



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS
CHIEF ADMINISTRATIVE JUDGE

JOHN W. McCONNELL
COUNSEL

MEMORANDUM

January 18, 2017

To: All Interested Persons

From: John W. McConnell

Re: Request for Public Comment on Proposed Template of Verified Petition for Recognition of a Tribal Court Judgment, Decree or Order Pursuant to 22 NYCRR §202.71

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The Administrative Board of the Courts is seeking public comment on a proposed template, proffered by the Unified Court System's Tribal Court Committee and the New York Federal-State-Tribal Courts and Indian Nations Justice Forum, of a verified petition for recognition of a tribal court judgment, decree or order pursuant to 22 NYCRR §202.71 (Exh. A). As noted in the supporting memorandum accompanying this proposal (Exh. B), the model petition is designed to facilitate further the process of recognition of tribal court judgments in state court, and to assist the largely pro se population for whom this process is relevant.

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Persons wishing to comment on the proposed template should e-mail their submissions to rulecomments@nycourts.gov or write to: John W. McConnell, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 11th Fl., New York, New York 10004. **Comments must be received no later than March 7, 2017.**

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

EXHIBIT A

Motion under CPLR Art. 4 and 22 NYCRR § 202.71 for Recognition of Tribal Court Judgment, Decree or Order

Submitted by the New York Unified Court System Tribal Courts Committee
Honorable Marcy L. Kahn, Chair and
Valorie Perez, Esquire

Instructions: Complete the blank spaces printed in bold in accordance with the directions given. Attach copies of the indicated documents, including a certified copy of the tribal court's judgment, order or decree, and mark them as exhibits. Sign your name in the presence of a Notary Public. After you have filed the petition and exhibits and obtained an index number, you will also need to prepare a notice of motion to be served with it on your adversary (the respondent), using the same caption as below and indicating the time and date on which the motion will be returnable at the court, the title and address of the Supreme Court where you will be filing the motion, the papers which you are submitting in support of the motion (your verified petition and its exhibits and that you are seeking recognition of a tribal court judgment (or order or decree) under principles of the common law of comity pursuant to 22 NYCRR Section 202.71.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF _____

-----X
In the Matter of the Application of

Index No.

_____ / _____

[Your Name (s)]

Petitioner (s)

vs

VERIFIED PETITION
FOR RECOGNITION
OF TRIBAL COURT
JUDGMENT, DECREE
OR ORDER

[Fill in Name (s)]
-----X

TO THE SUPREME COURT OF THE STATE OF NEW YORK, COUNTY OF _____:

The petition of _____ [Your Name (s)] respectfully

Shows to this Court as follows:

1) Your petitioner (s) resides at _____

_____ [Your Address].

2) The respondent (s) is/are [Identify the respondent (s)]

3) That the petitioner moves for Recognition of a tribal court judgment, decree or order pursuant to CPLR Art. 4 and 22 NYCRR § 202.71. That the tribal judgment attached to this Petition for Recognition is an authenticated copy of the judgment, decree or order issued by the tribal court of the

[Name of nation, tribe or band] which is recognized by the State of New York or by the United States and that the judgment, decree or order is Final and there is no appeal pending regarding said judgment.

4) That the tribal judgment, decree, or order attached remains valid, and no subsequent orders vacating, modifying or reversing said judgment has been entered in the jurisdiction which rendered said judgment.

5) That the tribal court, _____ [Name of tribal court] had personal jurisdiction over the parties. [Describe and attach any documentary proof of compliance with New York's general personal jurisdiction statute CPLR Section 301 or 302].

6) That the _____ [Name of tribal court] judicial system provided due process to the parties which is compatible with the procedures and requirements of the State of New York. [Describe and attach any documentary proof of the procedures and due process of the tribal court that evidence compatibility with the due process requirements of the State of New York].

7) That the tribal judgment, decree or order of the _____ [Name of tribal court] was not obtained through fraud.

8) That the tribal judgment, decree or order of the _____ [Name of tribal court] is consistent with New York State public policy.

WHEREFORE, your deponent respectfully requests that this Court recognize the judgment, decree or order of the _____ [Name of tribal court] and enter a judgment based on and containing the provisions and terms of the tribal court judgment, decree or order. Your deponent further requests that the judgment be entered in the same

manner, have the same effect, and be enforceable in the same manner as any civil judgment of the Supreme Court of the State of New York.

DATED: _____, 20_____.

Signature

Name, Address and Phone Number

() - _____

VERIFICATION

STATE OF NEW YORK)
) ss.:
COUNTY OF)

_____, being duly sworn, deposes and says: I am the
Petitioner in this matter. I have read the foregoing petition and know the contents thereof. The same
are true to my knowledge, except as to matters therein stated to be alleged on information and belief
and as to those matters I believe them to be true.

Signature

Print name

Sworn to before me on this _____
day of _____, 20__.

Notary Public

EXHIBIT B

State of New York
Unified Court System
Tribal Courts Committee
serving the
New York Federal-State-Tribal Courts
and Indian Nations Justice Forum
Appellate Division, First Department
New York Supreme Court
27 Madison Avenue
New York, New York 10010
(212) 340-0578

Hon. Marcy L. Kahn, Chair
Hon. Edward M. Davidowitz, Co-Chair, 2002-2014*
Hon. Sharon S. Townsend, Vice Chair
Hon. Mark Montour, Vice Chair
Joy Beane, Esquire, Counsel

Hon. Derek Champagne
Hon. Hugh A. Gilbert, Forum Co-Facilitator
Hon. Lizbeth Gonzalez
Hon. Robert G. Main, Jr.
Hon. Patricia A. Maxwell
Todd Webber, Esquire

*Deceased

December 20, 2016

John McConnell, Esquire
Office of Court Administration
25 Beaver Street, 11th Floor
New York, New York 10004

Re: Implementation of Comity Court Rule 22 NYCRR 202.71

Dear Mr. McConnell:

The Unified Court System's Tribal Courts Committee (the Committee) and the New York Federal-State-Tribal Courts and Indian Nations Justice Forum (the Forum) hereby submit a request to the Administrative Board of the Courts designed to enhance the implementation of the rule promulgated by the Administrative Board in 2015 (22 NYCRR 202.71) for Supreme Court recognition of tribal court judgments, orders and decrees (the Rule).

In educating users of New York's tribal courts about the Administrative Board's promulgation of the Rule, the Committee has developed a template for the verified petition to be used to start such special proceedings, in order to assist the largely pro se population for whom the Rule will be relevant. The attached proposed verified petition template has been reviewed and developed by the Committee and the Forum. Both groups believe it to be an extremely important tool in assuring statewide compliance and implementation of Rule 202.71, as well as in promoting greater understanding of the Rule and its provisions.

The Committee and Forum respectfully request approval of the template by the Administrative Board and that the verified petition template be posted and published with other authorized templates the Board has approved. By so doing, the Board will

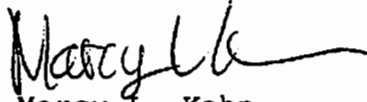
John McConnell, Esquire
December 20, 2016
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further uniform practice throughout the state and enhance the confidence of both courts and litigants in the use of the template.

Please address any questions to the undersigned.

Thank you very much.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marcy L. Kahn", with a long horizontal flourish extending to the right.

Marcy L. Kahn
Chair, Tribal Courts Committee

MLK:ob
Enc.
cc: Tribal Courts Committee