



## TRIBAL COURT PUBLIC GUIDE STARTING A CIVIL CASE IN TRIBAL COURT

*NOTICE: This guide is for informational purposes only and the accuracy of the information is not guaranteed. This information is not legal advice and is not a substitute for legal advice. Court Clerks cannot provide legal advice. You are encouraged to consult with an attorney if you have legal questions.*

**Do you believe that you have a legal dispute involving another person or entity? You can attempt to resolve this dispute by filing a civil action in Tribal Court. This guide provides information on how to state a civil action.**

- 1. What is a “civil action”?** “Civil” is the general term for cases that are not criminal cases filed by the government against an individual for a violation of criminal laws. In the Habematolel Pomo of Upper Lake Tribe, civil actions must be based on an enacted law (such as the Children and Families Code).
- 2. Do I need an attorney?** Only you can decide if you need legal representation. You can contact an attorney to ask them about your case and discuss your options. You are responsible for finding and paying an attorney to represent you.
- 3. How do I start a civil action?** You must file a petition with the Court Clerk and pay the filing fee. If you cannot afford the filing fee, then you may file a written request to the court to waive the filing fee. Forms for a petition and to waive the filing fee are available from the Court Clerk.
- 4. What should I do before I file my petition?** It is always better to be prepared before you file a petition involving another party. Locate documents and information that will help you complete the petition. This includes documents with information such as: dates that the events occurred, amounts in dispute, contact information for the other party or parties, etc.

You should also get a copy of the Trial Court Rules of Procedure, which contains the rules you will need to follow.

- 5. What do I write in my petition?** It is important to complete the petition with as much detail as possible, so the judge has enough information to conduct the first hearing. Accurately providing all the requested information will help prevent unnecessary delays in the process.

- 6. I am scared for my safety or the safety of others who live with me if the other party knows where I live. Do I have to provide an address?** No. If, for genuine safety reasons, you want your address to be confidential put the court's address as your address on the petition. Put your actual address on a Confidential Statement of Address form so that your address may remain confidential. The Confidential Statement of Address form is available from the Court Clerk. The Confidential Statement of Address will not be available to the other party.

**How do I file my petition?** To file the petition with the court, give the petition, any supporting documents, and the filing fee (or request for a waiver of the filing fee) to the Court Clerk during business hours at the court's address, or you may file electronically. The Court Clerk's office is located at 635 E. Hwy 20, TC Upper Lake, CA 95485. Business hours are 9:00 am – 4:00 pm. You may file electronically by sending an email to [tribalcourt@hpultribe-nsn.gov](mailto:tribalcourt@hpultribe-nsn.gov).

- 7. What happens after I file my petition?** The Court Clerk will review your petition to make sure it is complete. If the Court Clerk accepts the petition, then it will be file stamped. You will receive a copy of your file stamped petition.

The Court Clerk will create a document called a "Summons" which directs the other party to file an answer to your petition within a certain period of time. The Summons may also include a date, time and location for the first hearing, or it may be provided in a separate document called a Notice of Hearing. You will receive copies for yourself and for the other party.

- 8. Who provides copies to the other party?** You are responsible for ensuring the other party is "served process", which means you must have someone else personally give copies of the following documents to them:

- a copy of the petition and any supplemental documents that you filed with the court; and
- the summons (and notice of hearing) issued by the Court Clerk.

Delays in service will keep your case from moving forward. A case cannot go forward if the other party is not served or is not served properly.

- 9. How do I serve the other party?** You cannot serve the other party yourself. You must arrange for anyone over the age of 18, who is not a party to the case, to serve the other party. Whoever serves the other party must file proof of service with the court. Forms are available from the Court Clerk.

If there is a reason you cannot personally serve the other party, such as you are prohibited from direct or indirect contact with them or vice versa, you can request the Court Clerk to serve them for you. This method of service takes longer than personal service.

If you have searched for the other party's address and have not found it, or if you tried to personally serve them and failed, then you can request the court to serve notice by publication. You must file a written request explaining to the court why you could not serve the other party yourself. This method of service takes at minimum 30 days.

**10. Do I have to go to court?** The Court Clerk scheduled a first hearing for you and the other party to discuss your petition. You will receive a Notice of Hearing from the court. If you do not show up at your hearing as directed by the Notice of Hearing, the court may assume that you do not want to pursue your petition any longer and dismiss your case. The Notice of Hearing will tell you if you need to appear in person or by phone or video.

You should be prepared before you come to court. Bring copies of all the documents from the case, copies of other documents you would like the judge to see, and a pen and notebook to take notes during your hearing.

**11. What happens at the first hearing?** The judge will hear from the parties and based on the circumstances, will decide how to proceed. What happens after the hearing depends on what the judge orders. Therefore, it is important to read any order issued by the judge and understand its contents because it will outline the next step in the process.

**For more information:**

Please refer to the *Trial Court Rules of Procedure*. More information may be available on the Tribal Court's website at: <https://www.hpultribe-nsn.gov/government/>.

General information from the Court Clerk may also be available by sending an email to: [tribalcourt@hpultribe-nsn.gov](mailto:tribalcourt@hpultribe-nsn.gov)