

CIVIL PROCEDURE

CHAPTER SIX

JURORS

Section 601. Meeting for Selection of Jurors

(a) On the first Monday in August, or as soon thereafter as may be necessary, and, at any time upon the order of the Chief Judge of the Trial court, the Clerk of the Trial Court, shall select from a list to be compiled of all qualified jurors, as prescribed in this Chapter, all qualified jurors for service in the Tribal District Court for the ensuing calendar year in the manner hereinafter provided.

(b) For the purpose of ascertaining the names of all persons qualified for jury service, it shall be the duty of the following officer to provide the following lists of qualified prospective jurors to the Court Clerk by the first Monday in July:

(1) The Tribal Secretary shall supply a list of all enrolled Tribal members over eighteen years of age who are resident of the tribal jurisdiction.

(2) The Tribal Tax Director shall supply a list of all individual taxpayers irrespective of Tribal membership over eighteen years of age who are residents of the tribal jurisdiction.

(3) The Chairman / Director of the Tribal Housing Authority shall supply a list of all known tenants of the Housing Authority and members of their households over eighteen years of age irrespective of status as an Indian or tribal membership who are residents of the tribal jurisdiction.

(4) The Court Clerk shall supply a list of all persons over eighteen years of age irrespective of status as an Indian or tribal membership who have registered upon the Court Clerk's Jury Selection Roll for jury service.

(5) The Human Resources / Employment Office of the Sac and Fox Nation shall supply a list of all persons over eighteen years of age irrespective of status as an Indian or tribal membership who are employed by the Tribe.

(6) The Human Resources / Employment Office of the Sac and Fox Casino shall supply a list of all persons over eighteen years of age irrespective of tribal membership who are employed by the Sac and Fox Casino. Provided, the Sac and Fox Casino employee list shall only be required when a non-Sac and Fox member requests a jury trial. The Court, may however, order that the Casino employee list be submitted and drawn from if necessary in order to pull a jury for a particular trial.

(c) Each such list shall contain, insofar as is known, the date of birth or age,

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name, and actual place of residence of each person within the category on the list.

(d) Whenever possible, these lists shall be prepared at least thirty days prior to the selecting of qualified jurors to allow time for the typing of the names contained therein on cards as hereafter provided, or shall be presented typed upon the cards as hereafter provided.

(e) Whenever such is reasonably available and efficient the lists may be printed, supplied by digital or electronic form, as appropriate.

[History: PUBLIC LAW #85-58, June 21, 1985, amended SF-15-26, December 11, 2014.]

Section 602. Court Clerk's Jury Selection Roll

It shall be the duty of the Court clerk to maintain at all times a jury selection roll upon which any person who is or may be eligible for jury service may enter their name, date of birth, and place of residence. Such roll shall be provided to the jury selection board in order that all qualified persons who may not be identified in paragraphs (1), (2), or (3) of Subsection (b) of Section 601 of this Chapter shall have the opportunity for jury service.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 603. Preparation of Jury Wheel

(A) The Court Clerk shall write or cause to be written or typed the names of all persons who are known to be, or may be, qualified jurors under the law on separate cards of uniform size and color, writing also on said card, whenever possible, the post office address of each juror so selected, along with their age or date of birth and place of residence under the direction of the Court Clerk. Whenever such can be avoided, no persons name shall be placed upon more than one card. The expenses of preparation of said cards to be paid from the Court fund. The cards containing said names shall be deposited in a circular hollow wheel, to be provided for such purpose by the Court Clerk after examination of the contents thereof and removed therefrom and destroyed any card found therein. Said wheel shall be in the form of a drum made of iron, steel, or other substantial material, and shall be so constructed as to freely revolve on its axle and big enough to freely mix all the cards placed therein, the size thereof in each case to be determined by the number of names placed therein, and shall be locked at all time, except when in use as hereinafter provided, by the use of two separate locks, so arranged that the key to one will not open the other lock; and said wheel and the clasps thereto attached into which the locks shall be fitted, shall be so arranged that said wheel cannot be opened unless both of said locks are unlocked at the time the wheel is opened. The keys to such locks shall be kept, one by the Chief of the Tribal Police, and the other by the Court Clerk. The Chief of the Tribal Police and the Court Clerk shall not open

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such wheel, nor permit the same to be opened by any person, except at the time and in the manner and by the persons herein specified; but said Chief of the Tribal Police and Court Clerk shall keep such wheel, when not in use, in a safe and secure place where the same cannot be tampered with.

(B) Alternatively, if the Court Clerk's office acquires or has use of software, digital or electronic means to randomly draw names of the potential jurors that sufficiently protects the integrity of the jury process such may be used in place of the drum and card procedure listed above. Any reference to the jury wheel shall include such software, digital or electronic process.

[History: PUBLIC LAW #85-58, June 21, 1985, amended SF-15-26, December 11, 2014.]

Section 604. Drawing General Jury Panel

(a) The Judges of the Court shall, more than twenty (20) days prior to each jury docket of Court, determine approximately the number of jurors that are reasonably necessary for jury service in the Court during the jury docket, and shall thereupon order the drawing of such number of jurors from the wheel, said jury to be known as the general panel of jurors for service for the respective jury docket for which they are designated to serve. The judge to whom the jury is docketed or the chief judge, are authorized to act in carrying out the provisions of this Section.

(b) The Court Clerk or one of his deputies and the Chief of the Tribal Police or one of his deputies and under the directions of the Chief Judge of the District Court, or during his absence, some other Judge of the District Court, shall draw from the wheel containing the names of jurors, after the same has been well turned so that the cards therein are thoroughly mixed, one by one until the number of jurors for jury service as directed by the Court are procured and shall record such names as they are drawn. The officers attending such drawing shall not divulge the name of any person that may be drawn as a juror to any person.

(c) Additional and other drawing of as many names as the Court may order may be had at any such time as the Court or Judge may order for the completion of a jury panel, or for the impaneling of a new jury if, in the judgment of the Court, the same shall be necessary, or if, for any cause, the Court, in its discretion, shall deem other jurors necessary. The Court may excuse or discharge any person drawn and summoned as a juror, whenever, in its discretion, such action shall be deemed expedient.

(d) No person may be required, over his objection, to render service as a juror for more than a total of twenty (20) working days in any one calendar year unless, when this time limit is reached, he is sitting upon a panel engaged in the consideration of a case, in which event he may be excused when such case is terminated; provided, that if the Judge is of the opinion that the jury business of a jury docket fixed by the Court may be concluded within

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six (6) days, he may require a jury, or a juror, to remain until the termination of said jury service. Persons summoned for jury service need not be required to serve during previously fixed days or weeks or a docket fixed by the Court for jury trials, but they may be recalled from time to time as the trial needs of the District Court may require, without regard to the docket term fixed by the Court for jury trials for which they were originally summoned.

[History: PUBLIC LAW #85-58, June 21, 1985, amended SF-15-26, December 11, 2014.]

Section 605. Use of Jury Panel

The general panel of jurors shall be used to draw juries in all actions tried during the jury docket for which they were summoned. In the event of a deficiency of said general panel at any given time to meet the requirements of the Court, the presiding Judge having control of said general panel shall order such additional jurors to be drawn from the wheel as may be sufficient to meet such emergency, but such jurors shall act only as special jurors and shall be discharged as soon as their services are not further needed. Resort to the wheel shall be had in all cases to fill out the general panel, except when only a single jury is needed or when the Court determines that undue delay will be caused thereby to the prejudice of a party, in which case the Court may issue an open venire to the Chief of the Tribal Police or other suitable person for such number of jurors as may be necessary to be selected from the body of the tribal jurisdiction without resort to the jury wheel, provided, that no person shall be called to service or required to serve under an open venire more often than once each year.

[History: PUBLIC LAW #85-85, June 21, 1985.]

Section 606. Certifying and Sealing Lists

The list of names so drawn for the general panel shall be certified under the hand of the Court Clerk or the deputy doing the drawing and the Judge in whose presence said names were drawn from the wheel to be the list drawn by the said Clerk for the said jury docket, and shall be sealed up in envelopes endorsed "jurors for the jury docket of the Tribal District Court scheduled to commence on _____" (filling in the blank with the appropriate date) and the Clerk doing the drawing shall write his name across the seals of the envelopes.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 607. Oath and Delivery of Envelopes

The judge attending the drawing shall deliver such envelopes to the Court Clerk, or one of his deputies, and the Judge shall, at the same time, administer to the Court Clerk and to each of his deputies an oath in substance as follows: "You and each of you do solemnly

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swear that you not open the jury lists now delivered to you, nor permit them to be opened, until the time prescribed by law, nor communicate to anyone the name or names of person appearing on the jury lists until the time a list is opened as prescribed by law at which time it shall be published, that you will not, directly or indirectly, converse or communicate with any one selected as juror concerning any case pending for trial in the Court at the next jury docket, So help you God."

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 608. Sealing and Returning Juror Name Cards

When the names are drawn for jury service, the cards containing such names shall be sealed in separate envelopes, endorsed "cards containing the name of jurors for the petit jury for the jury docket of the Tribal District Court commencing on _____" (filling in the blank for the date properly); and said envelopes shall be retained securely by the Clerk, unopened, until after the jury has been impaneled for such docket, and, after such jurors so impaneled have served one jury docket, the envelopes containing the cards bearing the names of the jurors for that docket shall then be opened by the Court Clerk, or his deputy, and those cards bearing the names of persons who have not been impaneled and who have not served on a jury shall be immediately returned to the wheel by the Court Clerk or his deputy; and the cards bearing the names of the persons serving on a jury shall be put in a box provided for that purpose for the use of the officer who shall next select jurors for the wheel, provided, that no officer shall serve as a juror more often than once a year, except upon order of the Court for lack of sufficient jurors or as herein provided.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 609. Refilling Wheel

If the wheel containing the names of jurors be lost or destroyed, with the contents thereof, or if all cards in said wheel be drawn out, such wheel shall immediately be refurnished, and cards bearing the names of jurors shall be placed therein immediately in accordance with law.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 610. Summoning Jurors

The summons of person for service on the juries in the District Court shall be served by the Court Clerk by mailing a copy of such summons containing the time, place, and the name of the Court upon which said jurors are required to attend, by registered or certified mail, or as directed by the Judge, to the person selected for service not less than ten (10) days

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before the days said person is to appear as a juror in the Court. The court Clerk shall make a return of such service by filing an affidavit stating the date of mailing and type of mail used in the sending the summons; provided, that this shall not prevent service of special open venire or talesman by the Chief of the Tribal Police.

[History: PUBLIC LAW #85-58, June 21 1985.]

Section 611. On-Call System Jurors

(a) When an on-call system is implemented by order of the Chief Judge of the District Court, each juror retained for service subject to call shall be required to contact a center for information as to the time and place of his next assignment.

(b) For purposes of this Section, "on-call system" means a method whereby the Chief Judge of the District Court estimates the number of jurors required for a jury docket of court, and those jurors not needed during any particular period are released to return to their home or employment subject to call when needed.

(c) Pursuant to summons for service on petit juries in the District Court, each qualified, nonexempt juror is retained for service subject to call and is assigned to a judge or a case.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 612. Drawing Trial Jurors From Panel

Prospective jurors for the trial of an action shall be drawn by the Court Clerk, in open Court in the presence of a Judge, by lot either by wheel, by numbering the prospective jurors cards and then drawing numbers from a pool containing a numbered marked for each prospective juror available to be called, or by some similar form of random drawing approved by the Court. The initial six jurors shall be drawn as shortly before the trial of the action as is reasonably practical in the discretion of the Court. As prospective jurors are removed or dismissed by challenge, whether preemptory or for cause, the Clerk shall draw another name from the general pool who shall take the place of the challenged prospective juror and be subject to voir dire to the same extent as the prospective jurors originally chosen.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 613. Qualifications and Exemptions of Jurors

(a) All members of the Tribe and other citizens of the United States who are over eighteen years of age and have resided within the Tribal jurisdiction for a period of thirty (30)

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days, who are of sound mind and discretion and of good moral character are competent to act as jurors, except as herein provided.

- (b) The following persons are not qualified to serve as jurors:
 - (1) Justices of the Supreme Court of the Tribe, or the employees in their office.
 - (2) Judges or Magistrates of the District Court, or the employees in their office.
 - (3) The Court Clerk, or the employees in his office.
 - (4) The Chief of the Tribal Police, his deputies, and the employees in the Police Department.
 - (5) Jailers having custody of prisoners, or other tribal, state, or federal law enforcement officers.
 - (6) Licensed Attorneys or Advocates engaged in the practice of law.
 - (7) Persons who have been convicted of any felony or crime involving moral turpitude, provided that when such conviction has been vacated, overturned upon appeal or pardoned or when any such person has been fully restored to his civil rights by the jurisdiction wherein such conviction occurred. The person shall be eligible to serve as a juror.
 - (8) Elected Tribal Officials.
- (c) Persons over seventy (70) years of age, ministers, traditional or ceremonial leaders, practicing physicians, optometrists, dentists, public school teachers, federal employees, regularly organized full time fire department employees, and women with otherwise unattended minor children not in school may be excused from jury service by the Court, in its discretion, upon request.
- (d) Any tribal member, tribal taxpayer, or person employed within the Tribal jurisdiction may serve as a juror notwithstanding that they are not a resident of the Tribal jurisdiction if they volunteer to do so by signing the Jury Selection Roll maintained by the Court Clerk.

[History: PUBLIC LAW #85-58, June 21, 1985, amended SF-15-26, December 11, 2014.]

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Section 614. Substantial Compliance

A substantial compliance with the provisions of this Chapter, shall be sufficient to prevent the setting aside of any verdict rendered by a jury chosen hereunder, unless the irregularity in drawing, and summoning, or impaneling the same, resulted in depriving a party litigant of some substantial right; provided, however, that such irregularity must be specifically presented to the Court at or before the time the jury is sworn to try the cause.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 615. Oath to Jury

After selection of the jury, and prior to the opening statements of the parties, the Court or Clerk shall place the jury under oath or affirmation to well and truly try and determine the action before them exclusively upon the evidence presented in the Court and the law as given by the Court, and to return their true verdict thereon without partiality for any unlawful cause or reason.

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 621. Discharge of Employee for Jury Service - Penalty

Every person, firm, or corporation who discharges an employee or causes an employee to be discharged because of said employee's absence from his employment by reason of said employee's having been required to serve as a juror on the jury of the Tribal District Court, or any other Court, shall be guilty of an Offense, and, upon conviction thereof, shall be punishable by a fine not to exceed Five Hundred Dollars (\$500.00).

[History: PUBLIC LAW #85-58, June 21, 1985.]

Section 622. Civil Liability - Damages

Every person, firm, or corporation who discharges or causes to be discharged an employee because of said employee's absence from his employment by reason of said employee having been required to serve as a juror on a jury, in the Tribal District Court or any other Court, shall be liable to the person so discharged in a civil action at law for both actual and punitive damages. Damages shall include all pecuniary losses suffered including, but not limited to, lost earnings, both past and future, mental anguish, and all reasonable

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damages incurred in obtaining other suitable employment, including the cost of relocation and retraining, if any, and a reasonable attorney fee to be determined by the Court. Provided, punitive damages may not exceed three (3) times the actual damages.

[History: PUBLIC LAW #85-58, June 21, 1985, amended SF-15-26, December 11, 2014.]