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INVITATION TO COMMENT

LEG11-04

Title	Action Requested
Proposed Legislation for Recognition and Enforcement of Tribal Court Civil Judgments	Review and submit comments by January 2, 2012
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Code of Civ. Proc. §§ 1730 –1739	January 1, 2013
Proposed by	Contact
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Summary

The proposed legislation seeks to clarify and simplify the process by which tribal court civil judgments are recognized and enforced in California. Currently, tribal court judgments may be recognized through the provisions of the Uniform Foreign-Country Money Judgments Recognition Act (Code Civ. Proc., §§ 1713 –1724).¹ Proceeding to obtain enforcement under that act can be lengthy and costly. This proposal would institute a discrete procedure for recognizing and enforcing tribal court civil judgments that would provide swifter recognition of such judgments while applying the principles of comity appropriate to judgments of sovereign tribes throughout the country.

The period for comments has been re-opened on this item for an additional 60 days. It is identical to the original proposal that was circulated except for changes in two provisions: proposed sections 1732(6) and 1738 have been modified to show language that the forum

¹ Unless indicated otherwise, all citations are to the Code of Civil Procedure.

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 These proposals are circulated for comment purposes only.

and committees are considering adding in light of comments received on the proposal. The changes are marked as such in the attached proposal.

Discussion

Background

California is home to more people of Indian ancestry than any other state in the nation. Currently there are 107 federally recognized tribes in California, second only to the number of tribes in the state of Alaska. Each tribe is sovereign, with powers of internal self-government, including the authority to develop and operate a court system. Twenty tribal courts are currently operating in California and several other courts are under development.

The California Tribal Court/State Court Forum was established by former Chief Justice Ronald George in May 2010. The forum brings together tribal and state court judges from throughout California. The charge of the forum is “to develop measures to improve the working relationship between California’s tribal and state courts and to focus on areas of mutual concern.” The forum has identified the recognition and enforcement of tribal court judgments in civil actions as a priority area of concern.

Tribal courts in California hear a variety of case types including child abuse and neglect cases; domestic violence and protective orders; domestic relations (e.g., divorce and dissolution); contract disputes and other civil cases for money judgments; unlawful detainers, property disputes, nuisance abatement, and possession of tribal lands; name changes; and civil harassment protective orders.

The subject matter jurisdiction of each tribal court is defined by the tribe that establishes it. The extent to which tribes may exercise personal jurisdiction over individual litigants is defined in a body of federal law. As a general rule tribes may exercise full civil and criminal jurisdiction over Indians within the tribe’s reservation or trust lands (“Indian Country”). Tribes have no criminal jurisdiction over non-Indians. In general, tribes may exercise civil jurisdiction over non-Indians only where the non-Indians have entered into consensual relationships with the tribe or its members through commercial dealing, contracts, leases, or other arrangements. A tribe may also retain inherent power to exercise civil authority over the conduct of non-Indians on fee lands within its reservation when that conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe.

While tribes are recognized as sovereign, they are not “states” for the purpose of the full faith and credit requirements of article IV of the U.S. Constitution. There is general consensus (but no United States Supreme Court authority) that tribes are not covered by the federal full faith and credit statute (28 U.S.C. § 1738). In *Wilson v. Marchington* (9th Cir. 1997) 127 F.3d 805, the Ninth Circuit Court of Appeals determined that, as a general matter, the recognition of a tribal court order within the United States federal courts was

governed by the principles of comity and not subject to the full faith and credit requirement of the Constitution or title 28 United States Code section 1738.

Nevertheless, a number of specific federal and state laws mandate full faith and credit for and between tribal and state courts in specific types of actions:

- Indian Child Welfare Act (25 U.S.C. § 1911(d)) requires full faith and credit for tribal court custody orders concerning Indian children. ICWA also addresses the issue of jurisdiction over child welfare proceedings involving Indian children;
- Violence Against Women Act (18 U.S.C. § 2265) mandates full faith and credit for domestic violence protection orders (see also the Uniform Interstate Enforcement of Domestic Violence Protection Orders Act (Fam. Code, § 6400 et seq.));
- Child Support Enforcement Act (28 U.S.C. § 1738 B) mandates full faith and credit for child support orders;
- Uniform Interstate Family Support Act (Fam. Code, § 4900) mandates recognition of other forms of family support orders; and
- Uniform Child Custody Jurisdiction and Enforcement Act (Fam. Code § 3404) mandates recognition of child custody orders.

Where there is no specific statutory mandate for full faith and credit or statutory procedures for recognition of tribal court judgments or orders, the general rule is that tribal court orders are entitled to comity. It is to these judgments and orders that the proposed legislation is directed.

Currently in California, tribal court judgments may be recognized through the provisions of the Uniform Foreign-Country Money Judgments Recognition Act found at Code of Civil Procedure sections 1713–1724. Tribal court judges report that these provisions are inadequate. These provisions do not cover the entire range of issues currently being dealt with in California’s tribal courts but instead are limited to money judgments (although not those for fines, penalties, or taxes) and some family law judgments. In addition, the process can be lengthy and time consuming. Tribal judges report that in some instances matters that have been fully litigated in tribal court must essentially be relitigated in state court in order to obtain recognition under these provisions. This adds immensely to the costs to both litigants and the court systems and is an inefficient and ineffective use of judicial resources.

Summary of Proposal

The proposed act applies to judgments issued by a court or other tribunal of any federally recognized Indian tribe throughout the country. (Proposed § 1732(5).)

The proposed act is intended, to the extent possible, to parallel the sister state money judgments act (§§ 1710.10–1710.65), while still applying the principles of comity rather

than the full faith and credit accorded to sister state judgments. The proposed act would not apply to judgments in actions encompassed within the Indian Child Welfare Act, the Violence Against Women Act or Uniform Interstate Enforcement of Domestic Violence Protection Orders Act, the Child Support Enforcement Act, or the Uniform Child Custody Jurisdiction and Enforcement Act, because procedures for recognizing such judgments are already in place. (See proposed § 1731(b).) Judgments for taxes and fines are excluded too, as are judgments in proceedings that would, if conducted in California, be brought under the Probate Code. (*Ibid.*)

As originally proposed, the act would otherwise apply to all written judgments, decrees, and orders of tribal courts in civil actions or proceedings that are final and enforceable by the tribe, and are the types of actions encompassed which are encompassed the . (See proposed § 1732 (6) [defining “tribal court judgment”].) This would include judgments and orders in family law matters not expressly excluded in section 1731 and judgments enforcing tribal civil regulatory laws. In light of comments sought in the original Invitation to Comment Period as to the scope, the forum and committee are now considering a somewhat more narrow definition, limiting application of the act to those types of judgments covered by the state’s Enforcement of Judgment Act, as set forth in Code of Civil Procedure section 681.010, for which enforcement procedures currently exist under state law. Section 1732 (6) in the attached proposal shows proposed alternative language, with the new text underlined.

Applications for recognition of such tribal court judgments are to be filed in the superior court of the county in which the respondent resides or owns property or, if no respondent is a resident of California, in any county in the state. (Proposed § 1733.) The application must be made under penalty of perjury and include all the information required in an application for recognition of a sister state judgment, including name and address of the tribal court; name and address of the petitioner; name and address of the respondent and, if a business entity, certain other information; a statement that the action is not barred by the applicable statute of limitations; a statement that no stay of enforcement is in effect in the tribal court; a statement of the monetary relief that remains unpaid, if any, and any applicable interest calculation; and a statement that no action based on the tribal court judgment is currently pending elsewhere. (Proposed § 1733.1(b).)

Because the proposed act would also provide for recognition and enforcement of nonmonetary tribal court judgments, the application must also include a statement of the terms and provision of such relief as provided in the tribal court judgment, and a statement that such relief is not barred by state law. (Proposed § 1733.1(b)(7).)

All applications must be accompanied by an authenticated copy of the judgment, a copy of the tribal court rules of procedure, and a declaration by the court clerk, applicant, or counsel that the case was tried in compliance with those rules. (Proposed § 1733.1(c).)

After filing the application, the applicant must serve a notice of filing (on a form to be developed by the Judicial Council) on the respondent, along with a copy of the application and other papers filed. Service must be in the manner provided for service of summons. (Proposed § 1733.2.) The respondent has 30 days from service of the notice to file any objections. (Proposed § 1735.)

If no objections are filed within the requisite time period, judgment must be entered by the superior court based on the provisions and terms of the tribal court judgment and will have the same effect as any other civil judgment, order, or decree issued by the superior court. (Proposed § 1734.)

If an objection is filed within the 30 days, the court is to set the matter for hearing within 45 days from the date the objection is filed, and set a time for replies. (Proposed § 1735(a).) The objections that may be considered by the court are set out in the proposed statute at section 1735(b) and (c). At the hearing, the applicant has the burden of showing that the application complies with section 1733, and hence that the order falls within the purview of the act. The responding party has the burden of proving that the grounds for the objections exist. (Proposed § 1734(d).)

The proposed legislation also contains sections providing for stays of enforcement (proposed § 1736), providing that an action to enforce a tribal judgment may be initiated only at a time when the tribal judgment is effective within the tribal territory or within 10 years from issuance, whichever is earlier (proposed § 1737), and permitting the superior court, after notice to the parties, to contact a tribal court judge to attempt to resolve issues raised in the application or objections (proposed § 1738).

Comments Requested

In addition general comments on the proposed legislation, comments are requested on the specific issues and alternatives described below.

Scope of act

Scope of act generally

Specific comments on the scope of the act are requested: whether the scope of the act is appropriate and useful as proposed; whether it should be made narrower, at least for an initial trial period to determine how the procedures are working; or whether it should be broadened. As proposed originally, tribal court judgments are defined to include all “final, conclusive, and enforceable” judgments, decrees, or orders by tribal courts in civil actions or proceedings throughout the United States. And civil actions are defined as any actions not criminal and not otherwise excluded from the act. (Proposed § 1732(6).)

Unlike the sister state judgments act and the Uniform Foreign-Country Money Judgments Recognition Act, the proposed Tribal Court Civil Judgment Act is not limited to money judgments. Judgments and orders relating to child custody, family support, domestic

violence protective orders, or guardianships, decedent estates, and conservatorships or other probate matters are not covered under the proposed act (see proposed § 1731(b)), but judgments and final orders from all other civil proceedings are encompassed, including, for example, evictions in unlawful detainer actions, nuisance abatement orders, name change orders, and divorce decrees and orders, including division of marital assets.

Limiting the scope as to judgments from tribes in other states

Comments are requested concerning whether, to the extent this proposal covers civil judgments and orders other than money judgments, the act should be limited in application to judgments from tribal courts located in California. If so modified, judgments from tribal courts in other states could be recognized and enforced under the act only if they are money judgments.

Limiting the scope to types of judgments currently covered by Enforcement of Judgments Act

Another option for consideration is the definition of scope that has now been added to the proposed draft, which would limit the judgments covered to those to which the state's Enforcement of Judgment Act applies, as set forth in Code of Civil Procedure section 681.010, for which enforcement procedures currently exist under state law. Such a definition would be broader than mere money judgments (the only kinds of judgments to which the sister state enforcement of judgment laws apply) but more limited than the current proposed scope. Under this option, tribal judgments covered by the act would be limited to any of the following: (1) a money judgment (including judgment in a civil action or proceeding to enforce civil regulatory laws of the tribe); (2) a judgment for possession of personal property; (3) a judgment for possession of real property; (4) a judgment for sale of real or personal property; or (5) a judgment requiring the performance of an act not described in subdivisions (1) to (4), inclusive, or requiring forbearance from performing an act. The requirements that the judgment, decree, or order be final, conclusive, and enforceable by the tribal court would remain. This modification, if implemented, would still provide a broader scope than currently in the laws for recognition of sister state or foreign country money judgments.

Excluding probate orders and judgments from the act

Comments are also requested on the exclusion of tribal court judgments in proceedings that, if brought in California, would be governed by the California Probate Code, including decedent estates, guardianships, conservatorships, and proceedings concerning powers of attorney and the internal affairs of trusts. Currently, the Tribal Courts/State Court Forum is planning to work with the Probate and Mental Health Advisory Committee to consider how best to coordinate tribal court and state court actions concerning such matters.

Impact on property divisions in family law judgments

The advisory committees and forum do not intend this proposed act to extend a tribal court's jurisdiction over property in this state beyond the jurisdiction that a tribal court may already have. Should a party, for example, seek to use the act to enforce a family law judgment for division of property by an out-of-state tribal court to change the title of California real property, the procedures set forth in the act would allow an opposing party to object on the ground of lack of subject matter jurisdiction, which objection would preclude state court recognition of the tribal court judgment under the proposed act. (Proposed § 1735(b).) Comments are requested as to whether the objection procedures in the proposed act provide sufficient safeguards against recognition of such judgments, and whether the procedures are such that the treatment of tribal court judgments regarding property divisions in family law proceedings is on a par with treatment of such judgments from sister state courts.

Reciprocity

Comments are requested on whether the act should include a provision that would limit the act's applicability to judgments from tribal courts that have reciprocal provisions recognizing California court judgments. Some states have such a provision in their laws. Those states, however, provide full faith and credit to judgments from tribes granting reciprocity, similar to that accorded to judgments from state courts—that is, recognition and enforcement without inquiring into the fairness of the underlying proceedings leading to the judgment—, rather than the stricter scrutiny generally accorded to judgments of sovereign countries under the principles of comity.

The Uniform Foreign-Country Money Judgments Recognition Act (§ 1713, et seq.), under which tribal judgments are currently enforced, does not contain a reciprocity provision. The reciprocity requirement has long been viewed as unfair to foreign nationals because the judgment holder is effectively being punished for a policy of his or her government.

Standard of proof

As proposed, a party objecting to recognition of a tribal court judgment bears the burden of proving that the grounds exist for the state court not to recognize the judgment. (Proposed § 1735(d).) Comments are requested on whether the statute should specify what standard of proof is required to meet that burden. Unless otherwise provided by law, the Evidence Code provides that the burden of proof requires proof by a preponderance of the evidence. (Evid. Code, § 115.) Comments are requested on whether some other standard of proof should be expressly required of an objector in this act, including

whether the same standard should be applicable to each of the listed grounds in sections 1735(b) and (c) and what the standard or standards should be.

Grounds for objections

The grounds for objecting to a state court's recognition of a tribal court judgment are set forth at proposed section 1735(b) (grounds for objections that *mandate* a state court not recognize a tribal court judgment) and section 1735(c) (grounds for objections that *permit* a state court to not recognize the tribal court judgment). These grounds, with one addition (lack of an impartial judge at the tribal court), essentially parallel the grounds set forth by the Ninth Circuit in *Wilson v. Marchington, supra*, 127 F.3d at p. 810, for a court to not recognize a tribal court judgment. These proposed grounds also encompass some, but not all, of the grounds on which objections may be made under the Uniform Foreign-Country Money Judgments Recognition Act, at Code of Civil Procedure section 1716(b) and (c).² Comments are requested on whether any of the grounds for objection in proposed section 1735 should be modified or whether any provision in current section 1716(b) or (c) should be added to the proposal.

Contacts between judicial officers

Proposed section 1738 permits contact between the state court and the tribal court judge who issued the order under consideration to attempt to resolve any issues arising from the

² Section 1716 (b). A court of this state shall not recognize a foreign-country judgment if any of the following apply:

- (1) The judgment was rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law.
 - (2) The foreign court did not have personal jurisdiction over the defendant.
 - (3) The foreign court did not have jurisdiction over the subject matter.
- (c). A court of this state is not required to recognize a foreign-country judgment if any of the following apply:
- (1) The defendant in the proceeding in the foreign court did not receive notice of the proceeding in sufficient time to enable the defendant to defend.
 - (2) The judgment was obtained by fraud that deprived the losing party of an adequate opportunity to present its case.
 - (3) The judgment or the cause of action or claim for relief on which the judgment is based is repugnant to the public policy of this state or of the United States.
 - (4) The judgment conflicts with another final and conclusive judgment.
 - (5) The proceeding in the foreign court was contrary to an agreement between the parties under which the dispute in question was to be determined otherwise than by proceedings in that foreign court.
 - (6) In the case of jurisdiction based only on personal service, the foreign court was a seriously inconvenient forum for the trial of the action.
 - (7) The judgment was rendered in circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment.
 - (8) The specific proceeding in the foreign court leading to the judgment was not compatible with the requirements of due process of law.
 - (9) The judgment includes recovery for a claim of defamation unless the court determines that the defamation law applied by the foreign court provided at least as much protection for freedom of speech and the press as provided by both the United States and California Constitutions.

application for recognition or from any objections raised, following notice to all parties. Comments are requested as to whether provisions should be added concerning the procedures for providing notice to the parties or limiting the subjects that the judges may discuss.

Comments are requested on the alternative of including a provision similar to that in the Uniform Child Custody and Enforcement Act, which permits such contacts between courts but under the more detailed framework set forth in Family Code section 3410. In light of the comments already received on the proposal, a draft of such a provision has been included in the attached text, with underlining to show the new language.

The Code of Civil Procedure would be amended, effective January 1, 2013, to read:

1 SECTION 1. Section 1714(b) of Title 11 of Part 3 of the Code of Civil Procedure is
2 amended to delete “‘Foreign country judgment’ includes a judgment by any Indian tribe
3 recognized by the government of the United States.”

4 SEC. 2. A new Title 11.1 of Part 3 of the Code of Civil Procedure is added to read:

5 1730. This title may be cited as the Tribal Court Civil Judgment Act.

6 1731. (a) This title governs the procedures by which the superior courts of the State of
7 California recognize and enter tribal court judgments of any federally recognized Indian tribe.
8 Determinations regarding recognition and entry of a tribal court judgment pursuant to state law
9 shall have no effect upon the independent authority of that judgment. To the extent not
10 inconsistent with this title, the California Code of Civil Procedure shall apply.

11 (b) This title does not apply to the following tribal court judgments:

12 (1) for taxes, fines, or other penalties;

13 (2) for which federal law requires that states grant full faith and credit recognition under
14 Section 1911 of Title 25 of the United States Code (for custody orders concerning Indian
15 children under Indian Child Welfare Act), Section 2265 of Title 18 of the United States Code
16 (for protection orders under the Violence Against Women’s Act), Section 1738B of Title 28 of
17 the United States Code (for child support orders under the Child Support Enforcement Act);

18 (3) for which state law provides for recognition under Section 3404 of the Family Code
19 (for child support orders recognized under the Uniform Child Custody Jurisdiction and
20 Enforcement Act); Section 4900 et seq. of the Family Code (for other forms of family support
21 orders under the Uniform Interstate Family Support Act); or Section 6400 et seq. of the Family
22 Code (for domestic violence protective orders), or

23 (4) for decedent estates, guardianships, conservatorships, internal affairs of trusts,
24 powers of attorney, or other tribal court judgments that arise in proceedings that are or would be
25 governed by the Probate Code in California.

26 (c) Nothing in this title shall be deemed or construed to expand or limit the jurisdiction of
27 either the State of California or any Indian tribe.

28 1732. As used in this title:

29 (1) “Due process,” for purposes of this act, means the right to be represented by legal
30 counsel, to receive reasonable notice and an opportunity for a hearing, to call and cross examine
31 witnesses and to present evidence and argument to an impartial decision maker.

32 (2) “Good cause” means a substantial reason, taking into account the prejudice or
33 irreparable harm a party will suffer if a hearing is not held on an objection or not held within the
34 time periods established by this title.

35 (3) “Applicant” means the person or persons who can bring an action to enforce a tribal
36 court judgment.

37 (4) “Respondent” means the person or persons against whom an action to enforce a
38 tribal court judgment can be brought.

39 (5) “Tribal court” means any court or other tribunal of any federally recognized Indian
40 nation, tribe, pueblo, band, or Alaska Native village, duly established under tribal or federal law,
41 including courts of Indian Offenses organized pursuant to Title 25, Part 11 of the Code of
42 Federal Regulations.

43 (6) “Tribal court judgment” means any written judgment, decree, or order of a tribal
44 court that (a) was issued in a civil action or proceeding that is final, conclusive, and enforceable
45 by the tribal court in which it was issued, ~~and (b)~~ is duly authenticated in accordance with the
46 laws and procedures of the tribe or tribal court, ~~(c) is one of the following: (i) a money judgment~~
47 ~~(including judgment in a civil action or proceeding to enforce civil regulatory laws of the tribe);~~
48 ~~(ii) a judgment for possession of personal property; (iii) a judgment for possession of real~~
49 ~~property; (iv) a judgment for sale of real or personal property; or (v) a judgment requiring the~~
50 ~~performance of an act not described in subdivisions (i) to (iv), inclusive, or requiring forbearance~~
51 ~~from performing an act.-~~ As used in this section, “civil action or proceeding” refers to any action
52 or proceeding that is not criminal, except for those actions or proceedings from which judgments
53 and orders are expressly excluded in section 1731.

54 1733. (a) An application for entry of a judgment under this act shall be filed in a superior
55 court.

56 (b) Subject to the power of the court to transfer proceedings under this title pursuant to Title
57 4 (commencing with Section 392) of Part 2, the proper county for the filing of an application is
58 either of the following:

59 (1) The county in which any respondent resides or owns property.

60 (2) If no respondent is a resident, any county in this state.

61 (c) A case in which the tribal court judgment amounts to twenty-five thousand dollars
62 (\$25,000) or less is a limited civil case.

63 1733.1. (a) An applicant may apply for recognition and entry of a judgment based on a
64 tribal court judgment by filing an application pursuant to section 1733.

65 (b) The application shall be executed under penalty of perjury and include all of the
66 following:

67 (1) A statement setting forth the name and address of the tribal court that issued the
68 judgment to be enforced and the date of the tribal court judgment or any renewal thereof.

69 (2) A statement setting forth the name and address of the party seeking recognition.

70 (3) (A) Where the respondent is an individual, a statement setting forth the name and last
71 known residence address of the respondent.

72 (B) Where the respondent is a corporation, a statement of the corporation's name, place of
73 incorporation, and whether the corporation, if foreign, has qualified to do business in this state
74 under the provisions of Chapter 21 (commencing with Section 2100) of Division 1 of Title 1 of
75 the Corporations Code.

76 (C) Where the respondent is a partnership, a statement of the name of the partnership,
77 whether it is a foreign partnership, and if it is a foreign partnership, whether it has filed a
78 statement pursuant to Section 15800 of the Corporations Code designating an agent for service of
79 process.

80 (D) Where the respondent is a limited liability company, a statement of the company's
81 name, whether it is a foreign company, and if so, whether it has filed a statement pursuant to
82 Section 17060 of the Corporations Code.

83 (E) Except for facts that are matters of public record in this state, the statements required
84 by this paragraph may be made on the basis of the applicant's information and belief.

85 (4) A statement that an action in this state to enforce the tribal court judgment is not
86 barred by the applicable statute of limitations.

87 (5) A statement, based on the applicant's information and belief, that the tribal court
88 judgment is final and that no stay of enforcement of the tribal court judgment is currently in
89 effect.

90 (6) If seeking recognition and entry of a money judgment, a statement of the amount of
91 award granted in the tribal court judgment remaining unpaid, and if accrued interest on the tribal
92 court judgment is to be included in the California judgment, a statement of the amount of interest
93 accrued on the tribal court judgment (computed at the rate of interest applicable to the judgment
94 under the law of the tribal jurisdiction in which the tribal court judgment was issued), a statement
95 of the rate of interest applicable to the money judgment under the law of the jurisdiction in which
96 the tribal judgment was issued, and a citation to supporting authority.

97 (7) If seeking entry of a judgment, order, or decree providing for relief other than
98 monetary relief, applicant shall include:

99 (i) A statement of the terms and provisions of such relief as provided in the tribal court
100 judgment, order, or decree and the extent to which responding party has complied with such
101 terms and provisions,

102 (ii) A statement that the tribal court judgment is not barred by state law.

103 (8) A statement that no action based on the tribal court judgment is currently pending in
104 any state court and that no judgment based on the tribal court judgment has previously been
105 entered in any proceeding in this state.

106 (c) The following items shall be attached to the application:

107 (1) An authenticated copy of the tribal court judgment, certified by the judge or clerk of
108 the tribal court;

109 (2) A copy of the tribal court rules of procedure pursuant to which the judgment was
110 entered; and

111 (3) A declaration under penalty of perjury by the tribal court clerk, applicant, or
112 applicant's attorney stating, based on personal knowledge, that the case that resulted in the entry
113 of the judgment was conducted in compliance with the tribal court's rules of procedure.

114 1733.2. (a) Promptly upon the filing of the application, the applicant shall serve upon the
115 respondent a notice of filing of the application to recognize and enter the tribal court judgment,
116 together with a copy of the application and any documents filed with the application. The notice
117 of filing shall be in a form prescribed by the Judicial Council and inform the respondent that the
118 respondent has 30 days from service of the notice of filing within which to file objections to the
119 enforcement of the judgment. The notice shall include the name and address of the applicant and
120 the applicant's attorney, if any; and the text of sections 1734 and 1735 of this title.

121 (b) Except as provided in subdivision (c) of this section, service shall be made in the manner
122 provided for service of summons by Article 3 (commencing with Section 415.10) of Chapter 4 of
123 Title 5 of Part 2.

124 (c) If a respondent is the State of California or any of its officers, employees, departments,
125 agencies, boards, or commissions, service of the notice of filing on that respondent may be by
126 mail to the Office of the Attorney General.

127 (d) The fee for service of the notice of filing under this section is an item of costs
128 recoverable in the same manner as statutory fees for service of a writ as provided in Chapter 5
129 (commencing with Section 685.010) of Division 1 of Title 9 of Part 2, but the recoverable

130 amount for such fee may not exceed the amount allowed to a public officer or employee of this
131 state for such service.

132 (e) The applicant shall file a proof of service of the notice promptly following service.

133 1734. (a) If no objections are timely filed in accordance with section 1735, the clerk shall
134 certify that no objections were timely filed, and a judgment shall be entered.

135 (b) The judgment entered by the superior court shall be based on and contain the provisions
136 and terms of the tribal court judgment. The judgment shall be entered in the same manner and
137 have the same effect and shall be enforceable in the same manner as any civil judgment, order, or
138 decree of a court of this state.

139 1735. (a) Any objection to the recognition and entry of the tribal court judgment shall be
140 served and filed within 30 days of service of the Notice of Filing. If any objection is filed within
141 this time period, the superior court shall set a time period for replies and set the matter for a
142 hearing. The hearing must be held by the superior court within 45 days from the date the
143 objection is filed unless good cause exists for a later hearing. The only grounds for objecting to
144 the recognition or enforcement of a tribal court judgment are the grounds set forth in
145 subdivisions (b) and (c) of this section.

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

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

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

150 (3) The tribal court judge was not impartial.

151 (4) The respondent was not afforded due process.

152 (c) The superior court may, in its discretion, recognize and enter or decline to recognize and
153 enter a tribal court judgment on any one of the following equitable grounds:

154 (1) The tribal court judgment was obtained by extrinsic fraud.

155 (2) The tribal court judgment conflicts with another final judgment that is entitled to
156 recognition.

157 (3) The tribal court judgment is inconsistent with the parties' contractual choice of
158 forum.

159 (4) Recognition of the tribal court judgment or the cause of action upon which it is based
160 is against the fundamental public policy of this state or the United States.

161 (d) If objections have been timely filed, the applicant has the burden of establishing that the
162 tribal court judgment is entitled to recognition under section 1733.1. If the applicant has met its

163 burden, a party resisting recognition of the tribal court judgment has the burden of establishing
164 that a ground for nonrecognition stated in subdivision (b) or (c) exists.

165 1736. The superior court shall grant a stay of enforcement if the respondent establishes one
166 of the following to the superior court:

167 (a) An appeal from the tribal court judgment is pending or may be taken in the tribal court.
168 Under this subdivision, the superior court shall stay state execution of the tribal court judgment
169 until the proceeding on appeal has been concluded or the time for appeal has expired.

170 (b) A stay of enforcement of the tribal court judgment has been granted by the tribal court.
171 Under this subdivision, the superior court shall stay enforcement of the tribal court judgment
172 until the stay of execution expires or is vacated.

173 (c) Any other circumstance exists where the interests of justice require a stay of
174 enforcement.

175 1737. An action to recognize a tribal court judgment or any renewal thereof shall be
176 commenced within the earlier of the time during which the tribal court judgment is effective
177 within the territorial jurisdiction of the tribal court or 10 years from the date that the tribal court
178 judgment became effective in the tribal jurisdiction.

179 1738. (a) The superior court may, after notice to all parties, attempt to resolve any issues
180 raised regarding a tribal court judgment under section 1733.1 or section 1734 of this title, by
181 contacting communicating with the tribal court judge who issued the judgment.

182 (b) The court may allow the parties to participate in the communication. If the parties are not
183 able to participate in the communication, they must be given the opportunity to present facts and
184 legal arguments before a decision on whether to recognize the tribal court judgment is made.

185 (c) Communication between courts on court records and procedural matters may occur without
186 informing the parties. A record need not be made of the communication.

187 (d) Except as otherwise provided in subdivision (c), a record must be made of a
188 communication under this section. The parties must be informed promptly of the communication
189 and granted access to the record.

190 (e) For the purposes of this section, "record" means information that is inscribed on a tangible
191 medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

192 1739. (a) The Uniform Foreign-Country Money Judgments Recognition Act (Chapter 2
193 commencing with Section 1713) of Title 11 of Part 3) applies to all actions commenced in
194 superior court before the effective date of this title in which the issue of recognition of a tribal
195 judgment is raised.

196 (b) This title applies to all actions to enforce tribal court judgments as defined herein
197 commenced in superior court on or after the effective date of this title. A judgment entered
198 under this act does not limit the right of a party to seek enforcement of any part of a judgment,
199 order, or decree entered by a tribal court that is not encompassed by the judgment entered under
200 this act.