

TITLE 23. FOREIGN JUDGMENTS, WAGE EXECUTIONS & SUBPOENAS

CHAPTER 1. RECOGNITION OF FOREIGN JUDGMENTS

23 M.P.T.L. ch. 1 § 1

§ 1. Definitions

The following words and phrases are defined for the purposes of this Title:

a. "Foreign Judgment" means any final judgment of a court or agency of competent jurisdiction in the United States, other than the Mashantucket Pequot Tribal Courts.

b. "Employer" means the Mashantucket Pequot Tribal Nation, its enterprises, governmental divisions or departments thereof, including the Mashantucket Pequot Gaming Enterprise and Pequot Pharmaceutical Network, but does not include any entity owned in whole or part by the Tribe and formed under the laws of any state.

c. "Issuing Tribunal" means the tribunal which rendered the Foreign Judgment.

d. "Judgment Creditor" means a party to whom an obligation is owed under the Foreign Judgment.

e. "Judgment Debtor" means a party who owes and is responsible for payment of an obligation under the foreign judgment.

f. "Tribal Court" means the Mashantucket Pequot Tribal Court.

23 M.P.T.L. ch. 1 § 2

§ 2. Filing of Foreign Judgment. Enforcement

a. Any party seeking to have a Foreign Judgment recognized and enforced in the Tribal Court must:

(1) File a certified copy of the Foreign Judgment with the Tribal Court Clerk;

(2) File an application for registration and enforcement of the Foreign Judgment. The application shall contain a certification to the Court that the Foreign Judgment is final, and that said Judgment has not been modified, altered, amended, set aside or vacated, and that the enforcement of the Foreign Judgment has not been stayed or suspended. The application shall set forth the full name and last known address of the Judgment Debtor and the name of the Issuing Tribunal;

(3) Pay a fee of \$50.00 to the Tribal Court Clerk; and,

(4) Serve a summons and a copy of the Foreign Judgment and application on the

Judgment Debtor pursuant to §3.

23 M.P.T.L. ch. 1 § 3

§ 3. Notification

- a. With the filing of such Foreign Judgment and application for registration and enforcement, the Judgment Creditor or the Judgment Creditor's attorney shall present a summons to the Tribal Court Clerk for signature.
- b. The summons and copy of the application and Foreign Judgment must be served upon the Judgment Debtor either by (1) personal service pursuant to Rule 4 of the Mashantucket Pequot Rules of Civil Procedure; or, (2) registered or certified mail, signed receipt requested, at the Judgment Debtor's last known address.
- c. If the Judgment Debtor fails to sign for the registered or certified mail service, then the Judgment Creditor shall provide said summons and documents by personal service, as provided in Rule 4 of the Mashantucket Pequot Rules of Civil Procedure.
- d. No action to register or enforce such judgment shall be taken until 20 business days after proof of service of the Foreign Judgment, application, and summons has been filed with the Court. A party may file an objection to the application for recognition and enforcement of a Foreign Judgment within 20 business days from the filing of proof of service.

23 M.P.T.L. ch. 1 § 4

§ 4. Stay of Proceedings, Modifications, Hearings

- a. If either party files an affidavit and supporting documents from the Issuing Tribunal that an appeal from the Foreign Judgment is pending in a foreign jurisdiction or that a stay of execution has been granted, the Court shall stay enforcement of the Foreign Judgment until the appeal is concluded or the stay of execution expires or is vacated.
- b. If either party files an affidavit and supporting documents from the Issuing Tribunal that such Foreign Judgment has been modified or amended, the Court shall enforce such Foreign Judgment as so modified or amended.
- c. The Tribal Court may accept the jurisdictional facts and other information documented in the certified copy of the Foreign Judgment as presumptively true. A Foreign Judgment so recognized shall have the same effect and may be enforced or satisfied in the same manner as any like judgment of the Tribal Court provided that in modifying or altering such Foreign Judgment, the substantive law of the Issuing Tribunal shall be controlling.

23 M.P.T.L. ch. 1 § 5

§ 5. Enforceability

a. Upon motion to the Court, either party shall be entitled to a hearing on any disputed issue of fact or law concerning the enforceability of the Foreign Judgment in Tribal Court. A Foreign Judgment shall not be enforceable in Tribal Court if the Issuing Tribunal lacked jurisdiction. The party challenging the enforceability of the Foreign Judgment shall bear the burden of proof.

b. A Foreign Judgment shall become a judgment of the Tribal Court and shall be enforceable provided that such judgment is valid and enforceable and does not contravene the public policy of the Mashantucket Pequot Tribe.

CHAPTER 2. WAGE EXECUTIONS

23 M.P.T.L. ch. 2 § 1

§ 1. Application

If a Judgment Debtor fails to comply with an installment payment order or satisfy a Tribal Court judgment, the Judgment Creditor may apply to the Tribal Court for a wage execution. The application shall contain the Judgment Creditor's or the Judgment Creditor's attorney's statement:

- a. Setting forth the particulars of the installment payment order, if any; and
- b. The Judgment Debtor's failure to comply with such installment payment order and Judgment Debtor's failure to otherwise satisfy the Tribal Court Judgment.

23 M.P.T.L. ch. 2 § 2

§ 2. Installment Payment Order

Prior to issuing a wage execution the Court may in its discretion enter an installment payment order which order shall include direction as to the circumstances under which a wage execution shall be issued.

23 M.P.T.L. ch. 2 § 3

§ 3. Amount Subject to Levy

a. Except as provided in subsection b hereof, the maximum part of the aggregate disposable income, as defined in 6 M.P.T.L., Chapter 8, Section 1(d), of a Judgment Debtor for any workweek which may be subject under this law to levy or other withholding for payment of judgments may not exceed:

(1) Where such Judgment Debtor is supporting a dependent child pursuant to Title VI, Chapter 8 (other than a child with respect to whose support such order is used), 50% of the Judgment Debtor's disposable income for that week;

and

(2) Where such Judgment Debtor is not supporting such dependent child described in subsection a(1) hereof, 60% of the Judgment Debtor's disposable income for that week.

b. The maximum portion of the aggregate disposable income of a Judgment Debtor for any work week which is subject to garnishment for any one judgment shall not exceed:

(1) 25% percent of the Judgment Debtor's disposable income for that week; or

(2) The amount by which the Judgment Debtor's disposable income for that week exceeds 30 times the Federal minimum hourly wage prescribed by Section 206(a)(1) of Title 29 of the U.S. Code in effect at the time the income is payable, whichever is less.

c. The restrictions of subsection (b) above do not apply in the case of:

(1) Any order for the support of any person issued by a Foreign Tribunal or in accordance with an administrative procedure, which is established by law, which affords substantial due process, and which is subject to judicial review.

(2) Any order of any tribunal or court of the United States having jurisdiction over cases under Chapter 13 of Title 11 of the United States Code.

(3) Any debt due for any tribal or federal tax.

23 M.P.T.L. ch. 2 § 4

§ 4. Issuance

Upon receipt of the application and subject to the provisions of this law, the Tribal Court shall issue a wage execution against the Judgment Debtor to enforce payment of the judgment.

23 M.P.T.L. ch. 2 § 5

§ 5. Contents

The wage execution shall include:

a. the names and last-known addresses of the Judgment Creditor and Judgment Debtor;

b. the name of the Issuing Tribunal and the date on which the money judgment was rendered, if not the Mashantucket Pequot Tribal Court, then as recognized by the Tribal Court;

c. the original amount of the money judgment and the amount due thereon;

d. any limitation on the execution ordered by the Tribal Court pursuant to a motion for modification thereof;

e. the portion of the Judgment Debtor's income which is subject to levy thereunder, or the information necessary to determine such portion;

f. any information which the Judgment Creditor provides to identify the Judgment Debtor's Employer; and

g. the signature of the Tribal Court Judge.

The wage execution shall notify the Employer in the manner prescribed by this section for complying with the wage execution and shall be accompanied by a notice of Judgment Debtor's right and a claim form.

23 M.P.T.L. ch. 2 § 6

§ 6. Service

a. The Tribal Court shall deliver the wage execution to the Senior Financial Officer for all Mashantucket Pequot Gaming Enterprise employees or to the Chief Financial Officer of the Mashantucket Pequot Tribal Nation for all other employees and receipt thereof shall be deemed service upon the Employer as required herein. The Employer will be served with:

- (1) two copies of the wage execution;
- (2) the required notice of Judgment Debtor's rights; and
- (3) the claim forms.

b. On receipt thereof, the Employer shall forthwith deliver a copy thereof to the Judgment Debtor, or mail such copy postage prepaid to the Judgment Debtor at Judgment Debtor's last-known address. Upon service of the wage execution on the Employer, the wage execution shall automatically be stayed for a period of 20 days and shall thereafter immediately become a lien and continuing levy on such portion of the Judgment Debtor's income as is specified therein, provided if a claim is filed within 20 days of such service on the Employer, the stay shall continue until determination of the claim.

c. The Employer shall levy on all salary or wages which are due or become due to the Judgment Debtor to the extent specified in the wage execution, until the judgment is satisfied, or the wage execution is modified pursuant to the provision of Chapter 2, Section 9 hereof, or set aside.

d. Any income withholding order for child support pursuant to Title 6, Chapter 8 shall take priority over any wage execution issued in accordance herewith.

e. Any income withheld for the Internal Revenue Service shall take precedence over all other garnishments.

23 M.P.T.L. ch. 2 § 7

§ 7. Expiration of Wage Execution

A wage execution shall be served within one year from its issuance and returned to the Tribal Court within 30 days from the satisfaction of the judgment.

23 M.P.T.L. ch. 2 § 8

§ 8. Employer Responsibilities

Any Employer served with a wage execution shall, upon expiration of the automatic 20 day stay of execution and subject to any further stay pursuant to a claim, pay over to the Judgment Creditor or the Judgment Creditor's attorney such portion of the Judgment Debtor's nonexempt income as the wage execution prescribes until the judgment is satisfied or the wage execution modified or set aside. The payments to the Judgment Creditor or the Judgment Creditor's attorney in compliance with the wage execution shall bar any action against the Employer for such payments. Any amount so recovered by the Judgment Creditor shall be applied toward payment of the judgment.

23 M.P.T.L. ch. 2 § 9

§ 9. Modification

Either party may apply at any time to the Issuing Tribunal for a modification of the wage execution. After notice and hearing or pursuant to a stipulation, the Tribal Court may make such modification of the wage execution as is reasonable.

23 M.P.T.L. ch. 2 § 10

§ 10. Assignment of Income

Any assignment by the Judgment Debtor of the Judgment Debtor's income shall be void except payments due for support in child support cases including payments pursuant to an income withholding order for child support in accordance with Title 6 of the Tribal Laws. Assignment of Incentive payments is prohibited except if it is both for payment due as described in this section and is in writing signed by the tribal member and approved by the General Counsel or the Chief Operating Officer for the Mashantucket Pequot Tribe.

23 M.P.T.L. ch. 2 § 11

§ 11. Other Attachment

In the event that a Judgment Creditor has obtained a judgment for monetary damages in the Tribal Court including recognition of a Foreign Judgment and such judgment remains unsatisfied for 30 days after awarded or filed, the

Tribal Court may, upon motion filed by the Judgment Creditor to attach the assets, or any part thereof, of the Judgment Debtor, notice of which has been given to the Judgment Debtor as provided herein, issue an order for the attachment of personal property of the Judgment Debtor or the garnishment of any debts owed to such Judgment Debtor as shall be reasonably necessary to satisfy said judgment. Furthermore, in the event that a judgment has been entered which is on appeal, the Tribal Court may, in its discretion, issue an order of attachment or garnishment while said appeal is pending if the Court deems such order is reasonably necessary to preserve the ability of the Judgment Creditor to obtain satisfaction of said judgment, or the Court, in its discretion, has determined that such appeal has been taken solely for the purposes of delay or in order to frustrate the collections of any eventual judgment. The motion for attachment must state the day, time, and place of hearing, and the Judgment Creditor shall mail a copy of such motion to the Judgment Debtor, by registered or certified mail, at the Judgment Debtor's last known address or by personal service pursuant to Tribal law.

**CHAPTER 3. SUBPOENAS DIRECTED TO THE MASHANTUCKET PEQUOT TRIBAL NATION,
ITS ENTITIES FOR APPEARANCE OR PRODUCTION OF DOCUMENTS**

23 M.P.T.L. ch. 3 § 1

§ 1. Issuance

The Tribal Court may issue a subpoena requiring the appearance of a witness or production of a specified document(s) or other thing pursuant to a letter of request issued by a Foreign Tribunal.

23 M.P.T.L. ch. 3 § 2

§ 2. Requirements

Any active member of any Bar may file with the Tribal Court a letter of request and finding from any Foreign Tribunal that the particular testimony or the production of the document(s) or other thing is necessary in the interest of justice, and in other than a criminal action or proceeding, that it is not possible to obtain the production of the document or other thing in any other manner, issued by a Judge or Clerk of said Foreign Tribunal requesting the issuance of a subpoena directed to the Mashantucket Pequot Tribe, its entities, and/ or its employees. Notice of the intention to request the issuance of such subpoena from the Mashantucket Pequot Tribal Court shall be given by the requesting party to the subject of the request prior to the filing for the issuance of such subpoena, and a copy of said notice shall be filed with the letter of request. Within five days after the filing of such letter, the Tribal Court shall cause a subpoena to be issued in accordance with Rule 45 of the Mashantucket Pequot Tribal Laws.

23 M.P.T.L. ch. 3 § 3

§ 3. Service

The subpoena shall be served by the Tribal Police within the Mashantucket Pequot Tribal lands by delivering a copy thereof to the witness or Records Keeper with a copy to the Office of Legal Counsel for the Mashantucket Pequot Tribe. Proof of service when necessary shall be made by filing with the Clerk of the Tribal Court a true and attested copy of the subpoena endorsed with a statement of the date, manner of service, and the name of the persons served, certified by the person who made the service.

23 M.P.T.L. ch. 3 § 4

§ 4. Objection

The Office of Legal Counsel or any interested party thereto may within 14 days after service of the subpoena or request for a subpoena or before the time specified for appearance or compliance if such time is less than 14 days after service, notify by regular or certified mail the party or attorney designated in the subpoena written objection to the issuance of such subpoena.

Upon timely motion, the Court shall quash or modify the subpoena if it

- (1) lacks jurisdiction;
- (2) fails to allow reasonable time for compliance;
- (3) requires a person who is not a named party to travel to a place more than 30 miles of the Mashantucket Pequot Reservation;
- (4) is overly broad, vague or frivolous;
- (5) requires disclosure of privileged or other protected matter and no exception or waiver applies;
- (6) subjects the Mashantucket Pequot Tribe, its entities and employee to undue burden; or
- (7) requires disclosure of a trade secret or other confidential research, development or commercial information.

23 M.P.T.L. ch. 3 § 5

§ 5. Service upon Governmental Authority

When a subpoena for the production of books, papers, documents or tangible things is served upon the Mashantucket Pequot Tribe, its entities and employees, it shall be deemed a sufficient response to the subpoena if the employee of the entity charged with the responsibility of being custodian of the original records promptly provides the attorney for the party causing service of the subpoena copies of all documents requested by the subpoena pursuant to this law. All responses to the subpoena shall contain a

certificate which shall be signed before a Notary Public by the employee of the entity charged with the responsibility of being custodian of the records and shall include a legend substantially to the following effect:

"The copies of records for which this certification is made are true and complete reproductions of the original records which are in the possession of the Mashantucket Pequot Tribal Nation and if it is the case the original records were made in the regular course of business, and it was the regular course of Mashantucket Pequot Tribal Nation to make such records at or near the time of the matter recorded. This certification is given pursuant to the Mashantucket Pequot Tribal Laws by the custodian of the records in lieu of his or her personal appearance."

Documents or records of the Mashantucket Pequot Tribal Nation that are susceptible to photostatic reproduction may be proved as to foundation, identify, and authenticity without any preliminary testimony, by use of legible and durable copies, certified in the manner prescribed above by the employee of the Mashantucket Pequot Tribal Nation charged with the responsibility of being custodian of the originals thereof. The copies may be used in any trial hearing, deposition, or any other judicial or administrative action or proceeding, whether civil or criminal, in lieu of the original documents or records which, however, the entity shall hold available for inspection and comparison by the foreign court, tribunal, or hearing officers and by the parties and their attorneys of record.

In the event any of the entities are unable to provide the documents requested in the subpoena due to the timeliness of the service of the subpoena or for other legal reasons, then the employee charged with the responsibility of being custodian of the records for the entity shall set forth in the certificate required hereunder the specific reasons for the noncompliance, the time of service of the subpoena, and if appropriate the time anticipated in complying with the subpoena.

23 M.P.T.L. ch. 3 § 6

§ 6. Deposition

Pursuant to the above requirements of this law, the Tribal Court Clerk may issue a subpoena for the appearance of the employee charged with the responsibility of being custodian of the original records to appear at a place within the borders of the Mashantucket Pequot Reservation for a deposition.

23 M.P.T.L. ch. 3 § 7

§ 7. Testimony

If the deposition of any employee charged with the responsibility of being custodian of the original records is inadmissible at trial through no fault of either party, the Tribal Court Clerk shall issue a subpoena for the appearance of the custodian of the original records to appear at trial provided such appearance of said custodian is within 30 miles of the Mashantucket Pequot

Reservation.

Historical and Statutory Notes

Derivation.

Effective May 29, 2007, TCR052907-07 the "Foreign Judgment and Subpoena Law", Title 23 M.P.T.L.

Amendments.

Effective November 17, 2011, TCR111711-01 of 02 amended ch.1, §2(a)(4) by increasing fee to \$50.00

Effective April 9, 2015, TCR040915-03 of 07 amended 23 M.P.T.L. ch.1, § 2 and § 3 to clarify the filing and service process of Foreign Judgments.