

At a term of the Family Court of the State of New York
held in and for the County of _____,
at _____ New York
on _____, _____.

PRESENT:

Hon.
Judge

In the Matter of a Proceeding under
Article _____ of the

Docket No. _____

Child's Name:
Date of Birth:

ORDER DETERMINING PETITION OR
REQUEST FOR TRANSFER OF
PROCEEDING CONCERNING
AN INDIAN CHILD

A petition having been filed or oral application having been made in this Court requesting transfer
of the following proceeding concerning the child to the jurisdiction of the Indian tribe or nation:

- [Check applicable box]:
- | | |
|--|---|
| <input type="checkbox"/> foster care placement | <input type="checkbox"/> child abuse or neglect |
| <input type="checkbox"/> person in need of supervision | <input type="checkbox"/> termination of parental rights |
| <input type="checkbox"/> destitute child | <input type="checkbox"/> surrender |
| <input type="checkbox"/> adoption | <input type="checkbox"/> custody to a non-parent |

And this Court having determined that the child [check all applicable box(es)]:²

- is is not a member
- is is not eligible to be a member
- is is not a child of a member³
- is is not a Native-American child domiciled or residing on the tribal reservation or tribal lands
- is is not a Native-American child who is a ward of the court of a tribe or nation

¹ A request for transfer to a tribal court may be made orally or by petition. 25 U.S.C. §1911(b); Bureau of Indian Affairs,, U.S. Dept. of the Interior, *Guidelines for State Courts: Indian Child Custody Proceedings* C1, Fed. Register (Nov. 26, 1979); S.S.L. §39(6).

² Where a Native-American child is domiciled or residing on tribal or nation reservation or lands and where the tribal court exercises exclusive jurisdiction over child custody matters and/or the child is a ward of the court of the tribe or nation, the tribe or nation has exclusive jurisdiction and transfer is mandatory. *See* Bureau of Indian Affairs, US Dept. of the Interior, *guidelines for State Courts: Indian Child Custody Proceedings* ¶B-4, *Fed. Reg.* (Nov. 26, 1979).

³ The parent member includes: birth mother, father married to birth mother at time of the birth or father who signed an acknowledgment of paternity or obtained an order of filiation and Native-American adoptive parent of a Native-American child. *See* 25 U.S.C. §1903(9).

of the following tribe or nation [specify]: _____, a tribe or nation recognized⁴ by the Bureau of Indian Affairs, US Dept.of Interior State of New York Other state [specify]: _____

And this Court having determined that [check applicable box]:

there is no good cause to deny the transfer

OR

the following good cause exists to deny the transfer [specify]: _____

And that an objection to the transfer: has has not been filed by the child’s mother;
 has has not been filed by the child’s father;

And that with respect to the transfer of this proceeding, the tribe or nation [check applicable box]:
 consents does not consent has not taken a position has not conveyed a position to the Court.

And the matter having duly come on to be heard before this Court,
NOW, after examination and inquiry into the facts and circumstances of the case, it is hereby
[Check applicable box]:

ORDERED that the petition or application for transfer of the proceeding to the jurisdiction of the Indian tribe is hereby GRANTED and the proceeding is so transferred, subject to declination by the tribal court;

OR

ORDERED that the petition or application for transfer of the proceeding to the jurisdiction of the Indian tribe is hereby DENIED and the petition for transfer is dismissed;

AND IT IS FURTHER ORDERED that [specify]: _____

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT, AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30 DAYS AFTER SERVICE BY A PARTY OR THE ATTORNEY FOR THE CHILD UPON THE APPELLANT, WHICHEVER IS EARLIEST.

ENTER

Judge of the Family. Court.

Dated:

Check applicable box:

- Order mailed on [specify date(s) and to whom mailed]: _____
- Order received in court on [specify date(s) and to whom given]: _____

⁴ All tribes and nations in New York State are recognized by both the federal Bureau of Indian Affairs and New York State except the Unkechaug Nation, which is recognized only by New York State. A directory of the 565 federally recognized tribes is available on-line at:
<http://www.bia.gov/WhoWeAre/BIA/OIS/TribalGovernmentServices/TribalDirectory/index.htm>