

In Effect as of November 3, 2015

**LITTLE TRAVERSE BAY BANDS OF ODAWA INDIANS TRIBAL
COURT
Amendment to Rules of Civil Procedure Regarding Challenge of
Election Results**

The election process is one of the most important functions of Tribal Government. A fair Tribal Election process ensures that its citizens have the opportunity to be represented in the decisions that affect the present and future of the Tribe and preserves the Tribe's cultural values.

This amendment recognizes this importance by requiring any challenge to be resolved expeditiously yet fairly. The timeline is clearly delineated and places heavy responsibilities on both the challenger and the Court. Hearings must be scheduled without delay, pleadings filed quickly, and a decision made which allows the Tribe to avoid uncertainty in governing. Extensions are explicitly forbidden at any stage, except under the most extreme circumstances as determined by the Court.

By order of the Judiciary of the Little Traverse Bay Bands Tribal Court, the Rules of Civil Procedure are hereby amended to insert the following after Rule I. § 2:

“Section 3. Application of these Rules to Challenges of Election Results

- a. For the purpose of these Rules, a “Challenge of Election Results” is a suit brought in the Court under Article XII. § F. of the Little Traverse Bay Bands of Odawa Indians Constitution.
- b. The purpose of this Rule is to clarify the application of these Rules to a Challenge of Election Results. The procedure required by this Rule is intended to ensure compliance with all legal requirements for a Challenge of Election Results, including Article XII § F. of the Little Traverse Bay Bands of Odawa Indians Constitution, the Waganakising Odawa Statute § 3.111(D) and the Election Regulations of the Little Traverse Bay Bands of Odawa Indians, and the Due Process protections guaranteed by Article II. § 8 of the Little Traverse Bay Bands of Odawa Indians Constitution.
- c. Within seven (7) days of a Challenge of Election Results being filed, the Court must:
 - i. hold a show cause hearing, in which the plaintiff must establish that the Challenge of Election Results is a claim upon which relief may be granted. In order to demonstrate this to the Court, the plaintiff must allege facts with sufficient specificity to demonstrate that the Challenge of Election Results is plausible on its face, not merely conceivable; and
 - ii. determine the outcome of the show cause hearing.

- d. If the Court holds that the plaintiff has established that the Challenge of Election Results is a claim upon which relief may be granted, the Challenge of Election Results must proceed to a final hearing within ten (10) days according to the following scheduling requirements:
- i. The plaintiff must file and serve any amended pleadings and requests for discovery within three (3) days of the show cause hearing;
 - ii. The defendant must file and serve any amended pleadings and requests for discovery within three (3) days of being served with the plaintiff's amended pleadings or, if the plaintiff does not file any amended pleadings or requests for discovery, within six (6) days of the show cause hearing;
 - iii. All parties must file and serve witness and exhibit lists with the court at least four (4) days before the final hearing; and
 - iv. All discovery must be completed by the final hearing.
- e. Except in the most extreme circumstances, the Court must issue its final judgment within three (3) days of the final hearing.
- f. For the avoidance of any doubt, if the Court holds that the plaintiff has not established that the Challenge of Election Results is a claim upon which relief may be granted, the Challenge of Election Results has failed and the determination of the outcome of the show cause hearing required by § 3(c)(ii) above is the final determination of the Challenge of Election Results. No motions for reconsideration may be filed.
- g. The Court may not grant extensions of time in relation to any of the deadlines set out above for Challenges of Election Results under this Rule except under the most extreme circumstances, even if parties are in agreement on an extension.
- h. The Court may not consider any interlocutory motions by any party in relation to Challenges of Election Results except at the show cause hearing required by § 3(c) above except under the most extreme circumstances, even if the parties are in agreement a motion should be heard or made by the Court.
- i. For all election disputes, days counted shall be as actual days with no distinction for holidays, snow days, weekends or other days when the Court is closed.
- j. In addition, for election disputes, in order to meet deadline requirements, the Court recommends the use of faxed filings or filings by email to the Senior Court Clerk, with a copy sent to the Court Administrator."

11/3/15

Date

Allie Greenleaf Maldonado, LTBB Chief Judge