

civil action; however, the following Rules of the District Court of the Cherokee Nation, adopted by the Supreme Court of the Cherokee Nation are applicable:

Rule 1. Initial Pleading. Rule 1 provides that all Pleadings shall be filed with the Court Clerk of the District Court.

Rule 2. Requirement of filing fees. Rule 2 provides a filing fee \$75.00 for filing a Civil Petition.

Rule 100. Contents. Rules 100 describes the matters that must be contained in the Petition.

SECTION XII. SERVICE OF PLEADINGS-DISMISSAL-FRIVOLOUS PLEADINGS. SECTION XII provides that "After summons is issued, the original shall be returned and filed in the case with the Court Clerk." Further, such SECTION XII provides that if service is not made within 180 days, the Court may dismiss the action after notice to parties or counsel of record.

From a review of the above Rules, it is clear that the Supreme Court of the Cherokee Nation intended that it be required that a Summons be issued and served when a civil petition is filed in the District Court.

And, if there be any doubt or ambiguity if such is required by the Court Rules, such was cleared up by the Supreme Court's Order in SC-Ad-13-04, dated November 13, 2013, amending the Court Rules of the District Court by Adding Rule 102. Applicability of Federal Rules of Evidence and Civil Procedure, which provides "In the event these Rules are incomplete in evidentiary and/or civil procedure issues then the court may look to the Federal Rules of Evidence

and/or Civil Procedure for guidance."

The Federal Rules of Civil Procedure provide:

Rule 3. Commencement of Action. Rules 3 provides: "A civil action is commenced by filing a complaint with the Court."

Rule 4. Summons. Provides the Summons shall be signed, sealed and issued by the Court Clerk and served with a copy of the complaint.

The above Rules are designed to provide due process of law required by the Cherokee Nation Constitution and by the U.S. Constitution.

The undersigned Counsel advises that a copy of the Petition was delivered to the Commission Office by E-Mail; however, this Counsel is not authorized to accept service for the Commission and even if he was no summons was delivered setting forth an answer date.

It is realized that Petitioner in this matter is pro se and that some leeway may be given; but, such does not excuse blatant disregard of the Court Rules of civil procedure.

For the above reasons, the Motion and Request should be denied and if the Petitioner desires to proceed with his case he should be required to cause proper summon to be issued in this case and served on the Commission with an Answer date and the case may then proceed as provided by the District Court Rules.

Further, in support of this Response, The Commission adopts and incorporates the SPECIAL LIMITED ENTRY OF APPEARANCE AND MOTION TO STRIKE HEARING SET FOR JUNE 16, 2016 AND REQUEST FOR BRIEFING

SCHEDULE of the Cherokee Nation Office of the Attorney General filed herein.

WHEREFORE, the Cherokee Nation Election Commission respectfully request that the Court deny the Motion for Default Judgment of Petitioner and if the Petitioner desires to proceed with his case he should be required to cause proper summons to be issued in this case and served on the Commission; and, further prays for such other and further relief to which the Commission may be entitled and which the Court may deem just and equitable.

Cherokee Nation Election
Commission, Respondent

BY: 

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CERTIFICATE OF MAILING

I, Harvey L. Chaffin, do hereby certify that on this 14th day of July, 2015, I mailed by first class mail, with postage prepaid thereon, a true and correct copy of the within and foregoing Answer to Robin Mayes 3016 Groveland Terrace, Denton, TX 76210 and to Sr. Assistant Attorney General, Cherokee Nation, P.O. Box 948, Tahlequah, OK 74465.



Harvey L. Chaffin