

Cherokee Nation Code Annotated

Title 12: Civil Procedure

Chapter 1: Civil Procedure

§ 20. Appeal

Cite as: 12 CNCA § 20

Upon the filing of the Petition in Error of a civil money judgment, the District Court may order the filing of a bond or other security in an amount sufficient to satisfy the judgment including costs in the event the judgment is affirmed on appeal. The Supreme Court may waive bond if the party demonstrates by petition or affidavit that he/she is unable to post the bond. In lieu of any supersedeas bond, the parties may stipulate with respect to any agreement or undertaking. In lieu of any cost bond, the parties may stipulate with respect to any agreement or undertaking conditioned that the monies or properties of the Court are fully protected or prepaid. In the event of a reversal, the premium of any bond will be taxed as a part of the costs. All such stipulations must be approved by the Court and filed in the record.

Except as otherwise provided by law or by agreement of the parties, every bond, undertaking, or stipulation must be secured by (1) the deposit of cash or negotiable government bonds, undertaking, or stipulation; (2) the undertaking or guaranty of a corporate surety doing business in the State of Oklahoma, and holding a certificate of authority from such state; or (3) the undertaking or guaranty of sufficient solvent sureties by a person or entity who owns real or personal property within the State of Oklahoma worth double the amount of the bond, undertaking, or stipulation over all debts and liabilities, and over all obligations assumed on other bonds, undertakings, or stipulations, and exclusive of all legal exemptions.

A. Stay with Bond on Appeal: If an appeal is taken from a monetary judgment awarded in Cherokee Nation District Court, the appellant may obtain a stay by supersedeas bond. The bond must be given upon filing the notice of appeal or after obtaining the order allowing the appeal. The stay takes effect when the court approves the bond.

B. Stay Without Bond on an Appeal by the Cherokee Nation, Its Officers, or Its Agencies

1. The Court must not require a bond, obligation, or other security from the appellant when granting a stay on an appeal by the Cherokee Nation, its officers or its agencies or on an appeal directed by a department of the Cherokee government.

2. When there is a stay of proceedings other than the enforcement of the judgment, the trial court shall have jurisdiction of proceedings related to the enforcement of the judgment as

well as any other matter embraced in the action and not affected by the judgment or order appealed from.

C. Supersedeas Bond

1. Unless an undertaking is given, the perfecting of an appeal shall not stay enforcement of the judgment or order in the trial court if the judgment or order is for any of the following:

a. Money or the payment of money, whether consisting of a special fund or not, and whether payable by the appellant or another party to the action;

b. Costs awarded which otherwise would not have been awarded as costs.

2. The undertaking shall be on condition that if the judgment or order or any part of it is affirmed or the appeal is withdrawn or dismissed, the party ordered to pay shall pay the amount of the judgment or order, or the part of it as to which the judgment or order is affirmed, as entered after the receipt of the remittitur, together with any interest which may have accrued pending the appeal and entry of the remittitur, and costs which may be awarded against the appellant on appeal;

3. The undertaking shall be for double the amount of the judgment or order. The liability on the undertaking may be enforced if the party ordered to pay does not make the payment within ten (10) days after the filing of the remittitur from the reviewing court;

4. If a surety on the undertaking pays the judgment, either with or without action, after the judgment is affirmed, the surety is substituted to the rights of the creditor and is entitled to control, enforce, and satisfy the judgment, in all respects as if the surety had recovered the judgment;

5. Costs awarded by the trial court shall be added to the judgment for purposes of determining the bond amount;

6. Attorney fees awarded shall be added to the judgment for purposes of determining the bond amount.

D. A decision of the Supreme Court of the Cherokee Nation shall lift the stay and the bond shall be released to the prevailing party immediately.

Historical Data

LA 16–16, eff. April 21, 2016. Amended LA 07–18, eff. May 18, 2018.