wisconsin

OFFICE OF COURT COMMISSIONERS

110 E. MAIN STREET, SUITE 440

MADISON, WISCONSIN 53703

Nancy A. Kopp
Julie A. Rich
David W. Runke
Mark A. Neuser
Commissioners

Telephone (608) 266-7442

March 17, 2015

To: Interested Parties – See Attached List

Re: Rule Petition 07-11C: In the matter of the review of the discretionary transfer of cases to tribal court; and

**Rule Petition 14-02: Petition to Amend/Dissolve Wisconsin Statute § 801.54
Discretionary Transfer of Civil Actions to Tribal Court**

Greetings:

I write to advise you of the status of two separate administrative rule matters that both relate to Wis. Stat. § 801.54, governing the discretionary transfer of cases to tribal court. You received this letter because you may be a petitioner; you may have provided the court with input on one of these petitions; or you may have expressed interest in this matter.

On July 31, 2008, the Wisconsin Supreme Court created Wis. Stat. § 801.54. *See* S. Ct. Order 07-11, 2008 WI 114 (iss. Jul. 31, 2008, eff. Jan. 1, 2009) (Roggensack, J., dissenting).¹ On July 1, 2009, this court granted the request of the Wisconsin Department of Children and Families (WDCF) and amended Wis. Stat. § 801.54(1) to facilitate transfer of post-judgment child support cases to tribes under certain circumstances. *See* S. Ct. Order 07-11A, 2009 WI 63 (Jul. 1, 2009) (Roggensack, J., dissenting). On October 18, 2010, the court conducted a public hearing as part of a scheduled review of Wis. Stat. § 801.54. The majority of the court determined that the rule was operating as expected and no action was required. *See* S. Ct. Order 07-11B, 2011 WI 53 (Jul. 1, 2011) (Roggensack, J., dissenting). The court voted to review the rule again in five years. *Id.*

On July 24, 2014, six individuals who are members of the Oneida Tribe of Indians of Wisconsin, namely, Nona Danforth, Candace Danforth, Kerry Danforth, Linda S. Dallas, Cathy L. Metoxen, and Amanda Gerondale,² filed Rule Petition 14-02, asking the court to repeal Wis. Stat.

¹ The court orders and other filings in these rules matters are available on the web site of the Wisconsin Supreme Court at: <http://wicourts.gov/scrules/orders.htm>.

² On November 14, 2014, petitioner Amanda Gerondale filed a letter asking the court to dismiss her from Rule Petition 14-02. The court granted her request and directed the Clerk of Supreme Court to amend the petition caption accordingly.

§ 801.54. The petitioners state broad objections to Wis. Stat. § 801.54 and assert that their efforts to resolve their concerns with Oneida Tribal leadership were unsuccessful.

The court discussed Rule Petition 14-02 at an open administrative rules conference on November 17, 2014. The court noted the importance of obtaining input from other entities, including other Wisconsin tribes, before considering the request to repeal Wis. Stat. § 801.54.

In the fall of 2015, the court will conduct a public hearing on the operation of Wis. Stat. § 801.54. At that time, it will also conduct a public hearing on Rule Petition 14-02. The two rule petitions remain separate matters. However, they will be considered on the same day, at a consolidated public hearing.

Public Hearing Order and Letter to Interested Persons

An order formally scheduling the consolidated public hearing will issue after the calendar for the court's 2015-16 term is determined, likely by August 1, 2015. After the public hearing is scheduled, a letter to interested persons will be sent, inviting written comments and providing deadlines for written comments. The court prefers written comments be submitted after a hearing date is established. At that time, any person interested in these matters may comment on them.

With respect to Rule Matter 07-11C (the comprehensive review of Wis. Stat. § 801.54), circuit courts, tribal courts, litigants, attorneys, and others affected by this rule will be asked to advise the court, in writing, of their experience with this rule. With respect to Rule Petition 14-02, the court respectfully invites responses from appropriate leadership of the Oneida General Tribal Council, the Oneida Business Committee, and the Oneida Tribal Judicial System.

All persons filing written comment must indicate if they are commenting on Rule Matter 07-11C (the scheduled comprehensive review), Rule Petition 14-02 (the request of five Oneida Tribal members to repeal Wis. Stat. § 801.54), or both. If a filing does not identify which matter it addresses, the court will presume it pertains to the comprehensive review, 07-11C, and the document will be placed in that court file. You are reminded that written documents received in rule matters (including emails) are typically posted on the court rules website. The court has discretion to redact or decline to post documents, such as those containing confidential information or offensive language.

Consolidated Public Hearing

The court invites the Wisconsin State-Tribal Justice Forum (Forum), as the original proponent of the discretionary transfer rule, to present the court with an update of the operation of Wis. Stat. § 801.54. The Forum will make the first presentation to the court at the consolidated public hearing. The Forum may designate who will make this presentation to the court.

Next, the petitioners in Rule Petition 14-02 (seeking repeal of the rule) will address the court. The 14-02 petitioners may designate who will present their petition to the court.

The court invites the WDCF to present the court with an update of the operation of the rule in the context of its role facilitating the transfer of child support cases to Tribal IV-D programs.

After these three presentations, the court will invite public comment on both rule matters. The time allotted for public comment will be limited to three minutes per person.

If you have specific questions or other comments regarding this matter, please contact me by mail at Post Office Box 1688, Madison, WI 53701-1688, by telephone at (608) 261-6642, or by email at *julie.rich@wicourts.gov*.

Very truly yours,

/s/

Julie Anne Rich
Supreme Court Commissioner

List of Interested Parties

Nona Danforth, on behalf of rule 14-02 petitioners
Director of State Courts
Wisconsin State-Tribal Justice Forum, Attention: Hon. Chip Nielsen, chair
Wisconsin State-Tribal Justice Forum members
Oneida Tribal Judicial System, Attention: Gerald L. Hill, Chief Judicial Officer
Oneida Tribal Judicial System, Attention: Denice Beans, Chief Trial Court Judicial Officer
Oneida Business Committee, Attention: Cristina Danforth, Chairwoman
Committee of Chief Judges, Attention: Honorable Jeffrey Kremers, Chief Judge
Great Lakes Indian Law Center, Attention: Richart Monette, Director
State Bar of Wisconsin, Attention: George Brown, Executive Director
State Bar of Wisconsin, Attention: Lisa Roys, Public Affairs Director
State Bar of Wisconsin, Attention: Robert Gagan, President
State Bar of Wisconsin Indian Law Section, Attention: Carolyn Grzelak
Village of Hobart, Attention: Elaine Willman, Director of Tribal Affairs
Wisconsin Department of Children and Families, Attention: Connie Chesnik
Wisconsin Department of Justice, Attention: Brad D. Schimel, Attorney General
Wisconsin Judicare, Inc., Attention: Rosemary Elbert
Wisconsin Legislative Council Special Committee on State-Tribal Relations,
Attention: Rep. Jeffrey Mursau, Chair
Wisconsin Tribal Judges Association, Attention: Amanda WhiteEagle, President
Hon. Robert Collins, Family Court Judge, Oneida Family Court
Hon. James Mohr, Chief Tribal Judge, Lac Courte Oreilles Tribal Court
Hon. Gerald Ptacek, Circuit Court Judge, Racine County
Hon. Gary Sherman, Court of Appeals
Hon. Eugene L. White-Fish, Chief Judge, Forest County Potawatomi Tribal Court
Hon. Gerald Wright, Circuit Court Judge, Sawyer County
Huma Ahsan, Attorney, Madison Immigration Law LLC
Kenneth J. Artis, Attorney, Artis Law Office
Thomas J. Basting, Sr., Attorney, Midwest Mediation LLC
Paul Stenzel, Attorney, Stenzel Law Office
John S. Swimmer, Attorney, Swimmer Law Offices LLC
Amanda J. Gerondale