IN THE SUPREME COURT OF THE STATE OF CALIFORNIA

In re DEZI C., et al., Persons Coming Under the Juvenile Court Law Los Angeles County Department of Children And Family Services Petitioner and Respondent v. Angelica A. Defendant and Appellant	Court of Appeal Case No. B317935 Superior Court Case 19CCJP08030A-B

Appeal from Superior Court
In And For the County of Los Angeles
The Honorable Robin R. Kesler, Judge Pro Tempore

APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF; PROPOSED *AMICUS CURIAE* BRIEF OF CALIFORNIA INDIAN LEGAL SERVICES AND CALIFORNIA TRIBAL FAMILIES COALITION IN SUPPORT OF DEFENDANT/APPELLANT, ANGELICA A.

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TABLE OF CONTENTS

TABLE OF AUTHORITIES

CASES

CODE OF FEDERAL REGULATIONS

STATUTES

RULES

OTHER

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In re DEZI C., et al., Persons Coming Under The Juvenile Court Law Los Angeles County Department of Children And Family Services Petitioner and Respondent v. Angelica A. Defendant and Appellant	Court of Appeal Case No. B317935 Superior Court Case 19CCJP08030A-B

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APPLICATION FOR LEAVE TO FILE *AMICUS CURIAE* BRIEF IN SUPPORT OF DEFENDANT/APPELLANT ANGELICA A.

TO THE HONORABLE PATRICIA GUERRERO, CHIEF JUSTICE, AND THE HONORABLE ASSOCIATE JUSTICES OF THE SUPREME COURT OF CALIFORNIA:

Pursuant to California Rules of Court, rule 8.520(f), we respectfully request leave to file the attached PROPOSED *AMICUS CURIAE* BRIEF IN SUPPORT OF DEFENDANT/ APPELLANT ANGELICA A. in the above-captioned matter. This application is timely made within 30 days after the filing of the Reply Brief on the Merits. Undersigned counsel certifies that there are no parties, counsel, entities or other individuals to identify under rule 8.520(f)(4) of the California Rules of Court.

STATEMENT OF INTEREST OF *AMICUS CURIAE*

California Indian Legal Services (CILS) is a not-for-profit law firm devoted exclusively to the cause of Native American rights. CILS has four offices across the state and has been providing free legal assistance to low-income individuals and low-cost legal services to California Indian tribes for over 50 years. CILS provides representation on Indian law matters, including the Indian Child Welfare Act (ICWA). (25 U.S.C. § 1901 et. seq.)

Indian children are a vital resource to Indian tribes. Congress passed the ICWA in 1978 in response to alarmingly large numbers of Indian children being removed from their families and consequently lost to their tribes. Over at least five decades later, the ICWA remains one of the most important tools tribes can use to protect Indian families and children. Since the adoption of the ICWA, CILS has been a state leader in ensuring that federal, state, and local officials follow its mandates. CILS conducted the initial hearings on the ICWA in California, authors the California Judges Benchguide on the ICWA and other state publications, argued before the California Supreme Court in: *In re W.B. Jr.* (2012) 55 Cal.4th 30, *In re Abbigail A.* (2016) 1 Cal.5th 83 and *In re Isaiah W.* (2016) 1 Cal.5th 1, and played a key role in the passage of Senate Bill 678, which codified the requirements of the ICWA into the California Family, Probate and Welfare & Institutions Codes. Additionally, CILS has represented virtually every California tribe, as well as many non-California tribes, in state court proceedings covered by the ICWA.

California Tribal Families Coalition (CTFC) is a 501(c)(4) non-profit membership organization of approximately 50 federally recognized tribes and three Tribal Leaders' Associations located in California. CTFC's broad mission is to promote and protect the health, safety, and welfare of tribal children and families, which are inherent tribal governmental functions and at the core of tribal sovereignty and governance. CTFC was formed to carry out the recommendations of California's ICWA Compliance Task Force, an independent and tribal-led group comprised of tribal leaders, representatives, and advocates.

Convened in 2015 at the invitation of the California Attorney General, the Task Force's central objective was to identify ways to improve the implementation of the ICWA and California's corresponding state legislation for the benefit of tribes, Indian families, and their children. The Task Force recognized that tribal rights under the ICWA continue to be frustrated four decades after the statute's enactment, leaving tribes unable to effectively protect their member children in state child welfare systems or prevent their children from being removed from their communities unnecessarily. After conducting listening sessions to identify gaps where tribes, Indian families, and their children were left out of legal protections, the Task Force issued its recommendations in the form of a final report ("Task Force Report"). CTFC accomplishes its mission through a variety of activities guided by the Task Force Report. Among other things, CTFC works to improve Inquiry and Notice

practices at the state level to improve ICWA application and compliance.

AMICUS CURIAE BRIEF IN SUPPORT OFDEFENDANT/APPELLANT ANGELICA A.

I. Summary Of Arguments.

Identifying the correct standard for what constitutes reversible error when the County Agency fails to complete statutorily required inquiry of a child's potential Indian ancestry has far-reaching consequences for California's tribes. We agree with Appellant Mother that the *Dezi C.* standard enables child welfare agencies to ignore the rights of tribes, enabling agencies to ignore federal legislation and the requirements of Welfare and Institutions Code, section 224.3. (*In re Dezi C.* (2022) 79 Cal.App.5th 769.) Both the Appellant (Opening Brief on the Merits, p. 28) and the Respondent (Answer Brief on the Merits, p.58) cite to the 2017 "*ICWA Compliance Task Force Report to the California Attorney General's Bureau of Children's Justice*." So too does *Amici* with specific reference to Task Force's statement that:

> When parents are the sole target of the initial inquiry, it should be understood that there are a variety of reasons why relying on the parents does not necessarily protect the child's best interests, or the rights of the tribe. Parents may simply not have that information or may possess only vague or ambiguous information.
>
> The parents or Indian custodian may be fearful to self-identify, and social workers are ill-equipped to overcome that by explaining the rights a parent or Indian custodian has under the law. Parents may

> even wish to avoid the tribe's participation or assumption of jurisdiction.

(*Report*, p. 28, footnotes omitted, https://theacademy.sdsu.edu/wp-content/uploads/2015/06/icwa-compliance-task-force-final-report-2017.pdf.)

Amici seek to provide a more complete understanding of why parents may not have information about their ancestry and thus should not be the sole source for determining whether ICWA is applicable to a dependency proceeding, especially in cases where extended family inquiry is possible.[1] Amici also seek to establish that failing to follow the statutory mandates to inquire of extended relatives robs tribes of their right to meaningfully participate in child welfare proceedings.

The state's tragic, multi-generational treatment of California Indians and tribes is often referred to as an act of "genocide." These horrific policies led to intergenerational trauma among Native Americans and a reluctance by some native people to self-identify as Indian and/or Native American.

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[1] Amici will not be addressing, but would like to acknowledge, that parents may not identify as Native American in an effort to bypass the ICWA and avoid tribal involvement. In some cases, parents may be counseled to do so by less than scrupulous adoption attorneys in an effort to avoid delay or complications with the adoption. (*Mississippi Band of Choctaw Indians v. Holyfield* (1989) 490 U.S. 30 [mother gave birth to twins at hospital 150 miles from reservation in express attempt to avoid tribal jurisdiction]; *In re Bridget R.* (1996) 41 Cal.App.4th 1483 [adoption attorney counseled biological father that private adoptions would be delayed or prevented if father's Indian ancestry were known, father filled in a revised form, omitting the information that he was Indian].)

As a consequence, there are younger generations of California Native Americans unaware of their ancestry where elders and extended family may have buried and intentionally chosen not to discuss their painful family history with their descendants. Further, parents in a dependency proceeding may not know of their family's relocation to California under the federal Indian [Urban] Relocation Program carried out beginning in the 1950's and continuing through the 1970's. The Relocation Program resulted in hundreds of Native Americans throughout the country moving from rural areas to urban centers such as Los Angeles, San Francisco, Denver, Minneapolis, Chicago, and other chosen cities for the purpose of mainstream assimilation.[2]

When the state fails to understand the impact of California's genocide and the displacement of Native Americans from Indian reservations to Los Angeles and other urban centers, the end result may deprive an Indian child's tribe of the right to notice, intervention and the opportunity to protect the child and, in some cases the parents, who were unaware of or hid their Indian ancestry.

II. Tribes Will Be Denied the Right to Notice and the Right to Advocate on Behalf of Tribal Children When the Duty to Conduct Extended Family Inquiry is Not Enforced.

In the numerous inquiry cases before the various Courts of Appeal tribes are absent and, therefore, have no ability to

[2] Amici Legal Counsel Dorothy Alther is a member of the Oglala Sioux Tribe, and her family was relocated to Los Angeles from South Dakota in the 1960s.

advocate for their rights. As Justice Wiley's dissenting opinion in *In re M.M.* (2022) 81 Cal.App.5th 61, 72, points out:

> The right here belongs to tribes. What is the tribes' view of this controversy? We do not know. They have never been invited to the discussion. The entire appellate conversation has proceeded in their absence. The real parties in interest have no idea their rights are on the line in these cases.

In child welfare cases, tribal rights are distinctly separate from the rights of the parents. (*In re Isaiah W.* (2016) 1 Cal.5th 1, 8 [tribes have an interest in Indian children "distinct from but on a parity with the interest of parents"].) Thus, a County Agency owes a duty to the child and parent to do a full and complete inquiry of extended family, but also owes a distinct duty to tribes so that tribal rights and interests are protected. A County Agency's failure to follow the mandatory inquiry requirements on determining Native American ancestry undermines the founding purposes of the ICWA. (*Isaiah W.*, *supra*, 1 Cal.5th 1, 8; *Holyfield, supra,* 490 U.S. 30 at p. 49.)

Moreover, when inquiry is deficient in child welfare cases, the consequences are long-term and cumulative for tribes. In 1978, when it passed the ICWA, Congress recognized that "an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and...an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and Institutions." (25 U.S.C. § 1901(4).) Consequently, the ICWA established notice-related substantive and procedural requirements specifically designed to protect

tribes. If there is an inadequate and incomplete inquiry, the result is a bypassing of remedial requirements of the ICWA and a risk to the tribes of losing the next generation of their citizens through the Agency's failures.

The United States Supreme Court acknowledged the unique interests afforded the tribes under the ICWA when it stated, "The numerous prerogatives accorded the tribes through the ICWA's substantive provisions…must be seen as a means of protecting not only the interests of individual Indian children and families, but also of the tribes themselves." (*Holyfield*, *supra*, 490 US 30, 49.) Inadequate inquiry resulting in the determination that ICWA does not apply to a child welfare case may undermine the parents' ability to regain custody of their children. In contrast, for tribes, the determination that the ICWA does not apply to a child welfare case leaves the tribe unaware of their right to intervene in a case that involves an Indian child and results in an outcome the Act was specifically engineered to protect: Indian children are placed in non-Indian foster and adoptive homes and Institutions. Such an outcome vitiates the tribe's ability to "protect the best interests of Indian children and to promote the stability and security of Indian tribes and families." (25 U.S.C. § 1902.) As a result, without proper notice guided by an adequate initial inquiry, the rights conferred to tribes by the Act are rendered meaningless. (*In re Marinna J.* (2001) 90 Cal.App.4th 731, 735.)

The distinct interests of the tribes may also deviate from the parents when it comes to self-identification, further

impacting the tribes' ability to benefit from the rights conferred by the ICWA. It is not unusual for parents and tribes to be motivated by different goals when it comes to acknowledgment of Indian heritage. Simply put, in certain cases, the tribes' interests in identifying youth with Indian heritage may conflict with the parents' interest in denying Indian heritage. "The parents or Indian custodian may be fearful to self-identify, and social workers are ill-equipped to overcome that by explaining the rights a parent or Indian custodian has under the law. Parents may even wish to avoid the tribe's participation or assumption of jurisdiction." (*Cal. ICWA Compliance Task Force, Rep. to Cal. Atty. Gen.'s Bur. of Children's Justice* (2017) 28.) A full initial inquiry under Welfare and Institutions Code, section 224.2, subdivisions (a) and (b), protects tribes from any hesitation to self-identify as native on the part of the parents, because it sufficiently broadens the scope of family members who can objectively clarify whether the ICWA should apply. (Welf. & Inst. Code, § 224.2, subds. (a) & (b).)

Given the divergent interests of tribes and parents, if inquiry and notice can be deemed "adequate" even where a record establishes that a County Agency failed to follow the requirement of interviewing all extended relatives when conducting its initial inquiry, the tribes' interests are rendered meaningless. Overlooking the statutory requirement of a full inquiry of extended relatives denies the court the needed information to determine the application of the ICWA to a case. Where parents are reluctant to acknowledge tribal heritage, this is a dangerous

scenario where the tribe stands to lose critical knowledge needed to protect its interests. The implications that flow from allowing the County Agency to jettison its legal obligation under any circumstances where inquiry fails to satisfy the requirements of section 224.2 are extreme: Without adequate initial inquiry and notice, the tribes' rights to obtain jurisdiction over a child welfare case or to intervene in state court are in great jeopardy. These are rights that tribes are entitled to irrespective of the parents' position. As the *Isaiah W.* court explained, "The right at issue in the ICWA context is as much an Indian tribe's right to a determination of a child's Indian status as it is a right of any sort of favorable outcome for the litigants already in a dependency case." (*Isaiah W.*, *supra*, 1 Cal.5th 1, 8.)

III. Intergenerational Trauma as a Result of California's Historical Genocide of Native Americans Can Prevent Parents From Knowing Their Native American Ancestry.

The centuries-long policies of genocide and assimilation has led generations of California Indians to be reluctant to self-identify as Indian. California Indians were exposed to infectious disease and forced into labor camps by Spanish colonizers. (See Edward D. Castillo, "*California Indian History: Short Overview of California Indian History*" at State of California Native American Heritage Commission, https://nahc.ca.gov/resources/california-indian-history (last visited Feb 14, 2023).) During the Spanish mission system, California Indians experienced unrelenting labor demands, forced separation of children and parents, and physical coercion, which decimated their populations and dispossessed

them of their land. (*Ibid*.) Nearly a third of California's Indian population died as a direct consequence of the Spanish missions. (*Ibid*.) Massacres of California Indians were also common events. (Robert F. Heizer, *The Destruction of California Indians,* p. 243 (University of Nebraska Press 1993).)

In 1850, the California Legislature passed the Government and Protection of Indians Act which facilitated removing California Indians from their traditional lands, separating at least a generation of children and adults from their families, languages, and cultures, and indenturing Indian children and adults to white Americans. (Kimberly Johnston-Dodds, *Early California Laws and Policies Related to California Indians,* 10 (California Research Bureau, California State Library 2002).) By the late nineteenth century, California Indian victims became scarce, and survivors learned to avoid Americans whenever possible. (Edward D. Castillo, "*California Indian History: Short Overview of California Indian History*", at State of California, Native American Heritage Commission, https://nahc.ca.gov/resources/california-indian-history/ (last visited Feb 14, 2023); see also "*Timeline of Genocide Incidents in the Los Angeles and San Diego Region*", State of California Native American Heritage Commission, https://nahc.ca.gov/cp/timelines/southern-california/ (last visited Feb 14, 2023).)

In 2019, Governor Newsom signed Executive Order N-15-19, which recognizes California's history of violence towards, discrimination against, exploitation, and attempted destruction

of California Indian communities. (Executive Department, State of California, Exec. Order No. N-15-19 (June 18, 2019), https://www.gov.ca.gov/wp-content/uploads/2019/06/6.18.19-Executive-Order.pdf/.) Executive Order N-15-19 also established the Truth and Healing Council, to "bear witness to, record, examine existing documentation of, and receive California Native American narratives regarding the historical relationship between the State of California and California Native Americans in order to clarify the historical record of this relationship in the spirit of truth and healing." (*Ibid.*) Executive Order N-15-19 further reaffirms and incorporates by reference the principles of government-to-government collaboration between the State of California and California Native American tribes, established by Executive Order B-10-11. (*Ibid.*)

The word "Healing" as denoted in the name of the Council, is an attempt to address the pain and trauma experienced by those California Native Americans who experience the harsh removal from their family and denied the ability to speak their language and practice their traditional religion. The Council is charged with documenting the state's dark history, making formal amends and trying to lessen intergenerational trauma that so many California Native Americans carry within them.

Understanding the social, mental, and physical impacts from intergenerational trauma cannot be understated. Dr. Maria Yellow Horse Brave Heart, a Native American social worker, associate professor, and mental health expert known for developing a model of historical trauma for the Lakota people,

defines historical trauma as "the cumulative emotional and psychological wounding over one's lifetime and from generation to generation following loss of lives, land and vital aspects of culture."
(https://en.wikipedia.org/wiki/Maria_Yellow_Horse_Brave_Heart/ see also Joseph Gone "A Community-Based Treatment of Native American Historical Trauma: Prospects for Evidence-Based Practice by, University of Michigan, https://www.leadinginsideout.org/exploring-historical-trauma-in-native-american-communities/; Kathleen Brown-Rice "Examining the Theory of Historical Trauma Among Native Americans," The Professional Counselor, Oct 15, 2014, Vol. 3, Issue 3.) Dr. Brave Heart's work has fostered historical treatment centers to address generational trauma such as the Freedom Lodge, Inc. which offers education and training specifically "for the healing and wellness of all Indigenous People."
(https://kalliopeia.org/grantee-partner/freedom-lodge/ Freedom Lodge; see also Friendship House, San Francisco, CA, a Native American treatment center "… dedicated to stopping the cycle of dysfunction that has been passed down from one generation to the next." https://www.friendshiphousesf.org/.)

Indeed, generations who lived through trauma at the hands of state actors pass a lack of self-identification as Native American to younger generations, leaving only the older family members or extended family members with knowledge of the family's Native ancestry. The long history of separation of Indian children from their families and placement in non-Indian foster

care and adoptive homes "contributed to a number of problems, including the erosion of a generation of Indians from Tribal communities, loss of Indian traditions and culture, and long-term emotional effects on Indian children caused by loss of their Indian identity." (See, e.g, Executive Summary to Bureau of Indian Affairs ICWA Regulations, 81 Fed. Reg. 38778 (June 14, 2016).)

When conducting inquiry into Native American heritage, the assumption of a County Agency that "…what a parent should know overlooks recent findings on the impact this country's decades-long efforts to destroy Indian families and eradicate Indian history and culture, including through abuses of the child welfare system, may have on a family's awareness of its Indian ancestry." (*In re Rylei S.* (2022) 81 Cal.App.5th 309, 321-322.) A County Agency's best-practice informed inquiry of family members and elders may be the only way he/she may gain knowledge of the family's Native American ancestry.

IV. The Federal Relocation Program Displacing Native Americans Can Prevent a Parent From Knowing Their Native American Ancestry.

In understanding the burden placed on a County Agency and court in determining whether a child in a dependency case is an Indian child, we must remember that Congress passed the ICWA to address the harm done by the government conceived and funded assimilation programs of the past, such as Indian boarding schools and Indian Relocation programs. It was the Department of Interior, Bureau of Indian Affairs' (BIA) "termination era" policies that led to the mass relocation of

Native Americans throughout the country to urban centers, such as San Francisco and Los Angeles.

The Relocation Act (Act of Aug. 3, 1956, Public Law 84-959, 70 Stat. 986) was passed to provide funds to young adult Indians to relocate from on or near their reservation to a selected urban center. (Indian Child Welfare Act Proceedings, 81 Fed. Reg. 38783 (June 14, 2016).) Due to the limited employment opportunities on or near reservations, many Indian people took advantage of the relocation program that promoted assimilation into white-centric family cultural values and subjected American Indians to strict Bureau of Indian Affairs (BIA) oversight. (Nicolas G. Rosenthal, *Reimagining Indian Country: Native American Migration & Identity in Twentieth Century Los Angeles*, 43, 49-51.) Consequently, Southern California became a site for Indian migratory wage labor as many Indian people ventured away from tribal communities in search of better work and living conditions. (*Id*. at pp.46-48.)

This migration brought about new cultural practices and affiliations, as well as tensions and conflicts within and between Indian communities. Rosenthal argues that Native American migration to Los Angeles in the twentieth century created a dynamic cultural landscape that was marked by both cooperation and conflict. As communities came together, they also had to negotiate competing interests and forge new identities in response to the modern urban environment. According to the U.S. Census in 2020, Los Angeles County is home to the largest American Indian and Alaska Native population of all counties in

the United States.[3] Ironically, there are no Indian reservations in Los Angeles County.

According to social science research, it is "believe[d] that the relocation experiences of Indigenous North Americans represent a life course turning point of considerable consequence for individual mental health, identity, and social and family networks." (Walls ML, Whitbeck LB. *The Intergenerational Effects of Relocation Policies on Indigenous Families* (July 27, 2012) J Fam Issues 33(9): pp. 1272-1293.) As such, some of the families that relocated have lost a direct link with their reservation community and may lack sufficient knowledge of their Native American heritage. A quasi-assimilated identity of the "urban Indian" was developed out of these programs, resulting in Native American peoples with multiple tribal affiliations and limited information about the federally recognized tribal nations from which they descend. (See Donald L. Fixico, *The Federal Indian Relocation Program of the 1950s and the Urbanization of Indian Identity*, in Richard Bessel and Claudia B. Haake (eds.), *Removing Peoples Forced Removal in the Modern World* (Oxford: Oxford University Press, 2009) pp. 107–129; see also Jacobs, M.R. *Urban American Indian Identity: Negotiating Indianness in Northeast Ohio*. (2015) Qual Social 38, 79–98.)

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[3] United States Census Bureau, 2020 Decennial Census, Census Bureau Tables: Race All Counties within United States and Puerto Rico, https://data.census.gov/cedsci/table?g=0100000US%240500000&tid=DECENNIALPL2020.P1 (last visited June 27, 2022).

Structural displacement has been shown to be especially problematic for community-oriented cultural groups, especially indigenous people as much of the cultural identity is tied to place. (*Id*; see O'Sullivan M, Handal P. "Medical and psychological effects of the threat of compulsory relocation for an American Indian Tribe. American Indian and Alaska Native Mental Health Research." 1988; 2:3–19.; see also Fixico D. *Termination and Relocation. Federal Indian Policy*, 1945–1960. Albuquerque, NM: University of New Mexico Press (1986) pp. 134–157, for examples of the struggles endured by many relocatees.) For Native American families who were subject to forced removal and assimilation, the process of finding one's tribal nation is a complex one that requires family outreach and then reconnection with the tribal community and nation. (See Landers, A. L., Danes, S. M., Morgan, A. A., Merritt, S., & White Hawk, S. (2021). *My relatives are waiting: Barriers to tribal enrollment of fostered/adopted American Indians*. Journal of Marriage and Family, 1–28, 2 https://doi.org/10.1111/jomf.12797 (The article discusses how foster care and adoption processes can present challenges to American Indian children and their families seeking to enroll in tribal communities. These challenges include legal and bureaucratic barriers as well as social and cultural obstacles.).) While this displacement has caused issues for individuals, it has also created concerns for tribal nations in protecting their sovereignty, since the loss of a tribe's citizens has a direct impact on its longevity and ability to exist into the future. (See 25 U.S.C. § 1917; Fam. Code, § 9209 (protects an

individual's right to tribal information to encourage and facilitate tribal enrollment).).

As seen with generational trauma, relocation of native families to urban areas can result in younger generations lacking knowledge of their Native American ancestry which may only be reclaimed by conducting proper ICWA inquiry with extended family members and others more knowledgeable. Passage of the ICWA was an effort by Congress to mitigate the impact of displacement, so in the implementation of both state and federal ICWA protections, a County Agency should not be shifting the inquiry burden that has been placed upon it to correct these historical wrongs. In other words, ICWA must be applied so there is no excuse for County Agencies that shirk their responsibility to Native American communities. Rather, ICWA should be seen, and implemented, as a step towards righting the wrongs of the past and preserving the sovereignty of tribal nations. ("American Indian Urban Relocation National Archives" (Aug. 15, 2016) www.uihi.org/urban-indian-health/. Last visited December 9, 2021.)

CONCLUSION

The parents in a dependency proceeding, as shown by *Amici*, may not be in a position to provide the necessary information on their Native American ancestry. Generational trauma, as a result of the genocide against Native Americans in California, may have impeded the sharing of a family's history, lineage, and historical ties to their Native American heritage. Further, parents, especially those living in urban centers, may

lack knowledge of their family's relocation from Indian county during the termination period fostered by the federal government and implemented through the BIA. Inquiry beyond a parent alone is mandated by both the ICWA and state law. If a County Agency fails to comply with the law, there must be a means of rectifying such failure through the appellate review process.

When determining the issue before the Court on what constitutes reversible error if the County Agency fails to make the statutorily-required initial inquiry to determine Indian heritage, *Amici* encourage the Court to choose a standard that upholds the stated purpose of ICWA by protecting the tribes' interests in correctly identifying and protecting Indian youth. Where there has been no or inadequate extended family inquiry a tribe will be denied notice and prevent it from "… the opportunity to assert its rights under the Act irrespective of the position of the parents... Without notice, these important rights granted by the Act would become meaningless." (*In re Kahlen W.* (1991) 233 Cal.App.3d 1414.) "Children are essential to the survival of the tribe because they are the only means of transmitting tribal heritage." (Hearing on Sen No. 1214 before the Subcommittee on Indian Affairs and Public Lands of the House Committee on Interior and Insular Affairs, 95th Cong, 2nd Session (1978).) To satisfactorily meet these objectives, the reviewing court should consider: "[W]hether information in the hands of the extended family members is likely to be meaningful in determining whether the child is an Indian child, not whether the information is likely to show the child is in fact an Indian child." (*In re Y.W.*

(2021) 70 Cal.App.5th 542.) This inquiry recognizes that tribal interests are separate and distinct from the interests of parents. It also recognizes that extended relatives may provide "meaningful evidence," and tell a story that is separate and distinct from the one presented by the parents.

Dated: March 8, 2023

Respectively Submitted Attorneys for *Amici*

/S/ Dorothy Alther
California Indian Legal Services

/S/ Kimberly Cluff
California Tribal Families Coalition

CERTIFICATE OF WORD COUNT

I, DOROTHY ALTHER, counsel for Amici, certify that the foregoing brief complies with California Rules of Court and contains 4,754 words, including footnotes, but excluding table and signature lines, according to the word count of the computer program used to prepare this brief. I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Dated: March 8, 2023

/s/ Dorothy Alther
Attorney for *Amici*

PROOF OF SERVICE

I am, and was at the time of the service of this declaration, over the age of 18 years and am not a party to this cause. My electronic service address is dalther@calindian.org and my business address is 609 S. Escondido Blvd., Escondido, CA 92025. On March 8, 2023, I or TrueFiling served the persons and/or entities listed below "Electronically," by transmitting a PDF version of the APPLICATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF; PROPOSED AMICUS CURIAE BRIEF OF CALIFORNIA INDIAN LEGAL SERVICES AND CALIFORNIA TRIBAL FAMILIES COALITION IN SUPPORT OF DEFENDANT/APPELLANT, ANGELICA A.
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this 8th day of March, 2023, at Escondido, California.

/s/ Dorothy Alther

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **IN RE DEZI C.**
Case Number: **S275578**
Lower Court Case Number: **B317935**

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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

3/8/2023

Date

/s/Dorothy Alther

Signature

Alther, Dorothy (Other)

Last Name, First Name (PNum)

California Indian Legal Services

Law Firm