UNITED STATES COURT FOR THE DISTRICT OF MONTANA

JERRY O'NEIL, individually and as President of Montanans for Multiple Use, on behalf of himself, and the **Members of MONTANANS FOR MULTIPLE USE**, and **CHERYL LITTLE DOG,** Plaintiffs, vs. **TYLER P. GILMAN**, Clerk of the U.S. DISTRICT COURT FOR THE DISTRICT OF MONTANA, in his official capacity, and the **UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA**, in its administrative capacity, Defendants.	Cause No. CV-16-84-GF-BMM-JTJ **COMPLAINT FOR DECLARATORY JUDGMENT AND INJUNCTIVE RELIEF**

INTRODUCTION

1. On May 7, 2015, Jerry O'Neil, as an advocate and counselor who, having been licensed to practice before the Blackfeet Tribal Court since 1984, applied for permission to represent his clients with their legal issues in front of this U.S. District Court for the District of Montana.

2. On May 28, 2015, O'Neil's application was denied by Clerk Tyler P. Gilman because O'Neil did not meet the standards for admission set forth in Local Rule 83.1(b); i.e., although O'Neil has been practicing law before the Blackfeet

Tribal Court since 1984, he is not a member in good standing of the State Bar of Montana.

3. O'Neil is president of Montanans for Multiple Use [MFMU], a public benefit corporation registered with the State of Montana. MFMU needs the ability to petition before the federal court system to exert the First and Fourteenth Amendment rights of its members to petition for redress of grievances.

4. Cheryl Little Dog is an enrolled member of the Blackfeet Indian Nation who has been charged with harboring a fugitive and giving false statements to a federal agent. Little Dog, though innocent of the charges, because of the ineffective counsel or her previous counselor, plead guilty to the charges and is presently in the process of withdrawing her plea and submitting her defense to the Court. After and extensive search, the only and best council she has been able to find is O'Neil.

5. On May 7, 2015, O'Neil filed a petition for admission to the Bar of the United States District Court for the District of Montana with Clerk of Court, Tyler P. Gilman. On May 28, 2015, Clerk Gilman denied the petition, stating that the "processing and approval of applications for admission to the Bar of [the United States District Court for the District of Montana] is a ministerial function assigned to [him] as clerk of court." He further stated, he "[does] not have the authority to relax, modify, or make exceptions to the standards for admission set

forth in **Local Rule 83.1(b)**." [emphasis added]

6. Local Rule 83.1(b) states:

> **Only attorneys of good moral character who are members in good standing of the State Bar of Montana may be admitted as members of the Bar of this Court. Member attorneys on active status may appear in any case.**

7. O'Neil, Little Dog, and MFMU request the Court to declare its Local Rule 83.1(b) unconstitutional as applied to them, and to others similarly situated, and to give injunctive relief directing Clerk Tyler P. Gilman to process O'Neil's application to practice before the United States Court for the District of Montana.

JURISDICTION

8. This Court has jurisdiction in this action pursuant to 28 U.S.C. § 1331 (civil action arising under the laws of the United States), § 2201 (declaratory relief) and § 2202 (injunctive relief).

STANDING

9. Plaintiff Jerry O'Neil, as an advocate and counselor licensed to practice law by the Blackfeet Tribal Court is directly damaged in his business and political advocacy by Defendant's refusal to let him represent his clients before the United States District Court for the District of Montana.

10. Plaintiff Montanans for Multiple Use has standing to assert the right of MFMU and its members to associate with O'Neil because,

> though a corporation, it is directly engaged in those activities, claimed to be constitutionally protected, which the statute would curtail. Cf. Grosjean v. American Press Co., 297 U. S. 233. We also think petitioner has standing to assert the corresponding rights of its members. See NAACP v. Alabama ex rel. Patterson, 357 U. S. 449, 458-460; Bates v. City of Little Rock, 361 U. S. 516, 523, n. 9; Louisiana ex rel. Gremillion v. NAACP, 366 U. S. 293, 296.

NAACP v. Button 371 U.S. at 428

11. Cheryl Little Dog has standing to request that she be allowed to appear before the U.S. District Court for the District of Montana with O'Neil as her attorney under Amendment VI of the United States Constitution.

12. O'Neil has standing to represent Cheryl Little Dog under the tenets of ***Mine Workers v. Illinois Bar Assn.***, 389 US 217 (1967).

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ARGUMENT

TRIBES HAVE THE INHERENT AUTHORITY TO LICENCE THOSE ALLOWED TO PRACTICE LAW BEFORE THEIR COURTS

1. The Blackfeet Tribe is organized under the Indian Reorganization Act of 1934, 48 Stat. 984, 25 U.S.C. § 461 et seq (1976 ed. and Supp. V), which authorizes any tribe residing on a reservation to adopt a constitution and bylaws, subject to the approval of the Secretary of the Interior.

2. 25 U.S.C. § 476 states that:

> Any Indian tribe shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, and any amendments thereto, which shall become effective when—
> (1) ratified by a majority vote of the adult members of the tribe or tribes at a special election authorized and called by the Secretary under such rules and regulations as the Secretary may prescribe;

> and
> (2) approved by the Secretary pursuant to subsection (d) of this section.

3. The Blackfeet Tribe's Constitution, which was approved by the Secretary on December 13, 1935, authorizes the Blackfeet Tribal Business Council,

> (k) To promulgate ordinances for the purposes of safeguarding the peace and safety of residents of the Blackfeet Indian Reservation, and to establish minor courts for the adjudication of claims or disputes arising amongst the members of the tribe, and for the trial and punishment of members of the tribe charged with the commission of offenses set forth in such ordinances.

4. In the promulgation of ordinances for the above purposes the Blackfeet Tribal Business Council adopted the Blackfeet Tribal Law and Order Code. Under Chapter 9, Rule 10 of the code O'Neil was admitted to practice before the Blackfeet Tribal Court System on the 27th day of September, 1984.

5. In ***New Mexico v. Mescalero Apache Tribe***, 462 U.S. 324 (1983), the United States Supreme Court ordered:

> Indian tribes are unique aggregations possessing " 'attributes of sovereignty over both their members and their territory,' " White Mountain Apache Tribe v. Bracker, 448 U. S. 136, 142 (1980), quoting United States v. Mazurie, 419 U. S. 544, 557 (1975). Because of their sovereign status, tribes and their reservation lands are insulated in some respects by a "historic immunity from state and local control," Mescalero Apache Tribe v. Jones, supra, at 152, and tribes retain any aspect of their historical sovereignty not "inconsistent with the overriding interests of the National Government."

Washington v. Confederated Tribes of Colville Indian Reservation, 447 U. S. 134, 153 (1980).

6. With regard who may practice law before their courts and laws relating to membership in any mandatory state bar, Indian tribes are free and independent, owing no obligations of comity or reciprocity.

> Tribal sovereignty is dependent on, and subordinate to, only the Federal Government, not the States."

Washington v. Confederated Tribes of Colville Reservation, 447 U. S. 134, 154 (1980).

7. Under the traditional customs of the Blackfeet Indian Tribe, although they give a special break to state licensed attorneys, they do not accept the authority of Montana, nor any other state, to direct who they may and may not license to help litigants before the Blackfeet Tribal Court.

THIS COURT IS STATUTORILY ENCOURAGED TO RECOGNIZE O'NEIL'S TRIBAL LAW LICENSE

8. It would be an overt disrespect of the Blackfeet Tribe's independence and dignity for this Court to predicate its approval of tribally licensed applicants to practice in Federal Court upon condition they are approved by the State of Montana or belong to the Montana Supreme Court's bar association. In the spirit of intergovernmental cooperation this court should accept tribally licensed advocates to practice before it on the same basis it accepts state licensed advocates.

9. We are dealing with the inherent authority of Indian tribes to license those whom they allow to practice before their tribal courts and the ability of those thus

licensed to represent their clients before the Federal Courts. As long as these advocates perform competently, tribes should have the unfettered authority to choose who they may appoint to advocate for their and their members' interests with the Federal Government and advocate for them in the federal courts.

10. Under **"25 USC § 3601 - Findings,"** regarding Indian tribal justice support, Congress has placed a trust responsibility upon the federal government (including this federal court) to protect the sovereignty of each Indian tribe. The statute states:

> The Congress finds and declares that –
> (1) There is a government-to-government relationship between the United States and each Indian tribe;
> (2) The United States has a trust responsibility to each tribal government that includes the protection of the sovereignty of each tribal government;
> (3) Congress, through statutes, treaties, and the exercise of administrative authorities, has recognized the self-determination, self-reliance, and inherent sovereignty of Indian tribes;
> **(4) Indian tribes possess the inherent authority to establish their own form of government, including tribal justice systems;**
> **(5) Tribal justice systems are an essential part of tribal governments and serve as important forums for ensuring public health and safety and the political integrity of tribal governments;** - - - [emphasis added]

THERE IS NO MANDATE REQUIRING FEDERAL COURTS TO FORCE TRIBALLY LICENSED ADVOCATES TO HAVE STATE ISSUED LAW LICENSES.

11. ***Erie R. Co. v. Tompkins***, 304 U.S. 64 (1938), requires the federal courts to ascertain and follow what the state law is if the state decisions are sufficiently conclusive, definite and final. **But the Erie rule excepts "matters governed by**

the Federal Constitution or by Acts of Congress." Practice of law before tribal and federal courts, and the establishment of tribal justice systems are either acts of Congress or acts of the individual Indian tribes and are not matters of state law.

12. To require those licensed to practice before the tribal courts to be licensed by the State of Montana before allowing them to practice before a United States District Court interferes with the powers of self-government conferred upon the tribes and exercised through their Tribal Courts. No federal statute sanctions this interference with tribal self-government. Montana has not been granted, nor has it assumed, civil jurisdiction over the Blackfeet Indian Reservation, either under the Act of Aug. 15, 1953, 67 Stat. 588, or under Title IV of the Civil Rights Act of 1968, 82 Stat. 78, 25 U. S. C. § 1321 et seq. [see: ***Fisher v. District Court of Sixteenth Judicial Dist. of Mont.***, 424 US 382].

13. This federal court has the authority to control who practices before it without seeking prior approval of the state courts. In ***Chambers v. Nasco, Inc.***, 501 U.S. 32 (1991), the U.S. Supreme Court mentioned existing case law that gives the federal courts the power to control admission to practice before them. The Court said:

> - - - the Court has held that a federal court has the power to control admission to its bar and to discipline attorneys who appear before it. See Ex parte Burr, 9 Wheat. 529, 531 (1824). While this power "ought to be exercised with great caution," it is nevertheless "incidental to all Courts." Ibid.

IT IS ARBITRARY CAPRICIOUS, AND AN ABUSE OF DISCRETION TO PREDICATE ADMISSION TO THE FEDERAL COURTS UPON THE HOLDING OF A LAW LICENSE ISSUED BY THE STATE OF MONTANA.

14. In Montana, without possessing a license to practice law, one can dispense advice about the statutes and constitutions of Montana and the United States and other legal advice, draft documents and presumably all other actions attorneys of law do in the practice of their profession - except represent clients in court. [disbanding COUPL]

15. Montana sometimes refuses to issue law licenses to graduates of law schools that are not licensed by the American Bar Association. This is a political decision based upon maintaining legislative support for several of the Montana Supreme Court justices' alma mater and probably upon the limiting of competition in the practice of law in Montana. [See the February 7, 2002 decision *In Re the Petition of Dana M. Culver*,

https://cases.justia.com/montana/supreme-court/2002-02-07-F5CAE5FE-0C26-48B2-909D-45B9B3212611.pdf], which is attached hereto.]

16. The *Culver* decision was overturned *In Re: Deborah DePietro*, Montana Supreme Court docket number PR 06-0422, filed February 21, 2012. Ms. DePietro was allowed to practice law in Montana without graduating from a lawschool accredited by the American Bar Association because she had practiced law for 34 years since passing the California bar examination.

17. O'Neil has been practicing law for 32 years since passing the Blackfeet bar examination in 1984.

WE NEED TO IMPROVE JUSTICE IN TRIBAL COURTS AROUND THE NATION.

18. According to the attached article *Bar None! The Social Impact of Testing Federal Indian Law on State Bar Exams*:

> Ensuring Tribal Access to Justice
>
> The failure of local and state bars to understand fundamental Indian law and resulting anxiety about handling matters that involve tribal jurisdiction deprive indigent residents of the states that have high concentrations of tribal people or land from obtaining legal counsel and, in turn, from gaining access to tribal and state judicial systems for the resolution of matters affecting basic familial and property rights. This discrimination applies to both Indians and non-Indians with low incomes or no income.
>
> A study by the American Bar Association published in 1994 estimated that three-quarters of the nation's low-income families facing civil legal issues do not get legal assistance. Nationally, tribal legal and lawyers estimate that only 20 percent of Indian peoples' legal needs are met. As John Sledd, former director of the Northwest Justice Project's Native American Unit in Washington, writes:
>
> > [Legal aid] intake lawyers tell me that *three-quarters of volunteer lawyer programs and most staff legal service lawyers will not handle Indian or tribal law cases.* Ignorance of the law is a major reason why. As a result, *poor Native Americans [in Washington] get help for only one in [10] important legal problems,* according to the statewide legal needs study. Non-Natives get help for one problem in seven. Both statistics are shocking, but *the disparity for Native people is an intolerable discrimination.*
>
> - - -
>
> Diversifying the Bar
>
> Native Americans are without question the most under-represented ethnic demographic in the legal profession. Depending on whom you ask, Indian attorneys make up between 0.02 and 0.07 percent of the Washington State Bar Association's 29,000 members. Nationally, even though the U.S. Census reports that there are 22.6 million self-identified Native Americans and 1 million lawyers in our country, only 1,800 – yes, eighteen *hundred* – are Indian attorneys. [Emphasis added]

19. In August of 2008, the Commission on Youth at Risk's policy on Addressing Racial Disparities in the Child Welfare System was approved, resolving that:

> "the American Bar Association urges state, local, territorial and tribal child welfare agencies, dependency courts and judges, government, parents' and children's attorneys, guardians ad litem and court-appointed special

> advocates to receive training on cultural competencies, institutional and unconscious biases, and avoidance of disparate treatment of racial and ethnic minority children and families and **to develop and promote practices that encourage recruitment and retention of racially and ethnically diverse judges, attorneys**, social workers and other staff, volunteers and foster parents. (emphasis added)

20. It makes sense to increase the stature and effectiveness of tribally licensed representatives by allowing them to practice in our federal courts. Allowing those licensed by tribal courts to practice before this United States District Court, will show respect for and enhance tribal authority. It will also lead to a more racially and ethically diverse workforce as called for by the American Bar Association's Commission on Youth at Risk.

O'NEIL AND HIS CLIENTS NEED O'NEIL TO BE GRANTED PERMISSION TO PRACTICE BEFORE THIS COURT.

21. Many causes arising in Tribal Court need to proceed to Federal Court for just resolutions. The remedy for a violation of the Indian Civil Rights Act is for a person to seek a writ of habeas corpus in a federal district court to test the legality of an Indian tribe's order of detention.

22. With the expansion of the 18 U.S. Code § 117 - *Domestic assault by an habitual offender Act,* allowing non-Indians to be prosecuted in Tribal Court, it will be more important than ever for advocates such as O'Neil, practicing before tribal courts on Montana reservations, to be available to represent the accused in tribal courts and to be prepared to file petitions for habeas corpus in Federal Court

when necessary.

23. In ***U.S. v. Michael Bryant, Jr.*, 136 S.Ct. 690 (2015)**, the Court has determined that an un-counseled tribal court conviction may qualify as a required predicate to federal court prosecution under 18 U.S.C. 1817. It will promote justice to allow defendants to retain the more affordable tribally licensed advocates in order to lessen the number of un-counseled tribal court convictions.

24. In the re-authorization of the Violence Against Women Act, under 25 U.S.C. § 1304, Congress extended tribal court criminal jurisdiction over nonmembers who assault their Indian spouses within Indian country. Under 18 U.S.C. § 2265(e):

> a court of an Indian tribe shall have full civil jurisdiction to issue and enforce orders involving any person, including the authority to enforce any orders through civil contempt proceedings, - - -."

25. It is a common occurrence for parties to file orders of protection in Indian child custody proceedings. Jerry O'Neil, pursuant to the public acts, records, and judicial proceedings of the Blackfeet Indian Tribe, is licensed to represent parties in Indian child custody proceedings.

26. Under 25 U.S.C. §1911(d): the:

> "United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity."

27. If one of O'Neil's clients is incarcerated for allegedly violating the terms of a protective order issued by an Indian tribe and, with O'Neil's help, elects to test the legality of his detention in the federal court system with a writ of habeas corpus pursuant to 45 U.S.C. § 1303, under 25 U.S.C. § 1911(d), the federal court is directed to give full faith and credit to O'Neil's tribal license.

28. It is also important that O'Neil and other tribal court licensed advocates be allowed to defend their clients that are being prosecuted in the U.S. District Court under the General Crimes Act, 18 U.S.C. §1152 and the Assimilative Crimes Act, 18 U.S.C. §13.

29. It is essential to Cheryl Little Dog that she be allowed the counsel of O'Neil for the defense of her case in the federal court system.

GRANTING THIS PETITION WILL AID TRIBAL PROSECUTORS AND DEFENDERS TO DO THEIR JOBS.

30. The Federal Government has two goals: furthering tribal self governance and strengthening the prosecution of crimes that occur on Indian reservations in federal courts. Granting my petition will advance both of these goals.

31. Granting this petition will help enhance the pool of applicants experienced with tribal justice systems for appointment as Special Assistant United States Attorneys. This is in line with the policy spelled out in the ***Tribal Law and Order Act of 2010.*** According to Section 13(d)(2) of the act,

> It is the sense of Congress that, in appointing Special Assistant United States Attorneys under this subsection, a United States Attorney should consult with tribal justice officials of each Indian tribe that would be affected by the appointment.

32. The article, "Legal training targets tribal justice system," from the March 25, 2012 edition of the Billings Gazette, [and is attached hereto] states:

> Of the 20 prosecutors working in the tribal court systems on Montana's seven Indian reservations, only six have law degrees. (Tribal Prosecutor Melody) Sure Chief doesn't think that lack of formal legal training has hurt her, nor has it hindered her ability to try hundreds of cases ranging from driving license infractions to sexual assault.
>
> Federal prosecutors don't think so either.
>
> "A young kid who comes into a U.S. attorney's office and winds up working in Indian Country, they will try in a five (year) span more cases than most lawyers will try in a lifetime," said Montana U.S. Attorney Michael Cotter. "Whether the lawyers are licensed lawyers or are (unlicensed) prosecutors, they want to improve their skills."

MONTANANS FOR MULTIPLE USE NEEDS TO BE ALLOWED TO USE THE SERVICES OF O'NEIL TO EXERCISE THEIR FIRST AMENDMENT RIGHTS

33. Montanans for Multiple Use:

a. Is a public benefit corporation with members, organized and existing under the laws of the State of Montana;

b. Was formed as a way to involve the public in the decision making process of forest planning and opposes the Forest Service spending public funds to rip out dozens upon dozens of perfectly good access routes;

c. Doesn't accept the Forest Service's reduced timber harvest and bad land

management practices that have led to the loss of public access to the forests and the overgrowth of the forests that contributes to global warming and catastrophic forest fires.

d. Advocates for the responsible, balanced use of public land;

e. Has tried working with the Forest Service in good faith to protect access and achieve a forest managed for all citizens.

34. In order to protect the interests of their members, and to be at the settlement table, MFMU needs a financially reasonable method to file, and to intervene in, lawsuits involving the management of our state and federal forests.

35. It is essential that MFMU be allowed to exercise their First Amendment right to petition for redress of grievances.

36. In order to have any effect whatsoever in their petitions for redress of their grievances, it is essential that MFMU be allowed to appear in court with the representation of Jerry O'Neil or other similarly qualified representative who is willing to represent them for an affordable price or for free.

37. When the Montana Supreme Court and their Commission on Unauthorized Practice of Law contemplated defining what the "unauthorized practice of law" consists of, Scott D. Hammond, Acting Assistant Attorney General with the U.S. Department of Justice, Antitrust Division, on April 17, 2009, objected stating:

> Sound competition policy calls for any restriction on competition to be justified by a valid need, such as protecting the public from

> harm, and for the restriction to be narrowly drawn to minimize its anticompetitive impact. The inquiry into the public interest involves not only an assessment of the harm that consumers may suffer from allowing non-lawyers to perform certain tasks, but also consideration of the benefits that accrue to consumers when lawyers and non-lawyers compete.

4/17/2009 Letter from Acting Assistant Attorney General Hammond to Montana Supreme Court, Attached as Exhibit E.

38. Local Rule 83.1(b) of the U.S. District Court for the District of Montana, as applied to the Plaintiffs herein, violates the First and Fourteenth Amendments of the United States Constitution. ***NAACP v. Button***, 371 U.S. 415 (1963), was a case similar to the present one in that it involved a rule or statute that ostensibly was to protect the public, but actually chilled the people's exercise of their First and Fourteenth Amendment rights. The people's right to petition for redress of their grievances was upheld in *NAACP v. Button*.

39. In 1956 the Virginia Legislature added Chapter 33 to the Virginia Acts of Assembly. Chapter 33 forbids "solicitation of legal business by a 'runner' or 'capper,' an agent for an individual or organization which retains a lawyer in connection with an action to which it is not a party and in which it has no pecuniary right or liability."

40. When petitioned by the NAACP, the Circuit Court of the City of Richmond ruled, and the ruling was upheld as to Section 36 that,

> [T]he solicitation of legal business by the appellants, their officers, members, affiliates, voluntary workers and attorneys, as shown by

the evidence, violates chapter 33 and the canons of legal ethics:

> ". . . attorneys who accept employment by appellants to represent litigants in suits solicited by the appellants, or those associated with them, are violating chapter 33 and the canons of legal ethics;
> .....
> ". . . appellants and those associated with them may not be prohibited from acquainting persons with what they believe to be their legal rights and advising them to assert their rights by commencing or further prosecuting a suit against the Commonwealth of Virginia, any department, agency or political subdivision thereof, or any person acting as an officer or employee of such, but in so advising persons to commence or further prosecute such suits the appellants, or those associated with them, shall not solicit legal business for their attorneys or any particular attorneys; and
>
> "(b) the appellants and those associated with them may not be prohibited from contributing money to persons to assist them in commencing or further prosecuting such suits, which have not been solicited by the appellants or those associated with them, and channeled by them to their attorneys or any other attorneys." 202 Va., at 164-165, 116 S. E. 2d, at 72.

41. The Supreme Court of the United States reversed the judgment of the Virginia Supreme Court of Appeals. The Court held that,

> the activities of the NAACP, its affiliates and legal staff shown on this record are modes of expression and association protected by the First and Fourteenth Amendments which Virginia may not prohibit, under its power to regulate the legal profession, as improper solicitation of legal business violative of Chapter 33 and the Canons of Professional Ethics.

42. While the NAACP's constitutional right to help its member in court in order to secure the elimination of all racial barriers appears like it only applies to political speech and petition activities and thus, while it would allow O'Neil to

help MFMU, it might not be applicable to O'Neil's advocacy for his clients in his tribal law business. This appearance was put to rest in *United Mine Workers of America, District 12 v. Illinois State Bar Association et al.*, 389 U.S. 217 (1967).

43. In *United Mine Workers*, the Court stated:

> The Illinois court recognized that in NAACP v. Button, supra, we also held protected a plan under which the attorneys recommended to members were actually paid by the association, but the Illinois court viewed the Button case as concerned chiefly with litigation that can be characterized as a form of political expression. We do not think our decisions in Trainmen and Button can be so narrowly limited. We hold that the freedom of speech, assembly, and petition guaranteed by the First and Fourteenth[4] Amendments gives petitioner the right to hire attorneys on a salary basis to assist its members in the assertion of their legal rights.
>
> We start with the premise that the rights to assemble peaceably and to petition for a redress of grievances are among the most precious of the liberties safeguarded by the Bill of Rights. These rights, moreover, are intimately connected, both in origin and in purpose, with the other First Amendment rights of free speech and free press. "All these, though not identical, are inseparable." Thomas v. Collins, 323 U. S. 516, 530 (1945). See De Jonge v. Oregon, 299 U. S. 353, 364 (1937). The First Amendment would, however, be a hollow promise if it left government free to destroy or erode its guarantees by indirect restraints so long as no law is passed that prohibits free speech, press, petition, or assembly as such. We have therefore repeatedly held that laws which actually affect the exercise of these vital rights cannot be sustained merely because they were enacted for the purpose of dealing with some evil within the State's legislative competence, or even because the laws do in fact provide a helpful means of dealing with such an evil. Schneider v. State, 308 U. S. 147 (1939); Cantwell v. Connecticut, 310 U. S. 296 (1940).

O'NEIL'S PENCHANT FOR JUSTICE

44. Besides being licensed to practice law before the Blackfeet Tribal Courts, O'Neil has the necessary attitude to fight for my clients and the public. He considers it a privilege to advocate for justice for all, including the oppressed, in both our political and legal systems.

45. One example of O'Neil's disposition to fight for justice is his serving in public office as a Montana State Senator and as a Montana State Representative from 2001 through 2014. Prior to running for public office he lobbied the Montana Legislature for children of separated families' right to spend time with both of their parents. He has also helped fight for those who have been falsely accused of child abuse.

46. Another example is evidenced by the August 27, 2007 Blackfeet Tribal Court of Appeals' *Opinion and Order In the Matter of the Admission to Practice of Jerry O'Neil*, which is attached hereto.

47. In the saga reflected by that order, as reflected on page 2 thereof, O'Neil successfully defended his client against a complaint filed in the tribal court by the son of the Chief Prosecutor of the Blackfeet Tribe. The Chief Prosecutor's son was the fiancé of O'Neil's client and the father of her child. In the midst of a breakup of the relationship the Chief Prosecutor's son filed charges against O'Neil's client for partner assault. Although the politics of the case put O'Neil's

license to practice before the Blackfeet Tribal Court in jeopardy (and deprived him of it for about 1 year), he successfully defended his client in a jury trial before the Blackfeet Tribal Court.

48. After the jury found O'Neil's client not guilty of partner assault on his son, the chief prosecutor attempted, but was not able to get the trial judge to take away O'Neil's tribal law license. The prosecutor then went to a second judge who was more compliant. On the 23rd day of February, 2006, this second judge, without even having a written petition before him, *sua sponte*, filed an *Order to Show Cause Why Individual Should Not Be Disbarred*. O'Neil was disbarred by an order dated April 27, 2006. It took until August 27, 2007 before O'Neil got the Blackfeet Tribal Court of Appeals to reverse the order. Although it forced him to close his office on the Blackfeet Reservation, he is proud of the help he gave his client.

O'NEIL'S LICENSES AND CERTIFICATES

49. O'Neil is validly licensed to practice law in the Blackfeet Indian Nation. The Blackfeet Tribal Court System was acting under the sovereign power of the Blackfeet Tribe and under federal law when it allowed him to take their examination for admission and licensed him to practice before their courts in 1984.

50. Although O'Neil is not required to have them, he has qualified for many

Continuing Legal Education credits. Many of these credits he acquired during his 12 years of service with the Montana Legislature. For 10 of those 12 years he served on either the House or the Senate Judiciary Committee. Some of these events include: Montana Trial Lawyers Association: July 25, 2001 for 11.25 CLE Credits; July 31-Aug 1, 2003 for 11.25 CLE Credits; August 4-5, 2005 for 13.5 CLE Hours (including 1.33 Ethics Credits); and April 7, 2006 for 6.5 CLE Credits. Montana Mediation Association: Oct. 25-28, 2000 for ? CLE Credits. He also attended a seminar by the Legal Education Institute, Inc. on Oct. 19, 1990, that qualified for 6 CLE Credits. Also see the attached September 20, 2013 *Certificate of Completion* from the Casey Family Programs granting 9.75 CLE credits for attending a conference on "Making the Indian Child Welfare Act of 1978 Work."

O'NEIL'S LEGAL BACKGROUND

51. O'Neil has enough trial and appellate court experience in tribal and state courts to adequately represent clients before this United States District Court. Through helping his family and others he has built up an extensive legal background.

52. In December 1975, he retained counsel to protect his family from the acts of an overzealous religion in Idaho. In October, 1979, learning the case was about to be dismissed for lack of activity, and unable to find other representation, he took over the case himself.