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**CHEROKEE NATION GAMING COMMISSION**  
**RULES AND REGULATIONS**

<b>CHAPTER:</b>	<b>Gaming Dispute Resolution</b>	<b>CHAPTER #:</b>	<b>VIII</b>
<b>SUBJECT:</b>	<b>Tort Claims</b>	<b>SECTION –SUBSECTION:</b>	<b>E</b>
<b>EFFECTIVE DATE:</b>		<b>SUPERSEDES MATERIAL DATED:</b>	
<b>APPROVED BY:</b>		<b>DATE:</b>	

**PURPOSE**

The purpose of this Section is to ensure that patrons are afforded due process in seeking resolution of a tort claim for personal injury or property damage arising out of incidents occurring at the gaming facility.

**SCOPE**

The provisions of this Section shall apply to tort claims filed by patrons, under the terms and conditions in any Tribal-State Compact to which the Cherokee Nation may be a party, against an Enterprise that is subject to the jurisdiction of Cherokee Nation Gaming Commission (CNGC).

**AUTHORITY**

Title 4 § 22 CNCA  
 Tribal-State Compact Part 5 (A)  
 Tribal-State Compact Part 6 (A)  
 OTB Compact Section 8

**A. DEFINITIONS**

1. Enterprise – The entity conducting gaming operations on behalf of or as authorized by the Cherokee Nation.
2. Cherokee Nation Gaming Commission (CNGC) – The regulatory body established by the Cherokee Nation to oversee and regulate the conduct of gaming on lands owned by the Cherokee Nation.
3. Management Official – The Enterprise employee authorized to review claims and render a decision on a patron’s tort claim.



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4. State Compliance Agency (SCA) – The agency charged with overseeing compact gaming on behalf of the State of Oklahoma; currently, the Office of State Finance.
5. Tort Claim – A demand for reimbursement and/or compensation for monetary loss and/or damages resulting from personal injury or property damage, destruction, or loss.

**B. NO CAUSE OF ACTION CREATED**

Provisions of this Section or of any other Chapter of these Rules and Regulations shall not create a cause of action against any gaming operation, gaming employee, Cherokee Nation, or the CNGC.

**C. CLAIMS PROCESS**

1. All tort claims must be filed and follow the procedures outlined in Part 6 (A) of the Tribal-State Compact between the Cherokee Nation and the State of Oklahoma.
2. The Enterprise shall establish policies and procedures, subject to CNGC review and approval, that implements the requirements of this regulation and any Tribal-State Compact to which the Cherokee Nation may be a party.
3. A patron may initiate a tort claim for the event for which payment is being sought by filing a written tort claim notice with either the enterprise or with the CNGC.
4. The date the tort claim is filed with either the enterprise or the CNGC shall be deemed the official date of filing the tort claim.
  - a. A copy of the tort claim filed with Enterprise shall be provided to the CNGC and the SCA within forty-eight (48) hours of filing.



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- b. A copy of the tort claim filed with the CNGC shall be provided to the Enterprise and the SCA within forty-eight (48) hours of filing.
5. The tort claim shall state:
  - a. The date, time, place and circumstances of the incident upon which the tort claim is based;
  - b. The identity of any persons known to have information regarding the incident, including employees or others involved in or who witnessed the incident;
  - c. The amount of compensation demanded and the basis for said relief;
  - d. The name, address, telephone number and email address (if any) of the claimant, and the name, address, telephone number and email address (if any) of any representative authorized to act or settle the claim on behalf of the claimant.
6. All notices of tort claims must be filed within one (1) year of the date of the alleged occurrence. Failure to file a claim within this timeframe will forever bar further review; provided that a tort claim notice filed more than ninety (90) days, but within one (1) year, after the occurrence shall be deemed to be timely filed, but any judgment thereon shall be reduced by ten percent (10%).
7. All notices of tort claims shall be signed by the claimant. The tort claim notice shall be signed under oath.
8. The Enterprise, through a designated Management Official, shall promptly review, investigate and make a determination regarding the tort claim.
  - a. Claimants shall cooperate in providing information, including personal sworn statements and agreeing to be interviewed, as the Enterprise shall reasonably request.



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- b. The claimant is permitted to have counsel present during any such interview.
  - c. A list of designated Management Officials shall be on file with the CNGC with updates being provided quarterly or as the list is modified.
  - d. Notice of the Management Official’s decision shall be provided to CNGC upon issuance along with all supporting documentation used in rendering the decision.
9. Any portion of a tort claim which is unresolved shall be deemed denied if Enterprise fails to notify the claimant in writing of its approval within ninety (90) calendar days of the filing date, unless the parties agree by written agreement to extend the date by which a denial shall be deemed issued if no other action is taken. Each extension shall be for no more than ninety (90) calendar days, but there shall be no limit on the number of written agreements for extensions; provided that no written agreements for extension shall be valid unless signed by the claimant and an authorized representative of the Enterprise. The claimant and the Enterprise may continue attempts to settle a claim beyond an extended date; provided, settlement negotiations shall not extend the date of denial in the absence of a written extension required by this paragraph.

**D. JUDICIAL PROCEEDINGS**

- 1. A judicial proceeding for any tort claim may filed only if the following requirements have been met:
  - a. The claimant has followed all procedures required Section C above, including without limitation, the delivery of a valid and timely written tort claim to the Enterprise or CNGC,
  - b. The Enterprise has denied the tort claim, and



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- c. The claimant has filed the judicial proceeding no later than one hundred eighty (180) days after denial of the claim by the Enterprise; provided that neither the claimant nor the Enterprise may extend the time to commence a judicial proceeding.
2. Any claim or award or judgment rendered thereon may not exceed the limit of liability. The insurance maintained by the Enterprise shall have liability limits of not less than:
    - a. \$250,000.00 for any one (1) person;
    - b. \$2,000,000.00 for any one (1) occurrence for personal injury;
    - c. \$1,000,000.00 for any one (1) occurrence for property damage
    - d. The corresponding limits under the Governmental Tort Claims Act, whichever is greater.
    - e. No tort claim shall be paid, or be the subject of any award, in excess of the limit of liability.
  3. Any consent to suit made by the Cherokee Nation shall extend only to the patron claiming to have been injured. A tort claim is not assignable.
  4. In the event any assignment of the tort claim is made in violation of this regulation, or any other person other than the patron claiming the injury becomes a party to any action hereunder, consent shall be deemed revoked for all purposes.
  5. Notwithstanding paragraph 4, consent to suit shall not be revoked if an action on a tort claim is filed by:
    - a. A court appointed representative of a claimant’s estate;



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- b. An indispensable party;
- c. A health provider or other party subrogated to the claimant’s rights by virtue of any insurance policy; provided that nothing herein is intended to, or shall constitute a consent to suit against the Enterprise as to such party except to the extent such party’s claim is:
  - i. In lieu of and identical to the claim that would have been made by the claimant directly but for the appointment of said representative or indispensable party, and participation of such other party is in lieu of and not in addition to pursuit of the claim by the patron, and;
  - ii. The claim of such other party would have been subject to a consent to suit hereunder if it had been made by the claimant directly.

**F. NOTICE REQUIREMENTS**

1. Notices explaining the procedure and time limitations with respect to making a tort claim shall be prominently posted in the facility. Such notices shall explain the method and places for making claims, that this procedure is the exclusive method of making a tort claim, and that claims that do not follow this procedure shall be forever barred.
2. The Enterprise shall make pamphlets containing the requirements in this subsection readily available to all patrons of the facility and shall provide such pamphlets to a claimant approved by CNGC within five (5) days of the filing date of a claim.
3. Any modifications to the policies, procedures, or forms made after the original submission, must be approved by the CNGC.



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**G. REPORTING REQUIREMENTS**

1. An electronic report of all claims and disputes must be maintained in a format approved by the CNGC and must permit the data to be queried by:
  - a. Facility name;
  - b. Claim type (e.g. personal injury or property damage)
  - c. Claim/dispute amount;
  - d. Claim/dispute status;
  - e. Date of claim/dispute occurrence;
  - f. Date filed (may be the date received by the CNGC);
  - g. Date notice sent to CNGC/SCA;
  - h. Date of approval/denial;
  - i. Description of any pertinent documents received by patron, satisfaction of reporting requirements to the patron and the CNGC by date, if such reporting is required by this section.
2. All claims/disputes shall be referenced by a control number within this report.
3. The claims/disputes report shall be provided to the CNGC on a monthly basis.

**H. PENALTIES**

In the event that the CNGC finds reasonable evidence that management failed to comply with any provision of this chapter, the CNGC may take action on the gaming license(s) of



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management personnel found to be in violation of this regulation and/or assess a fine in accordance with CNGC Regulations contained in Chapter X Sections B and C and any other applicable regulation.