

# NON-REMOVABLE MILLE LACS BAND OF CHIPPEWA INDIANS

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## IN THE COURT OF CENTRAL JURISDICTION

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### Filing a Civil Summons and Complaint

#### STEP 1

To begin a lawsuit, you must complete and file a petition with the Court. The petition states your claim against the opposing party and the relief you are requesting. The party filing the petition is called the petitioner(s). The party who must answer the complaint in the petition is called the respondent(s). Relief refers to the amount of money or any other right or property that is awarded to the petitioner by the court. The petition should answer the following questions:

- What happened?
- Where did it happen?
- When did it happen?
- How were you damaged?
- What relief do you want the court to give you?
- Why does this Court have jurisdiction over your claim?
- How does the Court have jurisdiction over the petitioner and respondent?

You should be as specific as possible and include all of your information and requests for relief. Once the petition is answered by the opposing party, you will not be able to make changes without special permission from the court. **It is the petitioner's responsibility to provide the current address of the respondent. The Court cannot serve the respondent if a current address is not provided.**

You must sign the petition in front of a notary public or clerk of court.

#### Filing Fees

The Court filing fee of \$50.00 is required, which includes the \$25.00 filing fee and the \$25.00 service of process fee.

There is no fee for service if you choose to have the petition and summons served on the respondent but service must be done in accordance with the law. If there is more than one respondent, each respondent must be served. A person age 18 or older who is not involved in the case must perform the service by providing true and correct copies of the summons and complaint to the respondent. An Affidavit of Personal Service or an Affidavit of Service by Certified Mail must be filed with the Court as proof of service.

Band Members age 55 and older are exempt from these filing fees.

If you are facing financial hardship and cannot pay the filing fees, you may complete and file an In Forma Pauperis application to request waiver of the fees. The presiding Judge will review the application and issue an order granting or denying the request.

## **STEP 2**

Upon filing of the proper documents and Court costs, the Clerk of Court will issue a summons and a copy of the complaint to the respondent either in person or via certified mail. If the petitioner requests to perform the service, the Clerk of Court will give the summons and copy of the complaint to the petitioner to serve the respondent.

The respondent has 20 days from the date of service to respond to the petition.

The Court will determine if a hearing is necessary, based on part if the respondent responds to the petition. It is the petitioner's responsibility to follow up with the Court to determine if a response has been filed by the respondent.

## **STEP 3**

If no response is received, the petitioner can file a written request with the Court for a default judgment.

## **STEP 4**

Once a judgment is awarded, the petitioner can request enforcement of a judgment by filing a Garnishment of Wages or Per Capita Payment Petition in accordance with 24 MLBSA §§ 3351. There is no fee to file the Garnishment of Wages or Per Capita Petition.

The Court Clerk will serve notice of the proposed withholding on the respondent and the respondent is given 10 days to respond or request a hearing on the matter to dispute the financial obligation in question.

If the respondent does not respond or request a hearing, an Order of Withholding or Garnishment Order will be issued.

If the respondent requests a hearing, the Clerk of Court will set a hearing date and provide notice to the parties.

***Requesting a hearing does not, by itself, stop the garnishment. A separate written request for a stay of garnishment must be filed with the Court stating the legal reasons why no garnishment should occur prior to the hearing on the garnishment.***

**NOTE:**

- **The petitioner is not required to have an attorney. If you choose to proceed without an attorney, you will be held to the same standards as an attorney in following procedural rules and statutory requirements.**
- **Court staff cannot give legal advice.**
- **The Court cannot process incomplete petitions.**
- **The \$25.00 service fee does not include costs for service by publication, if that becomes necessary. Service by publication is the responsibility of the Petitioner.**
- **If you have questions, you may contact the Mille Lacs Band Court Administration, 320-532-7400.**