

# CIVIL DIVISION MANUAL FOR PRACTICING IN TRIBAL COURTS

For Turtle Mountain Community College  
Accredited by: The Higher Learning Commission  
and A Member of the North Central Association  
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Turtle Mountain Community College  
Project Peacemaker

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**CIVIL MANUAL**

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## DEFINITIONS

**Statute of limitations** – a specified length of time after which no cause of action or right to sue exists. Note: Check the time limit in your Tribal Code and/or State where you practice to insure you file in a timely fashion.

**Guardian ad litem** – a guardian, a lawyer, appointed by the court to appear in a lawsuit on behalf of an incompetent or minor party.

**Minor** – a person who has not reached full legal age; a child or juvenile.

**Incompetent** – a person is insane, an imbecile, or feebleminded, or is not mentally able to manage his or her own affairs.

**Summons** – a notice in writing to a defendant informing her or him that an action has been brought against her or him and judgment will be taken against them if he or she fails to answer the complaint within the prescribed time set forth therein.

**Pleadings** – written allegations of what is affirmed on one side or denied on the other, disclosing to the Court and the contending parties the real matter in dispute between the parties.

**Judgment** – the official and final decision of the Court upon the respective rights and claims of the parties to an action or suit therein litigated and submitted to its determination. It shall mean the same as the Court's decree.

**Contract** – a contract is an agreement, either written or verbal, to do or not to do a particular thing, made between two (2) or more parties legally capable of contracting.

**Party** – the persons who take part in the performance of any act, or who are directly interested in any affair, contract, or conveyance, or who are actively concerned in the prosecution and defense of any legal proceeding.

**Person** – includes natural person, partnerships, associations, and corporations.

**Police Officer** – shall include all Tribal Police, Bureau of Indian Affairs Police and duly appointed deputy policemen.

**Gender** – words used in the masculine or the feminine gender.

**Full, Faith and Credit** – Full faith and credit will be given to public acts, records and judicial proceedings of all other reservations and all Federal and State jurisdictions that have enacted a full, faith and credit provision in their constitution or statutes.

**Marriage** – a marriage between a man and woman licensed, solemnized, and registered.

**Dissolution of Marriage** – a divorce whereby the marriage itself is dissolved.

**Legal Separation of Marriage** – to separate the marriage temporarily and still considered legally married.

**Intestate** – one who dies without disposing of real and/or personal property by will, passes to the heirs of the intestate subject to the control of the Court for the purpose of administration.

**Mutual will** – one of two separate wills in which two persons, usually a husband and wife, establish identical or similar testamentary provisions disposing of their estates in favor of each other.

**Holographic will** – a holographic will is one that is entirely written, dated and signed by the hand of the testator.

**Probate** – the judicial procedure by which a testamentary document is established to be a valid will; the proving of a will to the satisfaction of the court. Note: Most courts encourage an informal probate with an independent personal representative.

**Motion** – a written or oral application, requesting a Court to make a specified ruling or order.

**Discovery** – the act or process of finding or learning something that was previously unknown.

**Deposition** – a witnesses out of court testimony that is reduced to writing for later use in court or for discovery purposes.

**Interrogatories** – a written question submitted to and opposing party in a law suet as part of discovery.

**Jury** – is a panel of qualified persons that will enter a verdict after due deliberation, and must be respected as you would respect a Justice of the Court.

**Counterclaim** – a claim for relief asserted against an opposing party after an original claim has been made.

**Civil** – of or relating to private rights and remedies that are sought by action or suit, as distinct from criminal proceedings.

**Sovereign Immunity** - A government's immunity from being sued in its own court without its consent.

**In forma pauperis** – in the manner of an indigent who is permitted to disregard filing fees and court costs.

## CIVIL COMPLAINT

A civil complaint is used to sue an individual for accident, breach of contract, wrongful termination, medical malpractice and so forth. *Note:* The foregoing consists of what is in the Turtle Mountain Tribal Code. Each person must follow the Code within their respective Tribal Codes.

A civil complaint is started by filing a written complaint or service of a summons on the defendant or defendants. Such summons must state where the complaint is, or is to be, filed. Upon the demand of the defendant at the place named in the summons, the plaintiff shall file the complaint within twenty (20) days.

Most Tribal Courts will require a filing fee, which the Plaintiff in the action would be responsible for such fees. Although, if the person is indigent, the Court may have a procedure for a “Waiver” of said fees and costs associated with the commencement of the action. Some Courts may call them an “Informa Pauperis.” This requires a Petition, Affidavit, Proof of the indigence and a decision from a Judge.

The complaint shall be filed with a clerk of the Tribal Court, who shall mark thereon the date of the filing or the date of service of the summons. The action shall be deemed to have started as the time the complaint is so filed and marked or at the time of service of the summons. The case shall be deemed pending until judgment or dismissal. Some court will only allow for a case to be pending for certain amount of time, so make sure you continue to pursue your case.

The complaint must be captioned accordingly to the Tribal Court in which you are filing your complaint in. It shall state the name of the plaintiff and of the defendant, if the defendant’s true name be unknown, he or she may be designated by any name, (John Doe, Jane Doe), until his or her true name be ascertained, at which time the complaint shall be amended to identify that person. The evidence at the trial must be confined to the allegations made in the complaint.

The complaint shall state *clearly and briefly in plain language* the grievance for which relief is sought and shall further *state the relief desired*. This means you put into your complaint what you want, why the court should give you what you want, the legal basis for asking for what you want and what exactly you want the court to do.

All Tribal Court’s have a “Statute of Limitations” for civil complaints, make sure you find out how long you have to file the complaint from the date of the incident. Civil complaints and Medical Malpractice law suits almost always have a different statute of limitations, where the civil complaint may have six (6) years and the medical malpractice may only have two (2) years. Check your respective Codes and/or laws.

You can also research for any “Waiver of Limitations,” this may be used on cases that had no immediate effect, but had a long term effect that was in no way detected until many years later.

In most Tribal Court's you will not be allowed to merge a civil complaint with a criminal complaint. Where the violation of a right gives rise to both a civil remedy and a criminal prosecution, a separate action may be brought for either.

***Jurisdiction:*** the Tribal Court in which you are practicing in will have certain jurisdictional provisions, for example:

- (1) The Tribal Court shall have jurisdiction over all civil matters where all parties are Indians within the jurisdiction of the Court. The Tribal Court shall have civil jurisdiction over non-Indians in any particular case where they submit themselves to the jurisdiction of the Court by submitting himself to the Court's jurisdiction.
- (2) The Tribal Court, except as it may be limited by the Tribal Laws or law of United States, has all inherent power of any Court including, but not limited to:
  - a. The power to make rules for the conduct of its business;
  - b. The power to issue orders, decrees, subpoenas or writs necessary to implement its decisions;
  - c. The power to punish for contempt;
  - d. The power to administer oaths or affirmations;
  - e. The power to issue separation agreements;
  - f. The power to enforce its decisions by either a personal command to the party or parties or by a declaration that relief is granted, regardless of the nature of the matter before the Court.
- (3) The territorial jurisdiction of the Court extends to all territory within the exterior boundaries of the reservation.
- (4) The Tribal Court shall not have jurisdiction over any suit brought against the Tribe without the consent of the Tribe. Tribes have sovereign immunity.

***Sovereign Immunity*** - A government's immunity from being sued in its own court without its consent.

***Motions*** – in most Courts, motions shall be allowed and shall be filed at least six (6) days before the date on which the trial is held. Some Court will allow new motions made at the trial and others will not.

Now that the defendant has been served, the clerk of court will then schedule the matter to be heard before the court.

***Notice to Appear for Hearing*** will be issued to the Plaintiff and Defendant, giving the date, time, presiding judge and the reason for the hearing.

Many Tribal Judges will require if present the Attorney/Advocate of the prevailing side to prepare a proposed Judgment for their review and/or signature. Tribal Judges usually

have an extremely large caseload and would need the courtesy of the proposed judgment for their convenience.

When preparing the proposed judgment you must have the following information contained:

- When, where and who was present at the time that this judgment was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the issue.

Date, signature and title of presiding judge.

This matter will be considered adjudicated, but will not be considered closed until the court is notified of a satisfaction of judgment.

***Satisfaction of Judgment*** – is when the losing party has totally complied with the order of the court. Thereafter the clerk will enter the satisfaction of judgment and close the case.



## **JURY DEMAND**

***Jury trial*** - a jury demand may be made by either party to a civil complaint, although you must research the code in which you are practicing to find out when you can make a jury demand. Most tribal courts will only allow you to file within the initial pleadings or some may allow you to file at any time between the filing of the complaint and the pre-trial. You must also find out when a jury demand is allowed by the relief in the complaint, for example: The right to trial by jury shall exist in all cases where the plaintiff's claim exceeds two hundred dollars (\$200).

***Juror*** – is one person from a panel that will enter a verdict after due deliberation, and must be respected as you would respect a Justice of the Court.

***Voir dire*** – jury selection process (questioning of jurors).

***Peremptory Challenge*** – can be taken by either party and may be oral. It is an objection to a juror for which no reason need be given although a party may not use such challenge in a way that discriminates on the basis of race, ethnicity or gender, but upon which the Court must exclude him or her.

***For Cause Challenge*** – A party's challenge supported by a specified reason, such as bias or prejudice, that would disqualify that potential juror.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**NAME OF TRIBE**

_____	)	Case No. _____
<b>Plaintiff,</b>	)	
	)	<b>SUMMONS</b>
<b>VS.</b>	)	
	)	
	)	
	)	
	)	
_____	)	
<b>Defendant</b>	)	
_____	)	

**THE (NAME OF TRIBAL COURT) TO THE ABOVE NAMED DEFENDANT:**

You are hereby Summoned and required to answer the Complaint of the Plaintiff in this action, a copy of which is herewith served upon you, and to serve a copy of your answer to the Plaintiff within twenty (20) days after the service of this SUMMONS upon you, and in case of your non-compliance to appear or answer, Judgment will be taken against you by default for the relief demanded in this Complaint.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(NAME OF CLERK)  
Civil Court Clerk

NAME OF TRIBAL COURT

CIVIL DIVISION

NAME OF JURISDICTION

NAME OF TRIBE

	)	Case No. _____
<b>Plaintiff,</b>	)	
	)	<b>COMPLAINT</b>
<b>Vs.</b>	)	<b>AND</b>
	)	<b>JURY DEMAND</b>
	)	
	)	
	)	
	)	
<b>Defendant</b>	)	
	)	

Plaintiff, for his/her Complaint states as follows:

**PARTIES**

1. Plaintiff, (NAME OF PLAINTIFF), is an enrolled member of the (NAME THE TRIBE IN WHICH THE PLAINTIFF IS ENROLLED) and is a resident of (NAME AREA IN WHICH THE PLAINTIFF RESIDES).
2. Defendants, (NAME THE DEFENDANTS), is an enrolled member of (NAME THE TRIBE IN WHICH THE PLAINTIFF IS ENROLLED) and is a resident of (NAME AREA IN WHICH THE PLAINTIFF RESIDES).

**INTRODUCTION**

1. GIVE DATE AND PLACE THAT THE TRANSACTION TOOK PLACE)
2. (GIVE DETAILED DISCRPTION OF THE TRANSACTION, IF THIS IS A VEHICLE ACCIDENT, GIVE ALL THE DETAILS REGARDING THAT ACCIDENT).
  - a. (MAKE SURE AND COVER YOUR ISSUE UPON THIS SUIT)

**CLAIMS FOR RELIEF**

1<sup>st</sup> CLAIM FOR RELIEF --- BREACH OF CONTRACT

(EXPLAIN WHAT THE BREACH OF CONTRACT IS REGARDING THE ISSUE).

2<sup>nd</sup> CLAIM FOR RELIEF --- BAD FAITH

(EXPLAIN WHY THE DEFENDANT ACTED IN BAD FAITH, WHEN THEY HAD A DUTY TO TO DEAL IN GOOD FAITH).

3<sup>rd</sup> CLAIM FOR RELIEF --- PUNITIVE DAMAGES

(EXPLAIN WHY THE DEFENDANT'S ACTIONS WERE EITHER MALICIOUS, FRAUDULENT, OPPRESSIVE OR INTENTIONAL).

**CONCLUSION**

(EXPLAIN THE REMEDY IN WHICH IS SOUGHT BY THE PLAINTIFF AND WHY THIS COURT SHOULD RULE IN THE PLAINTIFF'S FAVOR).

WHEREFORE, the Plaintiff requests the following relief:

1. Compensatory damages in an amount to be determined by trier of fact;
2. Punitive damages in an amount to be determined by the trier of fact;
3. Loss of wages in an amount to be determined by the trier of fact;
4. Attorney fees as allowed by law;
5. Costs and disbursements and such other relief as deemed just and equitable.

**JURY DEMAND**

Plaintiff hereby requests a trial by jury.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(NAME ATTORNEY/ADVOCATE BAR ID#  
ADDRESS, PHONE #, FAX #  
SPECIFY ATTORNEY FOR PLAINTIFF)

## **ANSWER & COUNTERCLAIM**

***Appearance by the defendant***- In all cases, if the defendant fails to appear at the time specified for appearance or at such time as the Court may have set for the argument of a motion, the plaintiff shall proceed and the Court may give such relief as the evidence warrants.

An appearance, *general or special* may be made by the defendant or his/her attorney by filing of a written answer, motion or other pleading in response to the complaint.

***Special Appearance by the defendant*** - This occurs when the defendant asserts the Tribal Court lacks jurisdiction over him or her to subject himself or herself to the Court's jurisdiction. They may file the special appearance only respectively for the court to hear or rule on a motion for dismissal based on lack of jurisdiction. Defendant's must never ignore a case filed against them or assume that they never have to comply with that Court's decision. A defendant must *always* file a motion to dismiss if they have the jurisdiction argument. Court's have "Full, Faith and Credit," this means that all Court should respectively support other Court's Orders, Judgments and Decisions and should adhere to the same.

***Answer*** - An answer is the defendant's written statement made in reply to the complaint and must set out the defense intended to be made by the defendant, For example:

- (1) If the defendant denies all the facts alleged by the plaintiff in the complaint, he or she shall so state. This is termed a general denial and permits the defendant to defend or counterclaim any and all allegations made in the complaint.
- (2) If the defendant denies but a part of the allegations made in the complaint, he or she shall so state, specifying those allegations he denies. Upon trial, the defendant can contest only those allegations he or she specifically denies in his or her answer.
- (3) If the defendant admits the truth of the allegations in the complaint but has a defense thereto, he or she shall set out his defense in his written answer; and a failure so to set out his defense prevents his raising such defense at the trial, unless, at the Court's discretion.
- (4) A failure to deny is an admission of the truth of the allegation.

***Counterclaims*** - There are two different types of counterclaims defined as follows:

***Compulsory counterclaims*** - The defendant's written answer shall state as a counterclaim any claim which, at the time of the answer, the defendant has against the opposing party, if it arises out of the same act or omission that is the basis of the opposing party's claim and does not require for its adjudication the presence of the third parties over whom the Court cannot acquire jurisdiction. Failure to state a compulsory counterclaim in writing, shall bar a subsequent suit on such claim.

***Permissive counterclaims*** - The defendant's written answer may state as a counterclaim any claim against the opposing party not arising out of the same act or omission that is the basis of the opposing party's claim

NAME OF TRIBAL COURT

CIVIL DIVISION

NAME OF JURISDICTION

NAME OF TRIBE

	)	Case No. _____
<b>Plaintiff,</b>	)	
	)	
<b>VS.</b>	)	<b>ANSWER,</b>
	)	<b>COUNTERCLAIM,</b>
	)	<b>AND</b>
	)	<b>MOTION FOR DISMISSAL</b>
	)	
	)	
	)	
<b>Defendant</b>	)	

**TO THE ABOVE NAMED PLAINTIFF AND TO REPRESENTING ATTORNEY OF RECORD:**

**COMES NOW**, Defendant and without waiving challenges to this courts jurisdiction and without submitting thereto, for its Answer to the Plaintiff’s Complaint alleges and states as follows:

I.

Denies each and every allegation contained in the Plaintiff’s Complaint except as hereinafter admitted, qualified or explained.

II.

That the Complaint fails to state a claim against Defendant upon which relief can be granted.

III.

That the Court lacks jurisdiction over the subject matter of this action and the person of Defendant.

IV.

That there is insufficiency of process and service of process.

V.

That the Plaintiff has failed to (GIVE THE REASON FOR THIS CLAIM) for a just adjudication.

VI.

That venue in the above entitled matter is improper.

VII.

That the Plaintiff’s cause of action is barred by the statue of limitations, statute of repose or by the equitable doctrine of laches.

VIII.

Specifically the Defendant denies the allegations contained in their paragraphs 1, 2, 3 and 6.

**COUNTERCLAIM FOR DAMAGES**

1. That the Defendant counterclaims for Compensatory damages, Punitive Damages, Loss of Income, Attorneys Fees and Costs and disbursements.

**MOTION FOR DISMISSAL**

FOR the reasons stated herein the Defendant is requesting that this Court grant a Dismissal of this Complaint and for damages stated herein.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

(NAME ATTORNEY/ADVOCATE BAR ID#  
ADDRESS, PHONE #, FAX #  
SPECIFY ATTORNEY FOR DEFENDANT)



NAME OF TRIBAL COURT

CIVIL DIVISION

NAME OF JURISDICTION

NAME OF TRIBE

	)	Case No. _____
<b>Plaintiff,</b>	)	
	)	<b>NOTICE OF</b>
<b>Vs.</b>	)	<b>SPECIAL</b>
	)	<b>APPEARANCE</b>
	)	
	)	
	)	
	)	
<b>Defendant</b>	)	
	)	

Notice is hereby given that the Defendant hereby appears specially in these proceedings by and through its undersigned Attorney, (NAME ATTORNEY), solely for the purpose of objecting to the jurisdiction of this Honorable Court. Defendant asserts that the Court should not proceed with the subject matter of this action on the basis the Court lacks personal jurisdiction and/or subject matter jurisdiction over the Defendant. The Court lacks personal jurisdiction because the Defendant lives outside the boundaries of the Reservation or the transaction occurred off the reservation. The Defendant appears specially for the limited purpose of challenging jurisdiction.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
(NAME ATTORNEY/ADVOCATE  
BAR ID#  
ADDRESS, PHONE #, FAX #  
SPECIFY ATTORNEY FOR DEFENDANT)

## MOTIONS

**Motion** – a written or oral application, requesting a Court to make a specified ruling or order.

When a party to a case needs to file a motion to move the Court to make a ruling on a specific issue, they must file a proper Motion.

There are many different titled Motions, Motion for Continuance, Motion for Show Cause, Motion to Dismiss, Motion for Hearing, Motion for Subpoena Ducas Tecum, Motion for Judgment on the Pleadings, Motion for a Protective Order, Motion for Summary and/or Declaratory Judgment, Motion in Limine, etc.

There is no possible way this manual could give examples of all the many types of Motions, just make sure your Motion has the following information:

- A. *A specific titled Motion*
- B. *Clear and convincing information to warrant the Motion*
- C. *Clear and specific remedy to the Motion*

Remember: A court can only provide a remedy if the litigant or party asks for one.

As an Attorney/Advocate, always submit a proposed Order or legal document granting the Motion, for the Judges convenience.

Some, Tribal Courts will have a filing fee for a Motion, but most will not, always check the Court you are practicing to make sure you know the filing process. You do not want a very important Motion to be denied based on a wrongful filing.

Always, serve the opposing party a copy of the Motion and submit proof by attaching an Affidavit of Service to provide the Court with proof you sent the opposing party the same Motion.

Most Tribal Courts will have a timeline on Motions that will give the opposing party a certain amount of days to respond to any motions. After the response period is over, the Court then may have another timeline for any rebuttal response. When all the timelines for the parties are over, the Court may have a timeline for ruling on said motion. The Court also, may have a required procedure wherein they may have to hold a hearing for oral arguments on the motion submitted.

## **NOTICE OF ENTRY OF ORDER**

This document is usually prepared and entered by the clerk of court. Although, for the convenience of the Clerk you may submit this Notice for them, included in this manual is a sample of the Notice of Entry of Order.

In most Tribal Courts, they will require a Notice of Entry to be entered in all the Orders, Judgments and Decrees entered by the Court.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**CITY, STATE & COUNTY**

_____	)	Case No.: _____
<b>Petitioner,</b>	)	
	)	<b>NOTICE OF ENTRY OF</b>
<b>Vs.</b>	)	<b>ORDER</b>
	)	
	)	
_____	)	
<b>Respondent</b>	)	
_____	)	

YOU WILL PLEASE TAKE NOTICE, that the ORDER/JUDGMENT in the above-entitled action was entered and docketed in the office of the Civil Clerk of the Tribal Court in (*ENTER CITY, STATE AND COUNTY*), on the (*ENTER THE DATE AND YEAR*), a copy of which Order so entered is hereto attached and herewith served upon you.

Dated (*ENTER DATE AND YEAR*).

\_\_\_\_\_  
Civil Court Clerk

## SMALL CLAIMS

When a person needs to file a claim against another person for a small amount of damages they would file a “Small Claims Complaint”. Most Tribal Courts have a cap on the amount that would fall under a small claims complaint, it could be anywhere from \$2,000.00 to \$5,000.00.

When filing a small claim, ask the Court if they have a “Small claims packet,” if not, you may design your claim after the sample attached to this document. Most Courts have a small claims packet that they would prefer that you use, it basically covers everything the court wants to know.

Once you’re Small Claims Summons and Complaint is prepared, most Tribal Courts will require a filing fee, which the Plaintiff in the action would be responsible for such fees. Although, if the person is indigent, the Court may have a procedure for a “Waiver” of said fees and costs associated with the commencement of the action. Some Courts may call them an “Informa Pauperis.” This requires a Petition, Affidavit, Proof of the indigence and a decision from a Judge.

Upon the filing of the Petition, the clerk will direct you on how to serve the defendant in this action. Most Courts will require service of process by the following procedure:

A. ***Service by certified mail*** – must obtain defendants mailing address and send the document to the defendant in sealed, certified letter at their last known address.

B. ***Affidavit of service by mail*** – an affidavit must be attached to prove that the document was mailed to the defendant by certified or regular mail.

C. ***Personal service*** – service by any person of legal age not a party to nor interested in the action.

D. ***Service by publication*** – service by publication may be made by publishing the same three consecutive weeks in the local news paper of the persons last known address, or if unknown, in the local new paper of the jurisdiction where this case is filed.

Now that the defendant has been served the clerk of court will then schedule the matter to be heard before the court.

***Notice to Appear for Hearing*** will be issued to the Plaintiff and Defendant, giving the date, time, presiding judge and the reason for the hearing.

Many Tribal Judges will require if present the Attorney/Advocate of the prevailing side to prepare a proposed Judgment for their review and/or signature. Tribal Judges usually have an extremely large caseload and would need the courtesy of the proposed judgment for their convenience.

When preparing the proposed judgment you must have the following information contained:

- When, where and who was present at the time that this judgment was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the issue.

Date, signature and title of presiding judge.

This matter will be considered adjudicated, but will not be considered closed until the court is notified of a satisfaction of judgment.

*Satisfaction of Judgment* – is when the losing party has totally complied with the order of the court. Thereafter the clerk will enter the satisfaction of judgment and close the case.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**NAME OF TRIBE**

_____ )	
Plaintiff )	
vs. )	<b>SUMMONS</b>
)	
)	CV# _____
_____ )	
Defendant )	

IN THE STATE OF (NAME STATE)

TO THE ABOVE NAMED DEFENDANT:

You are hereby summoned to answer the Small Claims Complaint in this action and to serve a copy of your answer upon the Plaintiff, after having properly filing the original to the clerk of court, within twenty (20) days after the service of this Summons upon you, exclusive the date of service; and in case of your failure to appear or answer, judgment will be taken against you by default judgment for the relief demanded in the Complaint.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Small Claims Clerk

NAME OF TRIBAL COURT

CIVIL DIVISION

NAME OF JURISDICTION

NAME OF TRIBE

\_\_\_\_\_  
PLAINTIFF

\_\_\_\_\_  
ADDRESS

VS

\_\_\_\_\_  
DEFENDANT

\_\_\_\_\_  
ADDRESS

**SMALL CLAIM COMPLAINT  
AND  
STATEMENT OF CLAIM**

CIVIL NO# \_\_\_\_\_

CLAIM:

*(Briefly describe what occurred and why you are suing for the damages you are claiming)*

TO: THE \_\_\_\_\_ TRIBAL COURT

I \_\_\_\_\_, being first duly sworn on oath says the foregoing is a just and true statement of the Plaintiff's claim against the Defendant, exclusive of all set-off and just grounds of defense.

\_\_\_\_\_  
PLAINTIFF or REPRESENTATIVE

Filed with the \_\_\_\_\_ Tribal Court on this \_\_\_\_\_ day  
(List Tribal Court Name)  
of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
CLERK OF COURT



**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**NAME OF TRIBE**

)  
 )  
 Petitioner(s) )  
 vs. )  
 )  
 )  
 Respondent(s) )  
 )  
 )

**JUDGMENT**

CA# \_\_\_\_\_

THERE having been heard before the undersigned Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, the above entitled matter before the Honorable \_\_\_\_\_, Associate/Chief Judge, with both the Petitioner and Respondent(s) present, without legal representation, in the City of, County of and State of, and;

**FINDINGS OF FACT**

AFTER the court having reviewed all circumstances presented before the Court finds.

1. That all parties to this action are enrolled members of the (NAME THE TRIBE IN WHICH THE PARTIES ARE ENROLLED AND LOCATION).
2. That this Court has jurisdiction pursuant to (cite the section from the tribal code that applies).
3. That the above named Petitioner is requesting that the Court grant the relief stated in the Small Claim Petition, (cite the section from the tribal code that applies).

CONTINUE TO LIST ALL ISSUES BROUGHT BEFORE THE COURT AT THIS HEARING, INCLUDE ANY VITAL TESTIMONY THAT CLEARLY APPLIES TO THE ISSUE.

**CONCLUSIONS OF LAW**

LIST ALL CONCLUSIONS BASED ON THE FINDINGS, INCLUDE ALL RELATED LAW FROM THE TRIBAL CODE.

**IT IS HEREBY THE ORDER OF THIS COURT** that based on above Findings of Fact and Conclusions of Law, this Court hereby orders the following:

1. Continue on with all orders of the court, section them off by the separate orders issued.

**IT IS FURTHER THE ORDER OF THIS COURT** as follows:

1. This section only applies if the Court orders something was not in the Complaint/Petition.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

*S E A L*

\_\_\_\_\_  
*(NAME AND TITLE OF JUDGE)*

*This judgment has be duly entered and docketed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by the clerk of court.*

\_\_\_\_\_  
*Clerk of Court*

*That this judgment has been satisfied on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and is so docketed the same.*

\_\_\_\_\_  
*Clerk of Court*

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**NAME OF TRIBE**

\_\_\_\_\_ )  
 Plaintiff )  
 )  
 )  
 vs. )  
 )  
 )  
 \_\_\_\_\_ )  
 Defendants )

**AFFIDAVIT OF SERVICE  
 BY MAIL  
 CV-\_\_\_\_\_**

(NAME OF PERSON MAILING THIS AFFIDAVIT), after being duly sworn on oath, deposes and says that the affiant is more than twenty-one years of age; and on \_\_\_\_\_ day of \_\_\_\_\_, 2005, said affiant deposited in a sealed envelope a true copy of the following:

(TITLE OF DOCUMENT(S))

In the above entitled action, in the United States Post Office at (CITY AND STATE), postage prepaid, and directed to:

*NAME  
 ADDRESS  
 CITY, STATE & ZIP*

*NAME  
 ADDRESS  
 CITY, STATE & ZIP*

\_\_\_\_\_  
 AFFIANT

WITNESSED: \_\_\_\_\_ DATE: \_\_\_\_\_

*Note:* in some jurisdictions, this must be notarized.

### **PETITION FOR IMMEDIATE REMOVAL**

When a person has a piece of property within their own private property, and no longer wishes it to on their property, they would file a Petition for Immediate Removal.

When filing a Petition for Immediate Removal, you must have a typed Petition setting out the description of what you are asking for and why.

Once you're Petition for Immediate Removal is prepared, most Tribal Courts will require a filing fee, which the Petitioner in the action would be responsible for such fees. Although, if the person is indigent, the Court may have a procedure for a "Waiver" of said fees and costs associated with the commencement of the action. Some Courts may call them an "Informa Pauperis." This requires a Petition, Affidavit, Proof of the indigence and a decision from a Judge.

Upon the filing of the Petition, the clerk will direct you on how to serve the defendant in this action. Most Courts will require service of process by the following procedure:

A. ***Service by certified mail*** – must obtain defendants mailing address and send the document to the defendant in sealed, certified letter at their last known address.

B. ***Affidavit of service by mail*** – an affidavit must be attached to prove that the document was mailed to the defendant by certified or regular mail.

C. ***Personal service*** – service by any person of legal age not a party to nor interested in the action.

D. ***Service by publication*** – service by publication may be made by publishing the same three consecutive weeks in the local news paper of the persons last known address, or if unknown, in the local new paper of the jurisdiction where this case is filed.

Now that the defendant has been served the clerk of court will then schedule the matter to be heard before the court.

***Notice to Appear for Hearing*** will be issued to the Petitioner and Respondent, giving the date, time, presiding judge and the reason for the hearing.

Many Tribal Judges will require if present the Attorney/Advocate of the prevailing side to prepare a proposed Judgment for their review and/or signature. Tribal Judges usually have an extremely large caseload and would need the courtesy of the proposed judgment for their convenience.

When preparing the proposed judgment you must have the following information contained:

- When, where and who was present at the time that this order was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the issue.

Date, signature and title of presiding judge.

This matter will be considered adjudicated and will be considered closed.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**NAME OF TRIBE**

\_\_\_\_\_ )  
 )  
 Petitioner, )  
 )  
 vs. )  
 )  
 \_\_\_\_\_ )  
 )  
 Defendant, )

**PETITION  
 FOR IMMEDIATE  
 REMOVAL**  
 CA# \_\_\_\_\_

COMES NOW, the Petitioner, by and through the undersigned court, and for its complaint against Defendant states as follows:

I.

That the Petitioner is an enrolled/non-enrolled member of the following tribe: \_\_\_\_\_, located at \_\_\_\_\_; and that the Defendant is an enrolled/non-enrolled member of the following tribe: \_\_\_\_\_, located at \_\_\_\_\_; and that the child/children that this petition is for are enrolled/non-enrolled member(s) that of the same tribe as the Petitioner/Defendant. Also that the Petitioner resides within/out of the jurisdiction of the undersigned Court.

II.

That the Plaintiff resides within/out of the jurisdiction of this court and the Defendant resides within/out of this court.

III.

That the Petitioner is requesting that the above named Defendant be removed for the following reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IV.

WHEREFORE, Petitioner prays for the undersigned Court to Order an Immediate Removal of the above named Defendant from the above mentioned, and for further relief as the Court deems just and equitable in the circumstances.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Petitioner's name & Address  
\_\_\_\_\_  
\_\_\_\_\_

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**NAME OF TRIBE**

)  
 )  
 vs.                   Petitioner(s)                   )  
 )  
 )  
 )  
 Respondent(s)                   )  
 )  
 \_\_\_\_\_)

**ORDER TO REMOVE  
PROPERTY**  
CA#\_\_\_\_\_

THERE having been heard before the undersigned Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, the above entitled matter before the Honorable \_\_\_\_\_, Associate/Chief Judge, with both the Petitioner and Respondent(s) present, without legal representation, in the City of, County of and State of, and;

**FINDINGS OF FACT**

AFTER the court having reviewed all circumstances presented before the Court finds:

1. That all parties to this action are enrolled member's of the (NAME THE TRIBE IN WHICH THE PARTIES ARE ENROLLED AND LOCATION).
2. That this Court has jurisdiction pursuant to (cite the section from the tribal code that applies).
3. That the above named Petitioner requesting that the Court order the following property to be removed, immediately, (cite the section from the tribal code that applies).

CONTINUE TO LIST ALL ISSUES BROUGHT BEFORE THE COURT AT THIS HEARING, INCLUDE ANY VITAL TESTIMONY THAT CLEARLY APPLIES TO THE ISSUE.

**CONCLUSIONS OF LAW**

LIST ALL CONCLUSIONS BASED ON THE FINDINGS, INCLUDE ALL RELATED LAW FROM THE TRIBAL CODE.

**IT IS HEREBY THE ORDER OF THIS COURT** that based on above findings and Conclusion this Court orders the following:



1. Continue on with all orders of the court, section them off by the separate orders issued.

**IT IS FURTHER THE ORDER OF THIS COURT** as follows:

1. This section only applies if the Court orders something was not in the Complaint/Petition.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

*S E A L*

\_\_\_\_\_  
*(NAME AND TITLE OF JUDGE)*

## PETITION FOR RELEASE OF PROPERTY

A Petition for Release of Property would be when you want someone to release your property because they are holding it without your consent and you want it back. Most Tribal Courts require that you have proof of ownership of the property you are requesting to be released.

You may use the Petition for Immediate Release of Property as your guide in preparing your Petition for this action. You may attached exhibits, which would include your proof of ownership to this Petition when you file. Once your Petition for Immediate Release of Property is prepared, most Tribal Courts will require a filing fee, which the Petitioner in the action would be responsible for such fees. Although, if the person is indigent, the Court may have a procedure for a “Waiver” of said fees and costs associated with the commencement of the action. Some Courts may call them an “Informa Pauperis.” This requires a Petition, Affidavit, Proof of the indigence and a decision from a Judge.

Upon the filing of the Petition, the clerk will direct you on how to serve the defendant in this action. Because Service of Process is a *due process issue*, most Courts will require service of process by the following procedure: ***Certified mailing, Affidavit of service, Personal Service or Service by Publication.***

Now that the defendant has been served the clerk of court will then schedule the matter to be heard before the court.

***Notice to Appear for Hearing*** will be issued to the Petitioner and Respondent, giving the date, time, presiding judge and the reason for the hearing.

Many Tribal Judges will require, if present, the Attorney/Advocate of the prevailing side to prepare a proposed Judgment for their review and/or signature. Tribal Judges usually have an extremely large caseload and would need the courtesy of the proposed judgment for their convenience.

When preparing the proposed judgment you must have the following information contained:

- When, where and who was present at the time that this order was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the issue.

Date, signature and title of presiding judge.

This matter will be considered adjudicated and will be considered closed.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**NAME OF TRIBE**

\_\_\_\_\_ )  
 Plaintiff, )  
 )  
 vs. )  
 )  
 \_\_\_\_\_ )  
 Defendant, )

**PETITION FOR IMMEDIATE  
 RELEASE OF PROPERTY**  
 CA# \_\_\_\_\_

COMES NOW, the Plaintiff, and for its complaint against Defendant states as follows:

**I.**

The Plaintiff/Defendant is/are enrolled members of the following:

\_\_\_\_\_, which is an unincorporated band of Indians organized and acting as a federally recognized Indian tribe.

**II.**

The Plaintiff resides within/out of the undersigned jurisdiction, AND the Defendant resides within/out of the undersigned jurisdiction.

**III.**

The Petitioner is requesting that the above named Defendant release following property and for the following reasons: \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**IV.**

The above mentioned property is located (*give detail of where the property is located at the time of this filing*) at the following:\_\_\_\_\_

\_\_\_\_\_.

V.

The Plaintiff could justify ownership of said property by the following:\_\_\_\_\_.

VI.

The Defendant will not willingly release the property that is in her/her possession.

VII.

NOW THEREFORE, Plaintiff prays for the undersigned Court to Order an Immediate Release of the above mentioned property and surrender it to the rightful owner, and for further relief as the Court deems just and equitable within the circumstances.

DATED:\_\_\_\_\_

\_\_\_\_\_  
Petitioner's Name & Address

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
Defendant's Name & Address

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**NAME OF TRIBE**

Petitioner(s)

vs.

Respondent(s)

**ORDER TO RELEASE**

CA# \_\_\_\_\_

THERE having been heard before the undersigned Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, the above entitled matter before the Honorable \_\_\_\_\_, Associate/Chief Judge, with both the Petitioner and Respondent(s) present, without legal representation, in the City of, County of and State of, and;

**FINDINGS OF FACT**

AFTER the court having reviewed all circumstances presented before the Court finds.

1. That all parties to this action are enrolled member's of the (NAME THE TRIBE IN WHICH THE PARTIES ARE ENROLLED AND LOCATION).
2. That this Court has jurisdiction pursuant to (cite the section from the tribal code that applies).
3. That the above named Petitioner requesting that the Court order the release the following property, immediately, (cite the section from the tribal code that applies).

CONTINUE TO LIST ALL ISSUES BROUGHT BEFORE THE COURT AT THIS HEARING, INCLUDE ANY VITAL TESTIMONY THAT CLEARLY APPLIES TO THE ISSUE.

**CONCLUSIONS OF LAW**

LIST ALL CONCLUSIONS BASED ON THE FINDINGS, INCLUDE ALL RELATED LAW FROM THE TRIBAL CODE.

**IT IS HEREBY THE ORDER OF THIS COURT** that based on above findings and Conclusion this Court orders the following:

1. Continue on with all orders of the court, section them off by the separate orders issued.

**IT IS FURTHER THE ORDER OF THIS COURT** as follows:

1. This section only applies if the Court orders something was not in the Complaint/Petition.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

*S E A L*

\_\_\_\_\_  
*(NAME AND TITLE OF JUDGE)*

## **PETITION FOR IMMEDIATE FORCIBLE EVICTION**

When a person has a need to file for Forcible Eviction, they would do so by filing a Petition for Forcible Eviction.

A Petition for Forcible Eviction would be when you want to evict someone from your property, they will not leave your property after you have told them, and gave them notice to leave.

In most Tribal Court's they would require that you would have properly notified the adverse party that you do not wish for them to reside within your property any longer, and for what your reason is. (This could be a breach of contract, failure to pay rent, failure to comply with your lease agreement, etc.). You must prove this up to the court.

Your notification to the defendant must clearly state your reason for their eviction and must give a specific time that you require them to move off the property.

The defendant's failure to adhere to your notification of eviction, would then become a action to filed before the court, as a forcible eviction.

Once your Petition for Forcible Eviction is prepared, most Tribal Courts will require a filing fee, which the Petitioner in the action would be responsible for such fees. Although, if the person is indigent, the Court may have a procedure for a "Waiver" of said fees and costs associated with the commencement of the action. Some Courts may call them an "Informa Pauperis." This requires a Petition, Affidavit, Proof of the indigence and a decision from a Judge.

Upon the filing of the Petition, the clerk will direct you on how to serve the defendant in this action. Most Courts will require service of process by the following procedure: ***Certified mailing, Affidavit of service, Personal Service or Service by Publication.***

Now that the defendant has been served the clerk of court will then schedule the matter to be heard before the court.

***Notice to Appear for Hearing*** will be issued to the Petitioner and Respondent, giving the date, time, presiding judge and the reason for the hearing.

Many Tribal Judges will require, if present, the Attorney/Advocate of the prevailing side to prepare a proposed Judgment for their review and/or signature. Tribal Judges usually have an extremely large caseload and would need the courtesy of the proposed judgment for their convenience.

When preparing the proposed judgment you must have the following information contained:

- When, where and who was present at the time that this order was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the issue.

Date, signature and title of presiding judge.

This matter will be considered adjudicated and will be considered closed.



NAME OF TRIBAL COURT

CIVIL DIVISION

NAME OF JURISDICTION

NAME OF TRIBE

\_\_\_\_\_

\_\_\_\_\_)  
Petitioner, )

vs. )

\_\_\_\_\_)  
Defendant, )

**PETITION FOR IMMEDIATE  
FORCIBLE EVICTION**  
CA# \_\_\_\_\_

**COMES NOW**, the Petitioner, by and through the undersigned court, and for its complaint against Defendant states as follows:

I.

That the Petitioner is an **enrolled/non-enrolled** member of the following tribe: \_\_\_\_\_, located at \_\_\_\_\_; and that the Defendant is an **enrolled/non-enrolled** member of the following tribe: \_\_\_\_\_, located at \_\_\_\_\_; and that the **child/children** that this petition is for are **enrolled/non-enrolled** member(s) that of the same tribe as the **Petitioner/Defendant**. Also that the Petitioner resides **within/out** of the jurisdiction of the undersigned Court. That the Defendant resides **within/out** of the jurisdiction of the undersigned Court.

II.

That the Petitioner is requesting that the above named Defendant be evicted for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

III.

WHEREFORE, Petitioner prays for the undersigned Court to Order an Immediate Forcible Eviction of the above named Defendant from the above mentioned, and for further relief as the Court deems just and equitable in the circumstances.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Petitioner's name & Address  
\_\_\_\_\_  
\_\_\_\_\_

Filed and docketed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Clerk of Court

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**NAME OF TRIBE**

---

\_\_\_\_\_ )  
 Plaintiff, )  
 vs. )  
 \_\_\_\_\_ )  
 Defendant )

**ORDER FOR IMMEDIATE  
 EVICTION**  
 CA# \_\_\_\_\_

THERE having been heard by the undersigned Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, with the Honorable, \_\_\_\_\_, Chief Judge, presiding. That the Plaintiff was present with Attorney, (Name Attorney) and the Defendant also present with Legal Advocate, (Name Advocate), after all parties having been duly served on a request for Immediate Forcible Eviction, filed by the above named Plaintiff, in the City of , County of and State of, Reservation of, hereby enters the following:

**FINDINGS OF FACT**

AFTER reviewing all circumstances presented before the Court, the Court finds the following:

1. That all parties to this action are enrolled members of the (NAME THE TRIBE IN WHICH THE PARTIES ARE ENROLLED AND LOCATION).
2. That this Court has jurisdiction pursuant to (cite the section from the tribal code that applies).
3. That the above named Petitioner requesting that the Court grants the forcible eviction of the Defendant, immediately, (cite the section from the tribal code that applies).

CONTINUE TO LIST ALL ISSUES BROUGHT BEFORE THE COURT AT THIS HEARING, INCLUDE ANY VITAL TESTIMONY THAT CLEARLY APPLIES TO THE ISSUE.

**CONCLUSIONS OF LAW:**

LIST ALL CONCLUSIONS BASED ON THE FINDINGS RELATED LAW FROM THE TRIBAL CODE.

**ORDER**

**IT IS HEREBY THE ORDER OF THIS COURT** that based on above findings and Conclusion this Court orders the following:

1. Continue on with all orders of the court, section them off by the separate orders issued.

**IT IS FURTHER THE ORDER OF THIS COURT** as follows:

1. This section only applies if the Court orders something was not in the Complaint/Petition

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

*S E A L*

\_\_\_\_\_  
Name of Judge  
*Title of Judge*

## **PETITION FOR CHANGE OF NAME**

When an adult is wishing to change their name, a Petition for Change of Name must be filed in the jurisdiction where the Petitioner resides.

A sample Petition is contained in this manual for your convenience. Some Courts will have a Petition for Change of Name for individuals to use, although many will not.

When filing this Petition you must file it with any standard filing fees unless they are waived by the court.

Attorneys and Advocates that are representing an individual in this type of matter will be required to submit a proposed order for the Judge's convenience. A sample order is also contained for you to use as your guide.

It is very important that no individual should ever file a name change for fraudulent purposes or to avoid paying a debt. No Court would encourage so, that is why a section addressing this issue should always be contained in an order for name change.

Once the Petition is filed, the clerk will schedule a hearing and after the hearing the judge will sign the order.

This case will then be considered closed.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**NAME OF JURISDICTION**

**NAME OF TRIBE**

IN THE MATTER OF: )  
)  
)  
(FULL NAME including middle name) )  
(DOB) )  
(SSN) )  
\_\_\_\_\_)

**PETITION FOR  
CHANGE OF NAME**  
CV#\_\_\_\_\_

I, We, hereby petition the Tribal Court, CITY AND STATE, to have my surname changed from \_\_\_\_\_, to \_\_\_\_\_.

The reason for the Name Change is as follows: \_\_\_\_\_

I request that all legal documents reflect this change of name if so granted by the undersigned Court. I am not requesting this for any fraudulent purposes or to evade my creditors.

Any person desiring to object to the granting of the Petition may do so, by filing any objections in writing with the Clerk of the above entitled Court no later than 10 days after the filing of this action.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_\_.

\_\_\_\_\_  
Petitioner's Name, Address, Phone No.#

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Tribal Court Clerk (or) Notary Public for the State

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

IN THE MATTER OF: )  
 )  
 )  
 (FULL NAME including middle name) )  
 (DOB) )  
 (SSN) )  
 \_\_\_\_\_)

**ORDER FOR  
 CHANGE OF NAME**  
 CV# \_\_\_\_\_

THERE having been heard on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a  
 Petition for Change of Name, with the Honorable (NAME AND TITLE OF JUDGE),  
 presiding, with the above named Petitioner present, in the (ENTER CITY, STATE AND  
 COUNTY), and;

That the above name Petitioner is asking that his/her name be changed from  
 \_\_\_\_\_  
 to \_\_\_\_\_.

That the Petitioner is asking for this change of name for the following  
 reasons: \_\_\_\_\_.

**ORDER**

IT IS HEREBY THE ORDER OF THIS COURT that the above named  
 Petitioner’s request for a change of name is hereby granted, THEREFORE the name  
 of: \_\_\_\_\_ is changed to: \_\_\_\_\_,  
 and for all legal documents to reflect this change of name.

IT IS FURTHER ORDERED that this change of name will not be used for any  
 fraudulent purposes.

Dated: \_\_\_\_\_

\_\_\_\_\_  
 (NAME AND TITLE OF JUDGE)

SEAL

**Petition for Dissolution of Marriage**  
**And**  
**Petition for Legal Separation of Marriage**

When a party to a marriage no longer wishes to be married and would like to divorce their spouse or to be deemed legally separated, that person must file a petition with the Court that has the proper jurisdiction over the parties.

Either party or both parties to a marriage may initiate the proceeding, by filing this petition. The petition must be in typed format and should have the following information contained:

- \* The age, occupation, and residence of each party and the length of residence in that jurisdiction.
- \* The Indian enrollment status of each party.
- \* The date of the marriage and the place at which it was registered.
- \* The date on which the parties separated.
- \* The names, date of births, and addresses of all living children of the marriage, and whether the wife is pregnant.
- \* Any arrangements as to support, custody, and visitation of the children and maintenance of the spouse.

Most Tribal Courts will require a filing fee, which the Petitioner in the action would be responsible for such fees. Although, if the person is indigent, the Court may have a procedure for a “Waiver” of said fees and costs associated with the commencement of the action. Some Courts may call them an “Informa Pauperis.” This requires a Petition, Affidavit, Proof of the indigence and a decision from a Judge.

Upon the filing of the Petition, the clerk will direct you on how to serve the defendant in this action. Most Courts will require service of process by the following procedure:

A. ***Service by certified mail*** – must obtain defendants mailing address and send the document to the defendant in sealed, certified letter at their last known address.

B. ***Affidavit of service by mail*** – an affidavit must be attached to prove that the document was mailed to the defendant by certified or regular mail.

C. ***Personal service*** – service by any person of legal age not a party to nor interested in the action.

D. ***Service by publication*** – service by publication may be made by publishing the same three consecutive weeks in the local news paper of the persons last known address, or if unknown, in the local new paper of the jurisdiction where this case is filed.



That this petition may be filed as stipulated agreement, wherein both parties have made an agreement upon their separation or the dissolution of their marriage, the parties may enter into a written separation agreement containing provisions for disposition of any property owned by either of them, maintenance of either of them, and support, custody, and visitation of their children.

If the petition is a stipulated agreement, both parties must sign the petition before a notary public or a clerk of court, and must pay any court filing fees or have a waiver of the fees.

That if the parties have stipulated an agreement it must be brought before the Court and the Court will may grant the agreement or the Court may find the agreement unconscionable. If the Court finds the agreement unconscionable, the parties will be required to appear before the Court and enter into an agreement that both parties can reasonably adhere to.

Many Tribal Judges will require the Attorney/Advocate of the prevailing side to prepare a proposed Dissolution of Marriage Decree for their review and/or signature. Tribal Judges usually have an extremely large caseload and would need the courtesy of the proposed decree for their convenience.

When preparing the proposed decree you must have the following information contained:

- When, where and who was present at the time that this decree was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the divorce proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the divorce.
- Date, signature and title.

Once the Judge enters the final decree, the case is considered complete and a closed file.

Modifications to a Dissolution or Separation of a marriage may be obtained, by filing said modification with reasons contained within. Most Courts will have a time limit on modifying said final decrees, so research their Code provisions. *Note*: Some courts only allow modifications based on fraud, duress or other good cause shown.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

_____ )	)
PETITIONER )	DOM#_____ )
)	)
VS. )	<b>SUMMONS</b> )
)	)
_____ )	)
RESPONDENT )	)

TO: \_\_\_\_\_

A Petition for Dissolution of your marriage has been filed in this Court by the above named Petitioner.

A COPY OF THE PETITION IS ATTACHED TO THIS SUMMONS

1. You are given 20 days from the date you received this document to answer to this petition.
2. If you disagree with anything in the petition and want to have the Court hear your side of the case, you should file a written answer.
3. You should go to a lawyer or a Tribal Court Advocate who will assist you in preparing the written answer.
4. If you do nothing, the Court may give judgment to the petitioning party for the relief requested in the petition.

Date: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Tribal Court

**CERTIFICATE OF SERVICE**

I certify that I served the foregoing summons on \_\_\_\_\_, by personal service.

Date: \_\_\_\_\_

\_\_\_\_\_  
Process Server

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

_____ )	
_____ )	
PETITIONER )	DOM# _____
_____ )	
VS. )	<b>PETITION FOR</b>
_____ )	
RESPONDENT )	<b>DISSOLUTION OF MARRIAGE</b>

The Petitioner respectfully petitions the court as follows:

I.

That the vital statistics concerning the parties are as follows:

Petitioner:

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

Length of residence on Reservation: \_\_\_\_\_

(List only uninterrupted time going back from present)

Enrolled member of the: \_\_\_\_\_

(List the federally recognized tribe where enrolled.)

Respondent:

Name: \_\_\_\_\_

Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_

Occupation: \_\_\_\_\_

Address: \_\_\_\_\_

Length of residence on Reservation: \_\_\_\_\_

(List only uninterrupted time going back from present)

Enrolled member of the: \_\_\_\_\_

(List the federally recognized tribe where enrolled.)

II.

That the parties were married at \_\_\_\_\_  
(location)  
on \_\_\_\_\_, \_\_\_\_\_, and their marriage was registered  
at \_\_\_\_\_.  
(list place and county registered)

III.

That the parties to this marriage are experiencing irreconcilable differences and the Petitioner states and alleges that this marriage is irretrievably broken and a divorce is requested.

IV.

That the vital statistics concerning the minor child(ren) of the marriage are as follows:

Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_

Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

That the wife of this marriage \_\_\_\_\_ pregnant.  
(list is or is not)

V.

That it would be in the best interests of the minor child(ren) of the parties to be place in the care, custody and control of the parent(s) as follows: (list who you wish the children to be placed with)

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(make sure all minor children are accounted for)

VI.

That the \_\_\_\_\_ is financially able to provide to the \_\_\_\_\_ the sum of \_\_\_\_\_ per child per month for the support, care and maintenances of the minor child(ren) of the parties until the child(ren) reaches the age of 18 years, graduates from high school or is emancipated.

VII.

That the \_\_\_\_\_ shall have the reasonable rights of visitation with the child(ren), subject to the following: (list conditions to visits, if visits will be allowed, or state if no conditions—briefly state reasons for the requests)

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VIII.

That the following list is a complete statement of the property of the marriage, and this property should be divided as noted:  
(list property and values, and be sure to note whether the family home is a “HUD” house being rented or purchased through the Tribal Housing Authority).

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IX.

That \_\_\_\_\_ should provide maintenance (alimony) to the \_\_\_\_\_ in the amount of \_\_\_\_\_ per month, as such is necessary for the following reasons: \_\_\_\_\_

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X.

That the parties hereto have the following debts in the amounts listed, and are liable individually, together, or along with someone else for these debts as noted, and that the parties should be responsible for said debts as herein noted: \_\_\_\_\_

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XI.

That the seriousness of this petition has been thoroughly considered, and the requested action is appropriate, as the parties hereto have been separated and/or living apart for a period of \_\_\_\_\_.  
(list length of time)

XII.

That the following is also set forth herein as justification and/or as action necessary and related to the foregoing: \_\_\_\_\_

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XIII.

THEREFORE the Petitioner prays that the Court do the following:

1. That the marriage of the parties be separated.
2. That any and all children of the marriage be placed as set forth herein.
3. That support and maintenance be awarded as set forth herein.
4. That all property and debts, as set forth herein, be divided and assigned as set forth.
5. That, \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
6. For such other and further suitable arrangements as the court may deem just and proper.

I, \_\_\_\_\_, do hereby verify and affirm that I have read the foregoing Petition for Dissolution of Marriage and that my statements contained herein are true, accurate and complete to the best of my knowledge and belief. In testimony whereof, I hereby affix my signature;

\_\_\_\_\_  
 Petitioner

\_\_\_\_\_  
 Address:

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day  
 of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 Tribal Court Clerk (or)  
 Notary Public for the State

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

	)	
PETITIONER	)	DOM# _____
	)	
VS.	)	<b>DISSOLUTION OF MARRIAGE DECREE</b>
	)	
RESPONDENT	)	
	)	

The above-entitled case having been heard before this Court, Judgment is rendered as follows:

- (1) The marriage of the parties is hereby dissolved.
- (2) The child(ren) of the parties are hereby placed into the custody of the parties as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (3) The \_\_\_\_\_ shall have reasonable rights to visit the child(ren), subject and to the following: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
- (4) The \_\_\_\_\_ is to pay to the \_\_\_\_\_ the sum of \_\_\_\_\_ per child per month for the support, care and maintenance of the minor child(ren) of the parties until such child(ren) reach(es) majority, graduates from high school or become(s) emancipated.
- (5) The property of the parties is to be divided as follows: \_\_\_\_\_



- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (6) The \_\_\_\_\_ is to provide maintenance (alimony) to the \_\_\_\_\_ in the amount of \_\_\_\_\_ per month, as long as such is necessary for the following reasons:
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (7) The parties are responsible for the following debts as noted: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (8) The following is also ordered: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_
- (9) For such other and further suitable arrangements as the Court may deem just and proper.

Date: \_\_\_\_\_

\_\_\_\_\_  
Tribal Court Judge

RECORDED BY CLERK OF COURT: \_\_\_\_\_

DATE: \_\_\_\_\_

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

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	)	
PETITIONER	)	DOM# _____
	)	
VS.	)	<b>STIPULATED PETITION FOR</b>
	)	<b>DISSOLUTION OF MARRIAGE</b>
RESPONDENT	)	

The Petitioner and the Respondent respectfully petitions the court as follows:

I.

That the vital statistics concerning the parties are as follows:

Petitioner:

1. Name: \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_
3. Occupation: \_\_\_\_\_
4. Address: \_\_\_\_\_
5. Length of residence on Reservation: \_\_\_\_\_  
(List only uninterrupted time going back from present)
6. Enrolled member of the: \_\_\_\_\_  
(List the federally recognized tribe where enrolled.)

Respondent:

1. Name: \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_
3. Occupation: \_\_\_\_\_
4. Address: \_\_\_\_\_
5. Length of residence on Reservation: \_\_\_\_\_  
(List only uninterrupted time going back from present)
6. Enrolled member of the: \_\_\_\_\_  
(List the federally recognized tribe where enrolled.)

II.

That the parties were married at \_\_\_\_\_  
(location)  
on \_\_\_\_\_, \_\_\_\_\_, and their marriage was registered  
at \_\_\_\_\_.  
(list place and county registered)

III.

That the parties to this marriage are experiencing irreconcilable differences and both the Petitioner and Respondent agree that this marriage is irretrievably broken and a divorce is requested.

IV.

That the vital statistics concerning the minor child(ren) of the marriage are as follows:

- 1. Name: \_\_\_\_\_ Age: \_\_\_\_\_
- 2. Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_
- 3. Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

- 1. Name: \_\_\_\_\_ Age: \_\_\_\_\_
- 2. Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_
- 3. Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

- 1. Name: \_\_\_\_\_ Age: \_\_\_\_\_
- 2. Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_
- 3. Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

- 1. Name: \_\_\_\_\_ Age: \_\_\_\_\_
- 2. Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_
- 3. Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

- 1. Name: \_\_\_\_\_ Age: \_\_\_\_\_
- 2. Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_
- 3. Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

That the wife of this marriage \_\_\_\_\_ pregnant.  
(list is or is not)

V.

That it would be in the best interests of the minor child(ren) of the parties to be placed in the care, custody and control of the parent(s) as follows: (list who you wish the children to be placed with)

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(make sure all minor children are accounted for)

VI.

That the \_\_\_\_\_ is financially able and willing to provide to the \_\_\_\_\_ the sum of \_\_\_\_\_ per child per month for the support, care and maintenances of the minor child(ren) of the parties until a the child(ren) reaches the age of 18 years, graduates from high school or is emancipated.

VII.

That the \_\_\_\_\_ shall have the reasonable rights of visitation with the child(ren), subject to the following: (list conditions to visits, if visits will be allowed, or state if no conditions—briefly state reasons for the requests)

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VIII.

That the following list is a complete statement of the property of the marriage, and this property should be divided as noted:  
(list property and values, and be sure to note whether the family home is a “HUD” house being rented or purchased through the Tribal Housing Authority).

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IX.

That \_\_\_\_\_ agrees to provide maintenance (alimony) to the \_\_\_\_\_ in the amount of \_\_\_\_\_ per month, as such is necessary for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

X.

That the parties hereto have the following debts in the amounts listed, and are liable individually, together, or along with someone else for these debts as noted, and that the parties should be responsible for said debts as herein noted: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

XI.

That the seriousness of this petition has been thoroughly considered, and the requested action is appropriate, as the parties hereto have been separated and/or living apart for a period of \_\_\_\_\_.  
(list length of time)

XII.

That the following is also set forth herein as justification and/or as action necessary and related to the foregoing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

XIII.

THEREFORE the Petitioner and Respondent request that the Court order the following:

1. That the marriage of the parties be dissolved.
2. That any and all children of the marriage be placed as set forth herein.
3. That support and maintenance be awarded as set forth herein.

4. That all property and debts, as set forth herein, be divided and assigned as set forth.

5. That \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. For such other and further suitable arrangements as the court may deem just and proper.

I, \_\_\_\_\_, do hereby verify and affirm that I have read the foregoing Stipulated Petition for Dissolution of Marriage and that my statements contained herein are true, accurate and complete to the best of my knowledge and belief. In testimony whereof, I hereby affix my signature;

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Address

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Tribal Court Clerk (or)  
Notary Public for the State

I, \_\_\_\_\_, do hereby verify and affirm that I have read the foregoing Stipulated Petition for Dissolution of Marriage and that my statements contained herein are true, accurate and complete to the best of my knowledge and belief. In testimony whereof, I hereby affix my signature;

\_\_\_\_\_  
Respondent

\_\_\_\_\_  
Address

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Tribal Court Clerk (or)  
Notary Public for the State

**NAME OF TRIBE**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

_____ )	
_____ )	
PETITIONER )	DOM# _____
_____ )	
VS. )	<b>STIPULATED</b>
_____ )	<b>DISSOLUTION OF MARRIAGE</b>
RESPONDENT )	<b>DECREE</b>

The above-entitled case having been heard before this Court, Judgment is rendered as a Stipulated Dissolution of Marriage agreed as follows:

1. The marriage of the parties is hereby dissolved.
2. The child(ren) of the parties are hereby placed into the custody of the parties as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(Note: one party can receive sole custody and/or both parties can have joint legal custody).

3. The \_\_\_\_\_ shall have reasonable rights to visit the child(ren), subject and to the following: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

4. The \_\_\_\_\_ is to pay to the \_\_\_\_\_ the sum of \_\_\_\_\_ per child per month for the support, care and maintenance of the minor child(ren) of the parties until such child(ren) reach(es) majority, graduates from high school or become(s) emancipated.

5. The property of the parties is to be divided as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

6. The \_\_\_\_\_ is to provide maintenance (alimony) to the \_\_\_\_\_ in the amount of \_\_\_\_\_ per month, as long as such is necessary for the following reasons: \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. The parties are responsible for the following debts as noted: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. The following is also ordered: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. For such other and further suitable arrangements as the Court may deem just and proper.

Date: \_\_\_\_\_

\_\_\_\_\_  
Tribal Court Judge

RECORDED BY CLERK OF COURT: \_\_\_\_\_

DATE: \_\_\_\_\_



**NAME OF TRIBE**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

	)	
	)	
PETITIONER	)	LS# _____
	)	
VS.	)	<b>SUMMONS</b>
	)	
	)	
RESPONDENT	)	
	)	

TO: \_\_\_\_\_

A Petition for Legal Separation of your marriage has been filed in this Court by the above named Petitioner.

A COPY OF THE PETITION IS ATTACHED TO THIS SUMMONS

1. You are given 20 days from the date you received this document to answer to this petition.
2. If you disagree with anything in the petition and want to have the Court hear your side of the case, you should file a written answer.
3. You should go to a lawyer, a Tribal Court Advocate who will assist you in preparing the written answer.
4. If you do nothing, the Court may give judgment to the petitioner for the relief requested in the petition.

Date: \_\_\_\_\_

\_\_\_\_\_  
Clerk of the Tribal Court

**CERTIFICATE OF SERVICE**

I certify that I served the foregoing summons on \_\_\_\_\_,  
by personal service.

Date: \_\_\_\_\_

\_\_\_\_\_  
Process Server

**NAME OF COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

---

	)	
PETITIONER	)	LS# _____
	)	
VS.	)	<b>PETITION FOR LEGAL</b>
	)	<b>SEPARATION OF MARRIAGE</b>
RESPONDENT	)	
	)	

The Petitioner respectfully petitions the court as follows:

I.

That the vital statistics concerning the parties are as follows:

Petitioner:

1. Name: \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_
3. Address: \_\_\_\_\_
4. Occupation (list if student or other ) \_\_\_\_\_
5. Length of residence on Reservation: \_\_\_\_\_  
(List only uninterrupted time going back from present)
6. Enrolled member of the: \_\_\_\_\_  
(List the federally recognized tribe where enrolled.)

Respondent:

7. Name: \_\_\_\_\_
8. Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_
9. Occupation: \_\_\_\_\_
10. Address: \_\_\_\_\_
11. Length of residence on Reservation: \_\_\_\_\_  
(List only uninterrupted time going back from present)
12. Enrolled member of the: \_\_\_\_\_  
(List the federally recognized tribe where enrolled.)

II.

That the parties were married at \_\_\_\_\_  
(location)  
on \_\_\_\_\_, \_\_\_\_\_, and their marriage was registered  
at \_\_\_\_\_.  
(list place and county registered)

III.

That the parties to this marriage are experiencing irreconcilable differences and if the parties don't obtain a separation, this marriage will be irretrievably broken and a divorce would be inevitable.

IV.

That the vital statistics concerning the minor child(ren) of the marriage are as follows:

1. Name: \_\_\_\_\_ Age: \_\_\_\_\_  
2. Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
3. Legal Status: \_\_\_\_\_  
(child of both parents, one parent, ward, etc.)

1. Name: \_\_\_\_\_ Age: \_\_\_\_\_  
2. Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
2. Legal Status: \_\_\_\_\_  
(child of both parents, one parent, ward, etc.)

1. Name: \_\_\_\_\_ Age: \_\_\_\_\_  
2. Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
3. Legal Status: \_\_\_\_\_  
(child of both parents, one parent, ward, etc.)

1. Name: \_\_\_\_\_ Age: \_\_\_\_\_  
2. Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
3. Legal Status: \_\_\_\_\_  
(child of both parents, one parent, ward, etc.)

1. Name: \_\_\_\_\_ Age: \_\_\_\_\_  
2. Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)  
3. Legal Status: \_\_\_\_\_  
(child of both parents, one parent, ward, etc.)

That the wife of this marriage \_\_\_\_\_ pregnant.  
(list is or is not)

V.

That it would be in the best interests of the minor child(ren) of the parties to be placed in the care, custody and control of the parent(s) as follows: (list who you wish the children to be placed with).

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(be sure all minor children are accounted for)

VI.

That the \_\_\_\_\_ is financially able to provide to the \_\_\_\_\_ the sum of \_\_\_\_\_ per child per month for the support, care and maintenances of the minor child(ren) of the parties until a divorce is obtained or the parties reconcile.

VII.

That the \_\_\_\_\_ shall have the reasonable rights of visitation with the child(ren), subject to the following: (list conditions to visits, if visits will be allowed, or state if no conditions—briefly state reasons for the requests).

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VIII.

That the following list is a complete statement of the property of the marriage, and this property should be divided as noted:  
(list property and values, and be sure to note whether the family home is a “HUD” house being rented or purchased through the Tribal Housing Authority).

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(attach any additional sheets, if more space is needed)

IX.

That \_\_\_\_\_ should provide maintenance (alimony) to the \_\_\_\_\_ in the amount of \_\_\_\_\_ per month, as such is necessary for the following reasons: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

X.

That the parties hereto have the following debts in the amounts listed, and are liable individually, together, or along with someone else for these debts as noted, and that the parties should be responsible for said debts as herein noted: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

XI.

That the seriousness of this petition has been thoroughly considered, and the requested action is appropriate, as the parties hereto have been separated and/or living apart for a period of \_\_\_\_\_.  
(list length of time)

XII.

That the following is also set forth herein as justification and/or as action necessary and related to the foregoing: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

XIII.

THEREFORE the Petitioner prays that the Court do the following:

1. That the marriage of the parties be separated.
2. That any and all children of the marriage be placed as set forth herein.

3. That support and maintenance be awarded as set forth herein.
4. That all property and debts, as set forth herein, be divided and assigned as set forth.
5. That, \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
6. For such other and further suitable arrangements as the court may deem just and proper.

I, \_\_\_\_\_, do hereby verify and affirm that I have read the foregoing Petition for Legal Separation and that my statements contained herein are true, accurate and complete to the best of my knowledge and belief. In testimony whereof, I hereby affix my signature;

\_\_\_\_\_  
Petitioner

\_\_\_\_\_  
Address:

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day  
of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Tribal Court Clerk (or)  
Notary Public for the State

**NAME OF TRIBE**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

---

	)	
PETITIONER	)	LS# _____
	)	
VS.	)	<b>LEGAL SEPARATION DECREE</b>
	)	
RESPONDENT	)	

The above-entitled case having been heard before this Court, Judgment is rendered as follows:

1. The marriage of the parties is hereby Legally Separated.
  
2. The child(ren) of the parties are hereby placed into the custody of the parties as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  
3. The \_\_\_\_\_ shall have reasonable rights to visit the child(ren), subject and to the following: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  
4. The \_\_\_\_\_ is to contribute to the \_\_\_\_\_ the sum of \_\_\_\_\_ per child per month for the support, care and maintenance of the minor child(ren) of the parties until such child(ren) reach(es) majority or become(s) emancipated.
  
5. The property of the parties is to be divided as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
  
6. The \_\_\_\_\_ is to provide maintenance (alimony) to the \_\_\_\_\_ in the amount of \_\_\_\_\_ per month, as long as such is necessary for the following reasons: \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. The parties are responsible for the following debts as noted: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. The following is also ordered: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. For such other and further suitable arrangements as the Court may deem just and proper.

Date: \_\_\_\_\_

\_\_\_\_\_

Tribal Court Judge

RECORDED BY CLERK OF COURT: \_\_\_\_\_

DATE: \_\_\_\_\_



NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

	)	
PETITIONER	)	LS# _____
	)	
VS.	)	<b>STIPULATED PETITION FOR</b>
	)	<b>LEGAL SEPARATION OF</b>
RESPONDENT	)	<b>MARRIAGE</b>
	)	

The Petitioner and the Respondent respectfully petitions the court as follows:

I.

That the vital statistics concerning the parties are as follows:

Petitioner:

1. Name: \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_
3. Occupation: \_\_\_\_\_
4. Address: \_\_\_\_\_
5. Length of residence on Reservation: \_\_\_\_\_  
(List only uninterrupted time going back from present)
6. Enrolled member of the: \_\_\_\_\_  
(List the federally recognized tribe where enrolled.)

Respondent:

1. Name: \_\_\_\_\_
2. Date of Birth: \_\_\_\_\_ Age: \_\_\_\_\_
3. Occupation: \_\_\_\_\_
4. Address: \_\_\_\_\_
5. Length of residence on Reservation: \_\_\_\_\_  
(List only uninterrupted time going back from present)
6. Enrolled member of the: \_\_\_\_\_  
(List the federally recognized tribe where enrolled.)

II.

That the parties were married at \_\_\_\_\_  
(location)  
on \_\_\_\_\_, \_\_\_\_\_, and their marriage was registered  
at \_\_\_\_\_.  
(list place and county registered)

III.

That the parties to this marriage are experiencing irreconcilable differences and both the Petitioner and Respondent agree that if this marriage is not legally separated an irretrievable breakdown of the marriage will occur and a divorce would be inevitable.

IV.

That the vital statistics concerning the minor child(ren) of the marriage are as follows:

Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

Name: \_\_\_\_\_ Age: \_\_\_\_\_  
Birth Date: \_\_\_\_\_ Address: \_\_\_\_\_  
Legal Status: \_\_\_\_\_  
(child of both parents, on parent, ward, etc.)

That the wife of this marriage \_\_\_\_\_ pregnant.  
(list is or is not)

V.

That it would be in the best interests of the minor child(ren) of the parties to be place in the care, custody and control of the parent(s ) as follows, until the parties pursue a divorce or reconcile,: (list who you wish the children to be placed with)

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(make sure all minor children are accounted for)

VI.

That the \_\_\_\_\_ is financially able and willing to provide to the \_\_\_\_\_ the sum of \_\_\_\_\_ per child per month for temporary support, for the care and maintenances of the minor child(ren) of the parties, until the parties pursue a divorce or reconcile.

VII.

That the \_\_\_\_\_ shall have temporary reasonable rights of visitation with the child(ren), subject to the following: (list conditions to visits, if visits will be allowed, or state if no conditions—briefly state reasons for the requests)

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VIII.

That the following list is a complete statement of the property of the marriage, and this property should be divided as noted:  
(list property and values, and be sure to note whether the family home is a “HUD” house being rented or purchased through the Tribal Housing Authority).

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IX.

That \_\_\_\_\_ agrees to provide temporary maintenance (alimony) to the \_\_\_\_\_ in the amount of \_\_\_\_\_ per month, as such is necessary for the following reasons: \_\_\_\_\_

\_\_\_\_\_

X.

That the parties hereto have the following debts in the amounts listed, and are liable individually, together, or along with someone else for these debts as noted, and that the parties should be responsible for said debts as herein noted: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

XI.

That the seriousness of this petition has been thoroughly considered, and the requested action is appropriate, as the parties hereto have been separated and/or living apart for a period of \_\_\_\_\_.  
(list length of time)

XII.

That the following is also set forth herein as justification and/or as action necessary and related to the foregoing: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

XIII.

THEREFORE the Petitioner and Respondent request that the Court order the following:

1. That the marriage of the parties be legally separated.
2. That any and all children of the marriage be placed as set forth herein.

3. That support and maintenance be awarded as set forth herein.
4. That all property and debts, as set forth herein, be divided and assigned as set forth.
5. That, \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
6. For such other and further suitable arrangements as the court may deem just and proper.

I, \_\_\_\_\_, do hereby verify and affirm that I have read the foregoing Stipulated Petition for Legal Separation and that my statements contained herein are true, accurate and complete to the best of my knowledge and belief. In testimony whereof, I hereby affix my signature;

\_\_\_\_\_  
 Petitioner

\_\_\_\_\_  
 Address

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 Tribal Court Clerk (or)  
 Notary Public for the State

I, \_\_\_\_\_, do hereby verify and affirm that I have read the foregoing Stipulated Petition for Legal Separation and that my statements contained herein are true, accurate and complete to the best of my knowledge and belief. In testimony whereof, I hereby affix my signature;

\_\_\_\_\_  
 Respondent

\_\_\_\_\_  
 Address

SUBSCRIBED AND SWORN to before me this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
 Tribal Court Clerk (or) Notary Public

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

_____ )	
_____ )	
PETITIONER )	LS# _____
_____ )	
VS. )	<b>STIPULATED</b>
_____ )	<b>LEGAL SEPARATION OF</b>
RESPONDENT )	<b>MARRIAGE DECREE</b>

The above-entitled case having been heard before this Court, Judgment is rendered as a Stipulated Legal Separation of Marriage agreed as follows:

1. The marriage of the parties is hereby legally separated.
2. The child(ren) of the parties are hereby placed into the temporary custody of the parties as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
3. The \_\_\_\_\_ shall have temporary reasonable rights to visit the child(ren), subject and to the following: \_\_\_\_\_  
 \_\_\_\_\_
4. The \_\_\_\_\_ is to temporarily pay to the \_\_\_\_\_ the sum of \_\_\_\_\_ per child per month for the support, care and maintenance of the minor child(ren) of the parties until such child(ren).
5. The property of the parties is to be temporarily divided as follows: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
6. The \_\_\_\_\_ is to provide temporary maintenance (alimony) to the \_\_\_\_\_ in the amount of \_\_\_\_\_ per month, as long as such is necessary for the following reasons: \_\_\_\_\_  
 \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

7. The parties are responsible for the following debts as noted: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

8. The following is also ordered: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

9. For such other and further suitable arrangements as the Court may deem just and proper.

Date: \_\_\_\_\_

\_\_\_\_\_

Tribal Court Judge

RECORDED BY CLERK OF COURT: \_\_\_\_\_

DATE: \_\_\_\_\_

## PETITION FOR CHILD SUPPORT

When a custodial parent or guardian of a minor child needs financial support from the absent parent or parent(s), they must file a Petition for Child Support.

When filing a Petition for Child Support, you must have a typed Petition setting out the description of what you are asking for and why. You must also, provide any custody orders that may apply.

Once you're Petition for Child Support is prepared, most Tribal Courts will require a filing fee, which the Petitioner in the action would be responsible for such fees. Although, if the person is indigent, the Court may have a procedure for a "Waiver" of said fees and costs associated with the commencement of the action. Some Courts may call them an "Informa Pauperis." This requires a Petition, Affidavit, Proof of the indigence and a decision from a Judge.

Upon the filing of the Petition, the clerk will direct you on how to serve the defendant in this action. Most Courts will require service of process by the following procedure:

1. ***Service by certified mail*** – must obtain defendants mailing address and send the document to the defendant in sealed, certified letter at their last known address.

2. ***Affidavit of service by mail*** – an affidavit must be attached to prove that the document was mailed to the defendant by certified or regular mail.

3. ***Personal service*** – service by any person of legal age not a party to nor interested in the action.

4. ***Service by publication*** – service by publication may be made by publishing the same three consecutive weeks in the local news paper of the persons last known address, or if unknown, in the local new paper of the jurisdiction where this case is filed. The Petitioner must submit an Affidavit of Publication signed by the Editor.

The defendant may file an Answer or Response in this case.

Now that the defendant has been served the clerk of court will then schedule the matter to be heard before the court.

Notice to Appear for Hearing will be issued to the Petitioner and Respondent, giving the date, time, presiding judge and the reason for the hearing.

Many Tribal Judges will require if present the Attorney/Advocate of the prevailing side to prepare a proposed Judgment for their review and/or signature. Tribal Judges usually have an extremely large caseload and would need the courtesy of the proposed judgment for their convenience.

When preparing the proposed judgment you must have the following information contained:



- When, where and who was present at the time that this order was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the issue. Make sure the beginning and ending information on the order support is specific.

Date, signature and title of presiding judge.

This matter will be considered adjudicated and will be considered closed.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

_____	)
Petitioners/Plaintiffs	)
	)
vs.	)
	)
	)
_____	)
Respondents/Defendants	)

**SUMMONS**

**TO THE ABOVE NAMED DEFENDANT(S):**

You are hereby summoned and required to appear and defend against the Complaint in this action, which is or will be filed with the Clerk of Court of the Tribal Court, and which is herewith served upon you, by serving upon the undersigned an Answer or other proper response within twenty (20) days after the service of the Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint. The nature of this claim, the requested relief, and the amount are set forth in the Complaint and incorporated herein by reference.

**Date:**\_\_\_\_\_.

**BY THE COURT:**

\_\_\_\_\_

**Court Clerk**

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

_____ )	
PETITIONER )	
vs. )	<b>PETITION</b>
)	<b>FOR CHILD SUPPORT</b>
)	<b>PAYMENTS</b>
_____ )	File No. _____
DEFENDANT )	

Comes now the above named Petitioner states and alleges the following to the best of their knowledge:

I.

That the Petitioner is an **enrolled/non-enrolled** member of the following tribe: \_\_\_\_\_, located at \_\_\_\_\_; and that the Defendant is an **enrolled/non-enrolled** member of the following tribe: \_\_\_\_\_, located at \_\_\_\_\_; and that the **child/children** that this petition is for are **enrolled/non-enrolled** member(s) that of the same tribe as the **Petitioner/Defendant**. Also that the Petitioner resides **within/out** of the jurisdiction of the undersigned Court. That the Defendant resides **within/out** of the jurisdiction of the undersigned Court.

II.

That the Petitioner and Defendant have or never been married.

III.

That the Defendant is the natural father/mother and paternity has been previously established for the minor child(ren) namely:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

IV.

That the Petitioner is requesting that the undersigned court enter an order granting child support for the above mentioned child(ren) in the amount of \$\_\_\_\_\_per month, or \$\_\_\_\_\_per month – per child, or accordingly to the Child Support Guidelines. *(if you are asking a specific amount other what the guidelines allow, you must explain, why this matter should not go according to the set Child Support Guidelines.)*

Explanation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

V.

That the Petitioner does admit that the Defendant has contributed to minor child(ren) as follows: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Petitioner signature)

\_\_\_\_\_  
(Address & Day Phone No#)

Subscribed and Sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Dated and filed by the Court on: \_\_\_\_\_

\_\_\_\_\_  
Court Clerk

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

_____ )	
_____ )	
<b>Petitioner</b> )	
) )	
<b>vs.</b> )	<b>ORDER FOR CHILD SUPPORT</b>
) )	
_____ )	<b>CA#</b> _____
<b>Respondent</b> )	
_____ )	

There having been heard on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, by the Honorable (NAME OF JUDGE AND TITLE) presiding, in the City of \_\_\_\_\_, County of \_\_\_\_\_ and State of \_\_\_\_\_; with (NAME PARTIES PRESENT AND PARTIES THAT DID NOT APPEAR) after having been duly served, and;

**FINDINGS OF FACT**

1. That the Respondent is the natural father and paternity has been previously established for the minor child namely: (NAME CHILD(REN) AND DOB'S).
2. That the Petitioner is requesting (LIST ALL THE DEMANDS IN THE PETITION FOR CHILD SUPPORT, AND WHAT THE PETITIONER BASED HER DEMANDS ON, IF SPECIFIED).
3. That the Respondent is requesting (LIST THE RESPONSE OF THE RESPONDENT TO DEMANDS MADE ON THE PETITION, INCLUDE ANY OTHER INFORMATION THAT APPLIES TO THE ISSUES).

**CONCLUSIONS OF LAW**

**(CITE ALL TRIBAL LAWS THAT APPLIED TO THE ISSUES OF THIS CASE).**

**ORDER**

IT IS THE ORDER OF THIS COURT that according to the above findings and conclusions of law, the court orders the following:

**(LIST EXACTLY WHAT THE JUDGE ORDERS FROM THE BENCH) (MAKE SURE THE JUDGE ADDRESSED ALL THE ISSUES, WHICH SHOULD HAVE INCLUDED BUT ARE NOT LIMITED TO: WHAT PARTY HAS TO PAY THE SUPPORT, HOW MUCH, WHEN DO THE PAYMENTS BEGAN AND END, AND CONCLUSION OF HOW THE AMOUNT WAS REACHED).**

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2005.

**S E A L**

\_\_\_\_\_  
*(NAME AND TITLE OF JUDGE)*

## **PETITION TO ESTABLISH PATERNITY**

When a custodial parent or guardian of a minor child needs to establish the paternity of a child, they must file a Petition to Establish Paternity.

When filing a Petition to Establish Paternity, you must have a typed Petition setting out the description of what you are asking for and why. You must also, provide any custody orders that may apply.

When the Indian father of child does not sign in acknowledgment of paternity of a child, this decreases the Indian blood quantum of the child. It is vital to Native American children to hold their correct degree of Indian blood for the future of the Native Americans.

Once you're Petition to Establish Paternity is prepared, most Tribal Courts will require a filing fee, which the Petitioner in the action would be responsible for such fees. Although, if the person is indigent, the Court may have a procedure for a "Waiver" of said fees and costs associated with the commencement of the action. Some Courts may call them an "Informa Pauperis." This requires a Petition, Affidavit, Proof of the indigence and a decision from a Judge.

Upon the filing of the Petition, the clerk will direct you on how to serve the defendant in this action. Most Courts will require service of process by the following procedure:

1. ***Service by certified mail*** – must obtain defendants mailing address and send the document to the defendant in sealed, certified letter at their last known address.

2. ***Affidavit of service by mail*** – an affidavit must be attached to prove that the document was mailed to the defendant by certified or regular mail.

3. ***Personal service*** – service by any person of legal age not a party to nor interested in the action. Once the person has been served, the third party who served the person must submit an Affidavit of Service to the Court that is duly notarized by a notary public and/or clerk of court.

4. ***Service by publication*** – service by publication may be made by publishing the same three consecutive weeks in the local news paper of the persons last known address, or if unknown, in the local new paper of the jurisdiction where this case is filed.

The defendant may file an Answer or Response in this case.

Now that the defendant has been served the clerk of court will then schedule the matter to be heard before the court.

Notice to Appear for Hearing will be issued to the Petitioner and Respondent, giving the date, time, presiding judge and the reason for the hearing.

Many Tribal Judges will require if present the Attorney/Advocate of the prevailing side to prepare a proposed Judgment for their review and/or signature. Tribal Judges usually

have an extremely large caseload and would need the courtesy of the proposed judgment for their convenience.

When preparing the proposed judgment you must have the following information contained:

- When, where and who was present at the time that this order was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the issue. Make sure the beginning and ending information on the order support is specific.

Date, signature and title of presiding judge.

This matter will be considered adjudicated and will be considered closed.



**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

	)
<b>Plaintiff</b>	)
<b>Vs.</b>	)
	)
<b>Respondent</b>	)

**SUMMONS**

**Civil No#\_\_\_\_\_**

**THE STATE OF NORTH DAKOTA TO THE ABOVE NAMED DEFENDANTS:**

You are hereby summoned to answer the Petition for Paternity in this action and to serve a copy of your answer upon the subscriber within twenty (20) days after the service of this Summons upon you, exclusive of the date of service; and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Petition.

**Dated this\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.**

\_\_\_\_\_  
**Court Clerk**

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

Petitioner	)	
	)	
vs.	)	<b>PETITION TO</b>
	)	<b>ESTABLISH</b>
	)	<b>PATERNITY</b>
Respondent	)	<b>Civil No#_____</b>

Comes now the Petitioner, having filing this Petition for Paternity to the undersigned Court, states and alleges the following to be true and to the best of the Petitioners knowledge.

I.

That the Petitioner is an **enrolled/non-enrolled** member of the following tribe: \_\_\_\_\_, located at \_\_\_\_\_; and that the Respondent is an **enrolled/non-enrolled** member of the following tribe: \_\_\_\_\_, located at \_\_\_\_\_; and that the **child/children** that this petition is for are **enrolled/non-enrolled** member(s) that of the same tribe as the **Petitioner/Respondent**.

II.

That the Petitioner resides **within/out** of the jurisdiction of the undersigned Court. That the Respondent resides **within/out** of the jurisdiction of the undersigned Court.

III.

That the Petitioner is requesting that the undersigned court enter an order granting that the parties engage in paternity testing for the **child/children**

named herein: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(state DOB's for each child)

IV.

That the Petitioner hereby states the reason for this request of paternity is based on the following: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_.

V.

That the Petitioner prays for the Court to enter a paternity order for the above mentioned **child/children** and also requests the parties pay for the blood test or DNA test as follows: List the parties responsible for payment, e.g. Petitioner and Respondent split the costs, etc. And for any such further relief that the court may deem just and equitable.

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Petitioner's signature)

\_\_\_\_\_  
Address & Day Phone no#

Subscribed and Sworn before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Dated and filed by the Court on: \_\_\_\_\_

\_\_\_\_\_  
Clerk of Court

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

\_\_\_\_\_ )  
 )  
 Petitioner )  
 )  
 vs. )  
 )  
 \_\_\_\_\_ )  
 )  
 Respondent )  
 \_\_\_\_\_ )  
 )

**ORDER FOR PATERNITY TEST**

CA# \_\_\_\_\_

This matter having come before the Honorable, (NAME AND TITLE OF JUDGE), on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, in the City of, County of and State of, with the (NAME ALL PARTIES THAT APPEARED AT THIS HEARING) on this Petition to Establish Paternity issue, and;

That the Court reviewed the information provided from the parties, and does make the following:

**FINDINGS OF FACT**

1. That the Petitioner is requesting that this Court order paternity testing to be done in the effort to establish the parentage for the child(ren) namely: (NAME THE CHILD(REN) AND GIVE DOB'S).
2. That the Petitioner believes that the Respondent is the biological father. (The Petitioner and Respondent could be vise versa, if the father is the person that believes he is the biological father and he is the petitioner).

**CONCLUSIONS OF LAW**

(CITE ALL LAWS FROM THE TRIBAL CODE THAT APPLY TO THIS CASE AND THE ISSUES BROUGHT BEFORE THE COURT)

**ORDER**

**THEREFORE IT IS HEREBY ORDERED** as follows:

That the Petitioner, the Respondent and the minor child(ren) are to have paternity tests performed for the purpose of establishing paternity of the minor child(ren). These

tests must be completed within the next 30 days-(ALWAYS MAKE SURE THERE IS A DEADLINE FOR THESE TESTS TO BE COMPLETED).

That the Petitioner and Respondent must pay for the testing as follows: (HAVE THE JUDGE DELIGATE WHO IS RESPONSIBLE FOR THE COSTS OF THESE TESTS).

That after these paternity test results are in, this Court will hold a hearing to enter the results on record.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
(NAME AND TITLE OF JUDGE)

COURT SEAL

## **PETITION FOR RESTRAINING ORDER**

When a person is in need of restraining another person from annoying, harassing or threatening them, they would file a Petition for Restraining Order.

A typed Petition for Restraining Order must be filed with the Court in the jurisdiction of which the Petitioner resides in. It must contain certain information that would warrant the restraining order, a sample is included in this manual for your convenience.

Once a Petition for a Restraining Order is properly filed, the Judge of the Tribal court will either issue a Temporary Restraining Order or direct the clerk to schedule a Show Cause hearing, to hear testimony on why this Petition should or should not be granted.

If a Temporary Restraining Order is issued, the Court will therein contain a hearing date to then hear testimony on why the Petition should or should not be made permanent.

Note: Permanent usually means one year.

A Permanent Restraining Order, will only be for a specific amount of time, unless otherwise ordered by the court to be of a lifetime duration which is usually only granted in limited and for egregious and/or extenuating circumstances, i.e. victim of an attempted murder, victim of an assault resulting in serious bodily harm, etc.

**NAME OF TRIBAL COURT**  
**INDIAN JURISDICTION**

**CIVIL DIVISION**  
**NAME OF TRIBE**

---

\_\_\_\_\_) )  
                  Petitioner(s) )  
                                  ) )  
                  vs.                  ) )  
                                  ) )  
                                  ) )  
                                  ) )  
\_\_\_\_\_) )  
                  Defendant(s) )

**PETITION FOR TEMPORARY  
RESTRAINING ORDER**

File No. \_\_\_\_\_

COMES NOW, the Plaintiff(s), \_\_\_\_\_, being duly sworn deposes and says:

That the Plaintiff(s) is an enrolled member of the (NAME THE TRIBE), and/or resides within the jurisdiction of this Tribal Court.

That the Defendant is (not) an enrolled member of this tribe, and does (not) resides within the jurisdiction of this Tribal Court.

The Defendant(s) has been making threats toward the Plaintiff(s), has assaulted, has been verbally abusive towards the Plaintiff(s), or \_\_\_\_\_  
\_\_\_\_\_.

Plaintiff(s) is/are requesting this Tribal Court grant the Petition for Temporary Restraining Order, restraining the above named Defendant(s) for the above reasons and THEREFORE, Plaintiff(s) pray that this Tribal Court will grant the Petition for a Temporary Restraining Order as requested by the Plaintiff(s) for a show cause hearing.

Dated this day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Petitioner(s)





That your affiant has no adequate remedy in money damages or otherwise for harm or damage which might occur as alleged in this affidavit.

That your affiant will suffer irreparable harm, damage and injury unless the acts conducted by the Defendant above complained of are enjoined for the reasons stated above.

That the immediate relief is required by Plaintiff(s) to prevent undue hardship upon himself/herself, making prior service upon the Defendant(s) impracticable.

WHEREFORE, your affiant and Plaintiff(s) herein, respectfully prays for the relief as follows.

1. That the Temporary Restraining Order be issued restraining the Defendant(s) from engaging in the conduct above stated, pending a hearing being held on the relief requested by Plaintiff(s).
2. That this Court schedule a time and place for a hearing on this matter where the Defendant(s) should be required to show cause, if any, why the relief requested by the Plaintiff(s) should not be granted on a permanent basis.
3. That the Plaintiff(s) be entitled to receive the costs of this action from the Plaintiff(s).
4. For such other and further relief as this Court deems just and equitable.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Plaintiff(s)/Affiant

\_\_\_\_\_  
Address

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
CLERK OF COURT

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

\_\_\_\_\_) )  
 Petitioner(s) )  
 )  
 VS. )  
 )  
 )  
 )  
 )  
 )  
 )  
 Defendant(s) )

**TEMPORARY  
 RESTRAINING ORDER  
 AND ORDER TO SHOW CAUSE**  
 File No. \_\_\_\_\_

THAT the undersigned Court has found good cause based on the Petition for Temporary Restraining Order and Affidavit in support of said Petition, hereby orders the following:

**ORDER**

That the above named Defendant(s) is/are hereby restrained from the following until a show cause hearing is held, for the permanency of this Restraining Order:

1. The Defendant shall bother, harass or threaten the Petitioner, nor personally or through a third person.
2. The Defendant shall call the Petitioner at their home or work, neither personally or through a third person.
3. The Defendant shall intimidate the Petitioner at any time, either personally or through a third person.

IT IS FURTHER ORDERED that the Petitioner and Defendant must appear before this court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at \_\_:\_\_ am/pm, to Show Cause why this Temporary Restraining should or should not become a Permanent Restraining for a period of one (1) year.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
 Tribal Judge  
 (enter tribal court name & address)

COURT SEAL

## **PETITION FOR PROTECTION ORDER**

When a person is in need of protection from a family member or significant other, from annoying, harassing, causing physical harm or threatening them, they would file a Petition for Protection Relief.

A typed Petition for Protection Relief must be filed with the Court in the jurisdiction that the Petitioner resides in. It must contain certain information that would warrant the Protection Order, a sample is included in this manual for your convenience.

Once a Petition for Protection Relief is properly filed, the Judge of the Tribal court will either issue a Temporary Protection Order or direct the clerk to schedule a Show Cause hearing, to hear testimony on why this Petition should or should not be granted.

Many Tribal Courts will *not* have filing fees associated with the commencement of any Petition for Protective Relief.

If a Temporary Protection Order is issued the Court will therein contain a hearing date to then hear testimony on why the Petition should or should not be made permanent.

A Permanent Protection Order, will only be for a specific amount of time, unless otherwise ordered by the court to be of a lifetime duration.

A Protection Order, whether it is temporary or permanent may include the following domestic related issues, such as:

- Custody of children
- Usage of family dwellings
- Usage of family vehicles
- Visitation schedule
- Child support

Upon the expiration of a Permanent Protection Order, the Petitioner may apply for an extension of said Protection Order without having to go through the beginning stages of the first Protection Order. However, this *must* comply with any Domestic Violence laws applicable to the specific Tribe and/or full faith and credit provisions of federal law.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

_____ )	
Petitioner )	
	<b>PETITION FOR PROTECTION</b>
VS. )	<b>RELIEF</b>
	File No. _____
_____ )	
Respondent )	

- I, \_\_\_\_\_, being sworn, apply for protection relief under the (ENTER AND CITE THE SECTIONS OF THE TRIBAL CODE THAT APPLY).
- I am a resident of \_\_\_\_\_ County and currently live at (optional):  
\_\_\_\_\_.
- I have \_\_\_\_\_ children living with me, whose names and ages are:

Name	Age	Respondent's Child (Yes or no)
1. _____	_____	_____
2. _____	_____	_____
3. _____	_____	_____
4. _____	_____	_____
- I am asking the court for protection relief from: \_\_\_\_\_.
- This person is my: \_\_\_\_\_.
- (His) (Her) place of residence is: \_\_\_\_\_.
- (He) (She) may also be found at: \_\_\_\_\_.
- (He) (She) is employed at: (name, address, phone number of employer):  
\_\_\_\_\_.
- (He) (She) may be described as follows: Height \_\_\_\_\_ Weight \_\_\_\_\_ Age \_\_\_\_\_  
DOB \_\_\_\_\_ Special Identifying Marks: \_\_\_\_\_.
- I want \_\_\_\_\_ (name of Respondent) to be restrained from harassing, threatening, molesting, or injuring me.

11. I want \_\_\_\_\_ (name of Respondent) to be restrained from having contact with me in person, by phone, by mail, or through third parties.
12. I want the respondent to be excluded from:
- a. Petitioner's residence (optional) \_\_\_\_\_
  - b. Petitioner's Work (optional) \_\_\_\_\_
  - c. Petitioner's daycare (optional) \_\_\_\_\_
  - d. Other (optional) \_\_\_\_\_
13. I want the respondent to be excluded from any place that I might be staying, from this date forward \_\_\_\_\_.
14. I do want (do not want) custody of my child(ren) at this time.
15. I am (am not) willing to grant respondent visiting rights with regard to the child(ren). Please state reasons for not wanting visitation rights as well. Note: Petitioner may request supervised visits or have conditional visits.  
 Visitation Proposed: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_
16. I also ask that the respondent surrender the following property:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_.
17. I will (will not) need further financial assistance from the respondent at this time.
18. I request further relief as follows: \_\_\_\_\_.
19. There is (is not) an outstanding court Order that addresses visitation, custody, or contact between the respondent and me.
20. I believe there exists an immediate and present danger that the domestic violence described below will continue against me, if the respondent has contact with me  
 \_\_\_\_\_ Yes \_\_\_\_\_ No.
21. Recently the following incidents have taken place involving the respondent and me: (Describe briefly what took place, including dates, places, times, how long the incidents lasted, any witnesses, what the results of the incidents were. Start with the most recent

incidents. \_\_\_\_\_  
\_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date: \_\_\_\_\_  
\_\_\_\_\_ Petitioner's Signature

I have read and understand the above statement to the best of my knowledge I believe that the facts stated above are true. I make this statement voluntarily.

Dated this day \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_. \_\_\_\_\_  
Petitioner's Signature

SUBSCRIBED AND SWORN BEFORE ME THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

(NOTARY SEAL) \_\_\_\_\_  
Notary Public/Clerk of Court

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

---

_____ )	
Petitioner, )	
vs. )	<b>TEMPORARY</b>
_____ )	<b>PROTECTION ORDER</b>
Respondent. )	
	CIVIL NO # _____

**CERTIFICATE OF COMPLIANCE**

Pursuant to (*CITE TRIBAL CODE AND ANY ADDENDUMS*), this temporary protection order meets all Full Faith and Credit requirements of the Violence Against Women Act, 18 U.S.C. 2265 (1994). This court has jurisdiction of the parties and the subject-matter. Pursuant to (*CITE TRIBAL CODE AND ANY ADDENDUMS*), the respondent has been afforded notice and a timely opportunity to be heard as provided by the laws of this jurisdiction.

**RESPONDENT’S IDENTIFIERS**

SEX: Male/Female	RACE: _____
DOB: _____	HEIGHT: _____
WEIGHT: _____	EYES: _____
HAIR: _____	SSN#: _____
CAUTION WEAPON: _____	

TO THE RESPONDENT: \_\_\_\_\_

Petitioner has requested a Protection Order against you. Pursuant to (*CITE TRIBAL CODE AND ANY ADDENDUMS*), you are ordered not to have any direct or indirect contact with the Petitioner except as otherwise permitted in this order. You must immediately stop any domestic violence directed at the Petitioner. “Domestic violence” includes physical harm, bodily injury, sexual activity compelled by physical force, assault, or the infliction of fear of imminent physical harm, bodily injury, abuse and mental anguish, sexual activity compelled by physical force, or assault, not committed in self defense on the complaining family or household members.

Pursuant to (CITE TRIBAL CODE AND ANY ADDENDUMS), you may appear on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ (a.m.) or (p.m.) before this Court and explain why this Petitioner's request for a permanent domestic violence protection order should not be granted. The hearing will be held in the (NAME OF) Tribal Court in the (CITY, COUNTY AND STATE). This order is enforceable upon service and remains in effect, unless otherwise terminated, until a permanent order, if issued, is scheduled. If you do not appear at the hearing, the court may enter a protection order against you. The order may subject you to any restrictions of requirement set out in this order or authorized by law.

You violate this order if, in addition to the prohibition set forth above, you:

1. Threaten, molest, injure, call the Petitioner and threaten him/her.
2. Call, write, e-mail, or visit the Petitioner, regardless of where this takes place;
3. Failed to surrender for safekeeping any firearm or other specified dangerous weapon in your immediate possession or control or subject to your immediate control, **If** the Court has found probable cause to believe that you are likely to use, display or threaten to use the firearm or other dangerous weapon in any further acts of violence and if failing to surrender the firearm or other dangerous weapon to Law Enforcement;
4. Transferring, removing, encumbering, mortgaging, concealing, disposing or altering property except as authorized by the Court;
5. Failure to account to the Court for all authorized transfers, encumbrances, dispositions, and expenditures;
6. Enter or come within \_\_\_\_yards of:  
\_\_\_\_ Petitioner's home located at (address optional) \_\_\_\_\_;  
\_\_\_\_ Petitioner's place of employment \_\_\_\_\_;  
\_\_\_\_ Petitioner's day care;  
\_\_\_\_ Other: \_\_\_\_\_;
7. Knowingly violating any of the provisions of this order; and

It is further Ordered that:

8. \_\_\_\_ Respondent shall be excluded from the family dwelling.
9. \_\_\_\_ Petitioner shall have temporary custody of the minor child(ren) that the parties have in common.
10. \_\_\_\_ Visitation shall be executed as follows: \_\_\_\_\_  
\_\_\_\_\_.



11. \_\_\_\_\_ Respondent shall pay child support in the amount of \$\_\_\_\_\_ per month in accordance with the (CITE TRIBAL CODE AND ANY ADDENDUMS).
12. \_\_\_\_\_ Petitioner shall have temporary use of the following personal property:  
\_\_\_\_\_.
13. \_\_\_\_\_ Respondent shall have temporary use of the following personal property:  
\_\_\_\_\_.
14. \_\_\_\_\_ Other relief is granted as follows:\_\_\_\_\_.

Any peace officer may arrest you either with or without a warrant and take you into custody if the peace officer has probable cause to believe you have violated this Order. CONSENT OF THE PETITIONER TO ANY CONTACT DOES NOT INVALIDATE THIS ORDER.

A VIOLATION OF THIS PROTECTION ORDER GRANTED UNDER (CITE TRIBAL CODE AND ANY ADDENDUMS). IF YOU FAIL TO COMPLY WITH THE COURT'S ORDER OF COUNSELING, VIOLATE THE PROTECTION ORDER, COMMIT A CRIME INVOLVING A CURRENT PROTECTION ORDER OR VIOLATE ANY OTHER CONDITIONS OF SENTENCING, YOU WILL BE FOUND IN CONTEMPT AND A JUDGE WILL IMPOSE ANY OR ALL OF A SUSPENDED SENTENCE FOR THE ORIGINAL SENTENCE AND REQUIRE YOU TO COMPLETE THE ENTIRE COUNSELING PROGRAM UPON RELEASE FROM JAIL.

The clerk of court shall give a copy of the Order to the law enforcement agency which has jurisdiction over the residence of the Petitioner.

This Order is made pursuant to (CITE TRIBAL CODE AND ANY ADDENDUMS). Federal Law requires that this order be given full faith and credit by a Court of any other state, territory, or Indian Tribes. 18 U.S.C. Sec. 2265.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

(COURT SEAL)

\_\_\_\_\_  
Turtle Mountain Tribal Court Judge

## PETITION FOR GUARDIANSHIP OF AN ADULT

When a person is in need of obtaining guardianship over an adult, wherein the adult is incompetent – a person is insane, an imbecile, or feebleminded, or is not mentally able to manage his/her own affairs, they must file a Petition for Guardianship.

In preparing your petition for guardianship, you must contain within your petition certain pertinent and relevant information that the Court needs. A sample Petition is contained in this manual for your convenience. Along with this sample, is an Affidavit of Support for the Appointment of this Guardianship, any immediate family member can sign this before a notary public and the original must be filed with the Court.

All Tribal Courts will have a process of determining the competency of an individual, for example #1:

Upon the filing of a Petition, the Chief Tribal Judge shall order a hearing by a Competency Board.

Board of Competency – this board shall consist of the Chief Tribal Judge, the prosecuting attorney of the tribe and a reputable practicing physician appointed by the Tribal Council. The function of this board shall be to determine the competency or in competency of any Indian.

Example #2:

Upon the filing of a Petition, the Chief Tribal Judge shall order a practicing physician or doctor of psychiatrics to conduct an evaluation of the mental stability of the individual.

Once there is a professional opinion given on the competency of this individual, then the Court can continue with the Petition for Guardianship, by directing the clerk of court to schedule a hearing, and noticing all interested persons of the hearing.

After a hearing is held on the Petition for Guardianship, many Tribal Judges will require the Attorney/Advocate of the prevailing side to prepare a proposed Judgment for their review and/or signature. When preparing the proposed judgment you must have the following information contained:

- When, where and who was present at the time that this order was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the issue.

Date, signature and title of presiding judge.

This matter will be considered adjudicated and will be considered closed.

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

IN RE THE GUARDIANSHIP FOR: \_\_\_\_\_

DOB: \_\_\_\_\_

**PETITION FOR  
ADULT  
GUARDIANSHIP  
Civil No# \_\_\_\_\_**

\_\_\_\_\_) )

Petitioner(s)

Comes now the Petitioner's, having filing this Petition for Adult Guardianship to the undersigned Court, states and alleges the following to be true and to the best of the Petitioners knowledge.

I.

That the Parties are an **enrolled** members of the: \_\_\_\_\_  
\_\_\_\_\_, located  
at: \_\_\_\_\_.

II.

That the Petitioner's and all parties reside **within/out of** the jurisdiction of the undersigned Court.

III.

That the Petitioner's are requesting that the undersigned court appoint him/her as the Guardian based on the following reasons: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IV.

That the person for whom this Petition is for has the following family members:  
(list members & addresses)

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Dated: \_\_\_\_\_

\_\_\_\_\_  
(Petitioner's signature)

---

\_\_\_\_\_  
Address & Day Phone no#

Subscribed and Sworn before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Dated and filed by the Court on: \_\_\_\_\_

\_\_\_\_\_  
Clerk of Court

**AFFIDAVIT IN SUPPORT OF APPOINTMENT OF GUARDIANSHIP**

\_\_\_\_\_  
*(person for whom this petition is for:)*

I, \_\_\_\_\_, do hereby give my consent for the Appointment of Guardianship for my (mother, father, spouse, child, sister, brother, step-family) to: \_\_\_\_\_. I am a **resident/non-resident** of \_\_\_\_\_, and I am **enrolled/non-enrolled** with the \_\_\_\_\_.

That I, the Affiant, being of sound mind, being duly sworn, deposes and says that he/she is the person who made the forgoing form and that the statement contained therein is true and correct to the best of his/her knowledge.

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
**Affiant**

\_\_\_\_\_  
**Notary Public**

My commission expires:

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

***IN THE MATTER OF THE GUARDIANSHIP OF:***

***(name of person)***

**Date of Birth**

THERE having been heard before the undersigned on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, with the Honorable (NAME AND TITLE OF JUDGE), in the City of, with the (PETITIONER'S NAME) having requested a Petition for Adult Guardianship, in the County of and State of, and

**FINDINGS OF FACT**

That (PERSONS NAME or POTENTIAL WARD), is an incapacitated person by virtue of the fact that he/she is unable to care for herself and her needs, due to (reason for the need guardianship).

That (PERSONS NAME or POTENTIAL WARD), is currently (NAME AND LOCATION OF PERSON).

That (PETITIONER'S NAME AND RELATIONSHIP TO PERSON); and is willing able to handle his/her affairs.

That (NAME IMMEDIATE FAMILY) are immediate family members that have consented to this appointment.

That after the Court reviewed said request and all surrounding circumstances and accordingly to (CITE TITLE AND SECTION OF THE TRIBAL CODE THAT APPLIES) hereby orders the following:

**ORDER**

**THEREFORE IT IS HEREBY THE ORDER OF THIS COURT** that this Court hereby appoints (PETITIONER'S NAME) to be the Guardian over (PERSONS NAME). That this Guardianship shall include the authority to make decisions on behalf of the said person in each of the areas of residential, educational, medical, legal, vocational, and financial decision-making.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

SEAL

(NAME AND TITLE OF TRIBAL JUDGE)

## **PETITION FOR PERSONAL REPRESENTATIVE OF ESTATE**

When a person is in need of obtaining control of an estate of a decedent, they must file a Petition for Personal Representative of Estate.

In preparing your Petition for Personal Representative of Estate you must contain within your petition certain information that the Court will need. A sample Petition is contained in this manual for your convenience. The wording in this document can be changed to the Executor or Executrix of the Estate. These petitions are usually filed when a person dies Intestate – one who dies without disposing of property by will, passes to the heirs of the intestate subject to the control of the Court for the purpose of administration.

Once you have filed the Petition for Personal Representative of Estate, most Tribal Courts will have a standard filing fee. The clerk will direct you to send notification to all heirs to the estate.

Once all persons interested in the estate have been noticed of the Petition, the clerk of court will schedule a hearing, and sending notice to all interested persons of the hearing.

At these hearings it is normal for the Judge to make sure they have a fit and proper adult to be appointed the Personal Representative of the estate. This person should be over the age of twenty-one (21), one of good moral character, and an immediate family member unless the deceased does not have immediate family members.

After a hearing is held on the Petition for Personal Representative of Estate, many Tribal Judges will require the Attorney/Advocate of the prevailing side to prepare a proposed Judgment for their review and/or signature. Tribal Judges usually have an extremely large caseload and would need the courtesy of the proposed judgment for their convenience.

When preparing the proposed judgment you must have the following information contained:

- When, where and who was present at the time that this order was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the issue.

Date, signature and title of presiding judge.

This matter will be considered adjudicated and will be considered closed.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

IN RE : \_\_\_\_\_

DOB: \_\_\_\_\_, DOD: \_\_\_\_\_

**PETITION FOR  
PERSONAL  
REPRESENTATIVE  
OF ESTATE**

**File No.** \_\_\_\_\_

\_\_\_\_\_)  
Petitioner(s)

Comes now the Petitioner(s), having filing this Petition to be appointed as the Personal Representative of Estate for the above deceased person to the undersigned Court, states and alleges the following to be true and to the best of the Petitioners knowledge.

I.

That the Parties are an **enrolled** members of the: \_\_\_\_\_

located at \_\_\_\_\_, namely: an **enrolled** member of the same tribe within the same location.

II.

That the Petitioner(s) reside **within/without** the jurisdiction of the undersigned Court.

III.

That the Petitioner(s) are requesting that the undersigned court appoint him/her as the Personal Representative of Estate based on the following reasons: \_\_\_\_\_



IV.

That the person for whom this Petition is for has the following immediate family members: (list members & addresses, spouse, children, parents, siblings)

---

---

---

---

Dated: \_\_\_\_\_

\_\_\_\_\_  
(Petitioner's signature)

---

\_\_\_\_\_  
Address & Day Phone no#

Subscribed and Sworn to before me on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

Dated and filed by the Court on: \_\_\_\_\_

\_\_\_\_\_  
Clerk of Court

**AFFIDAVIT IN SUPPORT OF APPOINTMENT OF PERSONAL  
REPRESENTATIVE OVER THE ESTATE OF:**

\_\_\_\_\_  
*Decedent's Name*

I, \_\_\_\_\_, do hereby give my consent for the Appointment of Personal Representative of Estate for my (mother, father, spouse, child, sister, brother, step-family)to:\_\_\_\_\_. I am a **resident/non-resident** of \_\_\_\_\_, and I am **enrolled/non-enrolled** with the \_\_\_\_\_.

That I the Affiant, being of sound mind, being duly sworn, deposes and says that he/she is the person who made the forgoing form and that the statement contained therein is true and correct to the best of his/her knowledge.

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2005.

\_\_\_\_\_  
Affiant

\_\_\_\_\_  
Notary Public

My commission expires:

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

\_\_\_\_\_  
*IN RE THE MATTER OF ESTATE OF:* \_\_\_\_\_

**DOB:** \_\_\_\_\_

**DOD:** \_\_\_\_\_

THERE having been heard before the undersigned Court on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_, before the (NAME AND TITLE OF JUDGE), in the City of \_\_\_\_\_, County of \_\_\_\_\_ and State of \_\_\_\_\_, with the (NAME ALL PERSONS PRESENT AT SAID HEARING) a Petition for Personal Representative of Estate, hereby enters the following:

**FINDINGS OF FACT**

That the Petitioner, (NAME) is the (STATE THE RELATIONSHIP OF THE PETITIONER TO THE DECEASED) of the above named (NAME OF DECEASED), wherein he/she is requesting that the Court appoint him/her the Personal Representative of Estate over this estate.

That the surviving children of (NAME OF DECEASED) are as follows: (NAME EACH OF ALL THE IMMEDIATE FAMILY). (STATE IF YOU HAVE CONSENT OR NON-CONSENT OF ANY OF THESE FAMILY MEMBERS).

That the Petitioner, is a willing and capable person to administer this appointment, and has acknowledged the same.

That (NAME THE DECEDENT) resided on the \_\_\_\_\_ Reservation located on the \_\_\_\_\_ Reservation, at the time of her/his demise.

**CONCLUSIONS OF LAW**

That after the Court reviewed said request and all surrounding circumstances and accordingly to (CITE TITLE AND SECTION OF THE TRIBAL CODE THAT APPLIES) hereby orders the following:

**ORDER**

**IT IS HEREBY THE ORDER OF THIS COURT** that the Petitioner (NAME THE PETITIONER) is hereby appointed the Personal Representative of the Estate of (NAME THE DECEDENT). That this Personal Representative of Estate shall be for the final resolution of any legal, financial and/or other affairs that may need his/her administration and that the Petitioner shall serve without bond.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

SEAL

\_\_\_\_\_  
(NAME AND TITLE OF TRIBAL JUDGE)

## PETITION FOR PROBATE OF ESTATE

When there is a need to determine the distribution of the estate to the rightful heir, a Petition for Probate of Estate needs to be filed.

In preparing your Petition for Probate of Estate you must contain within your petition certain information that the Court will need. A sample Petition is contained in this manual for your convenience. Thus petition is normally filed when a person dies Intestate – one who dies without disposing of property by will, passes to the heirs of the intestate subject to the control of the Court for the purpose of administration.

Once you have filed the Petition for Probate of Estate, most Tribal Courts will have a standard filing fee. The clerk will direct you to send notification to all heirs to the estate.

Once all persons interested in the estate have been noticed of the Petition, the clerk of court will schedule a hearing, and noticing all interested persons of the hearing.

At this hearing the Judge will look to the Tribal Code to define Order of Succession, here is an example:

1. If the decedent leaves a surviving spouse, and only one child or the lawful issue of a deceased child, the estate goes one-half to the surviving spouse and one-half to the child or issue. If the decedent leaves a surviving spouse and more than one child living, the estate goes one-half to the surviving spouse and the remainder in equal shares to the children.

There will also be cases where the Court must conclude an estate, even if there is a will. The Court basically will affirm the will and order the distribution.

After a hearing is held on the Petition for Probate of Estate, many Tribal Judges will require, if present, the Attorney/Advocate of the prevailing side to prepare a proposed Judgment for their review and/or signature. Tribal Judges usually have an extremely large caseload and would need the courtesy of the proposed judgment for their convenience.

When preparing the proposed judgment you must have the following information contained:

- When, where and who was present at the time that this order was adjudicated, with the presiding Judges Name and title.
- **FINDINGS OF FACT**, all information that was brought before the Judge, either by exhibits or by sworn testimony.
- **CONCLUSIONS OF LAW**, cite the section from the Tribal Code that applies to the proceedings.
- **ORDER**, specifically state exactly what the judge ordered concerning all the issues regarding the issue.

Date, signature and title of presiding judge.

This matter will be considered adjudicated and will be considered closed.

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

IN THE MATTER OF THE ESTATE OF: (ENTER NAME OF DECEDENT)

DOB:                      DOD:

FILE NO# \_\_\_\_\_

**PETITION FOR ORDER OF PROBATE, DETERMINING HEIRS AND APPROVING DISTRIBUTION**

The Petitioner, (NAME PETITIONER), as the Personal Representative of the Estate of (ENTER NAME OF DECEDENT), Petitions the Court as follows:

1.                      That (NAME THE PETITIONER), is the duly appointed Personal Representative of the Estate of (NAME THE DECEDENT). His/her appointment as Personal Representative was made on (ENTER DATE OF P.R. ORDER).
2.                      That the Last Will and Testament of (NAME THE DECEDENT), dated (ENTER DATE OF WILL), and was admitted into probate on (ENTER DATE FILED).
3.                      That to the best of my knowledge, the Will was validly executed and has not been revoked.
4.                      The undersigned Petitioner is a beneficiary under the Will and is the eldest child of the decedent.
5.                      As ordered by the Court a certified copy of the decedent's death certificate is attached hereto and incorporated by reference.
6.                      As ordered by the Court an Asset, Liability Creditors Potential Beneficiary Statement is attached hereto and incorporated by reference.

THEREFORE, Petitioner asks the Court for an Order of Probate, Determining Heirs and Approving Distribution as follows:

1.                      That (NAME THE PETITIONER), pursuant to the Will, is to receive the following described (NAME THE DECEDENT), property all located on land leased from the Tribe: (LIST ALL PROPERTY).
2.                      That also according to the will, the following property is distributed as follows: (LIST ALL PROPERTY and TO HEIRS).

Dated this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

SEAL

\_\_\_\_\_  
**Petitioner**  
(enter name and address)

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

IN THE MATTER OF THE ESTATE OF: (ENTER NAME OF DECEDENT)

DOB: DOD:

FILE NO# \_\_\_\_\_

**ASSETS, LIABILITIES, CREDITORS, POTENTIAL BENEFICIARIES**

1. ASSETS: All assets are located on land owned by the undersigned Tribe in (ENTER COUNTY AND TOWNSHIP).

a. (LIST ALL PROPERTY) (LIST VALUE)

2. LIABILITIES:

a. (LIST ALL DEBTS)

3. CREDITORS ADDRESS:

a. (LIST ADDRESS OF CREDITORS)

4. POTENTIAL BENEFICIARIES AND ADDRESS:

a. (LIST ALL BENEFICIARIES WITH ADDRESS)

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Petitioner**

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
**Notary Public**

My commission expires on:

NAME OF TRIBAL COURT

CIVIL DIVISION

NAME OF JURISDICTION

NAME OF TRIBE

IN THE MATTER OF THE ESTATE OF: (ENTER NAME OF DECEDENT)

DOB: DOD:

FILE NO# \_\_\_\_\_

**ORDER OF PROBATE, DETERMINING HEIRS AND APPROVING DISTRIBUTION**

The Petitioner, (NAME PETITIONER), as the Personal Representative of the Estate of (ENTER NAME OF DECEDENT), having come before this Court and all interested persons having been given notice of this Petition, the Court makes the following Order:

1. That (NAME THE PETITIONER), is the duly appointed Personal Representative of the Estate of (NAME THE DECEDENT). His/her appointment as Personal Representative was made on (ENTER DATE OF P.R. ORDER).
2. That the Last Will and Testament of (NAME THE DECEDENT), dated (ENTER DATE OF WILL) and was admitted into probate on (ENTER DATE FILED).
3. That (NAME THE PETITIONER), pursuant to the Will, is to receive the following described (NAME THE DECEDENT), property all located on land leased from the Tribe: (LIST ALL PROPERTY).
4. That also according to the will, the following property is distributed as follows: (LIST ALL PROPERTY and TO HEIRS).

Dated this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

SEAL

\_\_\_\_\_  
**Tribal Judge**  
(enter name and title)

## **PETITION FOR INVOLUNTARY COMMITMENT**

When a person has an immediate family member that is unwilling to get some kind of treatment for an addiction or for medical reasons, the person can file a Petition for Involuntary Commitment.

The Petitioner must properly file the Petition for Involuntary Commitment before the court, this may include a standard court filing fee.

The Petition for Involuntary Commitment, must contain certain information that the Court must have in order to make a decision. A sample Petition is contained in this manual for your convenience.

Many Tribal Courts have standard Petitions for the convenience of those immediate type cases. The importance of this case, relies heavily on the affidavit that is usually filed with the Petition. Whatever is contained in the affidavit will be the deciding factor on what type of evaluation this individual is in need of. Keep in mind that the Court can only order the evaluation without medical expertise. Before the Court can consider ordering the defendant to a treatment facility an evaluation must be completed by a professional person.

Once the Court is aware of either the physical condition, psychological condition, or the type of addiction the individual has, then and only then the Court can order the defendant to a treatment facility. This would only take place after the Court has held a hearing, wherein the Petitioner, Witnesses and the Defendant must be present.

The Court may direct the Attorney/Advocate to prepare the Orders, for either the Evaluation or Treatment. However the Order is prepared, you must consider that this treatment will not be free, so Courts will encourage you to find proper funds to cover the expenses.

Individuals may need several different types of treatment, some will need inpatient treatment for long periods of time, others may only need outpatient treatment, whatever the type, the Orders of the Court must always contain the type of treatment.



**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

\_\_\_\_\_ )  
 Petitioner )  
 )  
 VS. )  
 )  
 )  
 )  
 )  
 )  
 \_\_\_\_\_ )  
 Respondent )

**PETITION FOR INVOLUNTARY COMMITMENT**

File No. \_\_\_\_\_

Comes now the Petitioner, and respectfully alleges:

1. That the Petitioner is eighteen (18) years or older.
2. That the Respondent presently resides in the (ENTER RESERVATION).
3. That the Respondent is an enrolled member/descendent of the (ENTER TRIBE IN WHICH THE RESPONDENT IS ENROLLED).
4. That the Petitioner believes that the Respondent is (please CIRCLE the following that apply); and as a result of this condition, there is a reasonable expectation of a serious risk of harm if the Respondent is not helped.

\*Severely Ill                      \*Mentally Ill                      \*An Alcoholic                      \*A Drug Addict

5. To the best knowledge of the Petitioner because of the foregoing condition, the Respondent requires some type of treatment or hospitalization.
6. That if Petitioner feels that it may be necessary to take the Respondent into immediate custody or emergency treatment it can be requested ONLY if the Respondent is seriously mentally impaired, an alcoholic, a drug addict or is likely to injure him/herself or other people if not in a confined environment.
7. That the Petitioner believes after an evaluation of the Respondent's condition is completed, the Respondent should be required to follow all recommendations provided by the facility.

The Petitioner's relationship to the Respondent:\_\_\_\_\_

- Petitioner's Address:\_\_\_\_\_
- Petitioner's Home Phone:\_\_\_\_\_ Work Phone\_\_\_\_\_

Names and addresses of witnesses who will verify that the Respondent is in need of treatment:\_\_\_\_\_.

GENERAL INFORMATION ABOUT THE RESPONDENT

- Full Name:\_\_\_\_\_
- Address:\_\_\_\_\_
- Telephone Number:\_\_\_\_\_
- Present Whereabouts:\_\_\_\_\_
- Age:\_\_\_\_\_ Date of Birth \_\_\_\_\_ Sex:\_\_\_\_\_
- Marital Status (please circle): MARRIED SINGLE DIVORCED
- Employer:\_\_\_\_\_
- Health Insurance (please circle): Yes No

\_\_\_\_\_  
Petitioner's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Clerk of Court

\_\_\_\_\_  
Date

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

\_\_\_\_\_)  
 Petitioner )  
 VS. )  
 \_\_\_\_\_)  
 Respondent )

**AFFIDAVIT FOR INVOLUNTARY  
 COMMITMENT**

File No. \_\_\_\_\_

COMES NOW, the above captioned Petitioner(s), and being duly sworn upon his/her  
 oath, Deposed, states and alleges as follows, to wit:

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If more room is needed, continue on the back of this sheet.

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

\_\_\_\_\_ )  
 \_\_\_\_\_ )  
 Petitioner )  
 \_\_\_\_\_ )  
 vs )  
 \_\_\_\_\_ )  
 \_\_\_\_\_ )  
 Respondent )

**ORDER FOR  
EVALUATION/TREATMENT**

File No. \_\_\_\_\_

Respondent's DOB:

TO: (NAME TREATMENT FACILITY)

Be it remembered that the Turtle Mountain Tribal Court has received on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, a Petition for Involuntary Commitment for an Evaluation and/or Treatment for dependency for (SPECIFY TYPE OF TREATMENT).

WHEREFORE, the Respondent is an enrolled member of the (NAME TRIBE IN WHICH THE RESPONDENT IS A MEMBER OF) residing within the boundaries of the (NAME TRIBE, CITY,COUNTY AND STATE).

This Court has considered the matter in view of all circumstances and feels that the above named Respondent is in need of immediate treatment.

**AFTER CAREFUL CONSIDERATION IT IS THEREFORE THE ORDER OF THIS COURT** that the said, (RESPONDENTS NAME), North Dakota be transported to (NAME OF TREATMENT FACILITY), for definitive diagnostic procedures and definitive care as recommended by the professional personnel of the hospital.

**IT IS FURTHER THE ORDER OF THIS COURT** that the said Respondent will remain at the said establishment until such time as the Respondent is medically released by the hospital staff; and the undersigned court will not be held responsible for the cost of this treatment.

**IT IS FURTHER THE ORDER OF THIS COURT** that the said Respondent must complete any and all necessary recommended treatment. Failure to complete said treatment will result in a Contempt of Court Warrant for the Respondent's immediate arrest.

**IT IS ALSO THE ORDER OF THIS COURT** that a report be submitted to the undersigned Court upon completion of the Evaluation and Treatment.

**BE IT SO ORDERED** this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Tribal Judge

SEAL

## **MOTION TO SHOW CAUSE**

When a person is in need of getting a previously adjudicated case back into court for a show cause hearing, they must file a Motion to Show Cause.

There are many reasons to bring a case back before a judge. The majority of the time it is because one or more persons to the case is not complying with the orders of the court.

Contained in this manual is a sample Motion for Show Cause, that you may use as your guide in preparing your motion. This Motion is designed to try to give you ideas on what would substantiate a Motion for Show Cause.

Always give your reason for needing the show cause hearing, for example:

The Defendant has failed to pay child support payments as ordered by the Court.

Once the Court receives your Motion and Affidavit of service on the opposing party, the Clerk will then schedule a hearing, (show cause hearings are usually schedule immediately, preferably within 14 days.) The reason for the expedited hearing is based on the fact that the Court issued an order and someone did not comply with it. Judges do not take the fact that their Order is not taken seriously.

Another scenario would be that one of the parties can not, and beyond their control, abide by the order. Again, the Court would schedule this matter immediately.

Once the hearing is held, the Judge will either continue their original order or they may modify that order.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

\_\_\_\_\_, )  
 Plaintiff/Petitioner )  
 )  
 VS. )  
 )  
 \_\_\_\_\_, )  
 Defendant/Respondent )

**MOTION FOR ORDER  
TO SHOWCAUSE**

**COMES NOW**, the ( ) Plaintiff/Petitioner ( ) Defendant/Respondent ( ) by and through undersigned counsel, and moves this Court to issue its Order directing (enter name of person, company, counsel or agency) \_\_\_\_\_ to appear before the Tribal Court to show cause why he/she/it should not be held in Contempt of Court for:

( ) failure to appear on \_\_\_\_\_200\_\_ for ( ) arraignment ( ) pre-trial hearing ( ) settlement conference ( ) status hearing ( ) trial ( ) other...

\_\_\_\_\_  
 ( ) failure to obey a Court Order regarding ( ) payment of fine ( ) payment of restitution ( ) payment of Civil Judgment ( ) performance of Community Service ( ) payment of Child Support ( ) Child Visitation ( ) Child Custody ( ) return of property ( ) Restraining Order

**This Motion is based on:**

( ) the Court's Order previously entered on \_\_\_\_\_ OR  
( ) other \_\_\_\_\_

AND the following facts: \_\_\_\_\_

**THEREFORE**, good cause having been shown, the moving party prays that the Court grant this Motion and Issue its Order to Show Cause as requested above.

RESPECTFULLY SUBMITTED this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
(Signature of party/counsel/person filing)

## **IN FORMA PAUPERIS**

When a poor person is in need of filing a case in Tribal Court, they need a waiver of the fees, they must apply for the Waiver of Fees.

A sample of the Petition, Affidavit in Support of the Waiver of Fees, is included in the manual for your convenience.

The Petition must clearly state why they need the waiver, and all the Petitions for a waiver of the fees should have proof of the indigence attached as evidence. Your failure to attached said evidence might result in a denial of the request.

Always, attach a proposed order for the Judges convenience.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

---

\_\_\_\_\_,  
Petitioner,

VS.

**PETITION AND AFFIDAVIT  
IN SUPPORT OF A  
WAIVER OF FEES**

\_\_\_\_\_,  
Respondent,

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THAT the above named Petitioner, hereby respectively Petitions this Court for a waiver of fees. That the Petitioner is unable to pay the fees required in attempting to get court action.

That this Petitioner is to request that the undersigned Court waive the fees associated with the following:

\_\_\_\_\_ Packet fee

\_\_\_\_\_ Filing fee

\_\_\_\_\_ Other:\_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_.

\_\_\_\_\_  
Petitioner



**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

\_\_\_\_\_,  
Petitioner,

vs.

\_\_\_\_\_,  
Respondent,

**AFFIDAVIT  
IN SUPPORT OF A  
WAIVER OF FEES**

That the above Petitioner in the above-entitled action and makes this Affidavit in support of her/his Petition for Waiver of Fees.

1. Present monthly income from all sources consist of the following:
  - a. Income Source: \_\_\_\_\_

INCOME:	AMOUNT:
Income:	_____
Other:	_____
Total:	_____

2. Petitioner's necessary monthly expenses include the following:

- |                        |       |
|------------------------|-------|
| A. Rent:               | _____ |
| B. Food:               | _____ |
| C. Electricity:        | _____ |
| D. Household Expenses: | _____ |
| E. Transportation:     | _____ |

3. Petitioner currently has \_\_\_\_\_ children living in his/her house.  
(List No.)

The Petitioner, hereby petitions this Court for the waiver of the filing fee or packet fee or both, for the commencement of this action because the petitioner has insufficient income and resources to proceed at this time with the action without such Waiver of fees.

Dated: \_\_\_\_\_

\_\_\_\_\_  
Petitioner's Signature

\_\_\_\_\_  
Clerk of Court

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

\_\_\_\_\_,  
Petitioner,

Vs.

\_\_\_\_\_,  
Respondent,

**ORDER OF  
IN FORMA PAUPERIS**  
File No. \_\_\_\_\_

That the Petitioner, Petitioned the Court for the waiver of the filing fee and/or other fees associated with the commencement of this action. Because the Petitioner has presented an affidavit that supports his/her Petition for a waiver of fees due to indigence, the Court hereby enters the following:

**ORDER GRANTING IN FORMA PAUPERIS**

- ◇ The Petition for In Forma Pauperis shall be granted.
- ◇ That the Petition for In Forma Pauperis shall be denied for the following reason: \_\_\_\_\_
- ◇ That the Petitioner shall have to pay for fees or other costs associated with the filing or commencement of this case.
- ◇ That the Petitioner shall not have to pay any fees associated with the filing or the commencement of this case.
- ◇ That there will be a partial waiver for the fees as follows: \_\_\_\_\_  
\_\_\_\_\_.

DATED: \_\_\_\_\_

**BY THE COURT**

SEAL

\_\_\_\_\_  
Tribal Judge

## **SUBPOENA**

When an attorney, advocate or lay person, needs to subpoena a person or records for either a hearing or discovery, they must file a Subpoena for the clerk's signature.

Some Courts will direct the clerk to issue the subpoena, upon motion. But, mostly they require the Attorney or Advocate to submit the Subpoena.

When the request for subpoena is for a witness, no motion for the subpoena is required.

When the request for subpoena is for documents, a motion for the subpoena is required, to explain the reason for such documents. This is usually done during discovery, although it can be done anytime prior to the trial.

A sample subpoena is included in this manual for your convenience.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

\_\_\_\_\_)  
 \_\_\_\_\_)  
 Petitioner/Plaintiff )  
 VS. )  
 )  
 )  
 )  
 \_\_\_\_\_)  
 Defendant/Respondent)

**SUBPOENA**

**CA # \_\_\_\_\_**

TO:

**YOU ARE COMMANDED** to appear in the (*NAME OF*) Tribal Civil Court at the place, date, and time specified below, or any subsequent place, date and time set by the court, to testify in above referenced case. This subpoena shall remain in effect until you are granted leave to depart by the Court or by any officer acting on behalf of the Court.

**PLACE:**  
**(NAME**  
**ADDRESS &**  
**TELEPHONE NO#)**

**LOCATION:**  
***SPECIFIC LOCATION***

**DATE AND TIME OF HEARING:** \_\_\_\_\_

**YOU ARE ALSO COMMANDED** to bring with you the following document(s) or object(s):

**TRIBAL CLERK OF COURT** DATED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 20\_\_\_\_.

Clerk of Court

## **JUDGMENT AND EXECUTION**

When a person needs to enforce and execute civil judgments, court orders or writs of the Tribal and Appellate Court.

### ***Judgment:***

In civil cases, judgment shall consist of an order of the court and notice of entry of judgment. The judgment shall be signed by the judge and entered by the clerk. A judgment or court order is only enforceable when it is final.

### ***Recognition of Foreign Court Orders and judgments:***

The judicial orders and judgments of other reservations, and all federal and state courts should be recognized by the court, unless objected. These orders of judgments shall have the same effect and are subject to the same procedures, defenses, and proceedings as judgments of the tribal court. If objected to, you must check the courts conditions that are allowed.

### ***Repossession:***

In all jurisdictions there is a procedure for repossession of property, any person wanting to repossess property must exercise proper use of Tribal Court.

### ***Execution:***

All property is normally subject to execution to satisfy a judgment, unless it is exempt by Tribal or Federal Law.

Check with the court to find out what Property is exempt from execution, for example:

Clothing, personal items, tools, special equipment for the disabled, stipends, general assistance, treaty payments/per capita, Aid to Families with Dependent Children payments, etc..

### ***Writs of Execution; Renewal of Judgment:***

The party in whose favor a money judgment is given by the Tribal Court may at any time, within statute of that Court, obtain a writ of execution for its enforcement.

A writ of execution may be issued by the Clerk of the Tribal Court and addressed to the enforcement agency that will be directed to seize and deliver to the Clerk of Court sufficient unrestricted and non-exempt personal property of the debtor to pay the judgment and costs of sale. The writ of execution should specify the particular type of property to be seized and the time and place of docketing.

Once the Clerk of Court has a listing the property to be seized, the clerk should promptly forward a copy of the information to the debtor.

There has to be an appraisal of property assessment by a disinterested party.

Then, a Notice of Public or Private Sale must be given.

***Garnishment:***

Any creditor is entitled to proceed by garnishment against the debtor and may execute on earnings of debtor while these earnings are held by a third party employer.

Some Court's have limitations to the garnishment process and may only allow the process when the debtor has failed to make payments on the judgment, the debtor has given wrongful income information, etc.

***Notice and Summons of Garnishment of Earnings:***

You must find out at the Tribal Court what the time limit is for the notice prior to the summons of Garnishment. Before the issuance of any garnishee summons against the earnings of any person, the creditor shall serve upon the debtor a ***notice*** that the garnishee summons may be issued. The notice must be served personally or by certified mail. Failure to serve the notice may void the admission of the garnishment.

Contained in this manual is a sample Notice Before Garnishment of Earnings.

***Garnishee Summons:***

In a civil action in the Tribal Court for the recovery of money, at any time after judgment, a garnishee summons may be issued, although you must designate either the Plaintiff or Defendant.

The garnishee summons must include the full name of the defendant and place of residence and the amount of the judgment which remains unpaid. The garnishee summons must also state that the garnishee must retain property or money in the garnishee's possession.

Contained in this manual is a sample Garnishee Summons and Notice to Defendant.

***Service:***

The garnishee summons and notice to defendant should be served upon the garnishee in the same manner as other summons in the tribal court of record. Some court would want service to be made personal to assure the notice was served to the defendant personally.

If the garnishee summons has several Defendants, the summons must clearly define separately or jointly and what each defendant is responsible to do.

***Disclosure:***

Within the same time as limited, the garnishee shall serve upon the plaintiff or the plaintiff's attorney a written answer, under oath, to the questions in the garnishment disclosure form and to any written interrogatories that are served upon the garnishee. The written answers may be served personally or by mail.

Contained in this manual is a sample Garnishment Disclosure.

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

---

\_\_\_\_\_

Plaintiff/Creditor

Vs.

\_\_\_\_\_

Defendant/Debtor

**NOTICE BEFORE  
GARNISHMENT OF  
EARNINGS**

File No. \_\_\_\_\_

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TO: \_\_\_\_\_

*(NAME OF JUDGMENT DEBTOR)*

Please take notice that a garnishee summons that will require part of your wages to be withheld may be served upon your employer, without any further court proceedings, or notice to you, at any time after ten (10) days following the date of this notice. For each dependent family member residing with you, the amount subject to garnishment for any workweek may be reduced by each dependent, if within ten (10) days after receipt of the garnishee summons you provide to your employer a verified list of the dependent family members residing with you and their social security numbers, if any. You may wish to contact the undersigned judgment creditor, or attorney to arrange for the settlement of the debt, which is \$\_\_\_\_\_.

Date: \_\_\_\_\_.

\_\_\_\_\_

Judgment Creditor

Address

**NAME OF TRIBAL COURT**

**CIVIL DIVISION**

**INDIAN JURISDICTION**

**NAME OF TRIBE**

\_\_\_\_\_,  
Plaintiff/Creditor

Vs.

**GARNISHEE SUMMONS**

\_\_\_\_\_,  
Defendant/Debtor

CV# \_\_\_\_\_

AND

\_\_\_\_\_,  
Garnishee

TO: \_\_\_\_\_,  
*(NAME OF GARNISHEE)*

Note: This is listed in the Turtle Mountain Tribal Court, it may be different for each Tribe, so check your Tribal Code.

You must serve upon the Plaintiff or the Plaintiffs Attorney, within twenty (20) days after service of this summons upon you, a written disclosure, under oath, setting forth the amount of any debt you may owe to the Defendant, *(NAME DEFENDANT, WITH ADDRESS)* and a description of any property, money or effects owned by the Defendant which are in your possession. Your disclosure need not exceed \$\_\_\_\_\_, *(ENTER THE AMOUNT OF 100 PERCENT OF THE PLAINTIFF'S JUDGMENT WHICH REMAINS UNPAID)*. The date of entry of the judgment against the Defendant was \_\_\_\_\_, *(ENTER DATE OF THE ENTRY OF PLAINTIFF'S JUDGMENT)* and the amount of the judgment that remains unpaid is \$\_\_\_\_\_. The Defendant must provide you with a verified list of the names of dependent family members who reside with the Defendant and their social security numbers if the Defendant desires to have the garnishment amount reduced. Failure of the Defendant to provide the list to you, establishes a presumption that the Defendant claims no dependent family members who reside with the Defendant.

You must retain the Defendants nonexempt property, money, and effects in your possession until a writ of execution is served upon you, until the Defendant authorizes release to the Plaintiff, or until the expiration of 180 days from the date of service of this summons upon you. If no writ of execution has been served upon you, or no agreement has been made for payment within 180 days, the garnishment ends and any property or funds held by you must be returned to the Defendant, if the Defendant is otherwise entitled to their possession.



Any assignment of wages by the Defendant or indebtedness to you incurred by the Defendant within ten (10) days before the receipt of the first garnishment on a debt is void and should be disregarded.

You may not discharge from employment the Defendant because the Defendants earnings have been subject to garnishment.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

By: \_\_\_\_\_

NAME OF TRIBAL COURT

CIVIL DIVISION

INDIAN JURISDICTION

NAME OF TRIBE

\_\_\_\_\_,  
Plaintiff/Creditor

Vs.

\_\_\_\_\_,  
Defendant/Debtor

AND

\_\_\_\_\_,  
Garnishee

**GARNISHEE SUMMONS  
AND NOTICE TO  
DEFENDANT**

File No. \_\_\_\_\_

I am the (ENTER THE NAME OF PERSON REPORTING ON BEHALF OF THE GARNISHEE), of the garnishee and duly authorized to disclose for the garnishee.

On the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the time of service of garnishee summons on the garnishee, there was due and owing the Defendant from the garnishee the following:

1. Earnings: for the purpose of garnishment, "earnings" means compensation payable for personal service whether called wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program. "Earnings" does not include social security benefits, veterans' disability pension benefits, except when the benefits are subject to garnishment to enforce any order of the support of a dependent child. "Earnings" includes military retirement pay. "Disposable earnings" means that part of the earnings of an individual remaining after the deduction from those earnings of amounts required by law to be withheld. If the garnishee summons was served upon you at a time when earnings from a prior completed pay period owed but not paid, complete the following disclosure for earnings from both the past pay period and the current pay period.
  - a. Enter on the line below the amount of disposable earnings earned or to be earned by the Defendant within the Defendant's pay periods which may be subject to garnishment.  
\$ \_\_\_\_\_
  - b. Enter on the line below forty times the hourly federal minimum wage times the number of workweeks within the Defendant's pay periods

which may be subject to garnishment. When pay periods consist of other than a whole number of workweeks, each day of a pay period in excess of the number of completed workweeks must be counted as a fraction of a workweek equal to the number of workdays divided by the number of workdays in the normal workweek.

- i. \$ \_\_\_\_\_
  - c. Enter on the line below the difference obtained (never less than zero) when line (b) is subtracted from line (a)
    - i. \$ \_\_\_\_\_
  - d. Enter on the line below 25 percent of line (a)
    - i. \$ \_\_\_\_\_
  - e. Enter on the line below the lesser of line (c) and line (d)
    - i. \$ \_\_\_\_\_
  - f. Enter on the line below the number of dependent family members living with the Defendant (if properly claimed within ten days after receipt of the garnishee summons).
    - i. \$ \_\_\_\_\_
  - g. Enter on the line below an amount equal to the number of dependents (line f) times (the allowed per dependent) times the number of workweeks used to compute line (b).
    - i. \$ \_\_\_\_\_
  - h. Enter on the line below the difference (never less than zero) when line (g) is subtracted from line (e).
    - i. \$ \_\_\_\_\_
2. Enter on the line below any amounts due and owing Defendant, except earnings, from the garnishee.  
\$ \_\_\_\_\_
3. Property: Describe on the line below any personal property, instruments, or papers belonging to the Defendant and in the possession of the garnishee.  
\_\_\_\_\_  
\_\_\_\_\_
4. Setoff: Enter on the line below the amount of any setoff, defense, lien, or claim which the garnishee claims against the amount set forth on lines 1(h), 2, and 3. Allege the facts by which the setoff, defense, lien, or claim is claimed. (Any indebtedness to a garnishee-employer incurred by the judgment debtor within ten days before the receipt of the first garnishment on a debt is void and cannot be considered.)  
\_\_\_\_\_  
\_\_\_\_\_

5. Adverse Interest: Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the Defendant's property. State each person's name and address and the nature of that person's claim, if known. (Any assignment of wages made by the Defendant within ten days before the receipt of the first garnishment on a debt is void and should be disregarded).

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6. Enter on the line below the total of lines 4 and 5.

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7. Enter on the line below the difference obtained (never less than zero) when line (c) is subtracted from the sum of lines 1 (h), 2 and 3).  
\$ \_\_\_\_\_

8. Enter on the line below 110 percent of the amount of the judgment creditor's judgment which remains unpaid.  
\$ \_\_\_\_\_

9. Enter on the line below the lesser of line 7 and line 8. As garnishee, you are hereby instructed to retain this amount only if it is \$10.00 or more.  
\$ \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Signature (*AUTHORIZED REPRESENTATIVE OF GARNISHEE*)

\_\_\_\_\_  
Title