

IN THE SUPREME COURT OF THE CHEROKEE NATION

FILED

THE 2018 AMENDMENT AND ADOPTION)
OF COURT RULES OF THE DISTRICT)
COURT OF THE CHEROKEE NATION)

Case No. SC-AD-19-01

JUN 11 2019

CHEROKEE NATION
SUPREME COURT

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. To the extent these Rules modify or expand the Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure or Federal Rules of Evidence, these Court Rules shall govern all criminal and civil proceedings in the Tribal Courts.

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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 W.W. Keeler Tribal Complex, 17675 S. Muskogee Ave., 2nd Floor, Tahlequah, OK 74464.

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 affect 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 action, and the faxed/mailed 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 6-19 reserved for future use.

SECTION II. DOCKETS

Rule 20. Time of Hearing-set certain

Court dockets are held on the, first, second, third and fourth Friday of each month beginning at 9:00 a.m.; Judges at their discretion may alter the times of certain hearings in the economy of justice.

Rule 21. 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, W.W. Keeler Tribal Complex, 17675 S. Muskogee Ave., 2nd Floor, Tahlequah, OK 74464.

Citations may be disposed of pursuant to 22 CNCA § 1 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 nonappearance, 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;
7. Any other charge filed because of a motor vehicle accident in which personal injury or death occurred; or

Crimes which if committed under the laws of Oklahoma would be a felony. 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.

Rule 22. Recordings of Dockets

In order to maintain the integrity and confidentiality of court proceedings of the Cherokee Nation involving minor children, all electronic recordings of these proceeding shall not be duplicated, transcribed and/or distributed to any parties without the District Court's Order. These recording shall remain in the custody of the Clerk of the Courts of the Cherokee Nation. Upon proper request, any attorney or child welfare worker involved in the case wishing to review the video proceeding may do so in a place designated at the Cherokee Nation Courthouse under a protective order granted by the District Court.

Parties who determine that a proceeding may be appealed are encouraged to have a Certified Court Reporter present at the court hearing in order that a certified transcript of the proceeding can be produced under a protective order granted by the District Court.

Rule 23. Dismissal of Inactive Cases

All inactive civil, adoption, and criminal cases will be, by the Court Clerk, placed on a disposition docket every January of each calendar year. Any case in which no pleading has been filed or other action taken for a year will be considered an inactive case. The Court Clerk shall give notice to the parties and/or their counsel of record of such setting. The court may, for good cause shown, allow the action to remain open by issuing a written order setting forth the specific action required by the party requesting the case remain open and the date by which the action is to be taken, otherwise the court shall dismiss the case without prejudice.

Rules 24-29 reserved for future use.

SECTION III. 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 Section XV.

Rules 30-39 reserved for future use.

SECTION IV. COURTROOM DECORUM

Rule 40. 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 41. Prohibition of All Photographs, Broadcasting & Televising of Judicial Proceedings

All media photographs, cameras, video recording devices, sound recording devices, the broadcasting and televising of judicial proceedings in the Courthouse are prohibited in all Court facilities. In the case of special events, or regard to the general public and citizens, the Court Administrator may make limited exceptions following proper request for permission.

Rule 42. 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.

Rule 43. Attorney Attendance

In every hearing before the District Court, there shall be in attendance, an attorney of record that has filed an Entry of Appearance in the case, unless a party is pro se, in which case the party is bound by this rule. No electronic or telephonic participation may occur by counsel, parties, or witnesses except upon written motion by an attorney of record or pro se party, with written consent from opposing counsel or party, unless otherwise provided by law. Continuances may be granted in accordance with the rules of the District Court as established.

Rules 44 -49 reserved for future use.

SECTION V. COURT PROCEDURE- CRIMINAL CASES

Rule 50. 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 51. 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 52. 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 Court appointed counsel, written notice of such entry of appearance shall be given immediately to the Court and to the Court appointed counsel.

Rule 53. 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 54. 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:

1. 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.
2. 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.
3. No information concerning the confidential files shall be revealed except upon a written order of a District or Associate District Judge.

Rule 55. 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, 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.

Rules 56-59 reserved for future use.

SECTION VI. ATTORNEY BOND PRIVILEGES

Rule 60. 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 61-69 reserved for future use.

SECTION VII. PETITIONS AND COMPLAINTS

Rule 70. Contents

Such petition, or charge, or complaint 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 71. 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.

Rule 72. Applicability of Federal Rules of Evidence and Civil Procedure

All proceedings hereunder shall be conducted in accordance with the Court's Rules herein. In the event these Rules are incomplete in evidentiary and/or civil procedure issues then the Court may look to the Federal Rules of Evidence and/or Civil Procedure for guidance.

Rules 73-79 reserved for future use.

SECTION VIII. SERVICE OF PLEADINGS- DISMISSAL-FRIVOLOUS PLEADINGS

Rule 80. Filing of issued summons, 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.

The summons must be served in a manner that complies with the federal rules of civil procedure, including but not limited to, by use of a process server.

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.

Rules 81-89 reserved for future use.

SECTION IX. MOTIONS AND BRIEFS

Rule 90. Filing, Form and Timing of Motions and Briefs

All motions shall be filed in writing in the office of the District Court either in person, by mail or e-mail/fax, and shall state with particularity the grounds therefor and shall set forth the relief or order sought.

All motions shall be accompanied by a written brief setting forth a concise statement of the facts and supporting reasons, along with a citation of the authorities upon which the movant relies. 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.

Unless otherwise directed by the Court, the opposing party shall file a response brief and such supporting documents as are appropriate, within fourteen (14) calendar days after service. No further briefing is permitted without prior approval by the court, and any request for additional briefing shall not include the proposed brief. 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. The Court may rule upon motions without an oral hearing.

Motions for continuances of a trial or hearing date shall not be granted by the mere agreement of counsel. No continuance will be granted other than for good cause and upon such terms as the Court may impose. Any requests for an extension of time relating to motions must be in writing and, in general, will be looked upon with disfavor.

Rule 91. Rulings on Motions- Generally

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

Rule 92. Motions 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 93. 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.

No motion for summary judgment shall be considered unless it is filed and set for hearing or submitted on briefs within a reasonable time before the date of trial, thus permitting a reasonable time for the Judge to hear arguments and consider the merits after completion of the briefing schedule specified in Rule 103.

Each brief in support of a motion for summary judgment shall include a specifically captioned section listing all material facts as to which the moving party contends there is no genuine issue and citing the parts of the record relied on to support the listed facts as alleged to be undisputed. A brief in response to such a motion shall include a specifically captioned section listing all material facts as to which it is contended that there exists a genuine issue necessary to be litigated and citing the parts of the record relied on to support the facts alleged to be in dispute.

Rule 94. Answer Not a Waiver

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 95. 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 by order permit intervention in person or by counselor or other representative to such extent and upon such terms as deemed proper.

Rules 96-99 reserved for future use.

SECTION X. INTERROGATORIES, REQUESTS FOR ADMISSIONS AND REQUEST FOR PRODUCTION OF DOCUMENTS

Rule 100. Time for Filing

Interrogatories, Requests for Admissions and Document Requests may be served on any party with the filing of the petition or complaint, or at any time after the summons has been served.

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.

Interrogatories, Requests for Admissions and Document Requests, and answers thereto

shall not be filed with the Court.

Rules 101-109 reserved for future use.

SECTION XI. PRETRIAL PROCESS

Rule 110. Pretrial Conference and Scheduling Order

1. In all civil actions designated as Complex Business Cases, as promptly as possible after a complaint is filed, the Judge shall schedule an initial pretrial conference to be conducted in accordance with Fed. R. Civ. P. 16(b). In addition thereto, or in lieu thereof, not later than sixty (60) days from first appearance or ninety (90) days after service of the complaint, the Judge shall enter an order fixing the cut-off dates for the respective parties to complete the processes of discovery, the date for a final pretrial conference and, whenever practicable, the trial date. The Judge may order that the Planning and Discovery Conference between the parties required by Fed. R. Civ. P. 26(f) is placed on an expedited Schedule under Rule 26(f) (4).
2. In all cases 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:
 - a. Response or amended response of defendant;
 - b. Reply, if any, of plaintiff;
 - c. Mutual exchange of names of proposed witnesses and expected testimony;
 3. mutual
 - d. exchange of proposed exhibits and description of such exhibits;
 - e. Filing of motions to join additional parties or to dismiss;
 - f. Status conference report due;
 - g. Status and simplification conference;
 - h. Cut-off for amendments to pleadings;
 - i. Settlement conference;
 - j. Mutual exchange of authorities to be relied upon at trial and mutual exchange of trial
 - k. briefs, if any; final exchange of list of witnesses and exhibits; cut-off for filing additional motions or responses to amended pleadings, if any;
 - l. Discovery cut-off; cut-off for filing responses to motions, if any;
 - m. Pretrial conference report due;
 - n. Pretrial conference; disposition of pending motions; and,
 - o. Trial.

The parties and their counsel are bound by the dates specified in any such orders and no extensions or continuances thereof shall be granted in the absence of a showing of good cause. Mere failure on the part of counsel to proceed promptly with the normal processes of discovery shall not constitute good cause for an extension or continuance.

Rule 111. Complex Business Case Designation

The following cases shall be designated as "Complex Business Cases":

1. Any case brought by the Attorney General of the Nation on behalf of the Nation or one or more members of the Nation against one or more business and/or governmental entities where the amount in controversy is in excess of \$250,000.
2. Any case brought by a member of the Nation and/or any business entity owned in whole

or in part by the Nation or any member of the Nation against one or more business and/or governmental entity where the amount in controversy is in excess of \$250,000; or .

3. Any case that is designated by a District Court Judge, in his or her sole discretion, as a Complex Business Case.

Rule 112. Discovery Responses and Objections

Discovery requests made pursuant to Fed. R. Civ. P. 33, 34, and 36 may be served with the Initial Pleading and responses and objections thereto are due within thirty (30) days after the service of such requests. All responses and objections to interrogatories, depositions, requests, or applications under Fed. R. Civ. P. 26 through 37, as well as all motions and replies thereto concerning discovery matters, shall be in writing. 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. If time does not permit the filing of a written motion, the Judge may waive this requirement.

Unless otherwise ordered by the Judge, an objection to any interrogatory, request, or application under Fed. R. Civ. P. 26 through 37 shall be served within thirty (30) days after the service of the interrogatories or request. Any such objection shall be specifically stated. Any such objection shall not extend the time within which the objecting party must otherwise answer or respond to any discovery matter to which no specific objection has been made.

A privilege log providing the complete basis for withholding responsive material or information must be served contemporaneously with the responses to the discovery calling for the information.

Protective Orders seeking to limit the use of and access to confidential information shall be in the form of Protective Order Regarding Confidential Information. The terms of this order may be modified only by Court Order for good cause shown, and the pendency of any requested modification shall not be a basis for withhold non-privileged, responsive information.

Rule 113. Expert Disclosures

Counsel is encouraged to agree upon the sequence and timing of the expert disclosures required by Fed. R. Civ. P. 26(a) (2). All such agreements must be in the form of a consent order entered by the Court. Absent such a consent order or unless ordered otherwise, the disclosures required by Fed. R. Civ. P. 26(a)(2) shall be made first by the plaintiff not later than sixty (60) days before the earlier of the date set for completion of discovery, then by the defendant thirty (30) days thereafter. Plaintiff shall disclose fifteen (15) days thereafter any evidence that is solely contradictory or rebuttal evidence to the defendant's disclosure.

Whether accomplished by agreement between the parties or pursuant to the schedule set by the Judge all parties shall complete all forms of expert disclosure and discovery not later than thirty (30) days after the date upon which plaintiff is, or would be, required to disclose contradictory or rebuttal evidence.

Rule 114. Issuance of Subpoenas

1. Attorneys of record in an action, or associates in firms of record, as officers of the Court, shall issue all subpoenas in the action as authorized by Fed. R. Civ. P. 45(a) (3).
2. Parties appearing pro se may apply for subpoenas on their own behalf. All such requests by such party must be accompanied by a memorandum setting forth the names and addresses of witnesses or the documents requested and why and for what purpose or purposes. All such requests by pro se parties shall be referred to a Judge or magistrate

judge of this Court who shall first determine whether the requested subpoena shall issue; provided, however, that such determination shall not preclude any witness or person summoned or other interested party from later contesting the subpoena. All subpoenas shall be made returnable to the place, date, and time of the trial or hearing, unless otherwise ordered by the Judge.

3. The party issuing a subpoena for a trial, a hearing, or contempt proceedings, or when it is otherwise necessary to file proof of service, shall file proof of service in the form required by Fed. R. Civ. P. 45(b) (4). Any such proof of service shall be filed promptly and, in any event, within the time during which the person served must respond to the subpoena. Lawyers and parties proceeding pro se shall file with the proof of service in civil actions a certificate that all required witness fees and expenses were served with the subpoena requiring the attendance of the witness.
4. Without first obtaining permission of the Court, no subpoena shall issue for the attendance at any hearing, trial, or deposition of: the Principal Chief, the Deputy Principal Chief, the Attorney General; a sitting Tribal Councilor; a judge of any court; or any member of the Administration's Cabinet.
5. Except as otherwise ordered by the Court for good cause shown, subpoenas for attendance of witnesses at hearings or trials in civil actions shall be served not later than fourteen (14) days before the date of the hearing or trial.
6. Proof of service of a notice to take depositions as provided in Fed. R. Civ. P. 30 (b) and 31(b) constitutes sufficient authorization for the issuance of a subpoena by the Clerk for the attendance of persons named or described therein. Except as otherwise ordered by the Judge for good cause shown, subpoenas compelling attendance at a deposition shall be served not later than eleven (11) days before the date of the deposition. No subpoena for the taking of depositions shall be issued by the Clerk unless there be exhibited to the Clerk a copy of the notice to take deposition together with a statement of the date and manner of service and of the names of the persons served, certified by the person who made service.
7. Except with respect to a witness in a foreign country (See 28 U.S.C. § 1783), the Clerk shall, upon request, issue a subpoena for taking a deposition requiring the appearance of any party or witness at any place within the Nation or 100 miles from the place where that person resides, is employed, or transacts business in person, or is served, or at such other convenient place as is fixed by an order of court.

Rule 115. Motions to Compel Discovery

1. After a discovery request is objected to, or not complied with, within time, and
2. If not otherwise resolved, it is the responsibility of the party initiating discovery to place the matter before the Court by a proper motion to compel an answer production, designation, or inspection.
3. Opening briefs in support of motions to compel shall not exceed 15 pages, double-spaced. Briefs opposing motion to compel shall not exceed 5 pages, double-spaced and must be filed 14 calendar days after service of opening brief if service is performed by hand or electronically, 21calendar days after service of opening brief if service is performed by mail or overnight delivery. The Court may elect to decide discovery motions without briefing.
4. After the Court has ruled on a discovery motion, any answer, production, designation, inspection, or examination required by the Court shall be completed within eleven (11)

days after the entry of the order on the motion, unless otherwise ordered by the Court. A party objecting to the failure of another party to comply with an order on a discovery motion shall be responsible for bringing the non-compliance before the Judge by a proper motion for supplementary relief and may request monetary sanctions

5. No motion concerning discovery matters may be filed until counsel shall have conferred in person or by telephone to explore with opposing counsel the possibility of resolving the discovery matters in controversy. The Judge will not consider any motion concerning discovery matters unless the motion is accompanied by a statement of counsel that a good faith effort has been made between counsels to resolve the discovery matters at issue.
6. The Court may, upon appropriate written motion by a party, allow an extension of time in excess of the time provided by the Federal Rules of Civil Procedure, these Rules, or previous court order, within which to respond to or complete discovery or to reply to discovery motions. Any agreement between counsels relating to any extension of time is of no force or effect; only the Judge, after appropriate motion directed thereto, may grant leave for any extension of time.

Further presentation to the Judge of unnecessary discovery motions, the presentation to another party or non-party of unnecessary discovery requests of any kind, as well as any unwarranted opposition to proper discovery proceedings, will subject such party to appropriate remedies and sanctions, including the imposition of costs and counsel fees.

Rules 116-119 reserved for future use.

SECTION XII. PRETRIAL ORDER

Rule 120. Preparation and Filing and Contents

1. Plaintiff's counsel shall initiate the preparation of the pretrial order by submitting a proposed pretrial order to opposing counsel no later than twenty-one (21) days before the final pretrial conference hearing. If Plaintiff's counsel fails to do so, then at least fifteen (15) 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.
2. The Pretrial Order in Complex Business Cases shall include, among other things as directed by the Court:
 - a. A joint list of the factual issues to be tried
 - b. A joint list of stipulated facts
 - c. A list of all exhibits each Party intends to use at trial.
 - d. Agreed upon procedures for the disclosure, use and admission of exhibits demonstrative aids and summaries with witnesses at trial
 - e. A list of all fact and expert witnesses, designated by live or by deposition, that each party intends to call to testify at trial
 - f. Prior rulings. The agreed pretrial order must reflect the current status of the case

- and accurately reflect all prior rulings by the court
- g. A list of all motions that are pending before the court and any motions in limine the parties wish to present.
 - h. An estimate of the number of days needed for trial.
3. The page and line designations, counter designations and all objections thereto of all lay witness testimony that will be provided by deposition.

Rule 121. Purpose of the agreed pretrial order- Expectations and directions for parties

1. 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.
2. 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.
3. 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.
4. No adoption of pleadings by reference. Counsel may not adopt pleadings and incorporate them into the pretrial order by reference.
5. 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.
6. 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.
7. 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.
8. 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. -
9. Pretrial conference. At the pretrial conference, the court may take any appropriate action to insure a fair trial to all parties.

Rule 122. 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 123-129 reserved for future use.

SECTION XIII. WITNESSES' EXPENSE REIMBURSEMENT

Rule 130. Witness Fees and Expenses

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.

Rules 131-139 reserved for future use.

SECTION XIV. COURT REPORTERS

Rule 140. 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 141. 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 142. 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 143. 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 144-149 reserved for future use.

SECTION XV. JURY TRIALS

Rule 150. Request for Jury Trial

A request for a jury trial must be made with the pre-trial order, except in Complex Business cases, in which the jury demand must be made with the filing of the petition, complaint, or answer of the party seeking a jury trial. Failure to timely request a jury trial could result in the loss of a jury trial.

Rule 151. Jury Procedures

1. **Jury Questionnaires.** When the jurors report for duty at a session of Court, the Clerk shall, upon request, make available to counsel for the parties, or to any party acting pro se, a list of such jurors together with any questionnaires prepared by the jurors. However, no juror shall be approached, either directly or through any member of his or her immediate family, in an effort to secure information concerning such juror.
2. **Peremptory Challenges.** In civil actions where there are several plaintiffs and/or several defendants, the Judge may allow each or both sides more than the usual number of three (3) peremptory challenges upon motion made at least twenty-one (21) days before the date set for commencement of trial. Untimely motions will not be entertained.
3. **Communications with Jurors.** No attorney or party litigant shall personally, or through any investigator or any other person acting for the attorney or party litigant, interview, examine, or question any juror or alternate juror with respect to the verdict or deliberations of the jury in any civil action except on leave of Court granted upon good cause shown and upon such conditions as the Judge shall determine.

Rule 152. Jury Instructions

Except as provided otherwise in a pretrial or scheduling order, in all cases tried to a jury the parties shall submit proposed instructions to the Judge in duplicate, with a copy to opposing counsel, at least five (5) business days before the scheduled trial date. Each instruction shall be set forth on a separate page and shall be numbered and identified appropriately by the party submitting it. The original shall bear at its foot a citation of the authority in support of the instruction. Instructions shall be filed as a group together with a cover sheet in pleading form and a certificate of service. Instructions filed with the Court must be proffered to the Court during the instruction conference and ruled upon by the judge to become a part of the official record for appeal.

Rule 153. Jury Costs

Whenever any civil action scheduled for jury trial is settled, or otherwise disposed of in advance of the actual trial, then, except for good cause shown, juror costs, including service fees, mileage, and per diem, shall be assessed equally against the parties and their counsel or otherwise assessed as directed by the Court, unless the Clerk is notified at least one (1) full business day prior to the day on which the action is scheduled for trial in time to advise the jurors that it will not be necessary for them to attend.

Likewise, when any civil action, proceeding as a jury trial, is settled at trial in advance of the verdict, then, except for good cause shown, all jury costs, service fees, mileage, and per diem shall be assessed equally against the parties and their counsel, or otherwise assessed as directed by the Court.

Rules 154-159 reserved for future use.

SECTION XVI6. COURT PROCEDURE GENERAL

Rule 160. 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 161. 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 162. Vacation of Final Judgments

1. 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.
2. 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 163. 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 164. 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, but the Presiding Judge may issue a written order extending the term if good cause exists.

Rules 165-169 reserved for future use.

SECTION XVII. SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

Rule 170. Mediation

The Court encourages the parties to meet and consult with each other to achieve settlement. The use of mediation as an alternative dispute resolution process in all civil actions is authorized and encouraged. Litigants in all civil cases shall be advised of the availability of mediation and may request it. The utilization of Court ordered settlement conferences as a form of mediation is also authorized. All mediations shall be subject to the following provisions:

1. The parties by consent may select and compensate any mutually acceptable non-judicial mediator or neutral. No mediator or neutral may be compensated by contingent fee.
2. The appointment of a mediator or neutral shall not operate to postpone or stay the scheduling of any case or controversy nor shall such appointment be grounds for the continuance of a previously scheduled trial date or the extension of any deadlines previously scheduled by the Judge.
3. The substance of communication in the mediation process shall not be disclosed to any person other than participants in the mediation process; provided, however, that nothing herein shall modify the application of Federal Rule of Evidence 408 nor shall use in the mediation process of an otherwise admissible document, object, or statement preclude its use at trial.

Rules 171-179 reserved for future use.

SECTION XVIII. COURT PROCEDURE – GRIEVANCES

Rule 180. District Court shall review all requests for formal hearings

Pursuant to the Supreme Court Rule 159, 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 before the Cherokee Nation Supreme Court.

Rule 181. 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 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 182. 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.

Rules 183-189 reserved for future use.

SECTION XIX. DISQUALIFICATION OF JUDGES

Rule 190. 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 191. 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 counsel or 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.

Rules 192-199 reserved for future use.

SECTION XX. CONTEMPT

Rule 200. 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.

1. 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.
2. 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 of courtroom misconduct of a defendant, an attorney or a witness until after the trial, and should defer such a proceeding unless after the trial prompt punishment is imperative.
3. 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.
4. 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 201. 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 202-209 reserved for future use.

SECTION XXI. COURT FUND

Rule 210. 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 211. Claims allowable- Approval- Limitation on courthouse building

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
3. 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;
4. office supplies, books for records, postage and printing;
5. furniture, fixtures and equipment;
6. renovating, remodeling and maintenance of courtrooms, judge's chambers, clerk's offices and other areas primarily used for judicial functions;
7. judicial robes;
8. attorney's fees for indigents in the trial court and on appeal;
9. transcripts ordered by the court;
10. necessary telephone expenses, gas, water and electrical utilities for the part of the courthouse occupied by the court;
11. 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;
12. interpreter fees; and
13. any other expenses now or hereafter expressly authorized by court rule and/or statute.

Rules 212-219 reserved for future use.

XXII. PRESIDING DISTRICT COURT JUDGE AND DUTIES

Rule 220. Presiding Judge

1. The Presiding Judge shall be responsible for the administration of the District Court and address the needs of the public, attorneys, court staff, and fellow Judges. The Presiding Judge shall be a full time District Court Judge. If there is not a full-time District Court Judge or there are multiple judges, the Supreme Court of the Cherokee Nation shall designate a Presiding Judge who shall serve until he or she is no longer a District Court Judge or desires to relinquish the position of Presiding Judge.
2. The name of the Presiding Judge shall be posted in conspicuous places in the Court Clerk's office, and such other places as directed by the Court Administrator.
3. Should the Presiding Judge be temporarily unable to serve as Presiding Judge, he or she shall arrange for another Judge to handle the assignment during that time. The Chief Justice of the Supreme Court shall designate a replacement should the Presiding Judge fail to do so.
4. The Presiding Judge shall:
 - a. Serve as liaison between the District Court and tribal, state, and federal bar associations; the federal, state, and local judiciary; and schools.
 - b. Resolve informal disputes within the District Court system.
 - c. Promulgate dockets. The Presiding Judge may designate any Judge or Judges of the court to try any case and, when the circumstances so warrant, reassign the case to another Judge or Judges.
 - d. Ensure that the number of docket days of the District Court are adequate to provide expeditious resolution of cases.
 - e. After an in-camera motion and a motion on the record for recusal of an assigned Judge are both denied hear any appeal of those motions.
 - f. Hear election, employment, licensing and other disputes requiring immediate action that jurisdiction over has not been constitutionally or legislatively vested in the Supreme Court.
 - g. Hear any case designated as a complex business or civil case by statute, rule, or so designated by the Presiding Judge. The Presiding Judge shall have discretion to retain the case or transfer the case to another Judge's docket in the interests of judicial economy.
 - h. In an effort to expedite the District Court's dockets and to improve judicial economy the Presiding Judge may select certain cases to preside over on an expeditious timeline.
 - i. Be in charge of the jury panel and, with the assistance of the Court Administrator and the District Court Clerk, shall discharge and excuse those jurors not engaged when their services are no longer required.
 - j. Hear and decide all individual juror requests to be excused from jury duty prior to the juror being sent to a courtroom as part of a trial panel. Once a juror is assigned to a courtroom the judge presiding over the trial may permanently excuse the juror without consulting with the Presiding Judge. If a juror is released the Court Administrator shall be notified.
 - k. Upon his or her discretion call for a conference of Judges on his or her own initiative or upon the request of any other District Judge.
 - l. Evaluate the court's effectiveness in administering justice and recommend changes.

- m. In his or her discretion, select via employment or through volunteerism, judicial clerks or interns as the Court budget allows.
- n. Hear any other matter directed to the Presiding Judge by the Supreme Court, statute, or rule.

Rules 221-229 reserved for future use.

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

Rule 230. 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 231. 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.

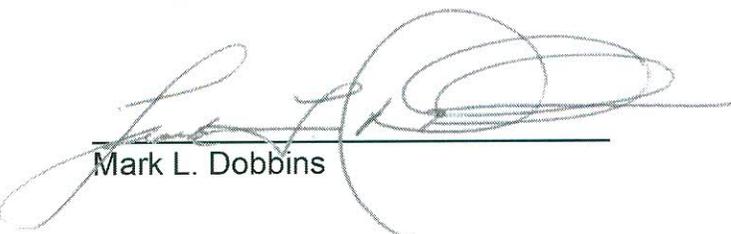
Rules 232-239 reserved for future use.

IT IS SO ORDERED, this 11 day of June, 2019.


James G. Wilcoxon, Chief Justice

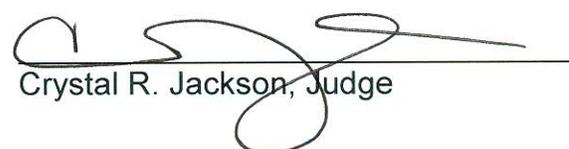

Lee W. Paden, Justice


Lynn Burris, Justice


Mark L. Dobbins


John Garrett, Justice


T. Luke Barteaux, Presiding Judge


Crystal R. Jackson, Judge