

TITLE 6 - COURTS

CHAPTER 3 - RULES OF COURT

ARTICLE 12 – CHANGE OF JUDGE

History: Administrative Order No. 01-09, “IN RE: Procedure for Change of Judge” was ordered on February 5, 2009 and pursuant to 6 T.O.C. Ch. 1, Sec. 1109 grants parties the opportunity to a change of judge as of right and to disqualify a judge for cause.

Related History: Administrative Order 01-09 supersedes and rescinds Administrative Orders No. 02-07 and No. 03-07 and any conflicting procedures or policies.

NOTE: Pursuant to Article VIII, Section 10(d) of the Constitution of the Tohono O’odham Nation and Section 1106(A) of 6 T.O.C. Chapter 1, Courts and Procedures, the Judicial Court is vested with the power to promulgate rules regulating pleading, practice and procedure in all Judicial Court proceedings. The Judicial Court rules are therefore subject to enactment, amendment, or repeal at any time by administrative order issued by the chief judge. Practitioners are accordingly cautioned to contact the Judicial Court for copies of current court rules.

1 2. Form of Notice. A party wishing to exercise its right to change
2 of judge shall file a written "Notice of Change of Judge"
3 containing the following information:

- 4 a. The name of the judge to be changed;
5 b. That the filing is timely, and
6 c. That the party has not previously been granted a change
7 of judge as a matter of right in the case.

8 B. Change of Judge for Cause

9 1. Purpose. In addition to Section II(A) above, a party in any
10 proceeding except appellate matters may request a change of
11 judge assigned to a case for cause.

12 2. Form of Motion. A party wishing to change a judge for cause
13 shall file a verified motion entitled "Motion for Change of Judge
14 for Cause" containing the following information:

- 15 a. The name of the judge to be changed;
16 b. That the filing is timely; and
17 c. Specific facts to establish actual bias, hostility, ill-will, or
18 personal interest that would prevent impartial justice from
19 being done.

20 3. Hearing. A hearing to decide the matter will be held within five
21 (5) business days of the filing unless there is just cause to
22 expedite the hearing.

23 C. Time. Failure to file a timely notice or motion precludes a change of
24 judge under Sections II(A) and (B).

25 1. A notice or motion under Sections II(A) and (B) is timely if filed
 within ten (10) days of:

- a. the arraignment;

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- b. the initial hearing in civil matters; or
- c. receipt of notice of a new judge assigned to the case.

2. A motion under Section II(B) may also be filed within five (5) days, excluding weekends and holidays, of actual discovery of cause if such cause is found after the time periods of Section II(C)(1) have expired.

D. Filing and Service. The movant shall file the notice or motion with the Court and serve copies on the opposing parties, the Chief Judge, and the noticed judge.


E. Duty of Judge.

1. Further Actions. When a notice or motion for change of judge is timely filed, the judge named in the notice or motion shall not take any further action until the change of judge is decided.

2. Assignment. The notice or motion for a change of judge will be assigned to the chief judge or another judge as designated by the chief judge if the chief judge is absent or otherwise unavailable or unable (*i.e.*, conflict of interest) to review and decide the matter.

3. If the chief judge determines that the party who filed the notice or motion is not entitled to a change of judge, then the judge named in the notice or motion shall proceed with the action.

Dated and entered this 5th day of February, 2009.



Linda Parley
Interim Chief Judge