

TABLED

Cherokee Council House
Cherokee, North Carolina

SEP 06 2018

Date

ORDINANCE NO. 331 (2018)

WHEREAS, the Charter and Governing Document authorizes and empowers the Eastern Band of Cherokee Indians (EBCI) Tribal Council to adopt laws and regulations for the general government of the Tribe. Charter and Governing Document, sect. 23 (Sept. 5, 1995) *see also* C.C. §117-10.

WHEREAS, the EBCI Tribal Council constitutes the Eastern Band of Cherokee Indian's Legislative Branch of government. C.C. §117-10.

WHEREAS, in 2000, the Eastern Band of Cherokee Indians adopted the Judicial Code requiring only individuals that were licensed in the State of North Carolina could practice in the Cherokee Court. C.C. Sec. 7-5(c) *see also* Ordinance No. 29 (1999).

WHEREAS, in 2006, the EBCI found that the best interest of all enrolled members would be served if enrolled members licensed in other states were allowed to practice in our court system. Ordinance No. 126 (2006).

WHEREAS, in 2008, the EBCI decided to return to the original language in the Judicial Code and only allow individuals who were licensed to practice law in North Carolina to practice in the Cherokee Court. C.C. Sec. 7-5(c) *see also* Ordinance No. 403 (2008).

WHEREAS, in recent years, the Cherokee Court's heard several cases regarding tribal sovereignty, tribal jurisdiction and the Indian Civil Rights Act, all of these cases require unique experience in Federal Indian Law.

WHEREAS, there is a growing need for attorneys specializing in Indian Law to practice in the Cherokee Court, however not all Indian Law attorneys are licensed by the State of North Carolina.

NOW, THEREFORE, BE IT ORDAINED by the Eastern Band of Cherokee Indians in Council assembled, at which a quorum is present that the Eastern Band of Cherokee Indians Tribal Council amends the Cherokee Code, as follows in EXHIBIT A.

BE IT FURTHER ORDAINED the provisions of the Ordinance which amend or adopt new sections of the Cherokee Code shall be codified by the Department of Justice. The Department of Justice shall incorporate such amended provisions in the next codification of the Cherokee Code.

BE IT FINALLY ORDAINED that all ordinances inconsistent with this ordinance are rescinded,
and that this ordinance shall become effective when ratified by the Principal
Chief.

*Submitted by: Albert Rose, Birdtown Representative
David Wolfe, Vice Chairman, Yellowhill Represenative*

Cherokee Code

Chapter 14 – JUDICIAL CODE

Sec. 7-5 – Powers of the Supreme Court.

- a. The Supreme Court shall have the power to interpret and apply the Charter, laws, customs, and traditions of the Eastern Band of Cherokee Indians, and to make conclusions of law. The Supreme Court shall not have the power to make findings of fact.
- b. The Supreme Court shall have the power to declare any law void if such violates the Charter and Governing Document of the Eastern Band of Cherokee Indians, enacted in 1986, as it may from time to time be amended.
- c. The Supreme Court shall have the power to establish written rules for the Judicial Branch, including qualifications to practice law, provided such rules are consistent with law. ~~No person shall be permitted to practice law in any court of the Judicial Branch unless that person has a valid North Carolina law license.~~
 1. No non-enrolled person shall be permitted to practice law in any court of the Judicial Branch unless that person has a valid North Carolina law license.
 2. An enrolled member of the Eastern Band of Cherokee Indians must present proof to the Cherokee Bar that he or she:
 - A. Is enrolled in the Eastern Band of Cherokee Indians;
 - B. Is a graduate of an American Bar Association accredited law school; and
 - C. Is a member in good standing of another state bar.
- d. Orders and opinions of the Supreme Court shall be written and published.
- e. Orders of the Supreme Court are final and shall not be subject to appeal to any other body of the Eastern Band of Cherokee Indians.

1 Cherokee Code

2 Chapter 87 – PROFESSIONS AND OCCUPATIONS

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4 Sec. 87-1 – Licenses required.

- 5 a. Except as otherwise provided in Tribal law, the following professionals, in order
6 to practice their profession within the territory of the Eastern Band, must have a
7 current license issued by the appropriate state regulatory agency authorizing them
8 to practice their profession in the State of North Carolina, and must be in good
9 standing with that regulatory agency:

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- 11 5. Attorneys; except an enrolled member of the Eastern Band of Cherokee
12 Indians shall practice without a N.C. license but must be able to present
13 proof to the Cherokee Bar that he or she:

14 A. Is enrolled in the Eastern Band of Cherokee Indians;

15 B. Is a graduate of an American Bar Association accredited law
16 school; and

17 C. Is a member in good standing of another state bar.

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