

Rule 308b. Determining the Enforceability of Judgments or Arbitration Awards Based on Foreign Law in Certain Suits Under the Family Code

(a) Applicability. Except as provided by Subsection (b), this rule applies to the enforcement of a judgment or arbitration award based on foreign law in a suit brought under the Family Code involving a marriage relationship or a parent-child relationship.

(b) Exceptions.

(1) This rule does not apply to an action brought under the Hague Convention on International Child Abduction, including the International Child Abduction Remedies Act (22 U.S.C. §§ 9001 et seq.).

(2) In the event of a conflict between this Rule and any federal or state law, the federal or state law will prevail.

(3) Rules 203(a) and (b), Texas Rules of Evidence, do not apply to an action to which this rule applies.

(c) Notice. A party who intends to seek enforcement of a judgment or arbitration award to which this rule applies must:

(1)(A) provide written notice to the court and to each other party in the party's original pleading; and

(B) describe the basis for the court's authority to enforce or decide to enforce the judgment or arbitration award.

(2) no later than ____ days after the party's original petition is filed, serve upon each other party a copy of any written materials or sources the party intends to use to prove the foreign law, if the materials or sources were originally written in English or have been published in English prior to the date the petition was filed.

(d) Objections. A party who intends to oppose the enforcement of a judgment or arbitration award to which this rule applies must:

(1) provide written notice to the court and to each other party of the party's objection within 30 days of receiving the notice required by Subsection (c); and

(2) explain the basis for the party's opposition and whether the judgment or arbitration award violates constitutional rights or public policy.

(e) Translations.

(1) Except as provided by Subsections (2) and (3), a translation from a language other than English of a judgment or arbitration award to which this rule applies, and of any materials, documents or sources on which a party intends to rely that are not written in English, is subject to Rule 1009, Texas Rules of Evidence.

(2) A translation described by Rule 1009(a), Texas Rules of Evidence, that is offered by a party seeking to enforce a judgment or arbitration award to which this rule applies must be served upon each other party no later than 60 days after the party's original petition is filed.

(3) If a party contests the accuracy of another party's translation of a foreign language document, the party must serve an objection and a conflicting translation on each opposing party no later than 30 days after the party receives a translation described by Subsection (2).

(4) On a party's motion and for good cause, the court may alter the time limits for submitting and objecting to translations.

(f) Hearing. (1) The court must, after timely notice to the parties, conduct a hearing on the record at least 30 days before trial to determine whether the judgment or arbitration award based on foreign law may be enforced.

(2) The court's determination is subject to Rules 203(c) and (d), Texas Rules of Evidence.

(3) The court must make the determination required by Subsection (1) no more than 10 days after the hearing.

(g) Order. Within 15 days of the hearing required by Subsection (f), the court must issue a written order regarding its determination. The order must include findings of fact and conclusions of law. The court may issue any orders necessary to preserve the principles of comity or the freedom to contract for arbitration while protecting against violations of constitutional rights and public policy.

(h) Hearings on Temporary Orders. Notwithstanding any other provision of this rule, the court may set filing deadlines and conduct the determination hearing to accommodate the circumstances of the case in connection with issuing temporary orders. The deadline for making a determination and signing a written order may not be altered absent urgent circumstances.

(i) Definitions. As used in this Rule ----

(1) “Comity” means the recognition by a court of one jurisdiction of the laws and judicial decisions of another jurisdiction.

(2) “Foreign law” means a law, rule, or code of a jurisdiction outside of the states and territories of the United States.

Addition to Rule 203, Texas Rules of Evidence

Rule 203. Determining Foreign Law

(e) Suits Brought Under the Family Code Involving a Marriage Relationship or Parent-Child Relationship.

(1) Subsections (a) and (b) of this rule do not apply to an action in which a party seeks a determination of foreign law and to which Rule 308b, Texas Rules of Civil Procedure, applies.

(2) This rule does not apply to an action brought under the Hague Convention on International Child Abduction, including the International Child Abduction Remedies Act (22 U.S.C. §§ 9001 et seq.).

Addition to Rule 1009, Texas Rules of Evidence

Rule 1009. Translating a Foreign Language Document

(h) Suits Brought Under the Family Code Involving a Marriage Relationship or Parent-Child Relationship.

(1) Except as provided by Rule 308B, Texas Rules of Civil Procedure, this rule applies to a submitted translation of a foreign language document in a suit brought under the Family Code involving a marriage relationship or parent-child relationship.

(2) This rule does not apply to an action brought under the Hague Convention on International Child Abduction, including the International Child Abduction Remedies Act (22 U.S.C. §§ 9001 et seq.).