

IN THE SUPREME COURT OF THE STATE OF ALASKA
ORDER NO. 2011

Adopting new Civil Rule 5.4 setting procedures to register certain tribal court orders under the comity doctrine.

IT IS ORDERED:

1. A new Civil Rule is adopted that reads as follows:

Rule 5.4. Registration of Tribal Court Orders Under the Comity Doctrine.

(a) Applicability. This rule applies to tribal court orders of federally recognized tribes in divorce, dissolution, custody, paternity, minor name change, and adult name change cases. This rule does not apply when a state or federal law provides different procedures for recognition, including, for example, protection orders under the Violence Against Women Act, tribal child support orders under the Uniform Interstate Family Support Act, and child protection orders subject to CINA Rules 24 and 25.

(b) Procedure for Filing Tribal Court Order. An Indian tribe, tribal organization, or any person may request to register a tribal court order identified in subsection (a) by filing the following documents in superior court:

(1) a letter, motion, petition, or other document requesting that the superior court register and confirm the tribal court's order;

(2) a copy of the tribal court order to be registered;

(3) a statement, made under penalty of perjury, that the tribal court order has not been vacated, stayed, or modified, and whether the tribal court order has been registered in Alaska or any other jurisdiction; and

(4) contact information including the last known address, phone number, and email address of

(A) the tribal court that issued the order,

(B) each party in the tribal court case, and

(C) the person seeking registration.

(c) Service.

(1) The court must serve a copy of the following documents on the tribal court and all people named in paragraph (b)(4) by first class mail:

(A) the documents filed under subsection (b); and

(B) the Notice of Registration Request described in subsection (d).

(2) The registering party may give additional notice using any method of service allowed by Civil Rule 4. The registering party must retain the proof of service and not file it with the court unless it is needed in future proceedings.

(3) The time period within which a non-registering party may request a hearing begins on the date the court mails the notice.

(d) Contents of the Notice of Registration Request. The Notice of Registration Request required in subparagraph (c)(1)(C) must state the following:

(1) a registered tribal court order is enforceable as if it was issued by the state superior court;

(2) a party who wants to object to registering the tribal court order must file a request for a hearing within 20 days after being served the Notice of Registration Request; and

(3) if no party objects to registering the order, the superior court may register it, and the parties may not have another chance to argue against registering it.

(e) Request for Hearing on Confirmation of Registration. A person or entity that wants to object to the registration of a tribal court order must file a request for a hearing with the registering state superior court within 20 days after being served the notice.

(f) Confirmation of Registration.

(1) After a hearing, or expiration of the 20-day period for requesting a hearing, the superior court must confirm registration of the tribal court order under the comity doctrine unless the superior court determines that:

(A) the person or entity requesting the registration did not follow subsections (a) through (d) of this rule;

(B) the tribal court did not have jurisdiction over the parties or the proceeding in which the tribal court order was entered;

(C) the tribal court order being registered has been vacated, stayed, or modified by a court having jurisdiction to do so;

(D) the person or entity objecting to registration was entitled to notice but was not given reasonable notice before the tribal court made its decision, or, if notice was

given, the person objecting to registration was not given an opportunity to be heard before the tribal court made its decision; or

(E) comity recognition would be against the public policy of the State of Alaska.

(2) When determining whether to grant comity recognition to the tribal court order, the superior court must

(A) enter a written order, including findings of fact and conclusions of law, confirming or denying registration of the tribal court order, and

(B) distribute the order to the person or entity requesting registration, the tribal court, and all persons listed in paragraph (b)(4).

(g) Recognition and Enforcement of Registered Orders.

Alaska courts recognize and enforce tribal court orders registered in accordance with this rule. A court of this state may grant any relief available under the law of this state to enforce a registered tribal court order.

2. The following Note is added to the end of new Civil Rule 5.4:

NOTE

In *John v. Baker*, 982 P.2d 738 (Alaska 1999), the Alaska Supreme Court held that tribal court orders should be given comity recognition as a general rule. Recognition should be denied only if the tribal court lacked personal or subject matter jurisdiction, a party was denied due process (although differences in tribal court processes should be respected), or the order is against the public policy of the State of Alaska.

DATED: May 30, 2024

EFFECTIVE DATE: July 1, 2024

/s/
Chief Justice Maassen

/s/
Justice Carney

/s/
Justice Borghesan

/s/
Justice Henderson

/s/
Justice Pate