

# NON-REMOVABLE MILLE LACS BAND OF CHIPPEWA INDIANS

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## IN THE COURT OF CENTRAL JURISDICTION

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### REPRESENTING YOURSELF (PRO SE LITIGANT)

#### STEP 1

#### DETERMINE IF YOU CAN REPRESENT YOURSELF OR IF YOU NEED AN ATTORNEY

You have the right to represent yourself in Court but you are required to know the rules of the Court and the law. There are costs associated with a lawsuit even if the Court waives the filing fee. If you lose your case, the Court may impose a fine against you in a criminal case or a monetary judgment against you in a civil case.

The following are examples of when you may want to consider retaining an attorney:

- You need legal advice.
- You cannot afford to lose your case.
- You have a complicated case.
- You are charged with a crime.
- You want to sue someone but don't know the legal basis for your claim.

The following are examples of when you may want to consider representing yourself:

- You understand your case and can explain it to the Judge.
- Your case is simple and no one will come forward to argue against you.
- You have time to learn the required steps, prepare papers and file them with the Court, do legal research and attend Court hearings.
- You are comfortable negotiating with the other side or their lawyer.
- You speak, read and write English well and don't become overly nervous when speaking in public.

It is always a good idea to consult with an attorney and be represented by an attorney in Court. The law is complex. Attorneys are trained professionals who understand the law and how it relates to your case. Even matters that initially look simple may raise complicated issues. Your interests will be best protected by a legal professional.

Attorneys can be expensive, but consider this:

- What might you lose if your case goes badly?
- Meet with several attorneys to discuss your case and their fees. Don't let one consultation make up your mind.
- You may qualify for legal aid or help from legal clinics. Be sure to investigate the resources in your community, such as Mille Lacs Band Member Legal Aid if you are an enrolled Mille Lacs Band member.

If you are unsure, you may want to talk to an attorney before making a final decision. Band Member Legal Aid provides legal services to enrolled Mille Lacs Band Members. The Court of Central Jurisdiction

can provide you with a list of attorneys admitted to the Mille Lacs Band Bar Association. The website [www.mncourts.gov](http://www.mncourts.gov) provides a self-help center and a link that provides assistance in obtaining an attorney.

## **STEP 2**

### **PREPARING YOUR CASE**

If you decide to represent yourself, you need to manage all aspects of your case.

Familiarize yourself with the local Court rules. Rules and procedures vary slightly from Court to Court and you will need to know the rules that apply in the Court that will hear your case. Obtain a copy of the local rules from your Court. The Mille Lacs Band Tribal Statutes and Court Rules are available online at the Mille Lacs Band of Ojibwe website, [millelacsband.com](http://millelacsband.com).

Make sure you understand the Court rules and comply with them, especially the prohibition against ex parte communication. Ex parte communication occurs when a party to a case talks or writes or otherwise communicates directly with the Judge about issues in the case without the other party's knowledge. This ban on direct communication helps the Judge decide the case fairly since his/her decision is based only on the evidence, arguments presented to the court and applicable law. Do not call or email the Judge directly. Communicate with the Judge through court staff.

Make sure your filings and documents conform to local standards. Generic forms and sample filings are available in books and on the internet. However, these forms may not conform to the standards of the Court that will hear your case. To make sure that your documents will be accepted, ask the Court that will hear your case for forms. Mille Lacs Band Tribal Court forms are available on the Mille Lacs Band of Ojibwe website or can be obtained at the Mille Lacs Band Tribal Court.

Respond to all inquiries on time. During trial preparations, you may receive inquiries from the Court or the opposing party. For example, the opposing party may be entitled to "discovery" to learn about evidence or testimony you plan to introduce. If you fail to respond to such inquiries, you may limit your ability to present your case. Always serve the opposing party a copy of the documents you file with the Court.

Rules about admissible evidence are complicated. There are many possible reasons that evidence or testimony you think is important may not be admissible in Court. Since questions about what evidence is admissible are legal questions, neither Court staff nor the Judge may answer them ahead of time. If your case will involve evidence that may be contested in Court, you may want to consider retaining an attorney.

Prepare your evidence. If your case will involve evidence – documents, pictures, cost estimates, receipts or other items – bring the original and 2 copies to Court. The originals are for the Court, one copy is for you and one copy is for the opposing party. Make sure you are able to verify that the documents are what you say they are and contain accurate information. Some documents cannot be used as evidence unless the right person is in the Courtroom to explain the document and answer questions about it.

Make sure witnesses are prepared and available for Court. If your case will involve testimony from witnesses, you need to work with them before you and they appear in Court. Make sure your witnesses know what you will ask, and instruct them to answer truthfully. Your witnesses must be present at your trial and prepared to answer questions from the opposing party or his/her attorney. When you represent yourself, you must handle all legal questions as well as deadlines, evidence and witnesses as

well as any other issues that may arise. Even a seemingly simple case can demand a lot of your time and attention.

Keep your contact information with the Court current so that Court notices and orders will reach you.

### **STEP 3**

#### **In the Courtroom**

Make a good impression and dress appropriately. Arrive on time with all your materials.

Respect the Court. Stand when the Judge enters or leaves the Courtroom and when you speak to the Judge.<sup>1</sup> During the hearing, you should listen carefully, ask permission of the Judge to speak, talk directly to the Judge and not the opposing party. When you speak to the Judge, start by saying “Your Honor”. Speak loudly and clearly. Never interrupt the other side or the Judge when speaking. Remember that only one person can speak at a time.

Respect the opposing party and do not argue with the opposing party in front of the Judge. Use respectful terms of address.

BE PREPARED. This may be the only chance you will have to present your case. Make sure all evidence is prepared. Make sure all witnesses are present in the Courtroom and available to testify. The better prepared you are, the better the case will go.

Before you leave the Courtroom, make sure you understand what happens next:

- Do you need to come back for another hearing?
- Do you need to prepare a written argument?
- Do you need to take other steps or actions?
- Will the Judge issue an order?
- Politely ask questions if you do not understand what will happen next.

#### **The Role of the Judge**

Your case will be heard and decided by a Judge or a Special Magistrate. Keep in mind that the role of the Judge is to be an impartial referee in the dispute between you and the opposing party.

The Judge may not help you present your case. Helping you, by pointing out mistakes or telling you what to do next, would be unfair to the opposing party. When you decide to represent yourself, you take on the full responsibility of presenting your case.

The Judge may not speak with you about your case when the opposing party is not present. This is true even if the issue you want to speak with the Judge about seems like a simple procedural issue. Such communication would be unfair to the opposing party.

The Judge will decide the case based on the facts presented in Court and the applicable law. The Judge may only consider the facts as presented in Court, through evidence and testimony. You need to make sure that all facts supporting your case are properly presented. The Judge also must follow the laws that apply. Sometimes the law dictates which facts the Judge may and may not consider. You need to make sure that you present the facts that the law requires or permits.

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<sup>1</sup> Judge Richard Osburn does not require persons in the Courtroom to stand when he enters or leaves. Other Judges of the Court of Central Jurisdiction may require this. The bailiff or Court clerk will announce “all rise” if you are required to stand.

## **Court Staff**

Court staff **cannot** give legal advice. You may have questions that Court staff are not permitted to answer.

Court staff may not:

- Provide you with legal research.
- Tell you what sort of claim to file or what to write on forms.
- Tell you what to say in Court.
- Give an opinion about how a Judge is likely to decide your case.
- Give you information that they would not give to the opposing party.
- Tell you about a Judge's decision before it is issued by the Judge.

Court staff may:

- Answer questions about how the Court works.
- Explain terms used in the Court process.
- Give you information from your Court file.
- Provide you with Court forms and documents.

Court staff are there to help those who use the Court. They can usually tell you how to do things, but cannot advise you about what you ought to do. Please be courteous to the staff.