

## **MIGIZI A-1**

### **Instructions:**

Judge S. L. Migizi has been the Chief Judge of Lake Matchimanitou Band of Anishinaabe Indians for two decades. Like federal judges, he appointed by the executive branch of the tribe, an appointment subject to the advice and consent of the tribal legislative branch. While each appointment has a four-year term, if the executive and legislative branches concur, the judge may be removed “for good cause.” That term has never been defined under tribal law.

In a recent politically charged case, he ruled against the tribal government and struck down a tribal ordinance. Shortly after, he received a letter from the tribal chief executive notifying him that the executive and legislative branches agreed that Judge Migizi should be removed from the bench. The chief executive’s letter offered no reason for the removal.

Judge Migizi had often ruled against the tribal government in many instances over his 20 year tenure, although never in such a political case, and the executive and legislative branches had never said a word. He fully expected to be reappointed to a fifth term. He sues the executive and legislative branches, seeking an order enjoining his removal on grounds that it was invalid for failing to specify and prove that the removal was “for good cause.”

The tribe has adopted the Michigan code of judicial conduct as its own. A relevant provision of the code reads:

### **Canon 2**

#### **A Judge Should Avoid Impropriety and the Appearance of Impropriety in All Activities**

A. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

Develop two arguments that support the proposition that Judge Migizi has violated the judicial code. Explain why. Develop an additional argument that rejects the proposition, but then explain why that argument is weaker than the argument that Judge Migizi violated the code.



## **MIGIZI A-2**

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Develop two arguments that support the proposition that Judge Migizi has violated the judicial code. Explain why. Develop an additional argument that rejects the proposition, but then explain why that argument is weaker than the argument that Judge Migizi violated the code.

## **MIGIZI B-1**

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Several tribal elected officials believe that Judge Migizi violated the judicial code in bringing suit. Develop two arguments rejecting that view. However, also develop one argument

that supports the proposition that Judge Migizi has violated the judicial code. Explain why that argument should fail.

Develop an additional argument that rejects the proposition, but then explain why that argument is weaker than the argument that Judge Migizi violated the code.

## **MIGIZI B-2**

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