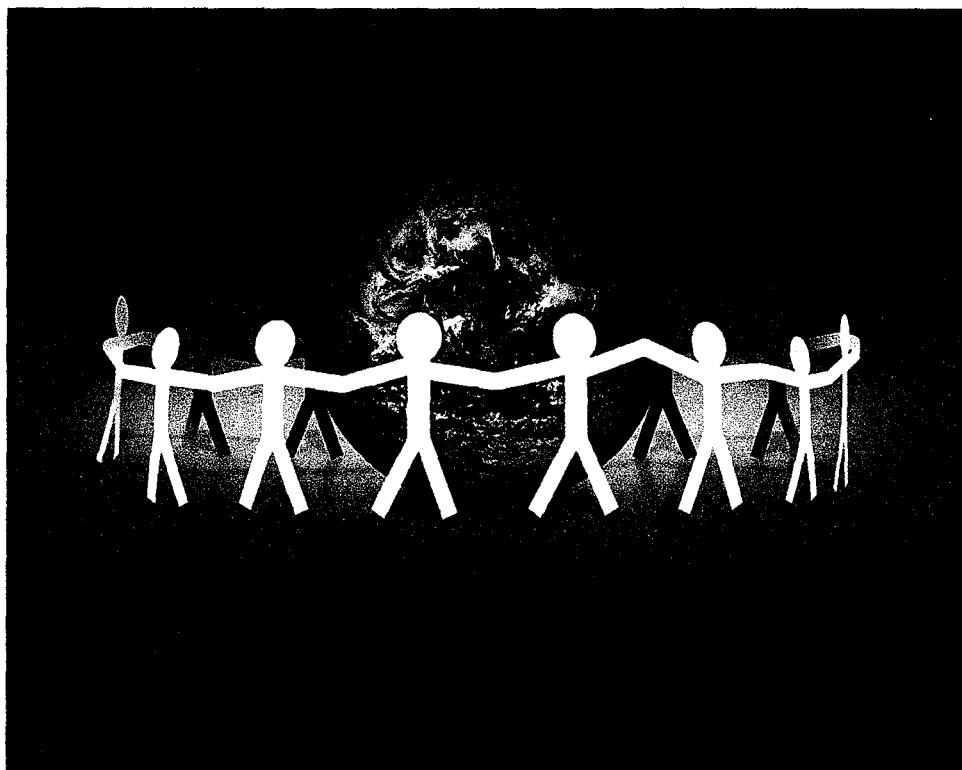


Peacemaking: A Way of Life

Presented by
Justice Barbara Smith
Jason Burwell
October 23, 2007



 the Chickasaw Nation

Peacemaking Process

- I. Request for Peacemaking
 - A. District Court Judge gives Order for Peacemaking or Citizen(s) request Peacemaking.
 1. Order is received by the Peacemaking Court.
 2. Peacemaking forms (3) are mailed to participants.
 - a. Dispute Form (in own words, participants state the dispute).
 - b. Values of the Peacemaking Court (detailed description of the Peacemaking process signed by the participants stating consent).
 - c. Peacemaking brochure containing bios of our Peacemakers to familiarize the participants with who will be hearing the dispute.
 - B. Completed forms are received by our office and forwarded to the Peacemaker(s) assigned to the dispute. This allows the Peacemaker(s) preparation time to become familiar with the dispute.
- II. Peacemaking Circle
 - A. Peacemakers choose a location
 - B. Parties are notified of place and time
 - C. Parties meet with assigned Peacemaker(s) and work towards a peaceful resolution.
 1. The outcome of the Circle is documented in a report by the Peacemakers.
 2. Report is delivered back to the Judicial Clerk at the Supreme Court office and drafted into appropriate format.
 - B. Circle Outcomes Recorded
 1. An Entry of the outcome of the Circle is sent to the District Court.
 - a. If the Judge determines it is appropriate, the Entry is made a part of the file as an Order.
 - b. If the Citizens requested Peacemaking without a referral from the District Judge, their Agreement is forwarded to the Judicial Clerk at the Supreme Court and filed in a confidential file.
 2. Peacemakers may recommend that parties have more than one session. If the parties agree, another session will be scheduled through the Judicial Clerk. Parties are encouraged to immediately contact the Peacemaking Court if problems arise from the agreements reached.



The Peacemaking Court of the Chickasaw Nation



Participant Information:

Last Name: _____ First Name: _____ Middle Init.: ____

Address: _____

City: _____ State: _____ Zip: _____

Tribal Affiliation: _____ Telephone: _____

Date of Birth: _____

Participant Information:

Last Name: _____ First Name: _____ Middle Init.: ____

Address: _____

City: _____ State: _____ Zip: _____

Tribal Affiliation: _____ Telephone: _____

Date of Birth: _____



Values of the Chickasaw Nation Peacemaking Court



The core values of the Chickasaw Nation Peacemaking Court are respect, humility, compassion, spirituality and honesty. No value carries more significance than any other. Participation in the Peacemaking Circle indicates acceptance of these values both in word and action and a commitment to always move forward from the point of dispute.

Respect

Respect acknowledges the dignity and worth of each individual. It ensures that every participant experiences acceptance into the Circle and ensures that everyone is heard with equality. It requires every participant listen to everyone else. Respect means that all members of the Circle participate within the guidelines set by the Circle. Furthermore, respect is critical in achieving the consensus decision-making necessary for Circles to be successful.

Respect is also important in understanding the concept of honoring the talking piece. When others are holding the talking piece, it is important for participants to view the piece as an opportunity for reflection. When the talking piece is held out for open discussion, it continues to have importance and should be honored by conducting discussion in a respectful manner. The talking piece is a symbol of the shared responsibility of the participants in the Circle and it should be held respectfully.

Humility

To recognize the humanness of others, and to be inclusive and thankful for their participation in the Circle, is to have humility. Humility helps create partnership between participants.

Compassion

Compassion indicates a genuine concern for the welfare of others. For the supportive relationships of Circles to be built, participants need to enter the Circle open to feeling compassion for the others whom they will join. Most importantly, compassion results in a focus on harm rather than the conventional focus on offense. The compassion felt by the Circle participants enables the Circle to take positive action to repair those issues which contributed to the harm done.

Spirituality

Spirituality celebrates the wholeness of each person. It allows all participants to speak from the heart so that everyone can share with each other in the spirit of moving beyond

conflict together to find understanding and healing. Holding a Circle means creating a sacred space where these values are honored.

Honesty

Accountability is an indisputably important element in the Peacemaking Circle. Trust is necessary for accountability. But neither of them can be achieved without honesty. People need the support of others to make affirmative changes in their lives, and honesty is the basis for building those strong relationships within communities. Furthermore, dishonesty can quickly result in hostile feelings which undermine the Circle process. It is, therefore, necessary for all participants to speak with honesty in a Circle so that victims, offenders and other Circle participants can view the Circle process as a positive experience.

I, _____, have read the above and understand the same; and upon signing this agreement I am indicating that I am willing to abide by the above values of the Peacemaking Circle and understand that any breach of my agreement could result in having my case rescinded to the Chickasaw Nation District Court.

Date: _____

Please return this form to:

The Chickasaw Nation Supreme Court
P.O. Box 69
Ada, OK 7481-0069

IN THE DISTRICT COURT OF THE CHICKASAW NATION

Case No.

REPORT OF PEACEMAKING COURT

NOW on the ____ day of _____, 2006, the following parties appear before the undersigned Peacemaker: _____

- The undersigned Peacemaker further reports to the District Court that the parties have not been able to reach an agreement as to the issues in this matter and requests that this matter be re-set for trial on the merits before the District Court. The parties further understand that a final trial on the merits be set by the District Court at a later date. All parties will receive notice, by regular mail, at the addresses supplied herein.
- The undersigned parties agree that an agreement is likely and all parties request that the District Court allow extra time for the parties to continue to proceed in the Peacemaking Court.
- The undersigned parties state that a full agreement a partial agreement has been reached by the parties herein and that said agreement is as follows: _____

Use additional pages if necessary.

The parties further agree that there are issues that have not been resolved and ask that this matter be set for trial on the merits on the following issues: _____

The parties further understand that a hearing will be set by the District Court to approve or disapprove said agreement and to enter a final Order in the case. All parties will receive notice, by regular mail, at the addresses supplied herein.

DATED: _____

SIGNATURE, NAME AND ADDRESS OF THE PARTIES

Signature: _____

Printed Name: _____

Party: _____

Address: _____

Phone: _____

Signature: _____

Printed Name: _____

Party: _____

Address: _____

Phone: _____

Court and Procedures

**CHAPTER 14
CHICKASAW NATION PEACEMAKING COURT
(Nanna alphi'sa ishtaa-asha ikbi)**

Section 5-1401.1	Short Title.
Section 5-1401.2	Creation and Purpose.
Section 5-1401.3	Peacemaker of the Court.
Section 5-1401.4	Jurisdiction of the Peacemaking Court.
Section 5-1401.5	Use of Tribal Traditions and Customary Law.
Section 5-1401.6	Limitations of Peacemaker Authority.
Section 5-1401.7	Use of Tribal Traditions and Customary Law.
Section 5-1401.8	Procedures for Requesting to Transfer as an Existing Action to the Peacemaking Court.
Section 5-1401.9	General Provisions.
Section 5-1401.10	Procedure in Peacemaking Court.
Section 5-1401.11	Form of Agreements and Proposed Orders.
Section 5-1401.12	Enforcement of Orders.
Section 5-1401.13	Admissibility of Statements Made in Peacemaking Court.
Section 5-1401.14	Conduct of a Peacemaker.
Section 5-1401.15	Protective Orders.
Section 5-1401.16	Method; Basic Rights.
Section 5-1401.17	Miscellaneous.

SECTION 5-1401.1 **SHORT TITLE.**

This Title 5, Chapter 14 shall be cited as the "Peacemaking Court Act of 2003" ("Act").
(PR20-019, 6/18/2003)

SECTION 5-1401.2 **CREATION AND PURPOSE.**

A. Pursuant to Amendment V of the Constitution of the Chickasaw Nation, there is hereby established a Chickasaw Nation Peacemaking Court which shall be a division of the Chickasaw Nation District Court and which shall operate in accordance with the provisions of the customary and traditional law of the Nation.

B. The purpose of the Peacemaking Court is to provide a forum for the use of traditional Chickasaw Nation methods of peacemaking to resolve disputes in a fair, informal, and inexpensive manner. Any ambiguity in this Code shall be liberally construed to carry out its purpose of encouraging traditional Chickasaw Nation methods of dispute resolution without formal court proceedings.

Court and Procedures

C. The Chickasaw Nation District Court shall have the authority to assign cases to and supervise the activities of the Peacemaking Court and any Peacemaker appointed pursuant to this Act.

SECTION 5-1401.3 PEACEMAKER OF THE COURT.

A. A Peacemaker shall meet the following qualifications:

1. has never been convicted of a felony;
2. is of good moral character and integrity;
3. is familiar with the provisions of this Act, Chickasaw Nation court procedures and federal law applicable to the Chickasaw Nation; and
4. is proficient in oral and written communications and is capable of preparing the papers and reports incidental to the office of Peacemaker.

B. The District Judge shall be responsible for assigning cases to a particular Peacemaker who shall in turn be responsible for assisting the involved parties in resolving their dispute through traditional methods of peacemaking.

C. Peacemakers shall be selected by the Chickasaw Nation Supreme Court and must agree in writing and by oath to serve under the authority of the District Court. The Clerk of the District Court shall maintain a roster of persons approved as Peacemakers.

D. A person may be removed from the Peacemaker roster for cause after the person has been afforded a hearing before a District Court Judge. A person removed from the roster for cause, after said hearing, may appeal his removal to the Supreme Court whose decision shall be final. A Peacemaker shall not be subject to the personnel policies including grievance procedures.

E. The parties to any dispute may agree to a certain individual listed on the roster described in Subsection C above as a Peacemaker for the resolution of their dispute. In such cases, the Peacemaker must be agreed to by all parties in the dispute.

F. Peacemakers are officers of the District Court and shall have the same immunities as do Judges of other Chickasaw Nation courts.

Court and Procedures

SECTION 5-1401.4 JURISDICTION OF THE PEACEMAKING COURT.

The Peacemaking Court shall have jurisdiction over any matter referred to it by the District Court and upon the agreement of both parties who shall also agree to be bound by the decision of the Peacemaking Court as endorsed by the District Court. If a Peacemaker determines that the peacemaking process cannot produce an agreed resolution of the matter, the Peacemaker shall transfer the case back to the District Court which shall resume jurisdiction over the case.

SECTION 5-1401.5 USE OF TRIBAL TRADITIONS AND CUSTOMARY LAW.

A Peacemaker shall have authority to use tribal cultural teachings and customs, including present day religious teachings, in the peacemaking process if the Peacemaker reasonably believes that such will further the objective of voluntarily resolving a dispute. Peacemakers shall have the authority to consult with tribal elders regarding tribal customs and traditions.

SECTION 5-1401.6 LIMITATIONS OF PEACEMAKER AUTHORITY.

A Peacemaker shall not have the authority to force any parties to resolve a disputed matter, nor shall a Peacemaker have authority to adjudicate a matter which the parties cannot resolve through voluntary agreement.

SECTION 5-1401.7 USE OF TRIBAL TRADITIONS AND CUSTOMARY LAW.

Parties to a dispute may file a written request with the District Court asking that their dispute be heard in the Peacemaking Court. The request may be made either on a form provided by the Court or in any written form which provides the following information:

1. the name, address and phone number of the person requesting the peacemaking;
2. the names of the parties involved in the dispute and their mailing address and place of residence;
3. a short statement of the type of dispute involved in the action;
4. the reason the party desires the action to be heard in the Peacemaking Court;
5. the names and addresses of any persons other than the named parties that the requesting party believes might have information useful to a Peacemaker resolving the action; and

Court and Procedures

6. if known, information as to whether each party is non-Indian or Indian, and, if Indian, the party's tribal affiliation and membership.

SECTION 5-1401.8

PROCEDURES FOR REQUESTING TO TRANSFER AS AN EXISTING ACTION TO THE PEACEMAKING COURT.

Any person to an action in the District Court may request that the Court refer the case to the Peacemaking Court by filing a written Motion for Referral. The Motion for Referral must comply with the requirements of the District Court and Section 5-1401.7 above.

SECTION 5-1401.9

GENERAL PROVISIONS.

A. Non-Indians who are injured, hurt or aggrieved may voluntarily agree to participated in and be bound by the peacemaking process.

B. If a Motion for Referral to Peacemaking Court is made by a party, the moving party shall mail a copy of said Motion, by certified mail, return receipt requested, to the other parties. The District Court may decline to approve such referral if the Court, for good cause, determines that the Motion was made mainly for delay. After a party files a Motion for Referral to Peacemaking Court, any other party may object to the Motion or may consent to the Motion by filing a written objection or consent with the Court within fifteen (15) working days of receipt of the Motion. A failure to respond by a party to a Motion for Referral to Peacemaking Court shall be considered an objection to the motion.

C. The District Court shall grant a Joint Motion for Referral to Peacemaking Court filed by all parties to the dispute indicating that all parties consent to the referral of their dispute to Peacemaking Court.

D. The District Court may also, upon its own motion, refer an action to Peacemaking Court if the Court finds that the action, in light of the totality of circumstances concerning the action known then by the Court, is the type of action that may be resolved through peacemaking and all parties consent to the referral of their dispute to the Peacemaking Court.

E. Once a matter is referred to Peacemaking Court, a party may not request the matter be removed from Peacemaking Court back to the District Court unless such request is pursuant to a Motion for a Protective Order.

F. Except as provided in Subsection D above, non-parties can neither request nor prevent the referral of matters to the Peacemaking Court.

Court and Procedures

G. The District Court shall indicate all referrals to the Peacemaking Court in an Order of the Court.

SECTION 5-1401.10

PROCEDURE IN PEACEMAKING COURT.

A. Upon referral of a matter to Peacemaking Court, the District Court shall notify a Peacemaker of his selection and appointment by mailing the Peacemaker a copy of the District Court's referral order and copies of all documents filed in the case. If the appointment is accepted, the Peacemaker is responsible to advise the parties of his appointment in writing. The copy of the referral order shall serve as evidence of the Peacemaker's authority in the matter. If the appointment is declined, the District Court shall select another Peacemaker and the foregoing procedure shall again be followed.

B. The Peacemaker shall meet with the parties to resolve the dispute at a time and place agreed to by the Peacemaker. The venue may be where the parties reside, in the community where the moving party resides, or a convenient place for the parties when they reside in separate communities; provided, such venue shall be within the territorial jurisdiction of the Chickasaw Nation. The Peacemaker may schedule additional meetings if reasonably necessary to resolve the dispute.

C. Neither the Chickasaw Nation Rules of Civil Procedure, the Chickasaw Nation Rules of Criminal Procedure nor the Chickasaw Nation Rules of Evidence shall apply in Peacemaking Court. A Peacemaker may not meet alone with one party unless the other parties have notice and are given the opportunity to appear at said meeting. Legal counsel for a party or witness shall not have the right to participate in the peacemaking proceedings, but may assist in writing a complaint or motion to the Peacemaking Court to advise their client as to any enforcement of judgments or privilege that might apply.

D. If the parties reach agreement or resolution through the peacemaking process, the Peacemaker will assist the parties in drafting a written agreement to be signed by all parties and the Peacemaker. The Peacemaker will present a copy of the agreement and a proposed dismissal order to the District Court. The District Court shall review the agreement and proposed order to insure that those documents meet the requirements of the Court. If the agreement and proposed order are sufficient, the Court shall endorse the order and file the agreement and order in the case as a final, non-appealable, order. The District Court shall send a copy of the entered agreement and order to each of the parties and to the Peacemaker.

E. If the agreement and/or order does not meet the requirements of the District Court, the Court shall send the agreement and/or order back to the Peacemaker with suggested revisions. If the parties sign another agreement incorporating the suggested revisions, the Peacemaker shall

Court and Procedures

then present the new agreement to the District Court and the procedure described in Subsection D above shall be followed.

F. If the parties cannot reach an agreement to resolve their disputes, the Peacemaker shall certify in writing to the District Court that such is the case. The Court may then refer the matter to another Peacemaker or enter an order referring the matter back to the District Court for further proceedings.

G. Notwithstanding any other provision of this Chapter 14, the Peacemaker or District Court may enter an order referring any matter in Peacemaking Court back to the District Court if the parties have not reached an agreement resolving the matter after sixty (60) days from the date of the order from the District Court referring the matter to Peacemaking Court.

H. Notwithstanding any other provision of this Chapter 14, no matter may be referred to Peacemaking Court more than one (1) time by the District Court unless all of the parties to the matter consent.

SECTION 5-1401.11

FORM OF AGREEMENTS AND PROPOSED ORDERS.

A. No agreement referred to in Section 5-12401.10 above shall be approved by a Peacemaker unless:

1. the agreement contains a provision stating that the agreement resolves all issues between the parties involved in the legal action;
2. the agreement contains a statement that all parties have voluntarily signed the agreement and consent to the proposed order; and
3. the Peacemaker, upon review of the agreement in its entirety, finds that the agreement contains the complete agreement of the parties and contains sufficient information for the parties to understand their respective mutual obligations under the agreement and proposed order.

B. A Peacemaker may enter an agreement and proposed order only when the following conditions have been met:

1. the court has jurisdiction over the parties and the subject matter of the agreement;
2. all parties have voluntarily signed the agreement and consented to the proposed order;

Court and Procedures

3. the order contains sufficient information regarding the full agreement so a dispute as to the order is not likely to rise in the future; and

4. the agreement and proposed order is otherwise proper and enforceable by the District Court.

C. All orders shall set forth the names of the parties, the fact that the matter has been resolved by participation in the Peacemaking Court and a statement that the parties have reached an agreement to resolve their dispute.

SECTION 5-1401.12

ENFORCEMENT OF ORDERS.

An order entered pursuant to this Chapter shall be enforceable in the same manner as other orders of the Chickasaw District Court.

SECTION 5-1401.13

ADMISSIBILITY OF STATEMENTS MADE IN PEACEMAKING COURT.

Statements made by any party in Peacemaking Court during the peacemaking process shall be considered statements made during settlement negotiations and shall not be admissible in any later court proceedings.

SECTION 5-1401.14

CONDUCT OF A PEACEMAKER.

A Peacemaker shall not participate as a Peacemaker in any matter:

1. in which he has a monetary or property interest;
2. in which he is or has been a material witness; or
3. in which he is related by blood or marriage within the second degree to any of the parties.

SECTION 5-1401.15

PROTECTIVE ORDERS.

A. Any party or witness involved in peacemaking in the Peacemaking Court may move the Peacemaking Court or the District Court for a protective order ending or placing limitations on the peacemaking process. The grounds for such protective order shall be:

1. harassment by the Peacemaker or another which is not properly handled by the Peacemaker;

Court and Procedures

2. invasion of personal privacy by the Peacemaker to an unreasonable extent;
3. conduct of the Peacemaker which is degrading, inhumane, dangerous, assaultive, or otherwise violative of individual rights;
4. conduct by the Peacemaker in violation of Section 5-1401.14;
5. the assertion of any privilege recognized by law but not respected by the Peacemaker; and
6. the assertion of any right guaranteed by tribal or federal law but not recognized by the Peacemaker.

B. A Motion for a Protective Order shall be made in writing to the District Court. Upon receipt of such a Motion, the District Court shall conduct a hearing on the Motion. The Court may grant or deny the Motion in whole or in part. The Court may order any remedy it finds reasonably appropriate, even if such remedy was not requested by the party or witness filing the Motion.

SECTION 5-1401.16

METHOD; BASIC RIGHTS.

A Peacemaker is permitted to use any reasonable method of working with people to solve their problems, as long as there is no force, violence, or violations of an individual's basic rights.

SECTION 5-1401.17

MISCELLANEOUS.

A Peacemaker may adopt standard forms for the implementation of these rules. The District Court may publish information and/or explanation of the Peacemaking Court peacemaking process in the Chickasaw language and/or English. The provisions of this Chapter shall prevail over any inconsistencies between the provisions of this Chapter and any information and/or explanation that may be published.