

TOHONO O'ODHAM RULES OF COURT

Section 10: Recognition and Enforcement of Foreign Judgments

Rule 1. 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.

Rule 2. Foreign Judgments that May be Recognized.

The Court may recognize judgments of United States federal courts; state courts, including municipal, county, and other lower courts; and other tribal courts. The Court may recognize judgments from courts of another country if the judgments comply with Rule 3.3 and the party seeking recognition of a judgment complies with Rule 3.

Rule 2.1. 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.

(a) Contents of Petition. The petition must contain:

- (1) the name and last known mailing address of all parties to the judgment;
- (2) whether the person or entity seeking recognition and enforcement was a party to a lawsuit to whom a money judgment was awarded;
- (3) the jurisdiction and name of the court that entered the order;
- (4) the date the order was entered;
- (5) whether the judgment is final with no pending appeal, or is not final;
- (6) whether any subsequent orders vacating, modifying, or reversing the judgment have been entered in the rendering jurisdiction;
- (7) whether the judgment is valid and enforceable in the rendering jurisdiction; and
- (8) enough information to show that the person against whom the judgment has been rendered is subject to the jurisdiction of this court.

(b) Certified Copy of Judgment. A copy of the judgment to be enforced must be attached to the petition. The copy will, at minimum, be certified 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.

(c) 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:

- (1) state the name of this court and the names and addresses of the parties and counsel (if any); and
- (2) 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 30 days from service unless you file a written objection with the Tohono O'odham Court prior to the expiration of the 30 days."

(d) 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 Rules of Civil Procedure.

Rule 2.2. Foreign Child Support Orders and Petition for Order of Garnishment.

(a) Petitions Allowed.

- (1) Petition for Recognition and Enforcement. A party seeking recognition of a child support order without garnishment of wages may file for recognition under Rule 2.1.
- (2) Petition for Order of Garnishment. A party seeking garnishment in addition to recognition of a foreign child support order may file a Petition for Order of Garnishment instead of a Petition for Recognition and Enforcement.
 - (A) The Petition must be signed under oath and contain the following information:
 - (i) the name and address of the agency or person to whom support payments should be transmitted;
 - (ii) the name, address, birthdate, social security number, and tribal enrollment number—if applicable and known to the petitioner—of the person to be garnished;
 - (iii) the birthdates of both parents;
 - (iv) the name and address of the employer of the person to be garnished;
 - (v) whether the judgment is final and if any appeal is pending;
 - (vi) whether any subsequent orders vacating, modifying, or reversing the judgment have been entered in the rendering jurisdiction, or in any other jurisdiction;
 - (vii) 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;
 - (viii) why the rendering jurisdiction had both personal jurisdiction over the party against whom the judgment was rendered, and subject-matter jurisdiction; and
 - (ix) what was specifically ordered by the rendering jurisdiction, including a statement of the amount of arrearages, and a statement that all procedural due process requirements of the rendering jurisdiction have been carried out.

- (B) The filing party must attach to the Petition for Order of Garnishment:
- (i) a certified copy of the foreign child support order, with all modifications made by the rendering jurisdiction; and
 - (ii) a certified copy of any income or wage garnishment order entered by the rendering jurisdiction, if any.

(b) 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 originating court and the names and addresses of the parties and counsel (if any), and contain the following statement:

- (1) 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 30 days from service unless you file a written objection with the Tohono O'odham Court prior to the expiration of the 30 days."
- (2) 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 30 days from service unless you file a written objection with the Tohono O'odham Court prior to the expiration of the 30 days."

(c) 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 Rules of Civil Procedure.

Rule 3. Objections; Non-Enforceable Judgments; Hearing.

Rule 3.1. 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 30 days of service of the petition. The written objection must be signed, request a hearing, and give a brief statement explaining why the Court should not recognize the judgment.

Rule 3.2. Summons; Service.

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

Rule 3.3. Non-Enforceable or Non-Recognizable Judgments.

A judgment will not be recognized or enforced if:

- (a)** the judgment was rendered by a process that does not guarantee an impartial judicial proceeding, including notice and the right to a hearing;

- (b) the rendering court did not have both personal jurisdiction over the party against whom enforcement is sought, and jurisdiction over the subject matter;
- (c) the judgment was obtained by fraud;
- (d) the cause of action on which the judgment is based is contrary to the laws, customs and traditions, or public policy of the Tohono O’odham Nation;
- (e) the judgment involves enforcement of child custody provisions, and
 - (1) the rendering court did not have jurisdiction over the child;
 - (2) the Indian Child Welfare Act (25 U.S.C. §§ 1901-1963), if applicable, was not properly followed; or
 - (3) due process was not provided to all interested persons or parties participating in the court proceeding.
- (f) 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
- (g) the judgment is not valid or enforceable in the rendering jurisdiction.

Rule 3.4. Hearing.

The party objecting to enforcement of a foreign judgment must show why the Tohono O’odham Court should not recognize and enforce the foreign judgment. 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.

Rule 4. Entry of Order Where No Objection.

If no one files a written objection within the applicable period, and the Court finds that the petition complies with these Rules, the Court will grant recognition and enforcement of the foreign judgment or the petition for order of garnishment.

Rule 5. Appeal; Stay of Execution; Stay of Proceedings.

If an objecting party can show that an appeal from the foreign judgment is pending or will be filed, or that a stay of execution has been granted, the Court may dismiss the petition without prejudice, or may stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution in the foreign jurisdiction expires or is vacated.

Rule 6. Postjudgment Proceedings Regarding Foreign Judgment.

The entry of the order recognizing and enforcing the foreign judgment by this Court will entitle the judgment holder to pursue enforcement of the judgment under Tohono O’odham law.

Rule 7. Application for Garnishment.

- (a) **When Filed.** The Application for Garnishment, in compliance with the Tohono O’odham

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Rules of Civil Procedure, may be filed with the Petition for Recognition and Enforcement or may be filed after recognition of the foreign judgment.

(b) Filing Fee. A filing fee applies to the Application for Garnishment.

Section History

History: Adopted January 4, 2005 as Administrative Order 01-05. Amended June 3, 2005 by Administrative Order 03-05. Amended, reorganized, and renumbered to consolidate the Administrative Orders into the Tohono O’odham Rules of Court on November 1, 2011. Amended by the 2017 Tohono O’odham Rules of Court. Amended by the 2023 Tohono O’odham Rules of Court. Amended by the 2024 Tohono O’odham Rules of Court.