

QUAPAW TRIBE OF OKLAHOMA

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Resolution No. 032115-B

To adopt an ordinance regulating the practice of law in
Quapaw Tribal Court

BEFORE THE BUSINESS COMMITTEE OF THE QUAPAW TRIBE
OF OKLAHOMA (O-GAH-PAH)

March 21, 2015

The TRIBAL BUSINESS COMMITTEE introduced the following
Resolution to approve and adopt an ordinance regulating the practice of law in
Quapaw Tribal Court.

WHEREAS, the Quapaw Tribe of Indians of Oklahoma (O-Gah-Pah) is a federally recognized Indian Tribe and is governed by a Governing Resolution adopted by the Quapaw Indian Council on August 19, 1956, and approved by the Commissioner of Indian Affairs on September 20, 1957; and

WHEREAS, the Quapaw Tribe asserts tribal governmental jurisdiction to the fullest extent recognized by law over the lands within the original Quapaw Reservation, as established as a homeland for the Quapaw Nation by the Treaty of May 13, 1833; and

WHEREAS, the Governing Resolution delegates authority to the Quapaw Tribal Business Committee to speak and act on the behalf of the Quapaw Tribe; and

WHEREAS, the Quapaw Tribal Business Committee is thus empowered and obligated to transact Tribal business, including but not limited to enacting laws and ordinances for the Tribe, including ordinances regulating attorneys practicing law in Quapaw Tribal Courts; and

WHEREAS, the ordinance regulating attorneys in the Quapaw Tribal Court, as set forth herein, and the Business Committee desires to approve such ordinance, as set forth herein.

NOW THEREFORE BE IT RESOLVED by the Tribal Business Committee that the following ordinance shall be enacted as the law of the Tribe:

1 **LICENSE TO PRACTICE LAW IN QUAPAW TRIBAL COURTS**

2 **PART I. PURPOSE AND DEFINITIONS**

3 **Rule 1. Purpose.**

4 The purpose of this Ordinance is to regulate the conduct and admittance of all
5 practicing attorneys before the Quapaw Tribal Courts and to maintain a high standard of
6 professional conduct.

7 **Rule 2. Definitions.**

8 Under this Ordinance—

- 9 (a) “Attorney” shall mean a person who is licensed to practice law before the highest
10 court in any State and is currently in good standing to practice before that court;
- 11 (b) “Contempt of Court” shall mean an act or omission tending to obstruct or
12 interfere with the orderly administration of justice, or to impair the dignity of the
13 court or respect for its authority.
- 14 (c) “Court Administrator” shall mean the Quapaw Tribal Court Administrator.
- 15 (d) “Disciplinary Action” shall mean to expel, suspend, reprimand, fine, put on
16 probation, or any other penalty the Tribal Court may deem appropriate, including
17 requiring attendance to cultural classes or Licensed Attorney meetings.
- 18 (e) “License” shall mean a license to practice law in Quapaw Tribal Courts.
- 19 (f) “License Application” shall mean the application to acquire a license to practice
20 law in the Quapaw Tribal Courts.
- 21 (g) “Licensed Attorney” shall mean an Attorney with a license to practice law in
22 Quapaw Tribal Courts.
- 23 (h) “Roster” shall mean the Quapaw Tribal Court Roster of Licensed Attorneys.
- 24 (i) “Tribal Court” shall mean the Quapaw Tribal Court.

25 **PART II. LICENSE TO PRACTICE LAW IN QUAPAW TRIBAL COURTS**

26 **Rule 3. Practice of law in Quapaw Tribal Courts.**

27 No person shall be authorized to appear in the Quapaw Tribal Court as an attorney or
28 legal representative of another without a License, unless otherwise specified in this
29 Ordinance.

30 **Rule 4. Eligibility for a License to Practice Law.**

31 To be eligible for a License, a person must—

- 32 (a) be licensed to practice law before the highest court in any state; and
33 (b) be in good standing to practice law in such state.

34 **Rule 5. Application for a License to Practice Law.**

35 (a) To apply for a License, a person must—

- 36 (1) meet the eligibility requirements under Rule 4 of this Ordinance;
37 (2) submit a completed License Application to the Quapaw Tribal Court

Tribal Regulation of Practice of Law

- 1 Administrator;
- 2 (3) include updated contact information including a phone number, e-mail and
3 mailing address; and
- 4 (4) pay a license application fee.
- 5 (b) A person applying for a License must demonstrate in the application that he or
6 she is—
- 7 (1) licensed to practice law before the highest court in any state;
- 8 (2) in good standing to practice law in such state;
- 9 (3) competent in the practice of law; and
- 10 (4) a person of high moral character and integrity.
- 11 (c) False statements.
- 12 (1) A person applying for a License shall not knowingly make a false statement of
13 material fact or knowingly fail to disclose a material fact necessary to
14 determine eligibility for a License under this Rule.
- 15 (2) Any violation of paragraph (1) of this subsection shall result in immediate
16 rejection of the application and loss of eligibility to apply for a License until a
17 suspension is rescinded under Rule 22 of this Ordinance.

18 **Rule 6. Application Review and Investigations.**

- 19 (a) After the Quapaw Tribal Court Administrator determines that an application for a
20 License is complete, any judge of the Quapaw Tribal Court shall review the
21 application. If the Quapaw Tribal Court judge determines the applicant meets the
22 criteria set forth under Rule 5 of the Ordinance, the judge shall notify the Quapaw
23 Tribal Court Administrator that the applicant is qualified to receive a License.
- 24 (b) A Quapaw Tribal Court judge may, but is not required to, order an investigation
25 into the truth of the matters contained in the License Application.
- 26 (c) The authority of the Quapaw Tribal Court to review and approve a License
27 Application may be delegated to a person or group of persons determined to be
28 appropriate by the Quapaw Tribal Court.
- 29 (d) If the Quapaw Tribal Court rejects an application for a License the rejection shall
30 include a notice of reasons for rejection and, unless otherwise specified by the
31 Quapaw Court or Code, the applicant shall be given the chance to cure the
32 application and reapply.

33 **Rule 7. Licensure to Practice Law.**

34 Upon approval of a person's Application, the person must—

- 35 (a) pay a license fee;
- 36 (b) recite and sign the Quapaw Tribal Court Oath;
- 37 (c) consent to jurisdiction of the Quapaw Tribal Court under Rule 9 of this
38 Ordinance; and

1 (d) sign the Quapaw Tribal Court Roster of Licensed Attorneys.

2 **Rule 8. Preliminary License and Pro Hac Vice.**

3 (a) The Quapaw Tribal Court may grant a preliminary conditional license to practice
4 law before the Quapaw Tribal Court only if—

- 5 (1) the applicant is eligible for a License under Rule 4 of this Ordinance;
- 6 (2) the applicant has an application pending for a License under Rule 5 of this
7 Ordinance and has paid the required application fee;
- 8 (3) the applicant has consented to jurisdiction of the Quapaw Tribal Court under
9 Rule 9 of this Ordinance;
- 10 (4) the circumstances requiring a preliminary license demonstrate necessity and
11 undue hardship;
- 12 (5) preliminary licensure is in the best interest of the person being represented by
13 the attorney; and
- 14 (6) the judge presiding over the case authorizes preliminary licensure of the
15 attorney.

16 (b) If the License Application of a person practicing under a preliminary license is
17 subsequently denied, the preliminary license shall be automatically revoked,
18 unless otherwise specified by the Quapaw Tribal Court.

19 (c) A judge of the Quapaw Tribal Court may waive the formal admission procedure
20 only on motion of any attorney making an appearance for the limited purpose of a
21 single, specific case, and permit the attorney to practice *pro hac vice*, if—

- 22 (1) the attorney is eligible for a License under Rule 4 of this Ordinance;
- 23 (2) the attorney has consented to jurisdiction of the Quapaw Tribal Court under
24 Rule 9 of this Ordinance;
- 25 (3) the circumstances demonstrate necessity and undue hardship;
- 26 (4) permitting the attorney to practice *pro hac vice* is in the best interest of the
27 person being represented by the attorney;
- 28 (5) the attorney has not practiced before the court *pro hac vice* within the past two
29 (2) years; and
- 30 (6) the attorney pays the *pro hac vice* fee.

31 **Rule 9. Jurisdiction.**

32 Any person practicing in Quapaw Tribal Court, whether under a License, preliminary
33 license, *pro hac vice*, or otherwise, consents to jurisdiction of the Quapaw Tribe and
34 Quapaw Tribal Courts to the maximum extent the law allows.

35 **Rule 10. Quapaw Tribal Court Roster of Licensed Attorneys.**

36 (a) It shall be the duty of the Quapaw Tribal Court Administrator to—

- 37 (1) maintain the Quapaw Tribal Court Roster of Licensed Attorneys;
- 38 (2) maintain the signed Quapaw Tribal Court Oaths of each attorney granted a

- 1 License;
- 2 (3) collect application, license, *pro hac vice*, and annual fees and deposit the fees
3 into the Quapaw License Fund created under Rule 13 of this Ordinance; and
- 4 (4) assign each Licensed Attorney a license number and a license card for proof of
5 licensure.
- 6 (b) The Roster shall be maintained to reflect—
- 7 (1) which Attorneys are licensed to practice in the Quapaw Tribal Courts;
- 8 (2) which Licensed Attorneys have paid their required license dues;
- 9 (3) updated contact information for Licensed Attorneys including mailing address,
10 e-mail address, and phone number; and
- 11 (4) whether the Licensed Attorney has received or is subject to any disciplinary
12 action ordered by the Quapaw Tribal Court under Rule 21 of this Ordinance.

13 **Rule 11. Quapaw Tribal Court Oath.**

14 The Quapaw Tribal Court Oath shall be—

15 “I [state full name] solemnly swear: I will uphold the constitution, codes, rules,
16 resolutions, and ordinances of the Quapaw Tribe; I will maintain order in the
17 Quapaw Tribal Court; I will demonstrate the utmost respect to Quapaw Tribal
18 Court judges and officers; I will respect and honor Quapaw tradition, culture, and
19 beliefs; I will practice with honesty, not misleading the judge or jury by a false
20 statement of fact or law; I will not counsel for any suit or proceeding which appears
21 to be unjust; I will conduct my duties in a manner that is to the highest degree of
22 ethical and moral standards; and I will be guided at all times by the quest for truth
23 and justice.”

24 **Rule 12. Good Standing.**

25 To be in good standing and licensed to practice law in Quapaw Tribal Court, a person
26 must—

- 27 (a) pay required license fees, including an annual license fee;
- 28 (b) be licensed to practice law in the highest court of any state;
- 29 (c) be in good standing to practice in such state; and
- 30 (d) not be subject to any disciplinary action from the Quapaw Tribal Court which
31 resulted or would result in a restriction on the practice of law before the Tribal
32 Court.

33 **Rule 13. Quapaw License Fund.**

- 34 (a) A “Quapaw License Fund” shall be created for the purpose of maintaining or
35 improving the Quapaw Tribal Court system and shall be administered by the
36 Quapaw Business Committee or any person or persons that Committee
37 determines to be appropriate.
- 38 (b) The Quapaw License Fund shall be used only for purposes stated in subsection
39 (a), which may include—

- 1 (1) the training of Tribal Court officials;
- 2 (2) updating, expanding, or otherwise improving Tribal Court resources;
- 3 (3) employing Tribal Court personnel;
- 4 (4) performing investigations required under this Ordinance;
- 5 (5) maintaining the records of the Quapaw Tribal Court and Quapaw Roster of
- 6 Licensed Attorneys; and
- 7 (6) performing other responsibilities and duties set forth under this Ordinance.
- 8 (c) Each Licensed Attorney is required to pay an annual fee, in addition to the
- 9 application fee and license fee, which is to be deposited into the Quapaw License
- 10 Fund by the Tribal Court Administrator or the person designated under subsection
- 11 (a). Failure to pay all required fees shall result in the suspension of a License until
- 12 delinquent fees are paid.

13 **PART III. GRIEVANCES AND DISCIPLINARY ACTIONS**

14 **Rule 14. Authority and Jurisdiction for Disciplinary Actions.**

- 15 (a) The Quapaw Tribal Court shall have—
- 16 (1) the responsibility to oversee that appropriate standards of professional conduct
- 17 are maintained;
- 18 (2) the responsibility to preside over disciplinary hearings; and
- 19 (3) the authority to administer any Licensed Attorney sanctions the Tribal Court
- 20 deems necessary, including suspensions and revocations of Licenses.
- 21 (b) Disciplinary action for any Licensed Attorney may be taken by the Quapaw
- 22 Tribal Court’s own motion or upon a sworn complaint by another person under
- 23 Rule 18 of this Ordinance.

24 **Rule 15. Right to Notice and a Hearing.**

25 Disciplinary actions under this Ordinance shall be ordered only after notice and a

26 hearing has been given to the Licensed Attorney, unless such right has been

27 waived by the attorney. Failure to appear to a hearing, when proper notice has

28 been given, shall constitute a waiver of a right to a hearing.

29 **Rule 16. Grounds for Disciplinary Actions.**

- 30 (a) Any misconduct under this Rule may result in a revocation or suspension of a
- 31 License, probation, civil fines, or criminal penalties to any extent and degree
- 32 determined appropriate by the Quapaw Tribal Court.
- 33 (b) Misconduct that may be grounds for disciplinary action by the Quapaw Tribal
- 34 Court include—
- 35 (1) disbarment or suspension from the practice of law by any federal or state
- 36 court;
- 37 (2) submitting false information on the Quapaw License Application;
- 38 (3) failure to uphold the Quapaw Tribal Court Oath;

- 1 (4) unethical conduct;
- 2 (5) violation of the Quapaw Code of Professional Responsibility;
- 3 (6) contempt of court;
- 4 (7) inadequate knowledge of the Quapaw Code or Quapaw Tribal Court
- 5 procedures;
- 6 (8) deceit, malpractice, or other gross misconduct;
- 7 (9) willful neglect of the interests of the client;
- 8 (10) conviction or a felony;
- 9 (11) conviction of a misdemeanor involving moral turpitude;
- 10 (12) willful disobedience or violation of a court order;
- 11 (13) active misfeasance or repeated neglect of duties to a client;
- 12 (14) failure to file a grievance under Rule 17 of this Ordinance; or
- 13 (15) incapacity to practice law under subsection (c) of this Rule.
- 14 (c) A person shall be deemed personally incapable of practicing law if such person—
- 15 (1) is suffering from mental or physical illness of such character that renders that
- 16 person incapable of managing his or her affairs or the affairs of others; or
- 17 (2) habitually abuses alcohol, illegal drugs, or other mentally or physically
- 18 disabling substances to the extent which impairs his or her ability to conduct
- 19 the duties and services necessary for effective representation of a client in the
- 20 practice of law.

21 **Rule 17. Duty to File a Grievance.**

- 22 (a) Any Licensed Attorney shall have the duty to file a grievance against himself or
- 23 herself under Rule 18 of this Ordinance upon the performance or omission of an
- 24 act grounds for disciplinary actions under Rule 16 of this Ordinance. Failure to
- 25 comply with this subsection shall result in an automatic revocation of the
- 26 Attorney's License.
- 27 (b) Any Licensed Attorney shall have the duty to file a grievance under Rule 18 of
- 28 this Ordinance if there is actual knowledge of a Licensed Attorney's performance
- 29 or omission of an act grounds for discipline under Rule 16 of this Ordinance.
- 30 Failure to comply with this subsection may result in any disciplinary actions
- 31 deemed appropriate by the Quapaw Tribal Court.

32 **Rule 18. Grievances.**

- 33 (a) Any person may file a grievance against a Licensed Attorney for misconduct
- 34 under Rule 16 of this Ordinance or against any person otherwise unlawfully
- 35 practicing law in the Quapaw Tribal Court.
- 36 (b) Any person filing a grievance under subsection (a) shall submit the grievance in
- 37 writing to the Quapaw Tribal Court Administrator, attesting to the grievance as
- 38 truthful.

- 1 (c) Any person filing of a grievance with untruthful statements or with wrongful
2 intentions may be subject to prosecution or civil penalties.
- 3 (d) Any person filing a grievance under this Rule shall consent to the jurisdiction of
4 the Quapaw Tribe and Quapaw Tribal Court.

5 **Rule 19. Notice of a Grievance.**

- 6 (a) A person who has a grievance filed against him or her under Rule 18 of this
7 Ordinance shall be promptly given—
- 8 (1) notice that a grievance has been filed against him or her;
- 9 (2) a copy of the grievance; and
- 10 (3) a description of the grievance process and the rights under such process.
- 11 (b) Failure to comply with this Rule may result in a dismissal of the grievance.

12 **Rule 20. Investigations.**

- 13 (a) Any grievance filed under Rule 18 of this Ordinance shall be referred to the
14 Quapaw Prosecutor for a preliminary investigation and determination of the
15 validity of the grievance. Whether a grievance filed under Rule 18 of this
16 Ordinance is a valid claim shall be to the discretion of the Quapaw Prosecutor.
- 17 (b) If the Quapaw Prosecutor determines in the preliminary determination that a
18 claim is invalid and should be dismissed, the Prosecutor may report the claim to
19 any Quapaw Tribal Court judge for immediate dismissal.
- 20 (c) Upon conclusion of the preliminary investigation in section (a), the person filing
21 the grievance and the person who has a grievance filed against them shall be
22 notified of the result of the preliminary determination and any action that may be
23 taken going forward.
- 24 (d) Before the Prosecutor can find a grievance to be valid and commence an
25 investigation, the person who has a grievance filed against him or her must be
26 given notice of the grievance under Rule 19 of this Ordinance and an opportunity
27 to respond to the grievance.
- 28 (e) The Quapaw Prosecutor is authorized to take any action within the extent of the
29 Quapaw code and other applicable laws necessary to conduct an investigation of
30 the grievance filed under Rule 18 of this Ordinance.
- 31 (f) Upon conclusion of an investigation under subsection (e), the Quapaw Prosecutor
32 shall file to the Quapaw Tribal Court a written report describing the findings of
33 the investigation and recommending what, if any, disciplinary actions should be
34 taken.
- 35 (g) If a grievance is filed against the Quapaw Prosecutor, all investigative matters
36 shall be handled by the Quapaw Tribal Court or the Court's delegee.

37 **Rule 21. Rulings and Appeals of a Grievance.**

- 38 (a) Upon receiving an investigative report from the Quapaw Prosecutor under Rule
39 20 of this Ordinance, the Quapaw Tribal Court shall make a ruling on the
40 grievance and determine what, if any, disciplinary actions are to be taken.

1 (b) The Quapaw Tribal Court ruling under subsection (a) may be appealed by either
2 party to the Quapaw Tribal Court for a full hearing under standard Quapaw Tribal
3 Court rules and procedures.

4 **Rule 22. Reinstatement.**

5 (a) All expulsions or suspensions from practicing before the Quapaw Tribal Court
6 shall be for an indefinite period unless the Quapaw Tribal Court judge
7 specifically orders otherwise.

8 (b) Unless the Quapaw Tribal Court judge specifically orders otherwise, any
9 attorneys suspended or expelled may petition the Quapaw Tribal Court for
10 permission to reapply for a License at the end of one (1) year.

11 (c) The Quapaw Tribal Court Judge shall have the authority to rescind any
12 disciplinary action, including expulsions or suspensions, to any degree deemed
13 appropriate by the Tribal Court.

14 **PART IV. MISCELLANEOUS**

15 **Rule 23. Licensed Attorney Meetings.**

16 The Quapaw Tribal Court has the authority to call meetings for all Licensed Attorneys
17 or to request attendance to Quapaw tribal hearings, conferences, and events. Attendance
18 to these events may be required for attorneys under Rule 21 of this Ordinance.

19 **Rule 24. No Liability.**

20 The Quapaw Tribal Court and any Quapaw Tribal Court judge or officer shall be hereby
21 held harmless from any liability claims that may be made against them by any person,
22 including a Licensed Attorney or other person filing a grievance, during the lawful
23 performance of their duties required or authorized under this Ordinance.

24 **Rule 25. Sovereign Immunity.**

25 Nothing in this Ordinance waives or shall be interpreted to waive the sovereign
26 immunity of the Quapaw Tribe, the Quapaw Courts, or any official of the Quapaw
27 Courts. The Quapaw Tribe's sovereign immunity shall remain valid and applicable to
28 the greatest extent allowed under Federal law.

29

BE IT FURTHER RESOLVED that the Tribal Business Committee hereby finds and resolves as follows:

1. The foregoing ordinance shall become effective immediately upon the certification of this Resolution.

2. The Business Committee hereby approves the following fees and dues for attorney licenses: (1) license application fee: twenty dollars (\$20.00); (2) license fee: thirty dollars (\$30.00); (3) annual license fee: thirty dollars (\$30.00); and (4) fee for admission pro hac vice: twenty-five dollars (\$25.00); such fees and dues shall not be changed without the authorization of the Tribal Business Committee.

3. The foregoing ordinance shall be codified by the General Counsel in

the Quapaw Code of Tribal Regulations as the permanent law of the Tribe.

C E R T I F I C A T I O N

The foregoing resolution of the Quapaw Tribal Business Committee was presented and duly adopted at a regular meeting of the Tribal Business Committee on March 21, 2015, with a vote reflecting 7 yes, 0 no, 0 abstaining, and 0 absent.



John L. Berrey, Chairman
Quapaw Tribal Business Committee



Thomas Crawfish Mathews, Vice-Chairman
Quapaw Tribal Business Committee