

**RESOLUTION OF THE
NAVAJO NATION COUNCIL**

**Adopting the Navajo Nation Long-Arm Civil Jurisdiction and
Service of Process Act of 2000 Into the Navajo Nation Code**

WHEREAS:

1. Pursuant to 2 N.N.C. §102 (A) and (B), the Navajo Nation Council is the governing body of the Navajo Nation and all powers not delegated are reserved to the Navajo Nation Council; and
2. Pursuant to 2 N.N.C. §571, the Judiciary Committee of the Navajo Nation Council is established and continued as a standing committee of the Navajo Nation Council with oversight responsibilities for the operation of the Judicial Branch. In addition, pursuant to 2 N.N.C. §574(E)(2), the Committee is authorized to review legislation and make recommendations regarding any proposed or current laws, procedures and regulations affecting or creating any impact on the Judicial Branch; and
3. The Judiciary Committee of the Navajo Nation Council, by Resolution JCJY-17-00, attached hereto and incorporated herein as Exhibit "A", has recommended that the Navajo Nation Council adopt the Long-Arm Civil Jurisdiction and Service of Process Act of 2000; and
4. The Justices and Judges of the Navajo Nation recommend approval of the Long-Arm Civil Jurisdiction and Service of Process Act of 2000 (Judicial Conference Resolution JB-JN-03-00 attached hereto as Exhibit "B"); and
5. The Navajo Nation Council recognizes that there has been several recent events that need to be addressed. First, the United States Supreme Court in Strate v. A-1 Contractors held that Indian Nations have no "inherent" jurisdiction over non-Indians and that jurisdiction is pegged to commercial activities, consent and basic governmental interests. Second, the Arizona Supreme Court in State v.

Zaman, ruled that although normally, process cannot be served within the Navajo Nation, it can be served upon non-Navajos. Third, the enactment of the Navajo Nation Consumer Protection Law has created numerous difficulties when it comes to long-arm and due process jurisdiction over individuals transacting business with Navajos.


NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby amends Title 7 of the Navajo Nation Code by adopting the Long-Arm Civil Jurisdiction and Service of Process Act of 2000, as provided in Exhibit "C", attached hereto and incorporated herein.

2. The amendments contained in this resolution shall become effective upon the certification of this resolution by the Speaker of the Navajo Nation Council.

CERTIFICATION

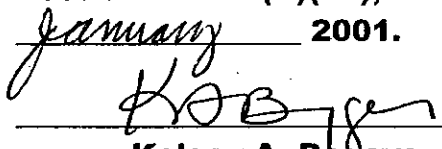
I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that the same was passed by a vote of 75 in favor, 0 opposed and 0 abstained, this 24th day of January 2001.


Edward T. Begay, Speaker
Navajo Nation Council
January 25, 2001
Date

Motion: Ernest Hubbell
Second: Robert Ortiz

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005 (C)(10), on this 29th day of January 2001.



**Kelsey A. Begaye, President
Navajo Nation**

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. Section 1005(C)(10) this ____ day of _____ 2001 for the reason(s) expressed in the attached letter to the Speaker.

**Kelsey A. Begaye, President
Navajo Nation**

**RESOLUTION OF THE
JUDICIARY COMMITTEE OF THE
NAVAJO NATION COUNCIL**

Recommending That the Navajo Nation Council Incorporate
the Navajo Nation Long-Arm Civil Jurisdiction and Service
of Process Act of 2000 Into the Navajo Nation Code

WHEREAS:

1. The Judiciary Committee of the Navajo Nation Council, pursuant to 2 N.N.C. §574(E)(1), is empowered to initiate, recommend, support and sponsor legislation to improve the Navajo judicial system; and
2. There have been several recent events that need to be addressed. First, the United States Supreme Court in *Strate v. A-1 Contractors* held that Indian nations have no "inherent" jurisdiction over non-Indians and that jurisdiction is pegged to commercial activities, consent, and basic governmental interests. Second, the Arizona Supreme Court in *State V. Zaman*, ruled that although normally, process cannot be served within the Navajo Nation, it can be served upon non-Navajos. Third, the enactment of the Navajo Nation Consumer Protection Law has created numerous difficulties when it comes to long-arm and due process jurisdiction over individuals transacting business with Navajos; and
3. The Justices and Judges of the Navajo Nation recommend approval of the Long-Arm Civil Jurisdiction and Service of Process Act of 2000 and amendment of Title 7 of the Navajo Nation Code to incorporate the Long-Arm Civil Jurisdiction and Service of Process Act of 2000 in the Navajo Nation Code. (Judicial Conference Resolution JB-JN-03-00 attached hereto as Exhibit A); and
4. The Judiciary Committee has reviewed the proposed Long-Arm Civil Jurisdiction and Service of Process Act of 2000, as supported by the Judicial Conference of Justices and Judges.


NOW THEREFORE BE IT RESOLVED THAT:

1. The Judiciary Committee of the Navajo Nation Council approves and recommends that the Navajo Nation Council approve the Long-Arm Civil Jurisdiction and Service of Process Act of 2000 (attached hereto as Exhibit "B").

2. The Judiciary Committee of the Navajo Nation Council further recommends that the Navajo Nation Council amend Title 7 of the Navajo Nation Code to incorporate the Long-Arm Civil Jurisdiction and Service of Process Act of 2000 into the Navajo Nation Code.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Judiciary Committee of the Navajo Nation Council at a duly called meeting at the Alamo Chapter House, at Alamo, Navajo Nation (New Mexico), at which a quorum was present and that same was passed by a vote of 4 in favor, 0 opposed and 0 abstained, this 13th day of July, 2000.


Kenneth L. Begay, Chairperson
Judiciary Committee

Motion: Peter Watchman
Second: Joe Dennison, Jr.

**RESOLUTION OF THE
JUDICIAL CONFERENCE OF THE NAVAJO NATION**

Supporting the Adoption of the Navajo Nation Long-Arm Civil Jurisdiction and Service of Process Act of 2000 and Recommending that the Chief Justice of the Navajo Nation Seek the Introduction of the Act for Adoption by the Navajo Nation Council.

WHEREAS:

1. The Navajo Nation Judicial Conference is composed of the justices and judges of the Courts of the Navajo Nation; and
2. Navajo Nation Judicial Conference, among other things, advises the Chief Justice of the Navajo Nation on matters affecting the Judicial Branch, including advising the Chief Justice on legislative initiatives having an impact on the operations of the courts; and
3. There have been several recent events that need to be addressed. First, the United States Supreme Court in *Strate v. A-1 Contractors* held that Indian nations have no "inherent" jurisdiction over non-Indians and that jurisdiction is pegged to commercial activities, consent, and basic governmental interests. Second, the Arizona Supreme Court in *State v. Zaman*, ruled that although normally, process cannot be served within the Navajo Nation, it can be served upon non-Navajo. Third, the enactment of the Navajo Nation Consumer Protection Law has created numerous difficulties when it comes to long-arm and due process jurisdiction over individuals transacting business with Navajos; and
4. This proposed Navajo Nation Long-Arm Civil Jurisdiction and Service of Process Act of 2000 effectively addresses the aforementioned concerns and incorporates the comments and views of the Navajo Nation Judiciary Committee when prior drafts were discussed. Finally, comments and decisions were made at the Judicial Conference on June 16, 2000, at Chinle, Navajo Nation, Arizona; and
5. Taking all comments into consideration and addressing the concerns, the Judicial Conference has before it a draft of the proposed Navajo Nation Long-Arm Civil Jurisdiction and Service of Process Act of 2000, a copy of which is attached hereto as Exhibit "A" and incorporated herein by reference.

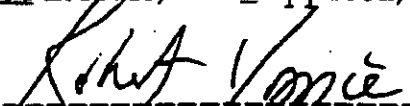
NOW THEREFORE BE IT RESOLVED THAT:

1. The Judicial Conference of the Navajo Nation hereby recommends the adoption of the Navajo Nation Long-Arm Civil Jurisdiction and Service of Process Act of 2000 by the Navajo Nation Judiciary Committee and the Navajo Nation Council.

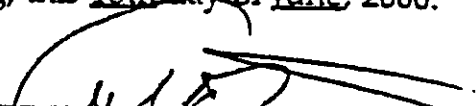
2. The Judicial Conference of the Navajo Nation recommends the amendment of the Navajo Nation Code to incorporate the Navajo Nation Long-Arm Civil Jurisdiction and Service of Process Act of 2000.

CERTIFICATION

We hereby certify that the foregoing resolution was duly considered by the Judicial Conference of the Navajo Nation Justices and Judges at a duly called meeting in Chinle, Arizona, at which a quorum was present and the same was passed by a vote of 14 in favor, and 0 opposed, and 0 abstaining, this 16th day of June, 2000.



Honorable Robert Yazzie,
Chief Justice of the Navajo Nation

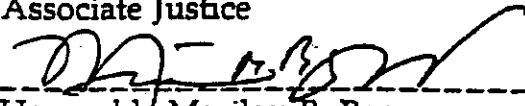


Honorable Raymond D. Austin,
Associate Justice


Honorable Wayne A. Cadman, Sr.,
Associate Justice



Honorable Wesley W. Atakai



Honorable Marilou B. Begay



Honorable Raymond A. Begaye



Honorable Leroy S. Bedonie




Honorable Jennifer D. Benally


Honorable Lorene Ferguson




Honorable Thomas J. Holgate



Honorable LaVette Johnson

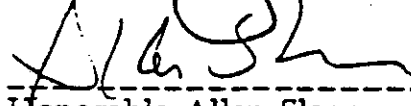


Honorable Sharon Johnson



Honorable Ray Gilmore

Honorable Loretta Morris



Honorable Allen Sloan



Honorable Irene M. Toledo



Honorable Manuel Watchman

Motion: Judge Ray Gilmore

Second: Judge Irene Toledo

§ 253a. THE NAVAJO NATION LONG-ARM CIVIL JURISDICTION AND SERVICE OF PROCESS ACT OF 2000

A. Definitions

As used in this Act, the term "person" includes an individual, executor, administrator, or other personal representative, or a corporation, partnership, association or any other legal or commercial entity, whether or not a citizen or domiciliary of the Navajo Nation and whether or not organized under the laws of the Navajo Nation. The term includes all persons, natural or fictitious, of any kind.

B. Personal Jurisdiction Based on Enduring Relationship or Status

A court of the Navajo Nation may exercise personal and subject matter jurisdiction over a person domiciled in, organized under the laws of, or maintaining his, her, or its place of business in the Navajo Nation as to any cause of action or claim for relief. A court of the Navajo Nation may exercise personal jurisdiction over any member of the Navajo Nation regarding that person's status as a member of the Navajo Nation for activities outside this jurisdiction which affect any other member of the Navajo Nation. A court of the Navajo Nation may exercise civil jurisdiction over any person who assumes tribal relations with Navajos and the Navajo Nation by marriage or an affectionate or enduring relationship.

C. Personal Jurisdiction Based on Conduct

A court of the Navajo Nation may exercise personal and subject matter jurisdiction over any non-member who consents to jurisdiction by commercial dealings, residence, employment, written or implied consent, or any action or inaction which causes injury which affects the health, welfare, or safety of the Navajo Nation or any of its members, or any other act which constitutes the assumption of tribal relations and the resulting express or implied consent to jurisdiction.

A court of the Navajo Nation may exercise personal jurisdiction over a person, who acts directly or by an agent, as to a cause of action for relief arising from the person's:

1. Transacting any business in the Navajo Nation;
2. Contracting at any place to supply services or things within the Navajo

Nation;

3. Causing tortious injury by any act or omission within the Navajo Nation;
4. Causing tortious injury in the Navajo Nation by an act or omission outside the Navajo Nation if he or she regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in the Navajo Nation;
5. Having an interest in, using, or possessing real property in the Navajo Nation, including the actual occupancy or lease of trust land, allotted land, fee land, or any other land within Navajo Indian country;
6. Contracting to insure any person, property or risk located within the Navajo Nation;
7. Causing an act which creates an environmental hazard or degradation of the air, waters, flora, fauna, cultural artifact, or other resource of the Navajo Nation;
8. Selling alcohol to any person who enters the Navajo Nation and who causes an injury in the Navajo Nation under the influence of alcohol; or
9. Any action or inaction outside this jurisdiction which causes actual injury or damage within the Navajo Nation, where such injury or damage was reasonably foreseeable.

D. Service of Process Outside the Navajo Nation

When the exercise of personal jurisdiction is authorized by this Act, service of process may be made outside the Navajo Nation, and where such service is not reasonably feasible, service may be made by any means which is likely to give the defendant actual notice of the pendency of an action.

E. Inconvenient Forum

When a Navajo Nation court finds that in the interest of substantial justice the action should be heard in another forum, the court may stay or dismiss the action in whole or in part on any condition that may be just.

F. Other Basis of Jurisdiction Unaffected

A court of the Navajo Nation may exercise jurisdiction on any other basis authorized by law, including the inherent and treaty jurisdiction of the Navajo Nation.

G. Manner and Proof of Service

1. When the law of the Navajo Nation authorizes service outside the Navajo Nation, the service, when calculated to give actual notice, may be made:
 - a. By personal delivery in the manner prescribed for service within the Navajo Nation;
 - b. In the manner prescribed by the law of the place in which service is made in an action in any of its courts of general jurisdiction;
 - c. By any form of mail addressed to the person to be served and requiring a signed receipt;
 - d. As directed by a foreign authority in response to a letter rogatory;
or
 - e. As directed by the court.
2. Proof of service outside the Navajo Nation may be made by affidavit of the individual who made the service or in the manner prescribed by the law of the Navajo Nation, the order pursuant to which service is made, or the law of the place in which the service is made for proof of service in an action in any of its courts of general jurisdiction. When service is made by mail, proof of service shall include a receipt signed by the addressee or other evidence of personal delivery to the addressee satisfactory to the court and showing that the service was reasonably calculated to give actual notice.

H. Individuals to be Served; Special Cases

When the law of the Navajo Nation requires that in order to effect service one or more designated individuals be served, service outside the Navajo Nation under this Act must be made upon the designated individual or individuals.

L. Assistance to Tribunals and Litigants Outside the Navajo Nation

- 1. A court of the Navajo Nation may order service upon any person who is domiciled or can be found within the Navajo Nation of any document issued in connection with a proceeding in a tribunal outside the Navajo Nation. The order may be made upon application of any interested person or in response to a letter rogatory issued by a tribunal outside the Navajo Nation and shall direct the manner of service. Otherwise, no process which is not process issued by a Navajo Nation court or administrative tribunal with jurisdiction over the cause may be served within the Navajo Nation, and the Navajo Nation denies consent to admission to the Navajo Indian country to any state official or process server for the service of process unless the same is done under this section.**
- 2. Service in connection with a proceeding in a tribunal outside the Navajo Nation may be made within the Navajo Nation only with an order of a Navajo Nation court.**
- 3. Service under this section does not, of itself, require the recognition or enforcement of an order, judgment, or decree rendered outside the Navajo Nation.**
- 4. A Navajo Nation court may decline to order service of process where a tribunal outside the Navajo Nation lacks jurisdiction over the action, where the application is fraudulent, or where the action violates the public policy of the Navajo Nation.**

J. Other Provisions of Law Unaffected

This Act does not repeal or modify any other law of the Navajo Nation permitting any other procedure for service of process.