

Chapter 4
Recognition and Enforcement of Foreign Court Judgment
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CHAPTER 4

4.000 RECOGNITION AND ENFORCEMENT OF FOREIGN COURT JUDGMENTS

4.100 Purpose and Definitions

4.101 **Purpose.** The purpose of this Chapter is to facilitate, improve and extend by reciprocal court rule the enforcement and/or recognition of Foreign Court judgments.

4.102 **Definitions.** When used in this Chapter, unless the content otherwise indicates:

- (A) *"Attorney and Lawyer"* are synonymous and mean an individual who is a current member of the State Bar of Michigan or some other State. Further, a attorney must be admitted to practice before the Court pursuant to Little Traverse Bay Bands Court Rule 3.11 (LTBB CR).
- (B) *"Code"* means the Code of the Little Traverse Bay Bands of Odawa Indians.
- (C) *"Court"* means the Tribal Court of the Little Traverse Bay Bands of Odawa Indians (LTBB Tribal Court).
- (D) *"Foreign Court"* means any court other than the tribal court of the Little Traverse Bay Bands of Odawa Indians, including federal, state, tribal or courts of a foreign country.
- (E) *"Foreign Judgment"* means any final judgment, decree, or order by any court, other than the LTBB Tribal Court, regardless of whether the judgment is for money, injunctive, declaratory, or any other relief.
- (F) *"Judgment Creditor and Judgment Holder"* are synonymous and mean one who has a judgment rendered in his or her favor.
- (G) *"Judgment Debtor"* means the party against whom a judgment has been rendered.
- (H) *"Lay Advocate"* means a person who is a non-attorney and who has been qualified by this Court to serve as an advocate on behalf of a party.
- (I) *"Rendering Jurisdiction"* means the jurisdiction in which the foreign judgment was entered.
- (J) *"Tribe"* means the Little Traverse Bay Bands of Odawa Indians (LTBB Tribe).

4.200 **Recognition and Enforcement**

4.201 **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 LTBB Tribal Court, subject to the provisions of this rule.

- (A) The recognition described in this rule applies only if the foreign court has enacted an ordinance, court rule or other binding measure that obligates the foreign court to enforce the judgments, decrees, orders, warrants, subpoenas, records and other judicial acts of the LTBB Tribal Court.
- (B) The person seeking recognition or enforcement of a foreign judgment complies with the conditions and procedures set forth in LTBBCR 4.3.
- (C) A judgment decree, order, warrant, subpoena, record or other judicial of a foreign court that complies with the above conditions described in subrule (A) 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 acts 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 LTBB Tribe; or
 - d) is not final under the laws and procedures of the foreign court.
- (D) This rule does not apply to judgments or orders that federal law requires be given full faith and credit.

4.300 **Procedures for Recognition or Enforcement of Foreign Judgments**

4.301 **Application.** In accordance with the foreign judgment recognition provisions set forth in LTBBCR 4.201, a foreign judgment that is final and conclusive is enforceable in this Court pursuant to the following procedure.

4.302 **Registration of Foreign Judgment.** A person seeking enforcement of a foreign judgment shall file:

- (A) A copy of the foreign judgment, which has been authenticated by the clerk or registrar of the foreign court in the following manner:
 - (1) The clerk or registrar of the foreign court must attest in writing that s/he:

- (a) Is the clerk or registrar of the foreign court;
 - (b) Is the custodian of the records of the foreign court; and
 - (c) 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).
- (2) Upon completing the written attestation referenced in LTBB CR 4.302 (A)(1) above, the clerk or registrar of the foreign court must:
- (a) Sign and date the attestation;
 - (b) Affix the seal of the foreign court to the attestation; and
 - (c) Attach a certified copy of the original foreign judgment to the attestation.
- (B) A affidavit by the judgment holder, or his/her attorney or lay advocate, which includes the following:
- (1) The name and last known post office address of the judgment debtor and the judgment creditor;
 - (2) Proof that the judgment is final and statement that no appeal is pending;
 - (3) A statement that no subsequent orders vacating, modifying or reversing the judgment have been entered in the rendering jurisdiction;
 - (4) Proof that the person against whom the foreign judgment has been rendered (i.e., judgment debtor) is subject to the jurisdiction of this Court with regard to enforcement of the judgment; and
 - (5) Proof that the court from which the foreign judgment was issued provides reciprocal recognition and enforcement to the judgments of this court.
- (C) A receipt filing fee for registering the foreign judgment.

4.303 Notice of Registration of Foreign Judgment. Upon the filing of the foreign judgment, attestation, affidavit and filing fee, the clerk of the court shall 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 judgment debtor at the address provided by the judgment creditor and shall complete a proof of service. The notice of the filing of the foreign judgment shall include the following:

- (A) The name and post office address of the judgment holder and the judgment holder's attorney or lay advocate, if any; and
 - (B) A statement giving notice that an order entering the enforcement of the foreign judgment shall be entered by the court within twenty-one (21) days of the same having been served on the judgment debtor unless the judgment debtor files written objections with the court along with a request for a hearing within twenty-one(21) days.
- 4.304 **Notice for Written Objection.** A statement that gives the debtor notice that he/she has twenty-one (21) days to file written objections of either recognition or enforcement of the Judgment along with a request for hearing. If no objections is filed the court will enter an order recognizing and/or enforcing the judgment. The written objects shall include a statement of the basis for the objections.
- 4.305 **Objections; Hearing; Entry of Order When Objections.** In the event that the judgment debtor files written objections within the twenty-one (21) day period set forth in LTBB CR 4.302 above along with a request for a hearing, the clerk of the court shall send by first-class mail a copy of the objections to the judgment holder, or his/her attorney or lay advocate. In addition, the clerk of the court shall send by first-class mail a notice of the hearing setting forth the date and time of hearing or the denial of such hearing to the judgment holder and judgment debtor, or their respective attorney(s) or lay advocate(s). The judgment debtor at the hearing will be required to show cause why the foreign judgment should not be recognized and/or enforced by the court. At the scheduled hearing, after reviewing all the relevant evidence concerning the foreign judgment, the court shall issue an order either granting or denying recognition and/or enforcement of the foreign judgment.
- 4.306 **Entry of Order Where No Objections.** In the event that the judgment debtor does not file written objections within the twenty-one (21) daytime period set forth in LTBB CR 4.303 above, an order granting the recognition and/or enforcement of the foreign judgment shall be issued by the court.
- 4.307 **Appeal; Stay of Execution; Stay of Proceedings.** If the judgment debtor 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 stay recognition and enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.
- 4.308 **Post-Judgment Proceedings Regarding Foreign Judgment; No Waiver of Immunity**
- (A) A foreign judgment holder may proceed to post-judgment proceedings upon entry of an order enforcing the foreign judgment by the court. The entry of the order enforcing the foreign judgment by the court shall entitle the judgment holder to enforce its judgment against the judgment debtor in any manner available to judgment creditors.

- (B) The LTBB Tribe does not waive its immunity from suit with regard to the recognition and/or enforcement of a foreign judgment in any post-judgment proceedings, even when the LTBB Tribe is served as a garnishee-defendant for the wages or property of an employee who is a judgment debtor.

4.400 **Short Title.** This court rule shall be known and may be cited as the Recognition and Enforcement of Foreign Court Judgments.

CERTIFICATION OF ADOPTION

The Tribal Judiciary unanimously adopted the above rule on June 13, 1999.

_____ June 13, 1999
Dawn M. Shenoskey Court Administrator

_____ June 13, 1999
Michael Petoskey Chief Judge