



## **Resolution of the NATIONAL NATIVE AMERICAN BAR ASSOCIATION**

### **RESOLUTION # 2016 - 2**

**TITLE: To Support Tribal Courts and Justice Systems in Light of Recent Arguments Presented in the U.S. Supreme Court Case *Dollar General Corp. and Dolgencorp, LLC v. The Mississippi Band of Choctaw Indians, et al.***

**WHEREAS**, the National Native American Bar Association (“NNABA”) works to promote issues important to the Native American community and to improve professional opportunities for Native American lawyers, we do hereby establish and submit the following resolution;

**WHEREAS**, NNABA, founded in 1973, serves as the national association for Native American attorneys, judges, law professors, and law students and strives to be a leader on social, cultural, political and legal issues affecting American Indians, Alaska Natives, and Native Hawaiians;

**WHEREAS**, NNABA supports the strength and well-being of tribal nations, including their tribal justice systems;

**WHEREAS**, arguments presented in the recent case of *Dollar General Corp. and Dolgencorp, LLC v. The Mississippi Band of Choctaw Indians, et al.*, United States Supreme Court Case Number 13-1496, question the jurisdictional reach of tribal courts, and thus tribal nations, as well as their competence to provide justice to individuals and litigants from non-tribal communities;

**WHEREAS**, in *Dollar General*, a teenage member of the Mississippi Band of Choctaw Indians, through his parents, filed a lawsuit in the Mississippi Band of Choctaw Indians tribal court seeking damages from Dollar General Corporation and Dolgencorp, LLC (collectively “Dollar General”), as well as a Dollar General employee, due to an alleged sexual assault occurring at a Dollar General retail store located and operated on tribal trust lands through an agreement between Dollar General and the Mississippi Band of Choctaw Indians (the “Tribe”);

**WHEREAS**, after decisions to retain jurisdiction over Dollar General in both the initial, tribal civil court and the Choctaw Supreme Court, Dollar General challenged the Tribe’s exercise of civil jurisdiction in a federal district court in Mississippi and, subsequently, at the U.S. Court of Appeals for the Fifth Circuit;



**WHEREAS**, both the federal district court and the U.S. Court of Appeals for the Fifth Circuit confirmed the propriety of civil jurisdiction over Dollar General in the case based on current U.S. Supreme Court precedent;

**WHEREAS**, Dollar General filed a writ of certiorari with the U.S. Supreme Court following the decision by the U.S. Court of Appeals, and the U.S. Supreme Court granted certiorari despite a recommendation not to do so by the Solicitor General;

**WHEREAS**, all parties submitted merits briefs for the U.S. Supreme Court case in the fall of 2015, and the Court heard oral arguments on December 7, 2015;

**WHEREAS**, Dollar General and their amici submitted arguments to the U.S. Supreme Court in *Dollar General* challenging the inherent sovereignty of tribal nations to exercise civil jurisdiction over nonmembers in matters concerning conduct on tribal lands;

**WHEREAS**, Dollar General and their amici also submitted arguments to the U.S. Supreme Court in *Dollar General* challenging the very competence of tribal courts, the coherence of tribal law, and the due process protections available to litigants in any tribal court forums, despite the existence and application of the Indian Civil Rights Act;

**WHEREAS**, these broad and over-inclusive arguments threaten not only the sovereign authority of the Tribe and its justice system, but also the inherent sovereignty of all tribal nations and their tribal courts and justice systems;

**WHEREAS**, courts are important institutions for any sovereign, and, in the case of tribal nations, they provide a forum for the protection of tribal interests and the interests of tribal members;

**WHEREAS**, the United States Congress has repeatedly encouraged the development of tribal justice systems by tribal nations and even provided assistance for the same; and

**WHEREAS**, the efforts to diminish the competence of tribal courts and justice systems in the eyes of the public through the *Dollar General* case create a need for responsive action and education about tribal courts and justice systems throughout the United States.

**NOW, THEREFORE, BE IT RESOLVED**, that the National Native American Bar Association supports the existence and work of tribal courts and justice systems and the continuing efforts by governments, tribal nations, bar associations, educational institutions, and legal practitioners to increase public awareness of tribal courts and justice systems in light of the attacks to tribal sovereignty and justice presented in the *Dollar General* matter.



### **CERTIFICATION**

The foregoing resolution was adopted by the Board of the National Native American Bar Association, on January 21, 2016, with a quorum present.

Linda Benally, President

ATTEST:

Makalika Naholowa'a, Recording Secretary