



TRIBAL COURT
Little River Band of Ottawa Indians
3031 Domres Road
Manistee, MI 49660
(231) 398-3406
tribalcourt@lrboi-nsn.gov

FILING A MOTION IN TRIBAL COURT

These instructions serve only as a guide for pro se litigants. For further information on filing a motion, please see Tribal Court Rule 4.119 – Motion Practice and Tribal Court Rule 4.107 - Service and Filing of Pleadings and Other Papers (Rules of Civil Procedure). It is recommended that you contact an attorney if you have questions or need further legal advice. Tribal Court staff are not allowed to give legal advice.

WHAT IS A MOTION? A motion is a formal request, made in writing, asking the court for a specific action. Filing a motion with the Court is a way to get your request in front of the Judge for a decision.

MOTION FILING CHECKLIST

Have you filled out the motion form? Yes No

Does your motion form contain the following:

Case Number Yes No

Name & contact information for Plaintiff(s) Yes No

Name & contact information for Defendant(s) Yes No

Your reason for filing the motion Yes No

The relief you are seeking from the Court Yes No

Attachments to support your motion (if any) Yes No

Have you paid the \$15.00 motion fee? Yes No

**Your motion is not considered filed with the court until the motion fee has been paid per Tribal Court Rule 4.119(G)(1).*

Have you served a copy of your motion upon the other party(ies)? Yes No

How did you serve the other party(ies)? USPS mail Personal service

**You are required to serve a copy upon all parties per Tribal Court Rule 4.107.*

Have you filed proof of service of the motion with the court? Yes No

**You are required to file a proof of service per Tribal Court Rule 4.107(D).*

WHAT HAPPENS AFTER YOU FILE A MOTION?

The Tribal Court will set a hearing date for your motion to be heard. All parties will be served a copy of the notice of hearing by the Court.

After the hearing, the Judge will enter an order either granting or denying your motion. This will be served upon all parties by the Court.

LITTLE RIVER BAND OF OTTAWA INDIANS TRIBAL COURT	MOTION	CASE NO:
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Court Address:
3031 Domres Road, Manistee, MI 49660

Court Telephone No.
(231) 398-3406

Plaintiff's Name, Address, Telephone No. & Email Address:

V.

Defendant's Name, Address, Telephone No. & Email Address:

I am the Plaintiff Defendant in this action.

1) Please state your reason for filing this motion. (Attach additional pages if necessary)

2) Please state the relief that you are seeking from the Court.

3) I have included the \$15 motion fee. Yes No

_____ Date

_____ Signature of Moving Party

*SERVICE REQUIREMENT: In accordance with Tribal Court Rule 4.107, you are required to serve this motion upon all other parties and file a Proof of Service with the Court.

Date motion filed: _____ Motion Fee Paid: Yes No

_____ Tribal Court personnel

LITTLE RIVER BAND OF OTTAWA INDIANS TRIBAL COURT	PROOF OF SERVICE	CASE NO.
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Court Address
3031 Domres Road, Manistee, MI 49660

Court Telephone No.
(231) 398-3406

TO PROCESS SERVER: You must serve the documents listed below and file proof of service with the Tribal Court. If you are unable to complete service, you must return this original and all copies to the Tribal Court.

***NAME OF DOCUMENT(S) TO BE SERVED:** (Required - this must be filled out by the person requesting service)

CERTIFICATE OF SERVICE/NONSERVICE

(*Initial Summons and Complaint must be served personally or by registered/certified mail pursuant to LRCR 4.105)

I served* personally by registered or certified mail, return receipt requested, and delivery restricted to the addressee (copy of return receipt attached) by first-class mail a copy of the documents listed above on:

I have attempted to serve a copy of the documents listed above and have been unable to complete served on:

Name of Recipient	Date and time of service
Place or address of service	

I am a sheriff, deputy sheriff, LRBOI Public Safety officer, bailiff, appointed court officer or attorney for a party.

I am a legally competent adult who is not a party or an officer of a corporate party. I declare under the penalties of perjury that this certificate of service has been examined by me and that its contents are true to the best of my information, knowledge, and belief.

Service fee	Miles traveled	Fee	
\$		\$	
Incorrect address fee	Miles traveled	Fee	TOTAL FEE
\$		\$	\$

Signature

Name (type or print)

ACKNOWLEDGMENT OF SERVICE

I acknowledge that I have received service of the documents listed above on:

Date: _____

Signature

Name (type of print)

Tribal Court Rule 4.119 Motion Practice.

(A) Form of Motions.

(1) An application to the court for an order in a pending action must be by motion. Unless made during a hearing or trial, a motion must

- (a) be in writing,
- (b) state with particularity the grounds and authority on which it is based,
- (c) state the relief or order sought, and
- (d) be signed by the party or attorney as provided in Rule 4.114.

(2) A motion or response to a motion that presents an issue of law must be accompanied by a brief citing the authority on which it is based. Except as permitted by the court, the combined length of any motion and brief, or of a response and brief, may not exceed 20 pages double spaced, exclusive of attachments and exhibits. Quotations and footnotes may be single-spaced. At least one-inch margins must be used, and printing shall not be smaller than 12-point type. A copy of a motion or response (including brief) filed under this rule must be provided by counsel to the office of the judge hearing the motion. The judge's copy must be clearly marked judge's copy on the cover sheet; that notation may be handwritten.

(3) If a contested motion is filed after rejection of a proposed order under subrule (D), a copy of the rejected order and an affidavit establishing the rejection must be filed with the motion.

(B) Form of Affidavits.

(1) If an affidavit is filed in support of or in opposition to a motion, it must:

- (a) be made on personal knowledge;
- (b) state with particularity facts admissible as evidence establishing or denying the grounds stated in the motion; and
- (c) show affirmatively that the affiant, if sworn as a witness, can testify competently to the facts stated in the affidavit.

(2) Sworn or certified copies of all papers or parts of papers referred to in an affidavit must be attached to the affidavit unless the papers or copies:

- (a) have already been filed in the action;
- (b) are matters of public record in the county in which the action is pending;
- (c) are in the possession of the adverse party, and this fact is stated in the affidavit or the motion; or
- (d) are of such nature that attaching them would be unreasonable or impracticable, and this fact and the reasons are stated in the affidavit or the motion.

(C) Time for Service and Filing of Motions and Responses.

(1) Unless a different period is set by these rules or by the court for good cause, a written motion (other than one that may be heard ex parte), and any supporting brief or affidavits must be served at least 10 days before the time set for the hearing.

(2) Unless a different period is set by these rules or by the court for good cause, any response to a motion (including a brief or affidavits) required or permitted by these rules must be served at least 5 days before the hearing.

(D) Uncontested Orders.

(1) Before filing a motion, a party may serve on the opposite party a copy of a proposed order and a request to stipulate to the court's entry of the proposed order.

(2) On receipt of a request to stipulate, a party may

(a) stipulate to the entry of the order by signing the following statement at the end of the proposed order: "I stipulate to the entry of the above order"; or

(b) waive notice and hearing on the entry of an order by signing the following statement at the end of the proposed order: "Notice and hearing on entry of the above order is waived." A proposed order is deemed rejected unless it is stipulated to or notice and hearing are waived within 7 days after it is served.

(3) If the parties have stipulated to the entry of a proposed order or waived notice and hearing, the court may enter the order. If the court declines to enter the order, it shall notify the moving party that a hearing on the motion is required. The matter then proceeds as a contested motion under subrule (E).

(4) The moving party must serve a copy of an order entered by the court pursuant to subrule (D)(3) on the parties entitled to notice under Rule 4.107 or notify them that the court requires the matter to be heard as a contested motion.

(5) Notwithstanding the provisions of subrule (D)(3), stipulations and orders for adjournment are governed by Rule 4.503.

(E) Contested Motions.

(1) Contested motions should be noticed for hearing at the time designated by the court for the hearing of motions. A motion will be heard on the day for which it is noticed, unless the court otherwise directs. If a motion cannot be heard on the day it is noticed, the court may schedule a new hearing date or the moving party may renote the hearing.

(2) When a motion is based on facts not appearing of record, the court may hear the motion on affidavits presented by the parties, or may direct that the motion be heard wholly or partly on oral testimony or deposition.

(3) A court may, in its discretion, dispense with or limit oral arguments on motions, and may require the parties to file briefs in support of and in opposition to a motion. (4) Appearance at the hearing is governed by the following:

(a) A party who, pursuant to subrule (D)(2), has previously rejected the proposed order before the court must either

(i) appear at the hearing held on the motion, or

(ii) before the hearing, file a response containing a concise statement of reasons in opposition to the motion and supporting authorities. A party who fails to comply with this subrule is subject to assessment of costs under subrule (E)(4)(c).

(b) Unless excused by the court, the moving party must appear at a hearing on the motion. A moving party who fails to appear is subject to assessment of costs under subrule (E)(4)(c); in addition, the court may assess a penalty not to exceed \$100, payable to the clerk of the court.

(c) If a party violates the provisions of subrule (E)(4)(a) or (b), the court may assess costs against the offending party, that party's attorney, or both, equal to the expenses reasonably incurred by the opposing party in appearing at the hearing, including reasonable attorney fees, unless the circumstances make an award of expenses unjust.

(F) Motions for Rehearing or Reconsideration.

(1) Unless another rule provides a different procedure for reconsideration of a decision a motion for rehearing or reconsideration of the decision on a motion must be served and filed not later than 14 days after entry of an order disposing of the motion.

(2) No response to the motion may be filed, and there is no oral argument, unless the court otherwise directs.

(3) Generally, and without restricting the discretion of the court, a motion for rehearing or reconsideration which merely presents the same issues ruled on by the court, either expressly or by reasonable implication, will not be granted. The moving party must demonstrate a palpable error by which the court and the parties have been misled and show that a different disposition of the motion must result from correction of the error.

(G) Motion Fees. The following provisions apply to actions in which a motion fee is required:

(1) A motion fee must be paid on the filing of any request for an order in a pending action, whether the request is entitled "motion," "petition," "application," or otherwise. It is not considered filed until the motion fee is paid.

(2) The clerk shall charge a single motion fee for all motions filed at the same time in an action regardless of the number of separately captioned documents filed or the number of distinct or alternative requests for relief included in the motions.

(3) A motion fee may not be charged:

(a) in criminal cases;

(b) for a notice of settlement of a proposed judgment or order under Rule 4.602(B);

(c) for a request for an order waiving fees under Rule 4.012;

(d) if the motion is filed at the same time as another document in the same action as to which a fee is required; or

(e) for entry of an uncontested order under subrule (D).

Tribal Court Rule 4.107 Service and Filing of Pleadings and Other Papers.

(A) Service; When Required.

(1) Unless otherwise stated in this rule, every party who has filed a pleading, an appearance, or a motion must be served with a copy of every paper later filed in the action. A nonparty who has filed a motion or appeared in response to a motion need only be served with papers that relate to that motion.

(2) Except as provided in Rule 4.603, after a default is entered against a party, further service of papers need not be made on that party unless he or she has filed an appearance or a written demand for service of papers. However, a pleading that states a new claim for relief against a party in default must be served in the manner provided by Rule 4.105.

(3) If an attorney appears on behalf of a person who has not received a copy of the complaint, a copy of the complaint must be delivered to the attorney on request.

(4) All papers on behalf of a defendant must be served on all other defendants not in default.

(B) Service on Attorney or Party.

(1) Service required or permitted to be made on a party for whom an attorney has appeared in the action must be made on the attorney except as follows:

(a) The original service of the summons and complaint must be made on the party as provided by Rule 4.105;

(b) When a contempt proceeding for disobeying a court order is initiated, the notice or order must be delivered to the party, unless the court orders otherwise;

(c) After a final judgment has been entered and the time for an appeal of right has passed, papers must be served on the party unless the rule governing the particular post judgment procedure specifically allows service on the attorney;

(d) The court may order service on the party.

(2) If two or more attorneys represent the same party, service of papers on one of the attorneys is sufficient. An attorney who represents more than one party is entitled to service of only one copy of a paper.

(3) If a party prosecutes or defends the action on his or her own behalf, service of papers must be made on the party in the manner provided by subrule (C).

(C) Manner of Service. Service of a copy of a paper on an attorney must be made by delivery or by mailing to the attorney at his or her last known business address or, if the attorney does not have a business address, then to his or her last known residence address. Service on a party must be made by delivery or by mailing to the party at the address stated in the party's pleadings.

(1) Delivery to Attorney. Delivery of a copy to an attorney within this rule means

(a) handing it to the attorney personally;

(b) leaving it at the attorney's office with the person in charge or, if no one is in charge or present, by leaving it in a conspicuous place; or (c) if the office is closed or the attorney has no office, by leaving it at the attorney's usual residence with some person of suitable age and discretion residing there.

(2) Delivery to Party. Delivery of a copy to a party within this rule means

(a) handing it to the party personally; or

(b) leaving it at the party's usual residence with some person of suitable age and discretion residing there.

(3) Mailing. Mailing a copy under this rule means enclosing it in a sealed envelope with first class postage fully prepaid, addressed to the person to be served, and depositing the envelope and its contents in the United States mail. Service by mail is complete at the time of mailing.

(D) Proof of Service. Except as otherwise provided by Rule 4.104, 4.105, or 4.106, proof of service of papers required or permitted to be served may be by written acknowledgment of service, affidavit of the person making the service, a statement regarding the service verified under Rule 4.114(A), or other proof satisfactory to the court. The proof of service may be included at the end of the paper as filed. Proof of service must be filed promptly and at least at or before a hearing to which the paper relates.

(E) Service Prescribed by Court. When service of papers after the original complaint cannot reasonably be made because there is no attorney of record, because the party cannot be found, or for any other reason, the court, for good cause on ex parte application, may direct in what manner and on whom service may be made.

(F) Numerous Parties. In an action in which there is an unusually large number of parties on the same side, the court on motion or on its own initiative may order that

(1) they need not serve their papers on each other.

(2) responses to their pleadings need only be served on the party to whose pleading the response is made;

(3) a cross-claim, counterclaim, or allegation in an answer demanding a reply is deemed denied by the parties not served; and

(4) the filing of a pleading and service on an adverse party constitutes notice of it to all parties. A copy of the order must be served on all parties in the manner the court directs.

(G) Filing With Court Defined. The filing of pleadings and other papers with the court as required by these rules must be with the clerk of the court, except that the judge to whom the case is assigned may accept papers for filing when circumstances warrant. A judge who does so shall note the filing date on the papers and transmit them forthwith to the clerk. It is the responsibility of the party who presented the papers to confirm that they have been filed with the clerk.