

RESOLUTION OF THE
NAVAJO NATION COUNCIL

23rd NAVAJO NATION COUNCIL - Third Year, 2017

AN ACTION

RELATING TO NAVAJO NATION COUNCIL: CONFIRMING THE PERMANENT
APPOINTMENT OF THE HONORABLE CYNTHIA THOMPSON AS NAVAJO NATION
DISTRICT COURT JUDGE

BE IT ENACTED:

Section One. Authority

- A. The Navajo Nation established the Law and Order Committee (LOC) as a Navajo Nation standing committee and as such gave the Law and Order Committee authority to recommend to the Navajo Nation President the permanent appointment of probationary judges. 2 N.N.C. §§ 164 (A)(9), 600 (A), 601 (B)(10) (2012) *see also* CO-45-12.
- B. The Navajo Nation Council shall confirm judicial appointments. 7 N.N.C. § 355 (A) and (E) (2009).

Section Two. Findings

- A. On July 23, 2009, the Navajo Nation President appointed and the Navajo Nation Council confirmed Ms. Cynthia Thompson as a Navajo Nation probationary district court judge. See CJY-28-09.
- B. Pursuant to 7 N.N.C. § 355(B), "[A]ll District Court Judges shall be appointed for a probationary period of two years and upon permanent appointment shall serve thereafter during good behavior."
- C. Pursuant to 7 N.N.C. § 355(C), A probationary...Judge shall not be recommended for a permanent appointment unless he or she has successfully completed a course of training accredited for judges and he or she has received a satisfactory performance evaluation from the Chief Justice and the Law and Order (Judiciary) Committee of the Navajo Nation Council at the conclusion of the probationary...Judge's two-year probationary term.

- D. On September 4, 2013 Chief Justice Herb Yazzie (ret.) provided a satisfactory performance evaluation and recommended Judge Cynthia Thompson for permanent appointment; subsequently, Chief Justice Allen Sloan (Acting) supplemented the performance evaluation of Judge Cynthia Thompson with a favorable recommendation for appointment as a permanent District Court Judge of the Navajo Nation. See **Exhibits "A" and "B."**
- E. Judge Cynthia Thompson has completed two training courses from the National Judicial College for *General Jurisdiction and Traffic Issues in the 21st Century - NHTSA in State*, along with attending a host of local conferences on legal matters. See **Exhibit "C."**
- F. Pursuant to 7 N.N.C. § 355(E), "At the conclusion of the two-year probationary term, the Law and Order (Judiciary) Committee shall review the record and qualifications of each probationary...Judge and shall recommend to the President whether or not each probationary...Judge has satisfactorily completed the probationary term and should be appointed to a permanent position. The President shall not appoint to a permanent position any probationary...Judge not recommended by the Law and Order (Judiciary) Committee. The appointments shall be submitted to the Navajo Nation Council for confirmation."
- G. On September 21, 2015, the Law and Order Committee determined Judge Cynthia Thompson met the qualifications for appointment as a permanent Navajo Nation District Court Judge and forwarded her name to the Navajo Nation President for judicial appointment consideration. See LOCS-20-15.
- H. Pursuant to 2 N.N.C. § 601(B)(11), the Law and Order Committee has the power to "present directly to the Navajo Nation Council the issue of permanent appointment of any Probationary...Judge whom the committee and the Chief Justice have recommended for permanent appointment and which recommendation the President of the Navajo Nation has failed to convey to the Navajo Nation Council within sixty (60) days for receiving the recommendation."
- I. On June 28, 2016 the Navajo Nation President gave notice to the Law and Order Committee that the President's 60 day time frame expired and he is returning "Judge Cynthia Thompson's appointment to the Navajo Nation Council to

decide whether it will confirm Judge Thompson." President Begaye memorandum dated June 28, 2016 attached here as **Exhibit "D."**

- J. The Navajo Nation finds it in the best interest of the Navajo Nation Judicial Branch that Judge Cynthia Thompson is confirmed for permanent status as a Navajo Nation District Court Judge.

Section Three. Confirmation as Permanent Judge

The Navajo Nation confirms Ms. Cynthia Thompson as a permanent Navajo Nation District Court Judge.

Section Four. Navajo Nation Privacy Act

Confidential information within application documents shall remain protected except upon its authorized disclosure by the appointee. 2 N.N.C. § 81 et seq. (2009).

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 15 in favor and 1 opposed, this 26th day of January 2017.



LoRenzo C. Bates, Speaker
Navajo Nation Council

1-31-17

Date

Motion: Honorable Davis Filfred
Second: Honorable Nathaniel Brown



THE NATIONAL JUDICIAL COLLEGE

Est. 1963

Advancing Justice Through Judicial Education

This certificate is awarded to

CYNTHIA THOMPSON

Participant

In recognition of faithful completion of

TRAFFIC ISSUES IN THE 21ST CENTURY - NHTSA IN STATE

In witness whereof this certificate has been signed by the Chair of the Board of Trustees and the President of The National Judicial College at the University of Nevada, Reno.

September 3, 2010



Marydel Baljer

Marydel Baljer, NJC Board of Trustees Chair

William F. Dressel

William F. Dressel, NJC President





THE NATIONAL

JUDICIAL COLLEGE

EST. 1963

Serving Justice Through Judicial Education

This certificate is awarded to

CYNTHIA THOMPSON

Participant

In recognition of faithful completion of

GENERAL JURISDICTION



In witness whereof this certificate has been signed by the Chair of the Board of Trustees and the President of The National Judicial College at the University of Nevada, Reno.

May 27, 2010

Frederic B. Rodgers

Frederic B. Rodgers, NJC Board of Trustees Chair

William F. Dressel

William F. Dressel, NJC President

TRAINING ATTENDED:

2010

I. The National Judicial College: General Jurisdiction

Attended: May 16-27, 2010

This course offered very interesting teaching agenda for the participants. Be informed that I attached a copy of the agenda for the Honorable Law and Order Committee's review. I found the courses to be very informative. The instructors had a wealth of knowledge in the area they presented and they came from many walks of life. The participants were very interested in the way Indian Country approached cases. I was the only Native American Judge attending the training at the time. After attending the course, we were able to look closely at how we managed our courtrooms and individual cases, including cases that involved pro se litigants. We learned about conducting jury and non-jury trials more effectively; summarize and apply developments in criminal law and procedure, family law, judicial discretion, sentencing, rule on evidence more confidently, and make fair and unbiased decisions. The participants walked away with added knowledge on how to communicate more effectively in our courtrooms. I believe it is an honor for us, as Native Americans, to participate at a National level and participate with other Judges from across the country where new friendships are established and that through these friendships we are able to grow professionally. I attached a copy of the certificate provided to me at the conclusion of the training.

II. 2010 NNBA Annual Conference

Attended: June 10-11, 2010

This Conference was held at the Hard Rock Hotel in Albuquerque, New Mexico. This conference is held every year for members of the Navajo Nation Bar Association, which includes Judges. Other entities are also welcomed to attend as well as interested individuals. At this particular conference, I was asked to present to the members the Judges view from the Bench. I participated in a breakout session, which included a panel of three Navajo Nation Judges (Judge Holgate, Judge Black and I). These conferences are usually informative and new skills are learned by those attending. The Navajo Nation Bar members teach one another and proceed forward to bringing quality services to those we serve. I attached a copy of the conference agenda.

III. The National Judicial College: Traffic Issues in the 21st Century

Attended: September 2-3, 2010

This particular training brought the National Judicial College to the State of Arizona. The funds used to put this training up came from the National Highway Traffic Safety Administration. Participants were from the State of Arizona. The participants joined in discussions on every agenda item as there were no breakouts. The most informative discussions were concerning DUI. What I walked away with was more information regarding alternative sentencing options in such cases. The interesting information provided was regarding DWI/Drug Courts. The other matter of interest was the Victim Impact Panel. I attached a copy of the agenda along with a copy of the certificate provided to me at the conclusion of the training.

TRAINING ATTENDED: (Continued)

Page 2

2011

I. 2011 NNBA Annual Conference –

Attended: June 9 – 10, 2011

This is a yearly conference hosted by the Navajo Nation Bar Association, Inc. (NNBAI). The topics of discussion are usually put together by a committee comprising of members of the NNBAI. Reports are provided by the various committees and a report by the President of the Bar Association. Also, breakout sessions provide very good information regarding laws and procedures. I attached a copy of the agenda for your review.

II. 19th Annual Four Corners Indian Country Conference

Attended: September 13-15, 2011

The Four Corners Conference is held annually and it creates a forum for addressing the needs of crime victims in Indian Country throughout the Southwest. The Conference enables tribal communities to collaborate directly with a broad range of law enforcement and victim assistance professionals at all levels, including federal, tribal, state and local entities. The collaboration provides for the best aid to victims of crime and improves the quality of public safety. This conference also provides an opportunity to establish networks in your community, because participants are from Law Enforcement, Prosecutors, Public Defenders, Probation Officers, and Judges. I attached a copy of the Conference Agenda and the Certificate of Attendance.

III. Proposed Álchíní Bi Beehaz'áani Orientation

Attended: September 19-21, 2011

This orientation was for Division of Social Services employees and invitations to the Judges, Prosecutors, and Public Defenders. The orientation was sponsored by the Division of Social Services. The outline for the orientation was to cover each area of the Alchini Bi Beehazaani Act, which includes the following: General provisions, Dependency Proceedings, Child in Need of Supervision Proceedings, Delinquency Proceedings, Termination of Parental Rights and Indian Child Welfare Act.

2012

I. Hózhó Náhasdlíí' Conference – Farmington, New Mexico

Attended: April 16-17, 2012

This is the third conference I attended sponsored by the Institute for Diné Culture, Philosophy and Government, LLC. The two other conferences were attended when I was working for the Navajo Nation Prosecutor's office in 2006 and 2007. The previous conference attended were 1) Fundamental Laws; and 2) Yikáii Yizhchí – The Birth of Changing Woman. As a Navajo, it is very important to learn the stories told by our grandfathers and grandmothers. That it is up to each individual to obtain the knowledge. I learned why the Twin heroes made a fourth visit to the Sun, why Changing Woman moved to the west, why the Four Clans were created and the

story of the Journey back to the Four Sacred Mountains. I enjoy attending conferences such as this one because you build on your own knowledge and use that knowledge as a teaching tool from the bench. I attached a copy of the conference agenda along with a copy of the certificate of attendance.

II. 2012 NNBA Annual Conference – Celebrating and Honoring 35 years of NNBA

Attended: June 7-8, 2012

This is a yearly conference hosted by the Navajo Nation Bar Association, Inc. (NNBAI). The topics of discussion are usually put together by a committee comprising of members of the NNBAI. Reports are provided by the various committees and a report by the President of the Bar Association. Also, breakout sessions provide very good information regarding laws and procedures. I attached a copy of the agenda for your review.

III. Tribal Court Trial Advocacy Program

Attended: October 23-25, 2012

This training was held in Chinle, Arizona and designed for Tribal Court Judges, Prosecutors, and Public Defenders. The training was a result of a collaborative effort by the Bureau of Indian Affairs Office of Justice Services and Access to Justice Initiative. The training focused on domestic violence and offered a helpful insight to Judges Bench Book on Protective Orders. The Training also focused on pleadings and plea agreement in criminal cases. We reviewed the rules of procedures and other practice tips regarding evidence & evidentiary foundations, direct & cross examination of witnesses, opening and closing statements made before the Court. A copy of the agenda and certificate received is attached for your review.

2013

I. 2013 NNBA Annual Conference – The Strength of the Future of the Navajo Nation –Diné bi beenaahaz'áanii

Attended: June 6-7, 2013

This is a yearly conference hosted by the Navajo Nation Bar Association, Inc. (NNBAI). The topics of discussion are usually put together by a committee comprising of members of the NNBAI. Reports are provided by the various committees and a report by the President of the Bar Association. Also, breakout sessions provide very good information regarding laws and procedures. I attached a copy of the agenda for your review.

TRAINING ATTENDED:

2015

I. 2015 NNBA Annual Conference – The conference was held at Twin Arrows, Flagstaff, Az.
Attended: June 4 - 5, 2015

This is a yearly conference hosted by the Navajo Nation Bar Association, Inc. (NNBAI). The topics of discussion are usually put together by a committee comprising of members of the NNBAI. Reports are provided by the various committees and a report by the President of the Bar Association. Also, breakout sessions provide very good information regarding laws and procedures. I attached a copy of the agenda for your review. This year's theme was "Revitalizing the Navajo Nation Bar Association". I was asked to provide a presentation on pretrial motions. The panel consisted of Lynn Isaacson, Derrick Burbank, Katherine Belzowski and myself.

II. 20th Navajo Studies Conference, Flagstaff, Arizona

Attended: May 28-May 30, 2015

The conference was a very good conference. I would recommend anyone interested in our culture and language to attend. The information provided was based on research, knowledge, traditional skills, and perspectives of Navajo People and supporters to promote positive change. The attendance to the conference was great. Some of the attendees included: tribal employees, BIA/BIE employees, professors from various colleges and universities, and members of the various tribal nations and our own people. This conference is held annually and I will attend the next conference. An abundance of very good and very informative information provided. I attached a copy of the Conference Agenda.




THE NAVAJO NATION

RUSSELL BEGAYE **PRESIDENT**
JONATHAN NEZ **VICE PRESIDENT**

MEMORANDUM



TO: Edmund Yazzie, Chairperson
Law and Order Committee

FROM: 
Russell Begaye, *President*
THE NAVAJO NATION

DATE: June 28, 2016

SUBJECT: No Action for Permanent Appointment as a District Court Judge

We are in receipt of the Law and Order Committee of the Navajo Nation Council No. LOCS-20-15 on April 12, 2016. The Law and Order Committee recommends Judge Cynthia Thompson to be considered for a permanent appointment as a Navajo Nation District Court Judge. The Navajo Nation President has 60 days to consider whether to appoint or deny any permanent Judge positions. The President's 60-day time frame has expired. As such, the Office of the President and Vice-President's returns Judge Cynthia Thompson's appointment to the Navajo Nation Council to decide whether it will confirm Judge Thompson. Any further questions, please contact Karis N. Begaye, Legal Counsel, Office of the President and Vice-President at (928) 871-7812.




NAVAJO NATION DEPARTMENT OF JUSTICE
OFFICE OF THE ATTORNEY GENERAL

ETHEL B. BRANCH
ATTORNEY GENERAL

RODGERICK T. BEGAY
ACTING DEPUTY ATTORNEY GENERAL

MEMORANDUM

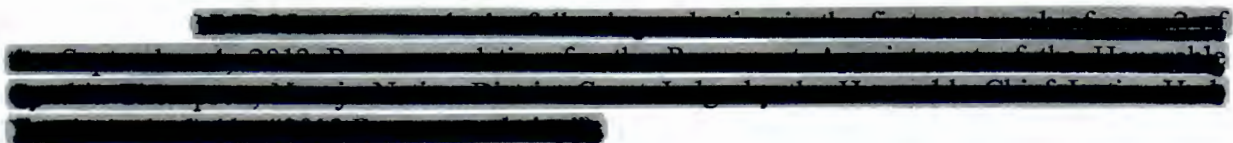
TO: Levon Henry, Chief Legislative Counsel
Office of Legislative Counsel
Legislative Branch


FROM: 
Ethel B. Branch, Attorney General
Office of the Attorney General

DATE: December 28, 2016

SUBJECT: **Confidential Exhibits Pursuant to 2 N.N.C. § 164(A)(6)**

I hereby respond to your inquiry of December 19, 2016 relating to the draft legislation entitled "An Act Relating to Navajo Nation Council: Confirming the Permanent Appointment of the Honorable Cynthia Thompson as Navajo Nation District Court Judge" (the "Draft Legislation"). As I understand your question, you would like to know what if any of the exhibits you sent to me should be treated as "confidential" and thus be redacted or withheld from placement on the Navajo Nation's website pursuant to 2 N.N.C. § 164(A)(6).





A Navajo employee's performance evaluation is designated as a protected record pursuant to the Navajo Nation Privacy Act at 2 N.N.C. § 85(A)(4). The above redacted language speaks to the substance of a review Honorable Chief Justice Yazzie conducted of Honorable Cynthia Thompson's personnel file (see his reference to this review on page 1 of the 2013 Recommendation), and thus is a disclosure of an evaluation of her performance. Accordingly it should be redacted.

There is an exception to the rule of § 85(A)(4) where charges have been brought and sustained, or where disciplinary action has been taken and has been completed, pursuant to 2 N.N.C. § 84(B)(11). However, due to the lack of clarity in the 2013 Recommendation, it is

Memorandum to: Levon Henry, Chief Legislative Counsel
RE: Confidential Exhibits Pursuant to 2 N.N.C. § 164(A)(6)
December 28, 2016
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unclear whether this exception applies and so the rule of non-disclosure should be followed until such time as clarification is gained with respect to the complaint referenced in the 2013 Recommendation.

[REDACTED]

Please let me know if you have any further questions.

EBB/ck

Attachment

9

23rd Navajo Nation Council

Winter Session

DATE: January 26, 2017

Legislation 0006-17 (Main Motion)

Motion: Filfred

Second: Brown

ALL DELEGATES:

	Yea	Nay
BATES, LoRenzo		
BEGAY, Kee Allen Jr.	✓	
BEGAY, Norman M.	✓	
BEGAYE, Nelson	✓	
BENNETT, Benjamin L.		✓
BROWN, Nathaniel	✓	
CHEE, Tom T.	✓	
CROTTY, Amber K.		
DAMON, Seth		
DANIELS, Herman	✓	
FILFRED, Davis	✓	
HALE, Jonathan L.	✓	
JACK, Lee Sr.		
PERRY, Jonathan	✓	
PETE, Leonard H.		
PHELPS, Walter	✓	
SHEPHERD, Alton Joe		
SLIM, Tuchoney Jr.	✓	
SMITH, Raymond Jr.		
TSO, Otto	✓	
TSOSIE, Leonard		
WITHERSPOON, Dwight	✓	
YAZZIE, Edmund	✓	
YAZZIE, Peterson	✓	

GRAND TOTAL

15 1

CERTIFICATION:



Honorable LoRenzo Bates
Speaker