



NCA 20-016

CLASSIFICATION: #27. JUDICIAL PROCEDURES

A LAW OF THE MUSCOGEE (CREEK) NATION AMENDING MCNCA TITLE 27, APPENDIX 1, RULE 14, ENTITLED "Fees for Filing an Appeal" AND AMENDING MCNCA TITLE 27, APPENDIX 2, RULE 2

Be it enacted by the National Council of the Muscogee (Creek) Nation:

SECTION ONE. AMENDMENT. These amendments shall be codified in Title 27, of the Code of Laws of the Muscogee (Creek) Nation; provided that for purposes of codification of said amendment and its inclusion in pocket parts of the Code of Laws of the Muscogee (Creek) Nation, the Attorney General is hereby authorized: (1) to approve any changes related to the manner in which sections, articles, chapters and sub-chapters are designated consistent with the format in the Code of Laws published in 2010 by West Publishing Company; (2) to include footnoted references to the legislative history in said pocket parts to the Code of Laws and; (3) to note in said pocket parts any editorial correction of minor clerical or grammatical errors in the following amendment, without further National Council approval:

SECTION TWO. AMENDMENT. MCNCA Title 27, Appendix 1, Rule 14 is hereby amended to read as follows:

Rule 14. Filing fees

In any case filed in District Trial Court after the effective date of this law, the District Court Clerk shall be required to collect, at the time of filing, the flat fee of eighty-four dollars (\$84.00), none of which shall ever be refundable, and which shall be the only charge for the Court costs, except as is otherwise specifically provided below. The cost required to be collected by this part shall be used in total to compile a law library for the use of the Muscogee (Creek) Nation Judiciary and Court staff and such others as the District Court Clerk gives permission. Once compiled, eighty-four dollars (\$84.00) of every fee collected at the time of filing will be used to maintain and update the law library and remaining excess funds collected at the time of filing will go into the Court fund to be used for the operation of the Muscogee (Creek) Nation Courts; provided those funds collected on behalf of Lighthouse Police Department as designated below shall be forwarded monthly or quarterly to a Lighthouse Revolving Fund for use by the Lighthouse Police Department for procurement of equipment and supplies. In any case where the litigant claims he has just cause of action, and that by reason of poverty, he is unable to pay the fees and costs provided for affidavit in forma pauperis is executed before any officer authorized by law to

administer oaths and upon satisfactory showing to the Court that said litigant has no means and is, therefore, unable to pay the applicable fees and costs, no fees or costs shall be required. In all such cases, the determination of the eligibility of the affiant to litigate without payment of fees or costs. Until a final order determining the ineligibility of such affiant has been entered, the District Court Clerk shall permit such affiant to litigate without payment for fees and costs.

Civil action.....	\$84.00
Traffic citation.....	\$84.00
\$42.00 of fee collected shall be paid to a Lighthouse Revolving Fund	
Traffic citation–No Seatbelt.....	\$84.00
\$42.00 of fee collected shall be paid to a Lighthouse Revolving Fund	
Criminal action.....	\$84.00
\$42.00 of fee collected shall be paid to a Lighthouse Revolving Fund	

FEES IN CIVIL ACTIONS IN ADDITION TO FLAT FEE OF \$84.00

A. For posting notices and filing certificates required by law.....	\$10.00
B. For mailing by any type of mail writs, warrants, orders, process, command, or notice for each person.....	\$7.00
C. For the actual cost of all postage in each case in excess of \$7.00.....	Actual Cost
D. For serving or endeavoring to serve each writ, warrant, order, process, command, or notice for each person in one of more counties; provided if the Lighthouse Police Department serves these processes, including the execution of a Writ of Habeas Corpus then the costs, collected in advance, shall be forwarded to a Lighthouse Revolving Fund.....	\$30.00 plus mileage
E. When a jury is requested.....	\$100.00
F. The costs of transcribing a record, other than on appeal.....	Actual cost
G. Copying an instrument of record or on file –	
First page.....	\$1.00
For each subsequent page.....	\$.50
Certification of each instrument.....	\$.50
Authentication of court record.....	\$5.00
H. For issuing summons.....	\$5.00
I. Pre-sentence investigation.....	\$5.00 to \$250.00
J. Probation fee.....	\$5.00 per month
K. Filing of bond in criminal cases.....	\$10.00
L. Marriage license.....	\$25.00
M. Issuance of warrant.....	\$5.00
N. Filing fee for process server license annually.....	\$10.00
O. Filing fee for bondsman’s license annually.....	\$10.00

FEES IN PARTICULAR CASES:

- 4A. Any proceeding to modify or vacate divorce decree or prior order providing for custody or support.....\$40.00
- 2B. Guardianship.....\$84.00

FEES FOR FILING AN APPEAL

An Notice of Appeal shall commence at the District Court with the filing of an original Notice of Appeal, consistent with the Supreme Court's Rules of Appellate Procedure. The Clerk of the District Court shall charge the sum of seventy-five dollars (\$75.00) for filing a Notice of Appeal to the Supreme Court.

The Clerk of the District Court shall charge the sum of ~~one hundred dollars (\$100.00)~~ **one hundred and seventy five dollars (\$175.00)** for preparing, assembling, indexing and transmitting the record for appellate review. The fees collected shall be paid into the District Court's fund.

A second original, and eight (8) file-stamped copies, of the Notice of Appeal obtained from the District Court shall then be filed with the Supreme Court. The Clerk of the Supreme Court shall charge the sum of seventy-five dollars (\$75.00) for the filing and management of the appeal. The fees collected shall be paid into the Supreme Court's fund.

Should the Petitioner need to retain file-stamped copies for their own file or for purposes of service, such copies are in addition to the requirements listed above.

If more than one party to the action shall prosecute an appeal from the same judgment or order, the fee shall be paid by the party whose petition in error is determined by the District Court or by the Supreme Court to commence the principal appeal. ~~The fees collected shall be paid into the Court Fund.~~

Appellate filing fees may be waived by Order of the Supreme Court upon a showing that the appellant is indigent and unable to pay the filing fees prescribed. A party seeking a waiver of appellate filing fees must submit to the Supreme Court Clerk an Order from the District Court showing that the appellant was found indigent in the underlying District Court action in accordance with MCNCA Title 27, App. 2, Rule 26.

JUROR'S FEES:

Jurors shall be paid the following fees out of the Court Cash Fund: For each day's attendance before any court of record, twenty dollars (\$20.00); for each mile necessarily

traveled in going to or returning from the place of attendance, at the prevailing Muscogee (Creek) Nation rate as established by the Controller and such mileage shall be allowed each day that said mileage is incurred. If a jury trial is demanded by the Creek Nation, its Legislative or Executive Branch or their branches, departments, officers, agents or agencies, the Nation shall pay the jury fees specified herein to obtain access to the Tribe's Courts in order to pursue or defend the Tribe's interests and rights. All fees collected pursuant to this Judicial Code shall be deposited into the court fund to defray the expenses of the operation of the Tribe's Courts.

IN FORMA PAUPERIS IN MUSCOGEE (CREEK) NATION COURT:

In any case where the litigant claims he has a just cause of action, and that be reason by poverty, he is unable to pay the fees and costs provided for in this section and upon the filing of an affidavit in forma pauperis executed before any officer authorized by law to administer oaths and upon satisfactory by law to administer oaths said litigant has no means and is, therefore, unable to pay the applicable fees and costs, no fees or costs shall be required. In all in forma pauperis cases, the District Court shall promptly set for hearing the determination the eligibility of the affiant to litigate without payment of fees or costs. Until a final order determining the ineligibility of such affiant has been entered, the District Court Clerk shall permit such affiant to litigate without payment for fees and costs

SECTION THREE. AMENDMENT. MCNCA Title 27, Appendix 2, Rule 2-C. and D. are hereby amended to read as follows:

Rule 2. Commencement of appeal

A. Right to appeal, civil: A final judgment or final order of any original hearing body or District Court of the Muscogee (Creek) Nation may be appealed to the Supreme Court as a matter of right unless otherwise expressly provided by law.

B. Right to appeal, criminal: An appeal may be taken by a defendant only from a final judgment of conviction, orders after judgment which affect the substantial rights of the defendant, or from a denial of a motion to dismiss the charges against the defendants.

~~C. Form: An appeal shall be commenced with the completion and filing in the Supreme Court of the Notice of Intent to Appeal form (Notice of Appeal). The original hearing body shall be served with a copy of the Notice of Appeal.~~

~~DC. Fee: A filing fee of seventy five dollars (\$75.00) must accompany the Notice of Appeal, or this fee may be waived by order of the Court upon a showing that the appellant is indigent and unable to pay the fee.~~

An Appeal shall commence at the District Court with the filing of an original Notice of Appeal, consistent with the Supreme Court's Rules of Appellate Procedure.

The Clerk of the District Court shall charge the sum of one hundred and seventy five dollars (\$175.00) for preparing, assembling, indexing and transmitting the record for appellate review. The fees collected shall be paid into the District Court's fund.

A second original, and eight (8) file-stamped copies, of the Notice of Appeal obtained from the District Court shall then be filed with the Supreme Court. The Clerk of the Supreme Court shall charge the sum of seventy-five dollars (\$75.00) for the filing and management of the appeal. The fees collected shall be paid into the Supreme Court's fund.

Should the Petitioner need to retain file-stamped copies for their own file or for purposes of service, such copies are in addition to the requirements listed above.

If more than one party to the action shall prosecute an appeal from the same judgment or order, the fee shall be paid by the party whose petition in error is determined by the District Court or by the Supreme Court to commence the principal appeal.

Appellate filing fees may be waived by Order of the Supreme Court upon a showing that the appellant is indigent and unable to pay the filing fees prescribed. A party seeking a waiver of appellate filing fees must submit to the Supreme Court Clerk an Order from the District Court showing that the appellant was found indigent in the underlying District Court action in accordance with MCNCA Title 27, App. 2, Rule 26.

ED. Time: A party has fifteen (15) days from the receipt of the District Court decision to file a Notice of Appeal. If the Muscogee (Creek) Nation or an officer thereof is a party in their official capacity, the Notice of Appeal shall be filed within twenty-five (25) days. Where another law of the Nation provides a different timeframe to file an appeal, that law shall be binding.

FE. Additional information: The following information shall be provided in or with the filing of the Notice of Appeal:

1. A copy of the written decision of the original hearing body.
2. A short statement explaining what relief is sought by the appellant.
3. A short statement explaining the legal grounds for seeking the appeal and justification for the relief requested.

4. A short statement or statements outlining the hearing bodies and/or agencies where the appellant has sought a remedy.
5. Name, address and phone numbers of all parties, including respondents.
6. Name, address and phone number of all parties' advocates, if known.

GF. Filing deficiencies. If the appellant fails to pay the filing fee or obtain a waiver from the Court, or any required documents or materials, the appellant shall be so notified of any filing deficiencies within five (5) days and shall have 88 Title 27, App. 2, Rule 2 JUDICIAL PROCEDURES five (5) days from receipt of this notice to perfect the filing. Failure to perfect the filing within five (5) days shall result in the non-acceptance of the appeal.

HG. Notice to respondent(s): Within five (5) business days of filing of a perfected Notice of Appeal, the Clerk of the Supreme Court shall serve notice of the Supreme Court's docketing of the of appeal.

SECTION FOUR. EFFECTIVE DATE. This Act shall become effective immediately upon proper approval and execution in accordance with the requirements of the Muscogee (Creek) Nation Constitution.

ENACTED by the Muscogee (Creek) National Council on this 24th day of March, 2020.

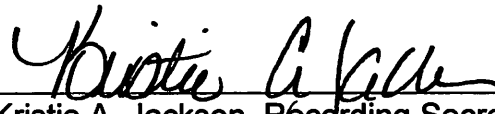
IN WITNESS WHEREOF, the Speaker of the Muscogee (Creek) National Council has hereto attached his signature.



Randall Hicks, Speaker
National Council
Muscogee (Creek) Nation

CERTIFICATION

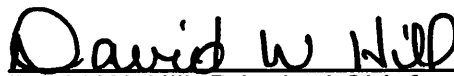
I, the undersigned, certify that the foregoing is a true extract from the minutes of the Muscogee (Creek) National Council comprised of Sixteen members with Sixteen members attending this meeting on the 24th day of March, 2020 and that the above is in conformity with the provisions therein adopted by a vote of 15 in favor, 0 against and that said Law has not been rescinded or amended in any way and the above is the signature of the Speaker of the National Council.



Kristie A. Jackson, Recording Secretary
Muscogee (Creek) National Council

APPROVAL

I, the Principal Chief of the Muscogee (Creek) Nation, hereby affix my signature on this 27 day of March, 2020 to the above Law, **NCA 20-016** authorizing it to become a Law under Article VI., Section VI., of the Constitution of the Muscogee (Creek) Nation.



David W. Hill, Principal Chief
Muscogee (Creek) Nation

