

No. 18-A-\_\_\_\_\_

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**IN THE SUPREME COURT OF THE UNITED STATES**

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BRADFORD J. DALLEY, District Judge, Eleventh  
Judicial District, New Mexico, in his official capacity;  
HAROLD McNEAL; and MICHELLE McNEAL,

*Petitioners-Defendants,*

v.

NAVAJO NATION; and  
NORTHERN EDGE NAVAJO CASINO,

*Respondents-Plaintiffs.*

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**PETITIONERS HAROLD AND MICHELLE McNEAL'S  
APPLICATION FOR EXTENSION OF TIME TO  
FILE A PETITION FOR A WRIT OF CERTIORARI**

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**TO THE HONORABLE SONIA M. SOTOMAYOR, ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES AND CIRCUIT JUSTICE FOR THE TENTH CIRCUIT:**

Pursuant to Supreme Court Rules 13.5, 22, and 30, Petitioners respectfully request a 30-day extension of time, up to and including January 10, 2018, to file a petition for writ of certiorari to the United States Court of Appeals for the Tenth Circuit to review the court's decision in *Navajo Nation, et al., v. Dalley, et al.*, 896 F.3d 1196 (10th Cir. 2018) (attached hereto as **Exhibit A**). The Tenth Circuit issued its order denying rehearing in this matter, on September 10, 2018 in No. 16-2205 (10th Cir.) (attached hereto as **Exhibit B**). Petitioners understand that Judge Bradford Dalley, a party below and represented by the Attorney General of the State of New Mexico, also intends to file an application for an extension of time to file a petition for a writ of certiorari and may ultimately seek review of this decision and order under Supreme Court Rule 12.4.

The jurisdiction of this Court is invoked under 28 U.S.C. § 1254(1), and the time to file a petition for a writ of certiorari will expire without an extension on December 10, 2018. This application is timely because it has been filed at least 10 days prior to the date on which the time for

filing the petition is to expire. For good cause set forth herein, Petitioners request that this deadline be extended to January 10, 2018.

1. This case presents a substantial and complex question of federal law: Whether longstanding principles in Supreme Court precedent and core Congressional policies recognize an inherent right of Native American tribes to negotiate and agree to the forum in which to resolve contract disputes between Tribal sovereigns and third parties. Below, the Tenth Circuit held that Tribes do not have this inherent authority and Congress did not otherwise grant it to them. In so holding, the Tenth Circuit ignored longstanding principles in Supreme Court precedent, *see C & L Enterprises, Inc. v. Citizen Band Potawatomi Tribe of Okla.*, 532 U.S. 411 (2001), and created a circuit split with the United States Court of Appeals for the Ninth Circuit, *see In Re Indian Gaming Related Cases*, 331 F.3d 1094 (9th Cir. 2003).

2. Petitioners Michelle and Harold McNeal only recently obtained appellate counsel due to the unexpected and unfortunate passing of the lead counsel, Daniel Rosenfelt who had previously handled all aspects of the appeal and was the subject matter expert in Indian law. The surviving law firm, his co-counsel, is a small office with only a couple

of attorneys, neither of whom are appellate specialists or have the necessary expertise in federal Indian law. As a result, Counsel of record below was forced to associate with more experienced appellate counsel. The demands and case load of a small firm with a busy practice have also made coordination more difficult. Counsel of record below and appellate counsel require a short period of additional time to familiarize themselves with the highly complex legal issues presented by this case.

3. Counsel of record below, Linda J.R. Rios, has submitted an application for admission to practice before this Court, which is still pending.

4. Additional time will enable the appellate counsel to narrow the issues that warrant this Court's consideration and prepare a petition for writ of certiorari that will best assist this Court in its review.

5. Recent members of the appellate counsel team work at the University of New Mexico School of Law, which experiences its annual winter campus closure for several weeks in December. Coordination of printing and filing would thus be more difficult during this time.

Accordingly, the Petitioners respectfully request that an order be entered granting the Petitioners' application and extending the time to

file a petition for a writ of certiorari for 30 days, up to and including January 10, 2018.

Dated: November 30, 2018

Respectfully submitted,

*/s/ David J. Stout*

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