



## Hedger & Walter, LLP

### **OVERVIEW: JOINT-JURISDICTIONAL COURT**

#### **Background**

Jurisdiction is exercised jointly when a tribal court judge and a state or federal court judge come together to simultaneously exercise their respective authority. By bringing together justice system partners and leveraging resources to promote healing and protect public safety, the judges are able to work toward common goals: improved outcomes for families, fewer children in out-of-home-placement, decreased incarceration, decreased recidivism, and decreased disproportionate minority contact in the courts. Tribal-state cooperative agreements offer both governments the opportunity to coordinate the exercise of authority, share resources, and deliver services in more efficient and culturally relevant ways.

The first joint jurisdictional court in the Nation was established in 2006 when the Leech Lake Band of Ojibwe Tribal Court teamed up with Minnesota's Ninth Judicial District's Cass County District Court to form a unique drug court. Since then, a number of other jurisdictions have blended tribal healing to wellness and collaborative court approaches to create joint jurisdictional courts that address a range of issues facing Tribal and non-Tribal communities.

In California, the first joint jurisdictional court was established by the Shingle Springs Band of Miwok Indians and the El Dorado Superior Court with the assistance of the Judicial Council and a technical assistance grant from the Bureau of Justice Administration. The Yurok Tribe and the Humboldt Superior Court followed their example and, with the help of a Judicial Council innovation grant, established the Joint-jurisdictional court, called the Family Wellness Court, to address the intersection of substance abuse and child welfare. Through a successful grant application by the Northern California Tribal Court Coalition and funding from the Center for Family Futures, two more joint-jurisdictional courts have been established in the region by the Yurok Tribal Court partnering with the Del Norte Superior Court and the Hoopa Valley Tribal Court partnering with the Humboldt Superior Court.

State courts have historically placed the focus on the symptoms of drug and alcohol abuse and are generally not equipped to deal with the root causes of these problems. While, tribal courts place more focus on the root causes but may not have the resources to effectively treat them. For this reason, when both jurisdictions come together, as equal partners, and empower families to make healthy decisions and break the cycle of addiction and child abuse & neglect, family outcomes necessarily improve.

These joint jurisdictional courts use a “wellness court” model, which blends the problem-solving/collaborative court approach used by many state courts with the tribal healing to wellness approach used by many tribal courts. Both are flexible and can be adapted to local conditions and cultures. Both focus on healing rather than retribution. Both ask judges to focus on issues other than the presenting problem, such as root causes of the court participant’s behavior, implications of that behavior for the community, and how they will coordinate intensive treatment supervision.

## How These Joint Courts Work

- **Voluntary**  
Instead of going to state court, families may elect to have their dependency cases heard by the Joint Jurisdiction Family Wellness Court. This allows two judges (one state judge and one tribal judge) to preside over the family’s case together.
- **Healing journey**  
The two judges listen to the family and empower participants to direct their own journey. This is guided by these six principles:
  1. Preserving dignity and promoting respect;
  2. Returning to harmony, healing the whole family;
  3. Peer and extended family support team;
  4. Culturally appropriate strategies;
  5. Community engagement; and
  6. Therapeutic model that promotes opportunities for self-healing.
- **Family Wellness Team Approach**  
The team includes the family, the judges, a family mentor, social workers from the Yurok Social Services and the Humboldt County Department of Health and Human Services, a clinical case manager, and others whom the family identifies as family supports.  
  
The team may also include court staff, attorneys, substance use disorder treatment providers, public health nurse, mental health treatment providers, traditional knowledge holders and healers, elders, education and employment representatives, community representatives and more, depending on the family’s circumstances and needs.
- **Family Wellness Plan**  
The team and the family work together to create a wellness plan that is strength-based, culturally responsive, and uniquely tailored to meet the needs of the family. The plan will include goals, steps to meet those goals, who will help along the way, what to do when things don’t go well, and a timeline for achieving each step and reaching each goal. These plans will be regularly updated with the family, and will include progress, milestones

reached, barriers, and the steps taken to deal with those barriers.

- **Regular Family Team Staffing Meetings and Court Hearings**  
Right before court, the team will review the wellness plan with the judges. Following this review, the judges will hold an informal hearing.

The judges will take the time with each participant to recognize the behavioral milestones reached. The judges will recognize that no one is perfect and there will be times when families stumble in their healing journey. When this happens, the judges and family wellness team, are there to help the family make things right. The judges may ask questions so that opportunities for self-healing might be identified and to help motivate the family to make things right. This process allows a family member the opportunity to recover from their stumble.

In addition to these informal hearings, there are state statutory court hearings where parents and children are represented by counsel. These hearings start of every other week and are reduced as participants progress in their healing. The number of court hearings depends upon which phase of Family Wellness Court the family is in.

- **Phases**  
These courts have different phases that the participants move through to graduation or commencement.

## **Conclusion**

Tribal members benefit from this joint jurisdictional approach because services are culturally relevant and tailored to meet the needs of the whole family in the community. Cultural activities are viewed as protective factors and built into the participant's family wellness plan. Participants and their families walk along their own unique path, grounded in the Tribe's values and traditions. The judges do not sit apart from this path, but instead accompany the participant, as part of the wellness team. Together, they focus on preserving and retaining the unity of the family, creating opportunities for self-healing, and holding one another accountable to address root causes for the participant's involvement in the court.