

# TRIBAL COURT–STATE COURT FORUM MEETING

FEBRUARY 19, 2015

12:15-1:15 P.M.

Toll Free: 1-877-820-7831; Local: 720-279-0026



JUDICIAL COUNCIL  
OF CALIFORNIA

TRIBAL COURT–STATE COURT FORUM

## Agenda

### THURSDAY, FEBRUARY 19

#### Item 1

##### Cochairs Report

- Approval of October 9, 2014 and December 18, 2014 Forum Meeting Minutes
- Annual Agenda

Presenters: Hon. Richard C. Blake  
Hon. Dennis M. Perluss  
Ms. Jennifer Walter

#### Item 2

##### [Attorney General Holder Announces ICWA Initiative](#)

Presenter: Marcia Hurd, Senior Counsel to the Director, Office of Tribal Justice  
United States Department of Justice

#### Item 3

##### Indian Child Welfare Act: Proposed Draft Transfer Rule

Presenter: Ms. Ann Gilmour

#### Item 4

##### Blue Lake Tribe's Legislative Proposal to Amend Family Code to Authorize Tribal Court Judges to Solemnize a Marriage

Presenter: Hon. Lester J. Marston

#### Item 5

##### CJER Governing Board Meeting Update

Presenter: Hon. Kimberly A. Gaab

#### Item 6

##### Brainstorming Workshop Ideas for Beyond the Bench 23: User Experience

Dec. 2-4, 2015 in Southern California

Facilitator: Ms. Ann Gilmour

**Item 1**  
**Cochairs Report**

Approval of October 9, 2014  
and December 18, 2014  
Forum Meeting Minutes

Annual Agenda



# JUDICIAL COUNCIL OF CALIFORNIA

TRIBAL COURT-STATE COURT FORUM

[www.courts.ca.gov/forum.htm](http://www.courts.ca.gov/forum.htm)  
[forum@jud.ca.gov](mailto:forum@jud.ca.gov)

## TRIBAL COURT-STATE COURT FORUM

### MINUTES OF OPEN MEETING

October 9, 2014

12:15-12:45 p.m.

By Conference Call

**Advisory Body  
Members Present:**

Hon. Dennis M. Perluss, Cochair, Hon. Abby Abinanti, Ms. April Attebury, Hon. Jerilyn L. Borack, Hon. Kimberly A. Gaab, Hon. Bill Kockenmeister, Hon. Anthony Lee, Hon. David E. Nelson, Hon. Kimberly J. Nystrom-Geist, Hon. Deborah A. Ryan, and Hon. Juan Ulloa

**Advisory Body  
Members Absent:**

Hon. Mitchell L. Beckloff, Hon. Leonard P. Edwards, Hon. Michael Golden, Hon. Cynthia Gomez, Mr. Olin Jones, Hon. Suzanne N. Kingsbury, Hon. John L. Madigan, Hon. Lester Marston, Hon. Allen H. Sumner, Hon. Deborah L. Sanchez, Hon. Christine Williams, Hon. Christopher G. Wilson, Hon. Claudette C. White, Hon. Joseph J. Wiseman, and Hon. Sarah S. Works

**Others Present:**

Hon. Peggy Bird, Ms.Carolynn Bernabe, Ms. Vida Castaneda, and Ms. Jennifer Walter

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#### OPEN MEETING

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#### Call to Order and Roll Call

The cochair called the meeting to order at 12:18 p.m. Ms. Walter took roll call.

#### Written Comments Received

No written comments were received.

#### Approval of Minutes

The committee approved the August 21, 2014 forum meeting minutes.

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#### DISCUSSION AND ACTION ITEMS (ITEMS 1-4)

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##### Item 1

##### Cochairs' Report

- [CJEO Informal Ethics Opinion](#)

Justice Dennis Perluss reported on the informal ethics opinion issued by the California Supreme Court Committee on Judicial Ethics Opinions (CJEO) stating that state court judges may appropriately participate and discuss the activities of the forum in an educational documentary.

To view the opinion, click on item, CJEO Informal Ethics Opinion or

<http://www.judicialethicsopinions.ca.gov/sites/default/files/CJEO%20Informal%20Opinion%20Summary%202014-004.pdf>

- [Legislative Updates](#)

Justice Perluss reported on the following forum-initiated legislative proposals:

[AB 1618: Tribal Access to Confidential Juvenile Court Files](#) provides tribal entities and officials with access to confidential juvenile court files and records for children who are members of the tribe or eligible for membership in the tribe. By explicitly including tribes, tribal officials, and tribal entities within the exception to the confidentiality of juvenile court files, the bill will solve a conflict between federal and state law on one side, and juvenile courts on the other. This bill was approved by the Governor on June 25, 2014, filed with Secretary of State on June 25, 2014, and is now chaptered as Stats. 2014, Ch. 37, effective January 1, 2015.

[SB 406 Tribal Court Civil Money Judgment Act](#) simplifies and clarifies the process by which tribal court civil money judgments are recognized and enforced in California. This bill was approved by the Governor on August 22, 2014, filed with Secretary of State August 22, 2014, and is now chaptered as Stats. 2014, Ch. 243, effective January 1, 2015.

[SB 940 Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act \(UAGPPJA\) Proposed for California](#) addresses issues involving conservatorships for members of Indian tribes located in California. This bill was approved by the Governor on September 25, 2014, filed with Secretary of State September 25, 2014, and is now chaptered as Stats. 2014, Ch. 553; some portions effective January 1, 2015 and others January 1, 2016.

**Item 2**

**A Report on the World Indigenous Legal Conference "*Past, Present, Future*"**

Judge Peggy L. Bird, who is of the Sun Clan from Kewa Pueblo in New Mexico and a tribal court judge for the Taos Pueblo Tribal Court and the Nambe Pueblo Tribal Court, reported on the annual legal indigenous conference. Held biennially, the conference brings together indigenous lawyers and academics and those interested in understanding issues critical to the development of indigenous people.

In 2014, the Indigenous Lawyers Association of Queensland hosted the conference, which was combined with the World Indigenous Legal Conference in Brisbane Australia. The conference addressed: indigenous knowledge: practice and research; human rights; indigenous women and children; economic independence; relationships to land; and criminal justice. In conjunction with the conference, the Indigenous Lawyers Association also invited papers to be submitted to the law journal, which will be published in early 2015.

Judge Bird and forum member, Judge Deborah Sanchez, are organizing the next World Indigenous Legal Conference in 2016, which will take place in Syracuse, New York.

**Item 3**

**Inyo-Bishop Cross Cultural Exchange**

Judge William Kockenmeister described the exchange he cohosted with Judge Dean Stout, Presiding Judge of the Inyo Superior Court and former forum member, on September 12, 2014 at the Bishop Paiute Tribal Center, housing the Tribe's new museum. Over 30 participants attended the exchange. Session topics included historical trauma, full faith and credit and

jurisdictional issues affecting protection of domestic violence victims on tribal lands, and victim-centered and culturally sensitive practices in domestic violence in tribal communities.

Judge Kockenmeister reported that participants spoke positively about all of the sessions. Ms. Candace Heisler walked the participants through the forum's tribal version of the Comings and Goings exercise, and this was particularly well-received.

Judge Kockenmeister recommended the experience of hosting an exchange to his forum colleagues and remarked that it brought tribal and non-tribal community members together to problem-solve and address domestic violence.

#### **Item 4**

##### **Indian Child Welfare Act Cases**

- [In re Abbigail \(2014\) 226 Cal.App.4th 1450](#)
- [In re J.S. \(4th Appellate District, 9/11/14\)](#)

Judge Jerilyn Borack summarized the two cases. She highlighted that the Third District Court of Appeal case of *In re Abbigail (2014) 226 Cal.App.4th 1450 [173 Cal.Rptr.3d 191]*, review granted Sept. 10, 2014, S220187 held that rule 5.482(c) and rule 5.484(c)(2) are "...inconsistent with the legislative definition of the class of protected Indian children, and therefore the Judicial Council lacked authority to expand the definition." A day after the California Supreme Court granted review of the *Abbigail A.* decision, the Fourth District issued its decision in *In re J.S.*. Consistent with the holding in the *Abbigail* decision, the Fourth District held that ICWA did not apply where a child was eligible for enrollment in the Cherokee Nation but neither the child nor the biological parent of the child were members of the tribe.

Forum members considered recommending rule changes, but given that the issue is pending before the California Supreme Court, the forum decided to take no action at this time and await the ruling of the California Supreme Court. Ms. Walter informed the forum that the Family and Juvenile Law Advisory Committee (committee), cochaired by Judge Borack, would discuss the cases and staff would report back to the forum on the committee's discussion and decisions. Ms. Walter informed the members that staff would be developing a video that will educate tribes about the state court juvenile dependency process, timelines, and judicial decision-making, while also educating state court judges about the type of information needed about a child and the steps a tribe must take to determine whether a child is an "Indian child" under the Indian Child Welfare Act. She explained that the project would be a joint forum-committee project, and thanked Judge Borack for agreeing to participate in developing the video.

*Next Steps: Staff will prepare a memorandum for the forum and committee that will summarize recent legislation and court decisions and, after committee review and discussion, will report back to the forum.*

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#### **A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 12:45 p.m.

Pending approval by forum at its next teleconference scheduled on February 19, 2015.



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TRIBAL COURT-STATE COURT FORUM

MINUTES OF OPEN MEETING

December 18, 2014

12:15-1:15 p.m.

By Conference Call

**Advisory Body  
Members Present:**

*Hon. Dennis M. Perluss, Cochair, Hon. Abby Abinanti, Ms. April Attebury, Ms. Jacqueline Davenport, Hon. Leonard P. Edwards, Hon. Anthony Lee, Hon. David E. Nelson, Hon. Deborah A. Ryan, Hon. Deborah L. Sanchez, Hon. Allen H. Sumner, Hon. Christine Williams, Hon. Christopher G. Wilson, and Hon. Daniel Zeke Zeidler*

**Advisory Body  
Members Absent:**

*Hon. Richard Blake, Cochair, Hon. Mitchell L. Beckloff, Hon. Jerilyn L. Borack, Hon. Kimberly A. Gaab, Hon. Bill Kockenmeister, Hon. Michael Golden, Hon. Cynthia Gomez, Mr. Olin Jones, Hon. Suzanne N. Kingsbury, Hon. John L. Madigan, Hon. Lester Marston, Hon. Kimberly J. Nystrom-Geist, Hon. Juan Ulloa, Hon. Claudette C. White, Hon. Joseph J. Wiseman, and Hon. Sarah S. Works*

**Others Present:**

*Ms.Carolynn Bernabe, Ms. Vida Castaneda, Ms. Kimberly DaSilva, Ms. Ann Gilmour, Hon. Amy Pellman, Ms. Jennifer Walter, Hon. Rebecca Wightman, and Mr. Michael Wright*

OPEN MEETING

**Call to Order and Roll Call**

The chair called the meeting to order at 12:18 p.m., and took roll call.

**Approval of Minutes**

No minutes to approve.

DISCUSSION AND ACTION ITEMS (ITEMS 1-5)

**Item 1**

**Cochairs' Report**

**Presenter: Hon. Dennis M. Perluss**

1. **Welcome** extended to new forum members, Judge Daniel Zeke Zeidler of the Los Angeles Superior Court and Ms. Jacqueline Davenport, Assistant Court Executive Officer of the El Dorado Superior Court.

2. **[National Indian Nations Conference](#)**

This conference was held on December 11-13, 2014, on the reservation of the Agua Caliente Band of Cahuilla Indians, California, with the theme, "Generational Voices Uniting for

Safety, Justice, and Healing.” Over 1500 people attended, including Native American victims, victim advocates, tribal leaders, victim service providers, community volunteers, prosecutors, judicial and law enforcement personnel, family violence and sexual assault specialists, medical providers, social services and mental health personnel, probation/corrections, criminal justice and juvenile justice personnel, as well as federal and state agency representatives who shared their knowledge, experiences and ideas for developing programs that serve the unique needs of crime victims in Indian Country. The forum was well-represented at the conference. Forum members, Judge Suzanne Kingsbury and Judge Christine Williams, presented their joint jurisdictional court model, and forum cochairs, Judge Blake and Justice Perluss, presented on forum-related projects. California Judicial Council (council) staff set up a resource table at the conference and shared information on tribal/state collaboration in California.

**3. Memo to Center for Judiciary Education and Research (CJER) Governing Board (governing board) Concerning Jurisdictional Issues in Cases Involving Federal Indian Law**

The memo, included in the materials for this meeting, recommends that the governing board consider integrating federal Indian law into educational programs and resources conducted and developed by CJER. Judge Kimberly Gaab, both a forum and governing board member, accompanied by Jennifer Walter, will present the recommendations to the governing board on February 3, 2015.

**4. State/Tribal Education, Partnerships, and Services (STEPS) to Justice— Domestic Violence**

The brochure describes grant-funded local educational services and other technical assistance for tribal and state court judges.

**5. Attorney General Holder Announces Indian Child Welfare Act (ICWA) Initiative**

The U.S. Attorney General announced an initiative to ensure compliance with ICWA. It is a joint effort among the Department of the Interior, the Department of Justice, and the Department of Health and Human Services. Council staff will learn more about this initiative and explore with federal agency representatives areas of federal/state/tribal collaboration in California. We have invited one of the deputy attorney generals from the Office of Tribal Justice to join us at our next forum conference call.

**Item 2**

**Report on the Los Angeles County ICWA Roundtable and Trainings**

**Presenter: Hon. Amy M. Pellman, Judge, Los Angeles Superior Court**

Judge Amy Pellman described the court-coordinated community response to Indian Child Welfare Act (ICWA) cases that she established in Los Angeles County, which has the largest urban Indian population in the country. Through her vision and leadership, and with the assistance of council staff, the court regularly convenes quarterly Roundtable meetings and invites community members, county service providers, and all ICWA stakeholders to improve relations, increase effective communication, work on collaborative projects, improve long-standing issues and overall provide better potential outcomes for Native American families. Typically, 50 people participate at Roundtable meetings. The Roundtable has formed subcommittees focused on the following topics: 1) inquiry training; 2) communication and tribal

engagement; 3) peacemaking project; and 4) private adoption and guardian and contested private adoption.

The Roundtable's biggest challenge is the recruitment of Indian foster homes. Presently, there is not one Indian foster home in Los Angeles County, but as a result of the Roundtable, tribal/county plans are underway to recruit and license Native American homes.

The Roundtable is benefiting from tribal engagement—developing resources on active efforts, updating county directories (the Redbook) with native resources, conducting tribal/county trainings, and learning about peacemaking from the Center for Court Innovation.

As a result of the Roundtable, on December 5, 2014, Judge Michael Nash, presiding judge of the juvenile court in Los Angeles, closed the courthouse for a mandatory ICWA training, which was attended by 20 judicial officers and 250 attorneys.

### **Item 3**

#### **Indian Child Welfare Act: Proposed Draft Transfer Rule**

**Presenter: Ms. Ann Gilmour**

Senate Bill 1460 (stats. 2014; ch. 772) amended section 305.5 of the Welfare and Institutions Code and added sections 381 and 827.15 concerning the transfer of juvenile court proceedings involving an Indian Child from the jurisdiction of the juvenile court to a tribal court. These changes necessitate amendments to California Rules of court, rule 5.483 and form ICWA-060 *Order on Petition to Transfer Case Involving an Indian Child to Tribal Jurisdiction*. The forum discussed the draft rule proposal and approved the proposal in concept.

***Action Item: The forum directed council staff to work with staff to the Family and Juvenile Advisory Committee and the Appellate Advisory Committee to seek review and approval of the proposal so that it could be circulated for comment.***

### **Item 4**

#### **[Notice of Proposed Rule Making \(NPRM\): Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs](#)**

**Presenter: Hon. Abby Abinanti, Chief Judge, Yurok Tribal Court**

**Ms. Denise Bareilles, Program Manager/Staff Attorney, Yurok Tribal Court**

**Resource: Mr. Michael Wright, Supervising Attorney, Center for Families, Children, & the Courts**

The Federal Office of Child Support Enforcement (OCSE) recently released a proposed child support rule that will negatively impact cases in California. The deadline for submitting comments is January 16, 2015. The forum discussed the draft comment prepared by Jennifer Walter, and approved its submission.

***Action Item: Forum directs council staff to seek permission from the appropriate council internal committees to submit the comment to the OCSE.***



**Item 5**

**Proposal to Amend the California Code of Judicial Ethics**

**Presenters: Hon. Abby Abinanti**

**Hon. Rebecca Wightman, Commissioner, San Francisco Superior Court**

The forum discussed the financial burden placed on tribes and tribal courts in California. Due to federal policies associated with Public Law 280, there is no funding from the federal government or the state to operate tribal courts. Most tribes in California do not have the financial means to establish and operate a court. Most tribes rely on federal and other grants, as well as direct solicitation from the public to develop and sustain their courts. For tribal court judges, who are also appointed as state court judicial officers, the following ethical question was posed to the California Supreme Court's Committee on Judicial Ethics Opinions (committee): can a California state judicial officer who serves part-time as a commissioner and part-time as the Chief Justice of the Yurok Tribe raise funds for the Yurok Tribal Court, including but not necessarily limited to the pursuit of federal/state funding: foundation funding, corporate funding, charitable donations from religious groups and/or individuals? The committee, in a confidential opinion, found that it would be a violation of Canon 4C.

While this inquiry and opinion originated primarily from one judge, the forum concluded that this prohibition would be a barrier for other tribal court judges and is of mutual concern to tribal and state court judges. Some of those concerns are highlighted in the materials, which were prepared by Commissioner Wightman, for this meeting.

The forum discussed whether to submit a comment now since the ethical canons are currently being circulated for public comment and/or to prepare a request to the California Supreme Court's Advisory Committee on the Code of Judicial Ethics to amend the canons to permit a judge who sits concurrently on a tribal court and a state court to fundraise on behalf of a tribal court.

***Action Item: Seeking forum volunteers to assist in the preparation of the request. Forum directs council staff to explore the feasibility of submitting a comment prior to making the request and to begin preparing the request.***

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**I. INFORMATION ONLY ITEMS (NO ACTION REQUIRED)**

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**Info 1**

**Bureau of Justice Administration: Training and Technical Assistance Opportunity—Joint Jurisdictional Court**

**Presenter: Jennifer Walter**

The Bureau of Justice Administration is offering training and technical assistance to courts interested in pursuing a joint jurisdictional model. Just as with the last BJA opportunity, council staff will assist any tribal court and state court with their joint application.

**Info 2**

**Forum Meeting Schedule**

**Presenter: Jennifer Walter**

***Action: Forum members to place dates and times of meetings in their calendars and staff to send outlook invitations to members.***

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**A D J O U R N M E N T**

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There being no further business, the meeting was adjourned at 1:06 p.m.

Pending approval by the advisory body on February 19, 2015.

**Tribal Court–State Court Forum**

**Annual Agenda—2015**

Approved by E&P/RUPRO: \_\_\_\_\_

**I. ADVISORY BODY INFORMATION**

<b>Chair:</b>	Judge Richard C. Blake and Justice Dennis M. Perluss
<b>Staff:</b>	Ms. Jennifer Walter, Supervising Attorney, Center for Families, Children & the Courts
<p><b>Advisory Body’s Charge:</b> The forum makes recommendations to the 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.</p> <p>In addition to the general duties and responsibilities applicable to all advisory committees as described in rule 10.34, the forum must:</p> <ol style="list-style-type: none"><li>1. Identify issues of mutual importance to tribal and state justice systems, including those concerning the working relationship between tribal and state courts in California;</li><li>2. Make recommendations relating to the recognition and enforcement of court orders that cross jurisdictional lines, the determination of jurisdiction for cases that might appear in either court system, and the sharing of services between jurisdictions;</li><li>3. Identify, develop, and share with tribal and state courts local rules of court, protocols, standing orders, and other agreements that promote tribal court–state court coordination and cooperation, the use of concurrent jurisdiction, and the transfer of cases between jurisdictions;</li><li>4. Recommend appropriate activities needed to support local tribal court–state court collaborations; and</li><li>5. Make proposals to the Governing Committee of the Center for Judicial Education and Research on educational publications and programming for judges and judicial support staff.</li></ol> <p>[Excerpted from California Rules of Court, Rule 10.60]</p>	

**Advisory Body's Membership:** Thirty positions- 1 vacancy and 28 members representing the following categories:

- 12 Tribal Court Judges (nominated by their tribal leadership, representing 15 of the 23 tribal courts currently operating in California; these courts serve approximately 40 tribes)
- Director of the California Attorney General's Office of Native American Affairs
- Tribal Advisor to the California Governor
- 1 Appellate Justice
- 7 Chairs or their Designees of the following California Judicial Council advisory committees:
  - Access and Fairness Advisory Committee
  - Center for Judicial Education and Research (CJER) Governing Committee
  - Civil and Small Claims Advisory Committee
  - Criminal Law Advisory Committee
  - Family and Juvenile Law Advisory Committee (2 positions)
  - Probate and Mental Health Advisory Committee
  - Traffic Advisory Committee
- 5 Trial Court Judicial Officers (selected from local courts in counties where tribal courts are situated)
- 1 retired judge

Members' appointment orders expire September 14, 2015, with the exception of members Ms. Jacqueline Davenport and Judge D. Zeke Zeidler, whose terms expire on September 14, 2017. In order to achieve staggered terms for positions on the forum, membership will be allocated such that approximately one third of the members will have one-year terms, one third will have two-year terms, and one third will have three-year terms. Initial terms as of September 14, 2015 will be allocated in this manner; thereafter, all terms will be for 3 years and staggered.

**Subgroups/Working Groups:<sup>1</sup>**

1. Education Subcommittee (group disbanded in favor of full committee input regarding educational activities)
2. Protocol Working Group (group disbanded in favor of full committee input into protocol development)
3. Forum/Probate Legislative Working Group (work completed and group disbanded)

**Advisory Body's Key Objectives for 2015:**

1. Make policy recommendations that enable tribal and state courts to improve access to justice, to issue orders, and to enforce orders to the fullest extent allowed by law.
2. Increase Tribal/State Partnerships that identify issues of mutual concern and proposed solutions.
3. Make recommendations to committees developing judicial education institutes, multi-disciplinary symposia, distance learning, and other educational materials to include content on federal Indian law and its impact on state courts, including interjurisdictional issues.

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<sup>1</sup> California Rules of Court, rule 10.30(c) allows an advisory body to form subgroups, composed entirely of current members of the advisory body, to carry out the body's duties, subject to available resources, with the approval of its oversight committee.

## II. ADVISORY BODY PROJECTS

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
I.	<p><b>Policy Recommendations:</b></p> <p><b>A. Legislation-</b></p> <p>1. Make recommendation to sponsor or support amendment to the Family Code to expressly authorize tribal court judges to solemnize marriages</p> <p><i>Major Tasks:</i></p> <p>(a) Evaluate proposal</p> <p>(b) Make recommendation to sponsor or support proposal</p> <p>2. Submit Comment to the Federal Office of Child Support Enforcement on the <i>Notice of Proposed Rule Making (NPRM): Flexibility, Efficiency, and Modernization in Child Support Enforcement Programs</i></p>	2(b)	<p><b>Judicial Council Direction:</b></p> <p>Strategic Plan Goal II: Independence and Accountability. Operational Plan Objective 3.</p> <p>Strategic Plan Goal III: Modernization of Management and Administration. Operational Plan Objective 5.</p> <p>Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence. Operational Plan Objective 4.</p> <p>Origin of Project: Forum</p> <p><b>Resources:</b></p> <p><i>Council Committees:</i> Forum and Policy Coordination and Liaison Committee (PCLC)</p> <p><i>Judicial Council Staffing:</i> CFCC and Office of Governmental Affairs (OGA)</p>	<p>2015</p> <p>January 16, 2015</p>	<p>Legislative proposal</p> <p>Comment submitted on federal legislation</p>

<sup>2</sup> All proposed projects for the year must be included on the Annual Agenda. If a project implements policy or is a program, identify it as *implementation* or a *program* in the project description and attach the Judicial Council authorization/assignment or prior approved Annual Agenda to this Annual Agenda.

<sup>3</sup> For non-rules and forms projects, select priority level 1 (must be done) or 2 (should be done). For rules and forms proposals, select one of the following priority levels: 1(a) Urgently needed to conform to the law; 1(b) Urgently needed to respond to a recent change in the law; 1(c) Adoption or amendment of rules or forms by a specified date required by statute or council decision; 1(d) Provides significant cost savings and efficiencies, generates significant revenue, or avoids a significant loss of revenue; 1(e) Urgently needed to remedy a problem that is causing significant cost or inconvenience to the courts or the public; 1(f) Otherwise urgent and necessary, such as a proposal that would mitigate exposure to immediate or severe financial or legal risk; 2(a) Useful, but not necessary, to implement statutory changes; 2(b) Helpful in otherwise advancing Judicial Council goals and objectives.

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>(as published in the Federal Register on November, 17, 2014 (Vol. 79 FR No. 221 68548)</p> <p><i>Major Tasks:</i>            (a) Evaluate NPRM            (b) Make recommendation to PCLC to submit comment</p>		<p><b><i>Key Objective Supported: 1</i></b>            Make policy recommendations that enable tribal and state courts to improve access to justice, to issue orders, and to enforce orders to the fullest extent allowed by law.</p>		
	<p><b>Policy Recommendations:</b>  <b>B. Rules and Forms-Indian Child Welfare Act and Inter-Court Transfer of Cases</b></p> <p><i>Major Tasks:</i>            (i) Monitor pending California Supreme Court case <i>In re Abbigail</i> (2014) 226 Cal.App.4th 1450 [173 Cal.Rptr.3d 191], review granted Sept. 10, 2014, S220187 for possible amendments to rules 5.482(c) and 5.484(c)(2); concurrently amend <i>Notice of Child Custody Proceeding for Indian Child</i> (ICWA-030) in light of that decision and <i>In re S.E.</i> (2013) 217</p>	2(b)	<p><b><i>Judicial Council Direction:</i></b>            Strategic Plan Goal II: Independence and Accountability.            Operational Plan Objective 3.</p> <p>Strategic Plan Goal III:            Modernization of Management and Administration.            Operational Plan Objective 5.</p> <p>Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence.            Operational Plan Objective 4.</p> <p>Origin of Project: California Department of Social Services and Statewide Workgroup on the Indian Child Welfare Act</p> <p><b><i>Resources:</i></b>  <i>Council Committees:</i> Appellate</p>	2015	Rule and form amendments

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>Cal. App. 4th 610 (2nd District).</p> <p>(ii) Make recommendations to revise forms, ICWA-060 and JV-800, and amend rule 5.483 to ensure due process and that the order for transfer of a juvenile case from state court to tribal court addresses issues such as when and to whom physical transfer of the child shall take place and what necessary information from the court and agency files will be provided to the tribal court and tribal social service agency upon transfer.</p>		<p>Advisory Committee, Family and Juvenile Law Advisory Committee, and Forum</p> <p><i>Judicial Council Staffing:</i> CFCC and LSO</p> <p><b><i>Key Objective Supported: 1</i></b></p>		
	<p><b>Policy Recommendations:</b></p> <p><b>C. Technological Advances-</b></p> <p><i>Major Tasks</i></p> <p>(i) Consult with the California Attorney General's Office regarding access to California Law Enforcement Telecommunications System (CLETS) by tribal courts.</p> <p>(ii) Recommend Judicial Council staff continue giving tribal courts access to the California Courts Protective</p>	2(b)	<p><b><i>Judicial Council Direction:</i></b></p> <p>Strategic Plan Goal II: Independence and Accountability. Operational Plan Objective 3.</p> <p>Strategic Plan Goal III: Modernization of Management and Administration.</p> <p>Operational Plan Objective 5: Develop and implement effective trial and appellate case management rules, procedures, techniques, and practices to promote the fair, timely, consistent,</p>	Ongoing	<p>(i) Tribal court judges will be able to enter their protective orders into CLETS and enforcement will be improved</p> <p>(ii) State and tribal courts will be able to see each other's protective orders, to</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>Order (CCPOR) Registry.</p> <p>(iii) Recommend a pilot project that would provide electronic notice to tribes in Indian Child Welfare Act (ICWA) cases.</p> <p>(iv) Recommend continuation of tribal Domestic Assistance Self Help (DASH) Tribal/State Program</p>		<p>and efficient processing of all types of cases.</p> <p>Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence.</p> <p>Operational Plan Objective 4: Implement new tools to support the electronic exchange of court information while balancing privacy and security.</p> <p><b>Origin of Project:</b> Forum</p> <p><b>Resources:</b> <b>Committees:</b> Forum</p> <p><b>Judicial Council Staffing:</b> Information Technology</p> <p><b>Collaborations:</b> California Attorney General's Office</p> <p><b>Key Objective Supported:</b> 1</p>		<p>avoid conflicting orders, and to promote enforcement of these orders.</p> <p>(iii) Electronic notice would result in faster identification of children and application of ICWA's protections. It would also result in a considerable savings to the pilot counties in social worker and mailing expenses. It should also produce savings to the courts because of anticipated reduction in notice issues being raised on appeal.</p> <p>(iv) DASH improves access to justice for litigants by giving them legal assistance and other traditional services, including safety planning and social services. Litigants do not need to travel to an</p>



#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
					<p>attorney or self-help center, but can get help from a tribal advocate anywhere in California. Litigants, with the help of their advocates, are connected to a network legal services so that they may obtain additional assistance with their restraining order case and also deal with other legal matters (like obtaining a dissolution of marriage).</p>
	<p><b>Policy Recommendations:</b>  <b>D. Other</b>  1. Prepare a request to the California Supreme Court’s Advisory Committee on the Code of Judicial Ethics to amend the canons to permit a judge who sits concurrently on a tribal court and a state court to fundraise on behalf of a</p>		<p><b>Judicial Council Direction:</b>  Strategic Plan Goal II: Independence and Accountability.</p> <p>Operational Plan Objective 3.</p> <p>Strategic Plan Goal III: Modernization of Management and Administration.</p>	2015	Proposal prepared and submitted

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>tribal court.</p> <p>2. Potential ongoing work with the <a href="#">California Law Review Commission</a> (CLRC) on its study of the enforcement of tribal civil money judgments (see <a href="#">SB 406</a>, Stats. 2014, Ch. 243, effective January 1, 2015)/</p>		<p>Operational Plan Objective 5. Strategic Plan Goal VI: Branchwide Infrastructure for Service Excellence. Operational Plan Objective 4.</p> <p><b>Origin of Project:</b> Forum and legislative study by CLRC</p> <p><b>Resources:</b> <i>Committees:</i> Forum</p> <p><i>Judicial Council Staffing:</i> CFCC</p> <p><i>Collaborations:</i> CLRC</p> <p><b>Key Objective supported:</b> 1</p>	2016	Advise and consult on CLRC study
II.	<p><b>Increase Tribal/State Partnerships:</b></p> <p><b>A. Sharing Resources and Communicating Information About Partnerships</b></p> <p>Major Tasks:</p> <p>(i) Identify council and other resources that may be appropriate to share with tribal courts.</p> <p>(ii) Identify tribal justice resources that may be appropriate to share with state courts.</p>	2(b)	<p><b>Judicial Council Direction:</b> Strategic Plan Goal I: Access, Fairness, &amp; Diversity.</p> <p>Operational Plan Objectives 1, 2, 4:</p> <ul style="list-style-type: none"> <li>• Ensure that all court users are treated with dignity, respect, and concern for their rights and cultural backgrounds, without bias or appearance of bias, and are given an opportunity to be heard.</li> <li>• Identify and eliminate barriers to court access at all levels of service; ensure interactions with the court are understandable, convenient, and perceived as fair.</li> </ul>	Ongoing	<p>(i) E-Forum Updates</p> <p>(ii) Increased number of tribal/state partnerships in California</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>(iii) Identify grants for tribal/state court collaboration</p> <p>(iv) Share resources and information about partnerships through Forum E-Update, a monthly electronic newsletter</p> <p>(v) Publicize these partnerships at conferences, on the Innovation Knowledge Center (IKC), and at other in-person or online venues.</p>		<ul style="list-style-type: none"> <li>• Expand the availability of legal assistance, advice and representation for litigants with limited financial resources.</li> </ul> <p>Strategic Plan Goal IV: Quality of Justice and Service to the Public.</p> <p>Operational Plan Objectives 1, 3:</p> <ul style="list-style-type: none"> <li>• Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</li> <li>• Develop and support collaborations to improve court practices to leverage and share resources and to create tools to educate court stakeholders and the public.</li> </ul> <p><b>Origin of Projects:</b> Forum and California State-Federal Judicial Council</p> <p><b>Resources:</b>  <i>Council Committees:</i> Court Executives Advisory Committee (CEAC), Forum, and Task Force on Trial Court Fiscal Accountability</p> <p><i>Judicial Council Staffing:</i>  CFCC, Court Operations Special</p>		<p>(iii) Recommendations to feature partnerships</p> <p>(iv) Education to showcase partnerships</p> <p>(v) Conferences and IKC feature tribal/state partnerships</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<p>Services Office, and Leadership Services Division</p> <p><i>Collaborations:</i> Local tribal and state courts</p> <p><b>Key Objective Supported: 2</b> Increase Tribal/State Partnerships that identify issues of mutual concern and proposed solutions.</p>		
	<p><b>Increase Tribal/State Partnerships:</b></p> <p><b>B. Education and technical assistance to promote partnerships and understanding of tribal justice systems</b></p> <p>Major Tasks:</p> <p>(i) Make recommendation to Judicial Council staff to continue providing educational and technical assistance to local tribal and state courts to address domestic violence and child custody issues in Indian Country</p>	2(b)	<p><b>Judicial Council Direction:</b> Strategic Plan Goal I: Access, Fairness, &amp; Diversity.</p> <p>Operational Plan Objectives 1, 2, 4:</p> <ul style="list-style-type: none"> <li>• Ensure that all court users are treated with dignity, respect, and concern for their rights and cultural backgrounds, without bias or appearance of bias, and are given an opportunity to be heard.</li> <li>• Identify and eliminate barriers to court access at all levels of service; ensure interactions with the court are understandable, convenient, and perceived as fair.</li> <li>• Expand the availability of legal assistance, advice and representation for litigants with limited financial resources.</li> </ul> <p>Strategic Plan Goal IV: Quality of</p>	Ongoing	<p>(i) State/Tribal Education, Partnerships, and Services (S.T.E.P.S) to Justice— Domestic Violence and Child Custody (Information for Tribal Court and State Court Judges</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p>(ii) Make recommendation to Judicial Council staff to continue giving technical assistance tribal and state courts interested in establishing a joint jurisdictional court.</p> <p>(iii) Make recommendation to Judicial Council staff to develop a toolkit for state and tribal court administrators interested in learning about each other's court operations and procedures.</p>		<p>Justice and Service to the Public.</p> <p>Operational Plan Objectives 1, 3:</p> <ul style="list-style-type: none"> <li>• Foster excellence in public service to ensure that all court users receive satisfactory services and outcomes.</li> <li>• Develop and support collaborations to improve court practices to leverage and share resources and to create tools to educate court stakeholders and the public.</li> </ul> <p><b>Origin of Projects:</b> Forum and California State-Federal Judicial Council</p> <p><b>Resources:</b>  <i>Council Committees:</i> Court Executives Advisory Committee (CEAC), Forum, and Task Force on Trial Court Fiscal Accountability</p> <p><i>Judicial Council Staffing:</i> CFCC, Court Operations Special Services Office, and Leadership Services Division</p> <p><i>Collaborations:</i>  Local tribal and state courts</p>		<p>disseminated and services offered)</p> <p>(ii) Joint Jurisdictional Court(s) Established</p> <p>(iii) Court administrators' toolkit developed</p>

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			<i>Key Objective Supported: 2</i>		
III.	<p><b>Education:</b></p> <p><b>A. Judicial Education</b>            Make recommendations to the Judicial Council’s CJER Governing Committee to incorporate federal Indian law into all appropriate educational publications and programming for state court judges and advise on content; revisions to include federal Indian law and the interjurisdictional issues that face tribal and state courts.</p>	2(b)	<p><b>Judicial Council Direction:</b>            Strategic Plan Goal V: Education for Branchwide Professional Excellence.            Operational Plan Objective 1:</p> <ul style="list-style-type: none"> <li>• Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</li> </ul> <p><b>Origin of Projects:</b> Forum and California State-Federal Judicial Council Resolution (June 1, 2012).</p> <p><b>Resources:</b>  <i>Committees:</i> Center for Judicial Education and Research (CJER) Governing Committee and forum</p> <p><i>Judicial Council Staffing:</i>            CFCC, CJER, IT, and LSO</p> <p><b>Key Objective Supported: 3</b></p> <ul style="list-style-type: none"> <li>• Make recommendations to committees developing judicial education institutes, multi-disciplinary symposia, distance</li> </ul>	Ongoing, completion date depends on resources to incorporate recommendations.	Memorandum to CJER Governing Committee summarizing recommendations to existing educational programming.

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
			learning, and other educational materials to include content on federal Indian law and its impact on state courts.		
	<p><b>Education:</b></p> <p><b>B. Education- Documentary</b> Consult on and participate in the production of a documentary describing tribal justice systems and highlighting collaboration between these systems and the state justice system in California.</p>	2(b)	<p><b>Judicial Council Direction:</b> Strategic Plan Goal V: Education for Branchwide Professional Excellence.</p> <p>Operational Plan Objective 1:</p> <ul style="list-style-type: none"> <li>• Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</li> </ul> <p><b>Origin of Projects:</b> Forum and California State-Federal Judicial Council Resolution (June 1, 2012).</p> <p><b>Resources:</b> <i>Committees:</i> Center for Judicial Education and Research (CJER) Governing Committee and forum</p> <p><i>Judicial Council Staffing:</i> CFCC</p> <p><b>Key Objective Supported: 3</b></p>	Ongoing, completion date depends on funding.	One-hour documentary on California Tribal Justice Systems

#	Project <sup>2</sup>	Priority <sup>3</sup>	Specifications	Completion Date/Status	Describe End Product/ Outcome of Activity
	<p><b>Education:</b>  <b>C. Education- Court Extranet Name Change</b>  Recommend to the judicial council staff that it change the name of the Judicial Branch Court Extranet/Serranus (possible new name could be Court Online Resources and Education (CORE)).</p>	2(b)	<p><b>Judicial Council Direction:</b>  Strategic Plan Goal V: Education for Branchwide Professional Excellence.  Operational Plan Objective 1:</p> <ul style="list-style-type: none"> <li>• Provide relevant and accessible education and professional development opportunities for all judicial officers (including court-appointed temporary judges) and court staff.</li> </ul> <p><b>Origin of Projects:</b> Forum and California State-Federal Judicial Council Resolution (June 1, 2012).</p> <p><b>Resources:</b>  <i>Committees:</i> Center for Judicial Education and Research (CJER) Governing Committee and forum</p> <p><i>Judicial Council Staffing:</i>  IT</p> <p><b>Key Objective Supported: 3</b></p>	Ongoing, completion date depends on website redesign date.	Website name is changed.



### III. STATUS OF 2014 PROJECTS:


*[List each of the projects that were included in the 2014 Annual Agenda and provide the status for the project.]*

#	Project	Completion Date/Status
1.	<p><b>Sharing Resources (see page 8, item II.A.i.)</b>            Disseminated information to tribal court judges and state court judges on a monthly basis through the Forum E-Update, a monthly electronic newsletter with information on the following:</p> <ul style="list-style-type: none"> <li>• Grant opportunities;</li> <li>• Publications;</li> <li>• News stories; and</li> <li>• Educational events.</li> </ul>	Ongoing
2.	<p><b>Tribal Engagement and Consultation (see page 10, item II.B.i.)</b></p> <ul style="list-style-type: none"> <li>• Assisted the Los Angeles Superior Court in establishing the Indian Child Welfare Act Roundtable, a court-coordinated community response to Indian Child Welfare Act (ICWA) cases in Los Angeles County</li> </ul>	January, 2014
3.	<p><b>Grant Development to Support Forum Activities to Achieve Key Objectives (see page 9, item II.A.iii.)</b></p> <ul style="list-style-type: none"> <li>• Obtained funding from the Office on Violence Against Women, U.S. Department of Justice that is administered through the California Office of Emergency Services (CalOES). This funding pays for the associated travel expenses for judges to participate in cross-court educational exchanges. These exchanges are judicially led and shaped by the host judges (one tribal court judge and one state court judge) and enable the judges to continue the dialogue on domestic violence and elder abuse in tribal communities, which began as part of a statewide needs assessment. At these exchanges, judges utilize a checklist of problems and solutions identified through the needs assessment to determine how they can work together to address these issues locally.</li> <li>• Obtained funding from the California Department of Social</li> </ul>	Ongoing

	Services. This funding pays for the associated travel expenses for forum members to improve compliance with the Indian Child Welfare Act.	
4.	<b>Access to CLETS by Tribal Courts and Tribal Law Enforcement (see page 5, item I.C.i.)</b> In partnership with the California Department of Justice, this work is ongoing.	Ongoing
5.	<b>Legislative Proposal to Give Tribal Access to Juvenile Court Records (see page 3, item I.A.)</b> Jointly recommended with the Family and Juvenile Law Advisory Committee legislative amendments to Welfare and Institutions Code section 827 to give tribal access to juvenile court records. Following the Judicial Council's adoption of the proposal at its December 2013 meeting, <a href="#">AB 1618: Tribal Access to Confidential Juvenile Court Files</a> was introduced. Chaptered as Stats. 2014, Ch. 37, effective January 1, 2015.	Completed, June 25, 2014
6.	<b>Legislative Proposal to Simplify and Clarify the Process by Which Tribal Court Civil Money Judgments are recognized and enforced in California (see page 3, item I.A.)</b> In collaboration with the Office of Governmental Affairs, recommended amendments to <a href="#">SB 406</a> limiting the bill's application to civil money judgments. Chaptered as Stats. 2014, Ch. 243, effective January 1, 2015. The <a href="#">California Law Revision Commission</a> will be studying its implementation.	Completed, August 22, 2014
7.	<b>Access to the California Courts Protective Order Registry (see page 5, item I.C.ii.)</b> In collaboration with the Information Technologies Services Office, all tribal courts have been offered read-only access to the California Courts Protective Order Registry (CCPOR). Courts that have access to this registry can view each other's protective orders, avoid issuing conflicting orders, and are better able to protect the	Ongoing

	<p>public, particularly victims of domestic violence. Through this project, tribal court judges and tribal law enforcement for the following California Tribes—Cahto Tribe of the Laytonville, Rancheria, Coyote Band of Pomo Indians, Hopland Band of Pomo Indians, Hoopa, Manchester Point Arena Band of Pomo Indians, Quechan, Redding Rancheria, San Manuel, Shingle Springs, Smith River, and Yurok—now have read-only access to domestic violence and other restraining and protective orders, along with the 31 state court jurisdictions that are currently participating in CCPOR.</p>	
8.	<p><b>Transfer Rule: Amendment to Rule 5.483 (see page 5, item I.B.ii.)</b>          Proposal to amend the rule to ensure that the order for transfer of a juvenile case from state court to tribal court addresses such essential issues such as when and to whom physical transfer of the child shall take place and what necessary information from the court and agency files will be provide to the tribal court and tribal social service agency upon transfer.</p>	September, 2015
9.	<p><b>Electronic Notice in ICWA Cases (see page 6, item I.B.iii.)</b>          Collaborating with the National Center for State Courts, the National Center for Juvenile and Family Court Judges, the Cherokee Nation, the Los Angeles County Counsel’s Office. Adoption of National Information Exchange Model standards for a tribal/court/county exchange. Piloted a data exchange between the Los Angeles Office of the County Counsel and the Cherokee Nation.</p>	Ongoing
10.	<p><b>Information Sharing to Inform Policy-Makers (see page 9, item II.A.v.)</b></p> <ul style="list-style-type: none"> <li>Promoted effective tribal/state collaborations by making presentations to the following groups: (1) council staff in San Francisco; (2) the Alabama-Coushatta Tribe of Texas 4<sup>th</sup> Annual Judicial Symposium in Texas; (3) the Cow County</li> </ul>	Ongoing

	<p>Institute at Rancho Cordova; (4) the 2014 Family Law and Self Help Conference in San Francisco; (5) the 2014 Law and Society Association Annual Conference program: Law and Inequalities in Minneapolis; and (6) the 14th National Indian Nations Conference at Agua Caliente.</p> <ul style="list-style-type: none"> <li>• Convened two cross-court educational exchanges on tribal lands at Karuk (Siskiyou County) and Washoe Paiute (Inyo County). These exchanges both model the collaborative relationships among tribal and state court judges at a local level and foster partnerships among tribal and non-tribal agencies and service providers. Through these exchanges, which are judicially-convened on tribal lands, participants identified areas of mutual concern, new ways of working together, and coordinated approaches to enforcing tribal and state court orders. Since no court order is self-executing, these exchanges serve to support both state and tribal courts by ensuring that those who are providing court-connected services are working together and understand jurisdictional complexity and the needs of tribal communities.</li> </ul>	
11.	<p><b>Develop and Facilitate Local Protocols to Promote Collaboration and Promising Practices (See page 9, item II.A.iv-v.)</b></p> <ul style="list-style-type: none"> <li>• Maintain resources for tribal/state collaborations. These resources include protocols, memoranda of understanding, and intergovernmental agreements relating to title IV-E and access to foster care and adoption funding, child custody, criminal procedures, cross-deputization, and domestic violence. <a href="http://www.courts.ca.gov/17422.htm">http://www.courts.ca.gov/17422.htm</a>.</li> <li>• Promote joint jurisdictional court established by the Shingle Springs Band of Miwok Indians and the El Dorado Superior Court.</li> <li>• Promote tribal/state collaborations by submitting nomination forms describing local, innovative collaborations to the Trial Court Presiding Judges Advisory Committee/Court Executives</li> </ul>	Ongoing

	<p>Advisory Committee Joint Trial Court Efficiencies and Innovations Working Group for their approval to add and post to the Innovation Knowledge Center (IKC). As a result of the 7 submissions ranging from innovations in handling child support, civil, domestic violence, and juvenile cases, the IKC now has an icon featuring tribal/state collaborations.</p> 	
12.	<p><b>Elder Abuse and Probate Cases- Mutual Recognition and Enforcement of Orders (see page 3, item I.A. and page 12, III.A.)</b></p> <ul style="list-style-type: none"> <li>• Convened and participated in a joint working group of the members of the forum and the Probate and Mental Health Advisory Committee for the limited purpose of recommending legislative changes to the California Law Review Commission (Commission) in connection with the Commission’s recommendation for adoption of the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act in California (UAGPPJA). Recommended that comments be submitted to the Commission on behalf of the Judicial Council. These comments included a new Article 6 be added to the proposed California UAGPPJA, consisting of new Probate Code sections 2041–2047, to deal specifically with interactions between California tribal courts and state courts in matters covered by UAGPPJA and to address issues involving conservatorships for members of Indian tribes located in California. The Commission incorporated these comments into the bill, <a href="#">SB 940 Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act (UAGPPJA)</a>, which was chaptered as Stats. 2014, Ch. 553.</li> <li>• Wrote and published a tribal elder abuse benchguide, which stands alone as a benchguide and will also be incorporated into the soon-to-be-released Elder Abuse Benchguide.</li> </ul>	September 25, 2014

13.	<p><b>Traffic Cases- Mutual Recognition and Enforcement of Orders (See page 3, item I.A.)</b>  Concluded that legislation was needed to address the issues of public safety on tribal lands relating to recognition and enforcement of traffic violations and the lack of tribal access to confidential records maintained by the California Department of Motor Vehicles. After vetting the issues and exploring the feasibility of a legislative solution with the Governor’s Tribal Advisor and the California Business, Transportation &amp; Housing Agency, the forum concluded that such legislation would be beyond the purview of the California Judicial Council to sponsor.</p>	January, 2014
14.	<p><b>Judicial Education (see page 12, item III.A.)</b>  Working in collaboration with the Center for Judicial Education and Research (CJER) Governing Committee to integrate federal Indian law into educational programs and resources conducted and developed by CJER. The CJER Governing Committee has placed this recommendation on the agenda for its February in-person meeting.</p>	Ongoing
15.	<p><b>Documentary: (see page 13, item III.B.)</b></p> <ul style="list-style-type: none"> <li>• Requested an informal opinion from the California Supreme Court Committee on Judicial Ethics Opinions (Committee) on whether the appearance in the film of one or more state court judges violates canon 2(B)(2) or any other provision of the California Code of Judicial Ethics. The <a href="#">Committee’s opinion</a> was that it did not (with certain cautionary comments).</li> <li>• The production team completed filming at Yurok; additional filming is scheduled for Quechan. It is expected that the film will be completed in 2015.</li> </ul>	December, 2015
16.	<p><b>Judicial Branch Court Extranet (see page 14, item III.C.)</b>  Recommended name change for Serranus; awaiting redesign of website for name change.</p>	Completion date depends on website redesign date

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#### **IV. Subgroups/Working Groups - Detail**

**Subgroups/Working Groups:** *[For each group listed in Section I, including any proposed “new” subgroups/working groups, provide the below information. For working groups that include members who are not on this advisory body, provide information about the additional members (e.g., from which other advisory bodies), and include the number of representatives from this advisory body as well as additional members on the working group.]*

*Subgroup or working group name:*

*Purpose of subgroup or working group:*

*Number of advisory body members on the subgroup or working group:*

*Number and description of additional members (not on this advisory body):*

*Date formed:*

*Number of meetings or how often the subgroup or working group meets:*

*Ongoing or date work is expected to be completed:*

## **Item 2**

**Attorney General Holder  
Announces ICWA Initiative**



## **Forum Proposals Relating to the Indian Child Welfare Act Federal/State/County Partnerships**

- I. Electronic Notice: Recommend a pilot project that would provide electronic notice to tribes in Indian Child Welfare Act (ICWA) cases.

Electronic notice would result in faster identification of children and application of ICWA's protections. It would also result in a considerable savings to the pilot counties in social worker and mailing expenses. It should also produce savings to the courts because of anticipated reduction in notice issues being raised on appeal.

In collaboration with the National Center for State Courts, the National Center for Juvenile and Family Court Judges, the Cherokee Nation, the Los Angeles County Counsel's Office, we developed National Information Exchange Model standards for a tribal/court/county data exchange. The Los Angeles County Counsel's Office has developed a software program, which will support electronic notice in these cases and has offered to make the software available to any jurisdiction at no cost. The Los Angeles County Counsel's Office and the Cherokee Nation have successfully piloted a data exchange using this software.

Proposed Federal role: waiver or other mechanism to permit actual electronic notice in lieu of notice by registered/certified mail as required by ICWA.

Proposed Funder role: funding to tailor the technology to meet the needs of tribes and counties.

Proposed Forum role: continue to serve as facilitator/convenor.

- II. Tribal Representation: Recommend a pilot project to fund attorneys for tribes.

All parties, except for tribes, have appointed counsel in California. A pilot project appointing counsel for tribes would afford protection to Indian children and considerable benefits to Indian children who are reunited with their tribal communities.

Proposed Federal role: evaluate pilot project

Proposed Funder role: funding for court appointed counsel

Proposed Forum role: recommend pilots in California and collaborate with CA Judicial Council to provide dependency training for attorneys representing tribes.

- III. Agents for Service:

- A. Recommend development of federal online site to improve notice.

The federal online directory of agents for service of process is not kept up-to-date. An automated federal online directory would assist states and counties in providing accurate

notice to tribes. Some potential improvements include: (1) revising the list of agents for service to include cultural (historical nation) affiliation as well as the name of the federally recognized tribe and (2) changing the process for establishing the list of agents for service of ICWA notice so that there can be review and input to identify errors before the list is finalized.

Proposed Federal role: implement pilot project

B. Recommend a pilot project to centralize notice function in California.

Through a subscription service (fee to maintain site and the mailing of notices), an interface (questions to assist the user in identifying which tribes and bands should be noticed in a given case), and automation (that would not only populate data from one notice form to several notice forms, but would print out case-specific notices) and staff to send the multiple notices and proof that notice was sent.

Proposed Federal role: implement pilot project

Proposed Forum role: identify pilots in California

#### IV. Title IV-E

A. Recommend changes in federal laws relating to title IV-E funding and permanency

Currently, title IV-E funding does not follow the child when a case is transferred from state court to tribal court. By providing greater flexibility in title IV-E funding, counties and tribes would be encouraged to work together in placing Indian children. Recommend that title IV-E foster care funding for foster care placements continue to be provided by a county when a child's case is transferred to tribal court.

Currently, legal permanency is defined without reference to how permanency is defined by tribal communities. By providing special recognition to traditional forms of permanency in tribal communities and defining legal permanency in those terms, an Indian child living with an Indian custodian may be in a more permanent family setting than an adopted Indian child. Recommend that legal permanency for Indian children be reevaluated with input from tribes and redefined.

B. Recommend title IV-E reviews include ICWA compliance in the federal child welfare outcome measures.

V. Qualified Expert Witnesses: recommend training to ensure qualified expert witnesses who meet tribal-specific standards are available and called to testify in ICWA cases.

VI. Indian Foster Homes: recommend funding to recruit, train, support culturally, appropriate tribal foster homes.

## **Item 3**

**Indian Child Welfare Act:  
Update on Proposed Draft  
Transfer Rule**

# JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688  
[www.courts.ca.gov/policyadmin-invitationstocomment.htm](http://www.courts.ca.gov/policyadmin-invitationstocomment.htm)

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## INVITATION TO COMMENT

### SPR15-\_\_

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Title	Action Requested
Indian Child Welfare Act – Transfers to Tribal Court	Review and submit comments by [deadline]
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Amend Rules 5.483; 5.590; and 8.406. Add Rule 8.418. Amend Forms ICWA-060 <i>Order on Petition to Transfer Case Involving an Indian Child to Tribal Jurisdiction</i> and JV-800 <i>Notice of Appeal - Juvenile</i>	January 1, 2016
	Contact
	Ann Gilmour, Center for Families, Children & the Courts. Operations & Programs Division 415-865-4207, <a href="mailto:ann.gilmour@jud.ca.gov">ann.gilmour@jud.ca.gov</a>

Proposed by  
Family and Juvenile Law Advisory Committee  
Hon. Jerilyn L. Borack, Cochair  
Hon. Mark A. Juhas, CoChair  
Tribal Court-State Court Forum  
Hon. Richard C. Blake, CoChair  
Hon. Dennis M. Perluss, CoChair

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### Executive Summary and Origin

The amendments are proposed in response to provisions of Senate Bill 1460 (stats. 2014; ch. 772) which amended section 305.5 of the Welfare and Institutions Code and added sections 381 and 827.15 concerning the transfer of juvenile court proceedings involving an Indian Child from the jurisdiction of the juvenile court to a tribal court, and in response to the decision of the first district Court of Appeal in *In re. M..M.* (2007)154 Cal.App.4th 897 which implicates an objecting party's right to appeal a decision granting a transfer to tribal court.

### Background

Federal and state law mandate that upon application certain state “child custody proceedings” involving an “Indian child” be transferred from state court to tribal court unless there is a finding of “good cause” not to transfer.<sup>1</sup> In 2008, as part of a comprehensive rules and forms proposal

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<sup>1</sup> See the federal *Indian Child Welfare Act* (25 U.S.C. §§ 1901-1963 at § 1911(b)) and the California *Welfare and Institutions Code* § 305.5)

*The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.*

dealing with *Indian Child Welfare Act* (ICWA) matters following the passage of SB 678 (Stats. 2006 ch. 838), state legislation implementing ICWA in California, the Judicial Council enacted California Rule of Court 5.483 governing transfers of child custody proceedings involving an Indian child to tribal court and created form ICWA-060 *Order on Petition to Transfer Case Involving an Indian Child to Tribal Jurisdiction* as an optional form.<sup>2</sup>

In 2007, the first district court of appeal held that once a transfer from state court to tribal court is finalized, the decision to transfer is not appealable because the California court of appeal has no power over the tribal court to which the case has been transferred.<sup>3</sup>

The Legislature recently enacted Senate Bill 1460 (SB1460) (stats. 2014; ch. 772), which amended section 305.5 of the Welfare and Institutions Code and added sections 381 and 827.15 concerning the transfer of juvenile court proceedings involving an Indian child from the jurisdiction of the juvenile court to a tribal court. In particular, SB 1460 sets out certain requirements concerning the contents of orders and the information which must be provided when a child's case is transferred from a California juvenile court to a tribal court.

## **The Proposal**

The Tribal Court-State Court Forum (forum) and the Family and Juvenile Law Advisory Committee (committee) propose the following amendments to rules of court and Judicial Council forms:

- Amend rule 5.483 by:
  - Adding the following as subsection (2) under what is currently (g):

If the court grants the petition to transfer, any party that objected to the transfer that intends to seek appellate review of the transfer order must file a written notice of appeal within 7 court days.

This subsection is being added in response to the decision of the court in *In re. M.M.* (2007)154 Cal.App.4th 897 which held that a transfer of a child custody proceeding to a tribal court deprives California courts of jurisdiction over the case and, thus, precludes any appeal from the transfer order.

The intent of the rule is to ensure that an objecting party does not inadvertently lose the right to appeal as a result of the transfer being finalized before the expiration of the normal appellate period as was the case in *In re. M.M.*. At the same time, we do not want to unduly delay the finalization of proceedings

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<sup>2</sup> See Item A27 for council meeting held 10.26.2007 available at <http://www.courts.ca.gov/documents/102607ItemA27.pdf>

<sup>3</sup> *In re. M.M.* (2007)154 Cal.App.4th 897.

concerning child welfare matters. The proposal would require that any appeal to the order granting transfer be filed within 7 days. The court would be required to advise the parties of this time frame and, upon request, stay the court's transfer order pending the time for filing the notice of appeal.

Although the *M.M.* case involved a juvenile dependency proceeding being transferred from state to tribal court, the forum and committee believe that this provision should apply to all Indian Child Welfare Act matters including those in juvenile, probate and family court.

According to section 177 of the *Family Code* and section 1459.5 of the *Probate Code* and rules 5.480 and 7.1015 of the California Rules of Court, the ICWA rules (rules 5.480 through 5.487) apply to "child custody proceedings" involving an Indian child which arise in family and probate proceedings. As a result, no specific amendments are proposed to probate or family rules or forms to address the *In re. M.M.* decision in those case types.

- Adding a provision to what is currently subsection (g) stipulating that an order transferring a proceeding from a juvenile court to a tribal court must include: 1) all of the findings and orders or modifications of orders that have been made in the case, 2) the name and address of the tribe to which jurisdiction is being transferred, 3) directions to the agency to release the child case file to the tribe having jurisdiction pursuant to section 827.15 of the Welfare and Institutions Code, 4) directions that all papers contained in the court file be transferred to the tribal court and copies retained by the transferring court.

These provisions are required by subsection (b) of Welfare and Institutions Code section 381, added by Section 12 of SB 1460 and would apply only to proceedings being transferred from a juvenile court and would not apply to proceedings being transferred from a probate or family court.

- Amend Rule 5.590 which governs the advisement of rights to appellate review in juvenile cases to include subsection (c), which would provide an advisement concerning the timing for filing a notice of appeal when the court grants a petition to transfer an ICWA case to tribal court. This subsection is added in response to the *In re M.M.* decision.
- Amend Rule 8.406 which governs time to appeal in juvenile cases to include reference to the timing requirements of filing a notice of appeal when the court grants a petition to transfer an ICWA case to tribal court. This subsection is added in response to the *In re M.M.* decision.
- Add rule 8.418 to address the time to appeal in juvenile cases to include reference to the timing requirements of filing a notice of appeal when the court grants a petition to

transfer an ICWA case to tribal court. This subsection is added in response to the *In re M.M.* decision.

- Amend Judicial Council form ICWA-060 *Order on Petition to Transfer Case Involving an Indian Child to Tribal Jurisdiction* by:
  - Making it a mandatory rather than optional form.
  - Adding to number 5 on the form providing statements that
    - if the case is being transferred from a juvenile court, all of the findings and orders or modifications of order that have been made in the case are attached;
    - when the case is being transferred from a juvenile court, the county agency is directed to release its case file to the tribe under section 827.15 of the Welfare and Institutions Code; and
    - when the case is being transferred from a juvenile court, the court file must be transferred to the tribal court with copies maintained by the transferring court.

These are added to comply with the requirements of Welfare and Institutions Code section 381(b) added by section 12 of SB 1460.

- Adding an advisement that any party wishing to appeal a decision to transfer must file a notice of appeal within 7 days after the order. Amend Judicial Council form JV-800 *Notice of Appeal – Juvenile* to add:
  - discussion of the time to appeal;
  - reference to the timing requirements for filing a notice of appeal under the Notice section; and
  - a new section under item 7 to reference section 305.5 of the *Welfare and Institutions Code* and transfers to tribal court.

These changes are in response to the *In re M.M.* decision.

The proposal will assist the state judicial branch by ensuring that the rules of court and forms give appropriate guidance to the courts and litigants in conformity with the law.

### **Alternatives Considered**

The committee and forum considered taking no action but decided that the proposed changes would assist the courts and litigants and support compliance with the law. If no action was taken, the committee and forum determined that parties and courts might be unaware of the documentation and case file information transmission requirements when a case is transferred from the jurisdiction of a state juvenile court to a tribal court. The committee and forum also determined that objecting parties might inadvertently lose their appellate rights if no action was taken in response to the *In re. M.M.* decision. The committee and forum considered whether

amendments to rule 7.1015 might also be appropriate, but determined that because rule 7.1015 already incorporates the provisions of rule 5.480 through 5.487 a specific amendment was not necessary.

### **Implementation Requirements, Costs, and Operational Impacts**

The committee and forum believe that there will be minimal one-time costs associated with the amendment of forms ICWA-060 and JV-800.

## **Request for Specific Comments**

In addition to comments on the proposal as a whole, the advisory committee and forum are interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Does the procedure established by the proposal properly address the issues raised in the *In re M.M.* decision concerning appeals of orders to transfer an ICWA case to tribal court?
- Is the time for filing an appeal of an order for transfer to tribal court appropriate?
- Does the proposal adequately address the issues raised in the *In re. M.M.* decision in all case types, including juvenile, family and probate? In particular given that there is no notice of appeal form equivalent to the JV-800 which governs appeals in probate and family does the advisement of appellate rights contained in rule 5.483 and form ICWA-060 give the parties in family and probate proceedings sufficient notice?

The committee and forum also seek comments from *courts* on the following cost and implementation matters:

- Would the proposal provide cost savings? If so please quantify.
- What would the implementation requirements be for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management systems, or modifying case management systems.
- Would 6 months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

### **Attachments and Links**

Proposed revision to rules 5.483, 5.590, and 8.406 and proposed new rule 8.418.

Proposed revised form ICWA-060

Proposed revised form JV-800

Senate Bill 1460 (stats. 2014; ch. 772) available at

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140SB1460](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140SB1460)

*In re. M.M.* (2007)154 Cal.App.4th 897 available at <http://www.lexisnexis.com/clients/CACourts>





Rules 5.483, 5.590, and 8.406 of the California Rules of Court would be amended, Rule 8.418 would be added effective January 1, 2016, to read:

1  
2 **(ih) Proceeding after transfer**

3  
4 \* \* \*

5  
6 **Advisory Committee Comment**

7  
8 Subsections (g)(3) and (h) are intended to preserve an objecting party's right to appeal the  
9 order transferring a case to tribal court. Once a transfer to tribal court is finalized, the  
10 state court lacks jurisdiction to order the case returned to state court. (In re. M.M. (2007  
11 154 Cal. App. 4th 897). Rule 8.418 establishes that a party wishing to appeal an order  
12 transferring a child custody proceeding from a superior court to a tribal court must file  
13 the notice of appeal within 7 court days after the making of the order being appealed.

14  
15  
16 **Division 3. Juvenile Rules**

17  
18 **Chapter 5. Appellate Review**

19  
20 **Rule 5.590. Advisement of right to review in Welfare and Institutions Code section**  
21 **300, 601, or 602 cases**

22  
23 **(a) – (b) \* \* \***

24  
25 **(c) Advisement requirements for appeal of order to transfer to tribal court**

26  
27 When the court grants a petition under Welfare and Institutions Code section 305.5,  
28 Family Code section 177(a), or Probate Code section 1459.5(b) and rule 5.483  
29 transferring a case to a tribal court and one of the parties has objected to that  
30 transfer, the court must advise the objecting party that an appeal of the order for  
31 transfer must be filed within 7 court days after the making of the under rule 8.418.

32  
33 **Title 8. Appellate Rules**

34  
35 **Division 1. Rules Relating to the Supreme Court and Courts of Appeal**

36  
37 **Chapter 5. Juvenile Appeals and Writs**

38  
39 **Article 2. Appeals**

40  
41  
42 **Rule 8.406. Time to appeal**  
43

Rules 5.483, 5.590, and 8.406 of the California Rules of Court would be amended, Rule 8.418 would be added effective January 1, 2016, to read:

1 (a) **Normal time**

2  
3 (1) Except as provided in (2) and (3) and in rule 8.418, a notice of appeal must  
4 be filed within 60 days after the rendition of the judgment or the making of  
5 the order being appealed.

6  
7 (2) – (3) \* \* \*

8  
9 (b) – (d) \* \* \*

10  
11  
12 **Rule 8.418. Appeals of orders transferring an Indian Child Welfare Act case to a**  
13 **tribal court**

14  
15 (a) **Application**

16  
17 (1) This rule applies to appeals of orders under Welfare and Institutions Code  
18 section 305.5, Family Code section 177(a), Probate Code section 1459.5(b)  
19 and rule 5.483 transferring a case to a tribal court.

20  
21 (2) In all respects not provided for in this rule, rules 8.403–8.412 apply.

22  
23 (b) **Time to appeal**

24  
25 (1) **Normal time**

26  
27 (A) Except as provided in (B) and (C), a notice of appeal in a proceeding  
28 subject to this rule must be filed within 7 court days after the making of  
29 the order being appealed.

30  
31 (B) In matters heard by a referee not acting as a temporary judge, a notice  
32 of appeal must be filed within 7 court days after the referee's order  
33 becomes final under rule 5.540(c).

34  
35 (C) When an application for rehearing of an order of a referee not acting as  
36 a temporary judge is denied under rule 5.542, a notice of appeal from  
37 the referee's order must be filed within 7 court days after that order is  
38 served under rule 5.538(b)(3) or 5 court days after entry of the order  
39 denying rehearing, whichever is later.

40  
41 (2) **Cross-appeal**

42  
43 If an appellant timely appeals from the order, the time for any other party to  
44 appeal from the same order is either the time specified in (1) or 5 court days

Rules 5.483, 5.590, and 8.406 of the California Rules of Court would be amended, Rule 8.418 would be added effective January 1, 2016, to read:

1                   after the superior court clerk mails notification of the first appeal, whichever  
2                   is later.

3  
4   **(c) Request for stay**

5  
6                   A notice of appeal in a proceeding subject to this rule must be accompanied by a  
7                   request for a stay of the trial court's order.

8  
9   **(d) Petition for writ of supersedeas**

10  
11                   If the trial court denies the request for a stay, within 5 court days after the court  
12                   makes the order denying the stay, the appellant must file a petition for writ of  
13                   supersedeas in the reviewing court.

14  
15   **(e) Form of the record**

16  
17                   The cover of the record must prominently display the title "Appeal From Order  
18                   Transferring Case to Tribal Court Under [Welfare and Institutions Code section  
19                   305.5, Family Code section 177(a), or Probate Code section 1459.5(b)]" whichever  
20                   is appropriate.

21  
22   **(f) Expedited procedures**

23  
24                   The procedures established by rule 8.416(c) – (h) apply in proceedings under this  
25                   rule.

26

ATTORNEY OR PARTY WITHOUT ATTORNEY ( <i>Name, State Bar number, and address</i> ):   TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: _____ ATTORNEY FOR ( <i>Name</i> ): _____	FOR COURT USE ONLY
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD'S NAME:	CASE NUMBER:
<b>ORDER ON PETITION TO TRANSFER CASE INVOLVING AN INDIAN CHILD TO TRIBAL JURISDICTION</b>	RELATED CASES ( <i>if any</i> ):

1. Child's name: \_\_\_\_\_ Date of birth: \_\_\_\_\_
  
2. a. Date of hearing: \_\_\_\_\_ Time: \_\_\_\_\_ Dept.: \_\_\_\_\_ Room: \_\_\_\_\_
- b. Persons present:

Child  
 Child's attorney  
 Probation officer/social worker  
 Deputy county counsel  
 Tribal representative: \_\_\_\_\_

Parent (*name*): \_\_\_\_\_  
 Parent (*name*): \_\_\_\_\_  
 Guardian  
 Deputy district attorney  
  

Name \_\_\_\_\_

Parent's attorney  
 Parent's attorney  
 CASA  
 Other: \_\_\_\_\_

  
3. The court has read and considered the
  - ICWA-50, *Notice of Petition and Petition to Transfer Case Involving an Indian Child to Tribal Jurisdiction*
  - Other *relevant evidence (specify)*: \_\_\_\_\_
  
4.  The child's tribe has informed this court that it has a tribal court or other administrative body vested with authority over child custody proceedings.
  
5. **THE COURT FINDS AND ORDERS** under  Family Code, § 177(a);  Probate Code, § 1459.5(b);  Welfare and Institutions Code, § 305.5;  25 U.S.C. § 1911(a) (Exclusive Jurisdiction)
  - a.  The child's case is ordered transferred to the jurisdiction of the tribe listed below:  
 Name of tribe: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, state, zip code: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_
  - b.  Physical custody of the child is transferred to a designated representative of the tribal court listed below:  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 City, state, zip code: \_\_\_\_\_  
 Telephone number: \_\_\_\_\_
  - c.  The case is being transferred from a juvenile court and all of the findings and orders or modifications of orders that have been made in the case are attached.
  - d.  The case is being transferred from a juvenile court and the county agency is hereby directed to release its case file to the tribe under section 827.15 of the Welfare and Institutions Code.
  - e.  The case is being transferred from a juvenile court and all originals contained in the court file must be transferred to the tribal court with copies maintained by this court.

CASE NAME:	CASE NUMBER:
------------	--------------

- f.  The petition to transfer is denied because one of the following circumstances exist:
  - (1)  One or both of the child's parents opposes the transfer.  
Name of opposing parent: \_\_\_\_\_
  - (2)  The child's tribe has informed this court that it does not have a tribal court or other administrative body as defined in 25 U.S.C. § 1903.
  - (3)  The tribal court or other administrative body of the child's tribe declines the transfer.
  
- g.  The petition to transfer is denied because good cause exists not to transfer the case.
  - (1)  Name of opposing party: \_\_\_\_\_ has submitted information or evidence in writing to the court and all parties.
  - (2)  Petitioner has had the opportunity to provide information or evidence in rebuttal.
  - (3)  The party opposing the transfer has established that good cause not to transfer the proceeding exists as follows:
    - (a)  The evidence necessary to decide the case cannot be presented in the tribal court without undue hardship to the parties or the witnesses, and the tribal court is unable to mitigate the hardship by making arrangements to receive and consider the evidence or testimony by use of remote communication, by hearing the evidence or testimony at a location convenient to the parties or witnesses, or by use of other means permitted in the tribal court's rules of evidence or discovery.
    - (b)  The proceeding was at an advanced stage when the petition to transfer was received and the petitioner did not file the petition within a reasonable time after receiving notice of the proceeding. The notice complied with:
      - Family Code section 180 or
      - Probate Code section 1460.2 or
      - Welfare and Institutions Code section 224.2.*(Note: The fact that a party waited until after reunification efforts failed and reunification services were terminated is not good cause to deny transfer.)*
    - (c)  The Indian child is over 12 years of age and objects to the transfer.
    - (d)  The parents of the child, over five years of age, are not available and the child has had little or no contact with the child's tribe or members of the child's tribe.
    - (e)  Other (specify): \_\_\_\_\_
  - (4)  The court provided a tentative decision in writing with reasons to deny the transfer in advance of the hearing at which the order to deny was made.

6.  The court grants the petition to transfer and an objecting party that intends to seek appellate review of the transfer order is advised that they must file a written notice of appeal within 7 court days after the date of this order.

7.  Proof that tribe has accepted transfer is attached and jurisdiction is terminated.

8.  Hearing is set for (Date): \_\_\_\_\_ (Time): \_\_\_\_\_ (Dept.): \_\_\_\_\_  
to confirm that tribe has accepted transfer and to terminate jurisdiction.

Date:

\_\_\_\_\_  
JUDICIAL OFFICER



CASE NAME:	CASE NUMBER:
------------	--------------

5. Appellant is the

- a.  child
- b.  mother
- c.  father
- d.  guardian
- e.  de facto parent
- f.  county welfare department
- g.  district attorney
- h.  child's tribe
- i.  other (state relationship to child or interest in the case):

6. This notice of appeal pertains to the following child or children (specify number of children included): \_\_\_\_\_

- a. Name of child:  
Child's date of birth:
- b. Name of child:  
Child's date of birth:
- c. Name of child:  
Child's date of birth:
- d. Name of child:  
Child's date of birth:  
 Continued in Attachment 5.

7. The order appealed from was made under Welfare and Institutions Code section (check all that apply):

- a.  **Section 305.5** (transfer to tribal court)  
 Granting transfer to tribal court
- b.  **Section 360** (declaration of dependency)     Removal of custody from parent or guardian     Other orders  
 with review of section 300 jurisdictional findings  
Dates of hearing (specify):
- c.  **Section 366.26** (selection and implementation of permanent plan in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)  
 Termination of parental rights     Appointment of guardian     Planned permanent living arrangement  
Dates of hearing (specify):
- d.  **Section 366.28** (order designating a specific placement after termination of parental rights in which a petition for extraordinary writ review that substantively addressed the specific issues to be challenged was timely filed and summarily denied or otherwise not decided on the merits)  
Dates of hearing (specify):
- e.  Other appealable orders relating to dependency (specify):  
Dates of hearing (specify):
- f.  **Section 725** (declaration of wardship and other orders)  
 with review of section 601 jurisdictional findings  
 with review of section 602 jurisdictional findings  
Dates of hearing (specify):
- g.  Other appealable orders relating to wardship (specify):  
Dates of hearing (specify):
- h.  Other (specify):



## **Item 4**

Blue Lake Tribe's Legislative  
Proposal to Amend Family  
Code to Authorize Tribal  
Court Judges to Solemnize a  
Marriage

## Family Code Section 400

### Legislative Proposal

#### § 400. Authorized persons; refusal to solemnize a marriage; tax-exempt status

Although marriage is a personal relation arising out of a civil, and not a religious, contract, a marriage may be solemnized by any of the following who is 18 years of age or older:

- (a) A priest, minister, rabbi, or authorized person of any religious denomination. A person authorized by this subdivision shall not be required to solemnize a marriage that is contrary to the tenets of his or her faith. Any refusal to solemnize a marriage under this subdivision, either by an individual or by a religious denomination, shall not affect the tax-exempt status of any entity.
- (b) A judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record in this state.
- (c) A judge or magistrate who has resigned from office.
- (d) Any of the following judges or magistrates of the United States:
  - (1) A justice or retired justice of the United States Supreme Court.
  - (2) A judge or retired judge of a court of appeals, a district court, or a court created by an act of Congress the judges of which are entitled to hold office during good behavior.
  - (3) A judge or retired judge of a bankruptcy court or a tax court.
  - (4) A United States magistrate or retired magistrate.
  - (5) A judge of a tribal court.
- (e) A legislator or constitutional officer of this state or a Member of Congress who represents a district within this state, while that person holds office.

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**MEMORANDUM**

**TO:** Jerome Encinas, Encinas Government Affairs  
**FROM:** Lester J. Marston, Tribal Attorney – Blue Lake Rancheria  
**DATE:** January 28, 2015  
**SUBJECT:** Department of Motor Vehicles Refusal to Recognize Tribal Court Marriage  
Certificates for the Purpose of Name Change

---

This memorandum is responsive to your email of January 26, 2015, in which you requested additional information on the subject of the Department of Motor Vehicles' ("DMV") rejection of tribal court marriage certificates as requisite proof of a name change for the purpose of issuing DMV documents in the name of the married person.

1. **PROBLEM/ISSUE.** The DMV refuses to recognize marriage certificates/court orders issued by the Tribal Court of the Blue Lake Rancheria ("Tribal Court") as requisite proof of a name change for the purpose of issuing, among other things, a new driver's license, in the name of the married person. The DMV declines to accept, or otherwise consider, marriage certificates issued by the Tribal Court as a basis for changing the name of a person married by the Tribal Court pursuant to its authority to do so under the Marriage Ordinance of the Blue Lake Rancheria. As a result, and more generally, a person married in the Tribal Court cannot not get a new drivers' license in their married name because DMV refuses to issue them one based upon a Tribal Court order changing the person name. The effect of the DMV policy is, therefore, to prevent the Tribe from using its' own Court to apply its own law to govern its members and others who consent to be governed by the Tribe.

2. **SOLUTION.** Resolution of this issue may be achieved by amending certain provisions of the California Family Code, California Vehicle Code, and California Code of Regulations to bring the state statutes and regulations in conformity with federal law. See Sections III and IV below.

3. **SECTION CODE CHANGES IMPACTED.** I have identified the following as codes and regulations that require amendment or are likely to be impacted by amendment:

A. California Family Code § 308(a). This section provides that "[a] marriage contracted *outside* this state that would be valid by laws of the jurisdiction in which the marriage was contracted

is valid in this state.” (emphasis added). The term “outside” is not defined in the California Family Code.

B. California Family Code § 400. California Family Code § 400 omits “a judge of a tribal court” from its list of persons who may solemnize a marriage. Specifically, that section provides:

Although marriage is a personal relation arising out of a civil, and not a religious, contract, a marriage may be solemnized by any of the following who is 18 years of age or older:

(b) A judge or retired judge, commissioner of civil marriages or retired commissioner of civil marriages, commissioner or retired commissioner, or assistant commissioner of a court of record in this state.

(c) A judge or magistrate who has resigned from office.

(d) Any of the following judges or magistrates of the United States:

(1) A justice or retired justice of the United States Supreme Court.

(2) A judge or retired judge of a court of appeals, a district court, or a court created by an act of Congress the judges of which are entitled to hold office during good behavior.

(3) A judge or retired judge of a bankruptcy court or a tax court.

(4) A United States magistrate or retired magistrate.

(e) A legislator or constitutional officer of this state or a Member of Congress who represents a district within this state, while that person holds office.

C. 13 C.C.R. § 20.04. This section states that:

(d) The department will accept an original or certified copy of one of the following documents that is legible and unaltered as additional documentation to establish the applicant’s true full name as required by subsections (a) and (b), or as identification to establish the applicant’s true full name for a name change: ...

(2) A document issued by a competent jurisdiction that contains the applicant’s legal name, date of birth, if available, and government seal, stamp or other official imprint including, but not limited to: ...

(c) A marriage certificate. ...

(3) For purposes of this subsection, “competent jurisdiction” is defined as any governmental agency within the United States, District of Columbia, territory or possession of the United States, including federal, state, and local agencies, a foreign state or its equivalent, duly authorized to issue documents for adoption, name change, marriage, or dissolution of marriage.

D. California Vehicle Code, §§ 12800.7, 12809, 13000.

E. 13 C.C.R. § 15.00.

4. **POTENTIAL SUPPORT/OPPOSITION.** Potential support for the proposed solution would likely include all federally recognized Indian tribes within the State of California and possibly the DMV in that the DMV has an obligation, under federal law, to give comity to tribal court judgments. See 28 U.S.C. § 1360(c); *Wilson v. Marchington* (9th Cir. 1997) 127 F.3d 805, *cert denied*, 523 U.S. 1074 (1998).

If you have any questions regarding this memorandum, please feel free to contact me at the above address, email address, or telephone number.

## **Item 6**

Brainstorming Workshop  
Ideas for Beyond the Bench  
23: User Experience

## Who are the users?

- Parents/Caregivers/Guardians
- Children and youth
- Commercially sexually exploited children
- Tribes and tribal representatives
- Self-represented litigants
- People who access self-help website for info about the courts
- Victims of crimes
- Users: Interfacing with the court
- Court user & potential users (but access issues prevent some from using the court)
- Helping people who interface with court
- Juvenile judges follow standard 5.40; includes systems and organizational partners
- Professionals are also users? Include improving their experience
- Judges, clerks, courts are part of this
- Volunteers
- Probation
- Social workers
- Service providers
- Families of court users
- Guardians/ conservators
- Law enforcement
- Advocates
- Interpreters
- Mental health providers

## **Beyond the Bench 23: User Experience Topics List**

- Access to Justice
- Adolescent Development
- Child Welfare
- Civics Education
- Court Closures
- Cross-Border Issues
- Domestic Violence
- Ebola
- Family Engagement
- Family Law Reform
- Human Trafficking
- Immigration
- Incarcerated Parents
- Income Inequality
- Indian Child Welfare Act
- Juvenile Justice
- Language Access
- Mental Health
- Military Families
- Procedural Fairness
- Psychotropic Medication
- Racial and Ethnic Disparities
- School to Prison Pipeline
- Social Media
- Substance Abuse
- Trauma Informed Practices



# 2015 BTB UX CONFERENCE SCHEDULE

## Tuesday, December 1

10:00am–7:00pm	Registration
1:00–5:00pm	Pre-Con Training/Meeting <ul style="list-style-type: none"><li>▪ New Dependency Training (80 ppl)</li><li>▪ Shriver Meeting (60 ppl)</li></ul>
3:00–3:15pm	Break

## Wednesday, December 2

7:00am	Registration
7:00–8:00am	Breakfast
8:00am–12:00pm	Pre-Conference <ul style="list-style-type: none"><li>▪ 4-hour New Dependency Training (80 ppl)</li><li>▪ 4-hour Family Law (60 ppl)</li><li>▪ 4-hour CASA Training Meeting (30 ppl)</li><li>▪ 4-hour Stanford Design Team</li><li>▪ 4-hour Collaborative Courts in Delinquency Expanding Models for Reducing Recidivism and Improving Outcomes</li><li>▪ 4-hour Ethics (Judicial Officers)</li></ul>
10:00–10:15am	Break
11:00am–12:00pm	Movie Presentation
12:00–1:30pm	Lunch/Welcome and Plenary
1:45–3:15pm	15-Concurrent Workshops 1
3:15–3:30pm	Break
3:30–5:00pm	15-Concurrent Workshops 2
5:30–7:00pm	Evening Events (may swap with Thursday afternoon program) <ul style="list-style-type: none"><li>▪ DRAFT Meeting (60 ppl)</li><li>▪ Convenings TBD</li><li>▪ Movie Presentation Repeat</li></ul>

## Thursday, December 3

7:00 am	Registration
7:00–8:00am	Breakfast
8:00–8:45am	Judicial Leadership or Morning Plenary with Chief Justice
9:00–10:30am	15-Concurrent Workshops 3
10:30–10:45am	Break

10:45am–12:15pm	15–Concurrent Workshops 4
12:30–2:00pm	Lunch/Plenary
2:15–3:45pm	15–Concurrent Workshops 5
3:45 –4:00pm	Break
4:00–6:30pm	Closing & Leadership Gathering Plenary with Chief Justice of California (may swap with Wednesday evening program)

## Friday, December 4

7:00–10:00am	Registration
7:00–8:00am	Breakfast
8:00–5:00 pm.	Concurrent Meetings and Workshops <ul style="list-style-type: none"> <li>▪ 4–hour Probation Training (80 ppl)</li> <li>▪ 4–hour Juvenile Dependency Mediation Training (30 ppl)</li> <li>▪ 4–hour Collaborative Courts: Supporting Reunification and Permanency Dependency</li> <li>▪ 6–hour Parent-Attorney Training (80 ppl)</li> <li>▪ 8–hour CASA Directors’ Meeting (55 ppl)</li> <li>▪ 8–hour Technology Roundtable (60 ppl)</li> </ul>
10:15–10:30am	Morning Break
12:00–1:00pm	Lunch - (Boxed lunch)
3:15–3:30pm	Afternoon Break

## Wednesday, December 2–4, 2015

**Knowledge Fair:** Focusing on new technologies and innovations to improve access to justice and court efficiency