



RULES OF COURT

**FOR THE
CENTRAL COUNCIL OF TLINGIT & HAIDA INDIAN
TRIBES OF ALASKA**

RULES OF COURT

Civil Procedure Rules

Criminal Procedure Rules

Supreme Court Rules

Elders Court Rules

Tribal Bar Rules of Professional Conduct

Appendices

A: Trial Court Flowchart

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RULES OF COURT

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Definitions

“Affidavit” A written statement that is signed under the penalty of perjury and sworn to before a person who is officially permitted by law to administer an oath, such as notary.

“Amendment” A change to a document that has already been filed with or issued by the Court.

“Answer” The document filed by the party responding to a claim or petition.

“Business day” A day which is not a Saturday, Sunday, or Tlingit & Haida holiday.

“Clerk” and “Clerk of the Court” An officer of the Court in charge of court records.

“Complaint” The document filed by a Petitioner initiating a case and stating their claim or seeking a remedy from the Court.

“Counterclaim” A request for relief by a Respondent against a Petitioner.

“Court” The trial court of Tlingit & Haida.

“Day” A calendar day.

“Default” A Respondent’s failure to respond to a Petitioner’s claim or a Petitioner’s failure to respond to a Respondent’s counterclaim within the time allowed under these Rules.

“Deposition” A witness’s sworn out-of-court testimony used to gather information as part of the discovery process.

“File” To file a document, like a petition, answer or motion, is to give the document to the Court Clerk to be added to the case record. Filings, the documents, must be served on the other parties to a case.

“Interrogatory” A formal written question during the discovery process which a questioned party must answer in writing, unless the Court permits the party to not answer.

“Judgment” The decision of the Court in a case.

“Judgment Creditor” A person who is owed money by judgment debtor because the a court issued a judgment in favor of the person.

“Judgment Debtor” A person who owes money to a judgment creditor because a court issued a judgment against the person.

“Minor” A person who is under 18 years of age and who has not been emancipated.

“Online Account” Any online account, registration, or identification credentials, including domain registry accounts, social media accounts, online handles, usernames, and profiles, used in association with an online device or online service (including mobile devices, smart appliances, online registries, internet-based applications or cloud services) that enables a person to monitor data or registration information, create and share content, or participate in an online or registered service.

“Party” A person who is a part of court case as the petitioner or respondent.

“Preponderance of the Evidence” The standard of proof whereby a Court can conclude a claim is more true than not.

“Petition” A written request filed by a Petitioner with Court that starts a case.

“Petitioner” A party who initiated a case by filing a complaint or petition and a party who

answers or defends against a counterclaim filed by a Respondent.

“Pleading” All papers filed or required to be filed with the Court by a party.

“Process Server” A Process Server is a person who delivers court documents for a fee. Process Servers are typically used to deliver the complaint or petition and the summons to the Respondent.

“Request for Admission” A formal written request in discovery that allows one party to request that another party admit or deny the truth of a statement under oath or to verify that documents are genuine.

“Request for Production” A formal written request in discovery that allows one party to request documents, electronically stored information, or other tangible items to support or refute a claim or defense.

“Respondent” The party who answers or defends against a petition or complaint and who files a counterclaim against a Petitioner.

“Serve” To deliver a copy of a filing, like an answer or motion, to the other party in a case. Most documents can be served by electronic mail or regular mail, but some documents require special methods of service, like certified mail with restricted delivery and return receipt.

“Subpoena” An order of the Court requiring a witness to appear at a judicial proceeding or requiring documents, records, or other evidence to be provided to a party.

“Summons” A document issued by the Clerk under seal of the Court ordering the respondent to respond to a complaint or petition and providing notice that the respondent is required to appear before the Court.

“Supreme Court” The appeals court of Tlingit & Haida.

“Third Party Complaint” A claim by a Respondent (now known as the third-party Petitioner) against a non-party (now a third-party Respondent) who is or may be liable to the Respondent for all or part of the claims raised in the complaint.

“Tlingit & Haida” or “Tribe” The Central Council of Tlingit & Haida Indian Tribes of Alaska, a federal and state recognized tribe.

“Vulnerable Person” A person who cannot protect or care for themselves due to physical or mental disabilities or age.

Title I: General Provisions

Rule 1. Scope, Purpose and Construction of Rules

- A. Scope.** These rules govern all actions or proceedings of a civil nature brought before the Tlingit & Haida Trial Court.
- B. Purpose.** They should be construed, administered, and employed by the Court and parties to secure the just, speedy, inexpensive, and culturally reflective determinations guided by Southeast Traditional Tribal Values in every action and proceeding.
- C. Construction.** If a procedure is not specifically discussed in this Code, the Court may adopt any suitable procedure consistent with the spirit of this Code or take any measures reasonably necessary to carry out and protect its jurisdiction.

Rule 2. Statute of Limitations; Survival of Actions

A. Statute of Limitations.

1. No civil action may be commenced in the Court unless the cause of action arose within a three-year (3) period preceding the filing of the complaint or petition.
2. For Child Support actions, filed by Tlingit & Haida, there shall be no Statute of Limitations (in accordance with Title 10 – Family Responsibility).
3. Criminal. [reserved].
4. The time period shall be counted from the date on which the event giving rise to the complaint or petition was committed or when it was first known to the party seeking resolution or should have been known through reasonable diligence.

B. Survival of Actions. All causes of action by a person shall survive to the personal representative of the decedent.

Rule 3. Forms of Relief

A. The Court may award all forms of relief necessary to the complete exercise of its jurisdiction, including but not limited to: (a) money damages; (b) injunctions; (c) declaration of rights; (d) sanctions; and (e) such other relief as is just and proper in a particular case.

Rule 4. Time

A. Computation. In computing the period of time followed by the Court, the day of the event from which a time limit runs is not counted when an action is required to be taken by statute, court order, or as allowed by these rules, within a specific number of days. If the last day to perform a required action falls on a Saturday, Sunday, or a Tlingit & Haida holiday, the deadline is the next business day.

1. **Additional Time After Service or Distribution by Mail.** Seven days shall be added to the prescribed period when a party has the right or is required to act and the document is served or distributed by mail; however, no additional time shall be added if a court order specifies a particular calendar date by which an act must occur.

Rule 5. Parties

A. Parties.

1. **Petitioner.** The Petitioner is the party who initiates an action.
2. **Respondent.** The Respondent is the party against whom the action is commenced.
3. **Other Parties.** Additional parties may be added to the case after it has been initiated and designated as a Petitioner or Respondent, depending on their interest in the action.

B. Minor or Vulnerable Person. When a party is a minor or vulnerable person, they shall appear by parent or legal guardian.

Rule 6. Filing Fees

A. The Clerk of Court will set the schedule of filing fees.

Rule 7. Sovereign Immunity

- A. Nothing in these Rules shall be construed as a waiver of the sovereign immunity of Central Council of Tlingit & Haida Indian Tribes of Alaska or the immunity of its employees, officers, agencies, divisions, enterprises or subordinate entities.

Title II: Start of a Case; Summons; Notice

Rule 8. Start of a Case

- A. A civil action is commenced by filing an initial pleading – a complaint or petition – with the Court and paying any necessary filing fee. For more details about the content of a complaint or petition see Rule 13 – Pleadings.

Rule 9. Summons

- A. **Issuance.** Upon the filing of an initial pleading – a complaint or petition, the Clerk of the Court shall issue a summons, under seal of the Court, that includes:

- 1. Notice to the Respondent that an answer is due within 20 days; and
- 2. Notice to the Respondent that failure to respond could result in a default judgment.

- B. **Service of Summons.**

- 1. **Generally.** The summons and the complaint or petition shall be served upon the Respondent within 180 days of the issuance of the summons.
 - a. Service may be accomplished:
 - i. **Upon an individual:**
 - (a) by personal service by a process server of the summons and a copy of the complaint or petition;
 - (b) by leaving a copy of the summons and complaint or petition with a person of suitable age and discretion residing in the residence of the person sought to be served;
 - (c) by delivering a copy of the summons and complaint or petition to an agent authorized by appointment or by law to receive service; or
 - (d) by mailing the summons and a copy of the complaint or petition by certified mail, return receipt requested.
 - ii. **Upon a business:**
 - (a) by personal service upon a secretary, officer, registered agent, or owner of the business.
 - b. **Proof of Service.** The person or officer effecting service of process shall file proof of such service with the Court.
- 2. **Service by the Clerk of Court.** The Clerk of Court may also effect service of the summons and a copy of the complaint or petition by certified mail, return receipt requested. In such a case, the return receipt shall be considered proof of service.
- 3. **Service by Publication.** If a Respondent is unable to be served after

exercising due diligence, the Petitioner may file an affidavit of inquiry and reattempt service by publication as directed by the Court using the publication methods in Rule 9(B)(3)(b).

a. Due Diligence.

- i. Known Location.** When the location of Respondent is known, the Respondent shall be served at the known location.
- ii. Unknown Location.** Reasonable efforts to locate the Respondent may include using online resources and in-person or by-mail inquiry directed to acquaintances and relations of the Respondent. Inquiries by mail must include a self-addressed envelope and sufficient postage to send a reply.
- iii. Affidavit of Inquiry.** The Petitioner shall file an affidavit of inquiry to specify the extent of the inquiry, to whom the inquiry was directed, a description of the efforts made searching for the Respondent, and a description of the methods of service attempted.

b. Publication Methods.

- i. Service by Posting on Court Website.** Notice shall be continuously posted on the Court website for three weeks.
- ii. Additional Service by Other Methods (newspaper, social media, public bulletin boards).** In addition to the service required under Rule 9(B)(3)(b)(i), the Court, in its discretion, may require service to be effected in any other manner reasonably calculated to give a Respondent notice of the proceedings and an opportunity to be heard. The method of service could include the following: publication in a print or online newspaper, email to the Respondent's personal account, posting notice on the Respondent's online account(s), posting a notice to the Respondent on a public bulletin board or the front door of the Respondent's place of residence; or any other method that the Court determines is reasonable and appropriate.

- c. Form and Content of Notice.** The notice in Rule 9(B)(3)(b) shall be in the form of a summons and briefly state the nature of the action, the relief demanded, and why the party to whom it is addressed is a party to the action. It will specify the time within which the Respondent has to appear or answer and state that no response in the time allotted may result in a default order being issued. The deadline provided for the Respondent to appear or answer shall be no less than 20 days after personal service or the last date of publication of notice. If the Respondent does not provide a timely response, the Court may proceed as if Respondent had been served.

d. Proof of Service for Service by Publication.

- i. Service by Posting on the Court Website.** If service is made by posting to the Court Website, proof of posting shall be made by certification of the Court Clerk. A printed copy of the posted notice and the dates of posting shall be attached to the Clerk's certificate.
- ii. Service by Publication in a Printed or Online Newspaper.** If service is made by publication in a printed newspaper, proof of publication shall be made by the affidavit of the newspaper's publisher, printer, manager, foreman, or principal clerk, or by the certificate of the attorney for the party at whose instance the service was made. A printed copy of the published notice with the name of the newspaper and dates of publication marked therein shall be attached to the affidavit or certificate.
- iii. Service by E-mail or Posting to a Social Networking Account.** If service is made by e-mail or posting to a social networking account, proof of e-mail transmission or electronic posting shall be made by affidavit. If service is made by email, a copy of the sent e-mail transmission shall be attached to the affidavit. If service is made by posting a notice on the absent party's social networking account, a screen print of the posting shall be attached to the affidavit.
- iv. Service by Posting to a Public Bulletin Board or on the Front Door of the Absent Party's Place of Residence.** If service is made by posting to a public bulletin board or on the front door of the absent party's place of residence, proof of posting shall be made by affidavit of posting of the notice and the complaint or other pleadings.
- v. Other Service by Court Order.** If the Court has allowed service of process to be made upon an absent party in any other manner calculated to give actual notice, proof of service shall be made as directed by the Court.

- 4. Time Limit for Service of the Summons.** The Clerk of Court shall review each pending case 180 days after the filing of the complaint or petition to determine if all Respondents have been served. If any Respondent has not been served, the Clerk shall send notice to the Petitioner to show good cause in writing why service on that Respondent is not complete, and the Petitioner shall show good cause in writing why service on Respondent is not complete. If good cause is not demonstrated within 20 days after distribution of the notice, the Court shall dismiss without prejudice the action as to that Respondent.

Rule 10. Service

- A. Requirement for Service.** A copy of every motion, filing, notice or other document filed with the Court after the original complaint or petition must be served to all of the other

parties, or their attorney or lay advocate if they have one, unless the Court orders otherwise.

1. No service needs to be made on parties in default for failure to appear unless new or additional claims for relief are made against them.
- B. Methods of Service.** Service shall be made by delivering an electronic copy to the other parties, or their attorney or lay advocate if they have one, or by first class mail at the last known address.
- C. Proof of Service.** Proof of service of every motion, filing, notice or other document served must state the name of each person who has been served, must show the day and manner of service and may be by written acknowledgment of service, or by any other proof satisfactory to the Court. Proof of service must be made promptly and before action is to be taken on the paper served.

Rule 11. Notice

- A. Notice of Hearing by Paper.** Unless otherwise provided in statute, notice of a hearing shall be served 10 days prior to the hearing, other than those hearings that may be heard ex parte.
- B. Notice of Hearing by Phone.** When the parties are notified by telephone, documentation of the telephone call shall be filed in the record by the Clerk of Court. Documentation of the call shall include who made the call, the name of the person to whom the notice was directed, the telephone number called, the date and time of the call, and the name of the person receiving the call.
- C. Requirement for Updated Contact Information.** A party shall immediately provide the Clerk of Court updated contact information, including mailing address, email address, and phone number if the address on file changes.

Rule 12. Signatures

- A. Signature.** Every pleading, motion, or paper filed with the Court shall be signed by the filing party or the filing party's attorney or lay advocate.

Title III: Pleadings; Motions; Scheduling; Discovery

Rule 13. Pleadings

- A. Pleadings.** Pleadings must include a complaint or petition and an answer. Counterclaims, crossclaims, third-party complaints, and third-party answers are allowed. Answers to a counterclaim, answer to crossclaim and answer to a third-party complaint are also allowed.
1. **Complaint or Petition.** The complaint or petition shall be direct, concise, and contain a statement of the events complained of or the right sought to be declared or enforced, and a statement of the relief sought. No technical wording is required.
 2. **Answer.** A written answer may be filed with the Court within 20 days after a party is served with the summons and the complaint. The answer shall set forth any affirmative defenses and may deny the complaint or petition in its entirety or in part. The Court may issue a default judgment if no response is filed.

- a. **Counterclaims.** A pleading must state any counterclaim the party has against the opposing party at the time of service of the pleading that:
 - i. Arises out of the same occurrence or transaction that is the subject matter of the opposing party's claim; and
 - ii. Does not require the presence of third parties of which the Court cannot acquire jurisdiction over.
 - iii. The party need not state a counterclaim if, at the time of the commencement of the action, their counterclaim(s) was already the subject of another court action.
- b. **Permissive Counterclaims.** A pleading may state any counterclaim the party has against the other party not arising out of the occurrence or transaction that is the subject matter of the opposing party's claim.
- c. **Omitted, Matured, or Acquired after Pleading Counterclaims.** A party may bring a counterclaim against the other party that (1) was omitted in earlier pleadings, (2) a claim that has matured during the process of the court action, or (3) a claim that was acquired after the court action has commenced with permission of the Court.

3. **Crossclaims.** A party may bring a crossclaim against a co-party that arises out of the same occurrence that is the subject matter of the other party's claim.

B. Defenses. A party shall state in short and plain terms the party's defenses to each claim asserted and admit or deny the assertions upon which the other party relies. A party may submit a singular denial of all claims asserted in a complaint. A party's statement of no knowledge or information sufficient to form a belief as to the truth of an assertion will have the effect of a denial.

1. **Affirmative Defenses.** A party shall set forth affirmatively: accord and satisfaction, arbitration and award, assumption of the risk, contributory negligence, discharge in bankruptcy, duress, estoppel, failure of consideration, fraud, illegality, laches, license, payment, release, res judicata, statute of frauds, statute of limitations, waiver, and any other affirmative defense.

C. Effect of Failure to Deny. When a party does not deny assertions made in a pleading for which responsive pleading is required, the Court will interpret the party's non-denial to those pleadings as admitted. This does not apply to responses to the amount of damages asserted. Assertions in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

D. Amended and Supplemental Pleadings.

1. **Amendments.** A party may amend their pleading at any time before a responsive pleading is served. Once a pleading is served, if justice so requires, a party may amend that party's pleading with permission by the Court or written consent of the other party. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within 10 days after the amended pleading is served, whichever period is longer, unless the Court orders otherwise.

2. **Supplements.** Upon motion of a party the Court may, upon reasonable notice and as justice requires, permit the party to serve a supplemental pleading setting forth the transactions or occurrences that happened since the date of the pleading.

Rule 14. Motions

- B. Motions and Other Papers.** A request for a court order must be made by motion. This motion must be in writing unless made verbally during a hearing or trial and state the reasons for seeking the order and the relief sought.

Rule 15. Scheduling Order; Case Management; and Conferences

- A. Scheduling Order.** A judge shall meet with the parties prior to entering a scheduling order. The order shall be issued as soon as practicable and only modified upon a showing of good cause and with Court permission. A judge may enter a scheduling order that limits or establishes the time for the following:

1. To file motions;
2. To identify witnesses and exhibits;
3. To complete discovery;
4. The use and timing of conferences;
5. To set trial; and
6. Any other matters appropriate in the circumstances of the case.

- B. Conference Objectives.** In any action, the Court may direct the parties to appear before it for a conference for:

1. Establishing early and continuing control to avoid unnecessary delays and improving the quality of case management through informed preparation; and
2. Facilitating the settlement of the case, including the use of pretrial conferences and other forms of alternative dispute resolution.

Rule 16. Discovery

- A. Discovery Purpose.** The purposes of discovery are to allow parties to request and gather facts, information, and other evidence to support and defend the claims asserted, prepare for trial, prevent parties from being surprised at trial, and define and limit the facts and issues in dispute.

1. **Limitation on Filing.** Unless filing is ordered by the Court on motion of a party or on its own motion, the following may not be filed unless and until they are used in the proceedings: (i) interrogatories and requests for admissions and answers thereto; (ii) requests for production and responses thereto; (iii) subpoenas, including subpoenas for documents; (iv) proof of service of any of the above; (v) copies of correspondence between the parties and their attorneys; and (vi) exhibits.

- B. Methods of Discovery.** Methods of discovering and exchanging information may include submission of written questions to the other party (interrogatories), requesting admissions of facts or authenticity, requesting witnesses' names, interviewing the other party's witnesses through deposition, and requesting the other party to produce documents or property for inspection. Requests for information shall be as clear and specific as possible.

- C. Deadline to Respond to a Discovery Request.** A party who receives a request for information shall respond within 14 days. The other party may seek a court order compelling response if a response is not provided.

- D. Discovery Disputes.** If the parties disagree as to the nature or scope of the discovery request, the Court will decide whether information, documents, or other evidence requires disclosure, and may place conditions on the release of information, documents, or other evidence to protect confidential or irrelevant material.
- E. Duty to Supplement.** A party who has made a disclosure or responded to a request for discovery is required to supplement or correct the disclosure or response to include information thereafter acquired if ordered by the Court or in the following circumstances:
1. A party is required to supplement if the party learns that, in some material respect, the information disclosed is incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties.
 2. A party is required to correct a prior response to an interrogatory, request for production, or request for admission if the party learns that the response is, in some material respect, incomplete or incorrect and if the additional or corrective information has not otherwise been made known to the other parties.

Rule 17. Depositions

- A. Generally.** A party may request permission of the Court to take depositions of up to three persons with information regarding the case. A request to take a deposition shall describe the matters on which the person will be questioned. A Court will issue an order for a deposition.
1. For good cause, the Court can allow the taking of additional depositions.
- B. Notice and Service.** If the Court issues an order for a deposition, the requesting party shall serve the order according to Rule 10 upon each person named, together with a notice of the time and place for the taking of the deposition.
- C. Requirements.** Depositions shall be taken before an officer authorized or appointed by the Court to administer oaths and take testimony.
- D. Method of Deposition.** Parties may engage in in-person, or telephonic or video depositions.

Rule 18. Interrogatories

- A. Generally.** Interrogatories must be relevant and related to the issues in dispute.
- B. Limit of Interrogatories.** A party may serve up to 20 written interrogatories upon any other party. Each subpart to an interrogatory shall count as an interrogatory.
1. For good cause, the Court can allow additional interrogatories.
- C. Answers and Objections.**
1. **Answers.** Each interrogatory shall be answered truthfully, separately, and fully in writing under oath, unless the responding party objects to the interrogatory.
 2. **Objections.** The responding party shall, in writing, state the reasons for an objection and, if applicable, answer to the extent that the interrogatory is not objectionable.
 - a. Objections not timely raised are waived, unless the responding party's failure to object is excused by the Court for good cause.
 3. **Timing.** Answers and objections, if any, shall be served on the requesting party 14 days after service on the responding party. The Court may provide additional

time for a party to respond after the initial deadline for the response has passed.

Rule 19. Request for Admissions and Production

A. Admissions

- 1. Request for Admissions.** A party may serve upon any other party a written request for the admission of the truth for any matters relevant to the case and related to discovery and disclosure. Statements and evidence for which admissions are being sought shall be made provided to the responding party.
- 2. Response to Request for Admissions.** The matter is admitted unless, within 14 days after the service of the request, the responding party files a written answer or objection. Objections shall the reasons for the objection. Answers may admit, deny and partially admit or deny. Any matter not fully admitted shall either specifically deny the matter or explain the reasons why the answering party cannot fully admit or deny the matter. The Court may provide additional time for a party to respond after the initial deadline for the response has passed.
- 3. Effect of Admission.** Any matter admitted to under this Rule is conclusively established unless the Court on motion permits withdrawal or amendment of the admission.

B. Production.

- 1. Request for Production.** A party may serve upon any other party a written request for production of documents, electronically stored information, or other tangible items relevant to the case and related to discovery and disclosure.
- 2. Response to Request for Production.** Each requested document, electronically stored information, or other tangible item shall be produced, unless the responding party objects. Objections shall the reasons for the objection. The Court may provide additional time for a party to respond after the initial deadline for the response has passed.

Rule 20. Compelling Discovery; Sanctions

- A. Motion for Order Compelling Disclosure or Discovery.** A party may file a motion with the Court to compel a response and for monetary sanctions if no response to a discovery request is provided. The motion must include an affidavit that the party conferred or attempted to confer with the other party in good faith.
- B. Monetary Sanctions.** If a motion to compel is granted, the Court may, after affording the non-responsive party an opportunity to be heard, order monetary sanctions from the non-responsive party.
- C. No Compliance with Order.**
 - 1. Contempt.** If a party does not respond to a discovery request after being compelled to do so by the Court, the party may be found in contempt of Court.
 - 2. Types of Court Sanctions.** If a party does not respond to a discovery request after being compelled to do so by the Court, the Court may issue sanctions including but not limited to the following:
 - a.** The requested facts or assertions shall be considered established and admitted for the purposes of the action in accordance with the claim;

- b. The non-compliant party will not be able to support or oppose designated claims or defenses, or introduce designated matters in evidence;
- c. Striking pleadings or parts of pleadings;
- d. Staying further proceedings until there is compliance with the original order;
- e. Dismissing the action or proceeding or any part of the proceeding; and
- f. Rendering a default judgment.

Title IV: Trials

Rule 21. Trials

A. Trials. Civil cases shall be tried by the Court without a jury. Procedure at trial shall be as follows unless otherwise agreed by the parties and the Court:

- 1. Opening Statements.** The Petitioner may make an opening statement and shall briefly state the claim for relief and the issues in question. Then Respondent may make an opening statement and briefly state any defenses and counterclaims.
- 2. Petitioner's Presentation.** The Petitioner may call witnesses and present evidence in support of their case. The witnesses shall testify under oath and be subject to cross examination by the Respondent. Following cross examination of witnesses, the Petitioner has a second opportunity to question the witnesses about the matters raised in cross examination. When the Petitioner has presented all its witnesses and evidence, the Petitioner shall inform the Court the presentation is complete.
- 3. Respondent's Presentation.**
 - a. The Respondent may present witnesses and evidence that supports their defense. The Respondent's witnesses shall testify under oath and be subject to cross-examination by the Petitioner, after which the Respondent shall have a second opportunity to question the witnesses about the matters brought up during cross-examination; or
 - b. The Respondent may move the Court to dismiss the case with justifications. If the Court, after considering the evidence in the light most favorable to the Petitioner, finds that there is insufficient evidence to support the case, the action shall be dismissed.
- 4. Petitioner's Reply to Respondent's Presentation.** The Court may allow the Petitioner to present additional witnesses or evidence to address any new matters presented in the Respondent's case.
- 5. Closing Statements.** The Petitioner may make a closing statement to present final remarks to the Court. Then Respondent may make a closing statement to present final remarks to the Court. The Court may allow a Petitioner to respond to the Respondent's statements if the statements raised a new issue that fairness requires an to opportunity address.
- 6. Judgment.** The Court shall consider all the evidence and may announce a judgment at the end of trial and may issue a written decision at a later time.

B. Burden of Proof. The Petitioner has the burden of proving their claims are more likely

true than not, which is a preponderance of the evidence.

C. Witness Exclusion. The Court, in its discretion and upon the motion of either party, may require witnesses be excluded from trial before testifying to maintain fairness. The Court shall take into consideration the importance of witnesses as an integral part of a party's support system.

D. Evidence. The Court may require or the parties may agree to rules of evidence, such as the Federal Rules of Evidence.

1. Evidence presented must be related to the issues before the Court. If questioned by the Court or other party, the party who wants to present certain evidence shall explain why the evidence is relevant.
2. Where there is more than one kind of evidence about the same subject, the Court should allow the most reliable kind of evidence.
3. The testimony of persons having personal knowledge, such as firsthand observation and direct knowledge of or participation in a described event shall be preferred and be afforded greater weight than the testimony of persons with secondhand knowledge of the event.
4. Evidence may be submitted to the Court in advance of trial by mail, in-hand delivery or email to the Clerk of the Court. Evidence submitted by email should be sized to print out upon standard 8.5 by 11 inch sheets of paper.
5. Copies of all evidence presented to the Court for consideration shall include a certificate of service indicating when and how copies of the evidence were also provided to the other party(s) to the case.
6. Copies of written records, photographs, and other documentary evidence must be reliably identified by the party offering them or certified as true and accurate copies by a reliable source.

E. Exhibits.

1. **Parties Mark Exhibits.** Parties will clearly and concisely mark all intended exhibits for identification before trial. The Petitioner shall use letters to identify their exhibits and the Respondent shall use numbers. Each party shall submit a completed exhibit list and all exhibits to the Court and the other parties before trial. Parties may submit new evidence during the trial with permission of the Court.
2. **Admissions.** Identified exhibits may be admitted into evidence upon motion of any party or the Court. The Clerk shall mark the exhibit as "admitted," and the fact of its admission shall be noted on the Clerk's exhibit list.
3. **Custody of Exhibits.** An exhibit offered into evidence will be placed in and remain in the Clerk of the Court's custody and until released to the Court.
4. **Final Check.** Prior to the submission of the case for judgment, the Court may require the parties:
 - a. Examine all intended, identified, offered, or admitted exhibits and the Clerk's exhibit list;
 - b. Confirm the list accurately reflects the status of the exhibits; and

- c. Exhibits not admitted as evidence shall be returned to the appropriate party, unless otherwise ordered by the Court.

F. Subpoenas. A judge or the Clerk of the Court may issue a subpoena to compel the attendance of witnesses to give testimony at trial, or to produce evidence.

1. The Court may suppress or modify the subpoena for good cause shown, at any time up to and including the time specified for compliance.
2. Subpoenas shall be served as stated in Rule 10, except that no subpoena shall be served by publication.
3. The Court may find a party in contempt if they do not comply with a subpoena.

Rule 22. Dismissing a Case

A. Notice of Withdrawal or Motion for Dismissal.

1. **By Petitioner.** A Petitioner may file a notice of withdrawal of part of or the whole of a petition or complaint at any time.
2. **By Respondent.** The Respondent may file a motion for dismissal at any time.
3. **Parties Together.** The parties may together file a notice of an agreement to dismissal of part of or the whole of a petition or complaint at any time.

B. Dismissal by Order of the Court. The Court may dismiss a case by issuing a dismissal with prejudice or a dismissal without prejudice.

Title V: Judgment

Rule 23. Judgments and Orders

A. Effective Date of Judgments and Orders. Judgments and orders are effective on the date they are entered.

B. Default Judgment. The Court may enter an order of default granting relief sought when a party against whom a complaint, petition, counterclaim, or crossclaim is filed does not appear, plead or otherwise defend itself.

C. Verbal Orders. A verbal order is entered on the date put on the record by the judge. The Court shall issue a written order after the verbal order, memorializing the decision. A later written order shall include the date the verbal order was entered on the record.

D. Written Orders. The written order is entered on the date it is signed unless otherwise specified in the order.

E. Judgments. The date of entry of a civil judgment is the date it is signed unless otherwise specified in the judgment. All judgments shall be in writing.

F. Appeal and Reconsideration. A notice of appeal or motion for reconsideration must be filed within 30 days after the date of entry of the judgment or order.

- a. **Appeal.** Appeals are governed by the Supreme Court Rules. See those Rules for additional information.
- b. **Reconsideration.** A party may ask the Court to reconsider the judgment or order. The Court may grant reconsideration and change the judgment or order if one of the following is found to be true:
 - i. The original judgment or order was reached as a result of fraud or mistake;

- ii. There is newly discovered evidence which could have affected the outcome of the case and which could not have been discovered with reasonable effort at the time of trial; or
- iii. The Court did not have jurisdiction.

Rule 24. Enforcement of Monetary Judgments

A. Enforcement through Application. If a party fails to satisfy any money judgment entered by the Court, not less than 10 days after entry of the judgment, the Court may issue an order allowing the judgment to be executed on and satisfied out of property owned by the judgment debtor upon the filing of an application by the judgment creditor setting forth:

1. The date of entry of the judgment; the amount of the judgment; the amount paid on the judgment, if any; the amount currently owing the judgment, including interest; the name of the Court; and the case number;
2. A statement of the type of execution sought, the name and address of the person on whom it is to be served, and a description of the property to be seized.

B. Execution. A Court order allowing execution of a judgment shall consist of attachment or garnishment.

1. Types of Execution.

- a. Attachment shall be used to seize property in possession of a judgment debtor;
- b. Garnishment shall be used to seize property of the judgment debtor that is in the hands of another person.

2. Service. Orders of attachment or garnishment shall be served in the same manner as the summons and complaint or petition, and proof of service shall be filed with the Court.

C. Exemptions.

1. In the execution of any judgment, the following shall be exempt from execution to satisfy a judgment;
 - a. All wearing apparel of every person in the family but not to exceed \$500 value in furs, jewelry, beadwork, or personal ornaments for any one person;
 - b. Items of bona fide religious or cultural significance;
 - c. Fishing equipment, gear, and fishing boats of reasonable value;
 - d. A minimum number of tools, instruments, and materials sufficient to allow a judgment debtor to carry on his regular employment or trade;
 - e. Provisions and fuel for the comfortable maintenance of the home for three months' time;
 - f. Land or interests in land held in trust or subject to restrictions against alienation imposed by the United States or other land which is the judgment debtor's principal residence;
 - g. Sixty-five of a judgment debtor's disposable wages (gross wages minus deduction required by law, but not including voluntary payroll deductions), salary, or other compensation regularly paid to a judgment debtor for personal services each pay period. An exception may apply if the judgment debtor's obligations are in arrears, in which case no less than 55% of debtor's disposable wages may apply.

- h. An automobile of reasonable value necessary for personal or family use.
2. Provided, that none of the above property shall be exempt from execution for any judgment awarded because of the debtor's failure to pay all or part of the purchase price for that property, and, with the exception of Indian trust land, none of the above property shall be exempt from execution if it was specifically pledged as collateral or security to the person awarded the judgment.

D. Sale Procedure. When property has been seized or otherwise delivered to the Court in execution of a judgment, the Court shall give the judgment debtor written notice that:

1. The property is in the possession of the Court pursuant to a Court Order;
2. The property will be sold at public auction on a date specified in the notice and the proceeds applied to the judgment
3. The judgment debtor has the right to contest the execution order by filing a written opposition with the Court and requesting a hearing;
4. At any time prior to the sale, the judgment debtor has the right to satisfy the judgment and obtain the return of the property.

E. Enforcement of Foreign Judgments. Execution on a judgment from a court other than the Tlingit & Haida Court shall be allowed as long as it has been registered with the Court by filing a certified or verifiable true copy of the judgment with the Court Clerk, paying the required filing fee, and serving a copy on the judgment debtor consistent with Rule 9. Before giving effect to a foreign judgment, the Court may conduct a preliminary inquiry regarding compliance with the federal Full Faith and Credit Act.

Rule 25. Relief from Judgment or Order

A. Excusable Neglect, Newly Discovered Evidence, Fraud, etc. On motion and as justice requires, the Court may relieve a party from a final judgment, order, or proceeding for the following reasons:

1. Mistake, inadvertence, surprise, or excusable neglect;
2. Newly discovered evidence which could not have been discovered in time to move for a new trial;
3. Fraud, misrepresentation, or other misconduct of another party;
4. The judgment is void; or
5. Any other reason justifying relief from the judgment.

B. Default Judgment. The Court may set aside an entry of default for good cause.

Rule 26. Clerical Mistakes

A. Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors arising from oversight or omission may be corrected by the Court at any time of its own initiative or on the motion of any party. For purposes of this Rule, the record includes electronic information maintained about the case.

B. Clerical Mistakes Upon Appeal or Review. During an appeal or petition for review to the Supreme Court, such mistakes may be corrected before the record is filed with the Supreme Court and may be corrected with permission of the Supreme Court.

RULES OF COURT
Criminal Procedure Rules

[Reserved]

RULES OF COURT

Supreme Court Rules

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Definitions

“Appellant” The party who appeals a Trial Court decision.

“Appellee” The party who prevailed at the Trial Court level and is defending a favorable decision in the Supreme Court.

“Amicus Curiae” A person or party who is not a party in the legal action, but has a strong interest in the matter and its outcome.

“Brief” - A document that presents a legal argument to the court explaining why that party should prevail in that party’s case.

“Court” The Supreme Court of the Central Council of Tlingit & Haida Indian Tribes of Alaska. This court hears appeals from the trial court.

“Final Judgment or Decision” A determination, order, or judgment made on the record by a Trial Court judge that closes the matter and precludes further action on it in Trial Court.

“Vulnerable Person” A person who may need assistance managing their own affairs due to a variety of reasons.

“Injunction” An order that restrains a party from beginning or continuing an action threatening or invading the legal right of another, or that compels a person to carry out a certain act.

“Minor” A person who is under 18 years of age and who has not been emancipated.

“Reasonableness” is a standard of review used by the Supreme Court. A court will review a judgment of the Trial Court under “reasonableness” by looking to see if the judgment was a justified exercise of the court’s discretion based on the consideration of the relevant facts and evidence.

“Statement of Reasons” A document filed with the Notice of Appeal that identifies the reasons for appeal.

“Substantial Evidence” An evidentiary standard that refers to evidence that a reasonable mind could accept to support a conclusion.

“Substantial Right” An important or essential right that merits enforcement or protection by the law.

“Tlingit & Haida” or “Tribe” The Central Council of Tlingit & Haida Indian Tribes of Alaska, a federal and state recognized tribe.

“Trial Court” The Trial Court of the Central Council of Tlingit & Haida Indian Tribes of Alaska. Judgments of the Trial Court are appealed to the Supreme Court.

Title I: General Provisions

Rule 1. Generally

- A. Jurisdiction.** The Supreme Court shall have jurisdiction of appeals from all final decisions on the record of the Tlingit & Haida Trial Court, subordinate Courts, and disenrollment decisions from the Tlingit & Haida Enrollment Committee.
- B. Panel Review.** The Supreme Court matters shall be heard by a panel of three justices, except that a panel of two justices may hear a case if a third justice is unavailable.

1. **Justices Pro Tempore.** The Court Administrator shall select for service Justice Pro Tempore from the approved list.

Rule 2. Time

B. Computation. In computing the period of time followed by the Court, the day of the event from which a time limit runs is not counted when an action is required to be taken by statute, court order, or as allowed by these rules, within a specific number of days. If the last day to perform a required action falls on a Saturday, Sunday, or a Tlingit & Haida holiday, the deadline is the next business day.

1. **Additional Time After Service or Distribution by Mail.** Seven days shall be added to the prescribed period when a party has the right or is required to act and the document is served or distributed by mail; however, no additional time shall be added if a court order specifies a particular calendar date by which an act must occur.

Rule 3. Parties

A. Generally.

- a. **Appellant.** An Appellant is the party asking the Supreme Court to review and reverse the final decisions of the Trial Court or a disenrollment by the Enrollment Committee.
- b. **Appellee.** An Appellee is the other party in an appeal and is generally the party to uphold and affirm the final decision of the Trial Court.

B. Minor or Vulnerable Person. When the Appellant or Appellee is a minor or vulnerable person, they shall appear by parent or legal guardian.

Rule 4. Document Distribution; Contact Information

A. Document Distribution. Distribution shall be made by delivering an electronic copy to the parties, or their attorney or lay advocate if they have one, or by first class mail at the last known address.

B. Contact Information. A party shall immediately provide the Clerk of Court, or designee, updated contact information, including mailing address, email address, and phone number if the address on file changes.

Rule 5. Filing Fee

A. The Clerk of Court, or designee, will set the schedule of filing fees.

Rule 6. Sovereign Immunity

A. Nothing in these Rules shall be construed as a waiver of the sovereign immunity of Central Council of Tlingit & Haida Indian Tribes of Alaska or the immunity of its employees, officers, agencies, divisions, enterprises or subordinate entities.

Title II: Grounds for Appeal; Standard of Review; Notice

Rule 7. Grounds for Appeal

A. Appeals may be filed by a party who is dissatisfied with a final judgment or order and by a person who is disenrolled by the Enrollment Committee.

Rule 8. Standards of Review

A. Standards of Review for Appeals from the Trial Court.

1. **Questions of Fact.** The Supreme Court shall determine whether the Trial Court's factual findings are supported by substantial evidence.
2. **Questions of Law.** The Supreme Court shall determine whether the Trial Court's conclusions of law are in accordance with law.
3. **Substantial Rights.** The Supreme Court shall disregard any error or defect in proceedings which does not affect the substantial rights of the parties.

B. Standards of Review for Appeals from Disenrollments.

1. **Questions of Fact.** The Supreme Court shall review factual findings of the Enrollment Committee de novo.
2. **Questions of Law.** The Supreme Court shall determine whether the Enrollment Committee's decision was in accordance with law.
3. **Substantial Rights.** The Supreme Court shall disregard any error or defect in proceedings which does not affect the substantial rights of the parties.

Rule 9. Notice of Appeal and Statement of Reasons

A. Timing.

1. **Appeal from Trial Court.** A party appeals a final decision or judgment of the Trial Court, by filing a Notice of Appeal with a filing fee with the Clerk of the Court, or designee, within 30 days after the date of entry of the judgment or order appealed from or after the date of granting, continuing, modifying, refusing, or dissolving an injunction or refusing to dissolve or modify an injunction.
2. **Notice of Appeal of Disenrollment Decisions.** A party appeals a disenrollment decision from the Tlingit & Haida Enrollment Committee, by filing a Notice of Appeal with a filing fee with the Clerk of the Court, or designee, within 30 days after the date of receipt of the notification of disenrollment from the Tlingit & Haida Enrollment Committee.

B. Form of Notice. The Notice of Appeal shall state the following:

1. The name of the case;
2. The names of the parties, and their attorneys or lay advocates, if any;
3. The party's intention of appeal; and
4. The specific judgment or order being appealed.

C. Statement of Reasons. A Statement of Reasons explaining why the party is appealing shall be filed no later than 30 days after the filing of the Notice of Appeal, and may be filed with the Statement of Reasons. The Statement of Reasons may be accompanied by supporting documents from the Court record.

D. Form of Statement. A Statement of Reasons shall include the following:

1. The part(s) of the decision that the party wants reviewed;
2. Each error of law, fact, or procedure being appealed and how it affected the outcome of the case;
3. The relief or order requested; and
4. Current contact information for the parties, including the physical address, mailing address, and phone number.

Rule 10. Record on Appeal

A. Trial Court Appeals.

1. Within 30 days after receipt of a Notice of Appeal the Trial Court shall submit a certified record on appeal to the Supreme Court, except in cases of an appeal from a disenrollment.
2. A Certified Record on Appeal shall include:
 - a. Documents and exhibits filed by all parties in the Trial Court;
 - b. Recordings of proceedings;
 - i. If parties desire a written transcript of the proceedings, the parties are responsible for independently arranging for the preparation of any transcripts, including paying all costs associated with obtaining a transcript.
 - c. A copy of the docket entries prepared by the Clerk of the Court or designee; and
 - d. A copy of the final decision or judgment on appeal.

B. Disenrollment Appeals.

1. Within 30 days after receipt of a Notice of Appeal Program Compliance shall submit to the Clerk of Court, or designee, a copy of the appellant's enrollment file, certified by the Enrollment Committee Chair, or designee.

Rule 11. Distribution and Service

- A. Initial Service.** The Appellant shall serve the Notice of Appeal with the Statement of Reasons to each Appellee. In the alternative, the Appellant may request that the Clerk of the Court, or designee, effect service and pay any applicable fee for such service.
- B. Service.** All documents shall be served in accordance with Civil Procedure Rule 10.

Rule 12. Stay Pending Appeal

- A.** The Supreme Court may stay the enforcement or effect of the judgment or order appealed.

Title III: Briefs and Motions

Rule 13. Briefings

- A.** The Supreme Court may issue a briefing order within 10 days following receipt of the Statement of Reasons. Each brief will be filed with the Clerk of the Court, or designee, after the filing party has served a copy of the brief on each other party and each *amicus curiae* involved in the case.
- B. Briefing Deadlines.** Unless otherwise ordered by the Supreme Court:
 1. The Appellant shall file an opening brief within 30 days of receipt of the appeal;
 2. The Appellee shall file a response brief within 30 days of the Appellant brief; and,
 3. The Appellant may file a reply to the Appellee's response brief within 15 days of the response brief.
- C. Briefing Format.**
 1. Unless otherwise permitted by the Court, briefs shall be limited to 30 double-spaced pages typed in size 12 font unless hand-written.

2. When a brief is submitted to the Supreme Court, it shall be filed with proof of service for each other party and each *amicus curiae* involved in the case.
- C. Appellant's Brief.** The Appellant's brief shall include the following:
1. A short statement of the case, including such facts as are material to the issues presented on appeal, with appropriate references to the record;
 2. A concise argument containing the positions of the Appellant;
 3. The relevant supporting legal authority; and
 4. A short conclusion stating the relief sought by the Appellant.
- D. Appellee's Brief.** The Appellee's brief shall include the following:
1. If the Appellee has concerns about the sufficiency or accuracy of the details of the case provided in the opening brief, a short statement of the case that clarifies any related issues;
 2. A response to the positions of the Appellant;
 3. The relevant supporting legal authority; and
 4. A short conclusion.
- E. Supplemental Briefs.** The Supreme Court may issue an order directing the parties to submit supplemental briefs after reviewing the briefs provided by the parties.
- F. *Amicus Curiae*.**
1. A party who wishes to appear as an *amicus curiae* must submit a written request prior to the conclusion of time allotted for briefing to the Clerk of the Court, or designee, along with proof that the request was served to each party in the case. The request shall state: (1) The party's relation to and interest in the appeal, and (2) Whether the party would like to participate in briefing, oral argument, or both.
 2. Objections to the request shall be made by motion within 14 days of service of the request. The Supreme Court may approve or deny such requests by written order. If the request is granted, the order shall specify the *amicus curiae's* manner of appearance and any time allotted for filing an *amicus* brief.

Rule 14. Motions

- A. Power of a Single Justice to Entertain a Motion.** A Justice may act alone on any motion, but may not dismiss or otherwise determine an appeal or other proceeding. The Supreme Court may provide by rule or by order in a particular case that only the Supreme Court may act on any motion or class of motions. The court may review the action of a single Justice.
- B. Oral Argument.** A motion will be decided without oral argument unless the Court orders otherwise.
- C. Motions for Extending Time to File Briefs.**
1. A motion for extending the time to file a brief may be filed no later than the day prior to the filing party's deadline to submit the brief. The motion must state:
 - a. The original deadline for the submission of the brief;
 - b. The length of the extension requested; and
 - c. Justification for the extension.

2. The motion must be filed with proof of service on each other party, unless the parties file it together. The duration of the extension shall be reasonably proportional to the justification provided.

Title IV: Oral Argument; Dismissal; Judgment

Rule 15. Oral Argument

- A. Once all briefs are submitted or the time allotted ends, the Supreme Court may schedule oral arguments or issue a ruling. Parties may only present arguments that have been briefed.

Rule 16. Dismissal

- A. **Motion to Dismiss.** The Appellant can request dismissal of the appeal at any time. The Court has discretion to dismiss an appeal on the request of the Appellee.
- B. **Court Dismissal.** The Court may dismiss an appeal for the following reasons:
 4. The Court determines, within 30 days of the filing of a Statement of Reasons, that it lacks jurisdiction to hear the appeal; or
 5. The Court determines that an appeal was without merit, filed frivolously and without good faith; or
 6. The appeal was not ready, due to timeliness or missing components; or
 7. The Appellant did not file an opening brief ordered by the briefing schedule and there was no extension of time; or
 8. If the Appellant did not brief all of the issues cited in the notice of appeal, the issues not briefed could be considered dismissed or waived, and the Appellant may not raise them at oral argument.

Rule 17. Judgment

- A. A decision or judgment of the Supreme Court is the final authority on a matter and that matter shall not be subject to further review.
- B. **Decision on Appeal.** If the Supreme Court determines an appeal is without merit or the Court lacks jurisdiction the Court shall produce a written order of dismissal no later than 30 days after the filing of a Statement of Reasons.
- C. **Decision on the Arguments.** When the Supreme Court's decision is based on the written or oral arguments of the parties, the written order of the Supreme Court decision shall be issued no later than 60 days following the final hearing if oral arguments are scheduled or no later than 60 days following the filing of scheduled briefs.

RULES OF COURT
Elders Court Rules

[Reserved]

RULES OF COURT

Tribal Bar Rules of Professional Conduct

[Reserved]