



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on April 16–17, 2015

Title	Agenda Item Type
Rules and Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Adopt form EJ-115	July 1, 2015
Recommended by	Date of Report
Civil and Small Claims Advisory Committee Hon. Patricia M. Lucas, Chair	March 19, 2015
	Contact
	Anne M. Ronan, 415-865-8933 anne.ronan@jud.ca.gov

Executive Summary

The Civil and Small Claims Advisory Committee recommends the adoption of the new notice form, which was mandated by the Legislature in the recently enacted Tribal Court Civil Money Judgment Act. The act provides for the enforcement of certain tribal court money judgments in state courts. The statute requires that the judgment creditor in the tribal court action use a form prescribed by the Judicial Council to serve—in the same manner as service of a summons—the judgment debtor with notice of filing the application for recognition of the judgment. The proposed form is intended to comply with those requirements.

Recommendation

The Civil and Small Claims Advisory Committee recommends that the Judicial Council adopt the new *Notice of Application for Recognition and Entry of Tribal Court Money Judgment* (form EJ-115), effective July 1, 2015.

The form is attached at pages 7–8.

Previous Council Action

The Tribal Court Civil Money Judgment Act (Sen. Bill 406; Stats. 2014, ch. 243) was sponsored by the Judicial Council to provide clear, less burdensome procedures for parties to use in seeking to enforce a tribal court judgment in a state court. The bill originally recommended by the council was somewhat broader than what the Legislature ultimately enacted. The current law is limited to money judgments only.

Rationale for Recommendation

Because tribes are sovereign, a party seeking enforcement of a civil tribal court judgment in a California superior court has been required to do so under the Uniform Foreign-Country Money Judgments Recognition Act. That process can be time-consuming and expensive— sometimes requiring parties to unnecessarily relitigate what has already been decided by the tribal court, costing both the parties and the state courts unnecessary time and expense. The new procedures of the Tribal Court Civil Money Judgment Act were enacted to reduce the time and expense associate with enforcing these judgments.¹ The new law prescribes a more straightforward procedure for applying for recognition and entry of a judgment based on a tribal court money judgment, sets out the procedure and grounds for objecting to the entry of judgment, and describes the bases on which the court may refuse to enter the judgment or grant a stay of enforcement.

The provisions of the Tribal Court Civil Money Judgment Act require a party seeking enforcement of a tribal court judgment in superior court to file an application for entry of judgment. The application must include certain specified information regarding the parties and the tribal court judgment and must include an authenticated copy of the tribal court judgment, along with a copy of the pertinent tribal court rules of procedure and a declaration that the case that resulted in the judgment was conducted in compliance with those rules. (See Code Civ. Proc., § 1734.)² Promptly after filing the application, the applicant is to serve on the respondent a notice that the application has been filed and a copy of the application itself with all its attachments. (§ 1735(a).)

Under this new statute, the notice must:

- Be in a form prescribed by the Judicial Council;
- Inform the respondent that he or she has 30 days from service of the notice in which to file objections;
- Provide the name and address of the applicant and applicant's attorney, if any; and

¹ SB 406, which went into effect in January 2015, is at www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0401-0450/sb_406_bill_20140822_chaptered.pdf.

² All further statutory references herein are to the Code of Civil Procedure, unless otherwise indicated.

- Include the full text of new sections 1736 and 1737, which provide that judgment will be entered if timely objections are not filed, and describe the grounds for such objections. (§ 1735(a).)

The new statute also provides that service of the notice must be made in the same manner as provided for service of summons. (§ 1735(b).)

The recommended *Notice of Application for Recognition and Entry of Tribal Court Money Judgment* (form EJ-115) was developed to comply with the requirements described above.

- The top box of the caption provides spaces for the name and address of the attorney or self-represented petitioner, plus a space for the address of a petitioner with an attorney.
- The text of the notice starts with the information that an application for state court recognition of a tribal court judgment has been filed and that the party being served has 30 days after service of the notice to file objections or a judgment will be entered against him or her. That information is bolded to make it easier for the party to see.
- The full text of new section 1736 is presented in the paragraph entitled “Entry of Judgment.”
- The full text of new section 1737 is presented in the paragraph entitled “How to Object.” (The statutory reference to this code section is expressly identified in the prior paragraph so that a party who wants to see the statute will know where to find it.)

Because the notice is to be served in the same manner as a summons, as provided in Code of Civil Procedure section 415.10 and following, the notice has been set up to be issued by the clerk, with a court seal attached. Items are included on the form under the clerk’s signature to allow the server to provide notice to the person served of which specific code section the notice is being served under (on the person as an individual, as representative of a corporation or a fictitious business, etc.), and a proof of service done in the manner of a summons is provided on the back of the form.

This format, with clerk’s signature and seal at the bottom of the notice and proof of service on the back, is the same format used in the *Notice of Entry of Judgment on Sister-State Judgment* (form EJ-110), which was designed to comply with service provisions identical to those in the new act. (Cf. new section 1735(b) and existing section 1710.30.)

Comments, Alternatives Considered, and Policy Implications

Comments

The proposed form was circulated for public comment in December and January 2015. Twelve comments were received, including comments from four state trial courts (the Superior Courts of El Dorado, Los Angeles, San Diego, and Ventura Counties) and two tribal courts (Blue Lake Rancheria Tribal Court and Yurok Tribal Court). Comments were also received from the Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives Advisory Committee; two attorney groups, the Orange County Bar Association and the Standing Committee on the Delivery of Legal Services of the State Bar of California; the Elk

Valley Rancheria; the organization Stand Up for California; and one individual, Mr. Roger L. French.

Eleven of the 12 commentators agreed with the proposed form, with a few seeking minor modifications to the format or content of the form. One commentator, Mr. French, did not indicate whether he agreed or disagreed with the proposed form.³ All the comments and the committees' responses are included in the chart of comments attached at pages 9–24. The requested modifications and the committee's responses are summarized below.

Modifications to the notice form. Several commentators requested modifications of the proposed notice form, most of them minor.

- The Joint Rules Subcommittee requested that the lengthy “instructions” be removed from the form and placed on a separate information sheet. The committee has been informed that the commentator’s concerns go to the two large blocks of text on the notice form titled “Entry of Judgment” and “How to Object.” Other than the explanatory titles, these two items are the text of Code of Civil Procedure sections 1736 and 1737, which the new law mandates be included on the notice. See § 1735(a). For that reason, the committee has concluded that those provisions must remain in the form and not placed on a separate information sheet.
- The Standing Committee on the Delivery of Legal Services of the State Bar recommended some formatting changes, which the committee adopted to the extent the form could continue to fit onto two pages.
- The Superior Court of Los Angeles County agreed with the content of the form but proposed it not be made a mandatory, statewide form. The committee does not recommend that modification in light of the statute’s mandate that the application be made on a form prescribed by the Judicial Council.
- The Superior Court of Los Angeles County also proposed at least six months between council adoption and effective date. The committee does not recommend that long a delay in light of the fact that the law, which requires use of this form for a party to proceed, is already in effect.
- The Superior Court of Ventura County proposed that the form be modified to change the title of “applicant” to *petitioner* or *judgment creditor*. The committee concluded that this change was not appropriate in light of the statute’s use of the word *applicant* as a defined term. See § 1732(a). Using a different word on the form could be confusing to the parties.

³ With his comments about the forms, Mr. French included objections to the adoption of procedures for state courts to recognize tribal court judgments in certain circumstances. Those latter comments were not included in the chart as they are outside the scope of this proposal.

- The Yurok Tribal Court noted a formatting error (which has been fixed) and requested that the proof of service of the notice on the back of the form include an enumerated list of required attachments to the application. The proof of service on the form as recommended states that it is for service not only of the *Notice of Application for Recognition and Entry of Tribal Court Judgment*, but also of the application with attachments. The committee concluded that this form did not need to provide a separate list of what is supposed to be attached to the application because that information is required by the applicant, not the server. Such a list will be included on the application form, should one be developed. The committee also noted that the second line of the text of the notice itself includes, in bold, a statement that a copy of the tribal court judgment is included with the application served on the respondent, which should put a respondent on notice to check that a copy has been included in the papers served on him or her.

Additional forms. Several commentators suggested the development of additional forms. The advisory committee developed this notice form because it is mandated by the new statute. When the form was circulated, the committee sought public comment on whether the development of additional forms would be helpful to the courts and the parties, including an application form setting out all the pieces of information, statements, and attachments required under new Code of Civil Procedure section 1734. The committee also sought comments on whether a form response, listing the grounds for possible objections, and one or more information sheets with instructions for both sides, should be developed. All the commentators who addressed this point agreed that, even though not required by statute, the forms would be helpful to the parties and to the courts.

In light of these comments, the committee will ask the council's Rules and Projects Committee to continue to work on forms in this area as part of its work in the coming year.

Alternatives considered

The advisory committee did not consider the alternative of *not* developing this notice form because it is mandated by the new statute. The committee *did* consider the alternative of developing additional forms, most significantly an application form, setting out all the pieces of information and statements required in the application under new Civil Code section 1734. The committee did not develop such a form at this time in light of the urging of the council to limit the development of new forms to those that are mandated or would be particularly helpful to the courts. Instead, the committee raised the question in the Invitation to Comment, specifically asking for comments as to whether development of an application form, response form, and information sheet would be helpful to the courts and/or the parties.

Eleven of the 12 commentators, including the four state trial courts that commented, requested that further forms be developed in this area.⁴ The Superior Court of Ventura County proposed a mandatory application form to ensure that the statute had been complied with and noted that “[i]t would be extremely helpful and appropriate to develop a form for objections,” as well, along

⁴ One commentator, the Joint Rules Subcommittee, did not respond to this question in its comment.

with information sheets. The Superior Court of San Diego County commented that such forms would be of great assistance to the clerical staff, would help make the process for entry of tribal court judgments uniform statewide, and would make it easier to train clerks in this area. The Superior Court of Los Angeles County noted that the forms “would be beneficial to both the courts and general public,” although it differed from the other courts in wanting the forms to be optional, or models for local court forms.

As noted above, in light of the support for these additional forms, the committee will propose adding development of further forms in this area to its annual agenda for next year.

Implementation Requirements, Costs, and Operational Impacts

There will be implementation costs associated with staff training on issuance of the notice when requested upon the filing of an application to enter a tribal judgment. That training, however, will be part of the training required for implementation of all the new court procedures under the Tribal Court Civil Money Judgment Act, which is already operative. The adoption of this notice form is required by statute so must proceed even if it affects the courts.

Attachments and Links

1. Proposed form EJ-115, at pages 7–8
2. Chart of comments, at pages 9–24
3. Senate Bill 406, at www.leginfo.ca.gov/pub/13-14/bill/sen/sb_0401-0450/sb_406_bill_20140822_chaptered.pdf

ATTORNEY OR PARTY WITHOUT ATTORNEY: _____ STATE BAR NO: _____ NAME: FIRM NAME: STREET ADDRESS: CITY: _____ STATE: _____ ZIP CODE: _____ TELEPHONE NO.: _____ FAX NO.: _____ E-MAIL ADDRESS: ATTORNEY FOR (<i>name/address</i>): _____	FOR COURT USE ONLY DRAFT 03/10/15 NOT APPROVED BY JUDICIAL COUNCIL
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
APPLICANT: RESPONDENT:	
NOTICE OF APPLICATION FOR RECOGNITION AND ENTRY OF TRIBAL COURT MONEY JUDGMENT	CASE NUMBER: _____

NOTICE: An application has been filed for this court to recognize and enter a tribal court money judgment against you. A copy of the application, **including a copy of the tribal court money judgment**, is being served with this notice. **Unless you file objections with the superior court named above within 30 days after service of this notice, the court will enter that judgment against you.**

Entry of Judgment. (a) If no objections are timely filed in accordance with the provisions below (and set forth in Code of Civil Procedure section 1737), the clerk shall certify that no objections were timely filed, and a judgment shall be entered.

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

How to Object: (a) **Any objection** to the recognition and entry of the tribal court money judgment **shall be served and filed within 30 days of service of the notice of filing**. If any objection is filed within this time period, the superior court shall set a time period for replies and set the matter for a hearing. The hearing shall be held by the superior court within 45 days from the date the objection is filed unless good cause exists for a later hearing. The only grounds for objecting to the recognition or enforcement of a tribal court money judgment are the grounds set forth in subdivisions (b) and (c).

(b) A tribal court money judgment shall not be recognized and entered if the respondent demonstrates to the superior court that at least one of the following occurred: (1) The tribal court did not have personal jurisdiction over the respondent. (2) The tribal court did not have jurisdiction over the subject matter. (3) 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.

(c) The superior court may, in its discretion, decline to recognize and enter a tribal court money judgment on any one of the following grounds: (1) The defendant in the proceeding in the tribal 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 the state or of the United States. (4) The judgment conflicts with another final and conclusive judgment. (5) The proceeding in the tribal 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 tribal court. (6) In the case of jurisdiction based on personal service only, the tribal court was a seriously inconvenient forum for the trial of the action. (7) The judgment was rendered under circumstances that raise substantial doubt about the integrity of the rendering court with respect to the judgment. (8) The specific proceeding in the tribal 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 tribal court provided at least as much protection for freedom of speech and the press as provided by both the United States and California Constitutions.

(d) If objections have been timely filed, the applicant has the burden of establishing that the tribal court money judgment is entitled to recognition. If the applicant has met its burden, a party resisting recognition of the tribal court money judgment has the burden of establishing that a ground for nonrecognition exists pursuant to subdivisions (b) or (c).

[SEAL]	Date: _____ Clerk, by _____, Deputy
	4. <input type="checkbox"/> NOTICE TO THE PERSON SERVED: You are served a. <input type="checkbox"/> as an individual. b. <input type="checkbox"/> under the fictitious name of (<i>specify</i>): c. <input type="checkbox"/> on behalf of (<i>specify</i>): Under: <input type="checkbox"/> CCP 416.10 (corporation) <input type="checkbox"/> CCP 416.60 (minor) <input type="checkbox"/> CCP 416.20 (defunct corporation) <input type="checkbox"/> CCP 416.70 (conservatee) <input type="checkbox"/> CCP 416.40 (association or partnership) <input type="checkbox"/> CCP 416.90 (individual) <input type="checkbox"/> other:
	(Proof of service on reverse)

PROOF OF SERVICE

(Use separate proof of service for each person served.)

1. I served the *Notice of Application for Recognition and Entry of Tribal Court Money Judgment* and the application with all attachments as follows:
 - a. on respondent (*name*):
 - b. by serving judgment debtor other (*name and title or relationship to person served*):
 - c. by delivery at home at business
 - (1) date:
 - (2) time:
 - (3) address:
 - d. by mailing
 - (1) date:
 - (2) place:

2. Manner of service (*check proper box*):

- a. **Personal service.** By personally delivering copies. (CCP 415.10.)
- b. **Substituted service on corporation, unincorporated association (including partnership), or public entity.** By leaving, during usual office hours, copies in the office of the person served with the person who apparently was in charge and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(a).)
- c. **Substituted service on natural person, minor, conservatee, or candidate.** By leaving copies at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing (by first-class mail, postage prepaid) copies to the person served at the place where the copies were left. (CCP 415.20(b).) (**Attach separate declaration or affidavit stating acts relied on to establish reasonable diligence in first attempting personal service.**)
- d. **Mail and acknowledgment service.** By mailing (by first-class mail or airmail, postage prepaid) copies to the person served, together with two copies of the form of notice and acknowledgment and a return envelope, postage prepaid, addressed to the sender. (CCP 415.30.) (**Attach completed acknowledgment of receipt.**)
- e. **Certified or registered mail service.** By mailing to an address outside California (by first-class mail, postage prepaid, requiring a return receipt) copies to the person served. (CCP 415.40.) (**Attach signed return receipt or other evidence of actual delivery to the person served.**)
- f. Other (*specify code section*):
 Additional page is attached.

3. The "Notice to the Person Served" was completed as follows:

- a. as an individual
- b. as the person sued under the fictitious name of (*specify*):
- c. on behalf of (*specify*):
 under: CCP 416.10 (corporation) CCP 416.60 (minor) other:
 CCP 416.20 (defunct corporation) CCP 416.70 (conservatee)
 CCP 416.40 (association or partnership) CCP 416.90 (individual)

4. At the time of service, I was at least 18 years of age and not a party to this action.

5. Fee for service: \$

6. Person serving:

- a. California sheriff, marshal, or constable
- b. Registered California process server
- c. Employee or independent contractor of a registered California process server
- d. Not a registered California process server
- e. Exempt from registration under Business and Professions Code, section 22350(b)
- f. Name, address, and telephone number and, if applicable, county of registration and number:

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

(For California sheriff, marshal, or constable use only)
I certify that the foregoing is true and correct.

Date: _____

Date: _____

▶ _____
(SIGNATURE)

▶ _____
(SIGNATURE)

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Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment

All comments are verbatim unless indicated by an asterisk (*).

	Commentator	Position	Comment	Committee Response
1.	Blue Lake Rancheria Tribal Court By: Lester J. Marston, Chief Judge	A	<p>Thank you for the Invitation to Comment on the proposed judicial council forms for implementation of SB 406. My comments are provided below.</p> <p>Section 1735 of SB 406 requires development of a form by the Judicial Council to provide notice to a respondent of a tribal court money judgment to be entered against him or her in a state court. The statute requires notification to the respondent that he or she has 30 days from the date of service of an application for entry of judgment of a tribal court money judgment to file objections to the enforcement of that judgment. Also required to be included in the notice are the name and address of the applicant and the applicant's attorney, if any, and the texts of Section 1736 and 1737 of SB 406.</p> <p>The proposed Notice of Application for Recognition and Entry of Tribal Court Money judgment (form EJ-115) adequately addresses the requirements for such form as stated in Section 1735 of SB 406.</p> <p>You have also asked for comments concerning whether it would be useful to develop (a) a specific application form; (b) a form for objections to entry of the tribal court judgment, and (c) an information sheet with instructions for each party.</p> <p>In my opinion, in addition to the form for</p>	<p>The committee notes the commentator's agreement with the proposed form.</p> <p>The committee notes the recommendation that</p>

Positions: A = Agree; AM = Agree if modified; N = Do not agree; NI = Not indicated.

W15-01**Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

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	Commentator	Position	Comment	Committee Response
			<p>notice of an application for entry of judgment, development of two application forms would be useful. Development of an application form and a form containing check off boxes for the grounds to object with space for explanation would be helpful to the parties and in keeping with the purpose of SB 406, namely to streamline the process for entry of tribal court money judgments in the courts of California. Similarly, an information sheet with instructions for each party would be helpful to the parties and would further the purpose of SB 406.</p> <p>Thank you for providing the opportunity to provide comments to the Judicial Council on the forms that would help parties and the courts streamline the process for entering tribal court money judgments in the courts of California.</p>	further forms be developed.
2.	Elk Valley Rancheria By: Mike Mattz, Vicechair Crescent City, CA	A	<p>The Tribe supports the proposed form and believes that it is consistent with the intent of the underlying statutory changes to appropriately address the recognition of tribal court judgments. Use of a Judicial Council form confirms the legitimacy of the process for recognition of tribal court judgments and establishes a more uniform process for interested parties. The Tribe believes that an application form, a form for objections to entry of a tribal court judgment, and associated information sheets would be valuable to assist parties. However, the Tribe recommends that use of such forms not be mandatory.</p>	<p>The committee notes the commentator's agreement with the proposed form.</p> <p>The recommendation for development of further forms, and that they be optional, is noted.</p>

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	Commentator	Position	Comment	Committee Response
3.	Roger L. French Irvine, CA	NI	<p>Being in receipt of an Invitation to Comment on the proposed form W15-01 referenced above, I submit the following comments and recommendation in the application of the Tribal Court Monetary Civil Monetary Judgment Act described below. Attached are documents previously prepared expressing my opposition to the implementation of the proposed Act. *</p> <p>The "Request for Specific Comments" section within the Invitation requests comments on whether additional forms would assist the courts and parties in addition to the proposed Notice form, W15-01. I believe that all 3 forms proposed would not only indeed assist the courts and the parties, but should be mandatory for the implementation of the Act for the following reasons:</p> <p>Section 1737 (b) establishes grounds an opposing party can cite to persuade the state court to deny recognition of the tribal court judgment. However, that same opposing party must bear the legal costs of presenting such defense prior to the court having received any indication whatsoever that the subject tribal court judgment was conducted in accordance with Section 1737(b); namely proper jurisdiction, and the judgment was not "rendered under a judicial system that does not provide impartial tribunals or procedures compatible with the requirements of due process of law".</p>	<p>The committee thanks the commentator for responding to the Invitation to Comment. However the attached objections to the enactment of SB406 made before the law was enacted have not been included here, as they are outside the scope of this proposal, which is to implement the new law that is now in effect.</p> <p>The committee notes that the commentator is in favor of development of additional forms, and that they be mandatory.</p>

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Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment

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	Commentator	Position	Comment	Committee Response
			<p>In line with the stated goal of this Act to prevent unnecessary re-litigation, an Application form should be developed that requires the tribal court to submit documentation to the state court that demonstrates its impartiality and due process, especially with regard to non-tribal members, consistent with U. S. Supreme Court case law concerning Federal Indian law, and principles of tribal jurisdiction over nonmembers established with the Montana framework. See <i>Montana v. United States</i>, 450 U.S. 544 (1981).</p> <p>The Judicial Council must be mindful that tribal courts cannot provide impartiality to non-Indian defendants, primarily because tribal governments do not utilize separation of powers, and because tribal courts are effectively an extension of their respective tribal councils. Therefore, due process, as defined in U. S. and State courts, does not exist. This fundamental lack of due process has been noted by U.S. Supreme Court Justices:</p> <p><u>Justice Anthony Kennedy:</u> [There may be due process objections to the trial of non-Indians in tribal court, because] "<i>it wrests constitutional protections from a U.S. citizen and turns him over to a foreign sovereign.</i>"</p> <p><u>Justice Sandra Day O'Conner:</u> <i>"Tribal courts are often subject to the complete control of the tribal councils, whose powers</i></p>	<p>The committee will consider this comment when considering a proposed form, but notes that the contents of the application are delineated in the statute.</p> <p>These comments appear to go to the substance of the underlying law and not to the proposed noticed form.</p>

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			<p><i>often include the ability to select and remove judges. Therefore, the courts may be perceived as a subordinate arm of the councils rather than as a separate and equal branch of government."</i></p> <p>Therefore, as a minimum, the implementation of this Act should require that the tribal court provide documentation supporting any claims of providing an impartial tribunal in accordance with Section 1737 (b) as a precursor to any consideration of judgment recognition by a state court, and to eliminate the need for the opposing party to bear unnecessary legal costs. Such requirements are easily implemented in an Application form that the Judiciary Council is considering.</p> <p>The Judiciary Council is also considering developing another form consistent with Section 1737. Due to U.S. Supreme Court reservations cited above and the complexity of tribal jurisdiction over nonmembers, I would strongly suggest that such an "objections to entry of the tribal court judgment" form should indeed be developed and implemented as part of this Act.</p> <p>I humbly request that the Judicial Council consider my comments which reflect many years experiencing the injustice of tribal courts. Your consideration is much appreciated.</p>	<p>The committee notes that the commentator is in favor of development of a form for objections.</p>
4.	Joint Rules Subcommittee of the Trial Court Presiding Judges Advisory Committee and the Court Executives	AM	The proposed form appears to contain an extensive amount of instructions. From our experience, instructions that are included on a	The committee has been informed that the commentator's concerns go to the two large blocks of text on the notice form titled "Entry of

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W15-01**Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment**

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	Commentator	Position	Comment	Committee Response
	Advisory Committee		form are concise and limited to only what is necessary to be included on the form. Usually, the forms are followed by instruction sheets that contain all other instructions and guidance. The practice of keeping forms as short as possible and followed by more detailed instruction sheets is easier for those using the forms, which translates into less guidance and work required of court staff. Accordingly, the Joint Rules Subcommittee recommends that only the most necessary instructions remain on the proposed form and that the rest be moved to a separate instruction sheet following the form.	Judgment” and “How to Object”. Other than the explanatory titles, those two items are the text of Code of Civil Procedure sections 1736 and 1737, which the new law mandates be included on the notice. See Code Civ. Proc. § 1735(a). For that reason, the committee has concluded those provision must remain in the form, and not placed on a separate information sheet.
5.	Orange County Bar Association By: Ashleigh E. Aitken, President	A	In response to the committee’s request for specific comment, we recommend the committee develop an application form setting forth all the items of information and statements required under CCP 1734, and a response form listing the grounds for possible objections as are allowed under CCP 1737, as well as, accompanying instruction sheets for each form. This would, in our opinion, decrease the likelihood of errors and omissions in the pleadings filed in these cases and, thus, would be in the interests of justice and in the best interests of the courts.	The committee notes the commentator’s agreement with the pending proposal, and its recommendation that further forms be developed.
6.	Standing Committee on the Delivery of Legal Services State Bar of California By: Maria Livingston, Chair	AM	SCDLS agrees with the proposal if modified to include the alternative proposals to create forms for the application itself, objections to enforceability of tribal court judgments, and information sheets for the process. The form Notice is required by SB 406. The proposed	The committee notes this commentator’s recommendations that further forms be developed.

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W15-01

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			<p>form Notice appears to contain information that satisfies the statutory requirement; however some changes would improve the form’s readability. Please see suggestions under Specific Comments below.</p> <p>The adoption of the form Notice will reduce the chance of defective notice, fostering efficiency in the application process. SCDLS welcomes the opportunity to review the draft application, objection and information forms, assuming they are developed, whenever they are made available for public comment.</p> <p><u>Specific Comments</u></p> <p><i>Does the proposal appropriately address the stated purpose?</i></p> <p>Yes. In addition, changes should be considered to improve the form’s readability. Specifically: 1) increase the size of the font of the text that follows “NOTICE:”, and 2) add emphasis after How to Object, by placing in bold font the words “Any objection” and “shall be served and filed within 30 days of service of this notice of filing” in subsection (a).</p> <p><i>Would development of one or more of the following forms be of assistance to the courts and/or the parties in proceedings to enforce tribal court judgments in state courts, and, if so, should the forms be optional or mandatory:</i></p> <ul style="list-style-type: none"> ○ <i>An application form:</i> Yes, an 	<p>1) Staff increased the text by 1/2 point, but cannot make it bigger and have it fit on a single page.</p> <p>2) The requested bold font was added to the form</p> <p>The committee notes the recommendation that an application form be developed.</p>

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Civil Forms: Notice of Application for Recognition and Entry of Tribal Court Money Judgment

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			<p>Application form should be developed because it would reduce the number of defective filings and, therefore, increase the efficiency of the process. It would also ensure that the court and parties are informed of essential information about the judgment.</p> <ul style="list-style-type: none"> ○ <i>A form for objections to entry of the tribal court judgment:</i> Yes, an Objection form should be developed because it would reduce the number of defective filings and, therefore, increase the efficiency of the process. It would also ensure that the court and parties are informed of essential information about the statutorily defined objections. Also, SCDLS believes that because a significant number of judgment debtors are likely to be unrepresented litigants, it would be appropriate to give explicit information to judgment debtors. Providing the form for statutorily allowed objections does no more than ensure those litigants who might have meritorious objections to tribal court judgments have an opportunity to present them. ○ <i>An information sheet with instructions for each party:</i> Yes. Instructions will increase the efficiency of the process by reducing the time spent on defective applications which cost the parties and the courts time and money. 	<p>The committee notes the recommendation that an objection form be developed.</p> <p>The committee notes the recommendations that an information form be developed.</p>

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			<p><i>Whether the forms should be optional or mandatory:</i> The question of whether any particular form should be optional or mandatory may ultimately depend on the specific language of the form, and these forms have not yet been developed. In general, SCDLS believes that mandatory forms may serve the end of ensuring that essential information is before the Court. Service of the Objection form with the Notice and Application may also fulfill the statutory purpose of informing judgment debtors of the process, and it would help ensure that all parties to the judgment have a full and fair opportunity to be heard in California state court regarding the tribal court judgment's enforceability.</p>	<p>The committee will take these comments into consideration when developing further forms.</p>
7.	<p>Stand Up for California Penryn, CA By: Cheryl Schmit, Director</p>	AM	<p>Stand Up For California appreciates the opportunity to make comment on the proposed <i>Notice of Application for Recognition and Entry of Tribal Court Money Judgment</i> (form EJ-115). Overall the form does what the act prescribes. Nonetheless, the Judicial Council in its invitation to comment readily acknowledged that implementation, costs and operational impacts will require training for Court Clerks and Judicial Officers. Additional documents and forms as suggested in the paragraph labeled "Alternatives Considered" must be developed to assist in this training process.</p> <p>It would be beneficial if the Application form</p>	<p>The committee notes the agreement with this notice form, along with the recommendation that further forms be developed.</p>

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			<p>specify the factual "jurisdictional basis" for the tribal court judgment. As you know, tribal court jurisdiction over non-Indians is based on federal law. A Tribe submitting <i>an Application for Recognition and Entry of Tribal Court Money Judgment</i> should be required to thoroughly explain and document its jurisdictional exception under federal law. It will be important in training documents for the Court Clerk or other Judicial Officers unfamiliar with Indian Law to be made aware of federal law limiting civil regulatory jurisdiction of tribal courts over non-Indians.</p> <p>In 1981, <i>Montana v United States</i> (450 U.S. 544), the Supreme Court ruled as to both the criminal and civil position of tribal government authority over non-Indians. Tribal governments generally do not have civil regulatory jurisdiction over non-Indian activities on fee lands or owned lands inside of tribal reservations. Tribes simply do not have full regulatory authority over non-Indians. Moreover, the Supreme Court broadly states that tribes do not have inherent jurisdiction over non-Indian civil matters at all although tribal governments may regulate hunting and fishing on tribal lands. There are however, two exceptions in this ruling:</p> <p>1. citizens who enter into contracts with tribes are subject to tribal jurisdiction as to the contractually-related activities; or,</p>	<p>The committee will consider these comments when developing an application form, but notes that the content of the application is delineated in the statute.</p>

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			<p>2. when the civil activity of non-Indian citizens threatens the political integrity of the tribal government or the health or security of the tribe. <i>(This exception has a very high standard to meet; the history of this standard must be provided in training documents to Court Clerks and Judicial Officers.)</i> Failure to include this information potentially provides a forum for the creation of judge-made law for tribal jurisdiction in state courts that is inconsistent with federal law. Further, without a detailed description of tribal court jurisdiction any attempt to bring resolution to complex multijurisdictional situations given the nature of tribal sovereign immunity would be made more difficult.</p> <p>I hope you find this comment helpful to the Judicial Council in the development of the forms), additional training materials and instruction to the Court Clerks and Judicial Officers regarding this new procedure.</p>	
8.	Superior Court of El Dorado County By: Keri Shane, Lead Clerk	AM	As a court clerk, I would recommend that the Judicial Council also develop an application form with an information sheet and an objection form with an information sheet. This would streamline the process, make it clear to all parties and court staff, and maintain a consistent procedure.	The committee notes the recommendation to develop further forms.
9.	Superior Court of Los Angeles County	A	Agree with the proposal and it does adequately address the stated purpose specified by SB 406 (Proposal W15-01). However, the form	The committee notes the commentator's agreement with the proposed form. Because the statute mandates that the application be made on a

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			<p>should not be mandatory and should be considered a model form only that courts may either adopt in full or modify as the individual courts deem necessary. The proposed form is useful in terms of creating state-wide uniformity among the courts, but due to the different needs of each individual court, the use of the form should not be mandatory. Furthermore, a model form for objections plus an information sheet would be beneficial to both the courts and general public. Once again, this form and information sheet should not be mandatory. The information sheet should be in a question and answer format along with general information. It is unclear if the proposal would provide cost savings for the Los Angeles Superior Court because these types of judgments (Tribal) are not common in the County of Los Angeles. Implementation of the proposal would require staff training and at least six (6) months should be required from Judicial Council approval of this proposal until its effective date due to the size and case volume in Los Angeles County.</p>	<p>form proscribed by the Judicial Council (Code Civ. Proc. § 1735(a), the committee is recommending its adoption as a mandatory form.</p> <p>The committee notes the recommendation that an objection form be developed as an optional form, along with an information sheet.</p> <p>The committee appreciates the court's responses as to costs and training. The committee is recommending that the form be adopted with an effective date of July 1, 2015 because the new law, which mandates that party use the form to begin the proceedings, is already in effect.</p>
10.	Superior Court of San Diego County By: Mike Roddy, Executive Officer	A	<p>In answer to the request for specific responses, our court provides the following:</p> <ul style="list-style-type: none"> • Does the proposal appropriately address the stated purpose? Yes, our court agrees with the notice as presented. • Would development of one or more of the following forms be of assistance to the courts 	The committee notes the commentator's agreement with the proposal.

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			<p>and/or the parties in proceedings to enforce tribal court judgments in state courts, and, if so, should the forms be optional or mandatory:</p> <ul style="list-style-type: none"> o An application form? Yes, it would be of great assistance to clerical staff to have a form similar to the one used for entry of sister state judgments that could be utilized by the parties. This would help to make the process uniform state wide and would make it easier for courts to train clerks on how these requests should be handled. The form should be mandatory. o A form for objections to entry of the tribal court judgment? Yes, for the same reasons provided for having an application, it would be helpful to staff to have the objections submitted in a uniform manner as well. The form should be mandatory. o An information sheet with instructions for each party? Yes, our court is dealing with more and more unrepresented parties in litigation today and this can be problematic for courts that are suffering deep cuts to their staff; therefore, it would be of great assistance to the court to have an instruction sheet so that the need to deal with improper applications can be reduced as much as possible. The form should be mandatory. 	<p>The committee notes the court's recommendation that mandatory application, objection, and information forms would be helpful to the court.</p>
11.	Superior Court of Ventura County	AM	The proposed EJ-115 form should be a	The committee agrees that the proposed notice

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	By: Martha E. McLaughlin Court Program Supervisor II		<p>"mandatory" form so clerks would not have to sift through a self-drafted application to ensure codes have been met.</p> <p>It would be extremely helpful and appropriate to develop a "form for objections", an "information form" as well as a standard "judgment form" to allow clerk to enter judgment per the application submitted for filing.</p> <p>CCMS system currently does not have an "applicant" role available when creating new filings in the system. I would strongly suggest that the form contains the roles on all court forms as: Petitioner/Respondent or, in the alternative: Judgment Creditor/Judgment Debtor</p>	<p>form should be mandatory, and notes the recommendation that an application form also be mandatory and other forms be developed.</p> <p>The statute uses “applicant” and “respondent” as defined terms. See Code Civil Proc. section 1732(a) and (e). While a court may choose to enter the applicant in its computerized case management system as “petitioner”, using such title on the form would be confusing to the parties in light of the statutory language.</p>
12.	Yurok Tribal Court By: Abby Abinanti, Chief Judge	AM	<p>The Yurok Tribal Court respectfully submits the following comments regarding the Notice of Application for Recognition and Entry of Tribal Court Money Judgment. The Tribal Court is enthusiastic about the recently enacted Tribal Courts Civil Money Judgment Act (SB 406), as a more efficient means of enforcing certain tribal court money judgments in state courts. The new procedure is straightforward and more efficient than the existing system.\</p> <p>Overall, we believe that proposed form EJ-115 appropriately addresses the stated purpose.</p>	<p>The committee notes the agreement with the form.</p>

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			<p>Our specific concerns about draft EJ-115 are listed below. While the Tribal Court recognizes that SB 406 does not mandate an application form, we concur with the committee that EJ-115 is a helpful tool that provides all the pieces of information and statements required to be in compliance with the law. Similarly, the Yurok Tribal Court supports the continued development by the committee of (1) an application form, (2) a form for objections to entry of the tribal court judgment, and (3) an information sheet with instructions for each party. These forms provide, at minimum, a valuable blueprint for tribal courts and help reduce implementation costs.</p> <p>The Yurok Tribal Court recommends the following revisions to the proposed EJ-115:</p> <ol style="list-style-type: none"> 1. Review formatting for <i>Notice of Application for Recognition and Entry of Tribal Court Money Judgment: How to Object</i>. We believe that the last subsection "(d)" should be on a separate line, as not to confuse the reader. Currently, subsection (d) reads as a continuation of previous subsection (c). We believe this technical edit, however small, will aid in the ease of understanding EJ-115. 	<p>The committee notes the recommendation that further forms be developed.</p> <p>The committee agrees and has corrected the formatting.</p>

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			<p>2. Add an enumerated list of required attachments under section 1 of <i>Proof of Service</i>. Tribal Court Civil Money Judgment Act, Section 1734(c) (1-3) lists the required documents referenced in Section 1735(a), and should be included in EJ-115.</p> <p>With these two edits, the Yurok Tribal Court believes that EJ-115 will be a useful tool for our court.</p>	<p>The committee concluded that it is not necessary for the proof of service on this form to provide a separate list of what is supposed to be attached to the application, as that is information required by the applicant, not the server. Such a list will be included on the application form, should one be developed. The committee also notes that the second line of the text of the notice itself includes, in bold, the information that a copy of the tribal court judgment should be included with the application served on respondent.</p>