

FILED SEP 12 2019

By 

IN THE SUPREME COURT OF THE OSAGE NATION OF OKLAHOMA
OSAGE NATION RESERVATION
PAWHUSKA, OKLAHOMA

In re:

Petitions for Declaratory Judgment Filed
under 3 ONC 5-108, Declaratory Judgment
Act

Rule of Court

This Rule shall only apply to matters filed pursuant to the Supreme Court's limited original jurisdiction "over actions for declaratory judgment between the Legislative and Executive Branches of the Osage Nation, filed by either party against the other, to resolve disputes over interpretation of the language or provisions contained in the Osage Constitution." 3 ONC 5-108. Nothing herein should be construed to circumvent the intent of 3 ONC 5-108 regarding the consideration of constitutional questions. For purposes of this Rule, "constitutional question" means a dispute over the interpretation of the language or provisions contained in the Osage Constitution.

Rule 1: Style Of Petition

A petition filed for declaratory judgment under this rule shall be styled:

In re:

[Bill numbers in dispute]
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[Executive or Legislative] Branch of the
Osage Nation of Oklahoma,

Petitioner,

v.

[Executive or Legislative] Branch of the
Osage Nation of Oklahoma,

Respondent.

Case No. [Case Number]

Rule 2: Notice and Petition by a Party

A party that files a petition for declaratory judgment regarding a constitutional question shall:

1. File a *Notice and Petition for Declaratory Judgment* stating the constitutional question or questions and identifying the circumstances giving rise to the question;

2. By personal delivery or certified mail (return receipt requested), serve the *Notice and Petition* on:
 - a. The Office of the Principal Chief or its designated representative when the petitioning party is the Osage Nation Legislative Branch, or
 - b. The Speaker of the Osage Nation Congress or its designated representative when the petitioning party is the Osage Nation Executive Branch.

Rule 3: Venue

1. Petitions filed under this Rule shall be filed with the Clerk of the Supreme Court.
2. For petitions filed with the Trial Court Clerk on matters that may be pending before the Trial Court at the time this Rule goes into effect:
 - a. If declaratory relief is the exclusive remedy sought, the Trial Court shall grant either party's motion to remove the matter to the Supreme Court under section 8 of ONCA 12-103.
 - b. If declaratory relief is not the exclusive remedy sought, the Trial Court shall grant either party's motion to separate the claim for declaratory judgment and remove the matter to the Supreme Court.
 - c. When the Trial Court removes a constitutional question to the Supreme Court, such removal order shall not be subject to appeal, but, if raised by either party, may be considered by the Supreme Court as to whether removal was mandated by 3 ONC 5-103.

Rule 4: Certification by the Supreme Court

Within five (5) business days of filing or removal, the Supreme Court shall certify to both parties the constitutional question(s) under consideration.

Rule 5: Substantial Compliance

A party's good faith effort to substantially comply with this Rule shall not forfeit an argument that is otherwise timely asserted. Other than failure to timely file, any other failure to comply shall be immediately corrected and may be offset by the Supreme Court to avoid prejudice to either party by adjusting the next subsequent filing deadline and, if necessary, any calendared oral argument set by the Supreme Court.

Rule 6: Timeline to Decide Constitutional Issues

Constitutional issues are time-sensitive matters that require expedient resolution. The Supreme Court shall decide a constitutional issue before it within 30 days of the last brief filed or oral argument, whichever is later; provided, the Supreme Court may modify the deadline as needed when the interests of justice require such modification. In the interests of timely resolution, no *amici curiae* will be authorized.

Rule 7: Procedure

Except as set forth below, the rules governing practice before the Supreme Court shall govern pleadings filed pursuant to 3 ONC 5-108.

1. Upon the filing of a Petition with the Supreme Court:
 - a. The Supreme Court Clerk shall provide a copy of the file stamped *Notice and Petition* and, if requested, a blank *Declaration of Service* form to the Petitioner and deliver copies to each of the Supreme Court Justices; and
 - b. The Petitioner shall, within seven (7) calendar days of filing, serve the *Notice and Petition* on the Respondent and file the completed *Declaration of Service* with the Supreme Court. Failure to file proof of service without good cause may result in an order to show cause as to why the petition should not be dismissed.
2. The Supreme Court shall issue a briefing schedule with its certification of the constitutional question(s). Such briefing schedule shall take into account the number and complexity of the constitutional question(s).
 - a. Petitioner shall be allowed to file a brief in support of its position and a reply brief in response to Respondent's brief in response.
 - b. Respondent shall be allowed to file a response brief in support of its position and a surreply brief in response to Petitioner's reply brief.
 - c. All briefs shall be served on the other party prior to filing a copy with the Court Clerk.
 - d. All briefs filed with the Supreme Court shall conform to the following:
 - Opening briefs and response briefs shall be limited to 30 pages and reply and surreply briefs shall be limited to 15 pages. The Supreme Court may increase the number of pages based on the number and complexity of the constitutional question(s).
 - All briefs shall be double-spaced on 8-1/2 by 11-inch white paper with one inch margins on all sides. Footnotes may be single-spaced.
 - The font shall be 12-point Times New Roman.
 - The parties shall attach as an appendix all supporting documents to their briefs, which shall contain copies of all documents cited in the brief, including, but not limited to, all cases and statutes, except for documents already a part of the record.
 - Briefs and appendices shall contain a table of contents and an index of authorities and shall be bound in any reasonable manner.
 - e. The parties shall file four (4) hard copies of their briefs and appendices with the Supreme Court Clerk. The parties may file their briefs in accordance with the Court's electronic filing rule but must still file the required number of originals with the Supreme Court

within the time period designated by the rule. In lieu of a hard copy, the appendices may be filed on a portable storage device, such as a USB flash drive, if appropriate.

- f. The Supreme Court may modify any deadlines upon motion of either party or upon its own motion when such modification will serve the interests of justice.
 - g. Any motions filed during this process may be considered at the Supreme Court's sole discretion with or without briefing and with or without hearing.
3. At its discretion, the Supreme Court may hold oral argument on the date and time calendared by the Supreme Court Clerk. The Supreme Court may, if it determines oral argument will not significantly impact its analysis of the issue, decide the constitutional question(s) without oral argument.

Rule 8: Decisions in Writing

All decisions issued by the Supreme Court shall be in writing. A decision on the constitutional question shall be issued within 30 days of the date the final brief was filed or within 30 days of oral argument (if any), whichever is later. Copies of the written decision shall be distributed to the parties, published on the Osage Nation Judicial Branch's website and maintained at the Osage Nation Judicial Branch's law library. Copies shall also be available to the public (as defined by Osage law or court order) for a reasonable fee.

Rule 9: Other Orders

The Supreme Court may issue other orders to ensure the timely resolution of actions filed under section 3 ONC 5-108 when the interests of justice require it; to avoid prejudice to the parties; and/or to ensure basic due process requirements are satisfied.

Entered this 12th day of September, 2019.



Meredith D. Drent
Chief Justice