

INSTRUCTIONS FOR FILLING OUT FORM

PURPOSE. This form is to be used when you have received an order from another jurisdiction such as state court or another tribal court and you want that order recognized and enforced on another reservation and their tribal court.

FORMS INVOLVED. The form is the **Petition to Recognize a Foreign Judgment**. You will need to fill in the necessary information with help from the instructions below and then file the forms with the appropriate court.

File your petition with the tribal court where you want the foreign order recognized. The clerk of courts will normally schedule a hearing on the petition and mail notice of hearing to the opposing party. Check with your clerk of courts to find out if a summons is required.

BURDEN OF PROOF. If you file a Petition to Recognize a Foreign Judgment you have the burden of proving that claim in court. In a typical civil case you have the burden of proving your claim by a preponderance of the evidence. Proving something by a preponderance of the evidence means evidence with greater weight or that is more convincing than the evidence of the opposing party(s). The court may require that you prove your Petition by clear and convincing evidence (evidence that is both clear and convincing to the court). This means that by representing your self in a legal matter it is your responsibility to prove your case. Don't expect the judge to prove your case for you. You as the petitioner have the burden of proving by a preponderance of the evidence the following to the court:

1. That there is an existing foreign court order either from a state court or another tribal court. You must get a certified copy of the foreign order. This means that the copy you attach to the Petition must be stamped by the clerk of court from the court where the order was issued. Do not attach a copy of the order that merely has a copy of the clerk's certification. This will prove to the court where you are seeking recognition that the order is real and not a fake.
2. That the order was obtained fairly and with the requisites of due process. The foreign order that you attach to the petition will state that the issuing court had jurisdiction, whether the opposing party was served with notice of hearing and whether the opposing party did in fact appear at the hearing and was heard before the foreign court issued the order. If you can afford it, you can order a transcript of the hearing from the foreign court who entered the order you want recognized.
3. If the foreign court did not have jurisdiction over the opposing party or the matter before the court or if the opposing party was not given proper notice the court probably will not recognize the order.
4. Whether a court will recognize a foreign order may also depend on the type of order you are seeking to have recognized. A court will be more willing to recognize a foreign order dealing with domestic relations, such as custody or child support, than a money judgment so long as all the requisites of due process described above have been adhered to.

INSTRUCTIONS FOR FILLING OUT THE FORM. To fill out this form follow these instructions. The numbers to each instruction below is the number on the blank line on the form where the information for that number needs to be inserted on the form. You can print this page in its entirety or you can scroll down to the summons form and if you scroll down further you will find the complaint. There will be a blank screen between these instructions and the forms and between the forms so keep scrolling or just copy this page in its entirety.

Instructions for filling out the petition:

- (1) on this line insert the name of the tribal court. For example, if you are filing this claim on the Rosebud reservation you would insert Rosebud Sioux on this line.
- (2) on this line insert the name of the reservation where the court is located.
- (3) on this line insert the community where the court is located in which you are filing these forms.
- (4) on this line insert your name.
- (5) on this line insert the name of the person you are seeking to have the foreign order enforced
- (6) on this line insert your name.
- 7) if you are an enrolled member of a federally recognized tribe leave this blank. If you are not enrolled in any tribe insert “not”.
- (8) insert the name of your tribe or if you are not enrolled in any tribe please indicate.
- (9) insert “within” if you live on a reservation or insert “outside” if you live outside the reservation where you are filing this complaint.
- (10) insert the name of the reservation you currently reside or leave blank if you do not live on a reservation.
- (11) insert your mailing address.
- (12) if defendant is enrolled in a federally recognized tribe leave this line blank. If defendant is not enrolled in any tribe insert “not”.
- (13) insert the name of the defendant’s tribe or if defendant is not enrolled in any tribe please indicate.
- (14) insert “within” if defendant lives on a reservation or insert “outside” if defendant lives outside the reservation where you are filing this complaint.
- (15) insert the name of the reservation defendant currently resides or leave blank if defendant does not live on a reservation.
- (16) insert defendant’s mailing address if you know what it is otherwise insert “unknown”.
- (17) insert the date the foreign order was entered by the foreign court.
- (18) insert what court entered the foreign order and where the foreign court is located.
- (19) insert what the foreign court awarded or ordered. You can find this on the certified foreign order you attach to this petition.
- (20) on this line insert the day.
- (21) on this line insert the month.
- (22) on this line insert the year.
- (23) on this line insert your name by signing.

(1) _____ TRIBAL COURT)
(2) _____ RESERVATION)SS
(3) _____, SOUTH DAKOTA)

IN CIVIL COURT

(4) _____

DOCKET _____

PLAINTIFF(S)

PETITION FOR RECOGNITION
OF FOREIGN ORDER

VS

(5) _____

DEFENDANT(S)

Comes now (6) _____ and petitions this Court to recognize a foreign order or judgment as follows:

1. That Plaintiff is (7) _____ an enrolled member of (8) _____, and is presently residing (9) _____ the exterior boundaries of the (10) _____. Plaintiff's address is (11) _____.

2. That Defendant is (12) _____ an enrolled member of the (13) _____, presently residing (14) _____ the exterior boundaries of the (15) _____. Defendant's address is (16) _____.

3. That on (17) _____, an order/judgment was entered by (18) _____. A certified copy of said order/judgment is attached hereto and incorporated herein by reference as if a part of this petition. That the attached order awarded and ordered (19) _____

_____.

4. That said order meets all the requisites of due process in that the issuing court had both personal and subject matter jurisdiction and the opposing party had notice of such hearing and an opportunity to be heard on the matter.

WHEREFORE, petitioner prays this court to issue an order to the opposing party to show cause why the attached foreign order should not be recognized by this court.

Dated this (20) _____ day of (21) _____, (22) _____.

