



MASHPEE WAMPANOAG TRIBAL COURT
MASHPEE WAMPANOAG TRIBE

)
) ADMINISTRATIVE ORDER #32
)
) AMENDMENTS TO RULES
) OF CIVIL PROCEDURE -
) Rule #38(a)

Rule #38 of the Mashpee Wampanoag Tribe Rules of Civil Procedure is hereby amended in accordance with the attached amendment effective upon execution of this order. The amendment will apply to all existing cases as well as cases filed after the effective date of this Order.

IT IS SO ORDERED this 3rd day of June, 2020.

BY THE COURT:

Hon. Robert F. Mills, Chief Justice
Mashpee Wampanoag Supreme Court

- c. A judgment becomes final when the Judge signs it.
- d. The District Court may amend or modify a final judgment upon a motion by a party. A motion to amend or modify the final judgment must be served no later than twenty (20) days after entry of the final judgment. If a motion to amend or modify is filed, a Notice of Appeal may be filed up to thirty (30) days after the Court has ruled on the motion.
- e. If a judgment or order fails to address issues presented to the District Court, the Court may make a *nunc pro tunc* order or direct a judgment *nunc pro tunc*. The purpose of *nunc pro tunc* is to correct errors, mistakes, or omissions made by the District Court at an earlier time and to achieve the Court's intended goal. Such errors, mistakes or omissions may be brought to the District Court's attention by motion, or on the Court's own motion.

NOTE: (As amended Dec. 17, 2018)

Rule 37. Remedies

- a. Every final judgment must grant a remedy or remedies to the successful party, even if such a remedy is not demanded in the pleadings.
- b. Remedies may include the sale of property to fulfill a judgment, unless it will cause immediate and substantial hardship on the immediate family of the judgment debtor or if the property is of religious or cultural significance. Properties that are of a religious, spiritual or cultural significance are assets of the Tribe and cannot be encumbered or sold to fulfill a judgment.

Rule 38. Default and Default Judgment

- a. If a Defendant fails to file an answer to a complaint within the time prescribed by these rules or if the Defendant or other party fails to appear at a hearing or trial for which they received proper notice then such failure may result in the case being postponed, dismissed, a default being entered or a default judgment being entered against the absent party, or the Court may proceed to hold the hearing or trial.
- b. No default judgment will be entered unless the Plaintiff files a written motion for a default judgment and serves a copy of the motion on the Defendant in the same manner as the Complaint was served.
- c. The hearing on the motion for default judgment must be scheduled for no later than ten (10) days after service of the motion. If the Defendant answers the Complaint at or before the time that the motion is heard by the District Court, no default judgment will be granted.
- d. The District Court Judge may grant the relief or damages requested if they are easily determinable. If the relief requested or damages are not easily determinable, then the District Court will hold a hearing to assess the damages.