

FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FORD MOTOR COMPANY,
Plaintiff-Appellee,

v.

JOE R. TODECHEENE, as the
surviving natural parent of Esther
Todecheene, deceased; MARY
TODECHEENE, as the surviving
natural parent of Esther
Todecheene, deceased,
Defendants-Appellants,

and

NAVAJO NATION DISTRICT COURT;
LEROY S. BEDONIE, The Honorable,
Defendants.

No. 02-17048
D.C. No.
CV-02-01100-PGR

FORD MOTOR COMPANY,
Plaintiff-Appellee,

v.

JOE R. TODECHEENE, as the
surviving natural parent of Esther
Todecheene, deceased; MARY
TODECHEENE, as the surviving
natural parent of Esther
Todecheene, deceased,

Defendants,

and

NAVAJO NATION DISTRICT COURT;
LEROY S. BEDONIE, The Honorable,
Defendants-Appellants.

No. 02-17165
D.C. No.
CV-02-01100-PGR
ORDER

Filed February 1, 2007

Before: Barry G. Silverman, William A. Fletcher, and
Johnnie B. Rawlinson, Circuit Judges.

ORDER

Joe and Mary Todecheene's Petition for Rehearing is
GRANTED in part.

The opinion in this case, *Ford Motor Company v. Todech-*
eene, 394 F.3d 1170 (9th Cir. 2005) is WITHDRAWN.

Because our en banc opinion in *Smith v. Kootenai College*,
434 F.3d 1127 (9th Cir. 2006), did not resolve the jurisdiction
issue presented in this case, we cannot say that the tribal
courts in this case plainly lack jurisdiction over the dispute

among Ford Motor Company, the Todecheenes and the Navajo Nation. *See Boozar v. Wilder*, 381 F.3d 931, 935 (9th Cir. 2004) (requiring exhaustion unless the tribal courts plainly lack jurisdiction). Accordingly, we REMAND this case to the district court with instructions that the district court stay proceedings in this matter pending exhaustion of available proceedings in the tribal courts, including appellate review. *See Iowa Mutual Ins. Co. v. LaPlante*, 480 U.S. 9, 16 (1987). (“[T]he federal policy supporting tribal self-government *directs a federal court to stay its hand* in order to give the tribal court *a full opportunity* to determine its own jurisdiction.”) (internal quotation marks omitted) (emphasis added).

The petitions for rehearing en banc filed by Joe and Mary Todecheene and the Navajo Nation are DENIED as moot.

The panel retains jurisdiction over any further appeals in this case.

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