

**Chapter 6**  
**Pokagon Band of Potawatomi Indians**  
**Court Rules for Recognition of Foreign Court Judgments**

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**Chapter 6**  
**Pokagon Band of Potawatomi Indians**  
**Court Rules for Recognition of Foreign Court Judgments**

**Section 1. Purpose and Definitions.**

- A. **Purpose.** The purpose of this Chapter of Court Rules is to implement the *Tribal Court Code* of the Pokagon Band of Potawatomi Indians which requires the Tribal Court to recognize and enforce the valid judgments of State of Michigan courts and other foreign courts. See *Tribal Court Code*, Section 7(F).
- B. **Definitions.** The following terms shall have the following meanings:
1. "*Attorney*" and "*Lawyer*" are synonymous and mean an individual who is admitted to practice before the courts of any state.
  2. "*Band*" and "*Tribe*" are synonymous and mean the Pokagon Band of Potawatomi Indians.
  3. "*Court*" and "*Tribal Court*" are synonymous and mean the trial level court of the Band.
  4. "*Foreign Court*" means any court other than the Tribal Court of the Pokagon Band of Potawatomi Indians, including federal, state, or tribal courts or courts of a foreign country.
  5. "*Foreign Judgment*" means any final judgment, decree, or order by any foreign court, regardless of whether the judgment is for money, injunctive, declaratory, or any other relief.
  6. "*Petitioner*" means one who has a judgment rendered in his or her favor.
  7. "*Rendering Jurisdiction*" means the jurisdiction in which the foreign judgment was entered.
  8. "*Respondent*" means the party against whom a judgment has been rendered.

**Section 2. Recognition of Foreign Judgments.** The judgments, decrees, orders, warrants, subpoenas, records and other judicial acts of a foreign court are recognized and have the same effect and are subject to the same procedures, defenses and proceedings as judgments, decrees, orders, warrants, subpoenas, records and other judicial acts of the Tribal Court, subject to the provisions of this Chapter.

- A. The recognition described in this Chapter applies only if the foreign court provides reciprocal recognition and enforcement of Tribal Court judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts.
- B. The person seeking recognition of a foreign judgment must comply with the conditions and procedures set forth in Section 3(B) of this Chapter.
- C. A judgment decree, order, warrant, subpoena, record or other judicial act of a foreign court that complies with subsection (A) above is presumed to be valid. To overcome this presumption, an objecting party must demonstrate that:
  - 1. The foreign court lacked personal or subject matter jurisdiction, or
  - 2. The judgment, decree, order, warrant, subpoena, record or other judicial act of the foreign court:
    - a. was obtained by fraud, duress or coercion;
    - b. was obtained without fair notice or a fair hearing;
    - c. is repugnant to the public policy of the Band; or
    - d. is not final under the laws and procedures of the foreign court.
- D. This Section does not apply to judgments or orders that federal law requires be given full faith and credit.

### **Section 3. Procedures for Recognition of Foreign Judgments.**

- A. **Application.** In accordance with the foreign judgment recognition provisions set forth in Section 2 of this Chapter, a foreign judgment that is final and conclusive is recognizable and enforceable in the Tribal Court under the following procedure.
- B. **Registration of Foreign Judgment.** A person seeking recognition of a foreign judgment shall file:
  - 1. A copy of the foreign judgment, which has been authenticated by the clerk or registrar of the foreign court in the following manner:

- a. The clerk or registrar of the foreign court must attest in writing that s/he:
    - i. is the clerk or registrar of the foreign court;
    - ii. is the custodian of the records of the foreign court; and
    - iii. has compared an attached copy of the foreign judgment from the case with the original(s) on file and of record in the foreign court, and has found the copy of the foreign judgment to be a true copy of the whole of the original(s).
  - b. Upon completing the written attestation referenced in subsection a (i)-(iii) above, the clerk or registrar of the foreign court must:
    - i. sign and date the attestation;
    - ii. affix the seal of the foreign court to the attestation; and
    - iii. attach a certified copy of the original foreign judgment to the attestation.
2. An affidavit by the Petitioner, or his/her attorney, which includes the following:
- a. The name and last known mailing address of the Respondent and the Petitioner;
  - b. Proof that the judgment is final and statement that no appeal is pending;
  - c. A statement that no subsequent orders vacating, modifying or reversing the judgment have been entered in the rendering jurisdiction;
  - d. Proof that the person against whom the foreign judgment has been rendered (i.e., Respondent) is subject to the jurisdiction of the Tribal Court with regard to enforcement of the judgment; and
  - e. A statement or other proof that the court, from which the foreign judgment was issued, provides or will provide reciprocal recognition and entitlement to enforcement of the judgments of the Tribal Court.
3. Payment of the filing fee for registering the foreign judgment.

**Section 4. Notice of Registration of Foreign Judgments.** Upon the filing of the foreign judgment, attestation, affidavit and filing fee, the Tribal Court Administrator must within fourteen (14) days mail a notice of the filing of the foreign judgment along with a copy of the foreign judgment, attestation, and affidavit to the Respondent at the address provided by the Petitioner and shall complete a proof of service. The notice of the filing of the foreign judgment shall include the following:

- A. The name and mailing address of the Petitioner and the Petitioner's attorney, if any; and
- B. A statement giving notice that an "*Order Granting Recognition of Foreign Judgment*" shall be entered by the Tribal Court unless the Respondent files written objection(s) with the Tribal Court within twenty-one (21) days of service of the notice of the filing of foreign judgment on the Respondent.

**Section 5. Notice of Deadline to File Written Objection(s).**

- A. The Tribal Court must mail a notice to the Respondent that he/she twenty-one (21) days to file any written objection(s) to the recognition of the foreign judgment.
- B. Any objection(s) filed must include a statement of the basis for the objection(s).
- C. If no objection(s) is/are filed, the Tribal Court will enter an "*Order Granting Recognition of Foreign Judgment.*"

**Section 6. Entry of Order Absent Objection(s).** In the event that the Respondent does not file any written objection(s) within the twenty-one (21) day period set forth in Section 5 of this Chapter, an "*Order Granting Recognition of Foreign Judgment*" shall be entered by the Tribal Court.

**Section 7. Objection(s), Hearing, and Entry of Order.**

- A. **Objection(s).** In the event that the Respondent files a written objection(s) within the twenty-one (21) day period set forth in Section 5 of this Chapter, the Tribal Court Administrator must:
  - 1. send by first-class mail a copy of the objection to the Petitioner, or his/her attorney; and
  - 2. send by first-class mail a notice of hearing on the objection(s) setting forth the date and time of hearing to the Petitioner and Respondent, or their respective attorney(s).

- B. **Hearing.** The Respondent will be required to show why the foreign judgment should not be recognized by the Tribal Court.
- C. **Order.** At the scheduled hearing, after reviewing all the relevant evidence concerning the foreign judgment, the Tribal Court shall issue an order either granting or denying recognition and entitlement to enforcement of the foreign judgment.

**Section 8. Appeal, Stay of Execution, and Stay of Proceedings.** If the Respondent satisfies the Tribal Court that an appeal from the foreign judgment is pending or will be taken, or that a stay of execution has been granted, the Tribal Court may stay recognition of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

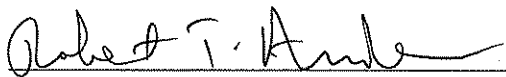
**Section 9. Post-Judgment Proceedings Regarding Foreign Judgment.** The entry of an "Order Granting Recognition of Foreign Judgment" by the Tribal Court shall entitle the Petitioner to enforce his/her judgment against the Respondent in any manner available to Petitioner. A Petitioner may proceed to post-judgment proceedings upon entry the order by the Tribal Court.

**Section 10. Short Title, Effective Date, and Citation Format.**

- A. **Short Title.** These *Rules* are titled "Rules for Recognition of Foreign Court Judgments."
- B. **Effective Date.** These *Rules* become effective when adopted by the members of the Court of Appeals of the Pokagon Band of Potawatomi Indians.
- C. **Citation.** The official abbreviated citation form to these *Rules* is: PBCR Chapter 6.

**CERTIFICATION OF ADOPTION**

The Justices of the Court of Appeals unanimously adopted the technical revisions to the above *Rules* on 10/27/2007.

  
Robert T. Anderson, Chief Justice


Date: 12-21-07

  
Matthew L.M. Fletcher, Associate Justice

Date: 1/12/08

  
Jill E. Tompkins, Associate Justice

Date: 1/4/08

  
Tribal Court Administrator and  
Court of Appeals Clerk

Date: 1/23/08

#### JUDICIAL HISTORY

The *Court Rules for Recognition and Entitlement to Enforcement of Foreign Court Judgments* were adopted by the Judiciary on January 27, 2004; technical revisions to this Chapter of Court Rules to provide uniformity in formatting and nomenclature for various Chapters of Court Rules by Administrative Order on July 27, 2006; technical revisions to this Chapter of Court Rules to provide uniformity in formatting and nomenclature for various Chapters of Court Rules and revise the title of this Chapter of the Court Rules to "**Court Rules for Recognition of Foreign Court Judgments**" on October 27, 2007.