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Of Counsel

January 18, 2017

Supreme Court of Washington State

Rule Making c/o Shannon Hinchcliffe

Office of Legal Services and Appellate Court Support Administrative Office of the Courts

P.O. Box 41174

Olympia, WA 98504-1170

Dear Supreme Court Justices:

I am the tribal attorney for the Samish Indian Nation and Hoh Indian Tribe, and also advise the Quileute Tribe on ICWA matters. I am writing in support of the proposed change to APR 8 allowing a pro hac vice waiver for attorneys representing tribes from outside of Washington State in ICWA cases within Washington State.

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 is offered as solution, it has significant limitations, including the right of the state 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. Removing barriers to tribal involvement in these cases in which federal and state law recognize tribal involvement as a matter of right is in the best interests of our State's children because in dependency matters, time is of the essence.

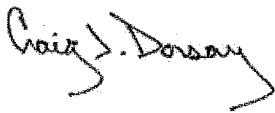
To protect Indian children's best interests, tribes and their attorneys must be able to intervene as a matter of right and be protected from unauthorized practice of law charges. Both Oregon and Michigan recently adopted waivers for pro hac vice requirements for attorneys participating in ICWA cases to address the concerns. The State of Nevada has codified its waiver for ICWA representatives.

I have practiced nationally under the ICWA since it became law in early 1979 and have handled over 500 cases in at least 24 different states. The most difficult aspect of advocating on behalf of tribes under the ICWA is being able to practice in the State where the child is located. It is difficult and expensive for a tribe to appear in a different state, and the delay caused by finding competent local counsel and complying with pro hac vice requirements often leads to additional complications in the ongoing proceeding, for example, increased bonding of an Indian child with non-Indian caretakers before the tribe can submit alternative preferential placements to the court. In addition, local counsel often knows little or nothing of the ICWA and is an unnecessary additional expense. While knowledge of local practice requirements is of course important, those requirements can readily be ascertained, while if the tribe's lawyer cannot appear, the court is

deprived of critical information about the tribe, the tribe's position, alternative preferential placements, and important information and briefing about the ICWA and its requirements. The balance on this dilemma clearly tips in favor of providing additional expertise and information to the court to allow the court to comply with the ICWA, and therefore to protect the best interests of the Indian child.

I support the proposed change to APR 8. Please let me know if you have any further questions. I would be glad to appear before the Court should you require additional information.

Sincerely,

A handwritten signature in cursive script that reads "Craig J. Dorsay". The signature is written in black ink and is positioned above the typed name.

Craig J. Dorsay