

**IN THE UNITED STATES COURT  
OF FEDERAL CLAIMS**

**Case Nos. 03-2684L and 01-568L**

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Sheldon Peter Wolfchild, *et al.*,

Plaintiffs,

vs.

United States,

Defendant.

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**MOTION TO FILE UNDER SEAL DECLARATIONS AND  
UNREDACTED MOTION FOR A HEARING SEEKING RELIEF TO  
ENJOIN AND MISCELLANEOUS RELIEF**

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September 22, 2010.

*Wolfchild* Plaintiffs move for a court order allowing them to file an unredacted version of a motion for a hearing to enjoin and miscellaneous relief, with certain declarations regarding efforts to dissuade the filing of an *amicus curiae* memorandum from the Oglala Sioux Tribe in support of the Plaintiffs as a result of a \$1 million “offer” from the Shakopee Mdewakanton Sioux Community. The referenced motion to enjoin is dated September 21, 2010 (but filed on September 22, 2010 because of sealed procedural requisites), and is also referenced in footnote 53 of the *Wolfchild* Plaintiffs Reply Memorandum Regarding Motions to Amend Complaints dated and filed on September 20, 2010. A redacted version of the motion to enjoin is being filed, but the supporting declarations of certain individuals are requested for filing under seal because of the fear of retaliation. Those concerns are defined in an accompanying declaration, also filed under seal with the instant motion.

#### BACKGROUND

This Court will entertain a variety of motions from the defendant United States and the *Wolfchild* plaintiffs (inclusive of the intervening parties) on October 22, 2010. As a matter of course in the process of filing supportive memorandum regarding Plaintiffs’ motions to amend their complaint(s) and for cross-partial summary judgment, *Wolfchild* Plaintiffs’ counsel sought an *amicus curiae* filing from the Oglala Sioux Tribe. The Oglala Sioux Tribe had previously filed an *amicus curiae* brief in a petition

for a writ of certiorari before the U.S. Supreme Court in assistance to the *Wolfchild* Petitioners.

Upon seeking the Oglala Sioux Tribe continuing support through an *amicus curiae* filing, it came to *Wolfchild* counsel's attention that the President of the Shakopee Mdewakanton Sioux Community, Stanley Crooks, offered the Oglala Sioux Tribe \$1 million for a development project *if* it rescinded the original Oglala resolution that supported the *Wolfchild* Petitioners granting the Oglala attorney permission to file an *amicus curiae* brief in support of the *Wolfchild* U.S. Supreme Court Petition. An Oglala Sioux Tribal committee — the Economic and Business Development Committee — with whom Mr. Crooks had direct contact, voted for the Tribal Council to consider the rescission in exchange for the \$1 million “offer.” The Committee's decision will go forward to the full Oglala Sioux Tribal Council later this month for consideration.

SMSC's actions effectively eviscerated any opportunity for the *Wolfchild* Plaintiffs to obtain the support of the Oglala Sioux Tribe for an *amicus curiae* filing as fully explained in the motion to enjoin and for miscellaneous relief. But, because of the fear and concern of retaliation certain declarations and supporting documentation are requested to be filed under seal. (See Sealed Declaration of Erick G. Kaardal in support of the instant motion filed separately). Under the circumstances, an order allowing counsel to do so appears appropriate.

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