

CHAPTER 7
RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENTS
AND SERVICE OF FOREIGN PROCESS

7-1 RECOGNITION AND ENFORCEMENT

7-1.01 The Kootenai Tribal Court shall only recognize and enforce a foreign judgment if the proponent of the foreign judgment takes the following actions:

(1) Submits proof that the person against whom the foreign judgment has been rendered is subject to the jurisdiction of the Kootenai Tribal Court.

(2) Submits proof that the foreign judgment is based on valid subject matter jurisdiction.

(3) States good cause why an attempt at enforcement of the foreign judgment in the jurisdiction in which it was rendered was unsuccessful or would be futile.

(4) Submits proof that the foreign judgment is final and that it is not under appeal.

(5) Submits proof that the government that issued the foreign judgment provides comity or full faith and credit to the orders, decrees, and judgments of the Kootenai Tribe.

7-1.02 The Kootenai Tribal Court need not recognize the foreign judgment if:

(1) The person against whom the foreign judgment has been rendered is not subject to the jurisdiction of the Kootenai Tribal Court.

(2) The defendant in the foreign court did not receive notice of the proceedings and sufficient time to allow preparation of a defense.

(3) The foreign judgment would serve to violate any federal law or tribal law, custom or tradition.

(4) The foreign judgment was obtained by fraud.

7-1.03 The Kootenai Tribal Court need not recognize the attorney's fee award in a foreign default judgment. The burden of proof will fall upon

the proponent of the award to demonstrate its reasonableness.

7-2 PROCEDURE FOR RECOGNITION AND ENFORCEMENT OF FOREIGN JUDGMENT

7-2.01 To be recognized and enforced, a foreign judgment must be filed by its proponent with the Kootenai Tribal Court within one year from the date of its issuance.

7-2.02 Proper filing with the Kootenai Tribal Court takes place when a proponent of the judgment delivers to the Court a certified copy of the foreign judgment, the date of its entry, record of any later entries affecting it, such as levies of execution and payments in partial satisfaction, and a motion requesting that the Court recognize and enforce the foreign judgment. A properly filed foreign judgment shall be docketed and recorded in the Court in the same manner as other cases.

7-2.03 Upon proper filing of a foreign judgment with the Court, the Court shall issue a summons directing the defendant to appear at a date not more than thirty (30) days from the date of service and respond to the motion requesting the Court to recognize and enforce the foreign judgment. Once the defendant has been served, failure to appear or respond as directed shall not prevent the Court from ruling on the motion.

7-2.04 For all foreign judgments not given full faith and credit by Federal mandate, the Court will review all evidence relevant to the foreign judgment and shall issue an order granting or denying the motion to recognize and enforce the foreign judgment. The order shall be the final judgment of the Kootenai Tribal Court and shall be enforceable as such.

7-3 SOVEREIGN IMMUNITY

7-3.01 Nothing in this chapter shall be deemed to waive the sovereign immunity of the Kootenai Tribe of Idaho to any extent.

**7-4 SERVICE OF PROCESS INVOLVING
FOREIGN CAUSES OF ACTION**

7-4.01 If service is desired to be obtained upon an Indian within the exterior boundaries of the Kootenai Indian Reservation for the purposes of initiating a civil judicial proceeding in a foreign tribal, state or federal court, such service must be performed by a Kootenai Tribal Officer, or another party designated by the Tribal Court. Any person desiring such service shall submit a written request for such service to the Kootenai Tribal Police together with the document that is desired to be served and the location of the person to be served. A schedule of fees and mileage for such service required to be paid by the judgment creditor shall be as determined by the Police chief and approved by the Tribal Court. An Affidavit of Service shall also be provided upon obtaining the desired service.