



Washington State Office of Civil Legal Aid

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James A. Bamberger, Director
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January 3, 2018

Hon. Charles Johnson, Chair
Washington State Supreme Court Rules Committee
P.O. Box 40929
Olympia, WA 98504-1170

Dear Justice Johnson and Rules Committee Members:

The undersigned are the Director and Children's Representation Program Manager of the Washington State Office of Civil Legal Aid (OCLA). OCLA funds and oversees the state's civil legal aid system. In addition, we administer and oversee a contract attorney program that provides legal representation for children involved in dependency proceedings. We are writing in support of the proposed change to APR 8 allowing a pro hac vice waiver for tribal attorneys so that they may represent tribes from outside of Washington State in Indian Child Welfare Act (ICWA) cases in Washington State courts.

Under the federal and state Indian Child Welfare Acts, tribes have an absolute right to appear and participate in cases that involve their Indian children. Because tribal children are all over the country and tribes intervene when a tribal child is involved, tribal attorneys are forced to appear in states where they are not licensed. While APR 8 (the pro hac vice rule) is offered as solution, it has significant limitations, including the right of the State Bar to deny the application, and the high cost and requirements of local co-counsel can make appearing in a timely manner for a child welfare case nearly impossible. It is in the best interests of Indian children involved in dependency matters and other family related cases subject to ICWA to remove barriers to tribal involvement in these cases. Removal of these barriers would also be consistent with the spirit of the Washington State Centennial Accord which affirms the government to government relationship between Indian tribes and the State of Washington.

OCLA funded attorneys often represent clients in cases that involve children with links to recognized Indian tribes located within and without the state of Washington. The practice is specialized and it is important that tribes be able to timely assert and defend their interests without having to navigate the cumbersome barriers established by APR 8.

Re: Amendments to APR 8

1/3/2018

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We are advised that both Oregon and Michigan recently adopted waivers for pro hac vice requirements for attorneys participating in ICWA cases to address these concerns and that the State of Nevada has codified its waiver for ICWA representatives. Having reviewed the proposed amendments carefully we believe they serve the public interest, are consistent with the spirit of the Washington State and federal Indian Child Welfare Acts and should be adopted.

Sincerely,

OFFICE OF CIVIL LEGAL AID

Jim Bamberger

James A. Bamberger
Director

Jill Malat

Jill A. Malat
Children's Representation Program Manager

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Wednesday, January 3, 2018 10:18 AM
To: Tracy, Mary
Subject: FW: Proposed Changes to APR 8
Attachments: APR 8 Letter of Support S Ct Rules Committee 1-3-18.pdf

More....

ATTENTION COURT FILERS: The Supreme Court and the Court of Appeals now have a web portal to use for filing documents. Beginning July 3, 2017, all electronic filing of documents in the Supreme Court should be through the web portal. We will accept your attached document for filing, but you should immediately follow the directions below to register for and begin using the appellate courts web portal for all future filings.

Here is a link to the website where you can register to use the web portal: <https://ac.courts.wa.gov/>
A help page for the site is at: <https://ac.courts.wa.gov/index.cfm?fa=home.showPage&page=portalHelp>
Registration FAQs: <https://ac.courts.wa.gov/content/help/registrationFAQs.pdf>
Registration for and use of the web portal is free and allows you to file in any of the divisions of the Court of Appeals as well as the Supreme Court. The portal will automatically serve other parties who have an e-mail address listed for the case. In addition, you will receive an automated message confirming that your filing was received.

From: Bamberger, James (OCLA) [mailto:jim.bamberger@ocla.wa.gov]
Sent: Wednesday, January 3, 2018 10:18 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Kristy Healing <khealing@stillaguamish.com>; Malat, Jill (OCLA) <jill.malat@ocla.wa.gov>; Bamberger, James (OCLA) <jim.bamberger@ocla.wa.gov>
Subject: Proposed Changes to APR 8

Greetings:

Please find attached the comments of the Office of Civil Legal Aid in relation to the proposed amendments to APR 8 that were published for public comment in December 2017.

Thank you.

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