

## Chapter 1

### RULES REGARDING ENFORCEMENT AND RECOGNITION OF FOREIGN JUDGEMENTS

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## **Rule 1.100 ENFORCEMENT AND RECOGNITION**

### **1.101 Michigan State Court Judgments**

- (A) The judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts of a Michigan state 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 of the Hannahville Indian Community, subject to the provisions of this rule.
- (B) The recognition described in subrule (A) applies only if the Michigan state court:
  - (1) enacts an ordinance, court rule, or other binding measure that obligates the Michigan state court to enforce the judgments, orders, warrants, subpoenas, records, and judicial acts of the Tribal Court of the Hannahville Indian Community, and
  - (2) transmits the ordinance, court rule or other measure to the Tribal Court Administrator.
- (C) A judgment, decree, order, warrant, subpoena, record, or other judicial act of a Michigan state court which has taken the actions described in subrule (B) is presumed to be valid. To overcome that presumption, an objecting party must demonstrate that:
  - (1) the Michigan state court lacked personal or subject-matter jurisdiction; or
  - (2) the judgment, decree, order, warrant, subpoena, record or other judicial act of the Michigan state 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 Hannahville Indian Community; or
    - (d) is not final under the laws and procedures of the Michigan state court.

- (D) The recognition described in subrule (A) applies only if a person seeking recognition and enforcement complies with the conditions and procedures set forth in Rule 1.200 hereunder whenever Michigan state court judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts are involved.
- (E) This rule does not apply to judgments or orders that federal law requires to be given full faith and credit.

### **1.102 Tribal Court Judgments.**

- (A) The judgments decrees, orders, warrants, subpoenas, records, and other judicial acts of another tribal court of a federally-recognized Indian tribe 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 of the Hannahville Indian Community subject to the provisions of this rule.
- (B) the recognition described in subrule (A) applies only if the other tribal court:
  - (1) enacts an ordinance, court rule, or othe binding measure that obligates the other tribal court to enforce the judgments, orders, warrants, subpoenas, records, and judicial acts of the Tribal Court of the Hannahville Indian Community.
  - (2) transmits the ordinance, court rule or other measure to the Tribal Court Administrator.
- (C) A judgment, decree, order, warrant, subpoena, record, or other judicial act of another tribal court which has taken the actions described in subrule (B) is presumed to be valid. To overcome the presumption, an objecting party must demonstrate that:
  - (1) the other tribal court lacked personal or subject-matter jurisdiction;
  - (2) the judgment, decree, order, warrant, subpoena, record, or other judicial act of the other tribal court:
    - (a) was obtained by fraud, duress, or coercion;
    - (b) was obtained without fair notice or a fair hearing;
    - (c) is repugnant to the policy of the Hannahville Indian Community; or

- (d) is not final under the laws and procedures of the other tribal court.
- (D) The recognition described in subrule (A) applies only if the person seeking recognition and enforcement complies with the conditions and procedures set forth in Rule 1.200 hereunder whenever other tribal court judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts are involved.
- (E) This rule does not apply to judgments or orders that federal law requires to be given full faith and credit.

### **1.103 Federal Court and Other State Court Judgments.**

- (A) **Courts Granting Enforcement and Recognition.** The judgments, decrees, orders, warrants, subpoenas, records, or other judicial acts of a U.S. federal court or other state courts (with the exception of Michigan state courts wherein Rule 1.101 shall apply) 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 of the Hannahville Indian Community, subject to the provisions of this rule.
- (B) The recognition described in subrule (A) applies only if the federal or other state court:
  - (1) transmits the ordinance, court rule or other measure to the Tribal Court Administrator; and
  - (2) enacts an ordinance, court rule, or other binding measure that obligates the federal court or other state court to enforce the judgments, orders, warrants, subpoenas, records, and judicial acts of the Tribal Court of the Hannahville Indian Community.
- (C) A judgment, decree, order, warrant, subpoena, record, or other judicial act of a federal court or other state court that has taken the actions described in subrule (B) is presumed to be valid. To overcome that presumption, an objecting party must demonstrate that:
  - (1) the federal or other state court lacked personal or subject-matter jurisdiction; or
  - (2) the judgment, decree, order, warrant, subpoena, record, or other judicial act of the federal court or other state 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 Hannahville Indian Community; or
  - (d) is not final under the laws and procedures of the federal court or other state court.
- (D) The recognition described in subrule (A) applies only if the person seeking recognition and enforcement complies with the conditions and procedures set forth in Rule 1.200 hereunder whenever federal court or other state court judgments, decrees, orders, warrants, subpoenas, records, and other judicial acts are involved.
- (E) **Courts Not Granting Full Faith And Credit.** If the federal court or other state court does not grant full faith and credit to the judgments of the Hannahville Indian Community Tribal Court, the Tribal Court shall have full discretion as to whether full faith and credit shall be granted. In exercising this discretion the court shall be guided by the best interests of this Tribe and the parties; provided however, that the person(s) seeking full faith and credit shall comply with the conditions and procedures set forth in Rule 1.200 hereunder.
- (F) This rule does not apply to judgments or orders that federal law requires to be given full faith and credit.

#### **1.104 Court Records and Judgments of a Foreign Country.**

- (A) **Court of a Foreign Country Granting Enforcement and Recognition.** The judgments, decrees, orders, warrants, subpoenas, records, or judicial acts of a court of a foreign country 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 of the Hannahville Indian Community, subject to the provisions of this rule.
- (B) The recognition described in subrule (A) applies only if the court of the foreign country:
- (1) enacts an ordinance, court rule, or other binding measure that obligates the court of the foreign country to enforce the judgments,

orders, warrants, subpoenas, records, and judicial acts of the Tribal Court of the Hannahville Indian Community;

- (2) transmits the ordinance, court rule or other measure to the Tribal Court Administrator.
- (C) A judgment, decree, order, warrant, subpoena, record, or other judicial act of a court of a foreign country that has taken the actions described in subrule (B) is presumed to be valid. To overcome that 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 Hannahville Indian Community; or
    - (d) is not final under the laws and procedures of the foreign court.
- (D) The recognition described in subrule (A) applies only if the person seeking recognition and enforcement complies with the conditions and procedures set forth in Rule 1.200 hereunder whenever foreign court judgments, decree, orders, warrants, subpoenas, records, and other judicial acts are involved.
- (E) This rule does not apply to judgments or orders that federal law requires to be given full faith and credit.
- (F) **A Court of a Foreign Country Not Granting Enforcement and Recognition.** If the court of a foreign country does not grant enforcement and recognition to the judgments of the Hannahville Indian Community Tribal Court, the Tribal Court shall have full discretion as to whether enforcement and recognition shall be granted. In exercising this discretion the court shall be guided by the best interests of this tribe and the parties; provided however, that the person(s) seeking enforcement and recognition shall comply with the conditions and procedures set forth in Rule 1.200 hereunder.

**Rule 1.200 RECOGNITION AND/OR ENFORCEMENT OF FOREIGN JUDGEMENTS**

**1.201 Application of Enforcement and Recognition to Final and Conclusive Judgments.** In accordance with the enforcement and recognition provisions set forth in Rules 1.101-104, a foreign judgment that is final and conclusive is enforceable in the Hannahville Indian Community Tribal Court pursuant to the following Rule.

**1.202 Registration of Foreign Judgement.** 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 he/she:
    - (a) is the clerk or registrar of the subject foreign court;
    - (b) is the custodian of the records of the subject foreign court; and
    - (c) has compared an annexed copy of the foreign judgment from the case with the original(s) on file and of record in the foreign judgment to be a true copy of the whole of such original(s).
  - (2) upon completing the written attestation referenced in Rule 1.202 (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 said attestation; and
    - (c) annex a true copy of the foreign judgment to said attestation.
- (B) a sworn affidavit by the judgment holder, or his/her lawyer or lay advocate, which includes all of the following:
  - (1) the name and last known post office address of the judgment debtor and the judgment creditor;
  - (2) that the judgment is final and that no appeal is pending;

- (3) 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 the Hannahville Indian Community Tribal Court with regard to enforcement of said judgment;
  - (5) proof that the court from which the foreign judgment was issued provides reciprocal enforcement and recognition to the judgments of the Hannahville Indian Community Tribal Court with regard to enforcement of said judgment;
- (C) a filing fee for registering said foreign judgment in the amount of fifty dollars-(\$50.00).

**1.203 Notice of Registration of Foreign Judgment.** Upon the filing of the foreign judgment, attestation, affidavit, and filing fee, the clerk of the court shall promptly mail notice of the filing of the foreign judgment along with a copy of the foreign judgment, attestation, and affidavit referenced in Rule 1.202 to the judgment debtor at the address provided by the judgment creditor and shall make a note of the mailing in the docket and/or complete proof of mailing.

- (A) **Included in the Notice.** The notice shall include the following:
- (1) the name and post office of the judgment holder and the judgment holder's lawyer or lay advocate, if any, in this court; and
  - (2) a directive that an order entering the enforcement of the foreign judgment shall be entered by the court within twenty-eight (28) 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 on the same within said twenty-eight (28) day period.
- (B) **Mailing Notice.** The judgment holder shall mail a notice of the filing along with a copy of the foreign judgement, attestation, and affidavit referenced in Rule 1.202 to the judgment debtor and shall file proof of the mailing with the clerk of court. Such notice shall be served on the judgment debtor in a manner consistent with applicable Tribal Court rules.

**1.204 Objections; Hearing; Entry of Order Where Objections.** In the event that the judgment debtor files written objections within the twenty-eight (28) day period set forth in Rule 1.203 along with a request for a hearing, the clerk of the court shall send by first-class mail a copy of said objections to the judgment holder or his/her lawyer. In addition, the clerk of the court shall send by first-class mail a notice of

hearing setting forth the date and time of hearing to the judgment holder and judgment debtor, or their respective lawyer(s) or lay advocate(s). The judgment debtor at the hearing will be required to demonstrate cause why the foreign judgment shall not be enforced by this 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 enforcement of the foreign judgment.

**1.205 Entry of Order Where No Objections.** In the event that the judgement debtor does not file any written objections within the twenty-eight (28) day period set forth in Rule 1.203 above, an order granting the enforcement of the foreign judgment shall be issued by the court.

**1.206 Not Enforceable or Non-Recognizable Foreign Judgment.** A foreign judgment is not enforceable or is non-recognizable if it was entered under the following circumstances, including but not limited to:

- (A) **Impartiality.** The judgment was rendered by a process that does not assure the requisites of an impartial administration of justice including but not limited to due notice and a hearing;
- (B) **Personal Jurisdiction.** The foreign court did not have both personal jurisdiction over the judgment debtor and jurisdiction over the subject matter;
- (C) **Fraud.** The judgment was obtained by fraud;
- (D) **Cause of Action.** The cause of action on which the judgment is based would result in a Tribal Court Order that is repugnant to Tribal Law if enforcement and recognition were granted;
- (E) **Child Custody.** The judgment involves enforcement of child custody provisions and any of the following:
  - (1) the foreign court did not have jurisdiction over the child(ren);
  - (2) the provisions of the Indian Child Welfare Act, 25 USC § 1901-1963, if applicable, were not properly followed;
  - (3) due process was not provided to all persons participating in the foreign court proceeding; or
- (F) **Criminal Judgment.** The judgment involves enforcement of a criminal judgment wherein the court has the authority to otherwise adjudicate a criminal proceeding against a defendant.

**1.207 Appeal; Stay of Execution; Stay of Proceeding.** If the foreign court judgment is pending or will be taken, or a stay of execution has been granted, the tribal court may stay enforcement of the foreign judgment until the appeal is concluded, the time for appeal expires, or the stay of execution expires or is vacated.

**1.208 Post Judgment Proceedings Regarding Foreign Judgment; No Waiver of Immunity.**

- (A) A judgment holder of a foreign judgment may proceed to post judgment proceedings even when the Tribe is served as a garnishee defendant for the wages or property of an employee who is the judgment debtor.
- (B) The Hannahville Indian Community does not waive its immunity from suit with regard to the enforcement of a foreign judgment in any post judgment proceedings even when the Tribe is served as garnishee defendant for the wages or property of an employee who is a judgment debtor.

**1.300 CONSTRUCTION OF RULES**

**1.301 Construction of Rules.** These rules shall be construed so as to effectuate their general purpose which is to make uniform the law of those jurisdictions which enact them.

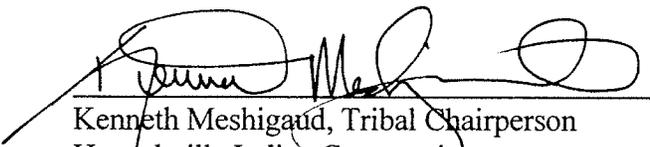
**1.302 Application of Rules; Effective Date; Limitations.**

- (A) These rules shall be effective immediately upon adoption and shall apply to all civil and criminal judgments, decrees, orders, warrants, subpoenas, records, and judicial acts of the Tribal Court entered or occurring after adoption.
- (B) These rules shall also apply to the following judicial acts of the Tribal Court entered or occurring prior to adoption of these rules:
  - (1) All pending, interim, temporary or final civil court judgments, decrees, orders, subpoenas, records, and judicial acts; and
  - (2) All outstanding or pending criminal warrants and subpoenas.
- (C) These rules do **not** apply to criminal court records created prior to adoption, and such information shall **not** be subject to subpoena by any court.
- (D) These rules do **not** authorize or permit the automatic abstracting or disclosure of criminal court records to the state of Michigan or to any Michigan court or to any other jurisdiction.

- (E) The provisions of this section do not limit reporting requirements, full faith and credit provisions or other mandates under federal law.

**1.303 All conflicting laws currently in effect are hereby repealed.**

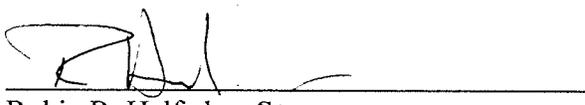
Rules of Full Faith and Credit Adopted:

  
Kenneth Meshigaud, Tribal Chairperson  
Hannahville Indian Community

Date: 09-14-98

Certification of Hannahville Indian Community Secretary

The above rules were adopted into official records on the above date by a vote of 9  
for, 2 against, 0 abstaining, at a regular session of Tribal Council of  
the Hannahville Indian Community, a quorum presiding.

  
Robin R. Halfaday, Secretary  
Hannahville Indian Community

Date: 9.14.98