

THE GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS TRIBAL COURT	SUMMONS AND COMPLAINT	PROCESS, SERVING, COST, FORM, PROOF OF SERVICE
2605 N. West Bay Shore Drive, Peshawbestown, MI 49682 (231)534-7050 TribalCourt@gtb-nsn.gov (231)534-7051 fax		

**GRAND TRAVERSE BAND TRIBAL COURT**  
**CIVIL CASE FILING PACKET**

This packet contains the following documents:

1. **General Court Process for Civil and Domestic Relations Cases**
  - a. A summary of the procedure for civil cases.
2. **Serving Court Papers and Types and Costs of Service**
  - a. A summary of who may serve court documents, the different types of service and the costs for each type.
3. **Summons and Complaint (2nd Page is Proof of Service)**
  - a. Must be filed in each case. It is the cover sheet for any Complaint that is filed. The second page is the Proof of Service that must be filed with the Court once service is accomplished.
4. **Complaint (1st Page)**
  - a. This is a form you may use to indicate the nature of your complaint against the Defendant(s), the facts which support the complaint, and the relief requested of the Court.
5. **Complaint (Additional Page)**
  - a. This is a form you may use when you run out of room on the first page of the Complaint form above. This page may be copied or reproduced as necessary.

## GENERAL COURT PROCESS FOR CIVIL AND DOMESTIC RELATIONS CASES

Civil case procedure involves the following basic phases:

- 1. Starting an Action. Filing and Serving a Complaint:** A lawsuit begins when a plaintiff files a Summons and Complaint with the Tribal Court. The complaint identifies the parties involved in the case and describes the nature of the grievance and the remedy that is being sought.  
The court issues a summons, and a copy of the complaint and summons must be served on the defendant. The summons states that the defendant must respond to the complaint within 21 days if served in person, or 28 days if served by mail.  
**Answering a Complaint:** The defendant responds to the complaint by filing an answer in the same court, within the required time. If the defendant does not file an answer or other responsive pleading within the required time, the court may enter a default judgment in favor of the plaintiff.  
Tribal Court Rules for starting a case are GTBCR 4.101 through 4.227.
- 2. Discovery.** Discovery involves various procedures for discovering facts. It allows all the parties to get all the relevant facts in the lawsuit. Most discovery includes asking questions of parties and witnesses through written questions (interrogatories) or through oral questions under oath (depositions) and reviewing documents acquired through an order to produce (subpoena) or a request for production of records. Tribal Court Rules on discovery are GTBCR 4.301 through 4.316.
- 3. Pretrial Procedures.** Pretrial procedures are events designed to conclude or settle a lawsuit without going to trial. These events include various conferences, case evaluation, and mediation. Tribal Court Rules for pretrial procedures are GTBCR 4.401 through 4.420.
- 4. Trial Procedures.** Depending on the type of action, a case may be tried before a judge or before a jury. If a party wants a jury trial, a demand for jury must be filed within a certain time and a fee must be paid. If the trial is by jury, there are a number of procedures for selecting and impaneling a jury as well as for instructing the jury about their responsibilities in the case.

At the trial, opening statements are made by each party to the judge or the jury explaining the nature of the case, what evidence is going to be presented, and what facts are going to be proven. After the opening statements, the parties present their case, call their witnesses, and provide their evidence. The plaintiff always goes first, followed by the defendant. After presenting evidence and witnesses, the parties have additional opportunities to examine and cross-examine one another's evidence or witnesses. The trial is often concluded by a final argument from each party.

After the trial, the jury or judge will arrive at a verdict. In a jury trial, the jurors will go to a separate room to discuss the case in order to arrive at a verdict (this is called jury deliberations). In a bench trial, the judge may leave the bench for a short time to consider the evidence before making a verdict. Tribal Court Rules dealing with trials are GTBCR 4.501 through 4.518.

- 5. Judgment.** Once a settlement is reached, a verdict is entered, or a default is entered (if the defendant did not answer the complaint), a judgment must be prepared. In most cases, the judgment is prepared by the prevailing party (the person who "won" the case) and entered by the court. Depending on the type of case and how the judgment was arrived at, a hearing may be necessary to enter the order. All judgments must be signed by the judge and dated with the date they are signed. To be effective, a judgment must be filed with the clerk of the court, and the prevailing party must serve a copy on the other party. Tribal Court Rules on judgments are GTBCR 4.601 through 4.613.
- 6. Post-judgment Procedures.** Post-judgment procedures provide the parties with the means to enforce a judgment or to appeal a judgment and to assess costs associated with the case. Tribal Court Rules for post-judgment proceedings are GTBCR 4.614 through 4.630.

## SERVING COURT PAPERS AND TYPES AND COSTS OF SERVICE

### **Serving Court Papers**

Everyone who files a court paper must serve it on all other parties, on interested persons when required, and on any attorneys who have filed an appearance in the case. The term "serve" means to provide notice; in other words, everyone has the right to "due process" under the law. It is critical that everyone involved in a case is provided with proper notice of every paper filed in that case. Without this "due process," a case can be dismissed for lack of service. Service in civil cases filed in Tribal Court is regulated by Tribal Court Rules 4.101 through 4.108. It is very important that court papers are served properly and timely.

The following information is general in nature and is intended to give you general guidance about service requirements. It is very important that you read the Tribal Court Rules related to your type of case in addition to the information on this page to find out the exact service requirements for your case.

1. **Who May Serve.** Process in civil cases may be served by any legally competent adult who is not a party or an officer of a corporate party to the case. However, a writ of restitution or process requiring the seizure or attachment of property may only be served by a Tribal Police officer, sheriff or deputy sheriff, or a bailiff or court officer appointed by the court for that purpose.

If personal service of process in civil cases is to be made on a person in a governmental institution, hospital, or home, service must be made by the person in charge of the institution or by someone designated by that person.

Process in civil cases requiring the arrest of a person may be served only by a Tribal police officer, sheriff, deputy sheriff, or, or by a court officer appointed by the court for that purpose.

2. **Who to Serve After Opening a Case.** Different types of cases will involve service on different people. After a case is opened (by filing either a complaint or a petition with the court), depending on the type of case, you must either "summon" the other parties to the court or notify the persons who have an interest in the case. This is done by serving the complaint or petition and either a summons or notice of hearing (along with any other documents filed with the complaint or petition). Below are some broad types of cases and who must be served in those cases. For proper service, you must refer to the Tribal Court Rules pertaining to the specific proceeding you have filed:
  - a. A complaint in a civil case must be served on each defendant named in the case, along with a summons issued by the clerk of the court. A civil case includes general civil, small claims, landlord-tenant, and land contract cases.
  - b. A complaint in a domestic relations case (child custody, child support, visitation, etc.) must be served on the defendant, along with a summons issued by the clerk of the court.
  - c. A petition filed in a case for an estate, trust, guardianship, conservatorship, mental illness, or judicial admission proceeding must be served on all interested persons, along with a notice of hearing.
  - d. A petition filed in the Tribal Court for cases such as adoption, emancipation of a minor, or name change, must be served according to the court rules or Tribal Code provisions pertaining to those particular proceedings.
3. **How and When to Serve the Court Papers that Opens a Case.** You may serve court papers and any supporting documents for a civil case by personal delivery or by registered or certified mail, return receipt requested, with restricted delivery to the defendants/other parties. In most civil cases, service must be made within 91 days of the date the complaint was filed with the clerk (see the expiration date on the Summons and Complaint). The court rules for service of the court papers that open a civil case are GTBCR 4.102 and GTBCR 4.108.
4. **How and When to Serve a Notice of Hearing.** The other parties and, in certain cases, "interested persons" must be notified of a hearing. A notice of hearing is typically served along with the court paper (complaint, petition, motion) that requested the hearing. In some cases, the hearing notice will be sent by the Court.
5. **How and When to Serve a Motion or Other Court Paper.** The other party and, in certain cases, "interested persons" must be notified of the filing of a motion and related papers, along with the notice of hearing either 9 days (if served by mail) or 7 days (if served in person) before the hearing date. Tribal Court Rules for service of motions in civil cases are GTBCR 4.107 and GTBCR 4.119().
6. **How and When to Serve an Order.** Except for default judgments, the party responsible for getting a judgment or an order signed must serve a copy on all other parties and any interested persons within 7 days after the judgment or order has been signed. The Tribal Court Rule for service of civil judgments and orders is GTBCR 4.602(D)(1).

## Types and Costs of Service

### 1. **Service on Individuals**

Service of the court paper that opens a case is more restrictive than service of other court papers. Service of this paper must be done by delivering court papers to the party personally or by sending the court papers by registered or certified mail, return receipt requested, with delivery restricted to the individual's last known address. Service is made when the party acknowledges receipt of the mail. A copy of the return receipt signed by the party must be attached to the proof of service. After this initial court paper is served, service of all other papers in a case can be done as above or by first class mail. See GTBCR 4.105 for specific details in civil cases.

### 2. **Alternate Service**

If service of civil cases cannot be made, the court may permit service by posting or publication, or any other manner that could reasonably give actual notice of the proceedings. Any request for alternate service must be made in a verified motion and the only type of alternate service that can be made must be specifically stated in the circuit or district court order. A fee is required. See GTBCR 4.106 for details. A motion for alternate service form is available.

### 3. **Service on Corporations and Associations**

For service on corporations and associations, see GTBCR 4.105.

### 4. **Cost of Service**

The cost of personal service varies but can sometimes be over \$100. The cost of service by registered or certified mail is often less than \$10.00.

### 5. **When Court Papers Cannot be Served**

Sometimes court papers cannot be served because the address of the person to be served is wrong or the whereabouts of the person to be served are unknown. A hearing cannot be held until it can be proven to the court that both parties know about the hearing or that every effort was made to serve the court papers. If the other person's copy of the court papers is returned to you undeliverable, you must:

- Find out the current address of the other person.
- If there are less than 9 days before the original hearing date, contact the court to cancel the original hearing date and schedule a new one.
- Fill out another notice of hearing form and serve the court papers again at the new address.
- When a new address cannot be obtained, contact the court to cancel the original hearing date and file a motion with the court for alternate service.

### 6. **Proof of Service**

Proof of service is not always required. It is important to read the Tribal Court Rules related to your type of case to find out whether proof of service is required.

Proof of service of the court paper that starts a civil case must be made by:

- A. written acknowledgment of the receipt of a summons and a copy of the complaint, dated and signed by the person to whom the service is directed or by a person authorized under these rules to receive the service of process;
- B. a certificate stating the facts of service, including the manner, time, date, and place of service, if service is made within the State of Michigan by a Tribal Police officer; sheriff; a deputy sheriff or bailiff, if that officer holds office in the county in which the court issuing the process is held, an appointed court officer, or an attorney for a party; or
- C. an affidavit stating the facts of service, including the manner, time, date, and place of service, and indicating the process server's official capacity, if any.

Proof of service of other court papers can be made as outlined above or in another form that is satisfactory to the court.

The proof of service should contain the name of the persons being served, the place of service (such as the address where the service was made or a description of the location), and the date and time of service.

Most court forms contain a proof of service or a certificate of mailing. For details in civil cases, see GTBCR 4.104.

THE GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS TRIBAL COURT 2605 N. West Bay Shore Drive, Peshawbestown, MI 49682 (231)534-7050 TribalCourt@gtb-nsn.gov (231)534-7051 fax	SUMMONS AND COMPLAINT	CASE No.
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Plaintiff Name, Address, Phone Number	vs.	Defendant's Name, Address, Phone Number
Plaintiff's Attorney/Lay Advocate Name, Address, Phone Number		Defendant's Attorney/Lay Advocate Name, Address, Phone Number

**SUMMONS**

**Notice to the Defendant:** In the name of the people of the Grand Traverse Band of Ottawa and Chippewa Indians you are notified:

1. You are being sued.
2. **YOU HAVE 21 DAYS** after receiving this summons to **file an answer with the Court** and serve a copy on the other party **or take other lawful action with the Court** (28 days if you were served by mail or you were served outside this state). (GTBCR 2.111[C])
3. If you do not answer or take other action within the time allowed, judgment may be entered against you for the relief demanded in the complaint.

Issued	This Summons Expires	Court Clerk
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\*This summons is invalid unless served on or before its expiration date.

**This document must be sealed by the seal of the Court.**

**COMPLAINT**

Instruction: The following is information that is required to be in the caption of every complaint and is to be completed by the Plaintiff. Actual allegations and the claim for relief must be stated on additional complaint pages and attached to this form.

**General Civil Cases or Domestic Relations Cases**

- There is no other pending or resolved civil action arising out of the same transaction or occurrence as alleged in the complaint.
- A civil action between these parties or other parties arising out of the transaction or occurrence alleged in the complaint has been previously filed in \_\_\_\_\_ Court.

This action  **remains**  **is no longer** pending. The docket number and Judge assigned are:

Docket No.	Judge
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<b>VENUE</b>	
Plaintiff(s) residence (include city, township, or village)	Defendant(s) residence (include city, township, or village)

Place where action arose, or business conducted.
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\_\_\_\_\_ Date

\_\_\_\_\_ Signature of Attorney/Plaintiff

If you require special accommodations to use the Court because of a disability or if you require a foreign or sign language interpreter to help you fully participate in Court proceedings, please contact the Court immediately to make arrangements.

GTBCR 4.102(B)(11), GTBCR 4.104, GTBCR4.105, GTBCR 4.107, GTBCR 4.113(C)(2)(a), (b).

THE GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS TRIBAL COURT	COMPLAINT Page         of         Pages	CASE No.
2605 N. West Bay Shore Drive, Peshawbestown, MI 49682 (231)534-7050 TribalCourt@gtb-nsn.gov (231)534-7051 fax		

My complaint is against:

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My complaint is based upon the following facts (be specific and provide as much detail as possible. Use next page if additional sheets are necessary):

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Relief requested of the Court:

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I hereby swear or affirm that the statements contained in this Complaint are true to the best of my knowledge, information, and belief.

\_\_\_\_\_   
 Date

\_\_\_\_\_   
 Signature of Plaintiff(s)



GRAND TRAVERSE BAND OF OTTAWA AND CHIPPEWA INDIANS TRIBAL COURT	SUMMONS AND COMPLAINT	CASE NO.
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2605 N. WEST BAY SHORE DRIVE, PESHAWBESTOWN, MI 49682 (231)534-7050 TribalCourt@gtb-nsn.gov (231)534-7051 fax

**PROOF OF SERVICE**

**TO PROCESS SERVER:** You are to serve the Summons and Complaint no later than 91 days from the date of filing or the date of expiration on the order for second summons. You must make and file your return with the Court Clerk. If you are unable to complete service, you must return this original and all copies to the Court Clerk.

**CERTIFICATE / AFFIDAVIT OF SERVICE / NON-SERVICE**

**PARTY OR OFFICER CERTIFICATE.** I certify that I am a sheriff, deputy sheriff, bailiff, appointed Court Officer, or Attorney for a party [GTBCR 4.104(A)(2)], and that (notary not required).

**AFFIDAVIT OF PROCESS SERVER.** Being first duly sworn, I state that I am legally competent adult who is not a party or an officer of a corporate party, and that (notary not required).

- I served personally a copy of the Summons and Complaint.
- I served by registered or certified mail (copy of return receipt attached) a copy of the Summons and Complaint, together with \_\_\_\_\_

List all documents served with the Summons and Complaint.

Defendant's name	Complete Address(es) or Service	Day, Date, Time
Defendant's name	Complete Address(es) or Service	Day, Date, Time

I have personally attempted to serve the Summons and Complaint, together with any attachments, on the following defendant(s) and have been unable to complete service.

Defendant's name	Complete Address(es) or Service	Day, Date, Time
Defendant's name	Complete Address(es) or Service	Day, Date, Time

I declare that the statements above are true and correct to the best of my knowledge, information, and belief.

Service Fee	Miles Traveled
\$ _____	\$ _____
Mileage Fee	Total Fee
\$ _____	\$ _____

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

Subscribed and sworn to before me on this \_\_\_\_ day of \_\_\_\_, in the year \_\_\_\_ before me \_\_\_\_\_, a Notary Public in and for the County of \_\_\_\_\_, State of \_\_\_\_\_, personally appeared \_\_\_\_\_, who proved on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to this instrument and acknowledged he/she executed same.

Notary Public \_\_\_\_\_  
In and For County \_\_\_\_\_ State of \_\_\_\_\_  
Acting in County of \_\_\_\_\_  
My Commission Expires on \_\_\_\_\_

(seal)

**ACKNOWLEDGMENT OF SERVICE**

I acknowledge that I have received service of the Summons and Complaint, together with (attachments) \_\_\_\_\_  
\_\_\_\_\_ on (Day, Date, Time) \_\_\_\_\_

\_\_\_\_\_ on behalf of \_\_\_\_\_  
Signature