



JUDICIAL COUNCIL
OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

www.courts.ca.gov/forum.htm
forum@jud.ca.gov

TRIBAL COURT-STATE COURT FORUM

OPEN MEETING AGENDA

Open to the Public (Cal. Rules of Court, rule 10.75(c)(1))

THIS MEETING IS BEING CONDUCTED BY ELECTRONIC MEANS

THIS MEETING IS BEING RECORDED

Date: February 11, 2016
Time: 12:15–1:15 p.m.
Location: Conference Call
Public Call-In Number 1-877-820-7831 and enter Passcode: 4133250

Meeting materials will be posted on the advisory body web page on the California Courts website at least three business days before the meeting.

Agenda items are numbered for identification purposes only and will not necessarily be considered in the indicated order.

I. OPEN MEETING (CAL. RULES OF COURT, RULE 10.75(C)(1))

Call to Order and Roll Call

II. PUBLIC COMMENT (CAL. RULES OF COURT, RULE 10.75(K)(2))

Public Comment

This meeting will be conducted by teleconference. As such, the public may only submit written comments for this meeting.

Written Comment

In accordance with California Rules of Court, rule 10.75(k)(1), written comments pertaining to any agenda item of a regularly noticed open meeting can be submitted up to one complete business day before the meeting. For this specific meeting, comments should be e-mailed to forum@jud.ca.gov or mailed or delivered to 455 Golden Gate Avenue, San Francisco, CA 94102, attention: Jennifer Walter. Only written comments received by 12:15 p.m. on February 10, 2016 will be provided to advisory body members.

III. DISCUSSION AND POSSIBLE ACTION ITEMS (ITEMS 1-9)

Item 1

Cochairs Report

- Welcome Judge Patricia Lenzi, Chief Judge, Cedarville Rancheria of Northern Paiute Indians Tribal Court
- Process for Filling Forum Tribal Court Judge Vacancy
- Meeting with Justice Judith D. McConnell, Chair of [Power of Democracy Steering Committee](#) regarding potential forum/committee projects relating to the committee's civics learning and curriculum projects
- California Attorney General's Office Convenes Meeting to Discuss Protection Orders Issued by Tribal Courts, March 15, 2016 (cochairs seek data/stories to share at the meeting and will report back)
- Conference of Chief Justices - Tribal Relations Subcommittee, February 1, 2016 – Chief Justices learn about forum

Item 2

Approval of Minutes for December 17, 2015

Item 3

Recognition of Parentage Orders by the California Department of Public Health (CDPH) and the Issuance of Birth Certificates Update

Presenters: Judge Cynthia Gomez

Dr. James Greene, Center for Health Statistics & Informatics, CDPH

Brandon Nunes, Chief Deputy Director of Operations, CDPH

*Jim Suennen, Tribal Liaison/Associate Secretary for External Affairs,
California Health and Human Services Agency*

Item 4

Judicial Council Appellate Advisory Committee's Proposal to Amend Rules 8.400 and 8.407

Presenter: Heather Anderson, Supervising Attorney, Judicial Council's Legal Services Office

Item 5

Remote Court Appearances, Waivers, and Access Update

Presenters: Justice Perluss

Judge Mark Radoff

Item 6

Cross Court Educational Exchange on Child Support

Presenters: Judge Abinanti

Judge Christopher Wilson

Materials can be accessed here:

<https://ftp.jud.ca.gov/>

Username: forum

Password: forum123

Item 7

Youth Courts and Judicial Council Services: Invitation to Conference, February 18, 2016,
San Diego

*Presenter: Donna Strobel, Analyst, Judicial Council's Center for Families, Children &
the Courts*

Item 8

[In Re Abbigail A.](#)

Presenter: Ann Gilmour

Item 9

Recognition of Tribal and Foreign Court Money Judgments:

(1) [California Law Review Study](#) and Hearing (2) Forum Surveys

Presenters: Judge Les Marston

Jennifer Walter

Ann Gilmour

IV. ADJOURNMENT

Adjourn



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TRIBAL COURT-STATE COURT FORUM

MINUTES OF OPEN MEETING

December 17, 2015

12:15-1:15 p.m.

By Conference Call

**Advisory Body
Members Present:**

Hon. Abby Abinanti, Cochair, Hon. Dennis M. Perluss, Cochair, Hon. April Attebury, Hon. Gail Dekreon, Hon. Mark Juhas, Hon. Anthony Lee, Hon. Lester Marston, Hon. David E. Nelson, Hon. Mark Radoff, Hon. John H. Sugiyama, Hon. Claudette C. White, Hon. Christine Williams, Hon. Christopher G. Wilson, Hon. Joseph J. Wiseman, and Hon. Daniel Zeke Zeidler

**Advisory Body
Members Absent:**

Ms. Jacqueline Davenport, Hon. Leonard P. Edwards, Hon. Kimberly A. Gaab, Hon. Michael Golden, Hon. Cynthia Gomez, Mr. Olin Jones, Hon. Susanne N. Kingsbury, Hon. William Kockenmeister, Hon. John L. Madigan, , Hon. Allen H. Sumner, Hon. Sunshine Sykes, Hon. Juan Ulloa, and Hon. Sarah S. Works

Others Present:

Ms. Kim DaSilva, Professor Katherine Florey, Mr. Jerry Gardner, Ms. Heather Valdez-Singleton, and Ms. Jennifer Walter

OPEN MEETING

Call to Order and Roll Call

The chair called the meeting to order at 12:16 p.m., and took roll call.

Approval of Minutes

None to approve.

DISCUSSION AND ACTION ITEMS (ITEMS 1-5)

Item 1

Cochair Report

Judge Abby Abinanti presented the cochairs' report and covered the following items:

- Directed members to review the [2015-2016 Reference Manual for the Judicial Council and Advisory Bodies](#).
- Invited members to attend the January 6, 2016 Cross-Court Educational Exchange on Child Support at Yurok.
- Invited members to attend the California Judicial Council meeting on February 25-26, 2016 where Judge Richard Blake will be honored and asked them to keep it a surprise.
- Introduced the topic of how tribal parentage orders are treated by the California Department of Public Health in the issuance of birth certificates.

There was a brief discussion of the relevant law—tribes retain inherent authority over domestic relations matters involving their members. Federal and state law recognize this authority in a number of statutes that require recognition and enforcement of tribal court orders in the area of domestic relations (1) the Indian Child Welfare Act (25 U.S.C. §1911(d)); (2) the Full Faith and Credit for Child Support Orders Act, P.L. No. 103-383 (28 U.S.C. § 1738(B)); (3) the Uniform Child Custody Jurisdiction and Enforcement Act (adopted into California law at Family Code § 3400 et seq.); and (4) the Uniform Interstate Family Support Act (adopted into California law at Family Code § 4900 et seq.) Although the authority to make both child custody and child support orders necessarily implies an authority to make parentage determinations, California statutes concerning recognition of parentage determinations (Uniform Parentage Act – Family Code § 7600 et seq.) do not mention tribes. In fact, unlike the other uniform codes adopted by the California Legislature, these Family Code sections do not have a full faith and credit provision.

The forum concluded that it seems inconsistent and inefficient that California law recognizes the authority of tribes and tribal courts to make child custody and support determinations, but not parentage determinations. The forum recommended exploring an executive agency directive that would recognize tribal parentage orders and tribal consultation on the adoption of uniform codes in California to address full faith and credit for tribal court orders.

Action Item: The cochairs asked Ms. Walter to send a memorandum to the forum members describing the issue and following up with forum member and tribal advisor, Judge Gomez, to explore an executive agency directive.

- Described potential forum projects— new civics learning opportunities for youth that expose them to opportunities and careers in tribal and state courts— that would overlap with the [California Chief Justice’s Power of Democracy](#) Civics Learning and Curriculum Projects.
- Directed members to read and provide input into the forum’s proposed annual agenda or workplan.

Item 2

Research Study on SB 406 –Tribal Court Civil Money Judgment Act (Code Civ. Proc., § 1730 et seq.), a forum collaboration with U.C. Davis School of Law

Ms. Walter described SB 406. Judge Marston brought the policy issues to the forum, and with the Civil and Small Claims Advisory Committee recommended that the California Judicial Council sponsor SB 406. The final version of the bill contains a “sunset” provision providing that the legislation will expire on January 1, 2018 unless legislative action is taken to extend it, and a requirement that the California Law Revision Commission submit a report on the standards for recognition of a tribal court or a foreign court judgment under the Tribal Court Civil Money Judgment Act and the Uniform Foreign-Country Money Judgments Recognition Act. In light of the Judicial Council’s interest in the subject matter, staff recommended that the forum research the effects, if any, of SB 406— specifically, how it has been used, whether it has achieved its goal of simplifying the recognition and entry of tribal court civil money judgments, and whether there are any issues or concerns with extending the legislation.

Ms. Walter directed members to the materials for this meeting, which include draft survey tools for tribal court judges, state court judges, and tribal court practitioners. Justice Perluss and Ms.

Davenport presented the study tools to the Civil and Small Claims Advisory Committee, which supports the study and collaboration. Judge Kingsbury will be presenting the study tools to the Tribal Court Presiding Judges/Court Executives Advisory Committee at the end of January.

Ms. Walter introduced Professor Katherine Florey of the U.C. Davis School of Law, who is undertaking this study with the forum. Professor Florey described the collaboration and welcomed feedback on the draft tools. Judge Marston volunteered to assist with the research study. Before submitting any findings and recommendations to the Legislature, the forum will have an opportunity to review the survey responses and draft report.

Action Item: Forum and U.C. Davis School of Law to collaborate on study and prepare report.

Item 3

Invitation to and Information on the “Big Forum” Meeting, scheduled for June 2–3, 2016, which will be a gathering of forums nationally here in California—to be cohosted by the forum and the Tribal Law and Policy Institute

Ms. Heather Valdez Singleton invited forum members to attend the meeting, which will bring together representatives from 7-10 forums nationally. The event is made possible through a grant from the Bureau of Justice Administration and will be similar to the one held two years ago. Ms. Walter thanked Justice Perluss for making his court available for the meeting, and informed members that there would be grant funds to pay for their participation. Ms. Singleton encouraged participation by soliciting agenda items and attendance at the meeting.

Item 4

Remote Court Appearances, Waivers, and Access

Judge Radoff described that, in Los Angeles County, the court waives the fee to use Court Call, the remote access vendor for juvenile court hearings. In the rest of the state, the fee to use this vendor is \$86 for each appearance. Judge Radoff raised the question whether the fee could be waived statewide for Indian child welfare proceedings. Ms. Walter indicated that she was aware of a master statewide agreement that was put in place as a result of [AB 500](#); however, the agreement is not applicable to criminal or juvenile proceedings. Judge Juhas suggested that the forum contact Curt Child (formerly at the Judicial Council), who now works for Court Call. Justice Perluss and Judge Radoff agreed to explore how the Los Angeles Superior Court negotiated its contract with Court Call to include waiver of fees for all tribal appearances in juvenile dependency proceedings and to explore with Court Call whether it would provide this public service statewide.

Action Item: Justice Perluss and Judge Radoff, with staff support, to follow up with L.A. Superior Court and Court Call.

Item 5

[Dollar General Corporation v. Mississippi Band of Choctaw Indians](#)

Recent Articles

- [Native Americans' sovereignty is at risk, and the high court must help save it by Stephen Pevar, The Guardian \(12/07/15\)](#)
- [Justices Weigh Power of Indian Tribal Courts in Civil Suits by Adam Liptak, New York Times \(12/07/15\)](#)

Judge Marston described the facts that gave rise to the Dollar General litigation. The Choctaw Tribe leased a store to Dollar General on the reservation. The lease included an express consent to tribal jurisdiction over issues relating to the enforcement of the lease. Through a tribal youth internship program, the Tribe placed a youth at the Dollar General store on the reservation. When one of the Choctaw tribal youth members was sexually assaulted at the store, the Tribe sued Dollar General and the store's manager in federal court. The case is now before the U.S. Supreme Court on the question whether an Indian Tribe has inherent civil jurisdiction over nonIndians. Forum members who listened to the oral argument before the Supreme Court and those who have been following the case in the newspapers agreed that the case is likely to have a serious negative impact on tribal civil jurisdiction over nonIndians.

Item 6

Forum-Center on Judicial Education Resources Governing Board Toolkit Project: integrating resources related to federal Indian law into CJER's online toolkits and programming

Judge Nelson described the partnership between the forum and the CJER curriculum committees and gave a status report on their work thus far. He reported that the following forum members are working with their judicial counterparts on the CJER curriculum committees: Judges Juhas, Marston, and Wiseman. Judge Nelson reported that he is working on both the criminal and juvenile toolkits. Ms. Walter shared that the CJER toolkits are housed on the password protected website, Judicial Resources Network, and that if anyone was having difficulty accessing it, they should contact her. Judge Nelson asked members to develop their recommendations jointly with their counterparts, and when finished, to email their recommended changes jointly to the CJER curriculum chair with a copy to CJER curriculum committee staff and Ms. Walter.

Action Item: Forum members to continue working with CJER curriculum committee members and send their final workproduct recommendations to CJER curriculum committee chair and staff.

Item 7

Invitation to the March 2016 Cross-Court Educational Exchange cohosted by the Mendocino Superior Court and Northern California Intertribal Court System

Judge Nelson and Judge Joseph Wiseman invited forum members to their upcoming cross-court educational exchange, which will either be held at the end of March or the beginning of April.

Action Item: Judge Nelson, Judge Wiseman, and Ms. Walter to continue to working on the exchange.

Item 8

Report Back on the Beyond the Bench Conference

Judge Radoff and Judge Claudette White described some of the workshops they attended at Beyond the Bench. Judge Radoff reported that he was impressed by the sheer volume of workshops and the opportunity to network. Judge White also described the conference positively, and called out two sessions, where tribes and the analysis of cross jurisdictional issues were raised.

ADJOURNMENT

There being no further business, the meeting was adjourned at 1:12 p.m.

Pending approval by the advisory body on February 11, 2016.

Item 1: Cochairs Report



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688
Telephone 415-865-4200 • Fax 415-865-4205 • TDD 415-865-4272

MEMORANDUM

Date January 25, 2016	Action Requested Please review
To Executive and Planning Committee	Deadline N/A
From Hon. Abby Abinanti, Cochair Hon. Dennis M. Perluss, Cochair Tribal Court–State Court Forum	Contact Jennifer Walter Supervising Attorney Center for Families, Children & the Courts (415) 865-7687 phone jennifer.walter@jud.ca.gov
Subject Appointment of Tribal Court Judge	

We are writing to notify you that the Judicial Council received three submissions (see attached) to fill the one vacant tribal court position on the Tribal Court–State Court Forum (forum). The tribal chairs of the following tribes: Cedarville Rancheria, Colorado River Indian Tribes, and the Round Valley Indian Tribes expressed an interest in having their Chief Judge serve on the forum. Following the procedure set forth in rule 10.60(d) and after considerable examination of the excellent qualifications of all three judges, we selected Judge Lenzi, Chief Judge of the Cedarville Rancheria Tribal Court. Our decision was based on the factors set forth in the rule: the diverse background and experience of the tribal court judges participating in the forum and the geographic location of the current membership.

We respectfully request that the Executive and Planning Committee recommend that the Chief Justice accept the appointment of Judge Lenzi to serve as forum member.



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Chief Justice of California
Chair of the Judicial Council

MARTIN HOSHINO
Administrative Director

MILLICENT TIDWELL
Chief Operating Officer

DIANE NUNN
*Director, Center for Families,
Children & the Courts*

January 25, 2016

The Honorable Melissa Davis
Tribal Chair
Cedarville Rancheria of Northern Paiute Indians Tribal Court
300 W. 1st Street
Alturas, CA 96101

Dear Chairwoman Davis:

We are pleased to inform you that your Court's Chief Judge Patricia Lenzi is appointed to serve on the Tribal Court–State Court Forum (forum) following the procedure under rule 10.60 of the California Rules of Court. Her term of service on the forum runs through September 14, 2018.

As you know, the forum was established in May 2010 and is charged with making recommendations to the California Judicial Council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the tribal justice systems overlaps. The forum identifies issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California. The forum recommends ways to address these issues through policies, such as legislative and rule/form proposals to the Judicial Council, by providing education, and establishing partnerships.

The forum maintains a public webpage with information on its members and meetings: <http://www.courts.ca.gov/forum.htm>. The forum is staffed by Jennifer Walter, supervising attorney of tribal/state programs, and this unit maintains a public webpage with additional

The Honorable Melissa Davis

January 25, 2016

Page 2

information about the forum, such as the forum's accomplishments, monthly electronic newsletters, and policy work: <http://www.courts.ca.gov/3065.htm>.

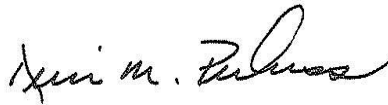
If you have any questions, please do not hesitate to contact either of us or Jennifer Walter at jennifer.walter@jud.ca.gov or 415-865-7687.

We look forward to working with Judge Lenzi and learning more about your Court. We know that, with Judge Lenzi's participation on the forum, the forum can develop and implement innovative policy solutions that will improve the working relationship between California's state and tribal courts and ensure effective and efficient access to justice for all Californians, including the Peoples of the Cedarville Rancheria of Northern Paiute Indians Tribal Court.

Sincerely



Honorable Abby Abinanti



Honorable Dennis Perluss

JW/cb

cc: Hon. Patricia Lenzi, Chief Judge, Cedarville Rancheria of Northern Paiute Indians Tribal Court



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*Director, Center for Families,
Children & the Courts*

January 25, 2016

The Honorable Dennis Patch
Colorado River Indian Tribes Tribal Court
26600 Mohave Road, P.O. Box 3428
Parker, AZ 85344

Dear Chairman Patch:

As cochairs of the [Tribal Court–State Court Forum](#) (forum), we are writing to inform you that the forum vacancy for a tribal court judge has been filled. Because we received multiple names for the one vacancy, we were forced to make a very difficult choice. Following the procedure set forth in rule 10.60(d), we based our decision on the goal of having a diversity of backgrounds and experiences of the tribal court judges serving on the forum, as well as the geographic location of the current membership. We thank you for submitting your nomination and hope that you will have an opportunity to work with you and Judge Lawrence King in the future. We hope that you will resubmit your application when there is another vacancy on the forum.

As you know, the forum was established in May 2010 and is charged with making recommendations to the California Judicial Council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the trial justice systems overlaps. The forum identifies issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California. The forum recommends ways to address these issues through policies, such as legislative and rule/form proposals to the Judicial Council, by providing education, and establishing partnerships. Although your Chief Judge was not appointed to the forum, we hope

The Honorable Dennis Patch

January 25, 2016

Page 2

you will nevertheless bring any issues you may have to the forum. We would like to be a resource to your Tribe and Court.

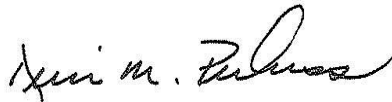
The forum maintains a public webpage with information on its members and meetings: <http://www.courts.ca.gov/forum.htm>. The forum is staffed by Jennifer Walter, supervising attorney of tribal/state programs, and this unit maintains a public webpage with additional information about the forum, such as the forum's accomplishments, monthly electronic newsletters, and policy work: <http://www.courts.ca.gov/3065.htm>.

Should you have any questions, please do not hesitate to contact either one of us or Ms. Jennifer Walter, jennifer.walter@jud.ca.gov or 415-865-7687. We look forward to collaborating with your Court on one of our many forum projects or one that you would like to bring to us.

Sincerely



Honorable Abby Abinanti



Honorable Dennis Perluss

JW/cb

cc: Hon. Judge Lawrence King, Chief Judge, Colorado River Indian Tribes Tribal Court



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DIANE NUNN
*Director, Center for Families,
Children & the Courts*

January 25, 2016

The Honorable James Russ
Round Valley Tribal Court
77826 Covelo Road
Covelo, CA 95428

Dear Chairman Russ:

As cochairs of the [Tribal Court–State Court Forum](#) (forum), we are writing to inform you that the forum vacancy for a tribal court judge has been filled. Because we received multiple names for the one vacancy, we were forced to make a very difficult choice. Following the procedure set forth in rule 10.60(d), we based our decision on the goal of having a diversity of backgrounds and experiences of the tribal court judges serving on the forum, as well as the geographic location of the current membership. We thank you for submitting your nomination and hope that you will have an opportunity to work with you and Judge Leona Colegrove in the future. We hope that you will resubmit your application when there is another vacancy on the forum.

As you know, the forum was established in May 2010 and is charged with making recommendations to the California Judicial Council for improving the administration of justice in all proceedings in which the authority to exercise jurisdiction by the state judicial branch and the trial justice systems overlaps. The forum identifies issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California. The forum recommends ways to address these issues through policies, such as legislative and rule/form proposals to the Judicial Council, by providing education, and establishing partnerships. Although your Chief Judge was not appointed to the forum, we hope

The Honorable James Russ

January 25, 2016

Page 2

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Should you have any questions, please do not hesitate to contact either one of us or Ms. Jennifer Walter, jennifer.walter@jud.ca.gov or 415-865-7687. We look forward to collaborating with your Court on one of our many forum projects or one that you would like to bring to us.

Sincerely



Honorable Abby Abinanti



Honorable Dennis Perluss

JW/cb

cc: Hon. Judge Leona Colegrove, Chief Judge, Round Valley Tribal Court

Conference of Chief Justices

2016 Mid Year Meeting
Monterey, CA

Tribal Relations Committee

Monday, February 1, 2016
10:30 AM
Oaktree III Room

AGENDA

CCJ Members:

Barbara Madsen, WA, Chair
Barbara Vigil, NM, Vice-Chair
Lorie Skjerven Gildea, MN
Craig Stowers AK
William L. Waller, Jr., MS

Staff:

José Dimas

1. Call to Order
Chief Barbara Madsen, WA, Chair
2. Introductions
3. Approval of minutes of the Tribal Relations Committee meeting held July 27, 2015 in Omaha, NE
4. Overview of California Tribal Court-State Court Forum – Jennifer Walter, Supervising Attorney, Center for Families, Children and the Courts
5. Update on Uniform Law Commission Tribal Probate Court – Justice Martha Walters (Oregon), ULC Past President
6. News from Washington State! Tribal State Court Consortium
 - Cindy Bricker, Sr. Court Program Analyst, WA AOC
 - Pam Dittman, Program Coordinator, WA AOC
7. Tribes Exercising Special Domestic Violence Criminal Jurisdiction Over Non-Indians
8. Other Items
9. Adjourn

National Center for State Courts

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Tribal Court–State Court Forum
Tribal Relations Committee
Conference of Chief Justices
Monterey
February 1, 2016

1

Agenda

- California's Tribal Communities
- California's Tribal Courts
- California's Tribal Court-State Court Forum
- Policies
- Partnerships
- Education
- Inter-Court Cooperation
- Challenges
- Conclusion

2

California's Tribal Communities

- 110 federally recognized tribes
- 81 groups petitioning for federal recognition
- 725,000 California citizens identify as American Indian or Alaska Native (AI/AN)
- Represents 14% of all AI/AN population in the U.S., more than in any other State
- Tribes as small as 5 members and as large as 6,000 members

3

California's Tribal Courts

- California has 23 tribal courts
- More than doubled since 2003
- Courts serve 40 Tribes
- Exercise various types of jurisdictions
- Over a range of case types (administrative, civil, family, juvenile, probate, and criminal jurisdiction)
- California Tribal Courts Directory at <http://www.courts.ca.gov/14400.htm>
- Google Map of Tribal Courts at <http://g.co/maps/cvdq8>

4

Tribal Court–State Court Forum

- Background
- Strategic Approach
 - Composition
 - Common Ground
 - Problem-Solving
- Making Top Priority: Child Welfare and Domestic Violence
- Implementing Policies, Partnerships, Education

5

Policies, Partnerships, and Education

- Forging Tribal/State Judicial Relationships
- Finding Local Solutions
- Implementing Solutions Statewide: Government-to-Government
- Sharing Educational and Other Resources to Support Tribal Justice Development

6

Policies: Inter-Jurisdictional

- Recognition and Enforcement Issues:
 - Full Faith and Credit
 - Comity
- Technological Initiatives

7

Accomplishments- Child Welfare

- Delinquency and Indian Child Welfare Act
www.courts.ca.gov/documents/jc-20130426-itemG.pdf
- Psychotropic Medication and Tribal Notice
www.courts.ca.gov/documents/PsychotropicMedsProposal.pdf
- Tribal Access to Confidential Juvenile Court Files
leginfo.ca.gov/pub/13-14/bill/asm/ab_1601-1650/ab_1618_bill_20140206_introduced.pdf
- Tribal Access to Juvenile Appellate Records
www.courts.ca.gov/documents/jc-20120228-itemA3.pdf
- Tribal Customary Adoption
www.courts.ca.gov/documents/lr-Tribal-Customary-Adoption-Report_123112.pdf
- ICWA Clearinghouse of Resources
www.courts.ca.gov/3067.htm

8

Accomplishments- Domestic Violence

- Electronic filing of tribal protective orders in state court
<http://www.courts.ca.gov/documents/SPR11-53.pdf>
- Viewing each other's orders in the California Courts Protective Order Registry
<http://www.courts.ca.gov/partners/ccpor.htm>
- Informational brochures
http://www.courts.ca.gov/documents/Tribal-RecognEnf_Brochure.pdf
<http://www.courts.ca.gov/documents/Tribal-CrossoverIWCA.pdf>

9

Partnerships

- State/Tribal Education, Partnerships, and Services to Justice- Child Welfare
- State/Tribal Education, Partnerships, and Services to Justice- Domestic Violence
- Promoting State/Tribal Partnerships
 - Publicizing innovative tribal court/state court partnerships
- Innovation Knowledge Center-
 - Serving as a clearinghouse for MOUs, Protocols, Agreements
- Tribal/State Partnerships-
 - Encouraging Tribal Court and State Court Administrators to Learn About Each Other's Courts (Toolkit)
 - Fostering and Convening Cross-Court Cultural Exchanges

10

Hoopa Exchange Slide Show

<http://youtu.be/dvsWoXrg6IA>

11

Education

- Federal Indian Law- Online Toolkit for Judges
<http://www.courts.ca.gov/27002.htm>
 - Educational Resources on Jurisdiction
<http://www.courts.ca.gov/8710.htm>
 - Incorporating Federal Indian Law into State Judicial Branch Education
 - Documentary on Tribal Justice in California
- See link to view trailer:
<https://vimeo.com/142182399/>
password macarthur

12

Inter-Court Cooperation

- Pre-Filing/DA Referral: Diversion for Juvenile Offenders in Tribal Court
- Post-Filing/Pre-adjudication/DA Referral: Diversion for Adult Offenders in Tribal Court
- Post-Plea Deferred Entry of Judgment/Disposition in State Court for Adult and Juvenile Offenders with Concurrent Case and Court-Connected Services in Tribal Court
- Joint-Jurisdictional Court

13

Inter-Court Cooperation: Tribal Justice Development Supports Justice for All

- Forms- Assistance with tribal court forms
- Publications- Making available to tribal courts all Judicial Council publications
- Education- Making available to tribal courts all Judicial Council educational resources
- Resources- Access to grants, tribal support letters, technical assistance with security, HR, & other court administration questions

14

Challenges

- Funding
- Enforcement Issues
- Moving Beyond Local Solutions
 - Based on Trust and Individual Relationships to Sustainable Solutions That Work Regardless of the Individuals
- Seeking Your Partnership

15

Conclusion- Questions

- Contact Information

Hon. Abby Abinanti, aabinanti@gmail.com

Hon. Dennis Perluss, dennis.perluss@jud.ca.gov

Jenny Walter, forum counsel,
jennifer.walter@jud.ca.gov

- Resources in California

<http://www.courts.ca.gov/14851.htm>

16

1 **Rule 8.400. Application**

2
3 The rules in this chapter govern:

- 4
5 (1) Appeals from judgments or appealable orders in:
- 6
 - 7 (A) Cases under Welfare and Institutions Code sections 300, 601, and 602; and
 - 8
 - 9 (B) Actions to free a child from parental custody and control under Family Code
 - 10 section 7800 et seq. and Probate Code section 1516.5; and
 - 11
- 12 (2) Writ petitions under Welfare and Institutions Code sections 366.26 and 366.28.
- 13
14

15 **Rule 8.407. Record on appeal**

16
17 **(a) Normal record: clerk's transcript**

18 The clerk's transcript must contain:

- 19
- 20
 - 21 (1) The petition;
 - 22
 - 23 (2) Any notice of hearing;
 - 24
 - 25 (3) All court minutes;
 - 26
 - 27 (4) Any report or other document submitted to the court;
 - 28
 - 29 (5) The jurisdictional and dispositional findings and orders;
 - 30
 - 31 (6) The judgment or order appealed from;
 - 32
 - 33 (7) Any application for rehearing;
 - 34
 - 35 (8) The notice of appeal and any order pursuant to the notice;
 - 36
 - 37 (9) Any transcript of a sound or sound-and-video recording tendered to the court
 - 38 under rule 2.1040;
 - 39
 - 40 (10) Any application for additional record and any order on the application;
 - 41
 - 42 (11) Any opinion or dispositive order of a reviewing court in the same case and;
 - 43
 - 44 (12) Any written motion or notice of motion by any party, with supporting and
 - 45 opposing memoranda and attachments, and any written opinion of the court.
 - 46

1 **(b) Normal record: reporter’s transcript**

2
3 The reporter’s transcript must contain:

- 4
5 (1) Except as provided in (2)-~~(3)~~, the oral proceedings at any hearing that
6 resulted in the order or judgment being appealed;
7
8 (2) In appeals from dispositional orders, the oral proceedings at hearings on
9
10 (A) Detention in cases under Welfare and Institutions Code sections 300;
11
12 ~~(A)~~(B) Jurisdiction and disposition; and
13
14 ~~(B)~~(C) Any motion by the appellant that was denied in whole or in part; and
15
16 (3) In appeals from an order terminating parental rights, the oral proceedings at
17 all section 366.26 hearings.
18
19 ~~(3)~~(4) Any oral opinion of the court.
20

21 **(c) Application in superior court for addition to normal record**

- 22
23 (1) Any party or Indian tribe that has intervened in the proceedings may apply to
24 the superior court for inclusion of any oral proceedings in the reporter’s
25 transcript.
26
27 (2) An application for additional record must describe the material to be included
28 and explain how it may be useful in the appeal.
29
30 (3) The application must be filed in the superior court with the notice of appeal
31 or as soon thereafter as possible, and will be treated as denied if it is filed
32 after the record is sent to the reviewing court.
33
34 (4) The clerk must immediately present the application to the trial judge.
35
36 (5) Within five days after the application is filed, the judge must order that the
37 record include as much of the additional material as the judge finds proper to
38 fully present the points raised by the applicant. Denial of the application does
39 not preclude a motion in the reviewing court for augmentation under rule
40 8.155.
41
42 (6) If the judge does not rule on the application within the time prescribed by (5),
43 the requested material—other than exhibits—must be included in the clerk’s
44 transcript or the reporter’s transcript without a court order.
45

1 (7) The clerk must immediately notify the reporter if additions to the reporter's
2 transcript are required under (5) or (6).
3

4 **(d) Agreed or settled statement**
5

6 To proceed by agreed or settled statement, the parties must comply with rule 8.344
7 or 8.346, as applicable.
8

9 **(e) Transmitting exhibits**
10

11 Exhibits that were admitted in evidence, refused, or lodged may be transmitted to
12 the reviewing court as provided in rule 8.224.
13

14 **Advisory Committee Comment**
15

16 Rules 8.45–8.47 address the appropriate handling of sealed or confidential records that must be
17 included in the record on appeal. Examples of confidential records include records of proceedings
18 closed to inspection by court order under *People v. Marsden* (1970) 2 Cal.3d 118 and in-camera
19 proceedings on a confidential informant.
20

21 **Subdivision (a)(4).** The documents that must be included in the clerk's transcript under this
22 provision include all inquiries regarding a child under the Indian Child Welfare Act (*Indian Child*
23 *Inquiry Attachment* [form ICWA-010(A)], any *Parental Notification of Indian Status* (form
24 ICWA-020), any *Notice of Child Custody Proceeding for Indian Child* (form ICWA-030) sent to
25 an Indian tribe, any signed return receipts for the mailing of form ICWA-030, and any responses
26 to form ICWA-030 from an Indian Tribe.
27

28 **Subdivision (b).** Subdivision (b)(1) provides that only the reporter's transcript of a hearing that
29 resulted in the order being appealed must be included in the normal record. This provision is
30 intended to achieve consistent record requirements in all appeals of cases under Welfare and
31 Institutions Code section 300, 601, or 602 and to reduce the delays and expense caused by
32 transcribing proceedings not necessary to the appeal.
33

34 Subdivision (b)(2)(A) recognizes that findings made in a jurisdictional hearing are not separately
35 appealable and can be challenged only in an appeal from the ensuing dispositional order. The rule
36 therefore specifically provides that a reporter's transcript of jurisdictional proceedings must be
37 included in the normal record on appeal from a dispositional order.
38

39 Subdivision (b)(2)(B) specifies that the oral proceedings on any motion by the appellant that was
40 denied in whole or in part must be included in the normal record on appeal from a disposition
41 order. Rulings on such motions usually have some impact on either the jurisdictional findings or
42 the subsequent disposition order. Routine inclusion of these proceedings in the record will
43 promote expeditious resolution of appeals of cases under Welfare and Institutions Code section
44 300, 601, or 602.
45
46

Item 7: Youth Courts and Judicial Council
Services: Invitation to Conference- February
18, 2016 San Diego



JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

SAVE THE DATE

Thursday, February 18, 2016

10:30 a.m. – 3:00 p.m.

San Diego County Superior Court

Hall of Justice

San Diego, CA

Roundtable Discussion

Youth Courts: Creating Alternatives in Juvenile Justice

The California Association of Youth Courts in collaboration with the Judicial Council's Center for Families, Children & the Courts is hosting an all-day roundtable on creating a youth court. This roundtable is the first in a series of the 2016 regional roundtables that highlight promising practices in youth courts and is open to all interested court staff, and justice and community partners. The roundtable will be held on **Thursday, February 18, 2016, 10:30 am – 3:00 pm at the Hall of Justice, 330 West Broadway, Room 363B, San Diego, CA 92101**

These roundtables help provide support for local courts and communities to develop effective youth court models that address issues related to youth in a non-adversarial approach that results in better outcomes for youth. Youth courts provide an alternative approach to the traditional juvenile justice system for first-time, non-violent offenders.

If you are interested in learning more about youth courts, or you are interested in starting a youth court in your jurisdiction, please mark your calendars. **Space is limited so please register early.**

The opinions and views expressed at the roundtable do not necessarily represent the views of the California Association of Youth Courts and/or the Judicial Council's Center for Families, Children & the Courts.

**For additional information or to register, please contact:
Donna Strobel at donna.strobel@jud.ca.gov or (415) 865-8024**



JUDICIAL COUNCIL
OF CALIFORNIA
OPERATIONS AND PROGRAMS DIVISION
CENTER FOR FAMILIES, CHILDREN & THE COURTS

California Youth Court Summit – Overview

The Youth Court Summit is California’s foremost training and educational conference for youth and teen court staff. The summit provides a unique opportunity for hundreds of youth court leaders, judges, youth court staff, volunteers, education and youth-focused organizations, and community service leaders to engage in a program of juvenile court diversion, truancy prevention, and civics education, while sharing best practices and providing assistance to those who want to start a youth court. The plenary and workshops at the summit are designed to assist both current youth court staff and prospective youth court staff on various issues.

The California Youth Court Summit is produced by a collaborative of youth/peer courts, the California Association of Youth Courts, Inc. (CAYC), and the Judicial Council’s Collaborative Justice Courts Advisory Committee.

Youth courts, also known as peer, teen, or student courts, provide an alternative approach to the traditional juvenile justice system for first-time, non-violent offenders. A youth charged with an offense has the opportunity to waive the hearing and sentencing procedures of traditional juvenile court and agree to a sentencing forum with a jury of their peers. This forum is made up of youth who have been trained to assume various roles, including those of attorneys, court staff, and jurors. Most youth courts require the participation of the offender as a juror as part of the process, so that they are encouraged to leave as a participant. Juvenile offenders who participate in the youth court program avoid a criminal record while still being held accountable for their actions.

Youth court has emerged as the fastest growing juvenile intervention program in the United States. In 1994, there were 78 youth courts in the U.S.; by 2011, there were approximately 1,400 youth courts in 49 states with hundreds more in various stages of implementation. In California, the number has grown from 2 in 1991 to more than 60 in 2016. Based on the national growth rates, there are estimates that youth courts may handle 25 percent of all juvenile arrests by 2016. With the growing rate of youth courts, leadership of the kind encouraged by the annual Youth Court Summit is crucial.

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FACT SHEET

February 2016

Youth Courts

The first youth court programs grew out of efforts by the American Bar Association and other national and community organizations to hold youth accountable for their actions before they develop a pattern of law-breaking behavior. Youth courts began in Odessa, Texas in the early 1980s and eventually arrived in California's Humboldt and Contra Costa Counties in the mid- to late-1980s. Youth courts are also known as peer courts, teen courts and student courts. According to statistics from the U.S. Office of Juvenile Justice and Delinquency Prevention (OJJDP), there were 78 youth courts in 1994, and there are now approximately 1,400 youth courts in 49 states.

What are Youth Courts?

Youth court is a diversion program and an alternative approach to the traditional juvenile justice system. A youth charged with an offense has the opportunity to waive the hearing and sentencing procedures of traditional juvenile court and agree to a sentencing forum with a jury of their peers. Youth court provides real consequences for first-time juvenile offenders and involves teen volunteers and former defendants in the court process. Through direct participation, youth court is designed to educate youth about the juvenile justice system, while addressing each juvenile's accountability to their community and peers.

The target population is teens arrested on misdemeanor charges and some minor felonies—anything from graffiti writing to small-time drug sales. These courts usually handle nonviolent first-time defendants accused of shoplifting, vandalism, starting schoolyard fights, and committing crimes unlikely to be prosecuted otherwise.

Youth courts allow teens to hold each other accountable for their illegal actions and reduce the likelihood that teens will engage in delinquent behavior. Teens and parents, who are required to be involved in their teen's intake session and court hearings, get exposure to the judicial process and are likely to realize the importance of being proactive in making changes in their lives.

Teen Court puts an end to the 'revolving door' and empowers our young people to take responsibility for their actions and the actions of their peers. _ Honorable Judge Thomas Adams, Santa Barbara County Superior Court

Benefits of Youth Court

Although research on youth courts is still emerging, individual research conducted on youth court programs across the nation has found outcomes at least as positive as other diversionary alternatives, and some that were superior to other alternatives. Recent studies show that youth court participation produces the following benefits:

- *Accountability:* Youth court helps ensure that juvenile offenders are held accountable for their illegal behavior, even when their offenses are relatively minor and would not likely result in sanctions from the traditional juvenile justice system.
- *Timeliness:* An effective youth court can move juvenile offenders from arrest to sanctions within few days rather than the months that may pass with traditional juvenile courts. This expedited response may increase the positive impact of court sanctions, regardless of their severity.
- *Cost savings:* Youth court is a cost-effective alternative to traditional juvenile court for some young offenders because youth court workers are volunteers, and because of reduced recidivism. If managed properly, a youth court may handle a substantial number of offenders at relatively little cost to the community.
- *Community connection:* A successful youth court may affect the entire community by increasing public appreciation of the legal system, enhancing community-court relationships, encouraging greater respect for the law among youth, and promoting volunteerism among both adults and youth.
- *Youth Influence Youth:* Teens respond better to pro-social peers than to adult authority figures; hence, they react positively to the youth court program. Youth court provides young people with avenues for positive development and personal success. Youth volunteers learn from each other and gain a deeper understanding of the legal system.
- *Prevention:* Youth courts prevent further delinquent acts by empowering and educating youth.

Youth Court Resources

Desktop Guide Provides Key Information on Cases Handled by Youth Courts

The [American Bar Association](#) (ABA) and the Office of Juvenile Justice and Delinquency Prevention (OJJDP) have announced the release of [Youth Cases for Youth Courts: A Guide to the Typical Offenses Handled by Youth Courts](#) (PDF). Published by the ABA with funding from OJJDP and others, this desktop guide provides community leaders with helpful information that equips them to address questions critical to the effective implementation of youth courts.

[National Association of Youth Courts](#)

[California Association of Youth Courts](#)

[Center for Court Innovation](#)

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Item 9: Recognition of Tribal and Foreign Court Money Judgments

First Supplement to Memorandum 2016-6

Recognition of Tribal and Foreign Court Money Judgments (Recognition Standards)

As indicated in the main memorandum, the Commission¹ was tasked with reviewing the standards of recognition for foreign and tribal court money judgments.² The main memorandum discussed the standards for recognition of foreign court judgments related to jurisdiction. This supplement discusses the standards for recognition of tribal court judgments related to jurisdiction.

For tribal court judgments, those standards are stated in the Tribal Court Civil Money Judgment Act (hereafter, “Tribal Act”)³ and are derived from the 2005 Uniform Foreign-Country Money Judgments Recognition Act (hereafter, “Uniform Act” or “2005 Uniform Act”).⁴

As in the main memorandum, this supplement uses the term “foreign court” to refer to a court of a foreign country, but not a court of a tribe. The term “tribal court” refers generally to a court of a federally recognized tribe.⁵

TRIBAL COURT JURISDICTION, GENERALLY

Tribes have important characteristics that set them apart from foreign countries.⁶ Very generally, tribes exercise self-government, while being subject to

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission’s website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission’s staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting. However, comments that are received less than five business days prior to a Commission meeting may be presented without staff analysis.

2. 2014 Cal. Stat. ch. 243, § 1 (SB 406 (Evans)).

3. Code Civ. Proc. §§ 1730-1742.

4. The 2005 Uniform Act is a revision of the earlier 1962 Uniform Foreign Money-Judgments Recognition Act. The text of the Acts and the associated commentary is available on the Uniform Law Commission’s website: <http://uniformlaws.org/>.

5. See Code Civ. Proc. § 1732(f) (In Tribal Act, “Tribal court” is defined as “any court or other tribunal of any federally recognized Indian nation, tribe, pueblo, band, or Alaska Native village, duly established under tribal or federal law, including Courts of Indian Offenses organized pursuant to Part 11 of Title 25 of the Code of Federal Regulations.”).

6. See generally Memorandum 2013-8, pp. 3-4, 7-10.

certain restrictions and oversight from the federal government, particularly with respect to matters involving persons who are not tribe members.⁷

Federal courts have litigated matters of tribal jurisdiction over nonmembers. While the phrase “tribal jurisdiction over nonmembers” might evoke concepts of personal jurisdiction, the federal case law on tribal court jurisdiction combines concepts that are traditionally associated with both subject matter jurisdiction (a court’s authority to hear a matter) and personal jurisdiction (a court’s ability to adjudicate as to a particular party).⁸ For instance, the federal case law describes a test purportedly for tribal court subject matter jurisdiction that focuses more on the status of the party (i.e., a nonmember) and that party’s connections with the tribe (i.e, requiring either a consensual relationship with the tribe or its members or conduct threatening or directly affecting the tribe as a whole).⁹

This supplement treats the federal doctrine as describing a test for tribal court subject matter jurisdiction, in accordance with the United States Supreme Court’s own characterization.¹⁰

In short, the general contours of the subject matter jurisdiction and personal jurisdiction inquiries discussed in this supplement are significantly different than those discussed in the main memorandum.

SUBJECT MATTER JURISDICTION FOR TRIBAL COURT JUDGMENTS

The Tribal Act precludes recognition of a tribal court judgment where the tribal court lacked subject matter jurisdiction. The relevant language of the Tribal Act is reproduced below.¹¹

7. See *id.* at pp. 2-4.

8. See, e.g., *Smith v. Salish Kootenai College*, 434 F.3d 1127, 1136-1140 (9th Cir. 2006) (en banc) (acknowledging general characterization of tribal civil jurisdiction as subject matter jurisdiction in case law, while noting that aspects of tribal adjudicatory jurisdiction resemble personal jurisdiction). See also Katherine Florey, *Beyond Uniqueness: Reimagining Tribal Courts’ Jurisdiction*, 101 Cal. L. Rev. 1499, 1536-1540 (December 2013) (discussing *Smith v. Salish Kootenai College*); *id.* at 1504-1505 (“In keeping with this supposed tribal uniqueness, the Supreme Court has developed the jurisdictional doctrines that govern tribes on an entirely clean slate. In other words, the Court has never seriously examined the field of personal jurisdiction, or related doctrines like conflict of laws, when discussing Indian country — despite the fact that these doctrines are, by their nature, designed to accommodate different legal values and contexts in multi-jurisdictional disputes. Instead, the Court has developed new doctrines and categories, presumably rooted in federal common law, that bear little relation to jurisdictional concepts as applied in any other context. For example, the Court speaks of ‘legislative,’ ‘adjudicative,’ and, in some cases, ‘subject matter’ jurisdiction in scenarios that would ordinarily be conceptualized as ones involving personal jurisdiction.”) (citations omitted).

9. See generally cases cited *infra* note 15.

10. See *supra* note 8; see also *Smith*, 434 F.3d at 1137 (“The Supreme Court has referred to *Montana’s* principles as ‘pertaining to subject-matter, rather than merely personal jurisdiction.’”).

Code of Civil Procedure § 1737

1737. ...

(b) A tribal court money judgment shall not be recognized and entered if the respondent demonstrates to the superior court that at least one of the following occurred:

...

(2) The tribal court did not have jurisdiction over the subject matter.

...

Lack of Subject Matter Jurisdiction

With respect to a tribal court judgment involving only tribal members, the subject matter jurisdiction inquiry in a recognition proceeding would seem to be similar to that for a foreign country judgment, which focuses on the foreign court's authority under foreign law to hear the type of case before it.¹² According to Cohen's Handbook of Federal Indian Law (hereafter, "Cohen's Handbook"), "[t]ribal court subject matter jurisdiction over tribal members is first and foremost a matter of internal tribal law."¹³ Thus, assessing subject matter jurisdiction for a tribal court judgment involving only tribe members would require a determination of whether tribal law empowers the tribal court to hear such suits.

However, when one of the parties to a tribal court judgment is not a member of the tribe, the subject matter jurisdiction inquiry is significantly more complicated. Certainly, the question of whether tribal law authorizes the tribal court to hear the matter would still be relevant. However, for matters involving nonmembers, the jurisdictional inquiry would also involve federal case law. United States Supreme Court decisions impose limits on the jurisdictional reach of tribal courts with respect to matters involving nonmembers.¹⁴ Further, the

11. Note that the Tribal Act's rule incorporates an evidentiary burden and is stated as a restriction on the court's authority to recognize a judgment. Procedurally, however, the Tribal Act's exception for lack of subject matter jurisdiction should function the same as the exception applicable to foreign court judgments in California's Uniform Act. See Code Civ. Proc. § 1716(d) (party resisting recognition of foreign country judgment has burden of establishing that exception to recognition exists).

12. See Memorandum 2016-6, pp. 2-3.

13. Cohen's Handbook of Federal Indian Law § 7.02[1][a] (Nell Jessup Newton Editor-in-Chief, Lexis Nexis 2012).

14. See generally Florey, *supra* note 8, at 1543 ("[T]he Supreme Court does not treat tribal jurisdiction like other forms of jurisdiction, and does not treat tribal courts like other courts. Unlike most sovereigns, whose legislative and judicial powers are considered separately, the Court considers tribal legislative and judicial jurisdiction to be essentially coextensive. Further, the Court regards limits on the latter to be limits on what it calls the 'subject matter jurisdiction' of the tribal courts — even though subject matter jurisdiction in other contexts means a limit that

Supreme Court's limitations on tribal court subject matter jurisdiction incorporate concepts that are traditionally associated with personal jurisdiction (e.g., the nonmember's relationship to the tribe).

Under the federal case law, the general rule, subject to two exceptions, is that tribal courts do not have subject matter jurisdiction over suits involving nonmembers. The two exceptions address (1) "nonmembers who enter consensual relationships with the tribe or its members, through commercial dealing, contracts, leases, or other arrangements" and (2) the conduct of nonmembers "on fee lands within [the tribes's] reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health and welfare of the tribe."¹⁵

The exact contours of this doctrine are not well defined. In particular, it is not clear how narrowly the subject matter limitations should be construed. Further, this area of the law may be in flux. There is currently a case pending before the United States Supreme Court regarding a tribal court's jurisdiction over a matter involving a nonmember corporation, *Dollar General Corp. v. Mississippi Band of Choctaw Indians*.¹⁶ While the final outcome of the case is uncertain, the

is imposed by the sovereign that creates the courts, not one imposed by an external power.") (citations omitted).

15. See *Montana v. United States*, 450 U.S. 544, 565-566 (1981) (setting forth this test in describing limits on tribe's civil regulatory authority); *Strate v. A-1 Contractors*, 520 U.S. 438, 453 (1997) (concluding that tribe's adjudicative jurisdiction does not exceed its legislative jurisdiction, thereby applying *Montana* test to tribal court jurisdiction).

16. See <http://www.supremecourt.gov/Search.aspx?FileName=/docketfiles/13-1496.htm>. The case was argued before the Supreme Court on December 7, 2015. The following is a brief summary of the facts and procedural history of the case.

"Dollar General Corporation (Dollar General) operates a store on land held in trust for the Mississippi Band of Choctaw Indians (Tribe). The store operates pursuant to a lease and business license agreement with the Tribe. In the spring of 2003, John Doe, a 13-year-old member of the Tribe alleged that he was sexually molested by the store manager, Dale Townsend, while he was working at the store as part of an internship program that the Tribe runs and in which the [*sic*] Townsend agreed to participate.

In 2005, Doe sued Townsend and Dollar General in tribal court. Both defendants moved to dismiss the case for lack of subject matter jurisdiction, and the tribal court denied the motions. The Choctaw Supreme Court upheld the denial of the motions by finding that the U.S. Supreme Court's decision in *Montana v. United States*, which allowed a tribe to regulate the activities of nonmembers who enter into a consensual arrangement with the tribe, applied in this case. The defendants then sued the Tribe in federal district court and sought injunctions to stop the suit in tribal court. The district court granted the injunction for Townsend but not for Dollar General because the company had failed to carry its burden to show that the *Montana* decision did not apply in this case. The U.S. Court of Appeals for the Fifth Circuit affirmed."

<https://www.oyez.org/cases/2015/13-1496>.

petitioners' argument calls into question the grounds for jurisdiction presented above.¹⁷

Need for Reform?

Generally, precluding recognition of a tribal court judgment for lack of subject matter jurisdiction makes sense for the same reasons discussed in the main memorandum in connection with foreign court judgments.¹⁸ In short, a judgment where the rendering court lacked subject matter jurisdiction is invalid.¹⁹

The staff's main concern is that the Tribal Act's subject matter jurisdiction provision essentially looks identical to the subject matter jurisdiction provision of the Uniform Act, but the jurisdictional inquiry that would occur under that language is significantly different. The main difference is that, under the Tribal Act, the inquiry will, in some cases, involve federal law issues.²⁰

Even so, the staff sees no need to adjust the subject matter jurisdiction provision in the Tribal Act. In each recognition proceeding, the relevant law on tribal court subject matter jurisdiction should simply be identified and applied to the facts of the case.

PERSONAL JURISDICTION FOR TRIBAL COURT JUDGMENTS

The Tribal Act precludes recognition of a tribal judgment where the tribal court lacked personal jurisdiction. The relevant language of the Tribal Act is reproduced below.²¹

Code of Civil Procedure § 1737

17. See generally Transcript of Oral Argument in *Dollar General Corp. v. Mississippi Band of Choctaw Indians* (Dec. 7, 2015), available at http://www.supremecourt.gov/oral_arguments/argument_transcripts/13-1496_j4ek.pdf. *Id.* at p. 8, ln. 13-16 (Justice Ginsburg questioning whether petitioners, Dollar General and Dolgencorp LLC, are arguing for rule that tribal court has no tort jurisdiction over nonmember); *id.* at p. 61, ln. 21-25 (petitioners argue that standard for tribal court jurisdiction should be express contractual consent to court's jurisdiction by nonmember); see also Adam Liptak, *Justices Weigh Power of Indian Tribal Courts in Civil Suits*, N.Y. Times (Dec. 7, 2015), available at http://www.nytimes.com/2015/12/08/us/politics/justices-weigh-power-of-indian-tribal-courts-in-civil-suits.html?_r=0.

18. See Memorandum 2016-6, pp. 2-3.

19. See Memorandum 2015-38, p. 3.

20. The staff notes that, given the federal law overlay, a California court, in a recognition proceeding, may be asked to consider issues of preemption or exhaustion requirements under federal law. The staff has not evaluated the preemptive effect of federal law in this area, but recognizes that these issues may need to be evaluated by the courts.

21. See *supra* note 11. The language of this rule differs slightly from the language in the Uniform Act. With respect to the evidentiary burden and court's process, however, this provision should operate in the same manner as the corresponding provision in the Uniform Act.

1737. ...

(b) A tribal court money judgment shall not be recognized and entered if the respondent demonstrates to the superior court that at least one of the following occurred:

(1) The tribal court did not have personal jurisdiction over the respondent.²²

...

Perhaps the most obvious difference between the personal jurisdiction provisions in the Tribal Act and the Uniform Act is that the Tribal Act lacks a provision akin to Section 5 of the Uniform Act (listing sufficient grounds for jurisdiction). Before addressing the personal jurisdiction inquiry under the Tribal Act, the relevance of the omission of Section 5 will be discussed briefly.

Lack of Section 5

Uniform Act Section 5 lists several grounds of personal jurisdiction that are deemed sufficient for the purposes of judgment recognition, while permitting courts to find other jurisdictional grounds sufficient.²³ The language of this provision in California's enactment is reproduced on pages 4 and 5 of the main memorandum. As discussed in the main memorandum, courts applying Section 5 to foreign court judgments have generally been deeming sufficient any grounds for personal jurisdiction on which the state's own courts could exercise jurisdiction.²⁴ The Tribal Act includes no analogous provision. What might be the reason for this omission?

The staff does not have a definitive answer. However, the staff notes that Section 5, as written, seems inapt for certain tribal court judgments. In particular, for judgments involving nonmembers, Section 5 would seem to grant personal jurisdiction in situations where the tribal court would not have subject matter jurisdiction (under the federal case law discussed above, which involves the nonmember's contacts with the tribe).²⁵ The subject matter jurisdiction inquiry, described above, appears to require more significant connections between the nonmember and the tribe than, say, the minimum contacts permissible under

22. The wording of this provision differs slightly from the Uniform Act. The provision refers to a lack of jurisdiction over the "respondent" (the party opposing recognition of the judgment), while the Uniform Act provision refers to a lack of jurisdiction over the "defendant," presumably in the foreign proceeding. 2005 Uniform Act § 4(b)(2). This different wording is unlikely to have practical consequences.

23. 2005 Uniform Act § 5; see also Memorandum 2016-6, pp. 4-5 (reproducing Code of Civil Procedure 1717 from California's enactment, which corresponds to Section 5 of the Uniform Act).

24. See Memorandum 2016-6, pp. 13-16.

25. See discussion of "Lack of Subject Matter Jurisdiction" *supra*.

International Shoe v. Washington.²⁶ Thus, the inclusion of Section 5 would, at a minimum, be confusing. For this reason it makes sense that Section 5 was not included in the Tribal Act.

Further, the omission of Section 5 altogether seems to be a much better option than replacing Section 5 with a provision that is compatible with the tribal court subject matter jurisdiction doctrine. Given the complexities of the subject matter jurisdiction doctrine for nonmembers and its unsettled status, an effort to distill and codify the doctrine seems fraught with potential pitfalls.

In terms of the Legislature's intent with regard to the omission of Section 5, the legislative analyses of the Tribal Act do not directly address the issue. However, the analyses repeatedly indicate that the Act was intended to establish procedures for the recognition of tribal court judgments, while leaving the substantive law governing the recognition of tribal court judgments *unchanged*.²⁷

Thus, while the omission might be read to impliedly change the scope of the personal jurisdiction inquiry for tribal court judgments, the staff believes that such a reading is at odds with the Legislature's stated intent. Further, nothing in the Tribal Act would appear to *preclude* a court in a judgment recognition proceeding from considering whether a tribal court's exercise of personal jurisdiction is inconsistent with federal notions of due process.

Lack of Personal Jurisdiction

For the purposes of this discussion, the focus is on the grounds for personal jurisdiction. As indicated in the main memorandum,²⁸ personal jurisdiction can be conceived as having two separate and distinct components: grounds for jurisdiction and service of process. Service of process will be discussed briefly later in this memorandum.²⁹

26. 326 U.S. 310 (1945).

27. See, e.g., Assembly Committee on Judiciary Analysis of SB 406, p. 1 (Jun. 13, 2014) ("While, this bill establishes a new procedural framework for seeking recognition of tribal court money judgments in California courts, it does not significantly change the legal grounds for recognition or nonrecognition of these judgments."); see also Assembly Floor Analysis of SB 406, p. 3 (Aug. 6, 2014) ("Any money judgment that is non-enforceable under existing law would continue to be nonenforceable under this legislation — this bill just simplifies the procedures for seeking enforcement of a tribal court judgment."); Senate Floor Analysis of SB 406, p. 7 (Aug. 8, 2014) (according to Judicial Council (sponsor of SB 406), bill would "continu[e] to apply the principles of comity appropriate to judgments of sovereign tribes."); .

28. See Memorandum 2016-6, p. 3.

29. See discussion of "Service of Process" *infra*.

Overall, as with subject matter jurisdiction, precluding recognition of a tribal court judgment for lack of personal jurisdiction makes sense.³⁰

Because a party's status as a member or nonmember of the tribe affects the scope of the subject matter jurisdiction inquiry (and the scope of that inquiry appears to have implications for the personal jurisdiction analysis), the personal jurisdiction inquiries for tribe members and nonmembers are discussed separately below.

Personal Jurisdiction Inquiry for Tribe Members

For judgments involving only tribe members, the personal jurisdiction inquiry is, according to Cohen's Handbook, "first and foremost a matter of tribal law."³¹

To the extent that tribal law authorizes jurisdiction over a member, the tribe would also have to consider whether the exercise of jurisdiction comports with due process. Tribes are obligated under a federal law, the Indian Civil Rights Act (25 U.S.C. §§ 1301-1303; hereafter, "ICRA"), to provide due process protections.³² Under ICRA, the tribal court is the final arbiter of the meaning of ICRA.³³ However, in interpreting ICRA, tribal courts "often consult Supreme Court precedents defining the parameters of personal jurisdiction under the fourteenth amendment's due process clause."³⁴

Personal Jurisdiction Inquiry for Nonmembers

For judgments involving nonmembers, the personal jurisdiction inquiry may be largely subsumed within the subject matter jurisdiction inquiry.³⁵ This is

30. See generally Memorandum 2015-38, pp. 2-3.

31. Cohen's Handbook, *supra* note 13, § 7.02[2].

32. *Id.*

33. See *id.*; Santa Clara Pueblo v. Martinez, 436 U.S. 49, 72 (1978) ("Congress retains authority expressly to authorize civil actions for injunctive or other relief to redress violations of [ICRA] § 1302, in the event that the tribes themselves prove deficient in applying and enforcing its substantive provisions. But unless and until Congress makes clear its intention to permit the additional intrusion on tribal sovereignty that adjudication of such actions in a federal forum would represent, we are constrained to find that [ICRA] § 1302 does not impliedly authorize actions for declaratory or injunctive relief against either the tribe or its officers.").

34. Cohen's Handbook, *supra* note 13, § 7.02[2].

35. See *id.* ("It is conceivable, although unlikely, that a tribal court could have subject matter jurisdiction over a case but lack personal jurisdiction over the defendant. This might occur, for example, if a non-Indian defendant's 'conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe' and thus fits within the second *Montana* exception establishing subject matter jurisdiction, while the tribal court lacks personal jurisdiction over the defendant because that conduct occurred outside the tribal territory such that the defendant lacks 'minimum contacts' with the forum sufficient to establish personal jurisdiction over her. As a practical matter, however, a non-Indian defendant whose conduct

because satisfaction of the subject matter jurisdiction inquiry generally requires the nonmember to have specific types of contact with the tribe or its members (e.g., a consensual relationship with the tribe or its members). Presumably, such contact with the tribe would be enough to support personal jurisdiction.³⁶ In other words, satisfying the test for tribal court jurisdiction described in the federal case law may be sufficient to establish that the tribal court has both subject matter *and* personal jurisdiction. However, the case law reviewed by the staff makes no clear statement to this effect. The federal case law generally involves questions of subject matter jurisdiction and does not address personal jurisdiction.³⁷

Further, ICRA would apply in cases involving nonmembers. Thus, if the rare case occurs where the tribal court has subject matter jurisdiction, but the nonmember defendant objects to personal jurisdiction, the tribal court would be required to assess whether the exercise of jurisdiction comports with due process. As indicated above, Cohen's Handbook suggests that tribal courts often look to U.S. Supreme Court precedent when deciding personal jurisdiction issues.³⁸

Need for Reform?

In the staff's view, the personal jurisdiction provision of the Tribal Act does not appear to require adjustment.

An argument could be made that the Tribal Act's omission of a provision akin to Uniform Act Section 5 should be read as substantively changing the scope of the jurisdictional inquiry conducted by a California court in a judgment recognition proceeding. In the staff's view, such an argument seems incongruous with the legislative history of the Tribal Act. For that reason, the staff does not see a need for statutory clarification of this point.

threatens or directly affects tribal interests within the meaning of *Montana's* second exception, is very likely to have minimum contacts with the forum sufficient to justify the tribal court's personal jurisdiction.") (citations omitted).

36. See *supra* note 35.

37. See generally David A. Castleman, Comment, *Personal Jurisdiction in Tribal Courts*, 154 U. Pa. L. Rev. 1253 (2006); see also *id.* at 1254 ("Although federal courts have paid close attention to the limits of tribal subject matter jurisdiction, personal jurisdiction is often overlooked.").

38. See Cohen's Handbook, *supra* note 13, § 7.02[2] ("Because the constitutional rules that define the boundaries of personal jurisdiction are premised on the due process clause, tribal courts are obligated under federal law to determine whether they have personal jurisdiction over defendants haled into tribal court. Because ICRA is intended both to protect individual rights and to preserve tribal sovereignty, tribal courts are the final arbiters of the meaning of ICRA. Nevertheless, tribal courts often consult Supreme Court precedents defining the parameters of personal jurisdiction under the fourteenth amendment's due process clause.") (citations omitted).

Service of Process

The main memorandum discussed clarifying that a defect in service of process could be the basis for finding a foreign court lacked personal jurisdiction for the purposes of judgment recognition under the Uniform Act.³⁹

The primary need for this clarification arises from Section 5(a) of the Uniform Act, which appears to preclude any consideration of service deficiencies if a listed jurisdictional ground is established.

The Tribal Act does not include the language of Uniform Act Section 5(a). Thus, the Tribal Act does not appear to preclude a court from finding that a tribal court lacked jurisdiction for service-related deficiencies.

If the Commission directs the staff to prepare a revision to address the service of process issue for foreign courts, the staff will consider whether similar revisions to the Tribal Act should be proposed for parallelism or to avoid confusion.

CONCLUSION

This supplement discusses the exceptions to recognition for tribal court judgments pertaining to a tribal court's lack of jurisdiction. As discussed above, the staff sees no need to modify these provisions.

Respectfully submitted,

Kristin Burford
Staff Counsel

39. See Memorandum 2016-6, pp. 16-17.

Dear ____:

You are invited to provide input – and help make policy – on the enforcement of tribal judgments in California by participating in the attached survey. This survey, a collaboration between the California Judicial Council’s Tribal Court-State Court Forum and Professor Katherine Florey of the U.C. Davis School of Law, aims to study the effects of SB 406, the Tribal Court Civil Money Judgment Act. Specifically, the survey looks at how SB 406 has been used, whether it has achieved its goal of simplifying the recognition and entry of tribal court civil money judgments, and whether there are any issues or concerns with extending the legislation.

Research in this area is important because the legislature will likely be evaluating SB 406 on several fronts. First, SB 406 includes a sunset provision providing that the legislation will expire on January 1, 2018 unless legislative action is taken to extend it. Second, SB 406 also requires the California Law Revision Commission to conduct a study of the standards for recognition of tribal court judgments; we believe this survey may aid in that effort. Finally, the legislature may in future consider expanding SB 406 to cover all tribal civil judgments, as was originally proposed.

Gaining the feedback of judges and practitioners with on-the-ground experience in this area is vital to the future of SB 406. We greatly appreciate your taking a few minutes of your time to fill out this survey.

Thank you.

Hon. Abby Abinanti
Forum Cochair

Hon. Dennis M. Perluss
Forum Cochair

State Court Survey Questions

This survey consists of 4 question areas. The first question area focuses on the recognition of tribal orders, while the second focuses on enforcement. The third asks about establishing an effective procedure for the recognition and enforcement of tribal court orders. The final questions ask for your contact information.

1. Court's Experience with Recognizing Tribal Court Civil Orders (Excluding cases involving the Indian Child Welfare Act and Tribal Customary Adoption)
 - How often has the court been asked to recognize an order from a tribal court?
 - Never (Skip to question 3)
 - Sometimes: Estimate number in the past 5 years _____ and, if you recall the case types, indicate here: _____
 - Since January 1, 2015, how many forms, [EJ-115 Notice of Application for Entry and Recognition of Tribal Court Money Judgment](#), has the court received?
 - None (Skip to question 3)
 - 1 or more, please indicate number here: _____
 - If you recall the names of the tribal courts, list them here:

 - How many evidentiary hearings did the court hold? _____
 - Did form EJ-115 and the Tribal Court Civil Money Judgment Act [California Code of Civil Procedure §§1730 – 1742] provide an efficient process for the court to recognize and enforce tribal court civil money judgments?
 - Yes
 - No, explain _____
2. Court's Experience with Enforcement of Tribal Court Civil Orders (Excluding cases involving the Indian Child Welfare Act and Tribal Customary Adoption)
 - How often has the court been asked to enforce an order from a tribal court?
 - Never (Skip to question 4)
 - Sometimes: Estimate number in the past 5 years _____ and, if you recall the case types, indicate here: _____
3. Effective Procedure to Recognize and Enforce Tribal Civil Judgments

- Would you like to see a process similar to the one for civil money judgments extended to other case types?

Yes (check all that apply)

- Animal control
- Conservator issues
- Contract disputes
- Dissolution of marriages and divorce cases
- Employment
- Environmental offenses
- Evictions/land disputes
- Family law
- Game, fish and wildlife management
- Guardianships
- Housing (unlawful detainers)
- Name and birth certificate changes
- Nuisance
- Probate
- Small claims
- Torts
- Trespass
- Other: _____ (please describe)

No, explain _____

- Do you have any other thoughts you would like to share on the subject of recognition and enforcement of civil tribal court orders? _____

4. Contact Information

- Name
- Title
- Court
- Email
- Phone

Thank you for completing this survey!

Tribal Court Survey Questions

This survey consists of 7 question areas. The survey asks you to respond separately to questions about the recognition of tribal orders and the enforcement of tribal orders.

1. Experience Issuing Tribal Court Civil Money Judgments

- Does your court have jurisdiction under tribal law to hear issues relating to civil money orders or judgments?
- Has your court ever issued a tribal court civil money order or judgment?
 Yes No (if no, skip to question 5)

2. Experience with Having Tribal Court Civil Money Judgments Recognized in California

- Are you aware of any challenges by a party to the recognition of your court's tribal court civil money order or judgment in California?
 Yes No (if no, skip to question 4)

- If yes, please indicate where by stating:

- In which county or counties: _____

- In which state courts (name and location) _____

- If yes, do you recall in what year(s): _____

- If yes, please describe the nature of the challenge:

- Are you aware of the [EJ-115 Notice of Application for Entry and Recognition of Tribal Court Money Judgment](#) and procedures under the Tribal Court Civil Money Judgment Act [California Code of Civil Procedure §§1730 – 1742]?

Yes No

- If yes, how would you rate the ease of use of the EJ-115 as compared to the system in place prior to the EJ-115?

() Much easier;

() Somewhat easier;

() No difference

() Somewhat more difficult;

() Much more difficult;

() No opinion

3. Experience with Having Tribal Court Civil Money Judgments Enforced in California

- Are you aware of any challenges by a party to the enforcement of your court's tribal court civil money order or judgment in California?

Yes No (if no, skip to question 5)

- If yes, please state:

- The name of the agency: _____
- The nature of the difficulty:

4. Experience with Having Other Civil Orders (Excluding Cases Involving the Indian Child Welfare Act and Tribal Customary Adoption) Recognized and Enforced in California

- Have there been challenges by a party to the recognition and enforcement of these orders outside of the reservation boundaries?

Yes No (if no, skip to question 6)

- If yes, please describe the nature of the difficulty:

- If yes, please state what case type(s) these judgments or orders relate to (check all that apply):

- Animal control
- Conservator issues
- Contract disputes
- Dissolution of marriages and divorce cases
- Employment
- Environmental offenses
- Evictions/land disputes
- Family law
- Game, fish and wildlife management
- Guardianships
- Housing (unlawful detainers)
- Name and birth certificate changes
- Nuisance
- Probate
- Small claims
- Torts
- Trespass

Other: _____ (please describe)

- Approximate number of cases in which someone has sought to have your court order recognized and enforced in state court?
 - I don't know (Skip to question 5)
 - Never (Skip to question 5)
 - Sometimes: Estimate number in the past 5 years _____ and, if you recall the case types, indicate here: _____

5. Experience with Having Other Civil Orders (Excluding Cases Involving the Indian Child Welfare Act and Tribal Customary Adoption) Recognized and Enforced Outside California

- Have there been challenges by a party to the recognition and enforcement of your court's civil tribal court judgment or order in a state other than California?
 - Yes no (if no, skip to question 7)

- If yes, please indicate which state:

- If you answered yes, please state what case type(s) these judgments or orders relate to (check all that apply):

- Animal control
- Conservator issues
- Contract disputes
- Dissolution of marriages and divorce cases
- Employment
- Environmental offenses
- Evictions/land disputes
- Family law
- Game, fish and wildlife management
- Guardianships
- Housing (unlawful detainers)
- Name and birth certificate changes
- Nuisance
- Probate
- Small claims
- Torts
- Trespass
- Other: _____ (please describe)

- If you answered yes, please indicate how your experience in the other state compared to your experience in California. Was your experience in the other state:

- () Much easier;
- () Somewhat easier;
- () No difference
- () Somewhat more difficult;
- () Much more difficult;
- () No opinion

6. Effective Procedure to Recognize and Enforce Tribal Civil Judgments

- Would you like to see a process similar to the one for civil money judgments extended to other case types?

Yes (check all that apply)

- Animal control
- Conservator issues
- Contract disputes
- Dissolution of marriages and divorce cases
- Employment
- Environmental offenses
- Evictions/land disputes
- Family law
- Game, fish and wildlife management
- Guardianships
- Housing (unlawful detainers)
- Name and birth certificate changes
- Nuisance
- Probate
- Small claims
- Torts
- Trespass
- Other: _____ (please describe)

No, explain

- Do you have any other thoughts on the topic of recognition and enforcement of civil tribal court judgments and orders?

7. Contact Information

- Name
- Title
- Court
- Email
- Phone

Thank you for completing this survey!

DRAFT

Tribal Practitioner Survey Questions

This survey will ask you 7 sets of questions about several distinct categories of cases: cases involving tribal civil money judgments, cases involving other civil judgments, cases involving the recognition of these judgments, both in and outside California, cases involving the enforcement of these judgments, both in and outside California. The final questions ask about your experience with an effective procedure for the recognition and enforcement of these judgments and your contact information.

1. Experience with Seeking Tribal Court Civil Money Judgments

- Have you ever obtained a tribal court civil money order or judgment?
 Yes No (if no, skip to question 5)

2. Experience with Having Tribal Court Civil Money Judgments Recognized in California

- Have you ever had or attempted to have a tribal court civil money order or judgment recognized in California?
 Yes No (if no, skip to question 4)

- Which tribal court(s) were the judgment(s) or orders(s) from:

- In which county or counties was enforcement sought:

- In which state courts (name and location) was enforcement sought

- If you recall, in what year(s):

- Did you encounter any difficulties in having the state court recognize the order or judgment?

Yes No (if no, skip to question 4)

- What was the nature of the difficulty:

- Are you aware of the [EJ-115 Notice of Application for Entry and Recognition of Tribal Court Money Judgment](#) and procedures under the Tribal Court Civil Money Judgment Act [California Code of Civil Procedure §§1730 – 1742]?

Yes No (if no, skip to question 4)

- Have you used this form and procedure?

Yes No

- How would you rate the ease of use of the EJ-115 as compared to the system in place prior to the EJ-115?

- () Much easier;
- () Somewhat easier;
- () No difference
- () Somewhat more difficult;
- () Much more difficult;
- () No opinion

- If no, why not? _____

3. Experience with Having Tribal Court Civil Money Judgments Enforced in California

- Did you encounter any difficulties in having an executive agency enforce the tribal court order or judgment?

Yes No (if no, skip to question 5)

- If yes, please state:

- The name of the executive agency: _____
- The nature of the difficulty: _____

4. Experience with Having Other Civil Orders (Excluding Cases Involving the Indian Child Welfare Act and Tribal Customary Adoption) Recognized and Enforced in California

- Have you ever had or attempted to have a tribal court civil order or judgment recognized California?

Yes No (if no, skip to question 6)

- Which tribal court(s) were the judgment(s) or orders(s) from:

- In which county or counties was enforcement sought:

-
- In which state courts (name and location) was enforcement sought
-

- If yes, do you recall in what year(s): _____

- Did you encounter any difficulties in having the state court recognize the order or judgment?

Yes No (if no, skip to question 6)

- What was the nature of the difficulty:
-
-

- Which case type(s) did these judgments or orders relate to (check all that apply):

- Animal control
- Conservator issues
- Contract disputes
- Dissolution of marriages and divorce cases
- Employment
- Environmental offenses
- Evictions/land disputes
- Family law
- Game, fish and wildlife management
- Guardianships
- Housing (unlawful detainers)
- Name and birth certificate changes
- Nuisance
- Probate
- Small claims
- Torts
- Trespass
- Other: _____ (please describe)

5. Experience Having Other Civil Orders (Excluding Cases Involving the Indian Child Welfare Act and Tribal Customary Adoption) Recognized and Enforced Outside of California?

- Have you ever had or tried to have a civil tribal court judgment or order recognized and enforced in a state other than California? Yes No (if no, skip to question 6)

- In which state(s):

-
- Which case type(s) did these judgments or orders relate to (check all that apply):

- Animal control
- Conservator issues
- Contract disputes
- Dissolution of marriages and divorce cases
- Employment
- Environmental offenses
- Evictions/land disputes
- Family law
- Game, fish and wildlife management
- Guardianships
- Housing (unlawful detainers)
- Name and birth certificate changes
- Nuisance
- Probate
- Small claims
- Torts
- Trespass
- Other: _____ (please describe)

- How would you rate your experience in the other state as compared to your experience in California. Was your experience in the other state:

- () Much easier;
- () Somewhat easier;
- () No difference
- () Somewhat more difficult;
- () Much more difficult;
- () No opinion

Comments: _____

6. Effective Procedure to Recognize and Enforce Tribal Civil Judgments

- Would you like to see a process similar to the one for civil money judgments extended to other case types?

- Yes (check all that apply)

- Animal control

- Conservator issues
- Contract disputes
- Dissolution of marriages and divorce cases
- Employment
- Environmental offenses
- Evictions/land disputes
- Family law
- Game, fish and wildlife management
- Guardianships
- Housing (unlawful detainers)
- Name and birth certificate changes
- Nuisance
- Probate
- Small claims
- Torts
- Trespass
- Other: _____ (please describe)

No, explain

- Do you have any other thoughts on the topic of recognition and enforcement of civil tribal court judgments and orders?

7. Contact Information

- Name
- Title
- Organization
- Email
- Phone

Thank you for completing this survey!