

**RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Authorizing Office of Attorney General to Represent the Nation in Coordination with
the Intertribal Council of Arizona and its Attorneys on the Preparation and Submission
Of an *Amicus Curiae* Brief in a Case Involving the Indian Child Welfare Act)**

RESOLUTION NO. 13-077

1 **WHEREAS, the Constitution of the Tohono O'odham Nation was ordained and established by the**
2 **Tohono O'odham in part "to promote the rights, education and welfare of the present**
3 **and future generations of our people" (Constitution of the Tohono O'odham Nation,**
4 **Preamble); and**

5 **WHEREAS, the Legislative Council is vested with the power to "exercise the inherent powers of the**
6 **Tohono O'odham Nation by providing laws, ordinances or resolutions...to promote,**
7 **protect and provide for public health, peace, morals, education and general welfare**
8 **of the Tohono O'odham Nation and its members" (Constitution of the Tohono O'odham**
9 **Nation, Article VI, Section 1(c)(2)); and**

10 **WHEREAS, the Indian Child Welfare Act of 1978, Public Law 95-608, 25 U.S.C. § 1901 *et seq.* ("ICWA")**
11 **was enacted to:**

12 **"protect the best interests of Indian children and to promote the stability and**
13 **security of Indian tribes and families by the establishment of minimum**
14 **Federal standards for the removal of Indian children from their families and**
15 **the placement of such children in foster or adoptive homes which will reflect**
16 **the unique values of Indian culture..."**

17 **25 U.S.C. § 1902; and**

18 **WHEREAS, among other things, ICWA provides for the exercise of exclusive tribal jurisdiction for**
19 **certain cases involving children that are domiciled within Indian reservations, 25**
20 **U.S.C. § 1911(a); concurrent jurisdiction by tribes and states for certain cases involving**
21 **children that are domiciled off of Indian reservations, 25 U.S.C. § 1911(b); for the**
22 **provision of written notice to tribes in certain cases arising in state courts, 25 U.S.C.**
23 **§ 1912(a); for the intervention and participation of tribes in certain cases arising in**
24 **state courts, 25 U.S.C. § 1911(c); and for safeguards to ensure knowing and voluntary**
25 **relinquishment of Indian children by their parents 25 U.S.C. § 1913; and**

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1 **WHEREAS, by Resolution No. 230-84, the Nation's Department Human Services (now known as the**
2 **Department of Health and Human Services) was designated as the "Agency within the**
3 **Tribe to discharge the solemn responsibilities placed upon the Tribe by the Act**
4 **and...delegate[d] all necessary authority to meet the responsibilities arising under**
5 **[ICWA]"; and**

6 **WHEREAS, by Resolution No. 96-020, the Office of Attorney General was designated as the agent**
7 **for service of notice required under ICWA; and**

8 **WHEREAS, the Department of Health and Human Services, Child Welfare Division, and the Office**
9 **of Attorney General regularly participate in hundreds of ongoing ICWA cases involving**
10 **O'odham children in Arizona state courts and in courts across the country; and**

11 **WHEREAS, on January 3, 2013, the United States Supreme Court granted certiorari in the case of**
12 ***Adoptive Couple v. Baby Girl, Birth Father, and the Cherokee Nation*, No. 12-399,**
13 **known as the "Baby Veronica" case; and**

14 **WHEREAS, the Baby Veronica case has far-reaching implications for the rights of Indian tribes,**
15 **families, and children; and**

16 **WHEREAS, on February 22, 2013, the Intertribal Council of Arizona ("ITCA") passed Resolution**
17 **0313 in support of the Cherokee father and Cherokee Nation in the Baby Veronica**
18 **case; and**

19 **WHEREAS, Resolution 0313 authorized the Sparks Law Firm, P.C. to prepare an *amicus curiae***
20 **brief on behalf of ITCA in the case, to "consult and coordinate with legal counsel for**
21 **any ITCA Member Tribes and other Tribes located in Arizona, New Mexico, and Utah**
22 **who, by tribal resolution, are authorized to represent a Tribe" with regard to the brief,**
23 **and requiring the Sparks Law Firm to "only consult and coordinate with legal counsel**
24 **who has signed an appropriate confidentiality agreement with respect to the subject**
25 **matter of the brief;" and**

26 **WHEREAS, the Office of Attorney General and Department of Health and Human Services, Child**
27 **Welfare Division recommend that the Office of Attorney General be authorized to**
28 **coordinate with the Sparks Law Firm and applicable Arizona, New Mexico, and Utah**
29 **tribes on the preparation and submission of an *amicus curiae* brief in support of the**

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1 **Cherokee father and Cherokee Nation in the Baby Veronica case; provided that the**
2 **Office of Attorney General shall consult with the Department of Health and Human**
3 **Services on this matter; and**

4 **WHEREAS, the Domestic Affairs Committee has reviewed and concurs in the recommendation of**
5 **the Office of Attorney General and Department of Health and Human Services, Child**
6 **Welfare Division, and recommends that the Nation enter into the Joint Confidentiality**
7 **Agreement, substantially in the form attached hereto, with respect to the subject**
8 **matter of the brief; and**

9 **WHEREAS, it is in the best interest of the Nation that the Office of Attorney General, in**
10 **consultation with the Department of Health and Human Services, Child Welfare**
11 **Division, to represent the Nation and to coordinate with the Sparks Law Firm and**
12 **applicable Arizona, New Mexico, and Utah tribes on the preparation and submission**
13 **of an *amicus curiae* brief in the Baby Veronica case.**

14 **NOW, THEREFORE, BE IT RESOLVED that the Legislative Council hereby:**

15 **1. Authorizes the Office of Attorney General, in consultation with the Department of**
16 **Health and Human Services, Child Welfare Division, to represent the Nation and**
17 **to coordinate with the Sparks Law Firm and applicable Arizona, New Mexico, and**
18 **Utah tribes on the preparation and submission of an *amicus curiae* brief on**
19 **behalf of the Intertribal Council of Arizona in *Adoptive Couple v. Baby Girl et al.*,**
20 **No. 12-399 (U.S. Jan. 3, 2013); provided that no further approval shall be required**
21 **by the Legislative Council for the submission of the brief.**

22 **2. Authorizes the Nation's Chairman and Attorney General to enter into the Joint**
23 **Confidentiality Agreement, which is hereby approved in substantially the form**
24 **attached.**

25 **The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 11TH Day**
26 **of MARCH, 2013 at a meeting at which a quorum was present with a vote of 2,780.60 FOR; -0-**
27 **AGAINST; -0- NOT VOTING; and [04] ABSENT, pursuant to the powers vested in the Council by Article**
28 **VI, Section 1 (c)(2) of the Constitution of the Tohono O'odham Nation, adopted by the Tohono**
29 **O'odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary -**
30 **Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48**
31 **Stat. 984).**

32

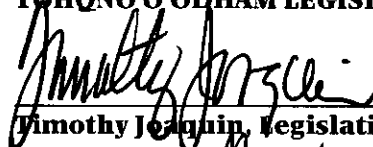
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TOHONO O'ODHAM LEGISLATIVE COUNCIL

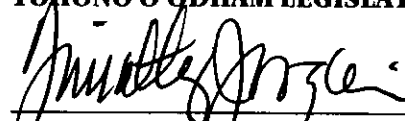

Timothy Joaquin, Legislative Chairman
12 day of March, 2013

ATTEST:


Evonne Wilson, Legislative Secretary
11 day of March, 2013.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'odham Nation on the 12 day of March, 2013 at 1:49 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Timothy Joaquin, Legislative Chairman

APPROVED

on the 13 day of March, 2013

DISAPPROVED

at 4:45 o'clock, P.M.


NED NORRIS, JR., CHAIRMAN
TOHONO O'ODHAM NATION

Returned to the Legislative Secretary on the 14 day of
March, 2013, at 8:23 o'clock, A.M.


Evonne Wilson, Legislative Secretary

ACTION: AUTHORIZING OFFICE OF ATTORNEY GENERAL TO REPRESENT THE NATION IN COORDINATION WITH THE INTERTRIBAL COUNCIL OF ARIZONA AND ITS ATTORNEYS ON THE PREPARATION AND SUBMISSION OF AN AMICUS CURIAE BRIEF IN A CASE INVOLVING THE INDIAN CHILD WELFARE ACT

MOVED: COUNCILWOMAN ETHEL GARCIA

SECOND: COUNCILWOMAN CYNTHIA E. MANUEL

DATE: MARCH 11, 2013

DISTRICT	LEGISLATIVE REPRESENTATIVES	# OF VOTES	FOR	AGAINST	NOT VOTING	ABSENT
BABOQUIVARI 342.0	1. FRANCES MIGUEL (Roberta Harvey)	171.0	X			
	2. FRANCES G. ANTONE (<i>Absent</i>) (Vernon Smith) (<i>Present</i>)	171.0	X			
CHUKUT KUK 302.2	1. ETHEL GARCIA (Sara Mae Williams)	151.10	X			
	2. BILLMAN LOPEZ ()	151.10	X			X
GU ACHI 244.9	1. TIMOTHY L. JOAQUIN ()	122.45	X			
	2. CYNTHIA E. MANUEL (Louis L. Johnson)	122.45	X			
GU VO 226.7	1. GRACE MANUEL (Floyd Flores)	113.35	X			
	2. PAMELA ANGHILL ()	113.35	X			
HICKIWAN 186.3	1. LOUIS R. LOPEZ (Michelle Ortega)	93.15	X			
	2. SANDRA ORTEGA ()	93.15	X			
PISINEMO 200.7	1. CHESTER ANTONE (Tony Murrietta)	100.35	X			X
	2. EDWARD MANUEL (Gerald Fayuant)	100.35	X			
SAN LUCY 204.6	1. LORRAINE EILER (Diana Manuel)	102.30	X			
	2. JANA MONTANA (Gloria Ramirez)	102.30	X			
SAN XAVIER 215.8	1. HILARION CAMPUS (Racheal Vilson-Stoner)	107.90	X			
	2. OLIVIA VILLEGAS-LISTON (Eugene Enis)	107.90	X			
SCHUK TOAK 169.8	1. FRANCES B. STEPHENS (Anthony J. Rios)	84.90	X			X
	2. FREDERICK JOSE (Phyllis Cachora)	84.90	X			
SELLS 475.7	1. ARTHUR WILSON (Kimberly Mull)	237.85	X			
	2. MARIA ACKERMAN ()	237.85	X			
SIF OIDAK 211.9	1. NICHOLAS JOSE ()	105.95	X			
	2. MARY LOPEZ ()	105.95	X			X
TOTAL		2,780.60	2,780.60	-0-	-0-	[04]