

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

TEXAS LIFE INSURANCE COMPANY,)	
)	
Plaintiff,)	
)	
vs.)	Case No. CIV-15-418-HE
)	
AMANDA RAPER, f/k/a Amanda R. Nickell,)	
)	
and)	
)	
DANA CLIFTON, as legal guardian for)	
the Estate of GFN,)	
)	
Defendants.)	

MOTION TO DISMISS

COMES NOW Amanda Raper, by and through her attorney, Steven L. Parker, and moves to dismiss the complaint for declaratory judgment for the reason that the matter addressed in the complaint for declaratory judgment is being addressed by the Trial Court in the District Court of the Citizen Potawatomi Nation, Case No. CIV-2015-023 filed on March 31, 2015, styled Amanda Raper, formerly Amanda Nickell, Plaintiff, vs. Texas Life Insurance Company, Defendant. Raper's Petition is attached hereto marked Exhibit "1".

STATEMENT OF FACTS

Amanda Raper married Christopher Nickell on July 20, 2012. Nickell became employed at Gordon Cooper Vo-Tech in Shawnee, Oklahoma, and Raper was a teacher in the Tecumseh schools. Both employers are in Pottawatomie County, State of Oklahoma.

On April 20, 2013, Nickell designated Raper as his primary beneficiary on a insurance policy he had purchased at Texas Life Company. The secondary beneficiary was his child, GFN.

Raper, utilizing her Cherokee Indian heritage, filed for divorce in the Citizen Potawatomi Nation Tribal Court; Nickell consented to the jurisdiction of the Potawatomi Nation Tribal Court. The parties were divorced on December 31, 2013. Approximately four (4) months later, on April 1, 2014, Nickell died in Pottawatomie County.

Raper submitted a claim to Texas Life Insurance Company for the \$100,000.00 policy of which she was beneficiary. Texas Life, utilizing an Oklahoma Statute, Title 15, O.S., § 178, denied coverage claiming that the beneficiary provision was rendered null and void by said statute. The statute is a State of Oklahoma statute and does not cover Tribal Court divorces. Nothing in the Citizen Potawatomi Nation Tribal Code voids the beneficiary policy of the insurance policy.

The Potawatomi Nation is a self governed tribe covered by the Thomas-Rogers Oklahoma Indian Welfare Act of June 26, 1936, and has adopted its Constitution which has been amended several times with the latest amendment being April 8, 1996. A copy of the pertinent parts of the Constitution is attached hereto as Exhibit "2", and incorporated herein by reference thereto.

The Court of the Potawatomi Nation is established in Article 11 of its Constitution and provides as follows in Section 2:

"Section 2. The Courts of the Citizen Potawatomi Nation shall be courts of general jurisdiction and shall further have jurisdiction in all cases arising under the constitution, laws, and treaties of the Citizen Potawatomi Nation. ..." [Emphasis Added]

Further, the Citizen Potawatomi Nation Code of laws provides in Section 7-0-004 that its Courts shall have general civil jurisdiction over all general civil claims which arise within the tribal jurisdiction. The Code provides further that the act of entry upon the territorial jurisdiction by an extraterritorial seller, merchant or their agent shall be considered consent by the seller or merchant

to the jurisdiction of the Court for any dispute arising out of any sale or commercial transaction regardless of where the sale or transaction was entered into or took place.

On April 20, 2015, approximately one month after Raper had filed suit in the Potawatomi Nation District Court, Texas Life Insurance Company filed its Complaint for Declaratory Judgment in the Federal Court.

Raper submits this case turns on whether, or not, the Divorce Decree in Potawatomi Tribal Court voided the beneficiary designation by Nickell in the insurance policy sold to Nickell via solicitation at Gordon Cooper Vo-Tech.

Raper submits that the Tribal Court can determine whether, or not, the Oklahoma Statute is applicable to divorces in Tribal Court, particularly when there is no mention of such a statute in the Tribal Court. The Tribal Court can certainly interpret its own Decree.

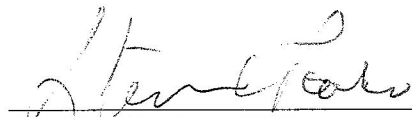
In *Thoendel vs. Holland*, 663 F. Supp. 77 W.D. Oklahoma 1987, a case involving a remand request, the Court found that a bad faith case or property damage case, and a personal injury case all rose out of the same incident, and the Court determined that the litigation should be dealt with by the State Court, where the State Court could deal with all matters in that case. That case was remanded to the State Court.

In *The United States of America/Rollingson vs. Blackfeet Tribal Court of the Blackfeet Indian Reservation*, 244 F. Supp 474 United States District Court D. Montana, Great Falls Division (1965), the Court found that matters arising out of a lease on the Blackfeet Indian Reservation were internal matters of the Blackfeet Indian Tribe and could be determined solely in the Blackfeet Tribal Court and not in federal district court.

Similarly, Raper claims that the interpretation of a Decree of Divorce in Potawatomi Tribal Court can be determined better by the Court that issued the Order than a Federal District Court.

Raper submits this case should be dismissed and the Potawatomi Tribal Court should be allowed to decide this matter.

WHEREFORE, Plaintiff, Raper, requests that this Court grant her Motion to Dismiss.

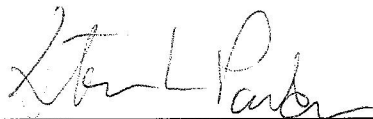


STEVEN L. PARKER
Attorney for Defendant
OBA #6898
224 North Broadway
P. O. Box 540
Tecumseh, OK 74873
405-598-3727

CERTIFICATE OF MAILING

I, Steven L. Parker, the undersigned, do hereby certify that on the 22 day of June, 2015, I mailed a true and correct copy of the above and foregoing Motion to Dismiss, by first class mail, proper postage fully prepaid thereon, to the following counsel for Plaintiff, to-wit:

Sean C. Wagner
Bradley Arant Boult Cummings LLP
One Federal Place
1819 Fifth Avenue North
Birmingham, AL 35203-2119



STEVEN L. PARKER
Attorney for Defendant

IN THE DISTRICT COURT OF THE CITIZEN POTAWATOMI NATION

SHAWNEE, OKLAHOMA

FILED

MAR 25 2015

POTAWATOMI TRIBAL COURT
JUNIA CLIMER, Court Clerk

Junia Climer D^o

AMANDA RAPER,
formerly AMANDA NICKELL,

Plaintiff,

vs.

TEXAS LIFE INSURANCE COMPANY,

Defendant.

Case No. CIV-2015-023

PETITION

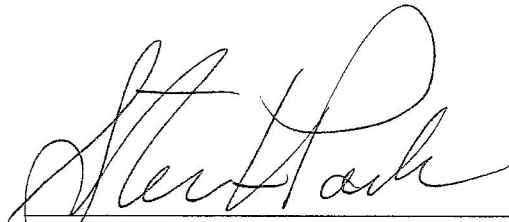
COMES NOW Amanda Raper, formerly Amanda Nickell, and for her cause(s) of action against Defendant, Texas Life Insurance Company, alleges and states as follows:

1. Plaintiff, hereinafter "Raper", is a Cherokee Indian residing in the State of Oklahoma.
2. Texas Life Insurance Company, hereinafter "Company", is a life insurance company doing business in the Indian Country with a headquarters address of Waco, Texas.
3. Raper was married to Christopher George Nickell who is now deceased. A copy of his death certificate is attached hereto as Exhibit "A", and incorporated herein by reference thereto.
4. That prior to his death, Christopher Nickell purchased life insurance from company in the amount of \$100,000.00, policy #001607614 naming Raper as his beneficiary.
5. Christopher Nickell and Raper were divorced in Citizen Potawatomi Tribal Court on December 31, 2013. A copy of said Decree of Divorce is attached hereto as Exhibit "B", and incorporated herein by reference thereto; that said Decree provided that Christopher Nickell was to remain responsible for Raper's 2012 Dodge Ram truck.

Exhibit "1"

6. That after Christopher Nickell's death, Raper demanded payment from the \$100,000.00 policy of which she was the beneficiary.
7. That insurance company denied coverage based on a State of Oklahoma statute that dealt with Oklahoma divorces, namely Title 15, O.S., § 178, maintaining that pursuant to the State of Oklahoma statute the policy was "automatically revoked".
8. Raper states that nothing in the Potawatomi Nation's statutes provide for revocation of the insurance company contract, and she is entitled to receive the \$100,000.00 benefits provided therein; moreover, the Decree itself provides that Christopher Nickell was to pay for her vehicle.

WHEREFORE, Amanda Raper, formerly Nickell, prays for judgment against Texas Life Insurance Company in the amount of \$100,000.00, for attorney fees and costs, and for such other relief as the Court deems just and equitable.



STEVEN L. PARKER
Attorney for Amanda Raper,
Formerly Amanda Nickell
OBA #6898
224 North Broadway
P. O. Box 540
Tecumseh, OK 74873
405-598-3727

VERIFICATION

STATE OF OKLAHOMA)
)
COUNTY OF POTTAWATOMIE) ss.

Amanda Raper, formerly Amanda Nickell, being of legal age and being first duly sworn upon oath, states as follows:

That she is the Plaintiff above named; that she has read the above and foregoing Petition and understands the same; that the facts contained therein are true and correct.


AMANDA RAPER

Subscribed and sworn to before me this the 24th day of March,
2015.


Notary Public

My Commission Expires:

11-6-15 #99017036
(SEAL & COM. #)



STATE OF OKLAHOMA
CERTIFICATE OF DEATH

AMENDED

STATE FILE NUMBER

2014-009199

1. DECEDENT'S LEGAL NAME (First, Middle, Last, Suffix) CHRISTOPHER GEORGE NICKELL					1a. LAST NAME PRIOR TO FIRST MARRIAGE		2. SEX MALE		
3. SOCIAL SECURITY NUMBER 444-80-3410		4. EVER IN US ARMED FORCES? NO		5a. AGE- Last birthday (years) 39		5b. UNDER 1 YEAR Months Days		5c. UNDER 1 DAY Hours Minutes	
6. DATE OF BIRTH (Mo/Day/Yr) OCTOBER 12, 1974			7. BIRTHPLACE (City and State or Foreign Country) ADA, OKLAHOMA			8a. RESIDENCE- State OKLAHOMA			
8b. RESIDENCE- County POTTAWATOMIE			8c. RESIDENCE- City or Town TECUMSEH			8d. RESIDENCE- Zip Code 74873			
8e. RESIDENCE- Inside City Limits? NO			8f. RESIDENCE- Street and Number 202 E. LAKEVIEW			8g. RESIDENCE- Apt. Number			
9. MARITAL STATUS AT TIME OF DEATH <input type="checkbox"/> Married <input type="checkbox"/> Never Married <input type="checkbox"/> Widowed <input checked="" type="checkbox"/> Divorced <input type="checkbox"/> Married, but separated <input type="checkbox"/> Unknown					10. SURVIVING SPOUSE'S NAME (If wife, give name prior to first marriage)				
11. FATHER'S NAME (First, Middle, Last) RICKY DALE NICKELL					12. MOTHER'S NAME PRIOR TO FIRST MARRIAGE (First, Middle, Last) VIRGINIA SUSAN LANTZ				
13. DECEDENT OF HISPANIC ORIGIN? NO, NOT SPANISH/HISPANIC/LATINO			14. DECEDENT'S RACE WHITE			15. DECEDENT'S EDUCATION SOME COLLEGE CREDIT BUT NO DEGREE			
16. DECEDENT'S USUAL OCCUPATION (Indicate type of work done during most of working life. DO NOT USE RETIRED.) AVIATION INSTRUCTOR					17. KIND OF BUSINESS / INDUSTRY GORDON COOPER TECHNOLOGY CENTER				
18a. INFORMANT'S NAME PATRICIA DIXON			18b. RELATIONSHIP TO DECEDENT AUNT		18c. MAILING ADDRESS (Street and Number; City, State, Zip Code) P.O. BOX 744, NEWALLA, OKLAHOMA 74857				
19. METHOD OF DISPOSITION: <input checked="" type="checkbox"/> Burial <input type="checkbox"/> Cremation <input type="checkbox"/> Donation <input type="checkbox"/> Entombment <input type="checkbox"/> Removal from state <input type="checkbox"/> Other (specify)			20. PLACE OF DISPOSITION (Name of cemetery, crematory, other place) ROSEDALE CEMETERY			21. LOCATION - City, Town and State ADA, OKLAHOMA			
22. NAME AND COMPLETE ADDRESS OF FUNERAL FACILITY WALKER FUNERAL SERVICE - SHAWNEE, 201 E. 45th, SHAWNEE, OKLAHOMA 74804-1468					23. FUNERAL HOME DIRECTOR OR FAMILY MEMBER ACTING AS SUCH LOY W. MORRIS				
24. FH ESTABLISHMENT LICENSE # 1256ES									

25. PLACE OF DEATH (Check only one: see instructions)									
IF DEATH OCCURRED IN A HOSPITAL: <input type="checkbox"/> Inpatient <input checked="" type="checkbox"/> Emergency Room/Outpatient <input type="checkbox"/> Dead on Arrival			IF DEATH OCCURRED OTHER THAN IN A HOSPITAL: <input type="checkbox"/> Hospice Facility <input type="checkbox"/> Nursing home/Long term care facility <input type="checkbox"/> Decedent's home <input type="checkbox"/> Other (specify):						
26. FACILITY NAME (If not institution, give street & number) ST ANTHONY SHAWNEE HOSPITAL			27. CITY OR TOWN, STATE AND ZIP CODE OF LOCATION OF DEATH SHAWNEE, OKLAHOMA, 74804			28. COUNTY OF DEATH POTTAWATOMIE			
29. DATE OF DEATH (Mo/Day/Yr) APRIL 1, 2014		30. TIME OF DEATH 15:40		31. WAS MEDICAL EXAMINER CONTACTED? YES		32. WAS AN AUTOPSY PERFORMED? YES		33. WERE AUTOPSY FINDINGS AVAILABLE TO COMPLETE THE CAUSE OF DEATH? YES	
<p>CAUSE OF DEATH (See instructions and examples)</p> <p>34. PART I. Enter the chain of events - diseases, injuries or complications - that directly caused the death. DO NOT enter terminal events such as cardiac arrest, respiratory arrest or ventricular fibrillation without showing the etiology. DO NOT ABBREVIATE. Enter only one cause on a line. Add additional lines if necessary.</p> <p>IMMEDIATE CAUSE (Final disease or condition resulting in death) → a. + HYPERTENSIVE CARDIOVASCULAR DISEASE</p> <p>Due to (or as a consequence of):</p> <p>Sequentially list conditions, if any, leading to the cause listed on line a. b.</p> <p>Due to (or as a consequence of):</p> <p>Enter the UNDERLYING CAUSE (disease or injury that initiated the events resulting in death) LAST. c.</p> <p>Due to (or as a consequence of):</p> <p>d.</p> <p>1401536</p>									
36. MANNER OF DEATH + <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Homicide <input type="checkbox"/> Accident <input type="checkbox"/> Suicide <input type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined			37. IF FEMALE: <input type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to 1 year before death <input type="checkbox"/> Unknown if pregnant within the past year			38. DID TOBACCO USE CONTRIBUTE TO DEATH? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Probably <input checked="" type="checkbox"/> Unknown			
39. DATE OF INJURY (Mo/Day/Yr)		40. TIME OF INJURY		41. PLACE OF INJURY (e.g., Decedent's home; construction site; wooded area)		42. DESCRIBE HOW INJURY OCCURRED:		43. INJURY AT WORK?	
44. LOCATION OF INJURY: State: City or Town: Zip Code:			45. IF TRANSPORTATION INJURY, SPECIFY: <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Passenger <input type="checkbox"/> Pedestrian <input type="checkbox"/> Other (specify)			46. CERTIFIER (Check only one) ATTENDING PHYSICIAN: <input type="checkbox"/> Physician in charge of the patient's care <input type="checkbox"/> Physician in attendance at time of death only To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner as stated. <input checked="" type="checkbox"/> MEDICAL EXAMINER On the basis of examination, and/or investigation, in my opinion, death occurred at the time, date and place, and due to the cause(s) and manner stated. Certifier: + CHAI CHOI, MD			
47. NAME, ADDRESS AND ZIP CODE OF PERSON COMPLETING CAUSE OF DEATH (Item 34) CHAI CHOI, MD 901 NORTH STONEWALL OKLAHOMA CITY, OKLAHOMA 73117-1218			48. LICENSE NUMBER 14139OK		49. DATE DEATH CERTIFIED (Mo/Day/Yr) + MAY 2, 2014				
50. REGISTRAR'S SIGNATURE <i>Lelly M Baker</i>						52. DATE RECEIVED BY STATE REGISTRAR (Mo/Day/Yr) APRIL 9, 2014			

+ DENOTES AMENDED ITEMS:

Items 34,35,36,46,49 MEDICAL INFORMATION CHANGE/ADDITION (BOX 25-49) : 05/01/2014 KG.

Exhibit "A"

Friday, May 09, 2014 9:08:32 AM

FILED
IN THE DISTRICT COURT

DEC 31 2013

POTAWATOMI TRIBAL COURT
JUNIA CLIMER, Court Clerk

[Signature] Der

**IN THE DISTRICT COURT FOR THE
CITIZEN POTAWATOMI NATION**

CHRISTOPHER G. NICKELL,
Plaintiff,

vs.

AMANDA RENEE NICKELL,
Defendant.

Case No.: DV-2014-002

DECREE OF DIVORCE

Now on this 25th day of November, 2013, the above entitled cause comes on for trial on its merits. The Plaintiff appears in person pro se, and Defendant submitted to the Court's jurisdiction through execution of an Entry of Appearance and Waiver. The Defendant does appear.

The Court having ordered that the allegations contained in said Petition be taken as confessed, and having examined the files and records in this case and having heard the oral testimony of the witnesses sworn and examined in open Court, having fully considered the evidence, and being fully advised in the premises, FINDS:

That all material facts alleged in Plaintiff's petition are true.

That the parties hereto were married on or about the 20th day of July, 2012 at Hot Springs, Arkansas, and have since that time lived as husband and wife.

That of the said marriage no children have been born.

That the Plaintiff is now and has been for more than six months next preceding the filing of Plaintiff's Petition herein a bona fide resident in good faith of the State of Oklahoma.

That a state of irreconcilable incompatibility exists between the parties hereto and is such that an absolute decree of divorce should be awarded to both parties.

That the Plaintiff is to be awarded as his separate property the following: the 2012 Dodge Ram 1500 truck, VIN: 1C6RD7PT8CS303886; the marital home located at: 202 E. Lakeview Drive, Tecumseh, Oklahoma 74873 and all personal belongings in his possession.

Exhibit "B"

That the Defendant is to receive as her separate property the following: the 2008 Ford Edge SE, VIN: 2FMDK36C38BA13345 and all personal belongings in her possession.

That the parties accumulated martial debt, which is to be divided as follows: the Defendant to be responsible for her student loan debt and for all debts incurred in her name, with the exception of the 2012 Dodge Ram truck, which is to become the responsibility of the Plaintiff; the Plaintiff is to also maintain full coverage insurance on said 2012 Dodge Ram and to obtain financing in his name, removing the Defendant's name from the loan as soon as possible. The Plaintiff is to be responsible for all debts incurred in his name.

IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED by the Court that Christopher George Nickell, Plaintiff herein, be and he is hereby awarded an absolute decree of divorce from the Defendant, Amanda Nickell, and the bonds of matrimony, heretofore existing between said parties are released therefrom; PROVIDED, that the parties are enjoined from marrying any other party for six months by operation of Tribal laws.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED by the Court that the Plaintiff be and he is hereby awarded as his sole and separate property: the 2012 Dodge Ram 1500 truck, VIN: 1C6RD7PT8CS303886; the marital home located at: 202 E. Lakeview Drive, Tecumseh, Oklahoma 74873 and all personal belongings in his possession; and the Defendant is awarded as her sole and separate property: the 2008 Ford Edge SE, VIN: 2FMDK36C38BA13345 and all personal belongings in her possession.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the marital debt shall be divided as follows: the Defendant shall be responsible for her student loan debt and for all debts incurred in her name, with the exception of the 2012 Dodge Ram truck, which is to become the responsibility of the Plaintiff; the Plaintiff is to maintain full coverage insurance on said 2012 Dodge Ram and to obtain financing in his name, removing the Defendant's name from the loan as soon as possible. The Plaintiff is to be responsible for all debts incurred in his name.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED by the Court that the parties shall not receive any monies from either's retirement funds or accounts.

DATED at Shawnee, Oklahoma this 25th day of November, 2013.

IN THE DISTRICT COURT
I hereby certify that the foregoing instrument is a
true, accurate and complete copy of the original
thereof which remains on file in my office.

(SEAL)

JUNIA CLINCH, CLERK
District Court of the Citizen
Potawatomi Nation of Oklahoma

[Signature]
JUNIA CLINCH, CLERK

[Signature]
PHILIP LUJAN
CHIEF DISTRICT JUDGE

**CONSTITUTION
OF THE
CITIZEN POTAWATOMI NATION**

PREAMBLE

We, the Citizen Potawatomi Nation, sometimes designated as the Potawatomi Tribe of Oklahoma, in furtherance of our inherent powers of self-government, in order to take advantage of the opportunities for economic independence and social advancement offered by the Thomas-Rogers Oklahoma Indian Welfare Act of June 26, 1936, (49 Stat. 1976), do hereby adopt this Constitution pursuant to the Oklahoma Indian Welfare Act of June 26, 1936 (49 Stat. 1967) which shall supersede the constitution approved by the Secretary of the Interior on October 17, 1938, and ratified on December 12, 1938, and amended on September 27, 1956, December 27, 1960, April 24, 1961, September 21, 1970, April 20, 1983, and April 8, 1996, with ratification.

ARTICLE 1 – NAME

The official name of this Tribe shall be the Citizen Potawatomi Nation.

ARTICLE 2 – OBJECTIVES

Section 1. The objective of the Citizen Potawatomi Nation in organizing under this Constitution shall be:

- (a) To promote the general welfare of the Citizen Potawatomi Nation and its members by exercising to the fullest extent the inherent powers of self-government vested in the Tribe since time immemorial and any additional powers of self-government vested in the Tribe by Federal or state law.
- (b) To secure for the Tribe and its members the powers, benefits, rights, and privileges provided for in Article 1, Section 8 of the Constitution of the United States, the Act of June 18, 1934 (48 Stat. 984) and the Oklahoma Indian Welfare Act of June 26, 1936, (49 Stat. 1967).

Exhibit "a"

subject to confirmation by a majority of the votes cast for a General Council referendum containing such rules and regulations in a regular or special election.

- (g) No member of the Citizen Potawatomi Nation may hold membership in any other Indian tribe.

ARTICLE 4 – TRIBAL JURISDICTION

Section 1. The jurisdiction and governmental powers of the Citizen Potawatomi Nation shall, consistent with applicable Federal law, extend to all persons and to all real and personal property, including lands and natural resources, and to all waters and air space within the Indian country, as defined in 18 U.S.C. section 1151 or its successor, over which the Citizen Potawatomi Nation has authority.

Section 2. The jurisdiction and governmental powers of the Citizen Potawatomi Nation shall also, consistent with applicable Federal law, extend outside the exterior boundaries of the Citizen Potawatomi Nation to all tribal members. These powers shall also extend to any persons or property which are, or as may hereafter be, included with the jurisdiction of the Citizen Potawatomi Nation under any laws of the Citizen Potawatomi Nation, any State, or the United States.

Section 3. The jurisdiction and governmental powers of the Citizen Potawatomi Nation shall be exercised by three separate branches of Tribal Government: Legislative, Executive Officers and Judicial. All legislative powers are embodied in the Tribal Legislature (also called the Business Committee), including appropriation of all tribal moneys. All executive powers are embodied in the Executive, including the management of the business of the Tribe, supervision of tribal employees, enforcement of tribal law, and expenditure of all tribal moneys. All judicial powers are embodied in the Judiciary. Appropriate legislation shall be adopted to provide for a tribal law enforcement agency and other appropriate administrative agencies of the Tribe.

ARTICLE 5 – Citizen Potawatomi Nation Indian Council

Section 2. The members of the Citizen Potawatomi Nation shall have the authority to reject any legislation action taken by the Legislature by referendum petition to the Legislature bearing the language of the tribal law sought to be rejected, the signatures, roll numbers, and current address of at least ten percent (10%) of the Citizen Potawatomi Nation Indian Council, provided, that in the general election upon such legislation, which shall be called by the Legislature within ninety (90) days of the receipt of a valid petition, a majority of the voters who casts ballots in such election vote against the legislation as enacted by the Legislature. Notice of such initiative election shall be given to the registered voters at least fifteen (15) days prior to such election. If the legislation is rejected by such vote, that enactment is null and void as of the date of referendum.

ARTICLE 11 – COURT

Section 1. The judicial power of the Citizen Potawatomi Nation is hereby vested in one Supreme Court consisting of seven (7) Justices and such inferior courts as may be established by Tribal law.

Section 2. The Courts of the Citizen Potawatomi Nation shall be courts of general jurisdiction and shall further have jurisdiction in all cases arising under the constitution, laws, and treaties of the Citizen Potawatomi Nation. The Supreme Court shall have original jurisdiction in such cases as may be provided by law, and shall have appellate jurisdiction in all cases.

Section 3. The Tribal Courts, in any action brought before them, shall have the power of judicial review, in appropriate cases, in order to declare that legislative enactments of the Legislature or the Council, are unconstitutional under this Constitution or prohibited by Federal statutes and void. In such cases, the Court shall have the authority to declare such act void and to issue injunctive relief. In cases initiated by the Tribal Chairman prior to enforcement of a legislative act, the court shall rule presuming a case in controversy.

Section 4. The Supreme Court Justices and Tribal Court Judges shall be selected by the Legislature and confirmed by the Citizen Potawatomi Nation Indian Council at a general election called for that purpose, and shall serve six (6) year terms and until their successor be duly confirmed and installed. At the expiration of such term, each Justice or Judge may, at his option, be considered for reconfirmation to a new term by the Council.

Section 5. Vacancies in Tribal Judicial Offices may be filled by appointment of the Legislature for the remainder of the unexpired term. Such appointment shall be valid for not more than one

hundred twenty (120) days unless the Citizen Potawatomi Nation Indian Council confirms the appointee to complete the remainder of the unexpired term. If no Citizen Potawatomi Nation Indian Council election is called to act upon such appointment within the one hundred twenty (120) day period, the appointment of that person shall not be renewed.

ARTICLE 12 – ELECTIONS

Section 1. The Chairman, Vice Chairman and Secretary/Treasurer shall be elected to a four (4) year term of office and until their successors be qualified and installed in office by a majority vote at an election to be conducted by secret ballot, with absentee voting, on the date of the annual Citizen Potawatomi Nation Indian Council meeting. All elections shall be conducted pursuant to an Election Ordinance adopted by the appropriate legislation of the Citizen Potawatomi Nation Legislature. At the time of their election they shall be not less than thirty-five (35) years of age, and residents of the State of Oklahoma not less than six (6) months prior to taking office, and not have been convicted of a felony or other serious crime involving incarceration for moral turpitude in any court of competent jurisdiction, or have been incarcerated for a crime for more than six (6) months within ten (10) years previous to the date of the election, unless pardoned.

Section 2. No person shall be allowed to run for, or hold, more than one (1) elected tribal position at any one time.

Section 3. The Legislature serving at the time of this Amendment shall adopt legislation within ten (10) days of adoption of this Amendment describing eight (8) Legislative Districts of equal proportion, within 30%, of members of the Citizen Potawatomi Nation Indian Council living outside of Oklahoma. They shall be numbered one (1) through eight (8) for those Legislative Districts outside of the State of Oklahoma and nine (9) through thirteen (13) for those Legislators within the State of Oklahoma.

Section 4. In order to provide for staggered terms of office, in a special election held within 120 days of the adoption of this Amendment in which thirteen (13) Legislators will be elected, one (1) Legislator's first term shall coincide respectively with the term of office of the former Councilman #1 and both of whom shall, at the time of their election and thereafter, be residents of the State of Oklahoma. Two (2) Legislators' first term shall coincide respectively with the terms of office of the former Councilman #2 and all three of whom shall, at the time of their election and thereafter, be residents of the State of Oklahoma. Four (4) Legislators' first term of office shall coincide with the term of office of the Tribal Chairman and all four (4) Legislators shall, at the time of their election and thereafter, not be residents of the State of Oklahoma. Four (4)