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IN THE SUPREME COURT OF THE CHEROKEE NATION

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THE AMENDMENT AND ADOPTION OF
COURT RULES OF THE DISTRICT
COURT OF THE CHEROKEE NATION

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SC-AD-13-02

CHEROKEE NATION
SUPREME COURT
KENDALL BIRD, COURT CLERK

ORDER

The Supreme Court of the Cherokee Nation hereby amends and adopts new provisions to the Court Rules of the District Court of the Cherokee Nation. The new and amended provisions shall be known as the Court Rules for the District Court of the Cherokee Nation, and are to be codified in the Cherokee Nation Code Annotated.

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SECTION I. PLEADINGS

Rule 1. Initial Pleadings

All initial pleadings must include a certification by the attorney which demonstrates the subject matter jurisdiction of the court. All pleadings shall be filed with the Court Clerk of the District Court, P.O. Box 1097, Tahlequah, Oklahoma 74465. The offices of the District Court of the Cherokee Nation are at the Cherokee Nation Courthouse, Cherokee Capitol Square, 101 South Muskogee Avenue, Tahlequah, Oklahoma.

Rule 2. Requirement of filing fees

The petitioner must pay the required filing fee of seventy-five dollars (\$75.00) for the Civil Petition Filing, or fifty dollars (\$50.00) for a Landlord/Tenant Petition, Guardian Petition, Adoption Petition, Name Change Petition, Garnishment, or Foreign Judgment. Payments can be made in the form of cash, check, or money order payable to the court. An Application for Waiver of Fee Paupers Affidavit can be completed and submitted to the Court Administrator for approval.

Rule 3. Use of Fax/Email

1. Fax

- a. Parties may file affidavits, pleadings, motions and other documents by use of fax transmission for documents of 10 pages or less;
- b. The fax must include a transmittal/cover sheet reflecting the sending party's name, address, bar number, phone number, fax number, case name and case number. The fax number for the Cherokee Nation District Court is (918) 458-9572.
- c. The faxed document, which must bear a facsimile of the required signature, will be accepted as an "original" document.

2. Email

- a. A document permitted to be filed by e-mail pursuant to these rules shall be sent to the Court Clerk of the District Court using the following email address: kristi-moncooyea@cherokee.org. Documents sent to any other e-mail address of the District Court shall not be considered for filing under any circumstances.
- b. The email must reflect the sending party's name, address, bar number, phone number, email address, case name and case number.
- c. A document permitted to be filed by email shall be submitted as a PDF file (Portable Document Format).
- d. A document that may be filed by e-mail pursuant to these rules shall include a scanned version of the person's original signature or a signature line with a backslash followed by a "s" followed by the person's name in print (e.g. /s/ "John T. Smith")

3. Documents transmitted by fax or e-mail pursuant to these rules and received on a Saturday, Sunday, or other day on which the Clerk's Office is closed to the public, or after 4:30 p.m. on a business day, shall be considered for filing on the next business day. The time of receipt of a document is the timestamp provided by the District Court's e-mail/fax system, the timestamp provided by any other computer/fax system shall not alter the time of receipt and effect this rule.

4. All risks associated with fax/email filing are borne by the sender. (e.g. court's phone/computer system being out of order, the receiving fax machine running out of paper, etc.)
5. Any document filed by fax/email must also be served concurrently by fax, email, hand-delivery or mail on all other parties to the appeal, and the faxed/emailed document must contain a certificate of service attesting to such service and that the document was initially filed with the Court via fax/email. The time for filing a response to a document filed by fax/email runs from the date the document was received by the Court pursuant to subsection 3 above.
6. The Clerk may reject documents that are not clearly legible or that fail to comply with these requirements

Rule 4. Court Files not to be removed

Original papers on file in the Court Clerk's office shall not be removed from the Clerk's Office without a written order signed by a Judge, except the Clerk or the Clerk's deputies may bring them to the courtrooms to be used by the Court officials, the parties and their attorneys, for the purposes of trial, and they shall then be returned to the Clerk's Office. An attorney of record in the case or Official reporter may take the Court files from the Clerk's Office or from the Clerk or Deputy Clerk for official use, but must give the Clerk a written receipt for them and return them to the Clerk's Office within 48 hours, excluding days when Court is not in session. Criminal case files should not be removed from the custody of the Court Clerk except upon order of the Court.

Rule 5. Exhibits

No exhibit offered or admitted in evidence shall be removed from the courtroom or from the custody of the Court Clerk or Court Reporter, as the case may be, without permission of the Judge and a written receipt shall be taken from the person receiving it.

Rules 6-9 reserved for future use.

SECTION II. COURTROOM DECORUM

Rule 10. Courtrooms, Use of

The use of tobacco, beverages, food or candy, pagers and/or cell phones, by anyone, at any time, in any of the District Courtrooms, is forbidden. All persons are forbidden to scratch, alter, spit on or deface in any manner, by any means, any, of the furniture, equipment, floors, walls, or ceilings of the courtrooms.

Rule 11. Photographs, Broadcasting and Televising of Judicial Proceedings

The following rules governing the taking of photographs, the broadcasting and televising of judicial proceedings in the Courthouse are hereby promulgated:

Except as expressly permitted by the individual Judge the use of cameras, television and other broadcasting equipment is prohibited:

1. Inside a courtroom
2. In the immediate vicinity of a courtroom, including the hallways.

The use of cameras, television and broadcasting equipment is not prohibited in other areas of the Courthouse, provided, that media representatives exercise diligence to insure that such equipment, and the use thereof, does not interfere with the session

of any proceeding being covered or with any proceeding in a courtroom adjacent to the proceeding being covered.

Notwithstanding the above and foregoing rules, the Presiding Judge or an individual Judge, may promulgate special rules governing the use of cameras, television and broadcasting equipment to remain in force and effect for any specific proceeding or event.

The purpose of this directive is to insure that Courtroom proceedings be conducted at all time with dignity and in a manner calculated to avoid the disruption of order and decorum which the judicial process demands.

It should be emphasized that the representatives of the news media are expected to conduct themselves at all times in a professional manner consistent with the spirit and intent of this directive. In order to insure such conduct, in the event conduct of the news media is brought to the attention of any Judge which is violative of the foregoing rules, the offending person shall be immediately notified to cease and desist such activity. If the offending party refuses to comply with such order, then the Judge may immediately command official personnel to take affirmative action causing cessation of such activity, including the seizure of the equipment of such person. Any offender may be dealt with for contempt of court.

This directive does not tend to prohibit any Judge from giving photographic or broadcasting interviews with any television or radio station or to be photographed in any manner in chambers, and any Judge may permit broadcasting, televising, recording or photographing of investigative, ceremonial proceedings or any moot court trial use for education or scientific purpose.

Rule 12. Courtroom Conduct

The following is requested of counsel for proper courtroom conduct:

1. Arguments shall be addressed to the Court and not to opposing counsel.
2. Stand when talking to the Court or when addressed by the Court.
3. When examining a witness, stand or sit where the Court, witness, jury and reporter can hear you.
4. Do not sit on counsel table.
5. Cell phones and pagers are to be turned off while in the courtroom.
6. Do not read newspapers in the courtroom.
7. Do not take files, pleadings, or papers away from the Court Clerk's desk or exhibits from the Court Reporter unless you obtain permission to do so.
8. When your business in Court is finished, depart from the courtroom quietly if you wish to retire. Do not hold conferences in the courtroom with your client when Court is in session.
9. Advise your clients as to the impropriety of discussing pending matters in the courtroom.
10. Your conduct in the courtroom as a member of the Bar demonstrates your respect for the administration of justice.

Rules 13 -19 reserved for future use.

SECTION III. COURT PROCEDURE- CRIMINAL CASES

Rule 20. Initial Appearances and Bond Setting: Telephone

The District Court may conduct initial appearances and bond settings by telephone hearing. The hearing may consist of the court clerk, the District Court Judge, the defendant, and the prosecutor in attendance by conference call or speakerphone at two or more telephones. Each person shall be able to speak and hear the conversations of each of the others.

Rule 21. District Court Arraignments: Continuances

Trial Arraignments shall be held only on the day, and at the time designated by each Judge. Counsel shall be prepared at the time of the trial arraignment to assist the Court in setting the trial date to avoid conflicts with prior commitments of counsel.

Rule 22. Notification of Entry of Appearance of Private Counsel in Criminal Cases

In Criminal cases which private counsel accepts employment to represent a client who is represented by the Public Defenders Office, written notice of such entry or appearance shall be given immediately to the Court and to the Public Defender's Officer.

Rule 23. Withdrawal of Counsel in Criminal Cases

In any case, regularly set for trial, any application for permission to withdraw as counsel for a defendant or to seek continuance of the trial date, must be presented to the Trial Judge at least (10) days before the date on which the case is set for trial.

Rule 24. Expunge Order

The following procedure shall be followed by the Court Clerk upon receipt of an Expunge Order in criminal cases wherein a defendant has -received a deferred sentence and the prior pleas of guilty (or nolo contendere) are being ordered expunged from the records:

The order of probation and the Expunge Order on pleas of guilty (or nolo contendere) shall be removed from the case file and together with a copy of the docket sheet in a separate confidential file.

All reference to the defendant's plea of guilty (or nolo contendere) shall then be deleted from the docket sheet, leaving only the references to the dismissal of the case.

No information concerning the confidential files shall be revealed except upon a written order of a District or Associate District Judge.

Rule 25. Transcripts in Criminal Cases

The delivery of transcripts in criminal cases where the fee for making the transcript is paid in the first instance by the Cherokee Nation or by a defendant shall be as follows: A transcript of the court reporter's notes, upon request and for the use of an indigent defendant or a prosecuting attorney, may not be charged to the court fund unless, before its preparation, the cost to be incurred was authorized by written judicial order.

When a judge authorizes or orders a transcript of the court reporter's notes of any proceeding to be prepared at the expense of the court fund, or where a prosecuting attorney orders such a transcript at public or court fund expense and the accused as an indigent is constitutionally entitled to a free copy of the transcript, a reporter shall prepare an original and two copies of the transcript so ordered and file it with the clerk of the trial court. The court reporter shall immediately notify the prosecuting attorney and the defendant of the date the transcript was filed. The prosecuting attorney and the defendant shall have access to the copies of the transcript on such terms as the trial court may impose. The chief judge may prescribe rules for access to or disposition of the copies of the transcript. In addition to the copies which are required to be filed by §406.4a as set forth above, a party who desires a copy shall be furnished a copy by the court reporter upon payment of the costs for that copy by said party.

Rule 26. Public Defender- Duties

Each month the Public Defender shall examine into the causes for confinement of any and all persons detained in the Penal Institution, and report, briefly, the facts of such examination to the Judge and Prosecutor, in writing, on or before the 15th day of each month. An original of said report shall be filed in the Office of the Court Clerk for reference by any properly authorized person as an official record.

Rules 27-29 reserved for future use.

SECTION IV. COURT PROCEDURE GENERAL

Rule 30. Voir Dire Examination

The judge shall initiate the voir dire examination of jurors by identifying the parties and their respective counsel. The judge may outline the nature of the case, the issues of fact and law to be tried, and may then put to the jurors any questions regarding, their qualifications to serve as jurors in the cause on trial. The parties or their attorneys shall be allowed a reasonable opportunity to supplement such examination. Counsel shall scrupulously guard against injecting any argument in their voir dire examination and shall, refrain from asking a juror how he or she would decide hypothetical questions involving law or facts. Counsel shall avoid repetition, shall not call jurors by their first names or indulge in other familiarities with individual jurors, and shall be fair to the court and opposing counsel.

Rule 31. Uniformity of Rulings

When a question of law, fact or procedure has been presented to a judge, the same question, so far as it relates to the same case, shall not thereafter knowingly be presented to another judge sitting in the district without apprising the subsequent judge of the former judge's ruling or, if no ruling has been made, that such question has already been presented to the first judge. When this rule has been violated, an order that is issued by the second judge may be vacated at any time before the entry of a final judgment.

Rule 32. Vacation of Final Judgments

A. In any proceeding to vacate, modify or reopen a final judgment that is commenced more than thirty days after its rendition, (1) proceeding by motion instead of

by petition or by petition instead of by motion, or (2) failure to verify the petition, or (3) incorrect service of process or the required notice is waived if the opposing party appears in the proceeding but does not immediately object thereto; and such defects are waived by any party in default who had actual notice of the proceeding.

B. In any proceeding to vacate, modify or reopen a judgment, whether by a motion, petition or application, jurisdictional grounds are not waived by being joined with non-jurisdictional grounds in the motion, petition or application or by raising non-jurisdictional defenses in an accompanying pleading.

Rule 33. Matters Taken Under Advisement

In any matter taken under advisement, a decision shall be rendered within sixty (60) days of the date on which the matter was taken under advisement or, if briefs are to be submitted, within sixty (60) days of the date of the filing of the final brief.

When a trial court takes a matter under advisement, the judge shall specify the date by which a decision shall be rendered. If briefs are to be submitted the dates for filing such shall also be specified.

The Chief Judge may extend the deadline for a decision upon sworn application for an extension of time of the trial judge setting forth with specificity the reasons therefore.

Upon entering and filing the decision with the court clerk, it shall be the duty of the judge to see that copies of the minute order or judgment setting out such decision are delivered or mailed by the court clerk to counsel in the case and to any party appearing pro se. The time to appeal from a decision rendered in absentia runs from the day its copy is mailed or personally delivered to the parties.

Rule 34. Jury sessions- Motion and demurrer sessions- When and how held- Jury Terms

Jury sessions of the district court may be held at any time upon order of the Judge. A session for the hearing and disposition of at least once every thirty (30) days, and any motion or demurrer that has been on file for at least five (5) days shall be placed on the docket. The date or dates of regular sessions for the hearing of motions and demurrer shall be fixed by any of the judges of the district court unless the district judges shall prescribe otherwise provided that a judge may hear any matter in any case assigned to him more frequently than provided herein.

The Presiding Judge shall be in charge of the Jury Panel and shall excuse and discharge those jurors not engaged when their services are no longer required.

Jurors shall be summoned to appear for Jury terms of one week duration.

Rules 35-39 reserved for future use.

SECTION V. DOCKETS

Rule 40. Time of Hearing-set certain

Court dockets are held on the first Wednesday, first, second and third Friday of each month. Adoptions and Juvenile matters are held beginning at 9:00 a.m.; Criminal and Civil matters begin at 10:00 a.m. on the first Wednesday and third Friday.

Adoptions and Juvenile matters are held beginning at 10:00 a.m.; Criminal and Civil matters begin at 11:00 a.m. on the first and second Friday. Judges at their discretion may alter the times of certain hearings in the economy of justice.

Rule 41. Citation Docket

There shall be a Judge assigned to be responsible for the docket concerning all citations issued pursuant to the following procedures and rules:

The Peace Officer shall set all citations and promises to appear at the Cherokee Nation Court House, Cherokee Nation Capitol Square, 101 S. Muskogee Ave., Tahlequah, Oklahoma. Citations may be disposed of pursuant to 22 CNCA § n 1S et. seq.

All cases in which the defendant enters a plea of not guilty at arraignment will be set on a monthly disposition docket. At the calling of the disposition docket, the defendant will have the following alternatives:

1. Enter a plea of guilty or a plea of nolo contendere, subject to the approval of the Court, and be sentenced immediately;
2. Waive right to trial and have the case set for sentencing on a date certain; or
3. Have the case set for trial on a date certain.

No continuances will be granted except by the Court and for good cause shown.

Where a bench warrant has been issued for defendant because of non-appearance, that defendant must thereafter post bond before release, and no attorney's affidavit will be accepted in such events, except for good - cause shown at the discretion of the Court. Bench warrants issued for failure to pay costs, fees, fines, etc. may be satisfied by Payment of the obligation to the Court Clerk. In that event, the bench warrant may be recalled without incarceration of the defendant or the defendant may be released from custody without the necessity of being brought personally before the court.

Pleas of guilty to traffic tickets may be entered before the Court Clerk in person or by mail in accordance with 22 CNCA § 1115, in all cases except the following:

1. Driving while under the influence of intoxicating liquor or drugs;
2. Being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or drugs;
3. Driving with a blood-breath alcohol concentrate of 0.08 or more;
4. Leaving the scene of an accident;
5. Driving without a license or while license is suspended or revoked;
6. Reckless driving; or
7. Any other charge filed because of a motor vehicle accident in which personal injury or death occurred.
8. Crimes which if committed under the laws of Oklahoma would be a felony.
9. The fines including court costs, imposed upon a plea of guilty entered before the Court Clerk shall be as provided in by order of the District Court.

Any person violating the provisions of 47 CNCA Sections 10, 11, 12, 13, 14 or 16, where a jail sentence is not mandatory, may in the discretion of the Prosecutor and subject to the approval of the Court, be permitted to enter a plea of guilty by written statement by the person charged to be presented to the Court.

Except as provided in paragraphs 6 and 7 above, all pleas of guilty must be made orally by the defendant before the Court.

Rules 43-49 reserved for future use.

SECTION VI. ATTORNEY BOND PRIVILEGES

Rule 50. Procedures Concerning Release of Defendants Upon Attorney's Affidavit of Responsibility for Court Appearance of Client (O.R. System)

The privilege of having defendants released upon their attorney's affidavit of responsibility for court appearance is hereby given to all attorneys who are members of the Cherokee Bar Association, under the following terms and conditions:

1. That said privilege shall apply only to defendants arrested for crimes which are misdemeanors.
2. That the defendant involved shall never have been convicted of a felony or convicted of an offense involving dishonesty.
3. That the defendant is a resident of the Cherokee Nation.
4. That the attorney involved signs an affidavit that personally holds the attorney responsible to the court for the appearance of said defendant at all proceedings until final disposition has been made of the case to the satisfaction of the Court.
5. That the Court Clerk shall have the duty of administering the procedures of the O.R. system.
6. That the Court Clerk shall maintain a list of eligible members having the O.R. privilege.
7. That no attorney shall be allowed O.R. privileges who has previously executed an attorney's affidavit of responsibility for court appearance of a client, and that said client did not appear at any proceedings required, the same which resulted in a Bench Warrant being issued for the said defendant and outstanding, unless the Court Clerk has, upon hearing, reinstated said attorney with O.R. privileges.
8. That the Clerk of said Court shall give written notice to attorneys of revocation of their O.R. privileges.

Rules 52-59 reserved for future use.

SECTION VII. DISQUALIFICATION OF JUDGES

Rule 60. Disqualification of Judges In Civil and Criminal Cases

Before filing any motion to disqualify a judge, an "in camera" request shall first be made to the judge to disqualify or to transfer the cause to another judge. If such request is not satisfactorily resolved, not less than ten (10) days before the case is set for trial, a written motion to disqualify a judge or to transfer a cause to another judge may be filed and a copy delivered to the judge.

Any interested party who deems himself aggrieved by the refusal of a judge to grant a motion to disqualify or transfer a cause to another judge may petition the Supreme Court within five (5) days from the date of said refusal a Written request for rehearing. A copy of the request shall be mailed or delivered to the chief Justice of the Supreme Court, to the adverse party and to the judge who entered the original order.

An original proceeding in mandamus to disqualify a judge in a civil action or proceeding shall be brought before the Supreme Court.

Rule 61. Disqualification of trial judge

No judge of any court shall sit in any cause or proceeding in which the judge may be interested, or in the result of which the judge may be interested, or when the judge is related to any party to said cause within the fourth degree of consanguinity or affinity, or in which the judge has been of counsel for either side, or in which is called, in question the validity of any judgment or proceeding in which the judge was of counsel or interested, or the validity of any instrument or paper prepared or signed by the judge as counselor attorney, without the consent of the parties to said action entered of record.

No judge of any court shall sit in any contested civil cause or proceeding that is related to any attorney of record in such cause within the third degree of consanguinity or affinity without the consent of the parties in such cause or proceeding who have entered a formal appearance of record. This disqualification shall not apply when an appearance is made by a party for the purpose of disclaiming any interest in such action or proceeding or waiving the right to appear and contest such cause or proceeding.

No judge of any court shall sit in the trial or hearing of any criminal cause or proceeding if the judge is related to any attorney of record in such cause within the third degree of consanguinity or affinity without the consent of the parties who have made an appearance in such cause or proceeding entered of record. This disqualification shall not apply to arraignments, the fixing of bail, or the acceptance of pleas.

"Attorney of record" as used in this section shall include not only the attorney actually appearing in such action but any other attorney who is an associate or a member of a partnership or professional corporation with such appearing attorney. However, "attorney of record" as the term related to the prosecuting attorney and public defender's office shall mean only that attorney actually appearing in the cause or proceeding.

The disqualifications provided for in this section shall not exclude the disqualifications at common law.

Rule 62. Disqualification of judge, claim of Mandamus

Any party to any cause pending in a court of record may in term time or in vacation file a written application with the clerk of the court, setting forth the grounds or facts upon which the claim is made that the judge is disqualified, and request said judge so to certify, after reasonable notice to the other side, same to be presented to such judge, and upon failure so to do within three (3) days before said cause is set for trial, application may be made to the proper tribunal for mandamus requiring him so to do.

Rules 63-69 reserved for future use.

SECTION VIII. CONTEMPT

Rule 70. Direct Contempt

Power of the Court. The court has the power to punish any contempt in order to protect the rights of the parties and the interests of the public by assuring that the administration of justice shall not be thwarted. The trial judge has the power to cite and

if necessary punish summarily anyone who, in open court, willfully obstructs the court of judicial proceedings after an opportunity to be heard has been afforded.

Admonition and Warning. No sanction other than censure should be imposed by the trial judge unless (i) it is clear from the identity of the offender and the character of the acts that disruptive conduct and willfully contemptuous, or (ii) the conduct warranting the sanction was preceded by a clear warning that the conduct is impermissible and that specified sanction may be imposed for its repetition.

Notice of Intent to Use Contempt Power; Postponement of Adjudication. The trial judge should as soon as practicable after the judge is satisfied that courtroom misconduct requires contempt proceedings, inform the alleged offender of the intention to institute such.

The trial judge should consider the advisability of deferring adjudication of contempt or courtroom misconduct of a defendant, an attorney or a witness until after the ~~mal~~, and should defer such a proceeding unless after the trial prompt punishment is imperative.

Notice of Charges and Opportunity to Be Heard. Before imposing any punishment for contempt, the judge should give the offender notice of the charges and at least a summary opportunity to adduce evidence or argument relevant to guilt or punishment.

Referral to Another Judge. The judge before whom Courtroom misconduct occurs may impose appropriate sanctions, including punishment for contempt, but should refer the matter to another judge, if his conduct was so integrated with the contempt that the judge contributed to it or was otherwise involved, or objectivity can reasonably be questioned.

Rule 71. Indigent Defendant in Civil Contempt Action- Right to Counsel- Attorney Fees

In a civil contempt action which may result in the incarceration of a defendant who appears without counsel, the court must inform the defendant that he or she has a right to counsel and that if the defendant is financially unable to employ counsel and desires such, the court must assign counsel to represent the defendant. Only after receiving notice of this right, can the defendant knowingly and intelligently waive the right to counsel. A defendant who desires counsel and can establish indigence under the normal standards for appointment of counsel in a criminal case, shall have an attorney appointed to represent him or her. The attorney shall represent the defendant until final disposition of the civil contempt action and shall receive compensation, payable from the court fund, in an amount set by the trial court.

Rules 73-79 reserved for future use.

SECTION IX. COURT REPORTERS

Rule 80. Persons qualified for appointment as court reporter.

Only the following persons may act and are eligible for employment on a full-time or part-time basis as official court reporters for the courts.

Persons now certified or hereafter certified by the State Board of Examiners of Official Shorthand Reporters.

Rule 81. Duties of reporter- Methods- Transcripts

The Court reporter shall make a full reporting by means of stenographic hand, steno-mask or machine notes, or a combination thereof, of all proceeding, including the statements of counsel and the court and the evidence, in trials and other judicial proceedings to which the court reporter is assigned by the appointing judge unless, excused by the judge who is trying the case with the consent of the parties to the action. A refusal of the court to permit or to require any statement to be taken down by the court reporter or transcribed after being taken down, upon the same being shown by affidavit or other direct and competent evidence, to the Supreme Court, shall constitute a denial of due process of law. The court reporter may use an electronic instrument as a supplementary device. In any trial, hearing or proceedings, the judge before whom the matter is being heard may, unless objection is made by a party or counsel, order the proceedings electronically recorded. A trial or proceedings may proceed without the necessity of a court reporter being present, unless there is objection by a party or counsel. Provided that if an official transcript is ordered then it shall be prepared by the certified court reporter.

Upon request of either party in a civil or criminal case the reporter shall transcribe the proceedings in a trial or other judicial proceeding, or so much thereof as may be requested by the party, certify to the correctness of the transcript, and deliver the same as the Court may prescribe. The fee for an original transcript shall be Five Dollars (\$5.00) per page. Two copies of the original transcript shall be furnished without additional charge. A charge of \$75.00 dollars per hour if not transcribed provided that this amount shall be deducted if transcription is requested at a later date. Mileage is set at the government rate. Each page shall be at least twenty-five lines to the page and typed in ten-point pica type. Said page as mentioned herein shall be no more than double spaced and the margin on the left side of the page shall be no more than one and one-half (1-1/2) inches and the margin on the right side of the page shall be no more than one-half (1/2) from the edge of the paper. The fees for making the transcript shall be paid in the first instance by the party requesting the transcript and shall be taxed as costs in the suit.

When the judge's own motion orders a transcript of the reporter's notes, the judge may direct the payment of charges therefore and the taxation of the charges as costs in such manner as may seem just. In a criminal action, if the defendant shall present to the judge an affidavit that defendant intends in good faith to take an appeal in the case and that a transcript of the reporter's notes is necessary to enable defendant to prosecute the appeal, and that the defendant does not have the means to pay for the transcript, the court, upon finding that there is reasonable basis for the averment, shall order the transcript made at the expense of the district court fund. The format preparation, delivery and filing of transcripts to be used in civil and criminal appeals may be regulated by the Supreme Court.

The court reporter shall file records of the evidence and the proceedings taken in any case with the clerk of the court in which the case was tried.

To the extent that it does not substantially interfere with the court reporter's other official duties, the judge by whom a reporter is employed or to whom assigned may assign a reporter to secretarial or clerical duties arising out of official court operations.

Rule 82. Transcripts-Access to copies-Costs

A transcript of the court reporters notes, upon request and for the use of an indigent defendant or a Prosecutor, may not be charged to the court fund unless, before its preparation, the cost to be incurred was authorized by written judicial order.

When a judge authorizes or orders a transcript of the court reporters notes of any proceeding to be prepared at the expense of the court fund, or where a prosecuting attorney orders such a transcript at public or court fund expense and the accused as an indigent is constitutionally entitled to a free copy of the transcript, a reporter shall prepare an original and two copies of the transcript so ordered and file it with the clerk of the trial court. The court reporter shall immediately notify the prosecuting attorney and the defendant of the date the transcript was filed. The prosecuting attorney and the defendant shall have access to the copies of the transcript on such terms as the trial court may impose. The judge may prescribe rules for access to or disposition of the copies of the transcript.

Rule 83. Admissibility of transcripts as evidence

Any transcript of notes, duly certified as correct by the reporter who took the evidence, and filed with the clerk of the court in which the cause was tried, shall be admissible as evidence in all cases, of like force and effect, as testimony taken in the cause by deposition, and subject to the same objection, a transcript of said notes may be incorporated into any appellate record. If any reporter ceases to be the official reporter of the court, and thereafter makes a transcript of the notes while acting as official reporter, the court reporter shall swear to the transcript as true and correct and when so verified, the transcript shall have the same force and effect as if certified while an official reporter.

Rules 84-89 reserved for future use.

SECTION X. COURT FUND**Rule 90. Deposit of fees, fines and forfeitures in the Court Fund- Uses- Agent of fund- Bond**

All fees, fines and forfeitures shall, when collected by the court clerk, be designated as an account in the Cherokee Nation treasury designated "The Court Fund", and shall be used, from year to year, in defraying the expenses of holding court.

Rule 91. Claims allowable- Approval- Limitation on courthouse building

1. Claims against the court fund shall include only such expenses as may be lawfully incurred for the operation of the court. Payment of the expenses may be made after the claim therefore is approved by the Court Administrator.

The term "expenses" shall include the following items and none others:

1. compensation of staff;
2. juror and witness fees and mileage, as well as overnight, accommodations and food expense for jurors kept together as well as compensation to a witness for attendance as set out in legislation as created by the Cherokee Nation Tribal Council, except for expert witnesses who appear on behalf of the Cherokee Nation shall be paid a reasonable fee for their services from the court fund;
3. office supplies, books for records, postage and printing;

4. furniture, fixtures and equipment;
5. renovating, remodeling and maintenance of courtrooms, judge's chambers, clerk's offices and other areas primarily used for judicial functions;
6. judicial robes;
7. attorney's fees for indigents in the trial court and on appeal;
8. transcripts ordered by the court;
9. necessary telephone expenses, gas, water and electrical utilities for the part of the courthouse occupied by the court;
10. the cost of publication notice in juvenile proceedings as provided in 10 CNCA § 1105 and in termination of parental rights proceedings brought by the state as provided in 10 CNCA § 1131;
11. interpreter fees; and
12. any other expenses now or hereafter expressly authorized by court rule and/or statute.

Rules 92-99 reserved for future use.

SECTION XI. PETITION

Rule 100. Contents

Such petition, or charge, shall contain the following:

1. The full name, address, telephone number and fax number, if any, of the person filing the petition.
2. If the petition is filed on behalf of another person or organization, the full name, address, telephone number and fax number, if any, of the party or organization represented.
3. The full name, address, telephone number and fax number, if any, of the person against whom the charge is made (herein referred to as respondent).
4. A clear and concise statement of the facts, constituting the alleged claim, including the date, place and names of those parties involved in the alleged claim.
5. A clear and concise statement of the legal authority and jurisdiction under which the cause of action is being predicated.

Rule 101. Use of Bar Identification Number

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his or her name, with a Cherokee Nation Bar Association number.

Rules 102-109 reserved for future use.

SECTION XII. SERVICE OF PLEADINGS- DISMISSAL-FRIVOLOUS PLEADINGS

After summons is issued, the original shall be returned and filed in the case with the Court Clerk. In those cases where the court has issued contempt or restraining orders, or granted injunctive relief or in other extraordinary proceedings requiring personal notice to the party affected, the original order shall be filed with the Court Clerk after its issuance, and certified copies thereof shall be used for service on the parties.

If the Court (Judge or Court Clerk) has examined the court file and docket sheet of a case and determines that more than 180 days have elapsed without service being made on a named defendant, the Court may notify the plaintiff or plaintiff's attorney with notice to all parties or counsel of record to file a pleading to show cause why the action should not be dismissed as to that defendant. If good cause is not shown or response is not made, the Court may dismiss the case without prejudice.

If a pleading is found to be frivolous, the Court may, on its own motion or on the oral or written Motion of the opposing party, tax costs in the case or a portion of the costs up to and including the frivolous pleading, against the party filing it. The Court may make subsequent Orders to insure compliance with the Court's findings.

SECTION XIII. BRIEFS

Each brief shall be clearly styled to show whether it is in support of a motion, in opposition to a motion, or a reply brief, the particular application or proceeding to which it relates, and the party or parties on whose behalf it is presented.

All motions and applications and responses to them, including briefs if required, shall not exceed twenty (20) pages in length without prior permission of the Court. Reply briefs are permitted only by leave of Court by application stating the reason for filing a reply brief. No reply brief may exceed five (5) pages in length. No further briefs shall be filed without prior permission of the Court.

SECTION XIV. RESPONSES TO INTERROGATORIES AND REQUESTS FOR ADMISSIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

Each answer or objection to an interrogatory, request for admission, or request for production of documents shall be immediately preceded by the interrogatory or request to which response is being made.

SECTION XIV. PRETRIAL PROCESS

Rule 110. Scheduling Order

A scheduling order may be issued at the discretion of the District Court Judge. The Judge may enter a scheduling order for a time and date certain for the performance of the following duties and any other duties the Judge deems appropriate:

1. Response or amended response of defendant;
2. Reply, if any, of plaintiff;
3. Mutual exchange of names of proposed witnesses and expected testimony; mutual
4. exchange of proposed exhibits and description of such exhibits;
5. Filing of motions to join additional parties or to dismiss;
6. Status conference report due;
7. Status and simplification conference;
8. Cut-off for amendments to pleadings;
9. Settlement conference;

10. Mutual exchange of authorities to be relied upon at trial and mutual exchange of trial
11. briefs, if any; final exchange of list of witnesses and exhibits; cut-off for filing additional motions or responses to amended pleadings, if any;
12. Discovery cut-off; cut-off for filing responses to motions, if any;
13. Pretrial conference report due;
14. Pretrial conference; disposition of pending motions; and,
15. Trial.

Rule 111. Pretrial Order

Plaintiff's counsel shall initiate the preparation of the pretrial order by submitting a proposed pretrial order to opposing counsel no later than 15 days before the pretrial conference hearing. If Plaintiff's counsel fails to do so, then at least 10 days before the pretrial conference hearing, Defendant's counsel shall submit a proposed pretrial order to Plaintiff's counsel. If plaintiff is pro se, the first named represented party shall initiate its preparation. Opposing counsel and pro se parties must cooperate with the preparing party in the completion of the pretrial order and shall return the completed pretrial order to opposing counsel no later than 5 days before the pretrial hearing. In all cases that the Cherokee Nation is party, then the Cherokee Nation's counsel shall have the duty of tendering the proposed pretrial order.

Rule 112. Purpose of the agreed pretrial order- Expectations and directions for parties

Purpose of the agreed pretrial order. The purpose of the agreed pretrial order is to condense all material information into one working document that will control the trial of the case.

Prior rulings. The agreed pretrial order must reflect the current status of the case and accurately reflect all prior rulings by the court.

Unprofessional conduct. Failure of the plaintiff's attorney to timely initiate and/or failure of any attorney in the case to cooperate in timely preparation of the agreed pretrial order shall be deemed to be unprofessional conduct by the court.

Good faith disputes. While all reasonable efforts should be made by counsel and litigants to timely agree on a pretrial order, if, following good faith effort, disputes still remain regarding factual and/or legal issues, such should be noted in the single pretrial order submitted, for ultimate resolution by the court.

No adoption of pleadings by reference. Counsel may not adopt pleadings and incorporate them into the pretrial order by reference.

Reservation of rights not allowed. No reservation of an asserted right to add additional witnesses or exhibits or to take additional discovery will be allowed in the agreed pretrial order.

Late exhibits. Late exhibits are those not listed in the agreed pretrial order. If late exhibits are discovered, the party desiring to offer them shall immediately mark them for identification and furnish copies to opposing counsel with a statement explaining their late production. If objected to, the sponsoring party must file a written motion requesting permission to supplement the exhibit list.

Late witnesses. Additional witnesses, listed after the witness exchange date, will be permitted to testify only if ordered to prevent manifest injustice and only then, if proper notice is given, under the facts and circumstances of the case, to the other party, and a written motion is immediately filed requesting permission to supplement the witness list.

Pro se litigants. Pro se litigants and opposing counsel should confer before a pretrial conference and be prepared to discuss at the conference significant disputes relative to issues of fact and law, exhibits, witnesses, evidence, in limine matters and all matters bearing on an expeditious settlement or trial of the case. -

Pretrial conference. At the pretrial conference, the court may take any appropriate action to insure a fair trial to all parties.

Demonstrative aids, exhibits and summaries. All demonstrative aids, exhibits and summaries intended to be used for any purpose at trial shall be displayed to opposing counsel at least 14 days in advance of trial, unless a shorter time is allowed pursuant to the scheduling order.

Rule 113. Application to Withdraw and Order for Withdrawal

Upon application, counsel may request an Order for Withdrawal as Counsel. The application must state the reason for requesting the withdrawal and the status of the case.

Every Order Allowing Withdrawal must contain:

1. The case's current status, including when hearings, if any, have been scheduled; and,
2. A certificate of mailing to the client showing last known mailing address and to all other attorneys of record in the case.
3. Whether new or substitute counsel has been obtained by the client and entered an appearance.
4. An Application to Withdraw will only be considered if submitted to the judge at least 20 days prior to a scheduled hearing or trial.

Rules 114-119 reserved for future use.

SECTION XVI. MOTIONS

Rule 120. Place of filing-Consents- Service on other parties- Time for filing of motions and responses thereto

All motions shall be filed in writing in the office of the District Court either in person, by mail or fax. All motions for summary judgment shall also be filed in writing in the office of the District Court either in person, by mail or fax. Unless otherwise provided in these rules or by order of the District Court, motions and responses thereto shall be filed promptly and within such time as not to delay the proceedings. Promptness and diligence is favored in all filings in the District Court.

Rule 121. Rulings on motions- Generally

The District Court Judge and all such rulings and orders shall be issued in writing and a copy served on each of the parties. The District Court Judge designated to conduct the hearing shall rule on all motions after the opening of the hearing, and any

orders in connection therewith, if announced at the hearing, shall be stated orally on the record; in all other cases, the Judge shall issue such rulings and orders in writing and shall cause a copy of the same to be served on each of the parties, or shall rule on the matter in the decision.

Rule 122. Motions, rulings and orders to be part of the record

All motions, rulings and orders shall become a part of the record.

Rule 123. Motion to dismiss

The respondent may file a motion to dismiss at any time prior to the scheduling order or as permitted in the scheduling order, or move for dismissal at any hearing for:

1. Lack of jurisdiction over subject matter.
2. Lack of jurisdiction over persons.
3. Insufficiency of process or service thereof.
4. Failure of petitioner to state a claim upon which relief can be granted.

Rule 124. Motion for summary judgment

Either party may move for summary judgment by alleging that there is no genuine issue as to any material fact and by alleging that the moving party is entitled to judgment as a matter of law.

Rule 125. Filing of answer or other participation in proceedings not deemed a waiver of rights

The right to make motions or to make objections to rulings upon motions shall not be deemed waived by the filing of an answer or by other participation in the proceedings before the District Court.

Rule 126. Intervention

Any person desiring to intervene in any proceeding shall file a motion in writing or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. An unstapled original of written motions shall be filed. Immediately upon filing such motion, the moving party shall serve a copy on the other parties. The assigned Judge may be, may by order permit intervention in person or by counselor or other representative to such extent and upon such terms as deemed proper.

Rules 127-129 reserved for future use.

SECTION XVII. WITNESSES' FEES AND MILEAGE

Witnesses requested to appear before the District Court shall be paid the same fees and mileage that are paid witnesses in the courts of the United States, and witnesses whose depositions are taken and the persons taking the same shall severally be entitled to the same fees as are paid for like services in the courts of the United States. Witnesses' fees and mileage shall be taxed against the party at whose instance the witness appears and the fees of persons taking the deposition shall be taxed against the party at whose instance the deposition is taken.

SECTION XVIII. REQUEST FOR JURY TRIAL

A request for a jury trial must be made with the pre-trial order. No pre-trial order will be filed without payment of the jury fees. Failure to post jury fees could result in the loss of a jury trial.

SECTION XIV. ATTORNEYS

Attorneys allowed to practice in the District Courts of the Cherokee Nation are required to follow procedures codified by the Supreme Court of the Cherokee Nation in Supreme Court Rules 130-138.

SECTION XX. LAY ADVOCATES

Lay Advocates are allowed to practice in the courts of the Cherokee Nation and shall be required to follow procedures codified by the Supreme Court of the Cherokee Nation in Supreme Court Rules 140-145.

SECTION XXI. COURT PROCEDURE – GRIEVANCES

Rule 127 District Court shall review all requests for formal hearings

Pursuant to the Supreme Court Rule 139, the District Court shall review all requests made by the Cherokee Nation Attorney General for certification for formal hearing of a grievance against an attorney or lay advocate before the Cherokee Nation Supreme Court.

Rule 128 District Court to determine jurisdiction for formal hearing

The District Court before certifying a grievance for formal hearing before the Cherokee Nation Supreme Court shall determine that the attorney or lay advocate is a member of the Cherokee Nation Bar Association and the subject matter of the grievance occurred within the jurisdiction of the Cherokee Nation Courts.

Rule 129 Burden of Proof – clear and convincing evidence

The District Court before certifying a grievance for formal hearing before the Cherokee Nation Supreme Court shall determine that there is clear and convincing evidence in support of the Attorney General's request for a formal hearing.

SECTION XXI. RULES TO BE LIBERALLY CONSTRUED, AMENDMENT AND RESCISSION OF RULES

Rule 130. Rules to be liberally construed

The rules and regulations in this appendix shall be liberally construed to effectuate the purposes and provisions of the appendix.

Rule 131. Amendment or rescission of rules

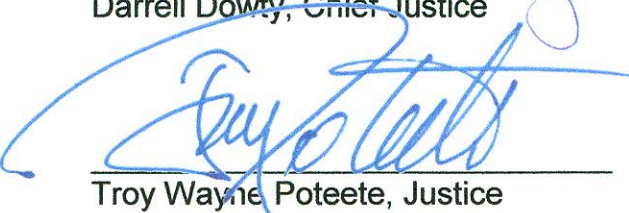
Any rule or regulation may be amended or rescinded by the Supreme Court of the Cherokee Nation at any time; provided, however, any amendment or rescission of

rules by the Supreme Court of the Cherokee Nation must meet the requirements of 20 C.N.C.A subsections (b) and (c) of section 57.

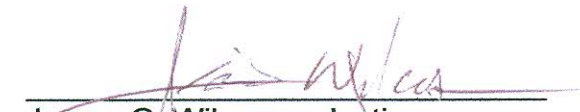
IT IS SO ORDERED, this 3rd day of September, 2013.



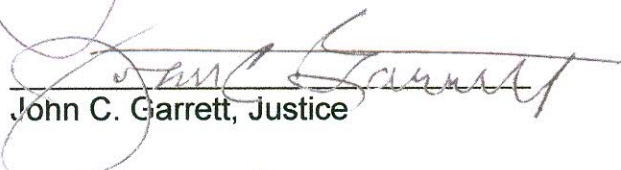
Darrell Dowty, Chief Justice



Troy Wayne Poteete, Justice



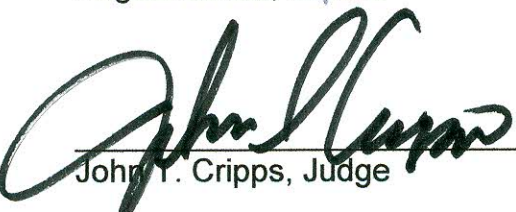
James G. Wilcoxon, Justice



John C. Garrett, Justice



Angela Jones, Justice



John Y. Cripps, Judge



C. Bart Fite, Judge