

IN THE SUPREME COURT OF THE OSAGE NATION  
PAWHUSKA, OKLAHOMA

Supreme Court  
of the Osage Nation

FILED MAR 30 2016

In re:

Membership Appeals and Disputes

RULE OF COURT<sup>1</sup>

By



This Rule shall only apply to matters arising under 21 ONC § 1-101 *et seq.* (Osage Nation Membership Act), as amended by ONCA 16-16, *An Act to Amend and Restate the Osage Nation Membership Act*, a copy of which is attached to this Rule.

**Section 1.** Actions filed under 21 ONC § 1-207 (decisions of the Osage Nation Membership Office). Actions to contest a decision of the Membership Office are started by filing a petition in the Osage Nation Trial Court.

**A. Who may file an action under this section?**

- (1) Any applicant denied membership by the Membership Office; or
- (2) Any applicant who disputes any other Membership Office decision.

**B. I am an applicant who contests a Membership Office decision. When should I file my petition?**

Within 90 days of the date you received the Membership Office's written decision.

**C. What happens if I file after 90 days?**

Under the law, a late filing means you waived your right to contest the Membership Office's action and the decision remains in effect.

**D. Where do I file my action?**

Petitions must be filed with the Osage Nation Trial Court at the Court Clerk's Office at 1333 Grandview Ave., Pawhuska, OK 74056.

**E. Is there a form?**

Yes, the Court has created forms for public use. These forms are available at the Court and are **mandatory forms**—the only forms accepted for these types of actions. You must also attach a copy of the Membership Office's written decision. It is your responsibility to provide a copy of the Membership Office's decision. The Court Clerk cannot do it for you.

**F. What happens when I file my petition?**

After you complete the petition, bring it to the Court Clerk's Office.

<sup>1</sup> The Chief Justice is responsible for promulgating Rules of Court under 5 ONC § 1-118.

- (1) The Court Clerk will make sure the form has been completely filled out before accepting it. Any blank spaces should be completed to the best of your ability. If you need help writing the form, the Court Clerk can transcribe your **exact words**, but cannot provide legal advice or tell you what the judge will decide.
- (2) Once completed, the Court Clerk will give you a court date at least 30 days from the date of filing. The hearing date and time will be written on your petition.
- (3) The Court Clerk will file stamp your petition and generate a “Summons”. This form tells the Membership Office that you have contested its decision and that a hearing has been scheduled.
- (4) The Court Clerk will make copies of your filed petition and the Summons and Notice of Hearing. You will receive copies for your files as well as copies to serve on the Membership Office.

**G. Who tells the Membership Office that I have filed my petition?**

- (1) You are responsible for “serving process” on the Membership Office. Someone who is at least 18 years old and not a party to the case must deliver a copy of your petition, the summons, and notice of hearing to the Membership Office. The Court Clerk cannot do this for you.
- (2) After the Membership Office has been served, the person who served the documents must complete a “Certificate of Service” that describes who served process, when it was served, how it was served, and where it was served. This Certificate of Service must be returned to the Court Clerk at least 10 days before your hearing date.

**H. How do I know if the Membership Office responded to my petition?**

The Membership Office must respond in writing to your petition and file its response with the Court Clerk within twenty (20) days of being served. It must also deliver a copy of its response and any supporting documents to you by mail.

**I. What do I do the day of the hearing?**

- (1) Be on time for your hearing and be prepared for the hearing.
- (2) Bring your petition, the Membership Office’s decision, the Membership Office’s response, any documents that support your petition, and any information that will help the Court decide your case.
- (3) Be prepared to answer the judge’s questions.

**J. When I will know the Court’s decision?**

- (1) The Court may make a decision immediately in court on the record and follow up with a written order; or

- (2) The Court may take the matter “under advisement” and issue a written decision within 30 days.

**K. Who can appeal the Court’s decision?**

A party who believes the Court made the wrong decision may appeal the Trial Court’s decision to the Osage Nation Supreme Court by filing a Petition in Error within 30 days of the date stamped on the Court’s Order.

**Section 2. Removal Actions filed by the Osage Nation Attorney General.** The Osage Nation Attorney General may request removal of an enrolled member by filing a petition for removal in the Osage Nation Trial Court in accordance with 21 ONC § 1-208.

**A. Who may file an action under this section?**

Only the Attorney General of the Osage Nation is authorized by law to file a petition for removal of an enrolled member.

**B. What happens when the Attorney General files a petition?**

- (1) When the Attorney General files a petition, the Court Clerk will file stamp the petition and generate a “Summons”. This form tells the Respondent that a petition has been filed and the Respondent has 90 days from the date of service to request a hearing.
- (2) The Court Clerk will make copies of the filed petition and the Summons and provide a copy of the Request for Hearing form. Copies of these documents will be given to the Attorney General’s office.

**C. How do I know if a removal action has been filed against me in Court?**

- (1) The Court Clerk will deliver the petition for removal, the summons, and the Request for Hearing form by certified mail restricted delivery to the address provided by the Attorney General.
- (2) The Court Clerk will also file a Certificate of Service that describes how you were served.

**D. How long do I have to request a hearing?**

Once you receive notice, you have **90 DAYS** to file your Request for Hearing with the Court Clerk.

**E. What happens if I file after 90 days?**

Under the law, a late filing means you waived your right to contest the Petition for Removal and a default judgment will be issued in favor of the Osage Nation.

**F. Where do I file my Request for Hearing form?**

Forms must be filed with the Osage Nation Trial Court at the Court Clerk’s Office at 1333 Grandview Ave., Pawhuska, OK 74056.



**G. I lost the Request for Hearing form that I received. Is there another Request for Hearing form available?**

Yes, the Court has created forms for public use. These forms are available at the Court and are **mandatory forms**—the only forms accepted for these types of actions.

**H. What happens when I file my form?**

After you complete the form, bring it to the Court Clerk's Office.

- (1) The Court Clerk will make sure the form has been completely filled out before accepting it. Any blank spaces should be completed to the best of your ability. If you need help writing the form, the Court Clerk can transcribe your **exact words**, but cannot provide legal advice or tell you what the judge will decide.
- (2) Once completed, the Court Clerk will give you a court date at least 30 days from the date of filing. The hearing date and time will be written on your form.
- (3) The Court Clerk will file stamp your petition and generate a "Notice of Hearing." This form tells the Attorney General that you have requested a hearing and that a hearing has been scheduled.
- (4) The Court Clerk will make copies of your form and the Notice of Hearing. You will receive copies for your files as well as copies to serve on the Attorney General.

**I. Who tells the Attorney General that I have requested a hearing?**

- (1) You are responsible for delivering copies of the Request for Hearing and Notice of Hearing to the Attorney General's office. You may have someone who is at least 18 years old and not a party to the case personally deliver the copies, or you can send them by first class mail to the Attorney General's Office. The Court Clerk cannot do this for you.
- (2) You must complete and file Certificate of Service describing how you delivered copies to the Attorney General at least 10 days before your hearing date.

**J. What do I do the day of the hearing?**

- (1) Be on time for your hearing and be prepared for the hearing.
- (2) Bring documents that support your position and any information that will help the Court decide your case. Bring extra copies for the Attorney General.
- (3) Be prepared to answer the judge's questions.

**K. When I will know the Court's decision?**

- (1) The Court may make a decision immediately in court on the record and follow up with a written order; or
- (2) The Court may take the matter "under advisement" and issue a written decision within 30 days.

(3) The Court's Order shall contain at minimum the following findings of fact and conclusions of law:

- a. A jurisdictional statement;
- b. Proof of service or efforts to serve notice on the Respondent;
- c. Recitation of evidence received to support the Court's ruling; and
- d. The effective date of the Respondent's removal from the membership roll.

**L. Who can appeal the Court's decision?**

A party who believes the Court made the wrong decision may appeal the Trial Court's decision to the Osage Nation Supreme Court by filing a Petition in Error within 30 days of the date stamped on the Court's Order.

**Section 3. General Rules**

**A. Motions**

- (1) Questions regarding procedure or issues of law regarding the rights of the parties which are raised during a lawsuit and which are neither covered by these rules nor settled by agreement of the parties may be presented to the Court in a motion.
- (2) All motions/requests –including ex parte motions and motions for continuances – to the Court shall be written and filed with the Court Clerk and include a declaration or other certification regarding the method by which the moving party has served the non-moving party. The burden of preparing, filing, and serving motions for an order of the Court rests on the moving party. Requests to the Court made outside the scope of this process shall not be considered unless an emergency exists.
- (3) The moving party shall serve notice to other parties of any pretrial motions at least 10 days before the next scheduled hearing, or such other time as the Court feels is necessary to provide the opposing party a fair opportunity to respond. When a motion is supported by a memorandum or affidavit, they shall be served on the other party with the motion.

**B. Survival of Actions**

All membership appeals and disputes involving an applicant or an enrolled member shall survive to the personal representative of that person if he or she should die or become unable to pursue the action before its completion.

**C. Adults under Guardianship and Minors**

Membership appeals and disputes involving an adult under guardianship or a child under the age of 18 may be pursued by the legal guardian or parent of that person until such time as the guardianship terminates or the minor reaches the age of majority.

**D. Representation by Counsel**

An applicant for membership or enrolled member subject to removal may obtain counsel at his/her own expense and effort. Such counsel must be in good standing in the Osage Nation Bar Association. Any person against whom removal is sought by the Attorney General and who is not removed by the Osage Nation Courts shall be entitled to a reasonable attorney's fee.

**E. Default Judgment for Failing to Appear**

Failure to appear after receiving proper notice may result in a default judgment against the non-appearing party or dismissal of the matter if petitioner fails to appear.

**F. Other Orders**

The Trial Court may issue other directives or orders to ensure the timely resolution of actions filed under the Osage Nation Membership Act:

- (1) When the interests of justice require it;
- (2) To avoid prejudice to the parties; and/or
- (3) To ensure basic due process requirements are satisfied.

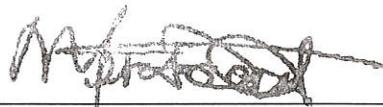
**G. Amendments.** These Rules may be amended by the Chief Justice of the Osage Nation Supreme Court as needed but shall not be construed to impact pending cases.

**H. Definitions.** Words in these Rules shall have the meaning given them unless the context clearly indicates another meaning. If the meaning of a word is not clear, then its meaning shall be construed in harmony with the purposes of these Rules.

**I. Severability.** If any provision of these Rules is declared invalid, then the remaining provisions shall be unaffected.

**J. Effective Date.** These Rules shall be effective as of the date signed below.

SO ORDERED on this 30<sup>th</sup> day of March, 2016.



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Meredith D. Drent  
Chief Justice  
Osage Nation Supreme Court