

4.12.060 Procedure for giving notice of claims and filing actions – Written notice of claim required.

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- (a) No action may be brought in Tribal Court under this Act unless the person who claims to have suffered an injury first sends written notice of the claim to the Secretary of the Tribal Council and the Director of the Tribal Law Office. The notice shall be sent by certified mail, return receipt requested. If the action or claim alleges the injury was caused by the act or omission of an agent, employee, or officer of the Tribe, the written notice required by this section shall also be given to the agent, employee, or officer.
- (b) The notice required by subsection (a) of this section shall contain the following:
- (1) The name, current address, and telephone number of the claimant, and the name, current address, and telephone number of the claimant's attorney, if any; and
 - (2) A concise statement describing the conduct, circumstances or other facts which brought about the injury. The statement must include the date and time when the injury occurred, the place where the injury occurred, the names of any Tribal agent, employee, or officer involved, or who have knowledge of the facts giving rise to the injury, and the names, addresses and phone numbers, if known, of any other persons involved or who have knowledge of the facts; and
 - (3) A concise statement of the nature and the extent of the injury claimed to have been suffered, including submission of relevant medical reports; and
 - (4) A statement of the amount of damages that is being requested.
- (c) The notice required by subsection (a) of this section shall be valid only if:
- (1) It is given to the required parties no later than 180 days after the act or omission occurred giving rise to the injury; and
 - (2) It contains all of the information required in subsection (b) of this section.
- (d) The notice shall be deemed given and effective as of the date of the last postmark of any written notice required by subsection (a) of this section.
- (e) No action may be brought in Tribal Court under this Act until the expiration of 90 days after the date of the last notice required by subsection (a) of this section is given.

(f) No action may be brought in Tribal Court under this Act for damages in excess of the amount set forth in the written notice of claim required by subsection (a) of this section. Damages sought in excess of the amount stated in the written notice of claim may be awarded by the Tribal Court only if the claimant proves the increased amount is based upon evidence not reasonably discoverable at the time the notice was given, or upon proof of intervening facts relating to the amount of the claim.

(g) Any person filing an action in Tribal Court for money damages under this Act shall cause a copy of the complaint and summons to be served upon the Secretary of the Tribal Council, and the Director of the Tribal Law Office. If the action alleges a claim involving an act or omission of a Tribal commission, board, authority, corporation or enterprise, service of the summons and complaint shall also be given to the chairperson or chief executive officer of such commission, board, authority, corporation or enterprise.

(h) A defendant in any action brought pursuant to this Act, whether for monetary damages or prospective declaratory, mandamus, injunctive or other extraordinary relief, shall have not less than 60 days after receipt of the complaint and summons, and such other time as the Tribal Court may allow, to file an answer or other responsive pleading or motion.

(i) The time periods for filing a notice of claim for monetary damages and for commencing an action in Tribal Court for monetary damages under this Act do not apply in a suit for prospective declaratory, mandamus, injunctive or other extraordinary relief against the Tribe or its agents, employees, or officers. [Res. 091109E (11/09/09); Ord. 211002A (10/21/02); prior code § 4.02A.060]