

TITLE 1 - GENERAL PROVISIONS

CHAPTER 1-1 TRIBAL COURT

1-1-20 ESTABLISHMENT AND JURISDICTION

1-1-21 Establishment

The judicial power of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (Tribes) of Oregon is vested in the Tribal Court, and such divisions thereof as the Tribal Council may from time to time authorize by statute, and the Tribal Court of Appeals.

1-1-22 Tribal Court

The Tribal Court may hear and decide cases and controversies as provided by Tribal law. Final decisions and orders of the Tribal Court are subject to review by the Tribal Court of Appeals when provided in this Code. Failure to legislate in any particular area shall not be deemed a cession of authority to any other government's jurisdiction.

1-1-23 Criminal Jurisdiction

The Tribal Court shall have criminal jurisdiction over any American Indian or Alaskan Native found within the jurisdiction of the Tribes and accused by the Tribes of the commission, within the jurisdiction of the Tribes, of an offense enumerated in this Code. The Tribal Court shall have the power to punish for contempt under the laws of the State of Oregon.

1-1-24 Civil Jurisdiction

(a) The Tribal Court shall have jurisdiction of all suits wherein the parties are subject to the jurisdiction of this Court, and over all other suits which are brought before the Court by stipulation of parties not otherwise subject to Tribal jurisdiction.

(b) To the fullest extent possible, not inconsistent with federal law, the Tribes may exercise through this Court their civil, regulatory and adjudicatory powers, including all common law writs. To the fullest extent possible, not inconsistent with federal law, the Tribal Court may exercise subject matter and personal jurisdiction. The jurisdiction over all persons of the Tribal Court may extend to and include, but not by way of limitation, the following:

(1) All persons found within the jurisdiction of the Tribes.

(2) All persons subject to the jurisdiction of the Tribal Court and involved directly or indirectly in:

- (A) The transaction of any business within the jurisdiction of the Tribes;
- (B) The ownership, use or possession of any property, or interest therein, situated within the jurisdiction of the Tribes;
- (C) The entering into of any type of contract within the Reservation or herein any aspect of any contract is performed within the jurisdiction of the Tribes;
- (D) The injury or damage to property of the Tribes or a Tribal member.

(c) As used in this section, "person" means an individual, organization, corporation, governmental subdivision or agency, business trust, estate, trust, partnership, association, joint venture or any other legal or commercial activity. Nothing in this chapter waives any aspect of the Tribes sovereign immunity or related privileges.

1-1-25 Exclusive and Concurrent Jurisdiction

The jurisdiction of the Tribal Court, as set out in Sections 1-1-23 and 1-1-24 is exclusive except:

- (a) as may be provided otherwise by federal statute or the final order of a federal court, or
- (b) where implementation of federal law, by Tribal agreement or otherwise, requires that Tribal Court jurisdiction be concurrent with that of the courts of the State of Oregon, and where Tribal statute expressly sets forth such concurrence.

1-1-30 TRIBAL COURT JUDGES

1-1-31 Number and Compensation

The Tribal Court shall be presided over by a Chief Judge ("regular Judge") whose duties may be part-time but regular and permanent, and by one or more part-time or temporary Judges who may be employed as required. The regular Judge shall be compensated by annual salary established by contract with the Tribes and executed by the Chairman. No Tribal Judge's salary shall be diminished during the term of the Judge's office. A part-time or temporary Judge may be employed, on a temporary or a case-by-case-basis, at a reasonable hourly rate, by means of a written contract with the Tribes and executed by the Chairman.

1-1-32 Appointment

(a) A regular Tribal Court Judge shall be appointed by a majority of a quorum of the Tribal Council for a term of two (2) years and shall be eligible for reappointment. A vacancy in a regular judgeship shall be filled by appointment by a majority of a quorum of the Tribal Council for the balance of the unexpired term.

(b) A person shall be eligible to serve as a Tribal Court Judge only if the person has never been convicted of a felony, or serious tribal crime, or, within one (1) year then last past, of a misdemeanor, with the exception of minor traffic violations.

(c) No Judge shall be qualified to preside in any case where he or she has any direct, personal interest or where he or she is prejudiced for or against any of the parties in the action. Nor shall any Judge be qualified to act in any case where any relative by marriage or blood in the first or second degree is a party unless all parties to the action waive this provision.

(d) All Judges shall protect and preserve the high standards of the Tribal judiciary and shall abide by the Model Canons of Judicial Ethics of the American Bar Association.

1-1-33 Removal of a Judge of the Tribal Court

A Judge of the Tribal Court may be suspended, dismissed or removed for cause by the Tribal Council. Cause shall be defined as malfeasance in office, corruption, neglect of duty, or conviction of a felony or misdemeanor, excluding minor traffic violations. A Judge charged by a majority of a quorum of the Tribal Council with conduct constituting cause for suspension, dismissal, or removal shall be given personal, written notice of the basis for the charge and be given adequate time to prepare a defense. The Judge shall then be given a full hearing before the Tribal Council with an adequate opportunity to present a defense, including the production of witnesses and other evidence in the Judge's behalf and an opportunity to cross-examine witnesses against the charged Judge. An affirmative majority vote of all members of the Tribal Council is necessary to suspend, dismiss or remove a Judge from office.

1-1-34 Substitution of Judges

Each party to a proceeding is entitled to petition the Court for substitution of a judge by asserting cause for the substitution, if the motion is made within twenty (20) days of the party receiving notice of the judge's assignment to the case. Where statutory cause exists, a party to a proceeding may make a timely and sufficient affidavit that the assigned Judge has a personal bias or prejudice either against the party or in favor of any adverse party. Such Judge shall proceed no further therein. The affidavit shall be accompanied by a certificate of counsel of

record or a party stating that it is made in good faith. The Judge shall review the affidavit and upon finding cause shall assign another Judge to hear such proceeding.

1-1-40 COURT ADMINISTRATION

1-1-41 Duties of the Chief Judge

(a) The regular Chief Judge shall establish and maintain a system of assignment of cases among Judges. In the event of disqualification, recusal or other inability of a Judge assigned to a case to serve, the next Judge who would have been assigned in the system established by the Chief Judge shall hear and decide the case. However, if no full-time Judge is qualified or able to hear the case, the Chief Judge may select a temporary or part-time Judge as replacement Judge.

(b) Except as provided in Section 1-1-42, the Chief Judge oversees general administration of the Tribal Court, including management of caseload, expenditures, library, records management, and the presentation of an annual budget proposal to the Tribal Council. In consultation with the Clerk of Court, Court administrative and research tasks may be delegated by the Chief Judge to one or more Court employees and, within the limits of the Court's budget and with the approval of the Tribal Council, consultants may be employed by the Chief Judge by written contract.

(c) The Chief Judge may seek and, with the approval of the Tribal Council, accept funds made available through gift, grant or contract to assist, improve or enhance Tribal Court operations.

1-1-42 Appointment and Duties of Clerk of Court

(a) There is established the office of Clerk of Court, which shall be filled by appointment in accordance with policies, rules and classifications of the Tribal Personnel system.

(b) As the budget for administering the Court may permit, the Clerk of Court may employ, in accordance with the Tribal Personnel System, such deputies and court reporters as may be required to assist in fulfilling the duties of the Clerk.

(c) The Clerk shall collect fees and fines paid to the Court and deposit the same within a week of collection with the Tribal Treasurer. The Clerk shall make a certified accounting of the same annually to the Tribal Council. The clerk shall be bonded in an amount sufficient to cover the average annual revenues derived from fees and fines paid to the Court.

(d) As required by statute or otherwise where appropriate, the Clerk shall prepare

and make available to unrepresented parties forms, approved by the Chief Judge, for pleadings and service of process.

(e) The Clerk shall prepare all documents and ledgers incidental to the functions of the Tribal Court and, upon request and payment of a reasonable fee, shall certify copies of the public record of proceedings as true and accurate representations of the official Court record.

(f) The Clerk, or the Clerk's designee, shall attend all proceedings of the Court and keep a written record of the same.

(g) The Clerk shall keep a current docket numbering system and shall preserve and protect the original, official records of all Court proceedings.

(h) The Clerk shall keep, compile and submit records of Court proceedings to the Bureau of Indian Affairs at such times and in such detail as may be required by federal law.

(i) The Clerk shall make available for inspection and, for a reasonable fee, provide copies of all records of Court proceedings not designated confidential by law.

1-1-50 REPRESENTATION BY COUNSEL

1-1-51 Declaration of Policy

Every person appearing as a party before Tribal Court, except as otherwise provided for proceedings associated with Small Claims, has a right to be represented by an attorney or other person admitted to practice before the Court at the person's own expense.

1-1-60 ADMISSION TO PRACTICE IN TRIBAL COURT

1-1-61 Attorneys

(a) An attorney in good standing who is admitted to practice before the Oregon Supreme Court or the United States Supreme Court shall be admitted to practice before the Tribal Court and the Tribal Appellate Court upon submission of an application for admission to practice and payment of an annual fee set by the Chief Judge and due January 15th of each year. Application for admission to practice will be made on a form provided by the Clerk of Court and will include the applying attorney's agreement to act as an officer of the Tribal Court in any action or proceeding in which the attorney appears, and to conduct legal practice in accord with any Rules of Professional Conduct as adopted by the Tribal Council.

(b) An attorney not admitted to practice in Oregon nor before the United States Supreme Court and not previously admitted to practice before the Tribal Court, but admitted to practice and in good standing before the courts of another state, may be admitted to practice before the Tribal Court, for the purposes of a single case or controversy, upon:

- (1) association in that case with an attorney who is admitted to practice before the Tribal Court;
- (2) certification by the admitted attorney of the qualifications of the attorney from out-of-state and of association for purposes of the specified case or controversy; and
- (3) submission of an application and fee, as provided in (a) above.

(c) An attorney employed by the Tribes shall be admitted to practice before the Tribal Court and Tribal Appellate Court without filing an application or paying a fee.

1-1-62 Law Students

A student currently enrolled in an accredited School of Law in the United States may be admitted to practice before the Tribal Court if an attorney admitted to practice before the Tribal Court requests the admission in writing and agrees to supervise and assume responsibility for the student's practice.

1-1-63 Admission Required Prior to Filing Papers

No pleading, motion, brief, or other paper in any action or proceeding or appeal will be accepted for filing by the Clerk of Court from an attorney or law student who has not been first admitted to practice before the Tribal Court.

1-1-64 Tribal Court Advocates

Any individual not convicted of a felony or serious tribal crime shall be admitted to practice as an advocate before the Tribal Court upon employment and certification by a Tribal attorney that the advocate is qualified to represent individuals in actions and proceedings before the Tribal Court.

1-1-65 Child Support Investigators

A Child Support Investigator for the Tribes or the State of Oregon may file papers and appear in Tribal Court for the limited purposes of seeking a Child Support Order, having a Foreign Judgment recognized, or applying for a Writ of Execution or Garnishment.

1-1-66 Pro Se and Tribal Member Representation

(a) Any adult, who has not been adjudged incompetent, and who wishes to commence an action or who is a named party to an action or proceeding in Tribal Court, may represent himself or herself in person. A corporation, firm, association, or other organized entity, except a partnership, may be represented by its chief executive officer or by an employee who has been authorized in writing by the chief executive officer to represent the entity in an action or proceeding. A partnership may be represented by a general partner or by an employee who has been authorized in writing by a general partner to represent the partnership.

(b) An adult Tribal member who wishes to commence an action or who is a named party to an action or proceeding may be represented without remuneration by another Tribal member who is neither an attorney nor an advocate and who has not been convicted of a felony nor been adjudged incompetent. The party enlisting such representation shall so inform the Court in writing and shall acknowledge sole responsibility for all pleadings, motions, and other papers submitted on the party's behalf and for the timeliness thereof and shall acknowledge that all notices incident to the proceedings will be sent to the party and not to the Tribal member representative.

1-1-70 JURIES AND WITNESSES

1-1-71 Composition of Venire

The Clerk each year shall prepare a list of eligible jurors. Such eligible jurors shall be adult voting residents of the State of Oregon and enrolled members of the Tribes who are qualified to vote in elections for the Council.

1-1-72 Selection of Jury Panels

(a) By October 1st of each year, the Tribal Records Manager shall provide the Clerk of Court with the names of all Tribal members eligible for jury duty. The Clerk of Court shall randomly select one hundred (100) names from the list. The Clerk shall send juror questionnaires to each one and this group shall comprise the jury pool for the next calendar year. The Clerk shall notify each person of his or her selection and of grounds and methods for the person's excuse from the jury pool. By December 15th, the Clerk of Court shall randomly select thirty (30) names from the pool to serve as the jury panel for the first six months of the year's trials. This procedure shall be followed by June 15 for the last six months of the year. The Clerk of Court shall make juror questionnaires available to counsel involved in jury trials upon request and at the time of trial. The Court shall by Rule of Court specify grounds and procedures for excuse from jury duty.

(b) The Court may summon a panel for purposes of selecting a jury for a particular case or to provide for the availability of a jury in several cases to be tried within a specified period of time, not to exceed one (1) month.

1-1-73 Composition of a Jury for a Civil Action

(a) A jury shall consist of six (6) persons and an alternate selected from a summoned panel. The Clerk of Court shall notify parties to a case to be tried to a jury of the names and addresses of the summoned panel no later than ten (10) days prior to the commencement of the trial.

(b) Each party to a case is entitled to two (2) peremptory challenges unless a lesser number is agreed to by the parties in writing.

(c) Each party shall have unlimited challenges for cause, on the basis of lack of qualifications, partiality, or otherwise acceptable reasons, which include the following:

(1) having a family relationship within the first (1st) or second (2nd) degree to any party, or to the person allegedly injured;

(2) standing, in relation to a party or person injured, as guardian, ward, employer, employee, debtor, creditor, attorney, client, or being a member of the family of either party, person insured, shareholder, partner, trustor, trustee or beneficiary;

(3) having been a party adverse to another party in a prior civil action or having complained against or been accused by a party in a criminal prosecution;

(4) having served as a juror or been a witness in a previous trial between the same parties;

(5) having an interest in the event of the action, or in the main question involved in the action;

(6) having a pre-existing opinion or belief as to the merits of the action; or

(7) having a state of mind evincing bias against or in favor of either party or the person injured.

Whether or not cause exists shall be determined by the presiding Judge.

(d) Each challenge must be tried and determined by the Court at the time the challenge is made.

1-1-74 Civil Verdicts

After all parties have rested their cases, the Judge shall instruct the jury in the law

governing the case and the jury shall bring in a verdict for the plaintiff or the defendant in a civil case. The jury shall be instructed by the Judge in all civil cases that they are to find for the party who has established the position she or he alleges by the burden of proof established by law. The Judge shall render judgment in accordance with the verdict and the existing law. If a jury is unable to reach a unanimous verdict, the Judge may authorize a verdict by a majority vote.

1-1-75 Jurors' Compensation and Reimbursement

(a) Each panel member summoned for selection as a juror and each juror and alternate selected shall be paid the sum of ten dollars (\$10.00) for each day, or part-day, spent in the business of the Court.

(b) Each panel member summoned for selection as a juror and each juror and alternate shall be reimbursed for meals and for mileage traveled in connection with the service, unless meals and transportation are provided by the Court, at its option.

1-1-76 Juries in Civil Cases

(a) In actions at law or in any civil case where monetary damages are prayed for and may be awarded by law, except a matter filed as a small claim, a party may demand a jury trial; provided matters of law shall be decided by the Court and not the jury. Such demand must be made to the presiding Judge, with notification to the other party or parties, no later than fifteen (15) working days after the date of filing the original claim.

(b) Costs of a jury trial in a civil matter shall be reimbursed to the Court by the party demanding the jury trial. Such costs may be a part of the award if the demanding party prevails. Payment shall be made upon presentation of a statement by the Clerk setting forth said costs, including the cost of summoning a panel, the cost of compensation to panel members, jurors, and alternates, and the costs of meals and mileage of panel members, jurors and alternates. Taking into consideration the resources of the demanding party and whether there is a reasonable likelihood that the demanding party will prevail, the presiding Judge may require that the demanding party post a bond guaranteeing payment to the Court in an amount not to exceed five thousand dollars (\$5,000) in the event that the demanding party is not the prevailing party.

1-1-77 Power to Subpoena Witnesses

A Judge of the Tribal Court has the power to issue subpoenas to compel the attendance of witnesses and the production of documents either on the Court's own motion or on the request of any party to a case, which shall bear the signature of the Judge issuing the subpoena.

1-1-78 Compensation of Witnesses

(a) Each witness, except an expert witness, answering a subpoena to appear in a civil trial shall be paid by the party requesting the subpoena, or by the Court if the subpoena was issued on its own motion, the sum of twenty dollars (\$20.00) for each day, or part-day, that his or her presence is required in Court or at any deposition location and for transportation costs to and from Court or the deposition location, at the same rate as that established for jurors in Section 1-1-76, or, if travel by air is necessary, at the lowest practicable rate then available for airfare.

(b) An expert witness may be paid a reasonable fee by the party calling the expert. If the Court, on its own motion, finds it necessary in the interests of justice to call an expert witness, it shall pay the witness a reasonable fee, not to exceed the expert's regular hourly rate for such service, and assure that the expert is available for interview by the parties prior to any testimony by the expert.

(c) If attorney's fees and costs are permitted by statute or by agreement of the parties to be awarded to the prevailing party, the Court may also order the award of witness fees and transportation costs to the prevailing party.

1-1-79 Service of Subpoenas

Service of a subpoena shall be made by a competent person who is at least eighteen (18) years of age and not a party to the action. Proof of service of subpoena shall be filed with the Clerk of Court by noting on the subpoena the return date, time and place that it was served.

1-1-80 Effect of Failure to Obey a Subpoena

If a witness fails to obey a subpoena, an order to show cause why the person should not be found in contempt of Court shall immediately issue.

1-1-81 Privileged Confidentiality in Certain Relations

There are particular relations in which it is the policy of the law to encourage confidence and to preserve it inviolate; therefore, a person cannot be examined as a witness in the following enumerated cases:

(a) Spousal privilege. A husband cannot be examined for or against his wife without her consent or a wife for or against her husband without his consent; nor can either, during the marriage or afterward, be, without the consent of the other, examined as to any communication made by one to the other during the marriage; but this exception does not apply to a civil action or proceeding by one against the other or to a criminal action or proceeding for a crime committed by one against the other.

(b) Attorney-client privilege.

(1) An attorney or Court advocate cannot, without the consent of his client, be examined as to any communication made by the client to him or his advice given to the client in the course of professional employment.

(2) A client cannot, except voluntarily, be examined as to any communication made by him to his attorney or Court advocate or the advice given to him by his attorney or Court advocate in the course of the attorney's or Court advocate's professional employment.

(c) Confessions made to member of clergy. A clergyman, priest, or traditional spiritual advisor, cannot, without the consent of the person making the confession, be examined as to any confession made to him in his professional character in the course of discipline enjoined by the church to which he belongs.

(d) Doctor-patient privilege. Except as provided in Rule 35, Federal Rules of Civil Procedure, a licensed physician, surgeon, or dentist cannot, without the consent of his patient, be examined in a civil action as to any information acquired in attending the patient which was necessary to enable him to prescribe or act for the patient.

(e) Speech-language pathologist, audiologist-client privilege. A speech-language pathologist or audiologist cannot, without the consent of his client, be examined in a civil action as to any communication made by the client to him.

(f) Psychologist-client privilege. The confidential relations and communications between a psychologist and his client shall be placed on the same basis as provided by law for those between an attorney and his client. Nothing in any act of the Tribal Council shall be construed to require such privileged communications to be disclosed.

(g) Mediator privilege. Except as otherwise provided by law, a person acting as a mediator in a mediation cannot, without the consent of the parties to the mediation, be examined in a civil action as to any communication made by a party to him during the course of the mediation.

(h) Media Confidentiality. Extent of privilege:

(1) Without his or her consent, no person, including any newspaper, magazine, press association, news agency, news service, radio station, television station, or community antenna television service or any person connected with or employed by any of these for the purpose of gathering, writing, editing, or disseminating news may be examined as to or may be required to disclose any information obtained or prepared or the source of that information in any legal proceeding if the information was gathered,

received, or processed in the course of his employment or its business.

(2) A person described in subsection (1) may not be adjudged in contempt by a judicial, legislative, administrative or any other body having the power to issue subpoenas for refusing to disclose or produce the source of any information or for refusing to disclose any information obtained or prepared in gathering, receiving, or processing information in the course of his or its business.

(i) Licensed Social Workers. A licensee may not disclose any information acquire from clients consulting in the licensee's professional capacity except:

(1) with the written consent of the client or, in the case of the client's death or mental incapacity, with the written consent of the client's personal representative or guardian;

(2) that he need not treat as confidential a communication otherwise confidential that reveals the contemplation of a crime by the client or any other person or that in his professional opinion reveals a threat of imminent harm to the client or others;

(3) that if the client is a minor and information acquired by the licensee indicates that the client was the victim of a crime, the licensee may be required to testify fully in relation thereto in any investigation, trial, or other legal proceeding in which the commission of such crime is the subject of inquiry;

(4) that if the client or his personal representative or guardian brings an action against a licensee for a claim arising out of the social worker-client relationship, the client is considered to have waived any privilege;

(5) to the extent that the privilege is otherwise waived by the client; and

(6) as may otherwise be required by law.

(j) Interpreters. Any information that an interpreter gathers pertaining to any proceeding then pending shall at all times remain confidential and privileged, on an equal basis with the attorney-client privilege, unless such person desires that such information be communicated to other persons.

1-1-82 Waiver of Privilege

(a) Except as provided in subsection (b), dissemination in whole or in part does not constitute a waiver of provisions of Section 1-1-81.

(b) If the person claiming the privilege testifies, with or without having been

subpoenaed or ordered to testify or produce the source, before a judicial, legislative, administrative, or other body having the power to issue subpoenas or judicially enforceable orders, he does not waive the provisions of Section 1-1-81 unless the person voluntarily agrees to waive the privilege or voluntarily discloses the source in the course of his testimony. Except as provided in this subsection, the provisions of Section 1-1-81 may not be waived.

1-1-90 RULES OF PRACTICE IN ACTIONS AND PROCEEDINGS BEFORE THE TRIBAL COURT

Rule 1 Application

Except as otherwise provided herein, the following rules apply in all actions and proceedings before the Tribal Court as follows:

(a) Rules 1 through 19 apply, according to their terms, in all actions and proceedings where any party is represented by an attorney or by a Tribal Court Advocate.

(b) Compliance with Rules 6(a), 7, 11(b), 13(c) and Rules 14 through 19 are not required when all parties represent themselves or are represented by a Tribal member who is not an attorney or a Tribal Court Advocate.

Rule 2 Assignment of Judges

(a) Assignment of Trial Judge. A judge will be assigned to each docketed case by the Chief Judge of Tribal Court or by the Clerk of Court, if the Chief Judge so directs. A judge may recuse himself or herself for good cause. The Chief Judge may excuse a judge from one or more assignments for reasons of efficient judicial administration. If the Chief Judge determines, on the basis of the pleadings before trial, that the interests of justice would best be served by the appointment of a visiting judge with experience in the legal areas to be litigated, the Chief Judge may substitute such appointment for any assignment already made.

(b) Presiding Judge. Once assigned and unless recused, excused, disqualified or replaced by a visiting judge, a judge will preside over all proceedings in a case. Pretrial proceedings will be calendared by the Clerk of Court for the presiding judge and the cause will be set for trial as provided by Rule 3.

Rule 3 Trial Scheduling

(a) Civil Trial Scheduling. The Clerk of Court shall keep a trial calendar upon which all civil causes shall be entered. Any counsel or unrepresented party may prepare and serve on all counsel and unrepresented parties and file with the Court a proposed scheduling order. After consulting with counsel and with any

unrepresented parties, the presiding judge will enter a scheduling order setting the dates for pretrial conferences, for closing discovery, for filing pretrial motions, for filing jury instructions, and for commencing trial. The presiding judge may modify the scheduling order upon a showing of good cause. In the event that no counsel or unrepresented party offers a proposed scheduling order within forty-five (45) days of the last required responsive pleading, the presiding judge will order a scheduling conference.

(b) Criminal Trial Scheduling. The Clerk of Court shall keep a trial calendar upon which all criminal causes shall be entered. The Tribal Prosecutor and Defense counsel shall jointly prepare and file a proposed pretrial memorandum and order for approval and issuance by the presiding judge.

Rule 4 Court Records

(a) Definition. Court records consist of all papers and documents filed with the Clerk of Court in connection with any action or proceeding, as well as the minutes and transcripts constituting the record of any trial or hearing. A judge's work papers, including without limitation notes, drafts, and research done at the judge's request, and papers or documents relating solely to Court administration are not Court records within the meaning of this rule.

(b) Public Records. Except as provided in (c) below, Court records are public records and are available for inspection and for copying upon payment of the established copying charge.

(c) Confidential Records. Records and files identified as confidential may not be opened except by order of the Court.

(d) No Withdrawal of Records. No Court records may be withdrawn from the custody of the Clerk of Court.

Rule 5 Computation of Time

Whenever time limitations are expressed in days under Tribal law, the day of service and Saturdays, Sundays and Tribal legal holidays are excluded from the computation. If a time for answer falls on a Saturday, Sunday, or Tribal legal holiday, the time is extended to the next succeeding weekday. No additional time is allowed for delivery by mail or otherwise except by permission of the presiding judge.

Rule 6 Copies and Filing Fees

(a) Provision of Copies to Court. Parties shall furnish to the Clerk of Court all necessary copies of any pleadings or other papers constituting or containing a notice to other parties which must, by law or rule, be given by the Court in the

context of an action or proceeding.

(b) Payment of Filing Fee. Except as may be otherwise provided, no complaint, petition, motion, application, or other legal paper or document shall be filed by the Clerk of Court without being accompanied by the appropriate filing fee; provided, however, that the Chief Judge or acting Chief Judge of Tribal Court may waive the filing fee upon a well-documented showing of grave need by an applicant. Tribal attorneys and advocates and other attorneys appearing pro bono need not pay filing fees.

(c) Filing Fee Schedule. The current filing fee and copying fee schedule as set by Order of the Chief Judge of Tribal Court is published separately and is available from the Clerk of Court.

Rule 7 Format of Papers Presented for Filing

(a) Nonconforming papers may not be accepted for filing.

(b) "Papers" means all pleadings, motions, briefs, other documents, and copies, except exhibits.

(c) All papers shall be:

(1) typewritten, printed, or the equivalent in a typeface or letter size not smaller than pica;

(2) on standard quality unglazed white paper, 8-1/2 X 11 inches in size;

(3) printed on only one (1) side;

(4) with lines unnumbered or numbered consecutively from the top;

(5) double spaced;

(6) with pages numbered consecutively at the bottom and bound firmly at the top.

(d) Matters such as property descriptions or direct quotes may be single spaced.

(e) Extraneous documents in the above format and not readily conformable may be filed in their original form and length.

(f) Additions, deletions, or interlineations shall be initialed by the Clerk of Court or by a judge at the time of filing.

(g) All copies served shall conform to the original as filed.

(h) The first page of all papers shall conform to the following illustration:

Name of counsel
Complete mailing address
Telephone number

IN THE TRIBAL COURT FOR THE CONFEDERATED TRIBES OF THE
COOS, LOWER UMPQUA, AND SIUSLAW INDIANS OF OREGON

_____,)
Plaintiff,) Cause No. _____
vs.)
) COMPLAINT
) (or other pleading or motion,
_____,) completely titled)
Defendant.)

Rule 8 Commencement of Civil Actions

(a) A civil action shall be commenced in Tribal Court by the filing of a statement of claim which shall be in ordinary language and state the grievance for which relief is requested and the nature of the relief requested. A complaint shall be signed by the plaintiff or his or her attorney or Tribal representative.

(b) Upon the filing of a complaint, the Clerk of Court shall issue a summons, to which shall be attached a copy of the complaint, directing the defendant to answer the complaint or otherwise appear and defend. The summons shall notify the defendant that failure to answer or otherwise appear and defend may cause judgment by default to be rendered against the defendant for the relief demanded in the complaint.

Rule 9 Service of Process in Civil Actions

(a) A plaintiff is responsible for service of the complaint and summons upon the named defendant(s). A plaintiff is also responsible for filing a return of service with the Clerk of Court. Whenever possible, the complaint and summons shall be served on the defendant by personal service. Personal service may be made by a law enforcement officer or by any adult who is not a party to the action or counsel.

(b) If, after diligent search and inquiry, the defendant cannot be personally served, process may be served by mail. Service by mail shall be by registered or certified mail with return receipt requested. All service by mail shall be confirmed by the

Court at the time of trial or at the time of the entering of a default judgment, and shall be supported by affidavit from the plaintiff. The affidavit shall include the original return receipt signed by the defendant, a description of documents served on the defendant, and a statement that a diligent search and inquiry was made in an effort to serve the defendant personally.

(c) If, after diligent search and inquiry, the defendant cannot be personally served or served by mail, process may be served by publication. In such cases, the plaintiff shall file an affidavit with the Clerk of Court prior to any service by publication. The affidavit shall include a statement that the plaintiff has, after diligent search and inquiry, been unable to effect service of process on the defendant. After receiving such an affidavit, the Clerk of Court shall issue a Summons by Publication authorizing service by publication. The Summons by Publication shall be valid for sixty (60) days from the date of issuance, and thereafter void. The other requirements for service by publication are as follows:

(1) The Summons by Publication shall be published in two (2) consecutive issues of the Tribal newspaper and in at least one (1) other newspaper published within at least once each week for three (3) consecutive weeks. The Summons by Publication shall: contain the name of the Court and the names of the parties; be directed to the defendant; state the name and address of the plaintiff's counsel, if any, otherwise the plaintiff's address; state that the defendant has twenty-one (21) days from the last date of publication in which to answer and defend; inform the defendant that failure to answer and defend will result in judgment by default; explain the object of the complaint; and, in an action in which the title to or any interest in or lien upon real property is involved, the publication shall also contain a general or legal description of the property involved.

(2) Service by publication is complete on the date of the last publication of the summons. A copy of each publication of service, certified by the publisher as to date and accuracy of publication, shall be filed by the plaintiff with the Clerk of Court.

(3) At the time of trial or entering of default judgment, the plaintiff shall submit evidence to the Court that the foregoing service by publication procedures were satisfied.

(d) Where service upon a defendant cannot be made within service of process outside the Reservation may be made personally, by mail, or by publication as described in this section with the same force and effect as though service was made within the Reservation.

Rule 10 Pleading in Civil Actions

There shall be a complaint and an answer, and other pleadings deemed

necessary. A defendant shall file an answer within fourteen (14) days of receiving service of the complaint and summons unless the time is extended in the discretion of the Court. Upon filing of an answer, the defendant shall serve a copy of the answer upon the plaintiff by depositing same in the U.S. Mail, postage prepaid, addressed according to the address contained in the complaint. The same timing and procedures shall apply to a plaintiff against whom a counterclaim is asserted and to any party against whom a cross-claim is asserted, with the time calculated from service upon such plaintiff or defendant of the answer asserting the counterclaim or cross-claim.

Rule 11 Jurisdictional Allegations and Defenses in Civil Actions

(a) Complaint.

(1) Subject to the exception in (2) below, a complaint shall contain a statement of jurisdictional facts. Such statement shall set forth, at a minimum, the status of the parties as to Tribal membership or Indian descent if individuals, or Indian ownership if a business, the place of residence or principal place of business of each party, the place where the cause of action accrued, the status and location of any indispensable parties, and other facts tending to show a relationship of the cause of action to the interests of the Tribes or Tribal members.

(2) A complaint must include a statement of jurisdictional facts even if all parties are enrolled members of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians residing within the jurisdiction of the Tribes, or are legal entities organized under Tribal law, and the cause of action arose within the jurisdiction of the Tribes.

(b) Answer or Other First Responsive Pleading.

(1) If the defendant wishes to deny jurisdictional facts alleged by the plaintiff or to allege different or additional facts, such allegations shall be made by way of an answer or other first responsive pleading.

(2) A defense of lack of personal jurisdiction must be raised by a defendant in the answer or other first responsive pleading or it is waived.

Rule 12 Defenses and Objections in Civil Actions

The Federal Rules of Civil Procedure shall apply to the defenses and objections allowed and the manner of presenting same to the Court; however, the judges shall not be limited to these defenses and objections if in the judge's discretion it is deemed that the interests of justice would be better served by allowing otherwise.

Rule 13 Ex Parte Matters

(a) Application for Orders. Extensions of time to further plead, file briefs, continue a hearing on a motion, and other permissible ex parte matters may be granted by order of the Court upon written application, stating the grounds for the extension, proposing an early date certain for filing or the hearing and certifying the notice to opposing parties as provided in (b) below.

(b) Certificate of Notice. Prior to the issuance of an ex parte order, the counsel or unrepresented party seeking such order must file a written certification with the Court declaring that opposing counsel and any unrepresented party has been contacted, or that a diligent effort has been made to contact said counsel or unrepresented party, to give reasonable notice of:

- (1) the time and place of the ex parte conference or meeting, and
- (2) the substance of the order sought.

Such certification shall also include information as to whether opposing counsel or any unrepresented adverse party opposes the motion.

(c) Form of Order. All requests for extension of time or continuance or other ex parte matters shall be accompanied by an appropriate form of order.

(d) Emergency Orders. Nothing in this Rule limits the equitable powers of the Court to issue, upon petition, such emergency orders as may be necessary to preserve the status quo or to maintain law and order in the context of a civil case or controversy until the earliest time that the matter may be heard. No emergency or temporary ex parte order shall relieve the party seeking such order of the burden of proof of allegations made in the application or pleading except in those matters where the burden of proof is expressly transferred by Tribal law or by the general rules of law governing the exercise of a court's equitable or extra ordinary powers.

(e) Counseling. Nothing in this Rule precludes any judge from counseling with any Tribal member with respect to individual problems which are not the subject of a pending action or proceeding in Tribal Court. If an action or proceeding involving the same subject matter and persons as those discussed during counseling is later filed, the judge shall recuse himself or herself from the action or proceeding.

Rule 14 Motions

(a) Form and Content. Unless otherwise approved by the presiding judge, all motions shall be in writing and shall indicate the precise nature of the relief requested.

(b) Motion to Dismiss a Civil Action for Failure to State a Claim. If not supported by a brief within five (5) working days of filing, a motion to dismiss a civil action for failure to state a claim upon which relief may be granted shall be summarily denied and an additional fourteen (14) days granted in which to further plead.

(c) Briefs. Upon filing a motion or within five (5) working days thereafter, the moving party shall file a supporting brief indicating, at a minimum, the precise legal points, statutes, and other authorities relied upon, and citing the specifically relevant portions or pages of the statute or other authority. The brief may be accompanied by supporting affidavits or other documents. Within ten (10) days after the filing of a brief by a moving party, an adverse party shall file an answering brief, which may also be accompanied by appropriate supporting affidavits or other documents. Within five (5) working days thereafter, the moving party may file a reply brief which shall be directed only to issues raised in the answering brief. All motions and briefs shall be served upon all parties to the action at the time of filing. For the presiding judge's reference, complete copies of key authority asserted to be dispositive upon an issue shall be attached to all briefs filed with the court.

(d) Effect of Failure to File Briefs. Failure to file a brief may subject the motion to summary ruling. Failure to file a brief within five (5) working days of the filing of a motion shall be deemed an admission that the motion is without merit. Failure to file an answering brief by the adverse party within ten (10) days shall be deemed an admission that the motion is well taken. Reply briefs by the moving party are optional. In cases where no reply brief is filed, the moving party shall notify the Clerk of Court that the matter is submitted and ready for decision or for argument.

(e) Oral Argument.

(1) The presiding judge may order oral argument or a hearing on a motion upon a request by a party or on the Court's own motion. The judge may limit the amount of time permitted for oral argument.

(2) All motions shall be deemed submitted on briefs unless, within ten (10) days from the filing of the last responsive brief, the motion is noticed for hearing. At least five (5) days' notice shall be given for any hearing on a motion.

Rule 15 Pretrial Conference and Pretrial Memorandum and Order

Unless otherwise ordered by the presiding judge, a pretrial conference shall be held in all contested cases. Plaintiff's counsel shall convene a conference of all counsel, not later than five (5) days prior to the pretrial conference deadline, for the purpose of preparing a pretrial memorandum and order. If counsel can agree upon and file a pretrial memorandum and order before the deadline for the pretrial conference, the scheduled pretrial conference will be vacated. In the event of a

dispute as to the contents of the order, such dispute shall be presented to the judge for resolution at the pretrial conference.

Rule 16 Discovery in Civil Actions

(a) Parties shall obtain discovery regarding any matter not privileged, which is relevant to the subject matter involved in the pending action by applying to the Court requesting an Order of the Court setting forth limitations, dates, forms of discovery and other matters. The Court may limit discovery at the discretion of the Court.

(b) Depositions upon oral examinations and interrogatories, requests for documents, requests for admissions, and answers and responses thereto will not be routinely filed. If a party or any interested person submits an ex parte request that any of the named documents be filed, the Court may order filing of the documents. When any motion is filed making reference to discovery, the moving party shall submit all relevant unfiled documents with the motion.

Rule 17 Change of Counsel

(a) Counsel representing a party in any action or proceeding may be changed at any time upon:

- (1) the written consent of both the party and counsel filed with the Clerk of Court and entered in the minutes, or
- (2) an order of the Court which may be granted upon written application by either the party or counsel if the applicant has given notice of the application.

(b) Timely written notice of a change of counsel shall be given to the adverse party.

Rule 18 Jury Instructions and Verdict Forms

(a) Submission. All proposed jury instructions and verdict forms shall be filed and a copy served upon opposing parties at the time set forth in the pretrial order. Thereafter, additional instructions may be allowed to prevent manifest injustice.

(b) Citation of Authorities. Each proposed jury instruction shall be submitted in two forms. One form of each proposed jury instruction shall contain citation of authority supporting the statement of law therein and the other form of each shall be presented without any citation.

(c) Form. All proposed jury instructions and verdict forms shall be on 8-1/2 X 11 inch paper and shall indicate the party on whose behalf it is requested. Each instruction shall be numbered consecutively. Only the jury instructions containing

citation of authority may be firmly bound.

(d) Request for Special Findings by Jury. Whenever a party requests special findings by a jury, counsel shall file the requested findings in proper form for submission to the jury and serve a copy upon opposing parties.

Rule 19 Orders, Judgments or Decrees

(a) Presentation of Order, Judgment or Decree. It is the duty of any counsel or unrepresented party seeking an order, judgment or decree to file a proposed form of the order, judgment, or decree at the time of applying for same.

(b) Filing. Whenever an order, judgment or decree is signed by the presiding judge, it shall be delivered to the Clerk of Court and immediately issued and filed in the records of the Court.

(c) Cancellation and Filing of Instrument. In all cases in which a judgment is entered upon a written instrument, such as, without limitation, a promissory note or a contract, the instrument must be presented to the Clerk of Court at the time judgment is granted. The Clerk shall note in ink across the face of the instrument the fact of the entry of judgment and its date. The Clerk shall sign the entry and cancel and file the instrument. The instrument shall not be removed from Court records except by order of the Court in writing setting forth the facts of such removal.

1-1-100 RULES OF COURT

1-1-101 General Rules

All court proceedings shall be conducted in a dignified and respectful manner. All persons addressing the Court shall arise and shall speak in a clear and courteous manner.

Civility and respect are the keys to behavior in this Tribal Court – that includes everyone: the judge, staff, lawyers and witnesses. If you have any complaints about anyone's civility, including the judge, please bring the matter to the immediate attention of the court by asking for a conference in chambers.

1-1-102 Promptness

a. The judge makes every effort to commence proceedings at the time set. Promptness is expected from counsel and witnesses.

b. During jury deliberations, counsel must be present or available on fifteen (15) minutes' notice to counsel's office. Otherwise the right to be present is waived and

consent is given for proceedings to take place in the courtroom during counsel's absence.

1-1-103 Decorum

- a. Keep the trial low-key. It is not a circus, a contest of dramatic ability or an oratorical contest. It should at all times be a quiet, dignified search for the truth.
- b. Rise when the jury and the judge enter and leave the courtroom.
- c. Address all remarks to the judge, not to opposing counsel. Argument between attorneys is prohibited.
- d. Rise when addressing the judge and when making objections
- e. When offering a stipulation in a jury case, first confer with opposing counsel.
- f. Do not exhibit familiarity with witnesses, jurors, opposing counsel, or court personnel. Do not use first names for witnesses, parties, opposing counsel or court personnel. During jury argument, do not address any juror individually or by name.
- g. Do not bring food or beverages into the courtroom, nor allow witnesses to chew gum, etc. Men should not wear hats in court. Caution your witnesses and guests accordingly.
- h. Stand a respectful distance from the jury at all times.

1-1-104 Statement of the Case

Each party shall submit a "statement of the case" for use by the court at the beginning of voir dire to advise the jurors of the nature of the case and the issues to be decided by the jury. The statement should be brief (normally two or three paragraphs in length) and neutral in tone and content.

1-1-105 No Discussion with Jurors

No person, including members of the Court's staff, any of the parties or witnesses, or any other person, shall discuss with any known juror, any case pending before him, or which may come before him, either before or during the trial and any juror who has any personal knowledge about the case or who has discussed it with any of the parties, witnesses or Court officials, shall be excused by the judge.

1-1-106 No Discussion with Judge

No witnesses or party to any case shall under any circumstances either before or

during trial, attempt to discuss any case pending before the Court with any of the judges, except in open court.

1-1-107 Criminal/Civil Recording Tape Retention

Tapes used in the recording of criminal and/or civil matters shall be retained by the Tribes' Tribal Court for a period of not less than three (3) years from the date of the last recorded matter on the tape.

1-1-110 TRIAL PROCEDURE

1-1-111 Swearing in Witnesses

All witnesses shall be administered an oath by the judge, clerk or bailiff as follows: "Do you swear (or affirm) to tell the truth in this matter now before you?"

1-1-112 Conduct of Trial

Plaintiff shall begin by making his opening statement setting forth the charge or claim for relief against the defendant. The defendant shall then have the opportunity, unless waived, to make an opening statement of his position. Upon the conclusion of such statement, or if the defendant waives opening statement, upon the conclusion of the plaintiff's opening statement, the plaintiff shall call such witnesses and offer such exhibits as he may see fit. Upon the conclusion of the plaintiff's case, the defendant shall call such witnesses and offer such exhibits as he may see fit. The plaintiff shall, thereafter, in rebuttal, have an opportunity to call such witnesses and offer such evidence as he may see fit to rebut the evidence by the defendant. Both the plaintiff and defendant shall have the right to cross-examine witnesses.

At the close of the case, plaintiff shall have the opportunity to present his closing argument in chief. The defendant shall then have the opportunity to present his closing argument in chief. Upon the close of the defendant's closing argument in chief, the plaintiff shall have the opportunity to present the plaintiff's rebuttal.

1-1-113 Opening Statement

Opening statements shall be confined to what you expect the evidence to show. It is not proper to use the opening statement to argue the case, instruct as to the law, or explain the purpose of an opening statement. Unless the case is unusually complex, the average time should not exceed thirty (30) minutes.

1-1-114 Witnesses

a. It is unnecessary to greet or introduce yourself to adverse witnesses. Commence your cross-examination without preliminaries. The right to cross-

examine is not a right to examine crossly nor to ask the witness to pass on the credibility of another witness.

- b. Examine witnesses while seated at counsel table, standing behind counsel table, or at the lectern.
- c. Refrain from approaching a witness or the bench without leave of court.
- d. Refrain from hovering over a witness, even when permission has been granted for you to approach the witness. Maintain a respectable distance from the witness.
- e. If you need to point to an exhibit or to use the easel when you ask a question, return to your seat as soon as possible.
- f. A whiteboard, white paper, chalk, pens, TV and VCR are available. However, if you want tape recorder or similar equipment, you must furnish it or make arrangements with the courtroom clerk at least one (1) day in advance.
- g. Treat witnesses with fairness and consideration. Do not shout at, ridicule or otherwise abuse witnesses.
- h. Do not ever, by facial expression or other conduct, exhibit any opinion concerning any witness' testimony. Council will admonish their clients and witnesses about this common occurrence.
- i. When court is in session, do not address the reporter. Refrain from asking the reporter to mark testimony. Address all requests for re-reading of questions and answers to the judge.
- j. If a witness is on the stand at a recess or adjournment, have the witness on the stand ready to proceed when court is resumed.
- k. Do not delay proceedings by writing out witnesses' answers during questioning. Charts and diagrams, where possible, should be prepared in advance, but counsel may use the writing board for opening and close.
- l. Where a party has more than one lawyer, only one may conduct the direct or cross-examination of a given witness.

1-1-115 Objections

- a. When objecting, state only that you object and briefly specify the ground(s). Do not use objections to make a speech, recapitulate testimony, or to guide the witness.

- b. Do not argue an objection until the judge grants permission or requests argument.
- c. Give the judge advance notice if you have reason to anticipate that any question of law or evidence is difficult or will provoke an argument.
- d. Sidebar or chambers conferences during trial are not to be utilized for discussion of evidentiary issues. Most evidentiary hearings will be conducted at court recesses or, if important enough to justify interruption of the trial, the jury will be excused and the matter heard in open court (of course you may ask to approach the bench to request necessary recesses, etc.)

1-1-116 Exhibits

- a. All exhibits will normally be marked and received in advance – per the court's order.
- b. If you desire to display exhibits to the jury, sufficient additional copies must be available to provide each juror with a copy. Alternatively, use enlarged photographic, projected copies or juror notebooks.
- c. Each counsel is responsible for any exhibits secured from the Clerk. At each noon-time or end-of-the-day adjournment, return all exhibits to the Clerk.
- d. Exhibits not previously offered at the pretrial conference should be offered in evidence when they become admissible rather than at the end of counsel's case.
- e. When referring to an exhibit, mention the exhibit number so that the record will be clear.
- f. Counsel must review and certify on the record that what goes to the jury is correct before closing arguments.
- g. At the end of the trial, ordinarily exhibits will be returned to counsel.

1-1-117 Closing Arguments

- a. Never assert your personal opinion of:
 - 1. the credibility of a witness; e.g., "I know Witness X is telling you the truth,"
 - 2. the culpability of a civil litigant, or
 - 3. the guilt or innocence of an accused.
- b. Never assert your personal knowledge of a fact in issue or a fact not in

evidence, nor argue the "Golden Rule"—e.g. "Do unto others as you would have them do unto you,"—"Treat plaintiff/defendant as you would like to be treated in such a situation."

1-1-200 NOTICE - PROCEEDINGS RAISING TRIBAL JURISDICTION OR SOVEREIGNTY

1-1-201 Findings and Purpose

(a) Findings

(1) The Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians (Tribes) has a compelling interest in protecting tribal sovereignty and jurisdiction; and

(2) Tribal sovereignty and jurisdiction may be questioned in cases in the Tribal Court in which the Tribes or any agency, officer or employee thereof is not a party; and

(3) With adequate, timely and uniform notice of cases in the Tribal Court that question tribal sovereignty and jurisdiction, the Tribes can effectively assess whether and how to participate in such cases.

(b) Purpose

The purpose of this Code is to provide the Tribes with adequate, timely and uniform notice of any and all cases in the Tribal Court that question tribal sovereignty and jurisdiction and in which the Tribes or any agency, officer or employee thereof is not a party.

1-1-202 Notice Required

(a) Party to Give Notice

Any party to litigation before the Tribal Court that questions tribal sovereignty or jurisdiction in any action or proceeding in the Tribal Court will give notice in writing to the Tribal Chairperson and Tribal Legal Department, of the action or proceeding. Notice required under this Code does not authorize a party to name the Tribes or any agencies, officers or employees thereof, as a party to any action or proceeding and shall not waive the immunity of the Tribes.

(b) Clerk to Inform Party of Notice Requirement

The Clerk of the Tribal Court will inform all parties in writing of the notice required under this Code.

1-1-203 Manner and Timing of Notice

(a) Advance Notice

Notice to the Tribes required under this Code will be made not less than thirty (30) days before tribal sovereignty or jurisdiction is questioned in any action or proceeding.

(b) Notice by Certified Mail

Notice by a party required to give notice under this Code will be made by certified mail.

(c) Proof of Notice Filed with the Court

Any party required to give notice under this Code will simultaneously file proof with the Tribal Court that notice has been given as required by this Code.

1-1-204 Tribal Participation Following Notice

(a) Intervention

Upon timely motion or application, the Tribes may intervene as a matter of right in any action or proceeding in the Tribal Court that questions tribal sovereignty or jurisdiction. Upon intervening under this Code, the Tribes may assert any and all available claims and defenses and may present any and all admissible evidence relating to the question of its sovereignty or jurisdiction, and is entitled to the same relief, including costs, as if the Tribes had instituted a separate action or proceeding; provided that, the Tribes will not be required to pay costs in any action or proceeding in which it has intervened under this Code. Intervention under this Code does not limit or otherwise affect the right of the Tribes to maintain or otherwise intervene in actions or proceedings in the Tribal Court.

(b) Amicus Curiae

Upon timely motion or application, the Tribes may appear as amicus curiae (friend of the court) in any action or proceeding that questions tribal sovereignty or jurisdiction.

(c) No Participation

The Tribes may determine that it is the best interest of the Tribes not to intervene, appear as amicus curiae, or otherwise participate in an action or proceeding in the Tribal Court that questions tribal sovereignty or jurisdiction.

1-1-205 Failure to Give Notice

(a) Failure to Give Notice Not Jurisdictional or Waiver of Rights

The failure of a party to give notice as required by this Code does not deprive the Court of jurisdiction and is not a waiver of any rights otherwise timely asserted. Any notice given under this law is not a substitute for, or a waiver of, any other pleading requirement under tribal law.

(b) Late Notice

If the Court or a party discovers that notice to the Tribes under this law should have been but has not been given, the Court or party will notify promptly, give notice in writing, to the Tribes as required by this Code. The Court may stay the action or proceeding at any stage to allow compliance with this Code. If final judgment has already been entered, the Tribes may motion or apply for rehearing as of right and the Court will entertain promptly any motions or applications for rehearing by the Tribes.

(c) Civil Sanctions

The Court on its own motion or on motion of the Tribes may impose civil sanctions on any party for failure to give notice as required by this Code, and may use other reasonable means to cure any significant harm caused by failure to give notice as required by this Code.

APPENDIX A

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

TRIBAL COURT

LEGISLATIVE HISTORY AND EDITORIAL CHANGES

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the "Rules of Court" section 1-1-100, Resolution 04-066, Ordinance No. 057, in a Business Tribal Council meeting on August 30, 2004.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians approved the addition of "Rules of Court" section 1-1-100, Resolution 04-032, Ordinance No. 057, in a regular Tribal Council meeting on May 16, 2004. Vote was 7 (for), 0 (against) and 0 (pending). **Note.** Notice-Proceedings Raising Tribal Jurisdiction or Sovereignty was renumbered 1-1-200.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians amended section 1-1-70, "Juries and Witnesses", Resolution No. 03-008, Ordinance No. 028, in a regular Tribal Council meeting on February 9, 2003. Vote was 5 (for), 0 (against) and 0 (abstaining).

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted 1-1-100, "Notice-Proceedings Raising Tribal Jurisdiction or Sovereignty" ordinance, Resolution No. 02-038, Ordinance No. 45, in a regular Tribal Council meeting on April 14, 2002. Vote was 7 (for), 0 (against) and 0 (abstaining). Starting with Chapter 1-1-100, this Ordinance became part of Chapter 1-1 - Tribal Court Ordinance.

The Tribal Council of the Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians enacted the Establishment and Jurisdiction of the "Tribal Court", Resolution No. 01-075, Ordinance No. 028, at a Special Council Meeting on September 24, 2001. Vote was 6 (for), 0 (against) and 0 (abstaining).

The Civil Actions, Limitations and Liability Code (2-2) was attached to the Tribal Court Code and also passed with the same Resolution No. 01-075 and Ordinance No. 028.