**Tohono O’odham Rules of Court**

**Recognition and Enforcement of Foreign Judgments**

### Purpose.

The purpose of these Rules is to facilitate and improve the recognition and enforcement of judgments between the Tohono O’odham Nation and other jurisdictions.

### Foreign Judgments that May be Recognized

The judgments of United States federal courts; state courts, including municipal, county, and other lower courts; tribal courts; and courts of another country will have the same full recognition and enforcement in the courts of the Tohono O’odham Nation as any judgment of the Tohono O’odham court, provided that the judgments are recognizable and enforceable under Rule 3.3 of these Rules andthe party seeking recognition and enforcement complies with the conditions and procedures in this rule and Rule 3.

#### Foreign Civil Orders and Petition for Recognition and Enforcement; Contents; Certification; Notice.

A person or entity seeking recognition and enforcement of a foreign judgment must file a petition signed under oath requesting recognition and enforcement of the judgment.

##### Contents of Petition. The petition must contain the following information:

###### the name and last known mailing address of the parties;

###### whether the person or entity seeking recognition and enforcement was a party to a lawsuit to whom a money judgment was awarded;

###### the jurisdiction and name of the court that entered the order;

###### the date the order was entered;

###### whether the judgment is final with no pending appeal, or is not final;

###### whether any subsequent orders vacating, modifying, or reversing the judgment have been entered in the rendering jurisdiction;

###### whether the judgment is valid and enforceable in the rendering jurisdiction; and

###### enough information to show that the person against whom the judgment has been rendered is subject to the jurisdiction of this court regarding enforcement of the judgment.

##### Certified Copy of Judgment. A copy of the judgment to be enforced must be attached to the petition. The copy will, at minimum, be cerified by the clerk or registrar of the court issuing the judgment as a true and correct copy. A record is certified if it contains language substantially stating that the copy is true and correct, is signed and dated by the clerk or registrar of the court issuing the judgment, and bears the seal of the issuing court. Judgments containing language that the copy is true and correct that have been exemplified (signatures by the clerk of court and deputy clerk and two seals) or authenticated (signatures by the clerk of court, deputy clerk of court, and a judge, and three seals) may also be submitted.

##### Pre-Prepared Notice. The party seeking enforcement must, at the time of filing, submit a pre-prepared notice to each party against whom enforcement is requested for the clerk’s signature and seal. The notice must:

###### state the name of this court and the names and addresses of the parties and legal counsel (if any); and

###### contain this statement: “A petition to enforce a judgment issued by a court outside of the Tohono O’odham Nation has been filed. An order recognizing and enforcing the judgment against you will be entered thirty (30) days from service unless you file a written objection with the Tohono O’odham Court prior to the expiration of the thirty (30) days.”

##### Service; Return. The party seeking enforcement must serve a copy of the petition and the notice on each party against whom enforcement is requested. Service of the petition and notice and the return of service is governed by the Tohono O’odham Civil Rules of Procedure.

#### Foreign Child Support Orders and Petition for Order of Garnishment.

##### Petitions Allowed.

###### *Petition for Recognition and Enforcement*. A party seeking recognition of the child support order without garnishment of wages may file for recognition under Rule 2.1.

###### *Petition for Order of Garnishment*. A party seeking garnishment in addition to recognition of the foreign child support order may file a Petition for Order of Garnishment instead of a Petition for Recognition and Enforcement.

The Petition must be signed under oath and contain the following information:

the name and address of the agency or person to whom support payments should be transmitted;

the name, address, birthdate, social security number, and tribal enrollment number – if applicable and known to the petitioner – of the person to be garnished;

the birthdates of both parents;

the name and address of the employer of the person to be garnished;

whether the judgment is final and if any appeal is pending;

whether any subsequent orders vacating, modifying, or reversing the judgment have been entered in the rendering jurisdiction, or in any other jurisdiction;

why the person against whom the judgment has been rendered is subject to the jurisdiction of the Tohono O’odham court for enforcement of the judgment;

why the rendering jurisdiction had both personal jurisdiction over the party against whom the judgment was rendered, and subject matter; jurisdiction; and

why the rendering jurisdiction was entitled to issue an income or wage-withholding order, including a statement of the amount of arrearages, and a statement that all procedural due process requirements of the rendering jurisdiction for issuance of the income or wage-withholding order have been carried out in full.

The filing party must attach to the Petition for Order of Garnishment:

a certified copy of the foreign child support order, with all modifications made by the rendering jurisdiction;

a certified copy of any income or wage-withholding order entered by the rendering jurisdiction, if any.

##### Pre-Prepared Notice. The party seeking enforcement must, at the time of filing, submit a pre-prepared notice for each party against whom enforcement is requested for the clerk’s signature and seal. The notice must state the name of the court and the names and addresses of the parties and legal counsel (if any), and contain the following statement:

###### *Petition for Recognition and Enforcement*: “A petition to enforce a judgment issued by a court outside of the Tohono O’odham Nation has been filed. An order recognizing and enforcing the judgment against you will be entered thirty (30) days from service unless you file a written objection with the Tohono O’odham Court prior to the expiration of the thirty (30) days.”

###### *Petition for Order of Garnishment*: “A petition for an order of garnishment to enforce a judgment issued by a court outside of the Tohono O’odham Nation and to garnish wages has been filed. An order recognizing and enforcing the judgment against you will be entered thirty (30) days from service unless you file a written objection with the Tohono O’odham Court prior to the expiration of the thirty (30) days.”

##### Service; Return. The party seeking enforcement must serve a copy of the petition and the notice on each party against whom enforcement is requested. Service of the petition and notice and the return of service is governed by the Tohono O’odham Civil Rules of Procedure.

### Objections; Non-Enforceable Judgments; Hearing.

#### Objection; Request for Hearing.

A party objecting to enforcement of a foreign judgment or a petition for order of garnishment must file a written objection within thirty (30) days of service of the petition. The written objection must request a hearing and give a brief statement explaining why the Court should not recognize the judgment.

#### Summons; Service.

The objecting party must, when filing the objection, submit a pre-prepared summons for each party under the Tohono O’odham Rules of Civil Procedure. The court clerk will set the hearing date, sign the summons, and return the summons to the objecting party for service and return of service.

#### Non-Enforceable or Non-Recognizable Judgments.

A judgment will not be recognized or enforced if:

##### the judgment was rendered by a process that does not assure the requisites of an impartial judicial proceeding, including, but not limited to, notice and the right to a hearing;

##### the rendering court did not have both personal jurisdiction over the party against whom enforcement is sought, and jurisdiction over the subject matter;

##### the judgment was obtained by fraud;

##### the cause of action on which the judgment is based, if recognized, is contrary to the laws, custom and tradition, or public policy of the Tohono O’odham Nation;

##### the judgment involves enforcement of child custody provisions, and

###### the rendering court did not have jurisdiction over the child(ren);

###### the Indian Child Welfare Act (25 U.S.C. §§ 1901-1963), if applicable, was not properly followed; or

###### due process was not provided to all interested persons or parties participating in the court proceeding.

##### the judgment involves enforcement of a criminal judgment wherein this court lacks the authority to otherwise adjudicate a criminal proceeding against a particular defendant; or

##### the judgment is not valid or enforceable in the rendering jurisdiction.

#### Hearing.

The party objecting to enforcement of a foreign judgment must show why the foreign judgment should not be recognized and enforced by the Tohono O’odham courts. At the hearing, after reviewing all the relevant evidence concerning the foreign judgment, the court will issue an order either granting or denying recognition of the foreign judgment.

### Entry of Order Where No Objection.

If no written objection is filed within the applicable period, and the court finds the petition meets the requirements set forth by these Rules, the court will grant recognition and enforcement of the foreign judgment or the petition for order of garnishment.

### Appeal; Stay of Execution; Stay of Proceedings.

If an objecting party satisfies the court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the court may dismiss the petition without prejudice; or stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

### Post-judgment Proceedings Regarding Foreign Judgment.

The entry of the order recognizing and enforcing the foreign judgment by this court will entitle the judgment holder to enforce its judgment in any manner provided by law or rule.

### Application for Garnishment.

##### When Filed. The Application for Garnishment in compliance with the Tohono O’odham Rules of Civil Procedure may be filed with the Petition for Recognition and Enforcement, or may be filed after recognition of the foreign judgment.

##### Filing Fee. A filing fee applies to the Application for Garnishment.