

REPRESENTING YOURSELF IN A  
CIVIL CASE:  
A GUIDE FOR THE  
PRO SE LITIGANT



PRAIRIE BAND POTAWATOMI NATION  
TRIBAL DISTRICT COURT

## PURPOSE

This guide is intended to help a person who wants to file or defend a civil case in the Prairie Band Potawatomi Tribal District Court without an attorney. The guide is NOT a substitute for becoming familiar with the Prairie Band Potawatomi Nation Law & Order Code or any Court rules and procedures. Civil procedures can be found in Title 4 of the Nation's Law and Order Code at: <http://www.pbpindiantribe.com/government/law-and-order-codes/>

Someone who represents herself or himself in a lawsuit is often referred to as a *pro se* party or *pro se* litigant (pronounced "pro say"). If you are a *pro se*, or self-represented, litigant, this guide may aid you in understanding some of the basic steps in the court process and some of the legal words you may hear as your case proceeds. This guide will not answer all your questions about what you need to do to represent yourself. This guide is not legal advice and is not a substitute for an attorney. Also, you should keep in mind that this guide is not binding and that the judge may have different practices or preferences that you must follow. It is strongly recommended that you seek the assistance of a lawyer to make sure your case is properly prepared and filed. Unlike in a criminal case, the court will not provide an attorney for you simply because you cannot afford representation. Court staff can provide you with a list of attorneys who practice in Tribal Court.

The Tribal Court Judicial Administrator or Clerk can answer general questions about procedures. They are not allowed to fill out any forms for you. They cannot give you legal advice. This means, for example, that the Court staff cannot do any of the following:

- recommend a legal course of action or suggest ways to help you win your case;
- predict how or when a judge may decide any issue;
- interpret the meaning of any judicial order;
- calculate response times or deadlines;
- conduct legal research, or
- interpret the law or rules

The Prairie Band Potawatomi Nation Tribal District Court MUST have both personal jurisdiction over the parties and subject matter jurisdiction of the case. Whether the Court has jurisdiction is sometimes a complicated legal issue. Court staff cannot tell you whether the Court has jurisdiction of a case. If the Court determines it does not have jurisdiction, the case will be dismissed. Court filing fees will not be reimbursed.

The rules and procedures that a party must follow in a civil case may be difficult to understand. You should seriously consider the risks of representing yourself and the benefits of obtaining professional legal assistance. If you decide to represent yourself, you are responsible for learning about and following the law. The court generally expects you to follow its rules and the law, even though you are not a lawyer.

## **WEBSITE**

The Court's website address is <http://www.pbpindiantribe.com/tribal-court/> The website contains forms and instructions that you may need for your case.

The Prairie Band Potawatomi Nation Law and Order Code can be found at:

<http://www.codepublishing.com/KS/Potawatomi/>

## **HOW MUCH DOES IT COST TO FILE A LAWSUIT?**

The filing fee for a civil complaint, divorce petition, adoption petition, and appeal is currently \$100.00. The filing fee for a petition for probate is \$75.00. The fee for a marriage license is \$50.00. The fee to file a motion is \$30.00. These fees are subject to change. Payment may be made in cash, by personal check, or money order made payable to Prairie Band Potawatomi Tribal Court. You may also pay with paypal, which accepts Mastercard and Visa. There is a 2.5% plus \$0.10 fee for paypal filing.

## **WHAT IF YOU CANNOT AFFORD TO PAY THE FILING FEE?**

If you cannot afford to pay the filing fee, you may file an application to file a case without payment of the fees by completing a Financial Affidavit. The Judicial Administrator will decide whether you qualify for a waiver of filing fees based upon your financial information and the current poverty guidelines.

## **HOW DOES THE DEFENDANT LEARN ABOUT THE LAWSUIT?**

Each defendant must be notified about the lawsuit (served with process). The case will not go forward against a defendant who has not been served. The clerk will sign (issue) an original summons for each defendant. The clerk retains the original summons for the court's file and returns a signed copy to you.

It is your responsibility to provide proper addresses for each defendant for service. Court staff will not attempt to locate a defendant and will not conduct a search for an address.

## **HOW DO YOU FILE A MOTION?**

You may need to ask the judge to instruct the opposing party to do something connected to your case, or you may need to ask the judge to allow you to do something. When you request the court to take specific action, you do so by filing a motion with the Clerk. For example, you may ask the judge to direct the defendant to give you access to certain records during the discovery phase of your case, or ask the judge to grant you an extension of time to file a document. Another example is a dispositive motion, such as a motion to dismiss, motion for summary judgment, or motion for judgment on the pleadings. A dispositive motion may resolve an issue or end the case before trial.

Motions are usually decided by the court without a hearing requiring the parties to appear before the judge. If a judge decides to hold a hearing, the Court staff will send you a notice of the date, time, and location of the hearing.

### **WHAT IF YOU MOVE WHILE YOUR CASE IS PENDING?**

You must provide written notice to the court of your new address within 14 days. The court may dismiss your case if you fail to file a timely change of address.

### **HOW CAN YOU DISMISS YOUR LAWSUIT?**

Once you have filed your case, you must follow the court's orders and diligently pursue your action. If you change your mind and no longer would like to proceed, you may dismiss your action by requesting a dismissal in writing.

### **DEFENDING A CIVIL CASE**

If you are served with a summons and a civil complaint, you may defend only yourself against the plaintiff's claims.

The Law and Order Code sets a deadline for you to answer or respond to a complaint. Typically, you must file an answer or responsive motion within 20 days after being served with the summons and complaint.

Your response should include the case caption that appears on the complaint. The answer should state any defenses you have to the plaintiff's claims and admit or deny the allegations in the complaint. You should request a jury in your answer, if you would like a jury trial.

### **HEARINGS**

The Judge requires that all parties shall be polite and considerate of others and must refrain from interrupting or talking over one another and shall avoid making disparaging remarks towards another. Unless examining a witness, all remarks shall be addressed to the Court, not to the opposing party. Profanity is never permitted, unless testimony requires specific descriptions. A violation of this requirement during Court hearings may result in contempt of Court and punishable by fine or jail.

When appearing in this Court, all parties shall abide by the following rules:

1. Parties shall stand when addressing, or being addressed by the Court, unless otherwise stated by the Court.
2. Parties will have adequate opportunity to speak. However, parties will speak one at a time. If a party hears something he or she disagrees with, it should be written down so it can be addressed when it's that party's turn to speak.

3. All remarks shall be addressed to the Court, not to opposing party or parties.
4. Avoid disparaging personal remarks or acrimony toward opposing party or parties.
5. Profanity is never permitted, unless testimony requires specific descriptions.
6. All parties shall refrain from interrupting or talking over one another. The hearing is being recorded. Both the recording and the Judge must be able to hear what each party states.
7. The parties shall refrain from attempting to make a re-argument after the ruling.

**A violation of these rules may result in contempt of court, resulting in fines and/or jail.**

**FORMS AVAILABLE ON THE COURT'S WEBSITE:**

Praecipe For Subpoena  
Instructions for Filling Out Petition or Motion  
Court Fee Schedule  
Petition for Protection from Abuse  
Petition for Restraining Order  
Divorce with Children  
Divorce without Children  
Paternity Complaint-Custody, Visitation & Child Support  
Petition Small Claims  
Petition for Guardian-Conservator Adult  
Petition for Guardian-Conservator Minor  
Petition for Adoption  
Marriage License Application  
Probate Inventory and Appraisal  
Motion  
Motion to Modify-Custody, Visitation & Child Support  
Guardian's Report on Condition of Ward

Answer	The formal written statement by a defendant in a civil case that responds to a complaint, articulating the grounds for defense.
Clerk of Court	The court officer who oversees administrative functions, especially managing the flow of cases through the court.
Complaint/Petition	A written statement that begins a civil lawsuit, in which the plaintiff details the claims against the defendant.
Counsel	Legal advice; a term also used to refer to the lawyers in a case.
Damages	Money that a defendant pays a plaintiff in a civil case if the plaintiff has won. Damages may be compensatory (for loss or injury) or punitive (to punish and deter future misconduct).
Default judgment	A judgment awarding a plaintiff the relief sought in the complaint because the defendant has failed to appear in court or otherwise respond to the complaint.
Defendant/Respondent	An individual (or business) against whom a lawsuit is filed.
Discovery	Procedures used to obtain disclosure of evidence before trial.
Docket	A log containing the complete history of each case in the form of brief chronological entries summarizing the court proceedings.
File	To place a paper in the official custody of the clerk of court to enter into the files or records of the case.
Interrogatories	A form of discovery consisting of written questions to be answered in writing and under oath.
Judgment	The official decision of a court finally resolving the dispute between the parties to the lawsuit.
Jurisdiction	The legal authority of a court to hear and decide a certain type of case.
Lawsuit	A legal action started by a plaintiff against a defendant based on a complaint that the defendant failed to perform a legal duty which resulted in harm to the plaintiff.
Litigation	A case, controversy, or lawsuit. Participants (plaintiffs and defendants) in lawsuits are called litigants.
Moot	Not subject to a court ruling because the controversy has not actually arisen, or has ended.
Motion	A request by a litigant to a judge for a decision on an issue relating to the case.
Plaintiff/Petitioner	A person or business that files a formal complaint with the court.

Pleadings	Written statements filed with the court that describe a party's legal or factual assertions about the case.
Praecipe for Subpoena	A request to the court for an order commanding a witness to appear in court to testify.
Probate	The legal process of handling a decedent's estate.
Sanction	A penalty or other type of enforcement used to bring about compliance with the law or with rules and regulations.
Service of Process	The delivery of writs or summonses to the appropriate party.
Settlement	Parties to a lawsuit resolve their dispute without having a trial. Settlements often involve the payment of compensation by one party in at least partial satisfaction of the other party's claims, but usually do not include the admission of fault.
Summary Judgment	A decision made on the basis of statements and evidence presented for the record without a trial. It is used when it is not necessary to resolve any factual disputes in the case. Summary judgment is granted when – on the undisputed facts in the record – one party is entitled to judgment as a matter of law.