

Title 8 –Civil Procedures
Chapter 4. Extraordinary Writs and Special Remedies

Sec. 401. Restraining order without notice.

(a) A restraining order without notice to the adverse party shall be granted if it clearly appears from specific facts shown by oral testimony, affidavit, or by the verified complaint that immediate and irreparable injury will result to the applicant before notice can be served and a hearing had thereon.

No temporary restraining order or other injunction without notice shall be granted where the Tribes are a defendant or a tribal official is a defendant in his/her official capacity.

(b) Upon review of a petition filed pursuant to subsection (a) and a finding that the petitioner is in danger of immediate and irreparable injury or harm if the Court does not act immediately, the Court shall issue a temporary restraining order that grants the petitioner appropriate relief. The temporary restraining order may include any or all of the orders listed in Section 402 of this Chapter.

(c)(1) A hearing must be conducted within 10 business days from the date that the Court issues a temporary restraining order. The hearing date may be continued at the request of either party for good cause or by the Court. If the hearing date is continued, the temporary restraining order must remain in effect until the Court conducts a hearing. At the hearing, the Court shall determine whether good cause exists for the temporary restraining order to be continued, amended or made permanent.

(2) The respondent may request an emergency hearing before the end of the 10 business day period by filing an affidavit that demonstrates that the respondent has an urgent need for the emergency hearing. An emergency hearing must be set within 3 business days of the filing of the affidavit.

(3) The temporary restraining order may not be made mutually effective by the Court. The respondent may obtain a temporary restraining or-

der from the petitioner only by filing an application for a temporary restraining order and following the procedure described in this Chapter.

(d) The Court may order that the temporary restraining order remain in effect for an appropriate period of time or permanently. The order may be terminated upon the petitioner's request that the order be dismissed.

(e) Violation of the temporary restraining order or the permanent restraining order is a Class A misdemeanor.

(AMENDED AS PER RESOLUTION NO. 2645-97-4, DATED 9/11/2002. AMENDED AS PER RESOLUTION NO. 26-1196-2012-08, DATED 8/13/2012)