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**IN THE TRIBAL DISTRICT COURT
FOR THE KICKAPOO TRIBE IN KANSAS
KICKAPOO RESERVATION, HORTON, KANSAS**

By _____
Court Clerk

RULES OF THE KICKAPOO DISTRICT COURT 2015

SECTION 1: GENERAL RULES OF COURT

COURT RULE 2013-1.1 For the effective use and function of the courtroom, all parties are required follow certain rules and etiquette. Failure to follow these requirements may result direct contempt or removal from the courthouse. Compliance with all Rules of the Kickapoo District Court shall be mandatory.

COURT RULE 2013-1.2 In all cases, conflict between these rules and the Kickapoo Nation Tribal Code will be resolved in favor of the Kickapoo Nation Tribal Code.

COURT RULE 2013-1.3 The Judge may waive these rules in any criminal or civil case when the administration of justice so requires

COURT RULE 2013-1.4 The bar of the Kickapoo Tribe in Kansas shall be made up of attorneys and advocates who have taken the Kickapoo oath and paid their dues. Attorneys must be licensed and in good standing in a state jurisdiction. Advocates must be a member of the Kickapoo Tribe in Kansas and be either (1) a graduate of a recognized school of paralegal studies; or (2) have practiced in front of the Kickapoo Court prior to these orders, and be a member of the Kickapoo bar. All advocates are required to understand the tribal code and the rules of the District

Court, and follow those rules properly. A person may represent themselves without joining the bar. However, persons representing him or herself are responsible for knowing the law and the Rules of the District Court, and will be held responsible for their legal advocacy or tactical decisions.

COURT RULE 2013-1.5 The tribal court shall grant full faith and credit to the decisions and orders of federal, state and tribal courts provided said decisions and orders do not conflict with accepted Kickapoo law. The tribal court shall grant comity to decisions or orders when it is appropriate to do so.

COURT RULE 2013-1.6 These rules shall be known as the *Rules of the Kickapoo District Court*. They may be cited at KRDC Rule 2013-X.X.

SECTION 2: RULES OF SAFETY AND PROTECTION

COURT RULE 2013-2.1. The Kickapoo Tribal Chief of Police, or their designated officer, is appointed as bailiff of the District Court of the Kickapoo Nation in Kansas, pursuant to Title 9, Section 405, of the Kickapoo Nation Code of Laws. Pursuant to this rule, the said Chief of Police or his officer designate is required to be present at and during each session of Court to act as the court officer in the matter of keeping order and custody of prisoners while in the Court.

COURT RULE 2013-2.2 No guns, bladed weapons, clubs, electrical weapons or chemical weapons shall be permitted in the courthouse at any time. Any person in possession of such weapons will be held in contempt and removed from the courtroom. Said person will be charged criminally either tribally or in Federal court and will be required to post bond, should such tribal charges be filed. Regardless of whether criminal charges are filed, the weapons will be forfeited and destroyed.

Said rule does not apply to tribal police officers or other officers of the court who are legally authorized to carry weapons.

COURT RULE 2013-2.3 Any person entering the courthouse is subject to a search of their person or possessions in the discretion of the court or any officer or bailiff for the security of court personnel or others in the courthouse. Should illegal or illicit evidence be discovered within the context of the security search, the evidence may be used against the individual.

COURT RULE 2013- 2.4 All persons who are within the custody of the tribe shall be in restraints while in the courthouse and courtroom, and shall be separated from the general public at all times. An officer of the Kickapoo Tribal Police shall be with persons in custody at all times.

SECTION 3: RULES OF COURT HOUSE DECORUM

COURT RULE 2013-3.1 When the judge enters the courtroom, the bailiff will instruct all parties to rise. All persons are to remain standing until the judge is seated or unless so instructed by the Court. When the judge or jury leaves the courtroom, all parties will rise and remain standing until they depart. Should the judge be in the court prior to the hearing time, parties may enter quietly; no standing will be required when court is called.

COURT RULE 2013-3.2 Witnesses will be seated in the witness box and will swear an oath of honesty and truthfulness under a penalty of perjury. Should the witness wish to swear honesty specifically to a deity, an appropriate oath shall be given.

COURT RULE 2013-3.3 When a witness is in the witness box, attorneys or advocates shall not approach them unless permitted to do so by the court.

COURT RULE 2013-3.4 Parties before the court shall be polite and considerate of others. Parties shall address each other formally, and say "sir" or "ma'am" to attorneys and the court.

COURT RULE 2013-3.5 Profanity is never permitted. It is contempt of court, punishable by fine or jail, to use profane or obscene language during the court hearing, unless testimony requires specific descriptions.

COURT RULE 2013- 3.6 Persons before the court should dress appropriately. Inappropriate attire, in extreme cases, will be ground for removal from court.

COURT RULE 2013-3.7 Children should not be at court unless they are part of the proceeding. Witnesses, Petitioners, Defendants, or Respondents should make appropriate child care arrangements before court day.

COURT RULE 2013-3.8 Court will begin at scheduled docket times. All parties on the docket are required to be present at that time. Failure to be in the courtroom at the time the docket is called may result in contempt of court, in the dismissal of a case, or in a warrant for the person's arrest. The Court may continue the case to the end of the docket in the interests of justice; however, this is discretionary and not required. Attorneys who fail to appear on scheduled dockets without prior notice to the court clerk's office may be subjected to bar action.

COURT RULE 2013-3.9 Attorneys are permitted to have drinks or coffee at the bar. Other parties are not permitted to do so, unless needed for medical conditions. No food or drink is permitted in the courtroom; any violation of this rule may result in expulsion from the courtroom or contempt of court.

COURT RULE 2013-3.10 Counsel should make arguments or objections from the podium or their seat. Counsel shall not approach the bench or witnesses without prior approval of the Court.

COURT RULE 2013-3.11 No person in the courtroom may be under the influence of alcohol or drugs. Any person in the courtroom may be subjected to a drug test should the court deem it necessary, and anyone found to be under the influence of drugs or alcohol may be held in contempt of court. However, the result of said drug

or alcohol testing will not be used in criminal proceedings against the individual, unless a separate and valid ground to do so is found.

COURT RULE 2013-3.12 Any party to any litigation who approaches any member of the Tribal Counsel in an attempt to subvert the will of the Court may be held in contempt or, in the discretion of the prosecutor, charged with tribal criminal offenses therein.

COURT RULE 2013-3.13 Any public official who attempts to subvert the authority of the Court shall be subject to criminal investigation by the Tribal Prosecutor.

COURT RULE 2013-3.14 Parties must be present for all hearings. Telephonic appearances are not allowed except under extraordinary circumstances.

COURT RULE 2013-3.15 Except for official court recordings, no recording device, camera, or video equipment is permitted in the Courthouse without approval of the judge.

COURT RULE 2013-3.16 Communication with the judge regarding scheduling and procedural matters is permitted. A lawyer shall have no ex parte communication on the substance of a pending case with the chief judge. However, a lawyer acting as a Guardian Ad Litem for a child may disclose his or her opinion to the Judge as to the substance of the case.

COURT RULE 2013-3.17 Oral agreements between attorneys will be valid and enforceable in court; however, in the event of dispute, the court may recognize the undisputed portion of the agreement, some of it, or none of it, as discretion requires.

COURT RULE 2013-3.18 Phones are to be turned off or silenced. Should phone disturb the dignity and decorum of the court, the court may confiscate it until court is concluded, and may subject the owner to contempt.

SECTION 4: RULES OF PROCEDURE AND PROCESS

COURT RULE 2013- 4.1 Fees must be paid before any case is filed. Should the party seek to proceed in forma pauperis, the case will be provisionally filed until the court hears the specific needs of the motion to proceed without fees.

COURT RULE 2013- 4.2 A party seeking relief before the court must inform the court of any cases in other jurisdictions dealings with the same parties and issues.

COURT RULE 2013- 4.3 Fees for specific actions, such as jury trials, will not be waived except under extraordinary circumstances.

COURT RULE 2013- 4.4 All investigative reports prepared by Tribal Police or Social Services shall be forwarded to the Tribal Prosecutor within two business days of preparation thereof. Reports involving juveniles shall be forwarded to the Prosecutor as well as Kickapoo Social Services within two days of preparation.

COURT RULE 2013- 4.5 Reports from Kickapoo Nation Social Services involving juvenile cases shall be filed at least three days prior to the hearing, with copies disseminated to the parties, attorneys and guardians ad litem, at least two days prior to the hearing, if practical.

COURT RULE 2013- 4.6 In cases requiring findings of tribal common law, the Court will, after consent and assistance of the tribal general council, shall establish a panel of three to six tribal elders respected in the community for their knowledge of the tribe's culture and history.

COURT RULE 2013- 4.7 In all cases involving dissolution or marriage, separation, guardianship, or adoption, all Petitioners, Defendants or Respondents are ordered to furnish the Kickapoo Nation District Court with their current address, telephone numbers, email address, and the name and address their employer. The court may require further information, which shall be provided immediately. Unless otherwise ordered, child support, judgment or alimony judgment is to be paid in full upon order of the court. The parties shall advise the Kickapoo Nation District Court of any changes in information between the time of entry of the decree and payment of the judgment in full. Failure to comply with this requirement shall be punishable by contempt.

Should the court require Social Security Numbers from the parties, said numbers should be included in a separate pleading only to the court. **ALL DOCUMENTS THAT INCLUDE SOCIAL SECURITY NUMBERS MUST BE REDACTED PRIOR TO SERVICE ON OTHER PARTIES.**

COURT RULE 2013-4.8 In all contested hearings, the attorney for the party granted relief shall be responsible for the preparation of the final order. Said order is to be approved as to form and circulated for the party's signatures before being presented to the court for signature. Said order is to be presented no later than sixty days from the date of the court's minute granting relief.

The order is to be in standard form, with no specific language required. The order shall include findings of fact and conclusions of law, and shall state the order of the court in clear and concise language.

COURT RULE 2013-4.9 All motions seeking affirmative relief must have a brief or memorandum filed contemporaneously with the motion. Said brief should contain any citations to tribal law or code, and if citing other jurisdictions, should also explain why the court should accept the reference to other jurisdictions.

COURT RULE 2013- 4.10 Pretrial status conferences are to be scheduled approximately one month prior to trial. At least seven days prior to the conference, parties should file a jointly prepared form containing witness and exhibit lists, outstanding discovery requests, and any legal or factual issues to which the court must rule upon. At said conference, parties with the authority to make decisions must be present or available by phone, if necessary.

COURT RULE 2013- 4.11 Only natural persons may appear pro se.

COURT RULE 2013-4.12 No default judgment shall be ordered without affidavit or testimony demonstrating compliance with the Soldiers and Sailors Relief Act, 50 U.S.C. § 521.

COURT RULE 2013-4.13 In criminal cases, formal arraignment shall be set on the first available criminal court docket after charges are filed. The court will inquire as to whether the defendant has been given a copy of the complaint. The court will also ask if the defendant wishes to have the charges read aloud in open court, or if they waive that right. The court shall determine the tribal status of the defendant. The court shall read the defendant's rights under the KITC as well as the Indian Civil Rights Act out loud. The court will inquire as to whether the defendant desires an attorney, and if they are able to hire an attorney, or need a court-appointed attorney.

The court will enter a not guilty plea on the defendant's behalf if they request an attorney and set the matter for further hearing.

COURT RULE 2013-4.14 Jury instructions must be supported by the appropriate authority and served on opposing counsel at least five business days prior to the commencement of trial. Objections to an instruction must be filed at least two business days prior to trial.

COURT RULE 2013-4.15 Attorneys may not approach jurors after the trial unless permitted to do so by the court, and with the permission of the juror.

COURT RULE 2013-4.16 After conviction, the Court may ask for a pre-sentencing report from the Kickapoo Probation Office. Pre-sentencing reports from the Kickapoo Probation Office contains confidential information and will not be filed. Any document containing pre-sentencing recommendations will be filed under seal. A pre-sentencing report is to be distributed to the appropriate parties within 14 days of conviction.

COURT RULE 2013-4.17 In pleadings to be published or to be filed in public files, children's names should either be shortened to their initials or redacted to their first name.

COURT RULE 2013-4.18 When a Temporary Restraining Order is sought, the party seeking an ex-parte order must attach a verified affidavit that the opposing party was given adequate notice of the time and place of the hearing . No ex-parte

restraining order shall be given against the Kickapoo Tribe in Kansas in any situation.

COURT RULE 2013-4.19 Parties reaching a settlement in their case prior to the court date shall notify the court clerk's office of that settlement as soon as possible.

COURT RULE 2013-4.20 The Court may take judicial notice of known facts, including other court cases or decisions involving the parties before the court, without motion from any party.

COURT RULE 2013-4.21 Discovery materials are not to be filed in the court file, unless they are attached to a motion or response pleading. The answering party shall file a certificate of compliance with the court clerk after returning answers to the opposing party.

COURT RULE 2013-4.22 Per Capita funds held by the tribe for the benefit of minors are anticipatory, based upon the child reaching the age of majority. Requests for withdrawals from the child's anticipated per capita trust fund will not be honored by the court for any reason. These funds shall not be subject to alienation, attachment or garnishment by any person or party. [General Order 2003-06]

COURT RULE 2015-4.23 Attorneys seeking a continuance of a hearing shall notify all other parties of the need for a continuance as soon as practicable. Continuances shall be given freely by agreement and generally by the court.

All motions to continue shall be in writing and shall include a statement that opposing counsel was contacted, and whether or not counsel has an objection or

does not object to the continuance. Should the parties be unable to agree to the continuance, the Court will determine the basis for said continuance and set a further date and any future relief as needed. Failure to properly notice opposing counsel shall result in dismissal of the request for continuance.

SECTION 5: RULES OF CONDUCT FOR THE COURT CLERK'S OFFICE

COURT RULE 2013-5.1 The Court Clerk's Office will not give out orders or opinions over the telephone.

COURT RULE 2013-5.2 The Court Clerk's Office will not accept collect calls from any person or institution under any circumstances.

COURT RULE 2013-5.3 The Court Clerk's Office, as well as the Child Support and Enforcement Office, will have one administration day per month in which to prepare files and court records. During the administration day, the office will be closed to the general public.

COURT RULE 2013-5.4 The Court Clerk's Office will accept pleadings through email or facsimile machine. A file-stamped copy of said pleading will be returned via the same filing method to the filing party within 48 hours of reception. All email pleadings must be in a .PDF format and signed appropriately.

COURT RULE 2013-5.5 Any defendant posting bond individually, or by a person posting bond for a defendant, shall be entitled to a return of that bond upon presentation of the original receipt after closure of the case by sentence or dismissal. No order releasing the bond is required in these cases.

Prior to the disposition of the case, bond will be released only upon court order and after a hearing to establish a personal recognizance bond. Bonds posted by persons other than the defendant shall not be used for the payment of a

defendant's fines, costs, fees or restitution without that person appearing in court, being duly sworn, and testifying to their waiver of the bond funds for those purposes.

All persons requesting release or return of bond shall wait until normal bookkeeping procedures are followed. No person is entitled to an expedited return of bond.

COURT RULE 2013-5.6 The court clerk will convey these court rules to any attorney practicing within the Kickapoo Tribal Court upon their membership within the bar. New rules are to be conveyed to the attorneys of the Kickapoo Bar as soon as practical, either by email or post. An attorney is ultimately responsible for following the rules of this court, regardless of the court clerk's responsibility to convey those rules.

COURT RULE 2013-5.7 All pleadings will be on 11.5 by 8.5 white paper, either typewritten or, if handwritten, with all writing clearly legible and neatly prepared. Pleadings must include an original and at least two copies. File-stamped copies shall be served to all parties.

COURT RULE 2013-5.8 In addition to the filing fees established by the Kickapoo Tribe in Kansas, the Court Clerk will collect fees for service of all process. For certified mail, the fees will be \$10.00, with Petitioner responsible for providing a proper address. For personal service, the fees will be \$20.00, plus mileage in the

federal rate. Fees may be waived for good cause for tribal members. Fees may also be awarded by the court to the prevailing parties in civil matters.

In criminal matters, Defendants who are convicted after trial shall be taxed as costs for service of process on witnesses, plus mileage at the federal rate.

COURT RULE 2013-5.9 In addition to mandated fees in the Kickapoo Nation Tribal Code, any party seeking a jury trial shall be required to post a cash bond of \$500.00 for juror fees and costs. Said bond will be returned to the party after jury trial if the jury finds in their favor or if the case is dismissed. Should the jury not find in their favor, the bond will be used to reimburse the tribe for juror fees and court costs, with the remainder refunded to the party. The bond must be posted sixty days prior to the scheduled voir dire of jurors.

This bond will not be waived except under extraordinary circumstances. Should the bond not be posted, the request for jury trial will be considered waived and the matter will proceed as scheduled as a bench trial.

COURT RULE 2013-5.10 Subpoenas for witnesses at hearings or trials shall be given to the court clerk for service at least ten days prior to the hearing or trial. Failure to do so waives the effectiveness of the subpoena as to compelling the witness to appear.

COURT RULE 2013-5.11 All garnishment orders must be signed by the chief judge, rather than the court clerk. The orders must contain a clear and concise

statement of the basis of the debt, the interest charged, and whether or not the defendant appeared in court or stipulated to the debt.

COURT RULE 5.12 Once a year, on a date determined by the Court, a disposition docket shall be scheduled and held to take appropriate action on cases that have been filed but not acted upon. Notice of the Disposition Docket will be provided to all parties. If the parties fail to appear, the court may at its discretion dismiss the action with or without prejudice.

COURT RULE 2013-5.13 The Court clerk shall prepare a docket sheet no later than one business day before court containing the cases scheduled for hearing on that specific date.

COURT RULE 2013-5.14 Court files cannot be removed from the court clerk's office without specific approval of the judge.

COURT RULE 2013-5.15 Traffic Offenses that are arrestable in nature will have the following bond Schedule:

10 KNTC § 602: Driving While Suspended -	\$100.00 Cash Bond
10 KNTC §604: Reckless Driving-	\$175.00 Cash Bond
10 KNTC §605: Driving While Intoxicated-	\$250.00 Cash Bond
10 KNTC §606: Duties of a Driver Leaving the Scene of an Accident involving Death or Injury-	\$250.00 Cash Bond
6 KNTC §31: Eluding a Police Officer-	\$250.00 Cash Bond
6 KNTC §106: Transporting an Open Container -	\$60.00 Cash Bond
6 KNTC §192: No Driver's License-	\$50.00 Cash Bond

6 KNTC §198: Illegal Tag- \$100.00 Cash Bond

6 KNTC §200: No Insurance Verification: \$100.00 Cash Bond

(amended to Rules on November 18, 2013)

**THESE RULES ORDERED AND CREATED UNDER THE AUTHORITY OF
THE TRIBAL COURT OF THE KICKAPOO TRIBE IN KANSAS, 9 KNTC §106 (a),
CHIEF JUDGE C. STEVEN HAGER, PRESIDING, ON 23rd DAY OF MARCH, 2015.**



C. STEVEN HAGER
CHIEF JUDGE OF THE KICKAPOO
TRIBAL DISTRICT COURT