



TSAWWASSEN FIRST NATION
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**TSAWWASSEN FIRST NATION
JUDICIAL COUNCIL**

RULES OF PROCEDURE (June 2014)

Power to Make and Amend Rules

1. These rules are made by the Judicial Council under the power conferred under s. 18 of the *Administrative Review and Judicial Proceedings Act*.
2. These rules may be amended from time to time by the Judicial Council under s. 19 of the *Administrative Review and Judicial Proceedings Act*.

Purpose of the Rules

3. These rules are intended to provide a just, simple and efficient process by which matters may be brought before the Judicial Council for consideration and decision.

Tsawwassen Laws and Regulations

4. If there is an inconsistency between these rules and a Tsawwassen Law or Regulation, the Tsawwassen Law or Regulation will prevail and the Judicial Council will exercise its discretion in determining how to best reconcile the inconsistency.

Bringing Matters before the Judicial Council

5. When a person wishes to bring a matter before the Judicial Council, he or she, as the “Claimant”, must
 - (a) complete and file a **Notice of Claim** with the Clerk of the Judicial Council (the “Clerk”); and
 - (b) serve a copy of the filed Notice of Claim on every person who participated directly in the making of the decision or incident being appealed.

6. The Notice of Claim form is valid for any procedure that can be initiated before the Judicial Council, including for example, an application, an appeal, a dispute, a referral and a review of a decision or order.
7. The Notice of Claim must include
 - (a) reference to the rule or other provision of the Tsawwassen Law, Constitution or Regulation relied on;
 - (b) a concise statement of the matter in dispute;
 - (c) the remedy being requested from the Judicial Council; and
 - (d) the Claimant's contact information.
8. Service of the Notice of Claim must take place within seven days of filing and must be by personal service.
9. If it is impracticable or not possible to effect service of the Notice of Claim by personal service, the Judicial Council may, on application without notice, make an order under Rule 30(d) for an alternative method of service.
10. After serving the Notice of Claim, the Claimant must within 3 days file with the Clerk the certificate confirming service ("**Certificate of Service**").
11. In calculating days for taking any steps
 - (a) the day on which time started to run is excluded; and
 - (b) weekends and holidays are excluded.

Filing Fee

12. A filing fee of \$100.00 must be paid upon the filing of the Notice of Claim.
13. The requirement to pay the filing fee does not apply
 - (a) to the Tsawwassen Government;
 - (b) to election appeals; or
 - (c) in any proceeding where the amount involved is less than \$1000.

Answer to a Notice of Claim

14. Anyone who has been served with a Notice of Claim and who wishes to dispute the Claim must, as a Respondent, file an **Answer** with the Clerk within 30 days of being served.

15. Where a Respondent fails to file an Answer within the required time, the Claimant may apply to the Judicial Council for judgment in default.
16. An Answer from a Respondent must
 - (a) include a concise statement in response to the Notice of Claim;
 - (b) state the result being sought, including, if appropriate, the dismissal of the claim made by the person who filed the Notice of Claim; and
 - (c) include the Respondent's contact information.
17. The filed Answers to a Notice of Claim will be distributed by the Judicial Council through the Clerk's office.
18. If, in addition to filing an Answer to a Notice of Claim, a Respondent wants to make a counterclaim against a Claimant, the counterclaim must be made in a separate and new Notice of Claim, which must be filed and served as required by Rules 5 through 13 inclusive.
19. A Respondent to a counterclaim who wants to dispute the counterclaim must file an Answer as required by Rules 14 through 16 inclusive.

Striking out Proceedings

20. The Judicial Council may strike out a proceeding, either on the motion of a party or on the initiative of the Judicial Council itself, on the ground that the proceeding
 - (a) is outside the jurisdiction of the Judicial Council;
 - (b) discloses no proper basis of claim;
 - (c) is frivolous or vexatious; or
 - (d) has been the subject of undue delay by a Claimant.

Judicial Council Hearings

21. A hearing date will be scheduled
 - (a) once all Respondents have filed Answers; or
 - (b) if the Judicial Council deems it appropriate, once the time for the filing of Answers has expired;whichever is earlier.

22. The Chair may schedule a pre-hearing conference to facilitate the orderly conduct of the proceeding.
23. The Chair may designate a single member of the Judicial Council to hear an application on a question of procedure or the application of these rules to the circumstances of a particular case.
24. In accordance with s.13 of the *Administrative Review and Judicial Proceedings Act* and depending on the nature of the matter it is being asked to consider, the Chair will decide to convene the hearing as a panel of three or five members.
25. Where the Chair designates a proceeding as being suitable for final decision by a single member rather than a panel, a single member selected to do so by the Chair may make a final decision in that proceeding.
26. The Judicial Council may order that Claims that are the subject of different filings be heard together.
27. The Judicial Council may make any order or give any direction that may assist with a hearing.
28. The Judicial Council will provide its decisions in writing and will prepare any necessary orders.

References from the Executive Council on Questions of Law

29. Where a reference is made by the Executive Council to the Judicial Council under ss. 25 and 26 of the *Administrative Review and Judicial Proceedings Act*, the Chair may make an order with respect to the hearing and consideration of that reference by the Judicial Council, including orders with respect to the persons entitled to be heard on the reference and the procedure for ensuring that all issues relevant to the reference are brought forward fairly and equitably.

Orders

30. The Judicial Council may make any order that may be required to assist with a hearing and may make such order pursuant to a Notice of Motion or on the initiative of the Judicial Council, and without restricting the generality of that power, may make an order relating to
 - (a) the jurisdiction of the Judicial Council;
 - (b) time limits for, among other things, a hearing or submissions;
 - (c) evidentiary matters, including pre-hearing document disclosure, exchange of documents, and the pre-hearing examination of a party;

- (d) service of documents, including use of an alternative method of service;
 - (e) the filing of written submissions by the parties;
 - (f) the filing of admissions by the parties;
 - (g) amendments to a Notice or an Answer;
 - (h) the addition of a party to a proceeding;
 - (i) the procedure for notifying, identifying and calling witnesses;
 - (j) the exclusion of witnesses from a proceeding;
 - (k) witness fees and expenses;
 - (l) the preservation, retention, safeguarding and protection of property, real or personal;
 - (m) the setting aside of any order or judgment.
31. A party seeking an order must file with the Clerk a **Notice of Motion** stating the nature of the order sought.
32. A copy of the Notice of Motion and the other supplementary material, if any, must be personally served on all other parties to the proceeding within seven days of being filed.
33. If it is impracticable or not possible to effect service of the Notice of Motion by personal service, the Judicial Council may, on application without notice, make an order under Rule 30(d) for an alternative method of service.
34. After serving the Notice of Motion, the serving party must within 3 days file with the Clerk the certificate confirming service (**Certificate of Service**).
35. Anyone who has been served with a Notice of Motion and who wishes to respond the Motion must, as a Respondent, file an **Answer** with the Clerk within 7 days of being served.
36. An Answer must include
- (a) a concise statement in response to the Notice of Motion; and
 - (b) a suggested resolution of the Motion.

37. The filed Answers to a Notice of Motion will be distributed by the Judicial Council through the Clerk's office.
38. If a hearing relating to a Notice of Motion is required, a hearing date will be scheduled
- (a) once all Respondents have filed Answers to the Notice of Motion; or
 - (b) if the Judicial Council deems it appropriate, once the time for the filing of Answers to the Notice of Motion has expired;

whichever is earlier.

Costs

39. The Judicial Council may order that a party pay to another party an amount as costs and disbursements that does not exceed the actual expenses incurred by that other party in the proceeding.

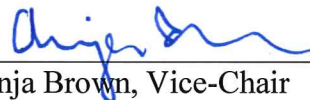
Supreme Court Rules

40. In dealing with any matter under these rules, reference to the B.C. Supreme Court Rules, and to the Practice and Procedure in the Supreme Court of British Columbia, may be regarded as relevant but not determinative.

These Rules are made by the Judicial Council on the 21st day of June, 2014.



Paul Fraser, Chair



Anja Brown, Vice-Chair



Bruce MacDougall, Member



Laura Baird, Member



Leif Nordahl, Member