

## 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 in tribal court.

**FORMS INVOLVED.** The first form is a **Civil Court Filing Statement-Contact Information** you need to fill out (there are no instructions for this form as it is self-explanatory). The second form is the **Petition to Recognize a Foreign Judgment**. You will need to fill in the necessary information with help from the instructions below, attach a certified copy of the foreign judgment you want recognized in Rosebud Sioux Tribal Court and then file the forms with the appropriate court.

You can obtain a certified copy of the foreign order by contacting the clerk of courts of the court that issued the foreign order. There may be a small fee. Make sure that it is a certified copy of the order. Merely attaching a copy to the Petition will not work. Make sure that it is a certified copy.

**What is a Civil Court Filing Statement-Contact Information?** This will allow the Clerk of Courts the ability to contact the parties when needed for scheduling and service of papers by mail. It will also allow the Court Process Server to locate and personally serve the defendant with the petition.

**What is a petition.** A petition is a document similar to a complaint except it does not require an answer from the respondent. It is a document where the petitioner formally requesting the court to order something and sets out the petitioner's version of the facts.

**How to file a petition.** A petition is filed when you take it to the courthouse and file it along with the filing fee and Civil Cover Sheet-Contact Information with the clerk of courts. When you file your petition with the clerk, please date and sign the form in front of the clerk so they can notarize your signature.

You must attach a certified copy of the Foreign Order you want recognized to the Petition.

**Filing and service fees.** The court will require payment of a filing fee unless waived to file your petition with the court. There is also a fee to have your petition served on the respondent. It is required by law that your petition be personally served on the respondent. This can be by the Court Process Server which will incur a service fee to have them serve your papers. You can file a motion to waive the filing and service fees if you can show you are indigent or don't have the resources to pay the fees. Use the **Motion to Waive Filing and Service Fees** form to ask the court to waive those costs or for a partial waiver. You can also have a tribal member over the age of 18 and not a party to the action serve the respondent with the petition and they may do it free. If you go this route, have the person who serves the court papers on the defendant complete the **Affidavit of Service** form and you must file the affidavit with the court as proof the respondent was served.

**Jurisdiction.** In order for Rosebud Sioux Tribal Court to hear your claim the court must have jurisdiction. First, the court must have jurisdiction over the party you seeking to have the order recognized and enforced against. This means the opposing party must reside on the reservation and be a tribal member.

**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. That the foreign was not obtained by fraud.
5. Whether a court will recognize a foreign order may also depend on the type of order you are seeking to have recognized. The court may recognize a foreign court's order or judgment in any child custody or domestic relations case, in any case where the jurisdiction issuing the order/judgment also grants comity to orders/judgments of the RST courts, in other cases if exceptional circumstances warrant it and any order authorized to be recognized pursuant 25 U.S.C. 1911 or 25 U.S.C. 1919. The 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.

**CIVIL COURT FILING STATEMENT-CONTACT INFORMATION**

**Petitioner(S)/PETITIONER(S):**

**A. Full Name:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

\_\_\_\_\_  
**Physical Address or Direction to**

**Residence:** \_\_\_\_\_

\_\_\_\_\_  
**Contact Numbers:**

**Cell:** \_\_\_\_\_ **Home:** \_\_\_\_\_ **Work:** \_\_\_\_\_

**Employed? Yes No Place of**

**Employment:** \_\_\_\_\_

**B. Full Name:**

\_\_\_\_\_  
**Mailing Address:**

\_\_\_\_\_  
**Physical Address or Direction to**

**Residence:** \_\_\_\_\_

\_\_\_\_\_  
**Contact Numbers:**

**Cell:** \_\_\_\_\_ **Home:** \_\_\_\_\_ **Work:** \_\_\_\_\_

**Employed? Yes No Place of**

**Employment:** \_\_\_\_\_

**Respondent(S)/RESPONDENT(S):**

**A. Full Name:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_

\_\_\_\_\_  
**Physical Address or Direction to**

**Residence:** \_\_\_\_\_

\_\_\_\_\_  
**Contact Numbers:**

**Cell:** \_\_\_\_\_ **Home:** \_\_\_\_\_ **Work:** \_\_\_\_\_

**Employed? Yes No Place of**

**Employment:** \_\_\_\_\_

**Age:** \_\_\_\_\_ **Height:** \_\_\_\_\_ **Weight:** \_\_\_\_\_ **Color of Hair:** \_\_\_\_\_

**Length:** \_\_\_\_\_

**Type/Location/Color/Description of**  
**Residence:** \_\_\_\_\_

**Make/Model/Color Year of Vehicle:** \_\_\_\_\_

**Other Description or Information that can Aid in Serving Papers on the Respondent:** \_\_\_\_\_

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**B. Full Name:**

**Mailing Address:** \_\_\_\_\_

**Physical Address or Direction to Residence:** \_\_\_\_\_

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**Contact Numbers:**

**Cell:** \_\_\_\_\_ **Home:** \_\_\_\_\_ **Work:** \_\_\_\_\_

**Employed? Yes No Place of**

**Employment:** \_\_\_\_\_

**Age:** \_\_\_\_\_ **Height:** \_\_\_\_\_ **Weight:** \_\_\_\_\_ **Color of Hair:** \_\_\_\_\_

**Length:** \_\_\_\_\_

**Type/Location/Color/Description of Residence:** \_\_\_\_\_

**Make/Model/Color Year of**

**Vehicle:** \_\_\_\_\_

**Other Description or Information that can Aid in Serving Papers on the Respondent:** \_\_\_\_\_

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**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.

Instructions for filling out the petition:

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

Remember, you must attach a certified copy of the Foreign Order you want recognized to the Petition.

ROSEBUD SIOUX TRIBAL COURT )  
ROSEBUD INDIAN RESERVATION )SS  
ROSEBUD , SOUTH DAKOTA )

IN CIVIL COURT

(1) \_\_\_\_\_  
\_\_\_\_\_

DOCKET \_\_\_\_\_

Petitioner(s)

PETITION FOR RECOGNITION  
OF FOREIGN ORDER

VS

(2) \_\_\_\_\_  
\_\_\_\_\_

Respondent(s)

Comes now (3) \_\_\_\_\_ and petitions this Court to recognize a foreign order or judgment as follows:

1. That Petitioner is (4) \_\_\_\_\_ an enrolled member of (5) \_\_\_\_\_, and is presently residing (6) \_\_\_\_\_ the exterior boundaries of the (7) \_\_\_\_\_. Petitioner's address is (8) \_\_\_\_\_.

2. That Respondent is (9) \_\_\_\_\_ an enrolled member of the (10) \_\_\_\_\_, presently residing (11) \_\_\_\_\_ the exterior boundaries of the (12) \_\_\_\_\_. Respondent's address is (13) \_\_\_\_\_.

3. That on (14) \_\_\_\_\_, an order/judgment was entered by (15) \_\_\_\_\_. 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 (16) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

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 (17) \_\_\_\_\_ day of (18) \_\_\_\_\_, (19) \_\_\_\_\_.

