

GENERAL RULES OF PRACTICE FOR THE DISTRICT COURTS

November 30, 2016

**OFFICE OF
APPELLATE COURTS****Rule 10. Tribal Court Orders and Judgments****Rule 10.01. Recognition Governed by Law. ~~When Tribal Court Orders and Judgments Must Be Given Effect~~****(a) — ~~Recognition Mandated by Law.~~**

The courts of this state shall follow applicable state and federal statutes, regulations, and rules that either mandate or provide rules and procedures for recognition and enforcement of ~~Where mandated by state or federal statute, orders, judgments, and other judicial acts of the tribal courts of any federally recognized Indian tribe shall be recognized and enforced.~~

Applicable statutes include but are not limited to:

- (a) Violence Against Women Act, 18 U.S.C. § 2265;
- (b) Indian Child Welfare Act, 25 U.S.C. § 1911;
- (c) National Indian Forest Resources Management Act, 25 U.S.C. § 3106;
- (d) American Indian Agricultural Resources Management Act, 25 U.S.C. § 3713;
- (e) Full Faith and Credit for Child Support Orders Act, 28 U.S.C. § 1738B;
- (f) Minnesota Indian Family Preservation Act, Minn. Stat. § 260.771;
- (g) Uniform Interstate Family Support Act, Minn. Stat. §§ 518C.101-.905;
- (h) Uniform Custody Jurisdiction and Enforcement Act, Minn. Stat. § 518D.104;
- (i) Minnesota Uniform Foreign-Country Money Judgements Recognition Act, Minn. Stat. §§ 548.54-.63.

(b) — ~~Procedure.~~

(1) — ~~Generally.~~ ~~Where an applicable state or federal statute establishes a procedure for enforcement of any tribal court order or judgment, that procedure must be followed.~~

(2) — ~~Violence Against Women Act; Presumption.~~ ~~An order that is subject to the Violence Against Women Act of 2000, 18 U.S.C. section 2265 (2003), that appears to be issued by a court with subject matter jurisdiction and jurisdiction over the parties, and that appears not to have expired by its own terms is presumptively enforceable, and shall be honored by Minnesota courts and law enforcement and other officials so long as it remains the judgment of the issuing court and the respondent has been given notice and an opportunity to be heard or, in the case of matters properly considered ex parte, the respondent will be given notice and an~~

~~opportunity to be heard within a reasonable time. The presumptive enforceability of such a tribal court order shall continue until terminated by state court order but shall not affect the burdens of proof and persuasion in any proceeding.~~

(Added effective January 1, 2004.)

Rule 10.02. Recognition Not Governed by Law. ~~When Recognition of Tribal Court Orders and Judgments Is Discretionary~~

(a) — Factors.

~~In cases other than those governed by~~When Rule 10.01(a) does not apply, enforcement of a tribal court order or judgment is discretionary with the court. ~~In exercising this discretion, the courts of this state shall recognize and enforce an order or judgment of a tribal court of record for a federally recognized Indian tribe, unless a party subject to the order or judgment demonstrates any of the following~~ may consider the following factors:

~~(a1) the tribal court lacked personal or subject matter jurisdiction~~whether the party against whom the order or judgment will be used has been given notice and an opportunity to be heard or, in the case of matters properly considered ex parte, whether the respondent will be given notice and an opportunity to be heard within a reasonable time;

~~(b2) the party was not afforded fundamental due process rights~~whether the order or judgment appears valid on its face and, if possible to determine, whether it remains in effect;

~~(3) whether the tribal court possessed subject matter jurisdiction and jurisdiction over the person of the parties;~~

~~(4) whether the issuing tribal court was a court of record;~~

~~(c5) whether the tribal court order or judgment was obtained by fraud, duress, or coercion;~~

~~(6) whether the order or judgment was obtained through a process that afforded fair notice, the right to appear and compel attendance of witnesses, and a fair hearing before an independent magistrate;~~

~~(d7) whether the tribal court order or judgment contravenes the public policy of this state; or~~

~~(e8) the tribal court does not reciprocally provide for recognition and enforcement of orders and judgments of the courts of this state.~~whether the order or judgment is final under the laws and procedures of the rendering court, unless the order is a non-criminal order for the protection or apprehension of an adult, juvenile or child, or another type of temporary, emergency order;

~~(9) whether the tribal court reciprocally provides for recognition and implementation of orders, judgments and decrees of the courts of this state; and~~

~~(10) any other factors the court deems appropriate in the interests of justice.~~

~~**(b) Procedure.**~~

~~The court shall hold such hearing, if any, as it deems necessary under the circumstances.~~

~~(Added effective January 1, 2004.)~~

Advisory Committee Comment - 2007 Amendment

Introduction. Rule 10 is a new rule intended to provide a starting point for enforcing tribal court orders and judgments where recognition is mandated by state or federal law (Rule 10.01), and to establish factors for determining the effect of these adjudications where federal or state statutory law does not do so (Rule 10.02).

The rule applies to all tribal court orders and judgments and does not distinguish between tribal courts located in Minnesota and those sitting in other states. The only limitation on the universe of determinations is that they be from tribal courts of a federally-recognized Indian tribe. These courts are defined in 25 U.S.C. section 450b(e), and a list is published by the Department of the Interior, Bureau of Indian Affairs. See, e.g., 70 FED. REG. 71194 (Nov. 25, 2005).

*Tribal court adjudications are not entitled to full faith and credit under the United States Constitution, which provides only for full faith and credit for "public acts, records, and judicial proceedings of every other state." U.S. CONST. Art IV, section 1. But state and federal statutes have conferred the equivalent of full faith and credit status on some tribal adjudications by mandating that they be enforced in state court. Where such full faith and credit is mandatory, a state does not exercise discretion in giving effect to the proper judgments of a sister state. *Baker v. Gen. Motors Corp.*, 522 U.S. 222, 233 (1998) ("A final judgment in one State, if rendered by a court with adjudicatory authority over the subject matter and persons governed by the judgment, qualifies for recognition throughout the land.") Through full faith and credit, a sister state's judgment is given *res judicata* effect in all other states. See, e.g., *id.*; *Hansberry v. Lee*, 311 U.S. 32, 42 (1940).*

The enforcement in state court of tribal court adjudications that are not entitled to the equivalent of full faith and credit under a specific state or federal statute, is governed by the doctrine of comity. Comity is fundamentally a discretionary doctrine. It is rooted in the court's inherent powers, as was early recognized in United States jurisprudence in Hilton v. Guyot, 159 U.S. 113, 163-164 (1895), where the court said: "No law has any effect, of its own force, beyond the limits of the sovereignty from which its authority is derived. The extent to which the law of one nation, as put in force within its territory, whether by executive order, by legislative act, or by judicial decree, shall be allowed to operate within the dominion of another nation, depends upon what our greatest jurists have been content to call 'the comity of nations.'"

This inherent power was recognized in Minnesota in Traders' Trust Co. v. Davidson, 146 Minn. 224, 227, 178 N.W. 735, 736 (1920) (citing Hilton, 159 U.S. at 227) where the court said: "Effect is given to foreign judgments as a matter of comity and reciprocity, and it has become the rule to give no other or greater effect to the judgment of a foreign court than the country or state whose court rendered it gives to a like judgment of our courts." In Nicol v. Tanner, 310 Minn. 68, 75-79, 256 N.W.2d 796, 800-02 (1976) (citing the Restatement (Second) of Conflicts of Laws section 98 (1971)), the court further developed the doctrine of comity when it held that the statement in Traders' Trust Co. that enforcement required a showing of reciprocity was dictum; that "reciprocity is not a prerequisite to enforcement of a foreign judgment in Minnesota;" and that the default status of a foreign judgment "should not affect the force of the judgment."

Statutory Mandates. Rule [10.01](#) reflects the normal presumption that courts will adhere to statutory mandates for enforcement of specific tribal court orders or judgments where such a statutory mandate applies. Federal statutes that do provide such mandates include:

1. Violence Against Women Act of 2000, 18 U.S.C. section 2265 (2003) (full faith and credit for certain protection orders).

2. Indian Child Welfare Act, 25 U.S.C. section 1911(d) (2003) ("full faith and credit" for certain custody determinations).

3. *Full Faith and Credit for Child Support Orders Act, 28 U.S.C. section 1738B(a) (2003)* ("shall enforce" certain child support orders and "shall not seek or make modifications ... except in accordance with [certain limitations]").

In addition to federal law, the Minnesota Legislature has addressed custody, support, child placement, and orders for protection. The Minnesota Legislature adopted the Uniform Child Custody Jurisdiction and Enforcement Act, Minnesota Statutes 2002, sections [518D.101-518D.317](#), which: (1) requires recognition and enforcement of certain child custody determinations made by a tribe "under factual circumstances in substantial conformity with the jurisdictional standards of" the Act; and (2) establishes a voluntary registration process for custody determinations with a 20-day period for contesting validity. Minnesota Statutes 2002, sections [518D.103](#) and [518D.104](#) (not applicable to adoption or emergency medical care of child; not applicable to extent ICWA controls). In addition, the Minnesota Legislature has adopted the Uniform Interstate Family Support Act, Minnesota Statutes 2002, sections [518C.101](#) to [518C.902](#), which provides the procedures for enforcement of support orders from another state ["state" is defined to include an Indian tribe, Minnesota Statutes 2002, section 518C.101, paragraph (s), clause (1)] with or without registration, and enforcement and modification after registration. The Minnesota Legislature has also adopted the Minnesota Indian Family Preservation Act, Minnesota Statutes 2002, sections [260.751](#) to [260.835](#), which provides, among other things, that tribal court orders concerning child placement (adoptive and pre-adoptive placement, involuntary foster care placement, termination of parental rights, and status offense placements) shall have the same force and effect as orders of a court of this state. Minnesota Statutes 2002, section [260.771](#), subdivision 4. In 2006 the Minnesota Legislature adopted Minnesota Statutes 2002, section [518B.01, subdivision 19a](#), which requires enforcement of certain foreign or tribal court orders for protection.

The facial validity provision in Rule [10.01\(b\)\(2\)](#) fills in a gap in state law. Minnesota Statutes 2002, section [518B.01](#), subdivision 14, paragraph (e), authorizes an arrest based on probable cause of violation of tribal court order for protection; although this law includes immunity from civil suit for a peace officer acting in good faith and exercising due care, it does not address facial validity of the order. Similar laws in other jurisdictions address this issue. See,

e.g., 720 ILL. COMP. STAT. 5/12-30(a)(2) (Supp. 2003); OKLA. STAT. tit. 22 section 60.9B(1) (2003); WISC. STAT. section 813.128(1) (2001-02).

The Minnesota Legislature has also addressed enforcement of foreign money judgments. The Minnesota Uniform Foreign Country Money-Judgments Recognition Act, Minnesota Statutes 2002, section [548.35](#), creates a procedure for filing and enforcing judgments rendered by courts other than those of sister states. Tribal court money judgments fall within the literal scope of this statute and the statutory procedures therefore may guide Minnesota courts considering money judgments. Cf. Anderson v. Engelke, 954 P.2d 1106, 1110-11 (Mont. 1998) (dictum) (statute assumed to allow enforcement by state courts outside of tribal lands, but question not decided). In general, money judgments of tribal courts are not entitled to full faith and credit under the Constitution, and the court is allowed a more expansive and discretionary role in deciding what effect they have. Rule [10.02](#)(a) is intended to facilitate that process.

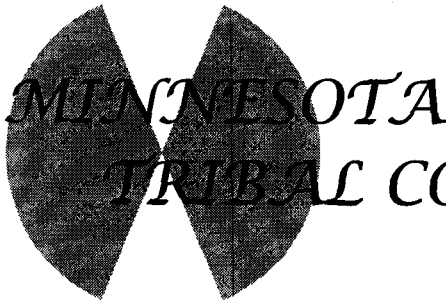
Discretionary Enforcement: Comity. *Where no statutory mandate expressly applies, tribal court orders and judgments are subject to the doctrine of comity. Rule [10.02](#)(a) does not create any new or additional powers but only begins to describe in one convenient place the principles that apply to recognition of orders and judgments by comity.*

Comity is also an inherently flexible doctrine. A court asked to decide whether to recognize a foreign order can consider whatever aspects of the foreign court proceedings it deems relevant. Thus Rule [10.02](#)(a) does not dictate a single standard for determining the effect of these adjudications in state court. Instead, it identifies some of the factors a Minnesota judge may consider in determining what effect such a determination will be given. Rule [10.02](#)(a) does not attempt to define all of the factors that may be appropriate for consideration by a court charged with determining whether a tribal court determination should be enforced. It does enumerate many of the appropriate factors. It is possible in any given case that one or more of these factors will not apply. For example, reciprocity is not a pre-condition to enforceability generally, Nicol, 310 Minn. at 75-79, 256 N.W.2d at 800-02, but may be relevant in some circumstances. Notice of the proceedings and an opportunity to be heard (or the prospect of notice and right to hearing in the case of ex parte matters) are fundamental parts of procedural fairness in state and federal

courts and are considered basic elements of due process; it is appropriate at least to consider whether the tribal court proceedings extended these rights to the litigants. The issue of whether the tribal court is "of record" may be important to the determination of what the proceedings were in that court. A useful definition of "of record" is contained in the Wisconsin statutes. WIS. STAT. section 806.245(1)(c) (2001-02); see also WIS. STAT. section 806.245(3) (2001-02) (setting forth requirements for determining whether a court is "of record"). The rule permits the court to inquire into whether the tribal court proceedings offered similar protections to the parties, recognizing that tribal courts may not be required to adhere to the requirements of due process under the federal and state constitutions. Some of the considerations of the rule are drawn from the requirements of the Minnesota Uniform Enforcement of Foreign Judgments Act, Minnesota Statutes 2002, sections [548.26](#) to [548.33](#). For example, contravention of the state's public policy is a specific factor for non-recognition of a foreign state's judgment under Minnesota Statutes 2002, section [548.35](#), subdivision 4, paragraph (b), clause (3); it is carried forward into Rule [10.02](#)(a)(7). Inconsistency with state public policy is a factor for non-recognition of tribal court orders under other states' rules. See MICH. R. Civ. P. 2.615(C)(2)(c); N.D. R. CT. 7.2(b)(4).

Hearing. Rule [10.02](#)(b) does not require that a hearing be held on the issues relating to consideration of the effect to be given to a tribal court order or judgment. In some instances, a hearing would serve no useful purpose or would be unnecessary; in others, an evidentiary hearing might be required to resolve contested questions of fact where affidavit or documentary evidence is insufficient. The committee believes the discretion to decide when an evidentiary hearing is held should rest with the trial judge.

JUL 09 2002



MINNESOTA
TRIBAL COURT / STATE COURT FORUM

FILED

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July 9, 2002

The Honorable Kathleen Blatz
Chief Justice of the Minnesota Supreme Court
Minnesota Judicial Center
25 Constitution Avenue
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Dear Ms. Chief Justice:

Enclosed please find an original and 12 copies of an Amended Petition for Adoption of a Rule of Procedure for the Recognition of Tribal Court Orders and Judgments to be promulgated under the Minnesota General Rules of Practice for the District Courts.

Please let us know if you need any further information in connection with this Petition.

Yours very truly,

Honorable Henry M. Buffalo, Jr.
Minnesota Tribal Courts Association, Chair

Honorable Robert H. Schumacher
State Court Committee, Chair

Enclosures

JUL 09 2002

FILED

No. _____

STATE OF MINNESOTA
IN SUPREME COURT

IN RE: RULES OF PROCEDURE
FOR THE RECOGNITION OF TRIBAL
COURT ORDERS AND JUDGMENTS

AMENDED PETITION FOR ADOPTION OF A
RULE OF PROCEDURE FOR THE
RECOGNITION OF TRIBAL COURT
ORDERS AND JUDGMENTS

June 26, 2002

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IN THE SUPREME COURT
OF THE STATE OF MINNESOTA

)	No.
)	
IN RE: RULES OF PROCEDURE)	AMENDED PETITION FOR
FOR THE RECOGNITION OF)	ADOPTION OF A RULE OF
TRIBAL COURT ORDERS AND)	PROCEDURE FOR THE
JUDGMENTS)	RECOGNITION OF TRIBAL COURT
)	ORDERS AND JUDGMENTS
)	

Henry M. Buffalo, Jr., Chair of the Minnesota Tribal Court Association, and Robert H. Schumacher, Chair of the State Court Committee, petition this Court on behalf of the Minnesota Tribal Court/State Court Forum to adopt a proposed rule of procedure to provide a mechanism for the recognition and enforcement of tribal court orders and judgments by Minnesota state courts.

The Proposed Rule is attached as Appendix A.¹

¹ The original Petition was filed with this Court on the 11th day of April, 2002. The Petition was formally amended on May 22, 2002, to include a reciprocity element in Section A(5). The Petition was subsequently amended at the request of the Conference of Chief Judges on June 26, 2002, to include a reference to due process in Section A(3).

HISTORY

In the summer of 1996, several state court judges, tribal court judges, and lawyers met informally to explore the possibility of initiating a regular exchange of information and a court-to-court visitation between State Courts and Tribal Courts to increase the minimal exchanges taking place between jurisdictions. The first joint meeting of twelve Tribal Court representatives and members of various levels of the State judiciary convened on July 18, 1997, at the Prairie Island Mdewakanton Dakota Community Tribal Court. This group, now called the Tribal Court/State Court Forum (hereinafter “the Forum”), has continued to meet on a quarterly basis to develop a more structured approach to enhancing communications and reducing confusion arising from inter-jurisdictional exchange of orders.

Several working groups within the Forum have met regularly to examine specific issues common to the various courts. There is general agreement that such communication has helped the respective jurisdictions to more easily deal with cross-border issues. However, the Forum participants have focused on developing a proposal for the enforcement of a full faith and credit rule by the Minnesota Supreme Court that would provide much needed assistance to judges, lawyers and litigants in this complicated area of law. Since December 2000, the participants in the Forum have specifically examined the most efficient way to reduce difficulties encountered in inter-jurisdictional enforcement of orders and judgments. *See Appendix B.*

The rule proposed to this Court found unanimous support in both the Minnesota Tribal Courts Association and the State Court Committee and is a product of a cooperative effort between committees.

GROUNDNS FOR ADOPTION OF THE RULE OF PROCEDURE

The Minnesota Tribal Court/State Court Forum proposes that Minnesota adopt a Full Faith and Credit Rule to ensure that tribal court orders and judgments are afforded the appropriate level of respect and that full faith and credit is acknowledged equally by all Minnesota district courts.

Through retained sovereignty, Indian tribes possess adjudicatory authority over disputes involving persons and property within the subject matter and personal jurisdiction of the court. Many tribes' powers to create problem-solving fora are acknowledged by tribal constitutions enacted pursuant to Indian Reorganization Act of 1934, 25 U.S.C. §§ 461-469. Not all tribes chose to organize under the Indian Reorganization Act, instead enacting their organic documents and creating judicial systems solely on the basis of their inherent sovereign authority. Determining tribal court jurisdiction can be a complex matter. Factors subject to scrutiny in such analysis include the identity of parties as tribal members or non-members, the nature of the action or transaction, the situs of the action or transaction, and any limitations imposed on tribal court jurisdiction by the tribe itself or by federal law.

Judgment enforcement is important to the people who live and go about their business on Indian reservations. It touches the lives of both non-Indian and Indian people quite directly off and on reservations.

It has been widely reported that the tribal-state Coordinating Council of the Conference of Chief Justices of State Supreme Courts found that tribal-state jurisdictional disputes "had arisen most frequently in the areas of the Indian Child Welfare Act, domestic relations, contract law as well as taxation, hunting and fishing, and certain other areas." Arizona Court Forum: "Building Cooperation" (1990). The Arizona Court Forum was part of a project of the Conference of Chief

justices of State Supreme Courts, the National Center for State Courts, and the State Justice Institute.

Several states with large Indian populations have developed court rules to establish a consistent process for recognizing tribal orders and judgments. Both Wisconsin and Michigan, for instance, provide full faith and credit to tribal orders and judgments by court rule. Washington has similarly established reciprocity by court rule. Some states have established full faith and credit through legislation. The Oklahoma Supreme Court promulgated a full faith and credit rule pursuant to legislative authorization. *See* Appendix C.

There now exist more than 560 federally-recognized tribes in the United States. Each of those tribes has long-standing traditional means of dispute resolution, typically not constrained by an adversarial system but directed more by consensus. The twelve tribal courts currently operating within the geographical confines of Minnesota make up a part of the 295 tribal court systems that Indian nations and Alaska Native villages have established.

The well-established tribal courts now operating within the State of Minnesota include (along with their date of creation): the 1854 Treaty Court (1989); the Fond Du Lac Tribal Court (historical origin); the Leech Lake Band of Ojibwe Tribal Court (1971); the Bois Forte Tribal Court (1975); the White Earth Band of Chippewa Tribal Court (1978); the Mille Lacs Band of Ojibwe Court of Central Jurisdiction (1983); the Grand Portage Tribal Court (1997); the Tribal Court of the Shakopee Mdewakanton Sioux (Dakota) Community (1988); the Lower Sioux Community in Minnesota Tribal Court (1993); the Upper Sioux Community Tribal Court (1993); the Prairie Island Mdewakanton Community Dakota Tribal Court (1994); and the Red Lake Nation Tribal Court (1884). *See* Appendix D.

Full faith and credit oftentimes critically intersects with people's daily lives. It is not uncommon for confusion regarding the enforceability of an order to cause potentially dangerous situations. In one recent case, an emergency child protection order, including a custody directive for a cocaine-addicted newborn, was not acknowledged by a hospital in the metropolitan area because it was a tribal court order. Without recognition of the order the child would be released to its addicted mother. The tribal court order could not be readily enforced in the county of origin because compliance with the Uniform Enforcement of Foreign Judgments Act of Minnesota was required by the district court. In a second case, originating on a different reservation in a different county, a hold and protect order for two delinquent teenagers who were on the run was not enforced by local police because they were instructed that they did not have to enforce a tribal court order. The district court of that county also understood that the only mechanism for enforcement of the order was the Uniform Enforcement of Foreign Judgments Act of Minnesota. As a result, the teenagers were left without protection for an additional month. These circumstances arose notwithstanding the full faith & credit direction of the Indian Child Welfare Act. 25 U.S.C. § 1911(d).

Recently the Mille Lacs Band of Ojibwe Court of Central Jurisdiction declined to grant relief, either by full faith and credit or comity, in an action seeking enforcement of a state court order to garnish wages of the defendant, a Mille Lacs Band employee. The Court wrote that as a matter of comity, state court judgments should be honored and enforced routinely, provided the original court had clear jurisdiction to issue the judgment and provided that it did not violate the public policy of that tribe. The Court further commented that unless a state court judgment violates tribal law, the comity approach should be the general rule. The Court, however, cited a Mille Lacs Band statute that directed the court to grant full faith and credit to civil judicial proceedings of [state] courts ". ..that have enacted a full faith and credit provision in their Constitution or Statutes or, on a case-by-

case basis, have granted full faith and credit to judicial determinations of the Court of Central Jurisdiction." The Court found no provision of the Minnesota Constitution or Minnesota Statutes that required state courts to honor judgments from the Mille Lacs Court or any other tribal court and therefore the enforcement of judgment was denied.

The intent of the proposed rule is to ensure that tribal court orders are afforded the requisite respect due any other jurisdiction and that full faith and credit is acknowledged equally by all Minnesota district courts. Under the proposed rule, a tribal court order or judgment would be given full faith and credit unless: personal or subject matter jurisdiction were lacking; the tribal court order or judgment was obtained by fraud, duress, coercion, or absent fair notice and hearing; or if the order or judgment was not final under the laws of the rendering court, with the exception of certain protective orders as noted in the proposed rule.

Many tribal courts within the geographical confines of the State of Minnesota already have enabling legislation or rules that guide their decisions regarding the grant of full faith and credit to a state court judgment or order. Within many of those jurisdictions, full faith and credit is granted to the same extent another jurisdiction extends full faith and credit to that tribal court. The following jurisdictions have their own distinct legislation or rules that speak directly to the grant of full faith and credit to the orders and judgments of other tribal, state or federal courts: the Mille Lacs Band of Ojibwe Court of Central Jurisdiction; the Grand Portage Tribal Court; the White Earth Band of Chippewa Tribal Court; the Leech Lake Band of Ojibwe Tribal Court; the Upper Sioux Community Tribal Court; the Tribal Court of the Shakopee Mdewakanton Sioux (Dakota) Community; the Lower Sioux Community in Minnesota Tribal Court; and the Prairie Island Mdewakanton Community Dakota Tribal Court. Bois Forte Tribal Court representatives and Band officials have met for some time with their St. Louis County counterparts to facilitate cooperative efforts in the

enforcement of orders for protection, off-reservation placement of delinquent youth, implementation of the Indian Child Welfare Act, and arrest warrant recognition. Many of the other 295 tribal court systems of other Indian nations and Alaska Native villages also have rules or statutes regarding the enforcement of orders and judgments.

CONCLUSION

Adoption of the proposed rule would provide guidance for Minnesota courts and would improve communication and understanding between state and tribal court jurisdictions. With twelve established tribal courts and an Indian resident reservation population of well over 20,000 tribal members, interaction among state and tribal courts will benefit directly from the adoption of the proposed rule. Minnesota state court systems, and tribal court systems both within and without the geographical confines of the state of Minnesota, will be able to execute their respective functions among jurisdictions more effectively with enhanced cooperation and with clear guidance from this Court to the lower state courts regarding full faith and credit.

The proposed rule is the result of substantial work and compromise by the various entities represented on the Minnesota Tribal Court/State Court Forum. Petitioners request that this Court adopt a rule of procedure for granting full faith and credit to tribal court orders and judgments.

RESPECTFULLY SUBMITTED this 26th day of June, 2002.

MINNESOTA TRIBAL COURT/STATE COURT FORUM



HONORABLE HENRY M. BUFFALO, JR.
Chair, Minnesota Tribal Court Association



HONORABLE ROBERT H. SCHUMACHER
Chair, State Court Committee

APPENDIX A: PROPOSED RULE

A) **Recognition.** A judgment, decree, order, apprehension order, protection order, warrant, subpoena, record or other judicial act of a tribal court of a federally-recognized Indian tribe, as defined in 25 U.S.C. § 450b(e)¹, is presumed valid and enforceable and shall be given full faith and credit by the courts of the State of Minnesota. To overcome the presumption, an objecting party must demonstrate that:

- 1) the tribal court lacked personal or subject matter jurisdiction; or
- 2) the order or judgment was obtained by fraud, duress, or coercion; or
- 3) the order or judgment was not obtained through a process that afforded fair notice and a fair hearing; or
- 4) the order or judgment is not final under the laws and procedures of the rendering court, unless the order is a non-criminal order for the protection or apprehension of an adult, juvenile or child, or another type of temporary, emergency order.

¹ The 25 U.S.C. § 450b(e) definition of an Indian tribe is codified in the following Minnesota Statutes:

M.S.A. § 626.93 MINNESOTA STATUTES ANNOTATED CRIMINAL PROCEDURE CHAPTER 626. TRAINING; INVESTIGATION, APPREHENSION; REPORTS TRIBAL PEACE OFFICERS 626.93 Law enforcement authority; tribal peace officers;

M.S.A. § 254A.02 MINNESOTA STATUTES ANNOTATED PUBLIC WELFARE AND RELATED ACTIVITIES CHAPTER 254A. TREATMENT FOR ALCOHOL AND DRUG ABUSE 254A.01.Definitions;

M.S.A. § 518D.102 MINNESOTA STATUTES ANNOTATED DOMESTIC RELATIONS CHAPTER 518D. UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT GENERAL PROVISIONS 518D.104. Application to Indian Tribes;

M.S.A. § 260.755 MINNESOTA STATUTES ANNOTATED PUBLIC WELFARE AND RELATED ACTIVITIES CHAPTER 260. JUVENILES MINNESOTA INDIAN FAMILY PRESERVATION ACT 260.755. Definitions;

M.S.A. § 462A.03 MINNESOTA STATUTES ANNOTATED LOCAL GOVERNMENT POLICE POWERS CHAPTER 462A. HOUSING FINANCE AGENCY 462A.03. Definitions;

M.S.A. § 260B.007 MINNESOTA STATUTES ANNOTATED PUBLIC WELFARE AND RELATED ACTIVITIES CHAPTER 260B. DELINQUENCY GENERAL PROVISIONS 260B.007 Definitions;

M.S.A. § 268.0111 MINNESOTA STATUTES ANNOTATED ECONOMIC SECURITY CHAPTER 268. DEPARTMENT OF ECONOMIC SECURITY 268.035. Definitions.

B) Procedures.

- 1) **Money judgments.** Money judgments filed for full faith and credit under this rule are subject to the notice of filing, stay of enforcement, and fee provisions contained in Minn. Stat. § 548.26 to § 548.33. Other judgments or judicial acts are subject to those provisions only to the extent practicable, and not to the extent that alternate procedures are available under this Rule.
- 2) **Emergency orders.**
 - a) Any order for protection issued by any Tribal jurisdiction, consistent with the Violence Against Women Act of 1994, shall be accorded full faith and credit by the Courts of Minnesota pursuant to the provisions contained in the Violence Against Women Act, Pub. L. No. 103-322 (codified at 18 U.S.C. § 2265).
 - b) Non-criminal tribal court orders for the protection or apprehension of an adult, juvenile or child, and other emergency orders may be granted full faith and credit under the following conditions and shall not be subject to the provisions of Minn. Stats. § 548.26 to § 548.33:
 - i) to obtain full faith and credit for such orders, the tribal court administrator or clerk shall file such orders with the court administrator of any county; and
 - ii) the court administrator of any county shall stamp the orders as filed in the district court and then forward the file-stamped order to the local law enforcement agencies, and to the tribal court administrator.
 - c) Once a non-criminal tribal court order for the protection or apprehension of an adult, juvenile or child, or other emergency order is stamped as filed in a district court, it shall be enforced in the same manner as an order issued by a Minnesota court.
 - d) For the sole purposes of this subsection, filing by facsimile shall be permitted.

C) Exceptions.

- 1) **Federal Law.** If federal law, including but not limited to the following Acts, requires that an order or judgment of a tribal court be given full faith and credit, then federal law and not this Rule shall govern the manner in which full faith and credit is given: the Indian Child Welfare Act (25 U.S.C. §1901-1963); the Violence Against Women Act (18 U.S.C. §2265); and the Full Faith and Credit for Child Support Orders Act (28 U.S.C. §1738B). If

federal law does not specify the procedures by which full faith and credit shall be given, then the procedures established by this Rule shall apply.

- 2) **Criminal Orders.** This Rule shall not affect the criminal orders issued by the Red Lake Band of Chippewa. Neither shall it affect the criminal orders issued by the Bois Forte Band of the Minnesota Chippewa Tribe or other Tribes or Bands exercising criminal jurisdiction consistent with applicable federal law. Additionally, this Rule shall not affect the co-operative practices voluntarily established among Tribal jurisdictions and the State or counties thereof for the enforcement of criminal orders.

APPENDIX B: TRIBAL COURT/STATE COURT FORUM

STATE COURT COMMITTEE

Honorable Robert H. Schumacher, Chair
Minnesota Court of Appeals

Honorable Thomas Bibus
First Judicial District

Honorable Robert Blaeser
Fourth Judicial District

Honorable Bruce Christopherson
Eighth Judicial District

Honorable James Clifford
Tenth Judicial District

Honorable Lawrence Cohen
Retired, Second Judicial District

Honorable John Oswald
Sixth Judicial District

Honorable David Peterson
Fifth Judicial District

Honorable Steve Ruble
Seventh Judicial District

Honorable John Solien
Ninth Judicial District

Honorable Rex D. Stacey
First Judicial District

Honorable Robert Walker
Fifth Judicial District

MINNESOTA TRIBAL COURT ASSOCIATION

Honorable Henry M. Buffalo, Jr., Chair
Tribal Court of the Shakopee Mdewakanton Sioux
(Dakota) Community

Honorable Paul Day
Mille Lacs Band of Ojibwe Court of
Central Jurisdiction

Honorable Anita Fineday
Grand Portage Tribal Court
White Earth Band of Chippewa Tribal Court

Joseph F. Halloran, Esq.
Jacobson, Buffalo, Schoessler & Magnuson, Ltd.

Vanya S. Hogen, Esq.
Faegre & Benson, L.L.P.

Honorable Wanda L. Lyons
Red Lake Nation Tribal Court

Honorable John Jacobson
Tribal Court of the Shakopee Mdewakanton Sioux
(Dakota) Community

Jessica L. Ryan, Esq.
BlueDog, Olson & Small, P.L.L.P.

Honorable Lenor A. Scheffler
Upper Sioux Community Tribal Court

Honorable Tom Sjogren
1854 Treaty Court

Honorable Andrew M. Small
Prairie Island Mdewakanton Dakota Community
Tribal Court
Lower Sioux Community in Minnesota Tribal
Court

Honorable Margaret Treuer
Bois Forte Tribal Court
Leech Lake Band of Ojibwe Tribal Court

APPENDIX C: SURVEY OF STATE APPLICATION OF FULL FAITH AND CREDIT TO TRIBAL COURT JUDGMENTS

STATE	COURT RULES	LEGISLATION	CASE LAW
Alaska		ALASKA STAT. § 25.23.160 Recognition of foreign decree affecting adoption [see <i>Hernandez v. Lambert</i> , which notes that this section would afford full faith and credit to tribal court adoption orders] (1974)	<u>Hernandez v. Lambert</u> , 951 P.2d 436, 439 n.4 (Alaska 1998) (acknowledging superior court judge’s determination that Alaska native communities afforded federal recognition as Indian tribes could assert jurisdiction over adoptions, and such orders are entitled to full faith & credit under 25 U.S.C. § 1911(d), and alternatively, even if tribal court lacked “formal jurisdiction,” its order would be entitled to full faith and credit under Alaska Stat. § 25.23.160) <u>John v. Baker</u> , 982 P.2d 738 (Alaska 1999) (state and tribal courts have concurrent jurisdiction in child custody matters; remand to superior court required for application of comity doctrine to tribal court decision awarding shared custody)
Arizona	17B A.R.S. Tribal Court Involuntary Commitment Orders, Rules 1-6 (1994)	ARIZ. REV. STAT. § 12-136 Indian tribal courts; involuntary commitment orders; recognition (1992)	<u>Brown v. Babbit Ford</u> , 571 P.2d 689 (1997) (in action for penalties in repossession proceeding on Navajo reservation, court held that state courts are not required to give full faith & credit to enactments of tribal council; though comity should be extended if enactments are not contrary to state public policy, parties had by contract excluded possibility that it would be affected by tribal resolution).
Arkansas		ARK. STAT. § 9-15-302 Full faith and credit. [Domestic abuse; tribal court protection orders] (1995)	
California			<u>People v. Superior Court of Kern County</u> , 274 Cal. Rptr. 586 (1990) (witness request ordered by tribal court entitled to recognition under Uniform Act to Secure Attendance of Witnesses From Without the State in Criminal Proceedings)
Colorado		CO. STAT. § 24-61-102 Taxation compact between the Southern Ute Indian tribe, La Plata County, and the State of Colorado (1996)	

Connecticut			<u>Mashantucket Pequot Gaming Enterprise v. DiMasi</u> , 25 Conn. L. Rptr. 474 (Conn. Super Ct. 1999) (judgment of tribal court enforceable in state court under principle of comity)
Idaho			<u>Sheppard v. Sheppard</u> , 655 P.2d 895 (1982) (full faith and credit to tribal court adoption decree)
Maryland		MD. CODE ANN., Family Law § 4-508.1 Out-of-state protective orders (1996)	
Michigan	M.C.R. 2.615 Enforcement of Tribal Judgments (1996) M.C.R. 2.112 Pleading Special Matters [requiring particularity in pleadings alleging existence of tribal court judgment or tribal law] (1996)		
Minnesota		MINN. STAT. § 260.771 Child Placement Proceedings; subd. 4 Effect of tribal court placement order [tribal court custody orders have same force and effect as state court orders] (1999; formerly codified at MINN. STAT. § 257.354)	<u>Desjarlait v. Desjarlait</u> , 379 N.W.2d 139 (1985) (declining to accord comity or full faith and credit to tribal court custody order) <u>Welfare of R.I. et al.</u> , 402 N.W.2d 173 (Minn. Ct. App. 1987) (district court had jurisdiction to consider Indian child custody proceedings and properly transferred jurisdiction to tribal court)
Montana			<u>Whippert v. Blackfeet Tribe</u> , 260 Mont. 93, 107, 859 P.2d 420, 428 (1993) (reaffirming validity of tribal court judgment on loan default) <u>Dav v. Montana</u> , 272 Mont. 170, 900 P.2d 296 (1995) (tribal child support order and judgment enforceable by state's Child Support Enforcement Division without initiating action in state district court) <u>Anderson v. Engelke</u> , 287 Mont. 283, 954 P.2d 1106 (1997) (state court could not enforce tribal court judgment within exterior boundaries of reservation via state law or Uniform Foreign Money-Judgments Recognition Act because such enforcement would undermine authority of tribal courts over reservation affairs and infringe on right of Indians to govern themselves)

Nebraska		NEB. REV. STAT. § 28-311.10 Foreign harassment protection order; enforcement (1998)	<u>Walksalong v. Mackey</u> , 250 Neb. 202, 549 N.W.2d 384 (1993) (affirming denial of full faith & credit to tribal custody order because tribe lacked jurisdiction over child at time of custody determination)
New Mexico		N.M. STAT. § 40-13-6 Service of order; duration: penalty; remedies not exclusive [Domestic Affairs; tribal orders of protection] (1999)	<u>Jim v. CIT Financial</u> , 87 N.M. 362, 533 P.2d 751 (1975) (Navajo Nation is a “territory” within meaning of federal statute and therefore entitled to full faith & credit, but choice of law determination must be made) <u>Spear v. McDermott</u> , 121 N.M. 609, 916 P.2d 228 (Ct. App. 1996) (Ex parte order of Cherokee Nation court enforceable in state court civil contempt action) <u>Halwood v. Cowboy Auto Sales, Inc.</u> , 124 N.M. 77, 946 P.2d 1088 (Ct. App. 1997) (tribal court punitive damages award entitled to both comity and full faith & credit)
North Carolina		N.C. STAT. 50B-4(d) Enforcement of orders [Domestic violence] (rev. 1999)	<u>Jackson County Child Support Enforcement Agency v. Smoker</u> , 341 N.C. 182, 459 S.E.2d 789 (1995) (state courts could not assume jurisdiction over county’s action seeking reimbursement of AFDC and reasonable child support because tribal court had already assumed jurisdiction and issued order, and doing so would infringe on tribal sovereignty)
North Dakota	N.D.R.Ct. 7.2 Recognition of Tribal Court Orders and Judgments (1995)	N.D. STAT. § 27-01-09 Reciprocal recognition of certain state and tribal court judgments, decrees, and orders - Conditions (1995)	<u>Fredericks v. Eide-Kirschmann Ford</u> , 462 N.W.2d 164 (N.D. 1990) (tribal court judgment enforceable in state court as matter of comity)
		N.D. STAT. § 14-07.1-02.2 Foreign domestic violence protection orders - Full faith and credit recognition and enforcement (1999)	
Oklahoma	Ok. Dist. Ct. Rule 30 Standards for Recognition of Judicial Proceedings in Tribal Courts - Full Faith and Credit (1994)	OKLA. STAT. § 728 Standards for recognizing records and proceedings of tribal courts - Reciprocity (1992)	<u>Barrett v. Barrett</u> , 878 P.2d 1051 (Okla. 1994) (tribal court divorce judgment entitled to full faith & credit in state courts, but wife entitled to present evidence showing she was induced to consent to personal jurisdiction of tribal court through husband’s extrinsic fraud)
Oregon			<u>Marriage of Red Fox</u> , 23 Or. App. 393, 542 P.2d 918 (1975) (tribal court divorce decree barred subsequent divorce action in state court)

South Carolina		Catawba Indian Claims Settlement Act S.C. STAT. § 27-16-80 Tribal courts - original and appellate civil; full faith and credit [...] (rev. 1993)	
South Dakota		S.D. STAT. § 1-1-25 When order or judgment of tribal court may be recognized in state courts (1986)	<u>Red Fox v. Hettich</u> , 494 N.W.2d 638 (S.D. 1993) (tribal member who obtained tribal court judgment against nonmember failed to establish in state court that tribal court had authority to adjudicate claim, so that tribal judgment could not be enforced) <u>Gesinger v. Gesinger</u> , 531 N.W. 2d 17 (S.D. 1995) (comity properly granted to tribal court judgment even though still on appeal)
Virginia	Va. R. Civ. P. Code § 19.2-152.10 Protective order in cases of stalking (1997; rev. 1999)	VA. STAT. § 16.1-279.1 Protective order in cases of family abuse (1996)	
Washington	Wa. R. Super. Ct. 82.5 Tribal Court Jurisdiction [enforcement of Indian tribal court orders, judgments or decrees] (1995)		<u>Adoption of Buehl</u> , 87 Wash.2d 649, 555 P.2d 1334 (1976) (tribal court custody order entitled to full faith & credit because child was domiciled on reservation when made a ward of tribal court and tribe did not intend change of domicile during child's temporary stay in Wash.) <u>City of Yakima v. Aubrey</u> , 85 Wash. App. 199, 931 P.2d 927 (1997) (defendant convicted in state district court of drunk driving on reservation; tribal court order prohibiting defendant from leaving reservation to attend district court hearing was not entitled to full faith and credit because tribal court lacked subject matter jurisdiction since there was no case in controversy in tribal court) <u>Welfare of Benjamin W.E. v. Susan C.</u> , No. 16474-8-III, 1998 WL 289167 (Wash. Ct. App. 1998) (unpublished opinion) (tribal court's use of writ of habeas corpus in child custody proceeding converted to de facto dependency action; because child did not reside on reservation, tribal court writ and order were unenforceable in state court)
West Virginia		W.V. STAT. § 48-2A-3 Jurisdiction; [...] full faith and credit [...] [Domestic relations; tribal court protective order] (1998)	

Wisconsin		<p>WIS. STAT. § 806.245 Indian tribal documents; full faith and credit (1982; rev. 1991, 1995)</p>	<p><u>Teague v. Bad River Band of the Lake Superior Tribe of Chippewa Indians</u>, 229 Wis.2d 581, 599 N.W.2d 911 (Ct. App. 1999) (tribal court's judgment that contracts were unenforceable entitled to full faith and credit) <u>In re Elmer J.K., III</u>, 224 Wis.2d 372, 591 N.W.2d 176 (Ct. App. 1999) (state's prosecution of enrolled juvenile member of Indian tribe for new delinquent act committed off reservation did not undermine or interfere with tribal court's previous order adjudicating juvenile delinquent and thus did not violate full faith & credit or comity or tribal court order)</p>
Wyoming		<p>WY. STAT. § 5-1-111 Full faith and credit for tribal acts and records [accorded to Eastern Shoshone and Northern Arapaho Tribes of the Wind River Reservation] (1994)</p> <p>WY. STAT. § 20-6-202 Definitions [Domestic relations; child support enforcement; tribal court child support order] (rev. 1997)</p>	

APPENDIX D: TRIBAL COURTS IN MINNESOTA

1854 TREATY COURT
4428 Haines Road
Duluth, Minnesota, 55811
Telephone: (218) 722-8907
Facsimile: (218) 722-7003

The 1854 Treaty Court was established in 1989 pursuant to a stipulated settlement of a federal district court action involving the State of Minnesota and the Bois Forte and the Grand Portage Bands of Chippewa Indians regarding disputed hunting, fishing and gathering rights within that area of northeastern Minnesota conveyed to the United States by the Chippewa in the Treaty of 1854 negotiated at La Pointe, Wisconsin. The settlement agreement was ratified by a majority vote of Band members and also approved by the Minnesota legislature.

The court has exclusive civil jurisdiction to hear matters arising under the 1854 Ceded Territory Conservation Code enacted by the tribal governing bodies of the Bois Forte and Grand Portage Bands meeting jointly as the “1854 Authority”. The Code is only applicable to members of those two Bands. Citations alleging conservation violations by Band members within the Ceded Territory may be issued by either 1854 Authority conservation officers or state DNR officers.

Only a handful of alleged violations are heard by the court each year. Hearings are conducted at the Bois Forte Reservation, the Grand Portage Reservation or the Duluth offices of the 1854 Treaty Court. The Court is empowered to impose civil remedial forfeitures, natural resource assessments, order restitution, levy court costs and revoke, suspend or limit the hunting, fishing and gathering privileges of Band members found to have violated code provisions.

JUDGE

Judge Thomas Sjogren received a juris doctor degree from William Mitchell College of Law in 1963, and is admitted to the Bars of the State of Minnesota and the United States District Court for the District of Minnesota. From 1971 through 1978, Judge Sjogren was the assistant county attorney for St. Louis County, Minnesota, and was chief counsel to the county Welfare Board. Judge Sjogren worked for the Indian Legal Assistance Program in Duluth as a staff attorney in addition to his own private practice. In 1989, he was appointed Judge of the 1854 Treaty Court by the governing bodies of the Bois Forte and Grand Portage Bands of Chippewa Indians.

BOIS FORTE TRIBAL COURT
Court Administrator, Lucille Morrison
12907 Palmquist Road, P.O. Box 16
Nett Lake, Minnesota, 55772
Telephone: (218) 757-3462
Facsimile: (218) 757-3166

The Bois Forte Tribal Court was formed in 1947. As a consequence of the retrocession of criminal jurisdiction in 1975 and the assumption of full civil jurisdiction, the Court exercises both misdemeanor criminal jurisdiction and general civil jurisdiction. Matters before the Court are heard in Nett Lake, Minnesota.

JUDGE

Chief Judge Margaret Treuer received a juris doctor degree from Catholic University in 1977, and is admitted to practice before the Bar of the State of Minnesota. From 1983 through 1989, Judge Treuer served as a United States Magistrate (part-time) for the United States District Court for the District of Minnesota. She was the Chief Judge of the Red Lake Nation Tribal Court from 1989 to 1990, and has been the Chief Judge of the Leech Lake Band of Ojibwe Tribal Court from 1998 to the present, and has served as the Chief Judge of the Bois Forte Tribal Court from 1990 to the present. She has served as an adjunct professor at the Hamline University School of Law, and is a member of the White Earth Band of Ojibwe.

FOND DU LAC BAND OF CHIPPEWA TRIBAL COURT

Court Administrator, Dorothy Leifeste

105 University Road

Cloquet, Minnesota, 55270

Telephone: (218) 878-8002

Facsimile: (218) 878-4854

The Fond du Lac Band of Chippewa Tribal Court exercises general civil jurisdiction and serves as the conservation court for the Band as well. Its beginning is of historical origin, spanning a period as far back as the Indian Reorganization Act.

Matters before the Fond du Lac Tribal Court are heard in Cloquet, Minnesota. Appeals from the trial court are taken to the Fond du Lac Court of Appeals, which is comprised of a three-judge panel. The Court of Appeals positions have not yet been filled.

JUDGE

Chief Judge Kurt V. BlueDog has been practicing law for nearly 25 years, specializing in the area of Indian law. After he graduated from the University of South Dakota he served as a Commissioned Officer in the Army paratroopers. Judge BlueDog graduated from the University of Minnesota School of Law in 1977 and was named one of its distinguished alumni in the fall of 2001. He is a member of the State Bars of Minnesota and Wisconsin, several Tribal Courts, the United States Supreme Court and numerous Federal District and Appellate Courts. He has served as a Tribal Court Judge since 1994. Additionally, he has served as an adjunct professor at William Mitchell College of Law and the Hamline University School of Law in St. Paul, Minnesota. Judge BlueDog was born and raised on the Sisseton-Wahpeton Sioux Indian Reservation in South Dakota.

GRAND PORTAGE TRIBAL COURT

Contact: Dana Logan

P.O. Box 428

Grand Portage, Minnesota, 55605

Telephone: (218) 475-2239

The Grand Portage Tribal Court exercises general civil jurisdiction. The Grand Portage Code permits the appointment of deputy judges to serve in the event of a judge's disqualification or recusal. Matters before the Grand Portage Tribal Court are heard in Grand Portage, Minnesota. Appeals from the trial court are taken to the Grand Portage Court of Appeals, which is comprised of the three judges who did not hear the matter at the trial level. The Band also has established a panel of elders that can sit in on any phase of a case at the request of one of the litigants. Cultural causes of action are heard only by a panel of elders.

JUDGES

Chief Judge Anita Fineday received a juris doctor degree from the University of Colorado in 1988, and a master of public affairs degree from Harvard University in 1997, when she was a Bush Foundation Leadership Fellow. She is admitted to the Bars of the State of Minnesota and the United States District Court for the District of Minnesota. Chief Judge Fineday is a member of the White Earth Band of Ojibwe.

Judge Frank Pommersheim received a bachelor of arts degree from Colgate University in 1965, a juris doctor degree from Columbia University in 1968, and a master of public affairs degree from Harvard University in 1998. He is admitted to the Bar of the State of South Dakota and the State of Oregon, and to the Bar of the United States District Court for the District of South Dakota. Judge Pommersheim also serves as a Judge on the Rosebud Sioux Tribe Supreme Court, the Cheyenne River Sioux Tribe Court of Appeals, the Flandreau Santee Tribal Court of Appeals, the Saginaw Chippewa Tribal Court of Appeals, and the Mississippi Band of Choctaw Supreme Court. Judge Pommersheim is a Professor of Law at South Dakota University Law School, and published a nationally noted work of history and law, "Braid of Feathers", in 1994.

Judge Christopher Anderson received a bachelor of arts degree from Macalaster College in 1988, and a juris doctor degree from the University of Wisconsin Law School in 1991. He is admitted to the Bars of the States of Minnesota and Wisconsin, and is a member of the Bois Forte Band of Chippewa.

Judge Mary Al Balber received a juris doctor degree from Hamline University School of Law in 1990. Judge Balber is admitted to the Bar of the State of Minnesota, and to the Bars of the United States District Court for the District of Minnesota, the United States District Court for the Western District of Wisconsin, and the Prairie Island Mdewakanton Dakota Community Tribal Court. Judge Balber is a member of the Red Cliff Band of Chippewa Indians.

LEECH LAKE BAND OF OJIBWE TRIBAL COURT

Court Administrator, Carol White

6530 Highway 2 NW

Cass Lake, Minnesota, 56633

Telephone: (218) 335-3682

Facsimile: (218) 335-3685

The Leech Lake Band of Ojibwe Tribal Court recently expanded its jurisdiction from conservation matters to general civil jurisdiction, including certain traffic matters arising on the Leech Lake Reservation and child welfare matters. The Leech Lake Code permits the appointment of up to three judges. Matters before the Leech Lake Band of Ojibwe Tribal Court are heard at Cass Lake, Minnesota. Appeals from the trial court are taken to the Leech Lake Band of Ojibwe Court of Appeals, which is comprised of a three-judge panel of district judges not sitting at the trial court level and, in the event of disqualification or recusal, the panel may be completed by the appointment of deputy justices.

JUDGES

Chief Judge Margaret Treuer received a juris doctor degree from Catholic University in 1977, and is admitted to practice before the Bar of the State of Minnesota. From 1983 through 1989, Judge Treuer served as a United States Magistrate (part-time) for the United States District Court for the District of Minnesota. She was the Chief Judge of the Red Lake Nation Tribal Court from 1989 to 1990, and has been the Chief Judge of the Bois Forte Tribal Court from 1990 to the present, and has served as the Chief Judge of the Leech Lake Band of Ojibwe Tribal Court from 1998 to the present. She has served as an adjunct professor at Hamline University School of Law, and is a member of the White Earth Band of Ojibwe.

Judge Anita Fineday received a juris doctor degree from the University of Colorado in 1988, and a master of public affairs degree from Harvard University in 1997, when she was a Bush Foundation Leadership Fellow. She is admitted to the Bars of the State of Minnesota and the United States District Court for the District of Minnesota. Judge Fineday is a member of the White Earth Band of Ojibwe.

LOWER SIOUX COMMUNITY IN MINNESOTA TRIBAL COURT

Court Administrator, Carrie Blesener
5001 West 80th Street, Suite 500
Bloomington, Minnesota, 55437
Telephone: (952) 838-2294
Facsimile: (952) 893-0650

The Lower Sioux Community in Minnesota Tribal Court was created in 1993. It has civil jurisdiction over contract, tort, and worker's compensation issues. The Lower Sioux Community Code also provides that final judgments for money damages from state and federal courts will be granted full faith and credit. Matters before the Lower Sioux Community in Minnesota Tribal Court are heard at the Lower Sioux Community Hall near Morton, Minnesota. Appeals from the trial court are taken to the Lower Sioux Community in Minnesota Court of Appeals, which is comprised of a three-judge panel of trial court judges who were not assigned to the trial court case.

JUDGES

Chief Judge Kurt V. BlueDog has been practicing law for nearly 25 years, specializing in the area of Indian law. After he graduated from the University of South Dakota he served as a Commissioned Officer in the Army paratroopers. Judge BlueDog graduated from the University of Minnesota School of Law in 1977 and was named one of its distinguished alumni in the fall of 2001. He is a member of the State Bars of Minnesota and Wisconsin, several Tribal Courts, the United States Supreme Court and numerous Federal District and Appellate Courts. He has served as a Tribal Court Judge since 1994. Additionally, he has served as an adjunct professor at William Mitchell College of Law and the Hamline University School of Law in St. Paul, Minnesota. Judge BlueDog was born and raised on the Sisseton-Wahpeton Sioux Indian Reservation in South Dakota.

Judge Steven F. Olson graduated *cum laude* from the William Mitchell College of Law in 1992, and was admitted to practice in the State of Minnesota in October 1992. Judge Olson has been admitted to practice before three tribal jurisdictions and the United States District Court for Minnesota, United States District Court for Wisconsin, the United States District Court for South Dakota, and the United States District Court for Iowa, as well as the United States Eighth Circuit Court of Appeals, and the United States Supreme Court. Judge Olson serves as an Associate Judge for the Lower Sioux Community in Minnesota Tribal Court and the Prairie Island Mdewakanton Dakota Tribal Court.

Judge Andrew M. Small received his juris doctor degree from the University of Montana in 1981. Judge Small has served since 1994 as an Associate Judge for the Prairie Island Mdewakanton Dakota Community and for the Lower Sioux Community in Minnesota. He previously served as special Judge for the Crow Tribe and Northern Cheyenne Court of Appeals. He is admitted to practice in the United States Supreme Court and has been admitted to practice in ten Tribal jurisdictions throughout Indian country.

COURT OF THE LOWER SIOUX INDIAN COMMUNITY

JUDGES, Cont.

Judge Susan L. Allen graduated from the University of New Mexico School of Law in 1995, where she received an Indian Law Certificate, the West Award for Excellence in Indian Law, Honors in Clinical Law, and served as president of the Native American Law Students Association. In December 1999, she received her L.L.M. in Taxation from William Mitchell College of Law. Judge Allen is a member of the Minnesota State Bar Association, a Board Member of the Minnesota American Indian Bar Association, and is currently the Chairwoman of the Board of Directors of the Indian Child Welfare Law Center. Judge Allen serves as an Associate Judge for the Prairie Island Mdewakanton Dakota Community and for the Lower Sioux Community in Minnesota. She is an enrolled member of the Rosebud Sioux Tribe in South Dakota.

MILLE LACS BAND OF OJIBWE COURT OF CENTRAL JURISDICTION

Court Administrator, Matt Chapel

HCR 67, Box 194

Onamia, Minnesota, 56359

Telephone: (320) 532-7400

Facsimile: (320) 532-3153

The Mille Lacs Band of Ojibwe Court of Central Jurisdiction began functioning in 1983, and now has criminal jurisdiction over Indians, and broad civil jurisdiction. The Mille Lacs Band of Ojibwe Court of Central Jurisdiction has a criminal caseload of approximately 700 cases annually, and a relatively light civil caseload. The Code adopted by the Mille Lacs Band provides for full faith and credit to state court judgments if there is reciprocity for Band Court judgments from the state courts. The Mille Lacs Band of Ojibwe Court of Central Jurisdiction rides a circuit. Appeals from that Court are taken to the Mille Lacs Band of Ojibwe Court of Appeals and are heard by a three-judge panel.

JUDGES

COURT OF CENTRAL JURISDICTION

Judge Paul Day received a bachelor of arts degree from St. Cloud State University in 1970, and a juris doctor degree from the University of Minnesota Law School in 1978. He is a member of the Bar of the State of Minnesota, and the Bars of the Supreme Court of the United States, the United States Court of Appeals for the Eighth Circuit, and the United States District Court for the District of Minnesota. He has served as District Court Judge for the Mille Lacs Band of Ojibwe Central Court of Jurisdiction since April, 2001. Judge Day is a member of the Leech Lake Band of Ojibwe.

COURT OF APPEALS.

The Court of Appeals is made up of a three-member panel including **Chief Judge Dorothy Sam, Appellate Court Judge Rosalie Noonday, and Appellate Court Judge Alvina Aubele.**

PRAIRIE ISLAND MDEWAKANTON DAKOTA TRIBAL COURT

Court Administrator, Carrie Blesener

5001 West 80th Street

Bloomington, Minnesota, 55437

Telephone: (952) 838-2294

Facsimile: (952) 893-0650

The Prairie Island Mdewakanton Dakota Tribal Court was created in 1994, and has broad civil jurisdiction. It has a heavy children's court docket, and a relatively light civil litigation docket. Matters before the Prairie Island Mdewakanton Dakota Tribal Court are heard at the Community Courtroom in Welch, Minnesota. Appeals from the trial court are taken to the Prairie Island Mdewakanton Dakota Tribal Court of Appeals and are heard by a three-judge panel of trial court judges who were not assigned to the trial court case. The Prairie Island Court Code has a full faith and credit provision. The Prairie Island Mdewakanton Dakota Tribal Court has received cases which have been transferred from the district court systems and in certain cases has enforced wage garnishments which have come from district court.

JUDGES

Chief Judge Kurt V. BlueDog has been practicing law for nearly 25 years, specializing in the area of Indian law. After he graduated from the University of South Dakota he served as a Commissioned Officer in the Army paratroopers. Judge BlueDog graduated from the University of Minnesota School of Law in 1977 and was named one of its distinguished alumni in the fall of 2001. He is a member of the State Bars of Minnesota and Wisconsin, several Tribal Courts, the United States Supreme Court and numerous Federal District and Appellate Courts. He has served as a Tribal Court Judge since 1994. Additionally, he has served as an adjunct professor at William Mitchell College of Law and the Hamline University School of Law in St. Paul, Minnesota. Judge BlueDog was born and raised on the Sisseton-Wahpeton Sioux Indian Reservation in South Dakota.

Judge Steven F. Olson graduated *cum laude* from the William Mitchell College of Law in 1992, and was admitted to practice in the State of Minnesota in October 1992. Judge Olson has been admitted to practice before three tribal jurisdictions and the United States District Court for Minnesota, United States District Court for Wisconsin, the United States District Court for South Dakota, and the United States District Court for Iowa, as well as the United States Eighth Circuit Court of Appeals, and the United States Supreme Court. Judge Olson serves as an Associate Judge for the Lower Sioux Community in Minnesota Tribal Court and the Prairie Island Mdewakanton Dakota Tribal Court.

Judge Andrew M. Small received his juris doctor degree from the University of Montana in 1981. Judge Small has served since 1994 as an Associate Judge for the Prairie Island Mdewakanton Dakota Community and for the Lower Sioux Community in Minnesota. He previously served as special Judge for the Crow Tribe and Northern Cheyenne Court of Appeals. He is admitted to practice in the United States Supreme Court and has been admitted to practice in ten Tribal jurisdictions throughout Indian country.

COURT OF THE PRAIRIE ISLAND INDIAN COMMUNITY
JUDGES, Cont.

Judge Susan L. Allen graduated from the University of New Mexico School of Law in 1995, where she received an Indian Law Certificate, the West Award for Excellence in Indian Law, Honors in Clinical Law, and served as president of the Native American Law Students Association. In December 1999, she received her L.L.M. in Taxation from William Mitchell College of Law. Judge Allen is a member of the Minnesota State Bar Association, a Board Member of the Minnesota American Indian Bar Association, and is currently the Chairwoman of the Board of Directors of the Indian Child Welfare Law Center. Judge Allen serves as an Associate Judge for the Prairie Island Mdewakanton Dakota Community and for the Lower Sioux Community in Minnesota. She is an enrolled member of the Rosebud Sioux Tribe in South Dakota.

RED LAKE NATION TRIBAL COURT

Court Administrator, Pam Needham

P.O. Box 572

Red Lake, Minnesota, 56671

Telephone: (218) 679-3303

Facsimile: (218) 679-2683

The Red Lake Nation Tribal Court was established in 1884. It exercises jurisdiction over all civil matters, and misdemeanor criminal matters that involve Indian people. It also exercises jurisdiction over Indian child welfare matters.

Matters before the Red Lake Nation Tribal Court are heard in Red Lake, Minnesota. Wanda Lyons was appointed Chief Judge by the Tribal Council in 1984. Like Chief Judge Lyons, Judge Charnoski was also appointed by the Tribal Council to sit as a judge for the Red Lake Nation Tribal Court in 1996. Phillip Smith is the newest judge at Red Lake, hired in 2000.

Appeals from the trial court are taken to the Red Lake Nation Court of Appeals, which is comprised of four judges who alternate to form a three-judge appellate panel. The following judges hear cases for the Court of Appeals: Loretta Hurd, Verna Graves, Aloysius Thunder, and Catherine VanWert.

**TRIBAL COURT OF THE SHAKOPEE MDEWAKANTON
SIOUX (DAKOTA) COMMUNITY**
Court Administrator, Jeanne Krieger
1855 University Avenue West, Suite 246
Saint Paul, Minnesota, 55104
Telephone: (651) 644-4710
Facsimile: (651) 644-5904

The Tribal Court of the Shakopee Mdewakanton Sioux (Dakota) Community was established in 1988. It now has broad civil jurisdiction, including jurisdiction to review administrative decisions as provided by Community ordinance. Matters before the Shakopee Court are heard at the Community Courtroom near Prior Lake, Minnesota. Appeals from the trial court are heard by the Court of Appeals of the Shakopee Mdewakanton Sioux (Dakota) Community, which is comprised of a two-judge panel of trial court judges who were not assigned to the trial court proceeding.

JUDGES

Judge Henry M. Buffalo, Jr. received a Bachelor of Science Degree from the University of Wisconsin-Milwaukee, in 1978, and a Juris Doctor Degree from the University of Wisconsin Law School in 1981. He has practiced law since 1981, and is admitted to the Bars of the State of Minnesota, the State of Wisconsin, the Bars of the United States Supreme Court, the United States Courts of Appeals for the District of Columbia Circuit, the Eighth Circuit, the Seventh Circuit, and the Sixth Circuit, and the Bars of the United States District Courts for the District of Minnesota, the Western and Eastern District of Wisconsin, the Eastern District of Michigan, and the District of North Dakota. In addition, Judge Buffalo is admitted to practice before the tribal courts of the Ho-Chunk Nation of Wisconsin, the Lower Sioux Indian Community in Minnesota, the Saginaw Chippewa Indian Tribe of Michigan, the Red Cliff Tribe of Chippewa, and the Three Affiliated Tribes of the Fort Berthold Reservation. He has served as a Judge for the Tribal Court of Shakopee Mdewakanton Sioux (Dakota) Community since the Court was created in 1988. Judge Buffalo is a member of the Red Cliff Band of Chippewa Indians.

Judge Robert GreyEagle received a bachelor of arts degree from Idaho State University in 1976, and a juris doctor degree from the University of New Mexico Law School in 1982. Judge GreyEagle is admitted to the Bar of the State of South Dakota, and has served as a tribal court judge for the Standing Rock Sioux Tribe, the Sisseton-Wahpeton Sioux Tribe, the Oglala Sioux Tribe, the Rosebud Sioux Tribe, the Cheyenne River Sioux Tribe, the Fort Thompson Sioux Tribe, the Upper Sioux Community in Minnesota and the Lower Sioux Community in Minnesota. He has served as a Judge for the Tribal Court of the Shakopee Mdewakanton Sioux (Dakota) Community since 1994. Judge GreyEagle is a member of the Oglala Sioux Tribe of the Pine Ridge Reservation of South Dakota.

COURT OF THE SHAKOPEE MDEWAKANTON SIOUX (DAKOTA) COMMUNITY

JUDGES, Cont.

Judge John E. Jacobson received a bachelor of arts degree from Carleton College in 1968 and a juris doctor degree from the University of Chicago Law School in 1973. He has practiced law since that time, and is admitted to the Bar of the State of Minnesota, the Supreme Court of the United States, the United States Court of Appeals for the Eighth Circuit, and the United States District Courts for the District of Minnesota, the Western District of Wisconsin, and the Western District of Michigan. In addition Judge Jacobson is admitted to practice before the tribal courts of the Lower Sioux Indian Community in Minnesota, the Lac Courte Oreilles Band of Ojibwe, the Bad River Band of Chippewa, the Saginaw Chippewa Tribe of Michigan, and the Tulalip Tribe of Washington. Judge Jacobson has been an adjunct professor at the William Mitchell College of Law, and has served as a Judge for the Tribal Court of the Shakopee Mdewakanton Sioux (Dakota) Community since the Court was created in 1988.

UPPER SIOUX COMMUNITY TRIBAL COURT

Court Administrator, Laura Van Acker

P.O. Box 147

Granite Falls, Minnesota, 56241

Telephone: (320) 564-4955

Facsimile: (320) 564-4915

The Upper Sioux Community Tribal Court was created in 1994. It exercises general civil jurisdiction. The Upper Sioux Court Code contemplates granting full faith and credit to state court orders, if there is reciprocity from those Courts. Matters before the Upper Sioux Court are heard at Granite Falls, Minnesota. Appeals from the trial court are taken to the Upper Sioux Court of Appeals, which is composed one judge, unless a three judge panel is requested within thirty days of the final order of the trial court.

JUDGE

Chief Judge Lenor Sheffler received a bachelor of arts degree from St. Olaf College in 1979, and a juris doctor degree from William Mitchell College of Law in 1988. Judge Sheffler is a member of the Bar of the State of Minnesota, the Bar of the United States District Court for the District of Minnesota, and the Bars of the Prairie Island Mdewakanton Dakota Community Tribal Court, the Lower Sioux Community in Minnesota Tribal Court, and the Tribal Court of the Shakopee Mdewakanton Sioux (Dakota) Community. Judge Sheffler has served as the Judge of the Upper Sioux Community Tribal Court since 2001. She has served as an adjunct professor at William Mitchell College of Law, and is a member of the Lower Sioux Indian Community in Minnesota.

White Earth Band of Chippewa Tribal Court

Court Administrator, Kathy Goodwin

P.O. Box 418

White Earth, Minnesota, 56591

Telephone: (218) 983-3285

Facsimile: (218) 983-4013

The White Earth Band of Chippewa Tribal Court was established in 1978. The Court exercises general civil jurisdiction including jurisdiction over the Band's motor vehicle code. It is anticipated that the Court will shortly possess jurisdiction to hear child welfare and housing issues. The White Earth Band also intends to seek retrocession of criminal jurisdiction over misdemeanor offenses. The White Earth Band Code provides for the appointment of two additional associate judges. Appeals from the trial court are taken to the White Earth Band of Chippewa Court of Appeals and are heard by a two-judge panel of trial judges who were not assigned to the trial court case.

JUDGES

Chief Judge Anita Fineday received a juris doctor degree from the University of Colorado in 1988, and a master of public affairs degree from Harvard University in 1997, when she was a Bush Foundation Leadership Fellow. She is admitted to the Bars of the State of Minnesota and the United States District Court for the District of Minnesota. Chief Judge Fineday is a member of the White Earth Band of Ojibwe.