

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

C.E.S., V.A.S., and H.M.S., Minors, by)
Next Friends Timothy P. Donn and)
Anne L. Donn,)

Plaintiffs,)

Case No. 1:15-cv-982

HON. Janet T. Neff

v.)

Hon. Larry J. Nelson, in his official)
capacity as a Leelanau County)
Family Court Judge, Matthew Feil,)
in his official capacity as Tribal)
Prosecutor for the Grand Traverse Band)
of Ottawa and Chippewa Indians, and)
Helen Cook in her official capacity as)
Supervisor of Anishinaabek Family)
Services for the Grand Traverse Band of)
Ottawa and Chippewa Indians,)

Defendants.)

AFFIDAVIT OF MARK D. FIDDLER

STATE OF MINNESOTA)

) ss:

COUNTY OF HENNEPIN)


Before me, a Notary Public, in and for said County and said State, personally
appeared Mark D. Fiddler, who being first duly sworn, deposes and states as follows:

1. I, Mark D. Fiddler, am co-counsel for Timothy P. Donn and Anne L. Donn in this case. I make this affidavit in support of their motion to be designated as “Next Friends” for the children, C.E.S., V.A.S., and H.M.S.
2. I have twenty years of experience serving as an attorney for children in juvenile court proceedings. In my legal practice, I have taken special care to ensure that my client children’s wishes are paramount. This is critical as children often come to juvenile court proceedings under a great deal of pressure to do what their parents or guardians tell them to do. My practice is interview client children outside of the presence of parents or guardians. This protects the attorney-client privilege and ensures that the child has the opportunity to tell me directly what their wishes are in the juvenile proceedings.
3. I also have also been representing Minnesota Guardians ad Litem (GAL) for children since 2003, and in that practice I have counseled my client GALs on their own role, where as GAL they must represent and advocate to the court what the children’s *best interests* are, and not what the children may say they want. Often what a child *says* they want — say, to return home to an abusive parent — may be contrary to their best interests.
4. In this particular case, mindful of having directly represented the Donns in the previous appellate proceedings before the Michigan Court of Appeals and Michigan Supreme Court — and mindful that the Donns are now acting *on behalf* of the children’s wishes — I determined it was necessary to directly investigate

and interview the children themselves in a private setting to ensure there was no conflict between their own wishes and goals, and those of their adoptive parents.

5. On September 23, 2015, I instructed the Donns that I wanted to talk with the children directly (over telephone) to determine what their wishes were, and that I needed to ensure that they were not in the room or within earshot of the children. The Donns complied, and on that date I spoke with C.E.S., V.A.S., and H.M.S.
6. While the Children were clear in their expressions of love for their grandmother, C.K., who is seeking to adopt them, they were unequivocal that they wanted the Donns to adopt them. I asked them if they wanted me to go to “another judge” to try and stop the case from going to tribal court so they could be adopted, and they all said “yes.” They spoke as one. They called Anne and Tim Donn as “Mom” and “Dad.” They all expressed fear of being removed from the Donns’ home.
7. Based upon the foregoing, I have no concerns of any conflict between the Donns’ interests and the interests of the Children.

FIDDLER LAW OFFICE, P.A.



Mark D. Fiddler, #0197853

Subscribed and sworn to before me
This 2 November 2015



Notary Public

