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San Felipe Pueblo Tribal Court Handbook (2013)

Tribal Law Journal Staff

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Tribal Law Journal

University of New Mexico School of Law

Tribal Court Handbook

TLJ, Fall2013 (Indian Law Section of the State Bar of NM 1991)

SAN FELIPE

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Please feel free to contact the UNM Tribal Law Journal if you have questions, or wish to discuss the questionnaire or Tribal Courts Handbook project.

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Introduction and Note to Practitioners:

Tribal Court Handbook information contained herein was provided by a representative of the tribal court in response to a questionnaire provided by the Tribal Law Journal. Often information contained within a Tribal Court Handbook will change between Tribal Law Journal updates. Readers are encouraged to utilize the following information as a starting place for information about a tribal court and to verify that information is accurate.

NAME OF TRIBE: SAN FELIPE

Part One: TRIBAL GOVERNMENT AND GENERAL INFORMATION

The purpose of this Section is to provide certain basic information about your Tribal Court and judicial system. Anyone practicing in Tribal Court will need to know where the Court is located, how it is organized, and who to contact for more information.

1. Contact Persons and Location of Tribal Court:

Name of Tribal Court			
Contact Person Name & Title			
Address			
Phone		Fax	
E-mail			

2. Name and address of the Chief Judge of the Tribal Court:

Name	Anita H. Reina		
Title	Judge		
Address			
Phone	505-867-2696	Fax	
E-mail	AReina@sfpueblo.com		

3. Driving directions to Tribal Court (attach a map if needed):

(I.e., from Albuquerque, drive north on Interstate 25...)

4. What is the official name of your tribe or federally recognized organization?

5. On what is your tribal government based? (Please check one and briefly describe in box)

- ☐ An IRA or OIWA constitution
☐ A non-IRA constitution
☐ A non-constitutional organizational document (*e.g. tribal legislation*)
☐ A traditional system (*please describe*)
☐ Other (*please describe*)

6. Please indicate which organic documents are possessed by the Tribe, and from whom copies are available:

Tribal Document	Available?	Obtain Copy From:
1. Tribal Constitution	<input type="checkbox"/> yes <input type="checkbox"/> no	
2. Bill of Rights	<input type="checkbox"/> yes <input type="checkbox"/> no	
3. Organizational Statute	<input type="checkbox"/> yes <input type="checkbox"/> no	
4.	<input type="checkbox"/> yes <input type="checkbox"/> no	
5.	<input type="checkbox"/> yes <input type="checkbox"/> no	

7. Please indicate where your tribal jurisdiction is exercised:

- ☐ Within undisputed, clearly established reservation boundaries
☐ Generally within reservation boundaries, with a few outlying parcels of Indian country
(Please describe the nature of these parcels: e.g. gaming location; purchased land not used for gaming; land remaining from formerly larger reservation, etc.)
- ☐ Within Indian country (or dependent Indian community); there are no reservation boundaries
☐ Please describe disputes regarding the tribe's territorial jurisdiction, including boundaries; non-Indian owned fee land; dependent Indian community status; state or county roads; or any other:

8. Regular Court Staff:

Name	Title	Phone Number	e-mail address
Dominic Sandoval	Bailiff/ process server		
• All other info remains the same			

9. Tribal Court Organization:

Other branches of the Court (if any):

Other Courts in Tribal Court system are checked below:

- ☐ Appellate Court (Tribal Council or Southwest Intertribal Court of Appeals)
☐ Supreme Court
☐ Lower courts with different subject-matter jurisdiction
☐ Other: _____
☐ Other: _____
☐ Other: _____

10. Number of judges on the Tribal Court: (Please provide list of names, titles, and contact information for each judge)

Judge Positions	# of Full-time Positions	# of Part-time Positions	# of Pro-tem Positions
Trial Court Judges			
Specialized Court Judges			
Appellate Court Judges			
Other:			

11. Tribal Prosecutor for the Court :

Name			
Title			
Address			
Phone		Fax	
E-mail			

12. Tribal Government staff person to be contacted for more information regarding Tribal Government:

Name			
Title			
Address			
Phone		Fax	
E-mail			

13. Tribal Justice System Staff: *(Please provide list of names, titles, and contact information for each position)*

Tribal Justice System Position	# of Full-time Positions	# of Part-time Positions	# of Pro-tem Positions
Court Administrators/Clerks			
Probation Officers			
Prosecutors			
Public Defenders			
Bailiffs	1		
Juvenile Officers			
Other:			
Other:			

14. Use of Attorneys: *(Please indicate the number of full and part time attorneys or law school graduates your tribal justice system currently utilizes – enter 0 for positions which are not held by attorneys or law school graduates)*

Tribal Justice System Position	# of Full-time Positions	# of Part-time Positions	# of Pro-tem Positions
Judges who are licensed attorneys			
Judges who are law school graduates, but not licensed in any state			
Prosecutors who are licensed attorneys			
Prosecutors who are law school graduates, but not licensed in any state			
Public defenders who are licensed attorneys			
Public defenders who are law school graduates but not licensed in any state			

15. Alternative Dispute Resolution and Diversion Programs:

- Does your tribe use Alternative Dispute Resolution (ADR) in the judicial system? ☐ Yes ☐ No
If yes, please indicate below which ADR methods you use:

☐ Traditional Methods ☐ Mediation ☐ Settlement Facilitation
☐ Arbitration ☐ Diversion Programs ☐ Other: _____

Please describe:

- Is there additional written material available which describes your tribe's ADR program(s)?
☐ Yes ☐ No If yes, who should be contacted to obtain a copy:

Name			
Title			
Address			
Phone		Fax	
E-mail			

Part Two: TRIBAL BAR PRACTICE

(Please attach additional information for each question if available)

Issue		Comments
1. Are there special requirements to be permitted to practice in tribal court?	<input type="checkbox"/> yes <input type="checkbox"/> no	
2. Are there requirements regarding knowledge of tribal culture or language:	<input type="checkbox"/> yes <input type="checkbox"/> no	
3. Are advocates who do not have law degrees or are not members of a state bar permitted to practice in tribal court? Please describe requirements.	<input type="checkbox"/> yes <input type="checkbox"/> no	
4. Do the same requirements apply for state-licensed attorneys?	<input type="checkbox"/> yes <input type="checkbox"/> no	
5. Does your tribe have a tribal bar examination? If yes, please provide details concerning requirements, how often the exam is administered and how to get more information about being admitted to the tribal bar.	<input type="checkbox"/> yes <input type="checkbox"/> no	
6. Can an otherwise licensed attorney who is not a member of the tribal bar be admitted for a single case? If yes, how?	<input type="checkbox"/> yes <input type="checkbox"/> no	
7. Can/must an otherwise licensed attorney who is not a member of the tribal bar associate with a member of the tribal bar on a single case? If yes, how?	<input type="checkbox"/> yes <input type="checkbox"/> no	
8. Does the tribal bar have a Continuing Legal Education requirement? If yes, please provide details.	<input type="checkbox"/> yes <input type="checkbox"/> no	
9. What is the total number of members of the tribal bar?		
10. Of the total number of members of the tribal bar, how many are licensed attorneys admitted to practice in a state?		

16. Other requirements for a lawyer to practice in Tribal Court:

17. Others that are allowed in practice in Tribal Court:

Part Three: TRIBAL COURT RULES AND PROCEDURE

The purpose of this Section is to provide specific information regarding the rules and procedures necessary to practice in Tribal Court.

18. Tribal Court's working hours:

19. Language(s) used in Tribal Court:

20. Interpreters are available: ☐ yes ☐ no

Contact:

Name			
Title			
Address			
Phone		Fax	
E-mail			

21. Tribal court filing fees:

22. Tribal Court scheduling or docket practices where specific days or weeks are reserved:

23. Rules of conduct, or etiquette, or rules of ethics, either written or implied, which are required to practice in Tribal Court:

24. The following written rules are available for Tribal Court (*Check all that apply*):

<input type="checkbox"/> Civil Procedure	<input type="checkbox"/> Evidence	<input type="checkbox"/> Others:
<input type="checkbox"/> Criminal Procedure	<input type="checkbox"/> Appellate Procedure	
<input type="checkbox"/> Domestic Relations	<input type="checkbox"/> Alternative Dispute Resolution	

25. These rules can be obtained by contacting:

Name			
Title			
Address			
Phone		Fax	
E-mail			

26.To obtain more information on unwritten Tribal Court rules procedures, contact:

Name			
Title			
Address			
Phone		Fax	
E-mail			

27.Tribal Court forms can be obtained from:

Is a list of tribal court and related forms available? ☐ yes ☐ no If yes, please provide a copy.

Name			
Title			
Address			
Phone		Fax	
E-mail			

28.Jury trials are available for the following types of cases:

☐ Criminal ☐ Torts – Injury ☐ Traffic ☐ Other: _____
☐ Other: _____ ☐ Other: _____

29.Appeals are available for the following types of cases:

☒ Criminal ☐ Torts – Injury ☐ Traffic ☐ Other: _____
☐ Other: appeals from all cases

30.Tribal Court decisions and opinions are ☐ written ☐ oral.

If written, copies of decisions and opinions are available from:

Name			
Title			
Address			
Phone		Fax	
E-mail			

31.Trial proceedings or hearings are ☐ recorded ☐ transcribed ☐ not recorded.

If recorded or transcribed, proceedings or hearings are available from:

Name			
Title			
Address			
Phone		Fax	
E-mail			

Part Four: THE JURISDICTION OF TRIBAL COURT

The purpose of this Section is to provide information regarding the law that applies to cases heard in Tribal Court.

32.Information regarding a written Tribal Code can be obtained from:

Name			
Title			
Address			
Phone		Fax	
E-mail			

33.Does the tribe or the court have a definition of “non-member Indian” for jurisdictional or service purposes?

☐ yes ☐ no If yes, please indicate what that definition is, and describe whether there are different definitions for different purposes (e.g., tribal services or criminal jurisdiction).

34.Does the tribe exercise jurisdiction over members off-reservation?

☐ yes ☐ no If yes, please specify subject matter and circumstances (check all that apply):

☐ Indian Child Welfare Act

☐ Hunting, Fishing or Subsistence

☐ Other: _____

☐ Other: _____

35.Does a significant number of non-member Indians live within the tribe’s jurisdiction?

☐ yes ☐ no Comments:

36.Do a significant number of non-Indians visit tribal lands on a regular basis?

☐ yes ☐ no If yes, please indicate the types of visits (check all that apply):

☐ Gaming

☐ Tourism

☐ Transients on Interstate Highway

☐ Resort

☐ Hunting/Fishing

☐ Transients on Other Highways

☐ Smokeshop

☐ Other: _____

37.Are there problems presented by these visitors, such as increased traffic violations, hunting or wood cutting violations?

☐ yes ☐ no If yes, please describe these problems and indicate whether disputes are presently settled in tribal court or other forum (please specify forum, such as state court):

38. Are there federal laws or treaty provisions that specifically limit your tribe's jurisdiction over non-members or non-Indians (as opposed to limitations on all tribes)?

☐ yes ☐ no If yes, please indicate the specific law or provision and the limitation:

Federal Statute: _____ over

☐ Non-Indians ☐ Non-member Indians

Treaty Provision: _____ over

☐ Non-Indians ☐ Non-member Indians

39. Over which groups of persons does your tribal constitution or traditional system permit jurisdiction?

Tribal Constitution

- ☐ Tribal Members Only
- ☐ All persons, civil
- ☐ All persons, criminal
- ☐ All Indians, civil
- ☐ All Indians, criminal

Traditional System

- ☐ Tribal Members Only
- ☐ All persons, civil
- ☐ All persons, criminal
- ☐ All Indians, civil
- ☐ All Indians, criminal

40. Has the tribe, by tribal legislation, limited its jurisdiction to members?

☐ yes ☐ no If yes, is the jurisdiction ☐ General over all actions, or ☐ as to specific matters (please specify the subject matters):

Part Five: TRIBAL CODES

The purpose of this Section is to provide information regarding any Tribal Codes that apply to practice in Tribal Court.

- 41. Does your tribe's Constitution or Tribal Code contain a Bill of Rights?** ☐ yes ☐ no
If yes, are copies available?

- 42. Does your tribe have a written code?** ☐ yes ☐ no
If no, go to Section Seven, State Jurisdiction on page xxx of this questionnaire
If yes, the code is based on:
☐ written customary law
☐ a modern (Western-style) code
☐ Both customary law and modern (Western-style) code

- 43. Is a copy of the tribal code readily available to any person who wants it?** ☐ yes ☒ no
If yes, where can a copy be obtained?
Name: _____ Phone: _____ Cost: \$ _____
If no, please specify reason:
Following CFR and executive order governing alcohol related offenses. However, CRF and executive order are available.

- 44. Has the tribal code ever been comprehensively codified?** ☐ yes ☐ no
If yes, when was the last time the tribal codified? Date: _____

- 45. Please indicate which of the following are covered in your tribal code (check all that apply):**

<p>FAMILY LAW (Domestic Relations)</p> <ul style="list-style-type: none"><input type="checkbox"/> Marriage<input type="checkbox"/> Divorce<input type="checkbox"/> Child Support and Enforcement<input type="checkbox"/> Visitation<input type="checkbox"/> Paternity<input type="checkbox"/> Guardianship<input type="checkbox"/> Abuse and Neglect<input type="checkbox"/> Out of home placement<input type="checkbox"/> Children in Need of Supervision (CHINS)<input type="checkbox"/> Adoption (including ICWA)<input type="checkbox"/> Probate (Estate distributions)<input type="checkbox"/> Domestic Violence<input type="checkbox"/> Elder Protection<input type="checkbox"/> Other: _____<input type="checkbox"/> Other: _____ <p>JUVENILE JUSTICE</p> <ul style="list-style-type: none"><input type="checkbox"/> Status offenses (curfew, truancy, underage possession of alcohol, etc.)<input type="checkbox"/> Non-status offenses (criminal)<input type="checkbox"/> Other: _____<input type="checkbox"/> Other: _____	<p>HOUSING AND LAND USE</p> <ul style="list-style-type: none"><input type="checkbox"/> Evictions<input type="checkbox"/> Housing authority actions<input type="checkbox"/> Trespass<input type="checkbox"/> Land assignments<input type="checkbox"/> Land use<input type="checkbox"/> Landlord-tenant<input type="checkbox"/> Grazing/Farming<input type="checkbox"/> Other: _____<input type="checkbox"/> Other: _____ <p>TRIBAL AFFAIRS</p> <ul style="list-style-type: none"><input type="checkbox"/> Enrollment<input type="checkbox"/> TERO and other employment rights<input type="checkbox"/> Elections<input type="checkbox"/> Voter Registration<input type="checkbox"/> Eligibility to run for office<input type="checkbox"/> Recounts<input type="checkbox"/> Campaign Financing<input type="checkbox"/> Other election disputes<input type="checkbox"/> Appeals<input type="checkbox"/> Other: _____<input type="checkbox"/> Other: _____
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<p>ENVIRONMENTAL</p> <ul style="list-style-type: none"> <input type="checkbox"/> Housing <input type="checkbox"/> Building <input type="checkbox"/> Sanitation <input type="checkbox"/> Solid Waste <input type="checkbox"/> Water <input type="checkbox"/> Air <input type="checkbox"/> Noise <input type="checkbox"/> Other: _____ <input type="checkbox"/> Other: _____ <p>CIVIL COMMITMENTS</p> <ul style="list-style-type: none"> <input type="checkbox"/> Mental Health <input type="checkbox"/> Substance Abuse <input type="checkbox"/> Juvenile commitment <input type="checkbox"/> Physical disability <input type="checkbox"/> Developmentally disabled (severely retarded) or other disorder (stroke, persistent vegetative state) disability <input type="checkbox"/> Other: _____ <input type="checkbox"/> Other: _____ <p>TRAFFIC</p> <ul style="list-style-type: none"> <input type="checkbox"/> DWI <input type="checkbox"/> Speeding <input type="checkbox"/> Reckless Operation <input type="checkbox"/> Driver's Licenses <input type="checkbox"/> Vehicle Licenses <input type="checkbox"/> Insurance requirements <input type="checkbox"/> Other: _____ <input type="checkbox"/> Other: _____ <p>COMMERCIAL TRANSACTIONS</p> <ul style="list-style-type: none"> <input type="checkbox"/> Contracts <input type="checkbox"/> Consumer protection <input type="checkbox"/> Collection of debts <input type="checkbox"/> Other: _____ <input type="checkbox"/> Other: _____ <p>TORTS</p> <ul style="list-style-type: none"> <input type="checkbox"/> Personal Injury <input type="checkbox"/> Defamation, libel, slander <input type="checkbox"/> Other: _____ <input type="checkbox"/> Other: _____ 	<p>CRIMINAL LAW</p> <ul style="list-style-type: none"> <input type="checkbox"/> Assault and battery <input type="checkbox"/> Harassment and stalking <input type="checkbox"/> Kidnapping <input type="checkbox"/> Trespass <input type="checkbox"/> Property damage <input type="checkbox"/> Larceny <input type="checkbox"/> Extortion <input type="checkbox"/> Embezzlement <input type="checkbox"/> Receiving stolen property <input type="checkbox"/> Illegal kickbacks <input type="checkbox"/> Marital and familial offenses (e.g. bigamy, unlawful cohabitation, incest) <input type="checkbox"/> Sexual offenses (other than children as victims) <input type="checkbox"/> Alcohol and other intoxicants (including selling, possession, bootlegging, trafficking, distributing, etc.) <input type="checkbox"/> Homicide (murder & lesser offenses involving the death of a human being) <input type="checkbox"/> Crimes against children & dependents, including sex crimes <input type="checkbox"/> Bribery <input type="checkbox"/> Perjury and false affirmations <input type="checkbox"/> Malicious prosecution <input type="checkbox"/> Conspiracy to commit a crime <input type="checkbox"/> Worthless checks <input type="checkbox"/> Welfare fraud <input type="checkbox"/> Securities fraud <input type="checkbox"/> Racketeering <input type="checkbox"/> Election fraud or interfering with elections <input type="checkbox"/> Computer crimes (e.g. computer access with intent to defraud or embezzle, unauthorized computer use) <input type="checkbox"/> Controlled substances (e.g. drug selling, possession, distribution, trafficking, etc.) <input type="checkbox"/> Crimes against public peace (e.g. disorderly conduct, unlawful assembly, rioting) <input type="checkbox"/> Interference with law enforcement (e.g. resisting, evading, obstruction, assault, battery, refusing to aid, concealing identity, aiding a felon, escape from jail, assisting escape, bringing contraband into jail) <input type="checkbox"/> Official misconduct (e.g. demanding or receiving illegal fees, making false vouchers, paying or receiving tribal money for services not provided) <input type="checkbox"/> Other: _____ <input type="checkbox"/> Other: _____ <input type="checkbox"/> Other: _____
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<p>COURT PROCEDURES</p> <ul style="list-style-type: none"> <input type="checkbox"/> Criminal Court procedures (e.g. requirements for filing a complaint, time limits for hearings and motions, format for documents) <input type="checkbox"/> Civil Court procedures (e.g. requirements for filing a petition or complaint, time limits for hearings and motions, format for documents) <input type="checkbox"/> Juvenile or Children's Court procedures (e.g. requirements for filing a petition, time limits for hearings and motions, format for documents) <input type="checkbox"/> Appellate Court procedures (e.g. requirements for allowing appeals, time limits, notice of appeal) <input type="checkbox"/> Administrative Court procedures (e.g. from decisions made by tribal departments such as housing, personnel, land use & realty, environmental, membership, or elections board) <input type="checkbox"/> Procedures for appeals from council (legislative) decisions. <input type="checkbox"/> Code of Judicial or Professional Responsibility <input type="checkbox"/> Other: _____ <input type="checkbox"/> Other: _____ 	<p>OTHER CODE PROVISIONS (Please specify):</p>
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46. Has your tribe waived its immunity from suit in court?

☐ yes

☒ no

If no, go to question 46.

If yes, please indicate which of the following applies:

☐ General Waiver

☐ Limited Waiver (check all that apply)

☐ For tort claims against the tribe

☐ For civil rights claims against the tribe

☐ For specific business activities

☐ As to special tribal public agencies (e.g. housing authority)

☐ As to tribally-owned business enterprises

☐ Other: _____

☐ Specific to:

☐ Tribal Court

☐ Federal Court

☐ State Court

47. Is the civil jurisdiction of your tribe limited by any federal statute?

☐ yes

☐ no

If yes, please indicate the statute:

Part Six: INTERGOVERNMENTAL RELATIONS

48. Does your tribe, pueblo, or village have any agreements to RECEIVE services from or to use facilities of a state, county, municipality, or other tribe? ☐ yes ☐ no

If no, go to question #48.

If yes, please complete the following chart:

Type of Service	Type of Agreement	Agreement is With:
Cross Deputization	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Shelter Care	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Treatment/Counseling	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Detention Facilities	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Correction Facilities	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
<i>Other (Please Describe)</i>	<input type="checkbox"/> Contracts <input checked="" type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	Council has approved at end of Aug. 2013 MOA (Memo of Agreement) w/ Sandoval County for sex offenders to comply with SORNA (Sexual Offender Registration and Notification Act)

49. Does your tribe, pueblo, or village have any agreements to PROVIDE services or the use of facilities TO a state, county, municipality, or other tribe? ☐ yes ☐ no

If no, go to question #49.

If yes, please complete the following chart:

Type of Service	Type of Agreement	Agreement is With:
Cross Deputization	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Shelter Care	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Treatment/Counseling	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Detention Facilities	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
Correction Facilities	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	
<i>Other (Please Describe)</i>	<input type="checkbox"/> Contracts <input type="checkbox"/> Other formal agreements <input type="checkbox"/> Informal agreements	

Part Seven: STATE & OTHER GOVERNMENTAL JURISDICTION

The purpose of this Section is to provide information regarding jurisdiction that has been granted by your tribe to any state or other governmental entity..

50. Has any state government been granted jurisdiction over any portion of your reservation by treaty, federal legislation, or tribal legislation? ☐ yes ☐ no

If yes, jurisdiction was granted by (Check all that apply, and describe briefly):

<input type="checkbox"/> Treaty: (Please specify and describe)	
<input type="checkbox"/> Federal Legislation (P.L. 83-280 or other – please specify and describe)	
<input type="checkbox"/> Tribal Legislation (Please specify and describe)	

51. Is state jurisdiction limited? ☐ yes ☐ no

If yes, jurisdiction is limited to:

<input type="checkbox"/> Persons: (Please specify and describe)	
<input type="checkbox"/> Subject Matter: (Please specify and describe)	

52. Does your tribe exercise concurrent jurisdiction with the state? ☐ yes ☐ no

If yes, concurrent jurisdiction is over:

<input type="checkbox"/> Persons: (Please specify and describe)	
<input type="checkbox"/> Subject Matter: (Please specify and describe)	

53. Does your tribe receive services from the state and municipal governments, law enforcement and court systems under state jurisdiction? ☐ yes ☐ no

If yes, the services provided are the result of:

☐ Agreement or Contract ☐ Federal Court order or settlement

The services provided are: