



## MESKWAKI TRIBAL COURT

Bree Davidson  
Clerk of Tribal Court

Angelica Diaz  
Tribal Court Administrator

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307 Meskwaki Rd | Tama, IA 52339 | ☎ 641-484-9300

# YOUR DAY

# IN COURT

This brochure is not a substitute for legal advice, and it is not intended to cover all circumstances that might occur in a case. If you need advice, please contact an attorney.

## **THE ROLES**

**Judge-** An appointed person with experience in many different areas of law who will be the neutral listener in your case; they will direct your case as it proceeds through the legal system and make decisions based on the information you provide them and on the law.

**Clerk of Court-** Clerks maintain records of all documents filed with the Court and of court proceedings. They also collect various fees, fines, and forfeitures. Clerk staff are your first contact with the Court and they can answer most general questions about court procedures and rules. **CLERK STAFF CANNOT GIVE LEGAL ADVICE.**

**Attorney-** A person who has specialized training and has a license to practice law; they act as an advocate and can give advice to the individual they represent.

**Lay Advocate-** A person who is not a licensed attorney but is qualified to assist with legal documents, question witnesses, and represent parties.

**Petitioner/Plaintiff-** The person starting the case with the Court; this person is the one who files the paperwork which begins the case.

**Respondent/Defendant-** the person responding to the case that was started by the Petitioner/Plaintiff.

## **LAWS & RULES**

**Rules and Procedures-** The Court has special rules and procedures that govern everyone's behavior – see the Meskwaki Tribal Court website for more information about Tribal Courts, "*Rules of Procedure*" at [www.meskwakicourt.org](http://www.meskwakicourt.org).

**Civil vs. Criminal-** Criminal cases involve the potential loss of liberties as a punishment (i.e. jail or prison time). Civil cases sometimes involve payment of fines or impose restrictions, but mostly they provide a fair process to resolve a problem or dispute that results in a final decision or decree that the parties must follow.

### **Representing yourself in any Legal Matter...**

... may be confusing and overwhelming. It is always recommended that you seek legal advice from a licensed attorney before opening a case or filing documents, and during your case, if you are unsure of how to proceed. Court employees (even Judges) cannot give legal advice. While you may be inclined to listen to a friend who has been through the legal process before, every case is different, and what worked for them may not work for you.

## **TIPS FOR CIVIL CASE**

Coming to Court and asking a Judge to make decisions about your life is one way to resolve disputes; this is called litigation. However, this is not the only way to resolve disputes. Mediation is another option you can try before you litigate your case and can be less time-consuming.

You and the other party know your lives/children/the facts of your case better than anyone else. Mediation can allow you to be creative and flexible in making your own agreements; the Court can only do what the law allows. You and the other party may be happier with agreements you make yourself, and therefore more likely to comply with them than with decisions made for you by the Court.

## **TIPS FOR CRIMINAL CASE**

What you have seen on TV and in movies is not real, even if it is called “real TV”. You should understand the impact and consequences of the court action. Even “small” cases can be legally complicated. The Prosecutor represents the Tribe and cannot give you legal advice. If you do not understand something about your case, you should contact an attorney.

## **GOING TO COURT**

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If you decide to go to Court, filing your Motion or Petition is just the first step. In order to get more out of your experience with the Court, you may need to request to schedule a hearing, or attend a hearing scheduled by the Court, and make efforts to resolve the problem without the Court, and file documents you feel support your claims.

**You will need to fill out paperwork.** You can get forms from the Clerk staff or the Tribal Court website [www.meskwakicourt.org](http://www.meskwakicourt.org). Read all of the court papers and instructions. There may be a fee to file your Petition. The Tribal Court does have forms available to apply to see if the filing fees can be waived, if you are eligible.

If you are the Defendant in a matter and the charge has a possible penalty of having to serve jail time, a minor, or a parent in a CINA matter, you may be eligible to apply for court appointed counsel. Please ask the Clerk staff for an application if this applies to your case.

## **When you visit the Clerk's Office to file your paperwork, remember:**

- It is up to you to know what you want.
- You can handwrite or type your information; please make sure it is legible.
- Please read and follow all directions on your forms so nothing is missed.
- Keep your composure; the Court staff is here to help you as much as they are allowed.
- The paperwork you file is your only means of communicating with the Court and the Judge. Put in all information you may feel is relevant to your case.
- You will be responsible for serving or setting up service of a copy of the Petition along with a Summons and all attachments on the other party at their last known address.** Without proof of service a case cannot move forward. If needing assistance, please reach out to MNPD at (641) 484-4844.

**You will have to share.** You must give everyone in the case copies of everything you file with the Court. You should keep a copy of everything you file with the Court for your own records. It is best to have a “date-stamped” copy which shows when you filed the original. You will need to work with the other person or their attorney, if applicable, to make sure all documents are being delivered to the other party and yourself.

**Being organized will help.** What do you want to get out of your court case? Why should you get it? What laws apply to your case to help solidify your reasonings? Make notes so you can tell the Court the answers to these questions as clearly as possible.

**Be prepared.** Get your documents and evidence prepared and copied. Don't forget to have copies available for the other party, and the Judge. Subpoena your witnesses, if necessary, and arrange for them to be at the right place at the right time. Make notes of questions you will want to ask them.

**Early is better than late.** Give yourself enough time to get to the Courthouse. If you are not there on time, your case may be dismissed, you might lose, or it may be rescheduled and pushed back before you have another chance to tell the Court your side of the case.

**It is ok to ask for help.** While no one in the Courthouse is allowed to give you legal advice, the Clerk staff may be able to answer general questions about forms and procedures. If you need legal advice, please reach out to an attorney to help you!

**Patience. Patience. Patience.** While it is never fun to have to sit and wait for something this important to be done, hearings and court orders can take some time to take place. Even in the beginning when the other party is served, they have 20 days to file their answer. If there are more complexities to your case, the Judge may take some time to go through each of them before finishing their Orders. This allows them to stay fair and impartial and follow the Tribal Laws to the best of their abilities. Would you rather have a rushed Order that constantly needs repeated modifications, or a well-thought-out Order that works through all of the different aspects of possible issues?

## **ATTENDING COURT**

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Whenever the Judge enters or leaves the Courtroom, stand up. Hats and hoods should be removed and cell phones should be turned off in the Courtroom. Refrain from talking except for necessary court business while Court is in session.

The Judge will begin by completing introductions, attendance, and giving a statement explaining Court procedures, Defendant's rights and penalties (if applicable).

Defendants representing themselves are bound by the same Rules and Procedures as attorneys. The Judge will tell you about the steps in the trial; but the Judge cannot act as your attorney.

You may obtain a copy of the Tribal Code section under which you are charge from the Meskwaki Tribal Court or at <https://meskwakicourt.org/tribal-code-%26-court-rules>.

The Judge will ask the party who started the case to provide their statement and submit evidence first. This is due to the Plaintiff or Petitioner holding the burden of proof, meaning they must produce enough evidence to prove their claims are more likely true than not. Once they are done, and they have asked all questions to their witnesses, now it is the Defendant or Respondent's turn.

During the Defendant or Respondent's timeframe, they are able to explain their side and respond to the claims that were brought to the Court. They can also cross-examine the witnesses that the Plaintiff or Petitioner brought to the hearing.

After all parties have presented their case. The Judge will either take the case “under advisement” or provide a “verbal order” Both of these options mean two different things, but that does not mean one is better than the other.

“Under advisement” means that the Judge is not providing an Order at the end of the hearing, but is taking additional time to review their notes, your evidence, and the Tribal Code before making their decision.

“Verbal Order” means that the Judge will give an immediate ruling in Court. This Order will be effective immediately, and must be obeyed, even if the written Order is still pending.

Once the Judge has filed their written Order with the Courts, copies will be mailed out to each of the parties at the last known address. \*It is important to update your address with the Court to allow Clerk staff to mail your copy to you\*

If you do not agree with the Order, you can look at filing an Appeal, if applicable. An appeal is a legal process where the Appellate Court will review the Tribal Court’s decision to identify legal errors. It is not a new trial; no new evidence is to be submitted, and it focuses on whether the law was applied correctly to the Tribal Court’s decision.

## **TIPS FOR COURTROOM ETIQUETTE**

- Enter and leave the Courtroom quietly, so you do not disturb others.
- Address the Judge as “Your Honor”.
- You will be expected to treat others in the Court respectfully. It is not respectful to yell, curse, or cut someone off when they are speaking.
- You will be expected to treat Court Staff respectfully. They understand how stressful the court process can be, and are doing everything they can to help you, however they are able.
- Speak clearly and slowly. Your words are being recorded. If you mumble, speak too quickly, too softly, or answer by shaking your head or nodding, the recording will not be accurate.
- Listen carefully to what everyone says in the courtroom, take notes so you have a record of what the other party is saying to help with your response.
- Please do ask questions if you do not understand something or are confused about what you are required to do.

## **WHEN IT'S ALL OVER**

Please remember that the Court is not allowed to be on anyone's side but must give everyone a chance to tell their side of the story. It is unlikely you will get everything you want, whether you represent yourself or have an attorney.

Almost no one is completely happy with the outcome of a court case, regardless of who appears to "win". The law may require the Judge to rule in a way that makes no sense to you; the law may prevent the Judge from ruling in the way you want. If you and the other party in the case cannot resolve your disagreement yourselves, for whatever reason, you will have to accept that the Court is limited to the laws of the Tribe when making their decision.

Regardless of the outcome, you should continue to treat the other people in the case and the Court with respect.

For more information, contact the Tribal Court  
(641) 484-9300 or visit our website at [www.meskwakicourt.org](http://www.meskwakicourt.org)

**CONTACT INFORMATION & RESOURCES**

<b>Tribal Prosecutor</b>	(641) 484-4678
<b>MNPD</b>	(641) 484-4844
<b>Tama Co. Dispatch (Non.Emer)</b>	(641) 484-3760
<b>Tama Co. Dispatch</b>	(641) 484-4111
<b>RISE 24/7 Crisis Line</b>	(641) 481-0334
<b>MNCSS Child Support</b>	(641) 484-9301
<b>MFS Family Services</b>	(641) 484-4444
<b>Tribal Center</b>	(641) 484-4678

**Tribal Court Judiciary**

Chief Justice Zunker  
Chief Judge Nydle  
Pro Tempore Judge Plumer  
Pro Tempore Judge Matha