

BROCHURE ON SMALL CLAIMS DIVISION ACTIONS

Anyone may bring an action in the Small Claims Division of the Tribal Court, regardless of whether any party is Indian or not, to seek contract, tort, or equitable relief, including forcible detainer and eviction, or replevin of a vehicle, if the injury or value of the claims either by the Plaintiff or Defendant does not exceed \$1,000, exclusive of interests and costs. Exceptions to this are Domestic Relations Code cases, including child custody and support, and Civil Cases seeking provisional remedies (that is seeking pre-trial immediate or temporary Court orders), including any immediate order of forcible detainer, eviction, or replevin, are not permitted in the Small Claims Division, but may be brought in the Tribal Court under applicable Local Rules of Procedure.

To begin a Small Claims action, you must first file a written complaint or petition with the Court. On this complaint or petition, you must write 1) your name and address and the full names and correct addresses of the persons you are suing; 2) the exact relief you want the Court to order; 3) the total amount of money you are claiming; 4) and the reasons you feel the Court should order the relief you request or the Defendant to pay the money you claim. Then, you must make one copy of the complaint or petition for each defendant in the case and for yourself, if you want one. You must then file the original with the Court and bring the copies for the Court to stamp, or conform, them. If you do not bring sufficient copies, the Court will make them for you for \$1.00 per page. When you file your complaint or petition, the Court will issue a summons to each Defendant. You must serve a conformed copy of the complaint or petition and summons on each Defendant.

If the Defendant does respond in the time and manner directed in the summons, the Court will set a trial date in the case for approximately Eleven (11) business days from the Court's receipt of the answer. At the trial, the Plaintiff goes forward first and must bring or subpoena any and all witnesses and evidence to prove his or her claim(s). Next, the Defendant goes forward and also must bring or subpoena any and all witnesses and evidence to disprove the Plaintiff's claim(s), or prove any counterclaims made against the Plaintiff. Each party has the right to question the other party's witnesses and evidence and to appear with an attorney. The Court, however, cannot grant more than \$100 in attorney fees. Neither party in the Small Claims Division has the right to a jury trial. Either party has Ten (10) business days from filing or service on them to file a written request to transfer any Small Claims Division action to the Tribal Court, which shall be granted, as long as the requesting party pays the required fee of \$65.

Either party may also bring papers as evidence, but the Court will not allow them to be used unless the party bringing them has given a copy of them to the other party not less than Two (2) business days prior to the trial. A simple way to do this, is to serve any such papers with the summons and complaint or petition, or with the answer.

Either party may request the Court to do service, or hire a private process server, or themselves may see the other party by registered mail, personal service, or alternative service, as long as the person doing the service files an affidavit of service with the Court. If you file and serve the papers yourself, there are no fees.

If a Defendant does not respond in the time and manner directed in the summons, the Plaintiff may petition the Court for a judgment by default. If the Court is unable to serve a Defendant after three (3) attempts, and no other arrangements are made by you, and/or no affidavit of service or request for default judgment is filed by the Plaintiff within 120 days of filing, the Court will dismiss the case.