

REQUESTS FOR INJUNCTIVE RELIEF

This guide for requesting injunctive relief in Tribal Court is meant to serve as a guide only. It is recommended that you contact an attorney if you have questions or need further legal advice.

What is an Injunction?

An injunction is a court order that requires a person(s) to perform or to refrain from performing a particular act.

It is an equitable remedy granted by Court compelling the performance or non-performance of some act.

There are several types of injunctions that can be requested:

Preliminary Injunction: an injunction requesting a form of temporary relief to maintain or preserve the existing condition of something.

Preventive/Restraining Injunction: an injunction that orders people to refrain from doing some negative act that would adversely affect the rights of the plaintiff.

Mandatory Injunction: an injunction that requires the compulsory performance of some particular act, also called specific performance.

Permanent Injunction: an injunction that is granted at the end of a hearing and constitutes a form of final relief.

Stay/Restraining: A Stay halts actions or court proceedings until one or more conditions are met. Court proceedings can only be stayed by the Court. Examples of staying a court proceeding are: 1) a stay of compliance/enforcement of an order or judgment pending appeal, or 2) a stay of proceedings during an interlocutory appeal.

Requests for Injunctions can be filed as a *simple request* or *ex-parte*.

Ex-Parte relief is an extraordinary request that the Court does not often grant. Ex-Parte means that you are asking the Court to consider your request without notifying the other party. An Ex-Parte request must meet the following criteria for the Court to consider:

- It must state specific facts set forth in an *affidavit or verified pleading* (meaning, it must be notarized) that:
 - irreparable injury, loss, or damage will result from the delay required to effect notice, OR
 - that notice itself will precipitate adverse action before an order can be issued.

If your Ex-Parte request is denied, it will be set for hearing.

If your Ex-Parte request is granted, the party whom it is against will have 14 days to object and ask for a hearing. If you are objecting to an injunction, you must do so in writing within 14 days.

The Court will then set a hearing. Be prepared to argue why the injunction should not have been issued.

If your request is set for hearing, you have the burden of proof to show the Court:

- 1) that there will be no harm to the public interest if an injunction issues;
- 2) whether harm to the applicant in the absence of an injunction outweighs the harm to the opposing party if granted;
- 3) that, through strength of the applicant's demonstration, the applicant is likely to prevail on the merits; and
- 4) that the applicant will suffer irreparable harm/injury if an injunction is not granted.

Violations of Injunctions/Orders will subject you to contempt of court.

FEES FOR REQUESTING AN INJUNCTION:

If requesting an injunction and filing a new case at the same time, the \$60.00 filing fee for the new case is all that is needed. There is no additional fee for an injunction request.

If requesting an injunction in an existing case, the cost is \$15.00.