

RULES OF PROCEDURE FOR THE RECOGNITION OF TRIBAL COURT CIVIL JUDGMENTS

RULE 1. APPLICABILITY

These rules shall govern the procedures for recognition and enforcement by the superior courts of the State of Arizona of tribal court civil judgments of any federally recognized Indian tribe. Determinations regarding recognition and enforcement of a tribal judgment pursuant to these rules shall have no effect upon the independent authority of that tribal judgment. To the extent that they are not inconsistent with these rules, the Arizona Rules of Civil Procedure shall apply.

These rules do not apply to tribal judgments for which federal law requires that states grant full faith and credit recognition or for which state law mandates different treatment.

Nothing in these rules shall be deemed or construed to expand or limit the jurisdiction either of the State of Arizona or any Indian tribe.

RULE 2. DEFINITIONS

As used throughout these rules:

(a) "Tribal court" means any court or other tribunal of any federally recognized Indian nation, tribe, pueblo, band, or Alaska Native village, duly established under tribal or federal law, including courts of Indian Offenses organized pursuant to Title 25, Part 11 of the Code of Federal Regulations.

(b) "Tribal judgment" means any final written judgment, decree or order of a tribal court duly authenticated in accordance with the laws and procedures of the tribe or tribal court.

RULE 3. FILING PROCEDURES

(a) Documents to be Filed. A copy of any tribal judgment may be filed in the office of the clerk of the superior court in any county of this state.

(b) Notice of Filing. The person filing the tribal judgment shall make and file with the clerk of the superior court an affidavit setting forth the name and last known address of the party seeking enforcement and the responding party. Promptly upon the filing of the tribal judgment and the affidavit, the enforcing party shall serve upon the responding party a notice of filing of the tribal judgment, together with a copy of

the judgment, in accordance with Rule 4.1, Arizona Rules of Civil Procedure, or shall mail by certified mail, return receipt requested, the notice of filing and a copy of the judgment to the responding party at the last known address. If the responding party is the State of Arizona, or any of its officers, employees, departments, agencies, boards, or commissions, the notice of filing shall be mailed to the Attorney General's Office. The enforcing party shall file proof of service or mailing with the clerk. The notice of filing shall include the name and address of the enforcing party and the enforcing party's attorney, if any, and shall include the text of Rules 4 and 5(a) and (b).

RULE 4. RESPONSES

Any objection to the enforcement of a tribal judgment shall be filed within twenty (20) days of service or of receipt of the mailing of the notice of filing the judgment, or within twenty-five (25) days of the date of mailing, whichever last occurs. If an objection is filed within this time period, the superior court may, in its discretion, set a time period for replies and/or set the matter for hearing.

RULE 5. RECOGNITION OF TRIBAL JUDGMENTS

(a) Enforcement of Tribal Judgment. A tribal judgment, unless objected to in accordance with Rule 4, shall be recognized and enforced by the courts of this state to the same extent and shall have the same effect as any judgment, order, or decree of a court of this state.

(b) Certification by Clerk of Court. If no objections are timely filed, the clerk shall issue a certification that no objections were timely filed, and the tribal judgment shall be enforceable in the same manner as if issued by the superior court.

(c) Mandatory Considerations Following Objection. A tribal judgment shall not be recognized and enforced if the objecting party demonstrates to the court at least one of the following:

1. The tribal court did not have personal or subject matter jurisdiction.
2. The defendant was not afforded due process.

(d) Discretionary Considerations Following Objection. The superior court may, in its discretion, recognize and enforce or decline to recognize and enforce a tribal judgment on equitable grounds, including:

1. The tribal judgment was obtained by extrinsic fraud.
2. The tribal judgment conflicts with another final judgment that is entitled to recognition.

3. The tribal judgment is inconsistent with the parties' contractual choice of forum.

4. Recognition of the tribal judgment or the cause of action upon which it is based is against fundamental public policy of the United States or the State of Arizona.

Comments

[Rule 5(a)] See *Leon v. Numkena*, 142 Ariz. 307, 689 P.2d 566 (App. 1984). See also, *Lofts v. Superior Court*, 140 Ariz. 407, 410, 682 P.2d 412, 415 (1984), and *Firedoor Corp. of America v. Tibshraeny Bros. Construction, Inc.*, 126 Ariz. 392, 616 P.2d 67 (App. 1980).

[Rule 5(c)(2)] The due process requirement stated in this rule does not require that a tribe utilize judicial procedures identical to those used in state courts. However, tribal court proceedings must afford the parties the basic tenets of due process established by the federal and state constitutions. See *Wilson v. Marchington*, 127 F.3d 805, 811 (9th Cir. 1997).

[Rule 5(d)(1)] See *Restatement (Third) of Foreign Relations Law of the United States*, § 482 comment e (1986).

RULE 6. STAY

If the objecting party demonstrates to the superior court that an appeal from the tribal judgment is pending or will be taken, or that a stay of execution has been granted, the court shall stay enforcement of the tribal judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

RULE 7. CONTACTING COURTS

The superior court shall, after notice to the parties, attempt to resolve any issues raised regarding a tribal judgment under Rule 3 or Rule 5 of these rules, by contacting the tribal court judge who issued the judgment.