



RECEIVED  
9/5/08

MILLE LACS BAND OF OJIBWE  
Judicial Branch of Tribal Government

To: Herb Weyaus, Secretary Treasurer  
From: Alvina Aubele, Chief Justice *Ama*  
Date: September 5, 2008  
Re: Court Order #43 - Jury Management Rule

---

I am resubmitting the recommended changes to the Jury rules that were on the Band Assembly Agenda dated July 10, 2008. On August 1, 2008, we had an A.M. meeting with Elaine Smith, Legislative Attorney and Rjay Brunkhow, Solicitor General regarding the Jury Rules. During this meeting, Elaine and Rjay made minor recommendations to change the language in the Jury Rules. That afternoon, we sent those changes to Elaine.

Yesterday, Elaine informed the Court Administrator that she never received those changes; therefore, I am re-submitting them again.

cc:

Marvin Bruneau, District III Representative  
Harry Davis, District II Representative  
Sandra Blake, District I Representative  
Elaine Smith, Legislative Attorney



# MILLE LACS BAND OF OJIBWE

*Judicial Branch of Tribal Government*

## COURT OF CENTRAL JURISDICTION COURT ORDER NO. 043

IN THE MATTER OF THE JURY MANAGEMENT RULES OF THE COURT OF CENTRAL JURISDICTION.

### 1. Jury Trial

In criminal cases, the right to a jury trial shall exist where the defendant is exposed to a fine greater than five thousand dollars (\$5,000) or where the defendant may be imprisoned for more than one (1) year. In civil cases, the right to a jury trial shall exist where the plaintiff's claim exceeds ten thousand dollars (\$10,000), or, in cases of counterclaims, the total of all claims exceeds twenty-five thousand dollars (\$25,000). A trial by jury shall not be available in domestic relations, probate or cases in equity matters.

### 2. Jury Composition

Juries shall be composed of six (6) members with two (2) alternates, if alternates are deemed advisable by the Court.

### 3. Jury Selection

- (a) Every six (6) months, the Court Administrator shall prepare the jury source list by randomly selecting names from the **Band Voter Registration list** and the **Band Government Human Resources list**.
- (b) The Court Administrator shall prepare and maintain a jury source list of at least fifty (50) qualified jurors.
- (c) Each voting district on the Mille Lacs Band of Ojibwe Reservation shall be represented on the jury source list.
- (d) The Court Administrator shall mail to every prospective juror a juror information form. The information form shall provide facts regarding:
  - (1) The criteria for eligibility;
  - (2) Mental or physical disabilities that would prevent the person from rendering satisfactory jury service;
  - (3) Basic background information regarding age, race, gender, occupation, educational level, address, marital status, prior jury service within the past two (2) years, occupation of spouse, and the age(s) of any children; and
  - (4) The efficient management of the jury system.
- (e) The two (2) weeks prior to the day scheduled for a jury trial, the Court Administrator shall, at random, select fourteen (14) names from the jury source list. The fourteen (14) persons so selected shall be known as the jury panel.

- (f) Each member of the jury panel shall be served with a summons indicating the date, place, and time that s/he is to appear for jury service. The notice shall be served not less than seventy-two (72) hours prior to the designated time for initial appearance. After such initial appearance, the times and places for attendance by those persons included on the jury panel shall be prescribed by the Court.

4. Qualifications for Jury

- (a) The Court Administrator shall determine whether the prospective juror is qualified for jury service.
- (b) To be qualified to serve as a juror, the prospective juror must be:
  - (1) An enrolled member of the Mille Lacs Band of Ojibwe or an employee of the Mille Lacs Band of Ojibwe government.
  - (2) At least eighteen (18) years old.
  - (3) A resident within thirty (30) miles from the Treaty of 1855 boundary of the Mille Lacs Band of Ojibwe Reservation.
  - (4) Of sound mind and discretion.
  - (5) A person who has had their civil rights restored if they have been convicted of a felony.
  - (6) A person who has not served as a tribal, state or federal juror in the past two (2) years.
  - (7) A person who has not been dishonorably discharged from the Armed Services.
  - (8) A person who is not a court employee, tribal police officer or elected official.
  - (9) A prospective qualified juror who is 70 years of age or older, who requests to be excused from jury service shall be automatically excused from service without having to submit evidence of an inability to serve.
  - (10) Not otherwise disqualified according to the standards established by the Tribal Court under its general rule-making authority.
- (c) Upon a satisfactory showing to the Court Administrator, the following persons, upon their request, may be excluded from the jury source list.
  - (1) Persons who reside more than thirty (30) miles from the nearest exterior Treaty of 1855 boundary of the Mille Lacs Band of Ojibwe Reservation.
  - (2) Persons of advanced age, infirmity, or illness.
  - (3) Persons burdened by such other circumstances that jury service would cause extraordinary hardship for them. Such hardship must be substantially greater than would be experienced ordinarily by persons serving as jurors.

5. Challenges for Cause

- (a) Any named party may challenge a prospective juror for cause.
- (b) Challenges for cause shall be tried by the Court. The Court shall administer an oath or examination of all prospective jurors that they will answer truthfully all questions concerning their qualifications and eligibility for jury service.
- (c) The judge shall excuse any juror whom s/he feels would not be completely fair and impartial. As a juror is excused, the Court Administrator shall pick the name of another juror to be seated and each named party shall have an opportunity to examine the juror for fairness and impartiality.

6. Peremptory Challenges

Each named party shall be entitled to two (2) peremptory challenges of prospective jurors for which no reason need be given for the challenging party. The parties shall alternately remove jurors, or waive their turn to do so, until they have exhausted their preemptory challenges.

7. Alternate Jurors

The Court Administrator shall then read aloud the first six (6) names on the list and those persons shall be jurors for the trial. The Court Administrator shall also read aloud the seventh and eighth names on the list, and those persons shall be alternate jurors for the trial. The alternate jurors shall act in all respects as jurors, except that they shall not vote during jury deliberations unless one of the other jurors has been excused by the judge during the course of the trial. The alternate jurors shall be dismissed prior to the jury's retiring to deliberate if they have not been called to replace an original juror who has become for any reason unable to serve.

8. Jury Compensation

Each member of the jury panel called to service and each juror who serves upon a jury shall be entitled to compensation at a rate to be fixed by the Court and may, in the discretion of the Chief Justice, be allowed mileage at a rate to be fixed by the Court.

9. Contempt

A person summoned to serve as a juror who has not been excused pursuant to any provisions of these Rules, or by order of the Court, who fails to appear where and when summoned, or who having so appeared absents her/himself there from without the permission of the Court, or who renders her/himself unfit to commence or continue the duties of a juror, shall be in contempt of Court. In addition to the penalties for contempt of Court prescribed by the Mille Lacs Band of Ojibwe statutes, s/he may be charged by the Court with any costs incurred by the Court or by any other persons that resulted from such failure to be present or from such misconduct.

10. Challenging Compliance with Selection Procedure

- (a) A party may move for appropriate relief on the ground that these rules have not been complied with. Such motion should be made within seven (7) days after the moving party discovers or should have discovered the grounds for the motion, and in any event before the jury is sworn to try the case.
- (b) If a motion filed under (a) contains a sworn statement of facts which, if true, constitute a substantial failure to comply with these rules, the moving party is entitled to present the testimony <sup>to</sup> of the Court Administrator, any relevant records and papers even if not public or otherwise available, and any other relevant evidence in support of the motion. If the Court determines that there has been a substantial failure to comply with these rules in the selection of the jury, the Court shall stay the proceedings until a jury is selected in conformity with these rules.

(c) The procedures prescribed by this Rule are the exclusive means by which a party may challenge a jury on the grounds that the jury was not selected in conformity with these rules.

11. This Order shall supersede and replace Court Order No. 018 and Court Order No. 021.

IT IS SO ORDERED,

A handwritten signature in blue ink that reads "Alvina Aubele". The signature is written in a cursive style with a horizontal line underneath the name.

Alvina Aubele, Chief Justice

Dated at Vineland, Minnesota, this 1<sup>st</sup> day of August, 2008.

OFFICIAL SEAL



**COPY**

**MILLE LACS BAND OF OJIBWE**

*Judicial Branch of Tribal Government*

To: Herb Weyaus, Secretary Treasurer

From: Alvina Aubele, Chief Justice

Re: Chief Justice Order #43

Date: June 6, 2008

---

Attached is an original copy of Chief Justice Order #43 which I am obligated to report to the Band Assembly during a regular session of the Band Assembly.

The Chief Justice Order #43, In the Matter of the Rules of Jury Management of the Court of Central Jurisdiction, shall not take effect until ninety (90) days after it has been reported to the Band Assembly. See, 5 MLBSA §105 (b).

cc:

Melanie Benjamin, Chief Executive

Representative Marvin Bruneau, District \_  
Representative Harry Davis, District \_  
Representative Alicia Skinaway, District 1.



# MILLE LACS BAND OF OJIBWE

*Judicial Branch of Tribal Government*

## COURT OF CENTRAL JURISDICTION

Court Order # 43

IN THE MATTER OF THE RULES OF JURY MANAGEMENT OF THE COURT OF CENTRAL JURISDICTION:

1. Jury Trial

In criminal cases, the right to a jury trial shall exist where the defendant is exposed to a fine greater than five thousand dollars (\$5,000) or where the defendant may be imprisoned for more than one (1) year. In civil cases, the right to a jury trial shall exist where the plaintiff's claim exceeds ten thousand dollars (\$10,000). A trial by jury shall not be available in domestic relations, probate or cases in equity matters.

2. Jury Composition

Juries shall be composed of six (6) members with two (2) alternates, if alternates are deemed advisable by the Court.

3. Jury Selection

- (a) Every six (6) months, the Court Administrator shall prepare the jury source list by randomly selecting names from the voter registration list and the human resources list for the Mille Lacs Band of Ojibwe.
- (b) The Court Administrator shall prepare and maintain a jury source list of at least fifty (50) qualified jurors.
- (c) Each voting district on the Mille Lacs Band of Ojibwe Reservation shall be represented on the jury source list.
- (d) The Court Administrator shall mail to every prospective juror a juror information form. The information form shall provide facts regarding:
  - (1) The criteria for eligibility;
  - (2) Mental or physical disabilities that would prevent the person from rendering satisfactory jury service;
  - (3) Basic background information regarding age, race, gender, occupation, educational level, address, marital status, prior jury service within the past two (2) years, occupation of spouse, and the age(s) of any children; and
  - (4) The efficient management of the jury system.
- (e) The two (2) weeks prior to the day scheduled for a jury trial, the Court Administrator shall, at random, select fourteen (14) names from the jury source list. The fourteen (14) persons so selected shall be known as the jury panel.
- (f) Each member of the jury panel shall be served with a summons indicating the date, place, and time that s/he is to appear for jury service. The notice shall be served not less than seventy-two (72) hours prior to the designated time for initial appearance. After such initial appearance, the times and places for attendance by those persons included on the jury panel shall be prescribed by the Court.

#### 4. Qualifications for Jury

- (a) The Court Administrator shall determine whether the prospective juror is qualified for jury service.
- (b) To be qualified to serve as a juror, the prospective juror must be:
  - (1) An enrolled member of the Mille Lacs Band of Ojibwe or an employee of the Mille Lacs Band of Ojibwe government.
  - (2) At least eighteen (18) years old.
  - (3) A resident within thirty (30) miles from the Treaty of 1855 boundary of the Mille Lacs Band of Ojibwe Reservation.
  - (4) Of sound mind and discretion.
  - (5) A person who has had their civil rights restored if they have been convicted of a felony.
  - (6) A person who has not served as a tribal, state, or federal juror in the past two (2) years.
  - (7) A person who has not been dishonorably discharged from the Armed Services.
  - (8) A person who is not a court employee, tribal police officer, or elected official.
  - (9) A prospective qualified juror who is 70 years of age or older, who requests to be excused from jury service shall be automatically excused from service without having to submit evidence of an inability to serve.
  - (10) Not otherwise disqualified according to the standards established by the Tribal Court under its general rule-making authority.
- (c) Upon a satisfactory showing to the Court Administrator, the following persons, upon their request, may be excluded from the jury source list.
  - (1) Persons who reside more than thirty (30) miles from the nearest exterior Treaty of 1855 boundary of the Mille Lacs Band of Ojibwe Reservation.
  - (2) Persons of advanced age, infirmity, or illness.
  - (3) Persons burdened by such other circumstances that jury services would cause extraordinary hardship for them. Such hardship must be substantially greater than would be experienced ordinarily by persons serving as jurors.

#### 5. Challenges for Cause

Any party may challenge a prospective juror for cause. Challenges for cause shall be tried by the Court. The Court shall administer an oath or examination of all prospective jurors that they will answer truthfully all questions concerning their qualifications and eligibility for jury service. The judge shall excuse any juror whom he feels would not be completely fair and impartial. As a juror is excused, the Court Administrator shall pick the name of another juror to be seated and each party shall have an opportunity to examine the juror for fairness and impartiality.

#### 6. Peremptory Challenges

Each party shall be entitled to two (2) peremptory challenges of prospective jurors for which no reason need be given for the challenging party. The parties shall alternately remove jurors, or waive their turn to do so, until they have exhausted their peremptory challenges.

#### 7. Alternate Jurors

The Court Administrator shall then read aloud the first six (6) names on the list and those persons shall be jurors for the trial. The Court Administrator shall also read aloud the seventh and eighth names on the list, and those persons shall be alternate jurors for the trial. The alternate jurors shall act in all respects as jurors, except that they shall not vote during jury deliberations unless one of the other jurors has been excused by the judge during the course of the trial. The alternate jurors shall be dismissed prior to the jury's retiring to deliberate if they have not been called to replace an original juror who has become for any reason unable to disqualified to serve.

8. Jury Compensation

Each member of the jury panel called to service and each juror who serves upon a jury shall be entitled to compensation at a rate to be fixed by the Court and may, in the discretion of the Chief Justice, be allowed mileage at a rate to be fixed by the Court.

9. Contempt

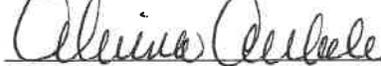
A person summoned to serve as a juror who has not been excused pursuant to any provisions of these Rules, or by order of the Court, who fails to appear where and when summoned, or who having so appeared absents himself there from without the permission of the Court, or who renders himself unfit to commence or continue the duties of a juror, shall be in contempt of Court. In addition to the penalties for contempt of Court prescribed by the Mille Lacs Band of Ojibwe statutes, he may be charged by the Court with any costs incurred by the Court or by any other persons which resulted from such failure to be present or from such misconduct.

10. Challenging Compliance with Selection Procedure

- (a) A party may move for appropriate relief on the ground that these rules have not been complied with. Such motion should be made within seven (7) days after the moving party discovers or should have discovered the grounds for the motion, and in any event before the jury is sworn to try the case.
- (b) If a motion filed under (a) contains a sworn statement of facts which, if true, constitute a substantial failure to comply with these rules, the moving party is entitled to present the testimony of the Court Administrator, any relevant records and papers even if not public or otherwise available, and any other relevant evidence in support of the motion. If the court determines that there has been a substantial failure to comply with these rules in the selection of the jury, the court shall stay the proceedings which a jury is selected in conformity with these rules.
- (c) The procedures prescribed by this Rule are the exclusive means by which a party may challenge a jury on the grounds that the jury was not selected in conformity to these rules.

11. This Order shall supersede and replace Court Order No. 018 and Court Order No. 021.

IT IS SO ORDERED

  
\_\_\_\_\_  
Alvina Aubele, Chief Justice

Dated at Vineland, Minnesota, this 6<sup>th</sup> day of June, 2008.

OFFICIAL SEAL