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TITLE 9 COURTS

Section 1. Authorization

There is hereby established, ordained and activated, pursuant to the Constitution of the Tribe, the Judicial Branch of the government of the Tribe with a Lower Court known as the District Court and an upper Court known as the Supreme Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 2. Definitions

The following words have the meanings given below when used in this title, unless a different meaning is obvious from the context:

- (a) "Clerk" shall mean the Clerk of the Court.
- (b) "Code" shall mean the Statutory Laws of the Tribe.
- (c) "Constitution" shall mean the Constitution of the Tribe.
- (d) "District Court" shall mean the lower or general trial Court operating within the jurisdiction of the Tribe.
- (e) "He," "him," and "his," shall mean the masculine, feminine and neuter forms as appropriate unless a particular masculine, feminine or neuter form is a necessary for the phrase to have meaning.
- (f) "Jurisdiction," shall mean the Indian Country within the territorial jurisdiction of the Tribe.
- (g) "Supreme Court" shall mean the Court of last resort to which appeals may be taken from the District Court. The judicial decisions of the Supreme Court are final and are not subject to further appeal.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 3. Territorial Jurisdiction

The Territorial Jurisdiction of the Courts shall extend to all territory as defined in Article I of the Constitution and to all territory described as Indian Country within the meaning of Section 1152 of Title 18 of the United States Code over which the Tribe has authority, including tribal or individual, trust, non-trust and restricted land, and including all land owned by tribal agencies in their own name, all waters, mineral and wildlife, and any other such land, or interest in land, which may be subsequently acquired by virtue of Executive Order, a declaration or regulation of the United States Department of Interior, a declaration or order of a Court of competent jurisdiction, by purchase, gift, relinquishment, or by any other lawful means.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 4. Civil Jurisdiction

The Courts shall have general civil jurisdiction over all civil actions arising under the Constitution, laws or treaties of the Tribe including the tribal common law, over all general civil claims which arise within the Tribal jurisdiction, and over all transitory claims in which the defendant may be served within the tribal jurisdiction. Personal jurisdiction shall exist over all defendants served within the territorial jurisdiction of the Court or served anywhere in cases arising within the territorial jurisdiction of the Tribe, and over all persons consenting to such jurisdiction. The act of entry within the territorial jurisdiction of the court shall be considered consent to the jurisdiction of the court with respect to any civil action arising out of such entry. The act of entry upon the territorial jurisdiction by an extraterritorial seller, merchant or their agent(s) shall be considered consent by the seller or merchant to the jurisdiction of this Court for any dispute arising out of any sale or commercial transaction regardless of where the sale or transaction was entered into or took place.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 5. Criminal Jurisdiction

The Courts shall have original jurisdiction over all criminal offenses enumerated and defined in any ordinance adopted by the Tribe insofar as not prohibited by federal law.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 6. Probate Jurisdiction

To the extent permitted by federal law the Courts shall have probate jurisdiction over all of the real and personal property located within the jurisdiction of the Court at the time of death, and the personal property, wherever located, of any person who is domiciled within the

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boundaries of the jurisdiction of the Court at the time of death.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 7. Juvenile Jurisdiction

The Juvenile Division of the District Court shall have exclusive original jurisdiction in all proceedings and matters affecting dependent or neglected children, children in need of supervision, or children under the age of eighteen (18) accused of crime, when such children are found within the jurisdiction of the court, or when jurisdiction is transferred to the court pursuant to law. The Supreme Court shall hear appeals in juvenile cases as in other civil actions.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 8. Law to be Applied

The Courts shall apply the Tribal Constitution and the provisions of all statutory law heretofore or hereafter adopted by the Tribe. In matters not covered by Tribal Statute, the court shall apply traditional tribal customs and usages, which shall be called Common Law. When in doubt as to the Tribal Common Law, the court may request the advice of counselors and tribal elders familiar with them. In any dispute not covered by the Tribal Constitution, Tribal Statute, or Tribal Common Law, the Court may apply any laws of the United States or any State which would be cognizable in the courts of general jurisdiction therein, and any regulation of the Department of Interior which may be of general or specific applicability. Upon this Code becoming effective, neither Part 11 of Title 25 of the code of Federal Regulations, except those sections thereof which are effective when the Tribe receives certain funding from the Bureau of Indian Affairs, nor State law shall be binding upon the Court unless specifically incorporated into tribal law by Tribal Statute or be a decision of the Tribal Courts adopting some federal or state law as Tribal Common Law.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 9. Amendments

The Tribal Legislative Body shall have the authority to alter, amend or repeal any provision of this title or to add new sections to this Title in its discretion.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER ONE: DISTRICT COURT

Section 101. Judges of the District Court

The District Court shall consist of the chief Judge and such District Judges, Special Judges and Magistrates as may be appointed according to law.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 102. Minimum Qualifications of Judge of the District Court

A Judge shall:

- (a) Be either:
 - (1) An enrolled member of the Tribe, or
 - (2) The parent, child or spouse of an enrolled member of the Tribe, or
 - (3) Actually domiciled within the territorial jurisdiction of the Tribe, or
 - (4) An attorney, or
 - (5) A lay advocate who has regularly practiced before the Court as a member of the Board of the Court for a period of five (5) years, or
 - (6) An Indian graduate of an American Bar Association approved law School, or a Paralegal program approved by the Supreme Court; and
- (b) Have demonstrated moral integrity and fairness in his business, public and private life.
- (c) Have never been convicted of a felony or an offense punishable by banishment, whether or not actually imprisoned or banished, and have not been convicted of any offense, except traffic offenses, for a period of two (2) years next preceding his appointment. The two-year period shall begin to run from the date the person was unconditionally released from supervision of any sort as a result of a conviction.
- (d) Have regularly abstained from the excessive use of alcohol and any use whatsoever of illegal drugs or psychotoxic chemical solvents.

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(e) Be not less than twenty-five (25) years of age.

(f) Not be a member of the Tribal legislative Body or the holder of any other elective Tribal office of this Tribe, provided, that a candidate who is a member of the Tribal Legislative Body, or the holder of some other elective Tribal Office, may be confirmed as a Judge subject to his resignation. Upon resignation from his office, he may be sworn in as and assume the duties of judicial office.

(g) If less than fifty (50) years of age, have completed at least thirty (30) semester credit hours at an accredited college or university, or at least two (2) years of previous experiences as a Judicial officer for some recognized Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 103. Manner of Selection of Justices and Judges

Justices and Judges of the Tribe shall be nominated by the Chief Executive Officer and confirmed by the Tribal Legislative body upon a vacancy occurring in a judicial office in the following manner:

(a) Within thirty (30) days after a vacancy occurs, the Chief Executive Officer shall cause a notice of the vacancy stating the minimum qualifications, salary and any other pertinent information to be published once in the Tribal newspaper and once each week for two (2) consecutive weeks in a newspaper of general circulation in the tribal jurisdiction. Copies of the notice shall be posted at the Tribal Office, the nearest Agency of the Bureau of Indian Affairs, the Tribal Housing authority office, and such other places as the Chief Executive officer shall direct. The notice shall direct that inquiries, nominations and applications be directed to the Tribal Secretary who shall keep a permanent record of responses to such notices.

(b) No sooner than twenty (20), nor more than thirty (30) days after the date on which last required notice was published or posted, the Secretary shall deliver the names and files of all persons nominated or applying for the Judicial Office to the Chief Executive Officer, who shall select no more than three qualified candidates for each vacant Judicial office and place consideration of the candidate(s) he nominates on the agenda of the next regular or special meeting of the Tribal Legislative Body.

(c) The Tribal Legislative Body shall review the qualifications of the nominees, and may interview nominees at their meetings at their discretion. In making a selection, the Tribal Legislative Body shall give preference to those candidates who:

(1) Have more formal education and experience in the legal field.

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(2) By written examination conducted by the Supreme court or by interview have shown that they are familiar with the Constitution, Code and Common Laws of the Tribe.

(3) Have demonstrated decision making ability.

(d) If the nominee for the Judicial office is confirmed by the Tribal Legislative Body, the nominee shall be sworn into office by the Chief Justice, or the next ranking available Justice of the Supreme Court.

(e) If the nominee(s) is not confirmed, the Chief Executive Officer shall either republish the notice and establish a new list of eligible candidates, or he may reconsider the candidates on the list gathered from the previous notice. The Chief Executive Officer nomination-Legislative confirmation process shall continue until some nominee be confirmed.

(f) Upon the expiration of a judicial term of office, the Judicial Officer is entitled upon request, filed with the Secretary not less than sixty (60) days prior to the expiration of his term, to be considered for confirmation to a new term at the next meeting of the Tribal Legislative Body at which a quorum is present. If the Legislature, a quorum being present, does not confirm the outgoing officer, they shall so declare and direct the Chief Executive Officer to begin the selection process. The outgoing judicial officer's term shall expire upon confirmation of the new Justice of Judge.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 104. Term of Office

All Judges of the District Court shall serve six (6) year terms of office beginning from the date of their confirmation and until their successors take office, unless removed for cause, or by death or resignation.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 105 Oath of Office

Before assuming office, each Judge, Special Judge and Magistrate shall take an oath to support and protect the Constitution of the Tribe and to administer justice in all causes coming before him with integrity and fairness, without regard to the persons before him to be administered by the Chief Justice or the next ranking available Justice of the Supreme Court as soon after confirmation as may be practical.

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[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 106 Duties and Powers of Judges

All Judges of the District Court, and Special Judges in cases within their authority, shall have the duty and power to conduct all court proceedings and issue all orders and papers incident thereto, in order to administer justice in all matters within the jurisdiction of the Court. In doing so, the Court shall:

(a) Be responsible for creating and maintaining rules of the Court, not in conflict with the Tribal Code or the Rules of the Supreme Court regulating conduct in the District Court, for the orderly and efficient administration of justice. Such rules must be filed in the office of the Tribal Secretary and the District Court Clerk before becoming effective.

(b) Hold Court regularly at a designated time and place.

(c) Have the power to administer oaths, conduct hearings and otherwise undertake all duties and exercise all authority of a judicial officer under the law.

(d) Hear and decide all cases properly brought before the Court.

(e) Enter all appropriate orders and judgments.

(f) Issue all appropriate warrants and subpoenas.

(g) Keep all court and other records as may be required.

(h) Perform the duties of the Clerk in his absence.

(i) Subject to the confirmation of the Supreme Court, to appoint such Magistrates as may be necessary for the convenient functioning of the Court. These Magistrates shall have the authority to issue arrest and search warrants, search warrants for the protection of children, emergency custody orders in children's cases, temporary commitments of persons accused of offenses, to conduct arraignments in criminal or juvenile delinquency cases, and to act on such ex parte, summary, or other matters as may be determined by Rule of the Supreme Court. Magistrates shall meet the minimum qualifications for Judges of the District Court except that Section 102 (a) and (g) shall not apply.

(j) Unless a coroner is appointed in accordance with the provisions of the Tribal Code, and Judge designated by the Chief provisions of the Tribal Code, any Judge designated by the Chief Judge shall have the authority to perform the duties of a coroner.

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[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 107. Trial Panel

In any case to be tried by a Trial Panel, the Chief Judge shall assign by random lot at least three Judges to try the case, one of whom shall be designated as the Presiding Judge. The Presiding Judge assigned to the case shall have the duty before, during and after trial of making procedural and evidentiary rulings on issues raised by the case, after conferring with the other assigned Judges when he feels it necessary to do so. All assigned Judges shall have an equal vote on the merits of each case. The panel's deliberations on the merits shall be held in strict privacy and no one shall disclose anything said during the deliberation. A majority of the assigned Judges may take action on the merits of any matter, but no one shall reveal the vote of any of the Judges on the panel or the final numerical vote of the panel, the decision should simply reflect that it is the decision of the Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 108 Special Appointments

Whenever, due to vacancies in office, disqualification of Judges, or the cause, a trial panel cannot be convened from the available Judges, or an additional Judicial Officer is needed to efficiently dispense with the business of the District Court, due to vacancies in office, disqualification of Judges, or other cause, the Supreme Court may designate by Court Order one or more duly qualified Magistrates or Justices to set on the trial panel, or may make one or more special appointments from among the members of the Bar of the Court to act as a Special Judge to hear specific named cases, or cases filed prior to the date a trial panel of regular Judges can be convened, the vacancy is filled, or the Special Judge is no longer needed. No special procedure need be followed in making such appointments and such Special Judges need not meet the qualification of Section 102 (a) or (g) of this Title. Whenever a Justice of the Supreme Court sits on the trial panel, that Justice may not participate in any appeal of the case to the Supreme Court. Special Judges may be compensated from the Court fund in such reasonable amounts as the Supreme Court shall order.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 109. Compensation of Judges

(a) The compensation of all Judges of the District Court shall be set by appropriate legislation of the Tribal Legislative Body. No Judge shall have his compensation reduced during his term of office, except that if funds be unavailable for appropriation, the compensation of all judicial officers may be reduced proportionally to the availability of funds.

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(b) Nothing in this section shall prohibit the Tribal Legislature from contracting or agreeing with the Bureau of Indian Affairs or any other government, agency or organization that such government, agency, or organization shall provide all or part of the compensation of a Judge or Magistrate of the District Court, and shall in return have control over the compensation of such Judges or Magistrate. In such situations the Tribal Legislative Body shall recommend to the funding party the compensation of District Judges and Magistrates.

(c) Subsection (a) of this section shall not apply to Magistrates. The compensation of all Magistrates shall be set by order of the Supreme Court from available appropriated funds, or from funds made available pursuant to an agreement entered into according to Subsection (b) of this section.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 110. Removal of Judges

(a) The Judges of the District Court shall be removed only for cause by the Tribal Legislative Body upon the recommendation of the Supreme Court. Neither the Supreme Court, nor the Tribal Legislative Body, may remove a Judge of the District Court independently, but the Supreme Court must first recommend the removal., and the Tribal legislative Body must then concur. The term “cause” shall include any reason sufficient for disbarment of an attorney from the Bar of the Supreme Court, or a violation of the Canons of Judicial Ethics promulgated by the American Bar Association.

(b) Magistrates shall serve at the pleasure of the District Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 111. Disqualifications, Conflict of Interest

(a) No Judge shall hear any case when he has a direct financial, personal or other interest in the outcome of such case or is related by blood or marriage to one or both of the parties as: husband, wife, son, daughter, father, mother, brother, sister, grandfather, grandmother or any other legal dependent. A Judge should attempt to prevent even the appearance of partiality or impropriety.

(b) Either party of interest in such case, or the Judge, may raise the question of conflict of interest. Upon decision by the Judge concerned or the Supreme Court that disqualification is appropriate, another Judge shall be assigned to hear the matter before the Court.

(c) Any Judge otherwise disqualified because he is related to one or more of the parties in

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one of the relationships enumerated in subsection (a) of this section, may hear a case if all parties are informed of the blood or marriage relationship on the record in open Court and of their right to have a different Judge hear the case, and consent to further action by that Judge in the case in open Court upon the record, or in a writing filed in the record, in spite of the conflict of interest.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 112. Decisions

(a) Each decision of the District Court at trial shall be recorded on a form approved by the Supreme Court for such purpose, or embodied in written findings of fact and conclusions of law containing all the information required by the approved form. The form shall provide for recording the date of the decision, the case number, the names of all parties, the substance of the complaint, the relevant facts found by the Court to be true, the Court's decision, and the conclusions of law supporting the Court's decision.

(b) In case tried to a Judicial Panel, the presiding Judge shall sign such form or decision indicating that the decision is the true decision of a majority of the trial panel on the case whether or not the presiding Judge agreed with that decision.

(c) The decision form or the written findings of fact and conclusions of law shall be placed in the case file as an official document of the case.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 113. Records

The District Court shall be a Court of Record. To preserve such records:

(a) In all court proceedings, the Court Reporter, which may be the Clerk in the absence of an official Court Reporter, shall record the proceedings of the Court by electronic or stenographic means. The recording shall be identified by case number and kept for five (5) years for use in appeals or collateral proceedings in which the events of the hearing are in issue. At the close of each hearing, or as otherwise specified, the Reporter shall cause a transcript to be made of the recording upon the request of any party or the Court as a permanent part of the case record. Court Reporters may be licensed by the Supreme Court, and shall be allowed such fees from the parties for their services as shall be set by rule of the Supreme Court.

(b) To preserve the integrity of the electronic record, the reporter shall store the recording in a safe place and release it only to the relevant Court or pursuant to an Order of a Tribal Judge or Justice.

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(c) The Clerk shall keep in a file bearing the case name and number every written document filed in the case.

(d) All court records shall be public records except as otherwise provided by law.

(e) After five (5) years, court records except judgments, appearance, and other dockets may be reproduced on computer tape or disk, microfilm or microfiche or similar space saving record keeping methods, provided, that at least one (1) hard copy, including microfilm or microfiche, of electronically stored data shall be kept at all times.

(f) The Supreme Court shall provide for the publication in books or similar reporters of all of its decisions and opinions in bases before it, and the opinions and decisions of the District Court which would be useful to the Bar of the Court and the public.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 114. Files

(a) Except as otherwise provided by law, such as in juvenile cases, court files on a particular case are generally open to the public. Any person may inspect the records of a case and obtain copies of documents contained therein during normal business hours.

(b) Any persons desiring to inspect the records of a case or obtain copies thereof may inspect such files only during the ordinary working hours of the Clerk, or a Judge, and in their presence to insure the integrity of Court records. Under no circumstances shall anyone, except a Judge or a licensed advocate, attorney or the Clerk taking a file to a Judge in his chambers of a courtroom, take a file from the Clerk's office.

(c) A copy of any document contained in such a file may be obtained from the Clerk by any person for a reasonable copy fee, to be set by rule of the Supreme Court. The Clerk is hereby authorized to certify under the seal of his office that such copies are accurate reproductions of those documents on file in his office. The Supreme Court by rule may provide for such certification.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 115. Motion Day

Unless conditions make it impractical, the District Court shall establish regular times and places, at intervals sufficiently frequent for the prompt dispatch of business, at which motions requiring notice and hearing may be heard and disposed of; but the Judge, at any time or place, and on such notice, if any, as he considers reasonable, may make orders for the advancement, conduct

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and hearing of actions, or, the Court may make provisions by rule or order for the submission and determination of motions without oral hearing upon brief written statements of reasons in support and opposition.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 116-119. Reserved

Section 120. Practice Before the Tribal Court

(a) No person shall be denied the right to have a member of the Bar of the Court represent him and present his case before the Courts.

(b) The Supreme Court, after conferring with the District Court, shall make rules which shall govern who may practice before the District court and the Supreme Court. Such rules shall be filed in the office of the Tribal Secretary. Such rules shall be filed in the office of the Tribal Secretary and the office of the Clerk of the Supreme and District Courts.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER TWO: SUPREME COURT

Section 201. General Provisions

The Supreme Court may hear appeals resulting from all final orders or judgments rendered by the District Court, appeals of other orders of the District Court subject to interlocutory appeal by law, and such original actions as may be provided by tribal law, and shall render its decisions in writing to the parties of interest, file a copy thereof in the Supreme Court Clerk's office and the Tribal Secretary's office, and, at the time of filing, submit a copy to the official reporter of the decisions of the Court. The decision of the Supreme Court shall be final and binding upon the parties.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 202. Composition of the Supreme Court

The Supreme Court shall consist of one (1) Chief Justice and four (4) Associate Justices.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 203. Minimum Qualifications of Justices

To be eligible for selection or confirmation as a Justice of the Supreme Court, a person shall:

(a) Be either:

- (1) An enrolled member of the Tribe, or
- (2) The parent, child or spouse of an enrolled member of the Tribe, or
- (3) Actually domiciled within the territorial jurisdiction of the Tribe, or
- (4) An attorney, or
- (5) A lay advocate who has regularly practiced before the Court as a member of the Bar of the Court for a period of seven (7) years, or
- (6) An Indian graduate of an American Bar Association approved law school, or a paralegal program approved by the Supreme Court; and

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(b) Have demonstrated moral integrity and fairness in his business, public and private life, and

(c) Have never been convicted of a felony or an offense punishable by banishment or involving moral turpitude, whether or not actually imprisoned or banished, and have not been convicted of any offense, except traffic offenses, for a period of five (5) years next preceding his appointment. The five-year period shall begin to run from the date the person was unconditionally released from supervision of any sort as a result of a conviction.

(d) Have regularly abstained from the excessive use of alcohol and any use whatsoever of illegal drugs or psychotoxic chemical solvents.

(e) Be not less than thirty (30) years of age.

(f) Not be a member of the tribal Legislative Body, or the holder of any other elective Tribal Legislative Body, or the holder of any other elective tribal Office of this Tribe, provided, that a candidate who is a member of the tribal legislative Body, or the holder of some other elective Tribal office, may be confirmed as a Justice subject to his resignation. Upon resignation from his office, he may be sworn in as and assume the duties of judicial office.

(g) If less than fifty (50) years of age, have completed at least sixty (60) semester credit hours at an accredited college or university, or at least four (4) years of previous experience as a Judicial Officer for some recognized Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 204. Selection of Justices

Justices shall be selected in accordance with the provisions of Section 103 of this Title.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 205. Term of Office

All Justices of the Supreme Court shall serve eight (8) year terms of office beginning from the date of their confirmation and until their successors take office, unless removed for cause, or by death or resignation. The first appointments of Justices hereunder shall be for terms which may vary in order to provide for staggered terms of office.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

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Section 206. Oath of Office

Before assuming office, each Justice shall take an oath to support and protect the Constitution of the Tribe and to administer justice in all causes coming before him with integrity and fairness, without regard to the persons before him to be administered by the Chief Justice, the Chief Executive Officer, or the ranking available Justice of the Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 207. Duties and Powers of Justices

All Justices of the Supreme Court, unless disqualified for conflict of interest of other cause, shall participate in the deliberations of that body and shall have the duty and power to conduct all Court proceedings, and issue all orders and papers incident thereto, in order to administer justice in all matters within the jurisdiction of the Supreme Court. In doing so, the Supreme Court shall:

(a) Be responsible for creating and maintaining rules of the Court, not contrary to the Tribal Constitution or Code, regulating conduct in the Supreme and District Courts to provide for the orderly and efficient administration of justice and the administration of the Courts. Such rules shall determine, where not otherwise provided by law, what actions may be taken by a single Justice of the Court, and shall be filed with the Clerk of the court and the Tribal Secretary.

(b) Hear appeals from the District Court at a designated time and place.

(c) Enter all appropriate orders and judgments.

(d) Keep all appropriate records as may be required.

(e) Perform any and all other duties as may be required for the operation of the Supreme Court and the District Court.

(f) Supervise the actions of the District Court and all clerks, reporters, bailiffs and other officers of the Courts.

(g) Perform any of the duties and powers of a District Judge in appropriate cases.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 208. Reserved

Section 209. Compensation of Justices

(a) The compensation of all Justices of the Supreme Court shall be set by legislation of the Tribal Legislative Body. No Justice shall have his compensation reduced during his term of office, except that if funds be unavailable for appropriation, the compensation of all judicial officers may be reduced proportionally to the availability of funds.

(b) Nothing in this section shall prohibit the Tribal Legislature from contracting or agreeing with the Bureau of Indian Affairs or any other government, agency or organization that such government, agency, or organization shall provide all or part of the compensation of a Justice of the Supreme Court, and shall in return have control over the compensation of such Justice. In such situations the Tribal Legislative Body shall recommend to the funding party the compensation of Supreme Court Justices.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 210. Removal of Justices

Justices of the Supreme Court may not be removed from office except upon final conviction of a felony, or an offense punishable by banishment, or an offense involving moral turpitude, in which case the Supreme Court shall enter its order disbaring and expelling such Justice from the Court and declaring that judicial office vacant.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 211. Disqualifications, Conflict of Interest

(a) No Justice shall hear any case when he has a direct financial, personal or other interest in the outcome of such case or is related by blood or marriage to one or both of the parties as: husband, wife, son, daughter, father, mother, brother, sister, grandfather, grandmother, or any other legal dependent. A Justice should attempt to prevent even the appearance of partiality or impropriety.

(b) Either party is interest in such case, or the Justice, may raise the question of conflict of interest. Upon decision by the Justice concerned or the Supreme Court that disqualification is appropriate, a Judge, Magistrate or Special justice may be appointed to sit on the Supreme Court to hear the matter before the Court.

(c) Any Justice related to one or more of the parties in one of the relationships enumerated in subsection (a) of this Section, may hear a case if all parties are informed of the

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blood or marriage relationship on the record in open Court and of their right to have the interested Justice disqualified from the case, and consent in writing filed in the case, or upon the record in open Court to the conflict of interest. Normally, the Justice, knowing of the conflict of interest, should simply file an order recusing himself from the action and stating his relationship with the parties. Thereafter, if the parties consent to that Justice hearing the action, they should file their written consent for such Justice to continue in the cause. If all parties file such consents, the Justice may then enter his order withdrawing his recusation on the grounds of the consents filed. A consent to the withdrawal of a Justice's recusation may not be withdrawn.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 212. Decisions

(a) All decisions and opinions of the Supreme Court shall be rendered in writing to the parties in interest, the District Court in appeal cases, filed in the Supreme Court Clerk's office and the Tribal Secretary's office, transmitted to the official reporter of the decisions of the Court, and recorded on a form approved by the Supreme Court for such purpose, The form shall provide for recording the date of the decision or opinion, the case number, the names of the parties before the Court, the issues presented of appeal or the substance of the complaint in an action within the Court's original jurisdiction, the relevant facts upon which the decision on appeal was made or as found by the Court to be true in an original action, the Court's decision, and the legal principals and reasoning supporting the Court's decision. A written Court opinion containing the above information may be filed by the majority or dissent in lieu of the form.

(b) Each Justice shall record in writing his decision, or the fact of his not participating when he is disqualified, on each case decided by the Supreme Court as part of the permanent record.

(c) The decision form or Court opinion shall be placed in the file of the case on appeal as an official document of the case.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 213. Rules of the Court

(a) The Supreme Court shall establish rules concerning the administration of the Courts and conduct in the Supreme and District Courts and conduct in the Supreme and Constitution. Such rules shall govern the conduct, demeanor and decorum of those in the Court as well as the form and filing of appeals, briefs, pleadings and other matters which will make the court function more efficiently.

(b) The rules shall be filed in the Court Clerk's office, the office of the Tribal Secretary

and delivered to the official reporter of decisions of the Court.

(c) The Court may require the observance of its rules as a prerequisite before taking any action in a matter.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 214. Special Appointments

Whenever, due to vacancies in office, disqualification of Justices, or other cause, a minimum of three (3) Justices to hear and decide the merits of a case before the Court cannot be convened from the available Justices, the Court, including any disqualified Justices, may designate by Court Order one or more duly qualified Judges of the District Court or Magistrates, not having served on the trial of the case, or some member of the Bar of the Court to sit on the Supreme Court as a Special Justice for purposes of the appeal or the original action, or request the Tribal Legislative Body to make one or more special appointments to hear specific named case, or cases filed prior to the date a minimum of three (3) Justices can be convened on such cases. No special procedure need be followed in making such appointments and special Justices need not meet the qualifications of Section 102 (a) and (g) of this Title, although special appointments by the Tribal Legislative Body shall be made by formal action with notice to the parties in a case where appropriate

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 215. Supreme Court's Action of Appeals

In an appeal properly before it, the Supreme Court shall have full authority to affirm, reverse, modify or vacate any action of the District Court or other entity from whom the appeal is taken as authorized by law, and may enter such order as is just or remand the case for the entry of a specified judgment, for a new trial, or for such further action in accordance with the Supreme court's opinion or instructions as shall be just.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 216. Terms of the Court

The regular term of the Court shall commence on the first Monday in October of each year, and upon that date, the Supreme Court shall convene in its courtroom for the purpose of disposing of the actions and other business before the court. The term shall continue until such time as the Court determines that its business is properly disposed of and the term shall then be declared completed. Special terms may be convened at any time upon the call of the Chief Justice for the purpose of dispensing with pressing matters which may not be justly delayed until

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the regular term of the Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 217. Court Fund

There is hereby authorized to be maintained by the Clerk under the supervision of the Court, a fund to be known as the "Court Fund" into which shall be deposited all fines, fees, penalties, costs and other monies authorized or required by law to be paid to the Court which are not to be distributed to any party to a case and for which no requirement is imposed by law for the deposit of such funds into a particular account. These funds shall be maintained by the Court and used exclusively for the purchase of supplies, materials and personal property for the use of the Courts, the maintenance of the Court law library and such other applications as shall be specifically authorized by law. The Court Fund shall not be used for the payment of salaries of regular Judges or Justices of the District or Supreme Courts.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER THREE: COURT CLERK

Section 301. Establishment

There is hereby established a Court Clerk's office to be administered by one (1) Court Clerk and such Deputy Court Clerks as may be necessary. The Court Clerk shall be appointed by the Supreme Court, and Deputy Court Clerks shall be appointed by the Court Clerk subject to the approval of the Supreme Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 302. Clerk to Serve Supreme and District Courts

Until such time as the Supreme Court determines that separate clerks are necessary to efficiently administer the business of the Courts, and funding is available, the Court Clerk shall serve as the Clerk of the Supreme Court and Clerk of the District Court. When service the Supreme Court, the Clerk's title shall be "Clerk of the Supreme Court." When serving the District Court, the Clerk's title shall be "Clerk of the District Court."

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 303. Clerk as Department Director

The Court Clerk is a supervisory administrative position of the Judicial Branch of the government of the Tribe with the same rank as Department director, The Court Clerk shall serve as the Court Administrator and shall be charged with the preparations of Court budgets, the acquisition of necessary supplies, the maintenance and upkeep of the Court's law library, the custody, upkeep and maintenance of the records, papers, effects and property of the Court, and such other matters as shall be assigned to the Clerk of the Court by law or Court rule.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 304. Powers and Duties

The Court Clerk shall have the following powers and duties:

(a) To undertake all duties and functions otherwise authorized by law, or necessary and proper to the exercise of a duty of function authorized by law.

(b) Subject to the approval of the Supreme Court, to supervise and direct the hiring, firing, and work of all deputy court clerks and other employees in his office.

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(c) To collect all fines, fees and costs authorized or required by law to be paid to the Courts, to receipt therefor and to deliver them to the Tribal Treasurer for deposit in the Court fund.

(d) To accept, when ordered by the Court, monies for the payment of civil judgments and to pay same by check to the party entitled to them. For the purpose of taking such action, the Clerk is authorized to maintain a bank checking account subject to the oversight of the Supreme Court and to deposit and withdraw funds therefrom. This account shall be audited at least once each year by the Tribal accounting Department or an independent Certified Public Accountant, and the Clerk shall give a fidelity or performance bond to guarantee the funds deposited therein in such amount as the Supreme Court shall direct.

(e) To administer oaths, issue summons and subpoenas, certify a true copy of court records, and to accurately keep each and every record of the Supreme and District Courts.

(f) To provide a record in the absence of a Court Reporter to accurately and completely record all proceedings and hearings of the Courts. If a Court Reporter is available, the Court Reporter shall have the authority to administer oaths and undertake such other Court functions as shall be provided by law of Court rule.

(g) To provide stenographic and clerical service to the Court and the Attorney General or prosecuting attorney when requested.

(h) To act as librarian and to keep and maintain the Court's law library.

(i) To undertake all duties assigned or delegated to the Clerk's office by Tribal law or Court rule

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 305. Seal

The Court Clerk is authorized to have and use a seal which shall be circular in form and contain the words, "District Court Clerk" and the name of the Tribe around the edge thereof, and the words "Official Seal" or the official Tribal emblem in its center. When acting as the Clerk of the Supreme Court, the Clerk's seal shall be circular in form and contain the words "Supreme Court Clerk" and the name of the Tribe around the edge thereof, and the words "Official Seal" or the Tribal emblem in the center. The seal shall be impressed upon all warrants, subpoenas, summons, certified copies of records, judgments, orders, decrees, and similar documents, as evidence of their authenticity.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

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Section 306. Certification of True Copies

The Court Clerk is authorized to certify that a copy of any record in his office is a true and accurate copy of the record on file by signed stamp or writing placed on such copy, sealed with the seal of the Court Clerk's office, and in substantially the following form:

CERTIFICATE OF TRUE COPY

I hereby certify that the above and foregoing
_____ is a true, accurate
And exact copy of the original of same as it remains
Of record on file in my office.

Clerk of the District Court [or Supreme Court]
[Name of Tribe]

Date

Certified copies of records shall be admissible as evidence without further authentication in all judicial and administrative proceedings of this Tribe.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 307. Courts Always Open

The District and Supreme Courts shall be deemed always open for the purpose of filing any pleading or other proper paper, of issuing and returning mesne and final process, and of making and directing all interlocutory motions, orders and rules.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 308. Trials and Hearings -- Orders in Chambers

All trials upon the merits, except as specifically provided by law and in children's cases, shall be conducted in open Court and so far as is convenient in a regular courtroom. All other acts or proceedings may be done or conducted by a Judge in chambers, without the attendance of the Clerk of other court officials and in any place either within or without the Tribal jurisdiction; but no hearing, other than one ex parte, shall be conducted outside the Tribal jurisdiction without the consent of all parties affected thereby, except when determined by the Court to be necessary or expedient in children's cases arising under the Indian Child Welfare Act of 1978, or when the

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Tribe has entered into an agreement with another government for the sharing of judicial officers and courtroom space in which case the court may sit in any place authorized by such agreement.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 309. Clerk's Office and Orders by the Clerk

The Clerk's office, with the Clerk of a deputy in attendance, shall be open during business hours on all days except Saturdays, Sundays and legal holidays, but the Court may provide by rule or order that its Clerk's office shall be open for specified hours on Saturdays or particular legal holidays other than New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus' Day, Veterans' Day, Thanksgiving Day and Christmas Day. All motions and applications in the Clerk's office shall be open for issuing mesne process, for issuing final process, to enforce and execute judgments, for entering defaults or judgments by default, and for other proceedings which do not require allowance or order of the court, are grantable of course by the Court, unless the Civil Procedure Act requires previous approval by the Court, but his action may be suspended or altered or rescinded by the Court upon cause shown.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 310. Notice of Orders or Judgments

Immediately upon the entry of an order or judgment, the Clerk shall serve a notice of the entry by mail upon each party or their attorney who is not in default for failure to appear, and shall make a note in the docket of the mailing. Such mailing is sufficient notice for all purposes for which notice of the entry of an order is required by law, but any party may in addition serve a notice of such entry in the manner provided in the Civil Procedure Act for the service of papers. Lack of notice of the entry by the Clerk does not affect the time to appeal or relieve or authorize the Court to relieve a party for failure to appeal within the time allowed, except as permitted in the Civil Procedure Act.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 311. Books and Records Kept by the Clerk and Entries Therein

(a) The Clerk shall keep a book known as the "Civil Docket" of such form and style as may be prescribed by the Justices of the Supreme Court, and shall enter therein each civil action. actions shall be assigned consecutive file numbers. The file number of each action shall be noted on the folio of the docket whereupon the first entry of the action is made. All papers filed with the Clerk, all process issued and returns made thereon, all appearances, orders, verdicts, and judgments shall be entered chronologically in the civil docket on the folio assigned to the action and shall be marked with its file number. These entries shall be brief but shall show the nature of

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each paper filed or writ issued and the substance of each order or judgment of the Court and of the returns showing execution of process. The entry of an order or judgment shall show the date the entry is made. When in an action trial by jury has been properly demanded or ordered, the Clerk shall enter the word “jury” on the folio assigned to that action. When in an action trial by judicial panel has been properly demanded or ordered, the Clerk shall enter the words “judicial panel” on the folio assigned to that action.

(b) In like fashion, the Clerk shall keep suitable dockets, indexes, calendars and judgment records for the criminal, juvenile and small claims dockets of the District Court, and the appeals and original action docket of the Supreme Court. The appeals and original action dockets of the Supreme Court may be combined if the Supreme Court shall so direct.

(c) The Clerk shall also keep such other books and records as may be required from the time to time by law or the Supreme Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 312. Stenographic Report or Transcript as Evidence

(a) Whenever the testimony of a witness at a trial or hearing which was stenographically reported is admissible in evidence at a later trial, it may be proved by the transcript thereof duly certified by the person who reported the testimony.

(b) Whenever the testimony of a witness at a trial or hearing which was electronically taped is admissible in evidence at a later trial, it may be proved by the tape recording thereof maintained in the custody of the Court Clerk with the records of the trial, or by some other person duly certified as correct by the Court Clerk, or by some other person duly authorized to administer oaths, who has prepared under his direction a transcript of the recording.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 313. Judgment Docket

The judgment docket shall be kept in the form of an index in which the name of each person against whom judgment is rendered shall appear in alphabetical order, and it shall be the duty of the Clerk immediately after the rendition of a judgment to enter on said judgment docket a statement containing the names of the parties, the amount and nature of the judgment and costs, and the date of its rendition, and the date on which said judgment is entered on said judgment docket; and if the judgment be rendered against several persons, the entry shall be repeated under the name of each person against whom the judgment is rendered in alphabetical order.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 314. Execution Docket

In the execution docket the Clerk shall enter all executions as they are issued. The entry shall contain the names of the parties, the date and amount of the judgment and costs, and the date of the execution. The Clerk shall also record in full the return of the Chief of the tribal Police to each execution, and such record shall be evidence of such return, if the original be mislaid or lost.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 315. Clerk may Collect Judgment and Costs

Where there is no execution outstanding, the Clerk of the Court may receive the amount of the judgment and costs, and receipt therefore, with the same effect as if the same had been paid to the Chief of the Tribal Police on an execution, and the Clerk shall be liable to be amerced in the same manner and amount as the Chief of the Tribal Police for refusing to pay the same to the party entitled thereto, when requested, and shall also be liable on his official bond.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 316. Clerks to Issue Writs and Orders

All writs and orders for provisional remedies, and process of every kind, shall be prepared by the party or his attorney who is seeking the issuance of such writ, order or process and shall be issued by the Clerk. Except for summons and subpoena, the Clerk shall not issue any such writ, order or process except upon order or allowance of the court unless specific authorization for his issuing such document is found in the Tribal Code.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 317. Clerk to File and Preserve Papers

It is the duty of the Clerk to file together and carefully preserve in his office, all papers delivered to him for that purpose in every action or proceeding.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 318. Each Case to be Kept Separate

The papers in each case shall be kept in a separate file marked with the title and number of the case.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 319. Endorsements

He shall endorse upon every paper filed with him the day of filing it, and upon every order for a provisional remedy, and upon every undertaking given under the same, the day of its return to his office.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 320. Entry on Return of Summons

He shall, upon the return of every summons, enter upon the appearance docket whether or not service has been made; and if the summons has been served, the name of the defendant or defendants summoned and the day and manner of the service upon each one. The entry shall be evidence in case of the loss of the summons.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 321. Material for Record

The record shall be made up from the complaint, the process, return, the pleadings subsequent thereto, reports, verdicts, orders, judgments and all material acts and proceedings of the Court, but if the items of an account, or the copies of papers attached to the pleadings, be voluminous, the Court may order the record to be made by abbreviating the same, or inserting a pertinent description thereof, or by omitting them entirely. Evidence must not be recorded in the file or appearance docket, provided that the transcript of testimony may be appended to the record when paid for by a party for the purpose of appeal.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 322. Memorializing Record

It is the duty of the Court to write out, sign, and record its orders, judgments and decrees within a reasonable time after their rendition. To aid in the performance of this duty, the Court may direct counsel or the Court Clerk to prepare the written memorialization dictated by the Court and sign and file the same on the Court's behalf.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 323. Clerk to Keep Court Records, Books, and Papers -- Statistical and Other Information

The Clerk shall keep the records and books and papers pertaining to the Court and record its proceedings, and exercise the powers and perform the duties imposed upon him by Tribal

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statute, order of the Court, or Court rule. The clerk is directed to furnish annually, or at such times as shall be requested, without cost to the Supreme Court and to the Tribal Legislative Body, such statistical and other information as the Supreme Court or the tribal Legislative Body may require, including, but without being limited to, the number and classification of cases:

- (a) Filed with the Court.
- (b) Disposed of by the Court and the manner of such disposition.
- (c) The number of cases pending before the Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 324. Applicable to District and Supreme Court

The provisions of this chapter shall apply to the Clerk of the Tribal District Court and the Tribal Supreme Court insofar as they may be applicable.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 325. Bonds

The Court Clerk and each deputy clerk shall be bonded by a position fidelity bond to guarantee the proper performance of their duties and their fidelity in the handling of the money and other property coming into their hands in the performance of their duties. The amount of such bond shall be set by the Tribal Legislative Body and the cost thereof shall be paid from Tribal funds.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER FOUR: CHIEF OF THE TRIBAL POLICE -- PROCESS

Section 401. Style of Process

The style of all process shall be “The [NAME OF THE TRIBE] to:” and all process shall be under the seal of the court clerk and shall be signed by the Court Clerk and dated the day it is issued.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 402. Appointment of Substitute for Tribal Police Chief

The Court or a judge thereof, or any Clerk in the absence of the Judge and upon his oral or written order, for good cause, may appoint a person to serve a particular process or order, who shall have the same power to execute it which the Chief of the Tribal Police has. The person may be appointed on the application of the party obtaining the process or order, and the return must be verified by affidavit. He shall be entitled to the same fees allowed to the chief of the Tribal Police for similar services.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 403. Tribal Police Chief to Endorse Time of Receipt on Process

The chief of the Tribal Police shall endorse upon every summons, order of arrest, or for the delivery of property or of attachment or injunction, the day and hour it was received by him.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 404. Tribal Police Chief to Execute and Return Process

The chief of the Tribal Police shall execute every summons, order of other process, and return the same as required by law, and if he fails to do so, unless he makes it appear to the satisfaction of the Court that he was prevented by inevitable accident from doing so, he shall be amerced by the Court in a sum not exceeding Five Hundred Dollars (\$500.00) upon motion and then (10) days notice, and shall be liable to the action of any person aggrieved by such failure. Provided that whenever any party, his agent or attorney shall make and file with the Clerk of the Court an affidavit, stating that he believes that the Chief of the Tribal Police will not, by reason of either partiality, prejudice, consanguinity or interest, faithfully perform his duties in any suit commenced in Court, the Clerk shall direct the original, or other process, in such suit to the Chief Executive Officer of the Tribe or his designate other than the Chief of the Tribal Police who shall

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execute the same in like manner as the Chief of the Tribal Police might or ought to have done, and who shall be subject to do the same penalties as the Chief of the tribal Police if he fails to do so, unless he make it appear that he was prevented by inevitable accident from doing so, an the Chief Executive Officer or his designate other than the Chief of the Tribal Police shall perform all of the other duties of the Chief of the Tribal Police when the Tribal Police Chief shall be a party to the case, or is disqualified.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 405. When Bailiff or Tribal Police Chief May Adjourn Court

If the Judge fails to attend at the time and place appointed for holding his Court, the Chief of the Tribal Police, or other person appointed by the Court as bailiff, or in the absence of the Court Clerk, shall have power to adjourn the Court, from day to day, until the regular or assigned Judge attend or a Special Judge or Judge pro tempore be selected.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 406. Other Duties of Tribal Police Chief -- Disposition of Fees

The Chief of the Tribal Police shall exercise the powers and duties conferred and imposed upon him by the Tribal Code, Court rule and the common law. The Police Chief's fees allowed by the Court for the service of process and mileage shall be paid into the general miscellaneous account of the Tribal Police Department and may be transferred to another line item upon order of the Chief of the Tribal Police or used for any allowable expense or cost of the Tribal Police Department other than the payment of salaries.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER FIVE: BONDS AND SURETIES

Section 501. Justification of Surety

A ministerial officer whose duty it is to take security in any undertaking provided for the Tribal Code shall require the person offered as surety, if not a qualified surety or bonding company, to make an affidavit of his qualifications, which affidavit may be made before such officer, and shall be endorsed upon or attached to the undertaking. If the undertaking is given by a qualified surety or bonding company, the credentials of the person making the undertaking shall be shown and attached thereto. The ministerial officer shall have the power to administer oaths for the purpose of making any affidavits required by this Chapter.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 502. Qualification of Surety

The surety in every undertaking provided for the Tribal Code, unless a surety or bonding company authorized to give their bond or undertaking, by Tribal law, revocably submits himself to the jurisdiction of the Tribal Court for the purpose of enforcement of said bond or undertaking, and must be worth double the sum to be secured, over and above all exemptions, debts and liabilities. Where there are two or more sureties in the same undertaking they must in the aggregate have the qualifications prescribed in this Section.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 503. Real Estate Mortgage as Bond

In every instance where bond, indemnity or guaranty is required, a first mortgage upon real estate within a State in which any portion of the Tribal jurisdiction lies shall be accepted, provided, that the amount of such bond, guaranty, or indemnity shall not exceed fifty percent (50%) of the reasonable valuation of such improved real estate, provided further, that where the amount of such bond, guaranty or indemnity shall exceed fifty percent (50%) of the reasonable valuation of such improved real estate, then such first mortgagee shall be accepted to the extent of such fifty percent (50%) valuation.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 504 Valuation of Real Estate

The officer, whose duty it is to accept and approve such bond, guaranty or indemnity

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shall require the affidavits of two guaranty or indemnity shall require the affidavits of two landowners or licensed real estate appraisers or brokers versed in land values in the community where such real estate is located to the value of such real estate. Said officer shall have the authority to administer the oaths and take said affidavits.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 505. False Valuation -- Penalty

Any person willfully making a false affidavit as to the value of any such real estate shall be guilty of perjury and punished accordingly. Any officer administering or accepting such affidavit knowing it to be false shall be guilty of conspiracy to commit perjury and punished accordingly. Any such wrongdoer shall be liable in a civil action to the party injured by such false affidavit to the extent of the injuring proximately caused thereby.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 506. Action by Tribe or Tribal Department -- No Bond Required

Whenever an action is filed in the Court by the Tribe, or by direction of any department of the Tribe, its agencies, commissions or political branches, no bond, including cost, replevin, attachment, garnishment, re-delivery, injunction bonds, appeal bonds or other obligations of security shall be required from such party either to prosecute said suit, answer or appeal the same. In case of an adverse decision, such costs as by law are taxable against such party shall be paid out of the miscellaneous funds or other available funds of the party under whose direction the proceedings were instituted.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 507. Appearance Bond -- Enforcement

(a) If a bench warrant or command to enforce a Court order by body attachment is issued in a case for divorce, legal separation, annulment, child support, or alimony, or in any civil proceeding in which a judgment debtor is summoned to answer as to assets, and the person arrested, pursuant to the authority of such process, makes a bond for his appearance at the time of trial or other proceeding in the case, the bond made shall be disbursed by the Court Clerk upon order of the Court to the party in the suit who has procured the bench warrant or command for body attachment rather than to the Tribe as the Court shall direct for the payment of any sums due. The penalty on the bond or any part thereof, shall when recovered, first to be applied to discharge the obligation adjudicated in the case in which the bond was posted, and any excess shall be deposited in the Court fund. The party who is the obligee on such bond shall have the right to enforce its penalty to the same extent and in the same manner as the Tribe may enforce

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the penalty on a forfeited bail bond.

(b) Upon forfeiture of a bond payable to the Tribe as ordered by the Court, including bail bonds, the Tribe may enforce the penalty on the bond upon motion filed in the case by any method authorized for the execution of civil judgments. All amounts received upon such forfeited bonds as penalty shall be deposited in the Court fund. The Court may, for good cause shown, vacate an order of bond forfeiture.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER SIX: MISCELLANEOUS

Section 601. Deputy May Perform Official Duties

Any duty enjoined by the Tribal Code upon a ministerial office, and any act permitted to be done by him, may be performed by his lawful deputy unless otherwise specifically stated.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 602. Affirmation

Whenever an oath is required by the Tribal Code, the affirmation of a person, conscientiously scrupulous of taking an oath, shall have the same effect.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 603. Publications in "Patent Insides"

(a) Every daily or weekly newspaper published continuously for a period of two (2) years in any county in which a portion of the tribal jurisdiction lies, or within or adjacent to the Tribal jurisdiction, and the tribal newspaper shall be recognized and authorized to publish all publications and notices required or permitted to be published by the Tribal Code.

(b) All publications and notice required by law to be published in a newspaper, if published in newspapers having one side of the paper printed away from the office of publication known as patent outsides or insides, shall have the same force and effect as though the same were published in newspapers printed wholly and published as require by Subsection (a) of this Section if at least one side of such paper is printed within the legal area.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 604. Action on Official Bond

When an office, executor or administrator within the jurisdiction of the Tribe by misconduct or neglect of duty, forfeits his bond or renders his sureties liable, any person injured thereby, or who is, by law, entitled to the benefit of the security, may bring an action thereon in his own name, against the office, executor, or administrator and his sureties, or may proceed in a proper case as provided in the Civil Procedure Act, to recover the amount to which he may be entitled by reason of the delinquency.

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[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 605. May be Several Actions on Same Security

A judgment in favor of a party for one delinquency does not preclude the same or another party for one delinquency does not preclude the same or another party from an action on the same security for another delinquency.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 606. Immaterial Errors to be Disregarded

The Court, in every stage of action, must disregard any error or defect in the pleadings or proceedings which does not affect the substantial rights of the adverse party, and no judgment shall be reversed or affected by reason of such immaterial or harmless error or defect.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 607. Payments into Court for Minors and Incompetents

Where any amount of money not exceeding Five Hundred Dollars (\$500.00) shall be deposited and paid into Court by virtue of any judgment, order, settlement, distribution or decree for the use and benefit of, and to the credit of, any minor or incompetent person having no legal guardian of his estate appointed by the Court, and no person shall within ninety (90) days thereafter become the legal and qualified guardians of the estate of such minor or incompetent the support of such minor or incompetent person or that it is otherwise for the best interest of such minor or incompetent funds to be made to any proper and suitable person as trustee for such minor or incompetent person, with bond, as the Court may direct, to be expended for the support, use and benefit of such minor or incompetent person. Such order may be made by the Court in the original cause in which the funds are credited upon the application of any interested person; and the Court may direct the Clerk of the Court to make payment of the same to be made in installments or in one lump sum as may seem for the best interests of such minor or incompetent person. If a qualified guardian has been appointed by the Court with bond, the Court shall order the money paid to the guardian for the use of the minor or incompetent person subject to such restrictions and accounting as the Court may direct.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 608. Conserving Moneys Obtained for Minors or Incompetent Persons

Moneys recovered in any court proceeding by a next friend or guardian ad litem for or on behalf of a parch who is less than eighteen (18) years of age or incompetent in excess of Five Hundred Dollars (\$500.00) over sums sufficient for paying costs and expenses including medical

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bills and attorney's fees shall, by order of the Court, be deposited in a banking or savings and loan institution, approved by the Court. Until the person becomes eighteen (18) years of age or competent to again handle his affairs, withdrawals of moneys from such account or accounts shall be solely pursuant to order of the court made in the case in which recovery was had. When an application for the order is made by a person who is not represented by an attorney, the Judge of the Court shall prepare the order. This Section shall not apply in cases where a legal guardian has been appointed by the Court for the estate of the minor or incompetent person with adequate bond to secure any money released. In such cases, such money, or any portion thereof as the Court may direct, may be paid over to the guardian to be used exclusively for the support and education of such minor or incompetent person, subject to such restrictions and accounting as the Court shall direct.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 609. Sharing of Judicial Officers

Notwithstanding any other provision of this title, the Tribal Legislative Body is hereby authorized to negotiate an agreement with the Bureau of Indian Affairs or other Indian Tribes for the shared use of the magistrates, trial judges, and appellate court justices. In addition to any other necessary or convenient provision, such agreements may determine the method of selection and retention of shared judicial officers, their compensation, and required duties. When acting on behalf of the tribe, such Magistrates, Judges or Justices shall have all the powers and authority vested in a Magistrates, Judges or Justices shall have all the powers and authority vested in a Magistrate, Judge or Justice of the Tribe. Such judicial officers may be in addition to, in lieu of, or the same as, those magistrates, Judges and Justices authorized by this Title.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 610. Sharing of Other Judicial Personnel

Notwithstanding any other provision of this Title, the Tribal legislative Body is hereby authorized to negotiate an agreement with the Bureau of Indian Affairs or other Indian Tribes for the shared use of Court Clerks, District Attorneys, Bailiffs, Court Reporters and other judicial related or support personnel. In addition to any other necessary or convenient provision, such agreements may determine the method of selection and retention of shared personnel, their compensation and require duties. When acting on behalf of the District and Supreme Courts, such personnel shall have all the powers and authority of the equivalent position in the Tribal Code. Such personnel may be the same as, in addition to, or in lieu of, Tribal personnel in these positions.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 611. Sharing of Material Resources

Notwithstanding any other provision of Tribal law, the Tribal Legislative Body is hereby authorized to negotiate an agreement with the Bureau of Indian Affairs, other Indian Tribes, or any other unit of government for the share use of facilities, including courtroom, offices and jail space, equipment and supplies necessary for the operation of the Court and law enforcement of the Tribe.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 612. Sharing of Financial Resources

Provision may be made in the above-mentioned agreements for the allocation of fines, fees and court costs to support the functions of the judicial system, provided, that the salaries of the Magistrates, Judges, Justices and District Attorney shall not be subject to, or contingent upon the assessment or collection of any fines, fees, court costs, or penalties. Such agreements may also provide for certain monetary contributions by the participating Tribes or agencies to the funding of the Court and provided a formula therefore, and designate the Court as a prime contractor, grantee, or similar designation to authorize the court to apply directly to any funding source for any grant or contract funds available for the operation of the Court.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 613. Indians Employed in the Indian Service

All persons employed in the Indian Service shall be subject to the jurisdiction of the Court to the extent permitted by law in any civil or criminal action, but any such employee appointed by the Secretary of the Interior shall not be subject to any sentence or judgment of the Court for actions while on official duty except to the extent permitted by federal law, unless such sentence or judgment shall have been approved by the Secretary of the Interior.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 614. Copies of Laws

(a) The Supreme Court law library shall be provided with copies of all Federal, Tribal and State laws and the regulations of the Bureau of Indian affairs which may be applicable to the conduct of any persons within the Tribal jurisdiction.

(b) Whenever the Court is in doubt as to the meaning of any law, treaty or regulation, it may request the Attorney General to furnish an opinion on the point in questions.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 615. Cooperation by Federal Employees

(a) No field employee of the Indian service shall obstruct, interfere with, or control the functions of the Courts of the Tribe, of influence, or attempt to influence, interfere with, obstruct, or control such functions in any manner except in response to a request for advice or information from the Court.

(b) Employees of the Bureau of Indian Affairs and the Indian Health Service, particularly those who are engaged in police, social service, health and educational work, shall assist the Court upon its request in the preparation and presentation of the facts in the case, and in the proper treatment of offenders and juveniles.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 616. Effect of Prior Decisions of the Court

The prior decisions of the Courts acting for the Tribe shall be binding upon the parties thereto. The rules of law stated in such decisions, not inconsistent with Tribal statutes enacted after such decisions, shall be precedent in the Courts subject to modification or being overruled by subsequent opinion of the Court as in other cases.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

Section 617. Judicial Review of Legislative and Executive Actions

The district and Supreme Courts shall have the authority to review any act by the Tribal Legislative Body, or any Tribal officer, agent or employee to determine whether that action, and the procedure or manner of taking that action, is constitutional under the Tribal Constitution, authorized by Tribal law, and not prohibited by the Indian Civil Rights Act. If the Court finds such action, or the manner of its exercise, to be unlawful, it may enjoin the action, refuse to recognize an unlawful action or refuse to apply the law or statute in question. If the court finds that the contemplated action is authorized by the Constitution and Tribal Statutes enacted thereto, or the common law, and that the manner in which the authorized action is to be exercised is not prohibited by the Tribal Constitution, Tribal statutes enacted pursuant thereto, or federal law, the Court shall dismiss the case. The Court shall not otherwise review the exercise of any authority committed to the discretion of a Tribal officer, agency, agent, or employee by Tribal law unless some specific provision of law authorizes judicial review of the merits of the discretionary decision or action.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

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Section 618. Action When No Procedure Provided

Whenever no specific procedure is provided in the Tribal Code, the Court may proceed in any lawful fashion.

[History: PUBLIC LAW #KT 90-14, February 6, 1990]

CHAPTER SEVEN: CODE OF JUDICIAL CONDUCT

Kickapoo Tribe in Kansas Nation District Court

Code of Judicial Conduct

AMENDMENT TO TITLE 9 COURTS

Effective October 14, 2009

Kickapoo Tribe in Kansas Code of Judicial Conduct

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PREAMBLE

The legal system of the Kickapoo Nation District Court Nation is principled on high ethical standards respecting individual dignity, honoring the tradition of the Kickapoo and preserving a forum for the fair and impartial administration of justice. To this end, the Nation's tribal court operates under the principles of judicial independence and competence to sustain public trust and enhance public confidence toward the system of justice and the laws of the Nation.

A judge is a highly visible symbol of the tribal government and is an essential figure in the justice system. A judge of the Nation fairly evaluates the facts and effectively applies the laws of the Nation for the fair and just resolution of disputes. Therefore, the judiciary anticipates strict adherence to its code of judicial conduct from all judges of the courts within the Kickapoo Nation District Court Nation, excluding the Justices of the Supreme Court of the Kickapoo Nation District Court whose conduct shall be governed by codes of conduct and/or rules as may be adopted by the Supreme Court of the Kickapoo Nation District Court Nation.

The purpose of the code of judicial conduct is to establish standards governing the ethical conduct of judges of the tribal court. This code contains a set of rules called canons. Each canon represents a single rule accompanied by a brief explanation of the rule. These rules must be applied consistently with the tribal constitution, statutes, other court rules and the common law of the Nation. They are not intended to impede on the independence of judges in their judicial decision making responsibilities.

These rules are to be interpreted as guidelines for judges, and are not designed to offer a basis toward civil liability or criminal prosecution. Judges are to be bound by these rules to always engage in conduct upholding acceptable judicial practice in accordance to these rules. It is not intended that every transgression results in disciplinary action. The determination of whether disciplinary action shall be imposed shall involve a reasoned application of this text and should depend on such factors as the seriousness of the alleged offense, and whether there is continued activity, and whether such activity negatively impacts the integrity of the judicial branch.

This Code of Judicial Conduct is not intended to exist as an exhaustive guide for the conduct of judges. Therefore, judges of the tribal court should also be governed in their judicial and personal conduct by general ethical standards.

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Application of the Code of Judicial Conduct

This Code is applicable to every judge of the Kickapoo Nation District Court including Justices of the Supreme Court. To the extent of a judge's employment or contract status with the Nation is temporary or part time, regular full time, judge pro tempore, associate judge, and guardian ad litem, or if a judge is contracted with the Nation to perform judicial duties as judge in some other role, these rules are pertinent to the behavior and conduct of all such judges, including Justices of the Supreme Court.

Terminology

“Appropriate authority.” The authority with responsibility for initiation of disciplinary process with respect to the violation to be reported.

“Candidate.” A candidate is a person seeking selection for judicial office by appointment of the tribal council. A person becomes a candidate for judicial office as soon as he or she makes a public announcement for candidacy or if such person authorizes or submits for circulation with the tribal court, tribal human resources department or tribal council, an employment application, letter of interest or professional resume for the purposes of seeking appointment as judge of the Tribal Court or Supreme Court.

“Court personnel.” Does not include the lawyers, advocates and other representatives in a proceeding before a judge.

“Custom and or tradition aka... common law.” Means any procedure, law, or other activities relating to the culture of the Kickapoo people whether they reflect traditional or modern practices of Kickapoo culture. The above body of law is referred to as the “Common Law” of the Kickapoo Tribe in Kansas.

“Financial Interest.” Financial Interest means ownership of a legal or equitable interest of substance or a relationship as officer, director, advisor or other active participant in the affairs of a party, except that:

- i. ownership of an interest in a mutual or common investment fund that holds securities is not a financial interest in such securities unless the judge participates in the management of the fund or a proceeding pending or impending before the judge could substantially affect the value of the interest;
- ii. service by a judge as an officer, director, advisor or other active participant in an education, religious, charitable, fraternal or civic organization, or service by a judge's spouse, parent or child as an officer, director, advisor or other active participant in any organization does not create a financial interest in securities held by that organization.
- iii. A deposit in a financial institution, the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association or of a member in a credit union, or a similar proprietary interest, is not a financial interest in the organization unless a proceeding pending or impending before the judge could substantially affect the value of the interest;
- iv. Ownership of government securities is not a financial interest in the issuer unless a proceeding pending or impending before the judge could substantially affect the value of the securities.

“Fiduciary.” Includes such relationships as executor, administrator, trustee, guardian, personal representative, and conservator.

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“Interest of substance.” Denotes any financial interest in a closely held corporation or business and, in the case of a publicly held corporation, denotes a legal or equitable interest, the value of which is likely to be increased or decreased to any material extent by the outcome of the litigation.

“Judge.” Anyone, whether or not a lawyer, who is an officer of the Kickapoo Nation District Court tribal judicial system and who performs judicial functions, including an officer such as an associate judge, or judge pro tempore but specifically including Justices of the Supreme Court. All such persons who comprise these appointments is a judge within the meaning of this code, and all judges shall comply with every provision of this code. Bailiffs and Court clerical staff are not considered judges under this definition.

“Knowingly,” “knowledge,” “known” or “knows.” Denotes actual knowledge of a fact in question. A person’s knowledge may be inferred from circumstances.

“Law.” Denotes court rules as well as statutes and the constitutional provisions of the Kickapoo Tribe in Kansas Law and Order Code, common law of the community, traditional laws reflecting the custom of the Kickapoo and administrative law.

Member of the candidate’s family.” Means a spouse, child, grandchild, parent, grandparent, sibling, cousin, niece, nephew **whether adopted by legal or traditional means** or any other relative or person with whom the candidate maintains a close familial relationship including any person residing in the candidate’s household.

Member of the judge’s family.” Means a spouse, child, grandchild, parent, grandparent, sibling, cousin, niece, nephew whether adopted by legal or traditional means or any other relative or person with whom the judge maintains a close familial relationship including any person residing in the judge’s household.

“Nonpublic information.” Means information that, by law, is not available to the public. Nonpublic information may include but is not limited to information that is sealed by statute or court order, impounded or communicated in camera; and information offered in grand jury proceedings, pre sentencing reports, dependency cases or psychiatric reports.

“Political Organization.” Means a political party or other group where the principal purpose of such is to assist in or press forward the election or appointment of candidates to political office.

“Public election.” Elections that include tribal, primary and general elections. This includes partisan elections, nonpartisan elections and retention elections.

“Require.” The rules prescribing that a judge “require” certain conduct of others are rules of reason. The use of the term “require” in this context means a judge is to exercise reasonable direction and control over the conduct of those persons subject to the judge’s direction and control.

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“Third degree of relationship.” The following persons are relatives within the third degree of relationship: great-grandparent, grandparent, parent, uncle, aunt, brother, sister, child, grandchild, great-grandchild, nephew or niece.

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CANON 1

A JUDGE OF THE TRIBAL COURT SHALL UPHOLD THE INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

Requires the utmost standard of integrity. Therefore, a judge should actively engage in observing and enforcing higher standards of conduct so as to preserve the integrity and independence of the judiciary. To this end, a judge shall without fear or favor apply fairly and justly the laws of the Nation impartially to each and every case before him or her. Furthermore, to preserve deference to judgments and rulings and to sustain public confidence in the courts of the Kickapoo Nation District Court Nation and Supreme Court, judges are to safeguard the reputation of the judiciary by carrying forth soundness of character reflective of fairness, honesty, and uprightness. A judicial decision or administrative act later determined to be incorrect as a matter of law or as an abuse of discretion is not a violation of this code unless done repeatedly or intentionally.

CANON 2

A JUDGE OF THE TRIBAL COURT SHALL AVOID IMPROPRIETY AND THE APPEARANCE OF IMPROPRIETY IN ALL OF THE JUDGE'S ACTIVITIES

A. Personal & Professional Conduct:

In order to grow and strengthen public confidence of the judiciary, and to diminish public scrutiny, a judge shall in his or her professional life as well as in his or her personal life, avoid conduct involving impropriety or the appearance of impropriety. A judge shall freely, willingly, and proudly accept restrictions on his or her conduct that may be perceived by the general public as intrusive. For the purpose of this rule, actual improprieties include violations of law, court rules, or other specific provisions of this code. A judge must consider in his or her conduct whether or not such conduct would create in reasonable minds, a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is diminished.

B. Influence of Judicial Conduct:

A judge shall not allow family, social, political or other relationships sway the judge's conduct or judgment. A judge shall not utilize his or her role as judge to press forward the private interests of the judge or of others; nor shall a judge allow others to accept that they possess a special position with the judge so as to influence the judge. A judge shall not voluntarily testify in tribal courts as a character witness. A judge shall not be influenced in any judicial duties by a Tribal Official. See Court Order 98-4 Kickapoo Nation District Court.

C. Membership in Organizations:

A judge shall not hold membership in any organization that practices discrimination on the basis of race, sex or religion. Native American organizations that promote educational or legal issues and development for Native Americans are not considered discriminatory. A judge is required to resign from any organization which engages in such discrimination within 30 days of the effective date of this code or immediately upon the inception of his or her appointment as a judge of the Kickapoo Nation District court.

CANON 3

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**A JUDGE OF THE TRIBAL COURT SHALL PERFORM THE DUTIES OF JUDICIAL OFFICE
IMPARITALLY AND DILIGENTLY**

A. Judicial Duties in General:

The judicial duties of a judge shall take precedent over all other activities. A judge's judicial duties include all the powers of the judiciary set forth in ***Title 9 of the Kickapoo Nation District Court Nation, those set forth in the Kickapoo Tribe in Kansas Law and Order Code, duties that reflect custom and tradition of the Kickapoo people, and those enacted by tribal ordinance or administrative action. The following standards are to apply in the performance of such duties:

B. Adjudicative Responsibilities:

1. A judge shall preside over and decide matters except in cases which disqualification is required.
2. A judge shall always be loyal to and uphold professional competence in the law. A judge shall not be swayed by partisan interests, public opinion or fear or criticism.
3. A judge shall call for and maintain order and respect in every proceeding before that judge.
4. A judge shall practice patience and dignity and shall always be courteous to litigants, defendants, jurors, witnesses, lawyers, court staff, court officials and all other individuals subject to the judge's direction and control.
5. To preserve the integrity of the tribal court and to sustain public confidence in the court as a fair and impartial system of justice, a judge shall perform his or her judicial duties without bias or prejudice. To meet this end, a judge shall not engage in conduct either expressing or implicating prejudice or bias. Such instances include but are not limited to bias or prejudice based upon race, sex, religion, disability, age, sexual orientation or socioeconomic status. Furthermore, a judge shall not permit tribal court staff, officers of the court, and or other individuals subject to the judge's direction and control to engage in any of their duties expressing or implicating prejudice or bias. This section does not preclude legitimate advocacy when race, sex, religion, national origin, disability, age, sexual orientation or socioeconomic status, or other similar factors, are issues in the proceeding.
6. A judge shall afford to every person who has legal interest in an impending or pending proceeding including a person's lawyer or advocate or other representative, an opportunity to be heard in accordance to the law except that:
 - (a) Ex-parte communication: In circumstances where ex parte communication is required so long as the circumstances do not touch upon the substantive matters or issues on the merits of the case, such communication is acceptable for purposes of scheduling, administrative purposes or emergencies. In engaging in ex parte communication, a judge of the tribal court shall:
 - i. assess the context and subject matter surrounding the communication to ensure that no party shall gain a procedural or tactical advantage as a result of the ex parte communication, and
 - ii. act promptly to notify all other parties of the substance of the ex parte communication and allow an opportunity to the other party to respond.
 - iii. In general discourage ex parte communication and permit it only if the above criteria are strictly met.
 - (b) Advice from legal experts: A judge may obtain the advice of a disinterested expert on the law applicable to a proceeding through a request for the filing of a brief "amicus curiae" friend of the Court.
 - (c) Independent Investigation: A judge must not independently investigate facts in a case and must consider only the evidence presented.
 - (d) Consulting with court personnel: A judge may consult with court personnel whose function is to aid the judge in carrying out the judge's adjudicative responsibilities or with other judges.

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- (e) Conferring separately with parties: A judge may, with the consent of the parties, confer separately with the parties and their lawyers in an effort to mediate or settle matters pending before the judge.
 - (f) Authority to engage in ex parte communication: A judge may initiate or consider any ex parte communications when expressly authorized by law to do so. However, to the extent reasonably possible, all parties or their lawyers shall be included in communications with a judge, and a judge may request a party to submit proposed findings of fact and conclusions of law, so long as the other parties are apprised of the request and are given an opportunity to respond to the proposed findings and conclusions.
 - (g) Judge to supervise law clerks or other court staff: A judge shall make reasonable efforts to ensure this rule is not violated by law clerks, officers of the court, attorneys, and other court staff.
 - (h) Communication between trial and Supreme Court judges: If communication between the trial judge and the Supreme Court with respect to a proceeding is permitted, a copy of any written communication or the substance of any oral communication shall be provided to all parties.
7. A judge shall dispose of all judicial matters promptly, efficiently and fairly with due regard for the rights of the parties to be heard and to have issues resolved without unnecessary cost or delay. Prompt disposition of the court's business requires a judge to devote adequate time to judicial duties, to be punctual in attending court proceedings, and to act expeditiously in determining matters under submission. It also requires a judge to insist that court officials, litigants, and their lawyers cooperate with the judge to accomplish this. **The Court shall conduct a status review hearing every ninety (90) days on all open case files. In all criminal cases the Court must observe the speedy trial rights of defendants.**
8. No judge shall while a case is pending or impending, make any public comment that might reasonably be expected to affect its outcome, or make any comments that may damage the integrity of the court or invoke distrust in the justice system. This requirement continues during any Supreme Court process and until final disposition of a matter. Furthermore, no judge shall make any non-public comment that might substantially interfere with a fair and impartial trial or hearing. A judge must also require court personnel to comply with this rule. This section does not prohibit judges from making public statements in the course of their official duties or from explaining for public information the procedures of the court. This section does not apply to proceedings in which the judge is a litigant in a personal capacity.
9. No judge shall praise or criticize jurors for their verdict. A judge may acknowledge appreciation to jurors for performing their civic duty to the judicial system and to the Kickapoo Nation District Court.
10. A judge shall not disclose or use, for any purpose unrelated to judicial duties, nonpublic information obtained in a judicial capacity.
11. A judge should attend and participate in local, state, federal or tribal judicial education programs and shall complete mandatory judicial education requirements, if applicable.
- C. Administrative Responsibilities:
- 1. A judge shall diligently carry out his or her administrative responsibilities without bias or prejudice and maintain professional competence in judicial administration, and shall cooperate with other judges and court officials in the effective and efficient administration of court business.
 - 2. A judge shall require court staff, court officials, and other individuals under the direction and control of the court to actively engage in the standards of fidelity and diligence that apply to the judge. No judge shall tolerate an employee engaging in conduct conveying bias or prejudice in the performance of his or her official duties.
 - 3. A judge who possesses supervisory responsibility of other judges shall take reasonable steps to allow for the prompt disposition of matters before them and shall strive to ensure efficient and effective performance in their judicial and non-judicial responsibilities.

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4. A judge shall make necessary appointments impartially and only on the basis of merit. A judge shall avoid nepotism and favoritism in appointing guardian ad litem, legal counsel, commissioners, special guardians and other court personnel such as law clerks, secretaries and bailiffs. Furthermore, a judge shall not approve compensation for services beyond the fair value of the service rendered.
5. A judge shall make every effort to ensure that court officials and other court staff subject to the judge's direction and control comply with the provisions of the code of conduct adopted for judicial employees.

D. Disciplinary Responsibilities:

1. A judge who possesses first hand knowledge or who has been informed by another judge or court official of actions of a judge that may violate any provision of this code or actions that raise a substantial question as to the judge's honesty, trustworthiness, or fitness as a judge in other respects, shall without delay inform the appropriate authority.
2. Acts of a judge in carrying out disciplinary measures are acts directly under the judicial duties of that judge and shall be absolutely privileged, and no civil action predicated thereon may be instituted against the judge.

E. Disqualification:

1. A judge must disqualify himself or herself from any court proceeding or case before the court where the judge's impartiality might reasonably be affected. This includes but is not limited to instance where:
 - (a) The judge has personal bias or prejudice concerning a party or a party's lawyer or advocate, or personal knowledge of disputed evidentiary facts concerning the matter before the court.
 - (b) The judge served as a lawyer or advocate in the matter in controversy, or a lawyer or advocate with whom the judge previously practiced within the proceeding seven (7) years served during such association as a lawyer or advocate concerning the matter, or the judge has been a material witness concerning it;
 - (c) The judge has direct interest in the impending or pending case.
 - (d) The judge is a relative to any party by past or present marriage or blood.
 - (e) The judge knows he or she, individually or as a fiduciary, or the judge's spouse, parent or child wherever residing, or any other member of the judge's family residing in the judge's household, has a financial interest in the subject matter in controversy or in a party to the proceeding or any other interest that could be substantially affected by the proceeding.
 - (f) The judge or the judge's spouse, or a person within the third degree of relationship to either of them, or the spouse of such person:
 - i. Is a party to the proceeding, or an officer, director or trustee of a party;
 - ii. Is acting as a lawyer or advocate in the proceeding;
 - iii. Is known by the judge to have an interest that could be substantially affected by the proceeding;
 - iv. Is to the judge's knowledge likely to be a material witness in the proceeding.
2. A judge shall keep abreast of his or her personal and fiduciary financial interests, and shall make reasonable attempts to keep informed about the personal financial interests of the judge's spouse and minor children residing in the judge's household.
3. When a judge receives a challenge for cause arising out of section E(1) (a) through (f) above, the judge shall issue a written response addressing the challenge and the judge's conclusions of whether the allegations have merit and whether or not the judge determines that disqualification is required.

F. Remittal of Disqualification:

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A judge who is disqualified pursuant to 3E of this rule may:

1. As an alternative to withdrawing from the proceeding, may disclose on the record the basis of the disqualification. If the parties and their legal counsel, after such disclosure and after having an opportunity to confer outside the presence of the judge, all stipulate in writing that the judge should not be disqualified, and the judge is then to move forward with the proceedings, the judge may then participate in proceedings addressing the matter. All stipulations wherein the parties waive the disqualification of a judge pursuant to this rule shall be made part of the court's record by verbal reference of such in open court during a proceeding.

CANON 4

A JUDGE OF THE TRIBAL COURT SHALL ENGAGE IN THE JUDGE'S EXTRA-JUDICIAL ACTIVITIES SO AS TO MINIMIZE THE RISK OF CONFLICT WITH JUDICIAL OBLIGATIONS

A. Extra-judicial activities in General:

No judge of the tribal court shall conduct his or her extra-judicial activities such that the activity:

1. casts reasonable doubt on the judge's capacity to act impartially as a judge;
2. diminishes the reputation or integrity of the judicial office or the tribal court;
3. obstructs the performance of judicial duties.

B. Vocational Activities:

To the extent that time permits, a judge of the tribal court may speak, write, lecture, teach and participate in other extra-judicial activities concerning the law, the legal system, the administration of justice and non-legal subjects, subject to the requirements of this code. A judge of the tribal court is encouraged to engage in such activity either independently or through a bar or judicial association, judicial conference or other organization dedicated to the improvement of law including academic institutions. A judge of the tribal court may participate in efforts to promote the fair administration of justice, the independence of the judiciary, and the integrity of the tribal legal profession and may express opposition to the persecution of lawyers or advocates and judges in Indian country because of their professional activities.

C. Governmental, Civic or Charitable Activities:

1. To avoid the appearance of improper influence, a tribal court judge shall not appear at a public hearing before, or otherwise consult with an executive or legislative body or official except on matters concerning the law, the legal system or the administration of justice or except when acting pro se in a matter involving the judge or the judge's interests.

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2. In order to protect the judicial independence of the tribal court, a judge of the tribal court shall not accept appointment by the tribal council to a governmental committee or commission or other governmental position that is concerned with issues of fact or policy on matters other than the improvement of the law, the legal system or the administration of justice. However, a judge may represent the tribe, state or locality on ceremonial occasions or in connection with historical, educational or cultural activities so long as such activities are not controversial amid the public at large. This section does not apply to a judge's service in a non-governmental position.
3. A judge may serve as a member, officer, or director of an organization or governmental agency devoted to the improvement of the law, the legal system, or the administration of justice. A judge may assist such an organization in raising funds and may participate in their management and investment, but should not personally participate in public fund raising activities except that a judge may be an announced speaker at a fund raising event benefiting indigent representation or public institutions of legal education. A judge may make recommendation to public and private fun-granting agencies on projects and programs concerning the law, the legal system, and the administration of justice.
4. A judge may engage in civic or charitable activities so long as such activity does not bear negatively on the judge's impartiality or obstruct proper performance of the judge's judicial duties. A judge may serve as an officer, director, trustee, or non-legal advisor of an educational, religious, charitable, fraternal, or civic organization not conducted for the economic or political advantage of its members. However such activity is subject to the following limitations:
 - (a) A judge should not serve if the organization shall likely become engaged in quasi-judicial proceedings that would ordinarily come before the judge or would be regularly engaged in adversary proceedings in any court.
 - (b) A judge should not solicit funds for any education, religious, charitable, fraternal, or civic organization, or use or permit the use of his or her position as judge for the purpose of soliciting funds. A judge may be listed as an officer, director, or trustee of such organization so long as the listing is not used for fund raising purposes. Except as permitted by section C(3) of this rule, a judge should not be a speaker or the guest of honor at an organization's fund-raising events but may attend such events.
 - (c) A judge should not give investment advice to such an organization, but a judge may serve on its board of directors or trustees even though it has the responsibility for approving investment decisions.

D. Financial Activities:

1. A judge shall not engage in financial and business dealings if those dealings:
 - (a) are perceived to exploit the judge's judicial position, or
 - (b) require the judge to frequently engage in transactions or continuing business relationships with advocates or lawyers or other persons likely to come before the tribal court to which the judge serves.
2. A judge may within acceptable limitations of this code, hold and manage investments of the judge and members of the judge's family, including real estate, and may engage in other remunerative activity so long as the judge manages such to minimize the number of cases in which the judge is disqualified. If a judge discovers that his involvement with holding or

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managing investments requires his frequent disqualification from matters, then he or she shall divest himself or herself of those investments.

3. A judge shall not serve as an officer, director, manager, general partner, advisor or employee of any business entity except that a judge may, subject to the limitations of this code, manage and participate in:
 - (a) a business closely held by the judge or members of the judge's family, or
 - (b) a business entity primarily engaged in investment of the financial resources of the judge or members of the judge's family.

4. A judge may accept gifts and/or benefits associated with the custom and tradition of American Indian tribes. A judge may also accept gifts and/or benefits associated with ordinary social hospitality. In addition, a judge may accept gifts and/or benefits from a relative or friend for a special occasion such as a wedding, anniversary or birthday if the gift is fairly commensurate with the occasion and the relationship. However, a judge nor any member of his or her household shall not accept gifts, awards, loans or any other benefits that:
 - (a) may reasonably be perceived as intended to influence the judge in the performance of his or her judicial duties. This includes gifts excessive in monetary value given by relatives or close personal friends who may have an interest in an impending or pending case before the tribal court.

E. Fiduciary Activities:

1. A judge of the tribal court shall not serve as executor, administrator or other personal representative, trustee, guardian, attorney, advocate in fact or other fiduciary except for the estate, trust or person of a member of the judge's family. However if he or she serves in such capacity, the judge shall cease such position if such service obstructs the performance of his or her judicial duties or if such activity would amount to the existence of court proceedings of matters that would ordinarily come before the judge or if the estate, trust or ward becomes involved in adversary proceedings in the court on which the judge serves or one under its appellate jurisdiction.
2. The same restrictions on financial activities applicable to a judge's personal engagements also apply to the judge while acting in a fiduciary capacity.

F. Service as Arbitrator or Mediator:

A tribal court judge shall not act as an arbitrator or mediator or otherwise perform judicial functions in a private capacity unless expressly authorized by law.

G. Practice of Law:

A tribal court judge shall not engage in the practice of law in a representative capacity within the Kickapoo Nation jurisdiction. However, a judge may act pro se and may give legal advice to and draft or review documents for a member of the judge's family so long as he or she does so without being compensated. A judge may also act for himself or herself in all legal matters including matters involving litigation and matters involving appearances before or other dealings with legislative and other governmental bodies, but must do so without abusing the prestige of his or her judicial office.

H. Compensation, Reimbursement and Reporting:

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A tribal court judge may receive compensation and or reimbursement at a reasonable amount for expenses for extra-judicial activities so long as the source or the amount of payments is not excessive and does not cast the appearance of impropriety or is not perceived as influencing the judge in his or her judicial responsibilities.

I. Ceremonies:

A judge of the tribal court may perform wedding ceremonies at his or her own discretion, if allowed by law. However, performing such ceremony should not interrupt or delay a regularly scheduled court proceeding. A judge shall not advertise his or her availability to perform a wedding ceremony, nor should he or she charge or accept a fee, honorarium, gratuity or contribution for performing such ceremony during court hours. However, a judge may charge a reasonable fee or honorarium to perform a ceremony during non-court hours whether the ceremony is performed in court or away from the court.

CANON 5

A JUDGE OF THE TRIBAL COURT OR A JUDICIAL CANDIDATE SHALL REFRAIN FROM INAPPROPRIATE POLITICAL ACTIVITY

A. Political Conduct in General:

1. A judge or candidate for appointment to judicial office shall not hold any office in a political organization. Nor shall a judge make speeches for a political organization or a candidate for political office or publicly endorse a candidate for public office. In addition, a judge of the tribal court shall not solicit funds for or pay an assessment to a political organization or candidate, or make contributions to a political party or organization or to a non-judicial candidate in excess of a combined total of Two Hundred Fifty Dollars per year.
2. A judge or a candidate for judge may engage in speaking at political gatherings on his or her own behalf.
3. A judge may purchase tickets for political dinners or other similar functions but attendance at any such functions shall be restricted so as not to constitute a public endorsement of a candidate.
4. A judge shall resign from his or her position as judge upon becoming a candidate for non-judicial office either in a tribal election, or in primary or general election, except that the judge may continue to hold his or her position while being a candidate for election to or serving as a delegate in a state constitutional convention if the judge is otherwise permitted by law to do so.
5. A judge shall not engage in any other political activity except on behalf of measures to improve the law, the legal system, or the administration of justice.

(History: Public Law #KT10-31, October 15, 2009 Adopted)