

Cherokee Nation Code Annotated

Title 28: Ethics

Chapter 4: Whistleblower Protection Act

§ 407. Remedies, injunctive relief, costs, and attorney's fees

Cite as: 28 CNCA § 407

A. Any employee or official who alleges that "protected activity" has been violated by an employer covered under the provisions of this Act may apply to the district court of the Cherokee Nation for either or both declaratory judgment and injunctive relief to enforce the provisions, The court may order equitable relief as it considers appropriate and violation of this chapter must be considered to be an irreparable injury for which no adequate remedy at law exists. The court shall also, where appropriate, order:

1. An injunction to restrain continued violation of this Act;
2. The reinstatement for the employee to the same position held before the retaliatory action, or to an equivalent position;
3. The reinstatement of full fringe benefits and seniority rights;
4. The compensation for lost wages, benefits and other remuneration; and
5. The payment by the employer of reasonable costs, expert witness and attorney's fees, provided that attorney fees shall not exceed One Hundred Seventy-Five Dollars (\$175.00) per hour and shall not exceed twenty-five percent (25%) of the employee's total recovery.

B. If the employer prevails by showing the unfavorable action would have been taken in the absence of the protected activity or by showing that the protected activity was false, the employer is entitled to reasonable attorney fees, not to exceed One Hundred Seventy-Five Dollars (\$175.00) per hour.

Historical Data

LA 13-04, eff. April 19, 2004. Amended LA 20-16, eff. August 17, 2016.