

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

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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.	)	

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**MOTION FOR APPOINTMENT OF NEXT FRIENDS**  
**ON BEHALF OF MINOR PLAINTIFFS**

Now come the above-named Plaintiffs, by and through their undersigned attorneys, and move this Court to appoint Timothy P. Donn and Anne L. Donn as Next Friends for the minor children, C.E.S., V.A.S., and H.M.S. (the “Children”). In support of their Motion, Plaintiffs state as follows:

1. C.E.S. has continually resided with Timothy P. Donn and Anne L. Donn (the “Donns”) since 2009, initially under the terms of a limited guardianship order.
2. V.A.S. and H.M.S. have continually resided with the Donns since 2010, initially under the terms of limited guardianship orders.

3. The Donns became a licensed foster home in 2010, so that all three Children could continue residing with one another, and the Donns have remained the Children's foster parents since that time.

4. On December 6, 2013, the Michigan Department of Human Services Michigan Children's Institute (MCI) issued its Consent to Adoption Decision, recommending that the Children be placed for adoption with the Donns.

5. MCI noted in its decision that the Children wanted to continue living with the Donns as their permanent adoptive placement.

6. On December 13, 2013, the Leelanau County Circuit Court issued Orders Placing Child After Consent, terminating jurisdiction of MCI over the Children, naming the Children as wards of the Court, and naming the Donns adoptive parents, whereby the Court awarded the Donns broad, general guardian-type powers: "The adoptive parents(s) may consent to all medical, surgical, dental, optical, psychological, educational, and related services provided to the adoptee."

7. The Affidavit of Mark D. Fiddler (11/2/15) reflects that the Children still wish to continue residing with the Donns as their permanent adoptive placement.

8. In the interest of judicial efficiency, Plaintiffs are not arguing that the Donns are representatives as defined by Fed. R. Civ. P. 17(c)(1).

9. The Children's current guardian ad litem, Cheryl Gore Follette, has been appointed by the Tribe and was previously appointed by the State of Michigan. Since Plaintiffs bring suit against Michigan and Tribal officials in their official capacity, Follette is conflicted and is not a suitable representative in this litigation. Additionally, the October 1, 2015 Order Appointing Attorney/Guardian Ad Litem/Lawyer-Guardian Ad Litem recognizes that Follette's

representation is limited in scope: “This appointment will be for purposes of representation in the family division of the GTB Tribal Court **only**, unless otherwise ordered by the judge.”

(emphasis added).

10. The Donns should be appointed as Next Friends. They have a well-established, close relationship to the Children dating back to 2009 and 2010. They are fit and competent representatives; the State of Michigan has deemed them suitable guardians, foster parents, and adoptive parents. The Consent to Adoption Decision and the Affidavit of Mark D. Fiddler establish that no conflict of interest exists between the Donns and the Children.

11. Wherefore, Plaintiffs respectfully request that the Court exercise its broad discretion and name the Donns as Next Friends for the Children for the purposes of pursuing the above-captioned litigation.

**NEWMARK STORMS LAW OFFICE LLC**

Dated: November 25, 2015

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- and -

**FIDDLER LAW OFFICE, P.A.**

Dated: November 25, 2015

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**ANDREW IRLBECK LAWYER CHTD.**

Dated: November 25, 2015.

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