

1 **Scharf-Norton Center for Constitutional Litigation at the**
2 **GOLDWATER INSTITUTE**

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17 **IN THE UNITED STATES DISTRICT COURT**
18 **FOR THE DISTRICT OF ARIZONA**

19 A.D. and C. by CAROL COGHLAN
20 CARTER, their next friend;
21 S.H. and J.H., a married couple;
22 M.C. and K.C., a married couple;
23 for themselves and on behalf of a class of
24 similarly-situated individuals,
25 Plaintiffs,

26 vs.

27 KEVIN WASHBURN, in his official
28 capacity as Assistant Secretary of BUREAU
OF INDIAN AFFAIRS;
SALLY JEWELL, in her official capacity as
Secretary of Interior, U.S. DEPARTMENT
OF THE INTERIOR;
GREGORY A. McKAY, in his official
capacity as Director of ARIZONA
DEPARTMENT OF CHILD SAFETY,
Defendants.

No. CV-15-1259-PHX-NVW

**APPLICATION FOR
SUSPENSION OF LOCAL RULE
83.1(b)(2)**

1 Pursuant to LRCiv 83.6, as well as this court's inherent power to regulate its
2 own proceedings, attorney for Plaintiffs Kent N. Campbell, Esq., ("Applicant")
3 hereby moves that the Court suspend, for good cause shown, two provisions of
4 LRCiv 83.1(b)(2) which would otherwise render Applicant ineligible for admission
5 to this Court *pro hac vice*. Specifically, (i) the Applicant resides in Arizona; and
6 (ii) is regularly employed in Arizona. Applicant asks that the Court, pursuant to
7 LRCiv 83.6 and its inherent power to regulate its own proceedings, authorize the
8 *pro hac vice* admission of Applicant for purposes of this proceeding.

9 In support hereof, Applicant states as follows:

- 10 1. Applicant is an attorney at law with 35 years' litigation experience in state
11 and federal courts, having first been admitted to practice law in the state of
12 Nebraska in 1981. Applicant is also admitted to practice law in Colorado
13 (admitted in 1983), and is admitted to the bars of the United States District
14 Court for the Districts of Nebraska (1981) and Colorado (1983), the United
15 States Courts of Appeals for the Eighth Circuit (1981) and the Tenth Circuit
16 (1983), and the United States Supreme Court (1988). Applicant is now, and
17 always has been, in good standing in all jurisdictions in which he has been
18 admitted to practice. He has no record of discipline by any bar.
- 19 2. Applicant is eligible for, and has applied for, admission on motion (by
20 reciprocity) to the State Bar of Arizona.
- 21 3. However, Applicant asserts on information and belief, that that application
22 will require several months to be fully processed, thereby delaying for a
23 significant period of time Applicant's admission to practice in Arizona state
24 courts, which thereby also delays Applicant's eligibility to seek admission to
25 practice in this Court pursuant to LRCiv 83.1(a) ("Admission to . . . the bar
26 of this Court is limited to . . . active members in good standing of the State
27 Bar of Arizona.").

1 4. Applicant became a primary resident in the state of Arizona in September,
2 2015, and began employment with the Goldwater Institute in Phoenix on
3 January 1, 2016. He is currently working as a law clerk on matters within
4 the state of Arizona, and as a senior attorney in matters outside of the state of
5 Arizona. Applicant, because of his extensive litigation experience in federal
6 trial and appellate courts, has been instructed by the Goldwater Institute to
7 seek admission to this Court and, if admitted, make entry of appearance as an
8 attorney of record on behalf of Plaintiffs in *Carter v. Washburn*, in
9 substitution for Clint Bolick, former Vice President for Litigation at
10 Goldwater Institute, who recently withdrew as counsel for Plaintiffs due to
11 his appointment on January 6, 2016, as a justice on the Arizona Supreme
12 Court.

13 5. Applicant is accordingly submitting along with this motion, a motion for
14 admission to appear in this court *pro hac vice* on behalf of Plaintiffs.

15 6. Goldwater Institute currently has no other employed full-time attorney
16 admitted to practice in this Court with the years of experience in federal trial
17 and appellate practice as the Applicant has. The Institute has a small number
18 of attorneys in its employ in any event. This case is a complex, high profile,
19 proposed class action lawsuit that challenges the constitutionality of
20 provisions of the Indian Child Welfare Act of 1978 (“ICWA”), 25 U.S.C. §
21 1901, *et seq.*, and of the Guidelines for State Courts and Agencies in Indian
22 Child Custody Proceedings, 80 Fed. Reg. 10146, 10153, B.4(d)(3) (February
23 25, 2015) (“the New Guidelines”), both facially and as applied. The
24 significance of this case to the litigants and to the public justifies prompt and
25 extraordinary measures to ensure adequate legal representation for the
26 Plaintiffs and adequate presentation of the issues to the Court.

27 7. While able and capable co-counsel Michael W. Kirk, Esq., Brian W. Barnes,
28 Esq., and Harold S. Reeves, Esq., all with the Washington, D.C. law firm

1 Cooper & Kirk, PLLC, have been admitted *pro hac vice* and entered their
2 appearances, their co-counsel representation is not an adequate substitute for
3 *local* representation of Plaintiffs by highly experienced litigation counsel in
4 addition to able and capable local counsel Aditya Dynar, Esq.

5 8. LRCiv 83.6 provides: “Upon application, or upon the Court’s own motion,
6 any Judge of this Court may suspend any of these Local Rules for good cause
7 shown.”

8 9. Applicant submits that the foregoing factors demonstrate “good cause” for
9 this Court to suspend those provisions of subparagraph (b)(2) making
10 Applicant ineligible for *pro hac vice* admission due to his (i) residence in
11 Arizona, and (ii) regular employment in Arizona. Otherwise, Applicant will
12 be caught in a Catch-22 for several months awaiting action on his application
13 for admission on motion (by reciprocity) to the Arizona Bar. During that
14 period Applicant is unable to obtain admission in this Court pursuant to
15 LRCiv 83.1(a), and, unless relief as requested herein is granted, is also unable
16 to obtain admission in this Court *pro hac vice* pursuant to LRCiv 83(b)(2).

17 10. In such instance, Plaintiffs may suffer a real and continuing hardship and
18 disadvantage due to Applicant’s inability to enter his appearance on their
19 behalf, and to assist Mr. Dynar in the daily local responsibilities associated
20 with representation of the Plaintiffs in all matters, including discovery, class
21 certification, motions practice (including dispositive motions), briefing and,
22 if necessary, trial.

23 11. Under the circumstances outlined above, justice would best be served by this
24 Court determining that “good cause” exists for the requested temporary
25 suspension of the application of LRCiv 83.1(b)(2)(i) and (ii). Such
26 suspension would terminate upon the Arizona State Bar’s determination of
27 his application for reciprocal admission.
28

1 Therefore, for good cause shown, Applicant respectfully requests this Court
2 order suspended the application of LRCiv 83.1(b)(2)(i) and (ii) to Applicant's
3 Application of Attorney For Admission To Practice Pro Hac Vice Pursuant to
4 LRCiv 83.1(b)(2) filed contemporaneously herewith.

5 **RESPECTFULLY SUBMITTED** this 26th day of February, 2016 by:

6
7 /s/ Kent Campbell

8 Aditya Dynar (031583)

9 Kent Campbell (Pending admission pro hac vice)

10 **Scharf-Norton Center for Constitutional Litigation**
11 **at the GOLDWATER INSTITUTE**

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14 Harold S. Reeves (admitted *pro hac vice*)

15 **COOPER & KIRK, PLLC**

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17 *Attorneys for Plaintiffs*
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CERTIFICATE OF SERVICE

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