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TULALIP TRIBAL COURT RULES

Adopted by the Tulalip Tribes Board of Directors
November 30, 2012
Amended by Resolutions No. 2013-123, 2013-551, 2014-142, 2014-237, 2015-383

Section 1
Administrative Rules

1.1 COMMUNICATION WITH JUDGES

Unless permitted by Tulalip Tribal Code or Court Rule, no one other than court personnel shall have ex parte communication with judges of the Tulalip Tribal Court regarding a matter pending before the Court until final resolution of the case. Communication means any type of communication, oral, written, by telephone or electronic device, or otherwise. This rule does not limit communication on administrative matters, such as scheduling of cases.

1.2 EX PARTE CALENDAR

The Court shall establish a calendar with time set aside for the presentation of ex parte orders.

1.3 COURTROOM SAFETY

1.3.1 No person, except for Judges of the Court, and duly and regularly commissioned law enforcement officers of the Tulalip Tribes, State of Washington, or the United States government are allowed in the Tulalip Tribal Court while armed with any firearm, taser, explosive device, knife, billyclub, blackjack, truncheon or bat, or other dangerous weapon, nor shall any person be in the courthouse while possessing any gas gun, or other device for the spraying of tear gas, mace or other noxious chemical substance, or any incendiary device.

1.3.2 Any person found having any of the articles or devices mentioned in this rule is subject to having such articles or devices seized by law enforcement officers, bailiffs on court order, or as otherwise directed by the Court.

1.3.3 A license to carry a concealed pistol does not allow any of the items listed in this rule to be brought into the courthouse.

1.4 FILING AND PRE-MARKING REQUIREMENTS

1.4.1 Pleadings

When filing any pleading with the Court, the party or attorney must provide two (2) copies, one for the Court, and one to be conformed for the filing party, which may be delivered in person or by mail. Pleadings delivered in person must be filed by 4 p.m. If filed by mail, a self-addressed stamped envelope shall be included.

1.4.2 Pre-Marking Exhibits

A) In all cases, if exhibits number more than ten (10) per party, exhibits shall be pre-marked. Arrangements shall be made with the Court Clerk for the marking of all exhibits prior to trial.

B) In a criminal case, only the prosecution is required to pre-mark exhibits, unless otherwise ordered by the Court.

1.5 WORKING COPIES OF MOTIONS AND BEDA?CHELH DOCUMENTS

The parties shall furnish an extra copy as a working copy of any motions or briefs marked "Judges Copy" when they file motions or briefs. In beda?chelh cases, working copies of reports, recommendations, and home studies shall be provided in the same format as for briefs and motions. Working copies of the motions or briefs shall be delivered by the party filing such documents to the Court Clerk no later than the day they are to be served on all other parties. All working copies shall state, in red ink in the upper right corner, the following: the date and time of such hearing and the name of the judge hearing the matter.

1.6 CITED CASES

A copy of any case cited within a pleading must be attached to the Judges Copy.

1.7 COMPUTATION OF DAYS

1.7.1 Computation

In computing any period of time prescribed or allowed by these rules, by order of court, or any applicable ordinance, the day of the act, event, or default from which the designated period of time begins to run shall not be included.

1.7.2 Enlargement

When by court rule or by law an act is required to be performed within a certain time period, the Court may extend or shorten the time within which a party must perform the act; except this rule shall not apply where the law or court has specified a procedure for extending or shortening the time within which an act must be performed and except for motions for reconsideration, time for filing notice of appeal, motions for new trial, and motions for relief of judgment.

1.8 SERVICE

1.8.1 On Attorney or Party

Whenever service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the Court. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last known address or, if no address is known, filing with the Court Clerk an affidavit of attempt to serve. Delivery of a copy within this rule means: handing it to the attorney or to the party; or leaving it at his office with his clerk or other person in charge thereof; or, if there is no one in charge, leaving it in a conspicuous place therein; or, if the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.

1.8.2 Service by Mail

A) How made

If service is made by mail, the papers shall be deposited in the United States mail addressed to the person on whom they are being served, with the postage prepaid. The service shall be deemed complete upon the fifth day following the day upon which they are placed in the mail, unless the fifth day falls on a Saturday, Sunday or legal holiday, in which event service shall be deemed complete on the first day other than a Saturday, Sunday or legal holiday, following the fifth day. Legal holidays are those declared by the Tulalip Tribal Board of Directors.

B) Proof of service by mail

Proof of service of all papers permitted to be mailed may be by written acknowledgment of service, by declaration under penalty of perjury of the person who mailed the papers, or by certificate of an attorney. The certificate of an attorney may be in form substantially as follows:

CERTIFICATE

I certify that I mailed a copy of the foregoing _____ to (John Smith), (plaintiff's) attorney, at (office address or residence), and to (Joseph Doe), an additional (defendant's) attorney (or attorneys) at (office address or residence), postage prepaid, on (date).

_____

(John Brown)
Attorney for (Defendant) Jane Jones

1.9 NOTICE BY PUBLICATION

To prove service by publication, a party must file a declaration of publication from the publishing newspaper and a copy of what was published.

1.10 SEALING AND REDACTION OF COURT RECORDS

1.10.1 Purpose and Scope

This rule sets forth a uniform procedure for the sealing and redaction of court records. This rule applies to all court records, not already protected by Tulalip law and applicable federal law. However, even within a sealed file, the Court may further limit or determine access to sensitive documents.

1.10.2 Definitions

A) "Court file" means the pleadings, orders, and other papers filed with the clerk of the court under a single or consolidated cause number(s).

B) "Court record" includes, but is not limited to: Any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding, and any index,

calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information contained in a case management system created or prepared by the court that is related to a judicial proceeding. Court record does not include information and data maintained by or for a judge pertaining to a particular case or party, such as personal notes and communications, memoranda, drafts, or other working papers or information gathered, maintained, or stored by the Tulalip Tribes to which the Court has access but which is not entered in the record.

C) Seal. To seal means to protect from examination by the public and unauthorized court personnel.

D) Redact. To redact means to protect from examination by the public and unauthorized court personnel a portion or portions of a specified court record.

E) Restricted Personal Identifiers are social security numbers, account numbers and driver's license numbers.

F) Strike. A motion or order to strike from the record is not a motion or order to seal or destroy.

G) Vacate. To vacate means to nullify or cancel.

1.10.3 Sealing or Redacting Court Records

A) Requests

In a civil case, the court or any party may request a hearing to seal or redact the court records. In a criminal case, the court, any party, any victim or alleged victim, or any witness may request a hearing to seal or redact the court records. Reasonable notice of a hearing to seal must be given to all parties in the case. In a criminal case, reasonable notice of a hearing to seal or redact must also be given to the victim, if ascertainable, and the person or agency having probationary supervision over the affected individual.

B) Written Findings

After the hearing, the court may order the court files and records in the proceeding, or any part thereof, to be sealed or redacted if the court makes and enters written findings that the specific sealing or redaction is justified by identified compelling privacy or safety concerns that outweigh the public interest in access to the court record. Agreement of the parties alone does not constitute a sufficient basis for the sealing or redaction of court records. Sufficient privacy or safety concerns that may be weighed against the public interest include findings that:

i) The sealing or redaction is permitted by Tulalip ordinance;

ii) The redaction includes only restricted personal identifiers contained in the court record;

iii) Another identified compelling circumstance exists that requires the sealing or redaction.

C) Redaction

A court record shall not be sealed under this section when redaction will adequately resolve the issues before the court pursuant to subsection (B) above.

D) Sealing of Entire Court File

When the clerk receives a court order to seal the entire court file, the clerk shall seal the court file and secure it from public access. All court records filed thereafter shall also be sealed unless otherwise ordered. The order to seal and written findings supporting the order to seal shall also remain accessible to the parties, unless protected by Tulalip ordinance.

E) Sealing of Specified Court Records

When the clerk receives a court order to seal specified court records the clerk shall:

i) On the docket, preserve the docket code, document title, document or subdocument number and date of the original court records;

ii) Remove the specified court records, seal them, and return them to the file under seal or store separately. The clerk shall substitute a filler sheet for the removed sealed court record. If the court record ordered sealed exists in another storage medium form other than paper, the clerk shall restrict access to the alternate storage medium so as to prevent unauthorized viewing of the sealed court record; and

iii) File the order to seal and the written findings supporting the order to seal. Both shall be accessible to the parties.

iv) Before a court file is made available for examination, the clerk shall not allow access to the sealed court records.

F) Procedures for Redacted Court Records

When a court record is redacted pursuant to a court order, the original court record shall be replaced in the public court file by the redacted copy. The redacted copy shall be provided by the moving party. The original unredacted court record shall be sealed.

1.10.4 Grounds and Procedure for Requesting the Unsealing of Sealed Records.

A) Court Orders

Sealed court records may be examined by the public only after the court records have been ordered unsealed pursuant to this section or after entry of a court order allowing access to a sealed court record.

B) Criminal Cases

A sealed court record in a criminal case shall be ordered unsealed only upon proof of compelling circumstances, unless otherwise provided by Tulalip ordinance or other applicable law, and only upon motion and written notice to the persons entitled to notice under subsection 1.10.3(A) of this rule except:

i) If a new criminal charge is filed and the existence of the conviction contained in a sealed record is an element of the new offense, or would constitute a statutory sentencing enhancement, or provide the basis for an exceptional sentence, upon application of the prosecuting attorney the court shall nullify the sealing order in the prior sealed case(s).

C) Civil Cases

A sealed court record in a civil case shall be ordered unsealed only upon stipulation of all parties or upon motion and written notice to all parties and proof that identified compelling

circumstances for continued sealing no longer exist. If the person seeking access cannot locate a party to provide the notice required by this rule, after making a good faith reasonable effort to provide such notice as required by Tulalip ordinances and rules, an affidavit may be filed with the court setting forth the efforts to locate the party and requesting waiver of the notice provision of this rule. The court may waive the notice requirement of this rule if the court finds that further good faith efforts to locate the party are not likely to be successful. In such cases where notice is not possible, the Court shall make an independent determination as to whether it is appropriate to unseal the requested file or documents.

1.10.5 Maintenance of Sealed Court Records

Sealed court records may be maintained in mediums other than paper.

1.10.6 Use of Sealed Records on Appeal

A court record or any portion of it, sealed in the trial court shall be made available to the appellate court in the event of an appeal. Court records sealed in the trial court shall be sealed from public access in the appellate court subject to further order of the appellate court.

1.10.7 References to Minor Children in Court Files or Court Records

In criminal proceedings, all court records and court files must refer to any minor children by initials and date of birth only, unless such references are sealed or redacted.

1.11 EXAMINATION OF COURT FILES

1.11.1 The following court files may not be viewed without a judge's authorization: youth in need of care; guardianship; paternity; adoption; domestic relations; workers compensation; gaming license appeal; all civil cases related to domestic violence or elder protection; or any other action that is confidential by law or in the discretion of the Court.

1.11.2 The following parts of court files may not be viewed without a judge's authorization: parts of files covered by HIPAA; medical information; financial information; portions of files that are sealed; or reports marked sealed or confidential.

1.11.3 Files may be viewed only in the Court Clerk's office under the supervision of a Court Clerk.

1.11.4 The following conditions must be met in order to view court files:

A) A request form must be filled out.

B) The viewer may not:

i) Remove anything from the court file;

ii) Add anything to the court file;

iii) Write in the court file;

iv) Make any alteration to the court file whatsoever.

1.11.5 Expedited consideration shall be given to requests related to criminal prosecutions. Such requests may be made at the Court Clerk's office or at the ex parte calendar.

1.11.6 Copies may be made of parts of files allowed to be viewed. The Court Clerk's office may assess a cost for the copies except for those copies made by court appointed counsel.

1.12 PROCEDURES FOR THE TULALIP BAR EXAM

1.12.1 Application

To apply for the bar exam, the applicant must complete the Tulalip Bar Exam Application Form and return the completed form to the Court Clerk.

1.12.2 Provisional License

The Court may grant a 30-day provisional license to applicants who register to take the bar exam. It is the responsibility of the applicant to request the 30-day provisional license in conjunction with applying for the bar exam.

1.12.3 Fees

Application fees shall be set by the Court.

1.12.4 Limitations

An applicant may take the exam three times in a year from the date of the first attempt.

1.12.5 Oath

The applicant shall read and agree to abide by the Tulalip Rules of Professional Responsibility and certify under penalty of perjury that the applicant has done so.

1.13 MEMBERSHIP IN THE TULALIP TRIBAL BAR

The Court has the authority to assess fees for continuing membership in the Tulalip Tribal Bar.

1.14 WARRANT QUASHES

1.14.1 Calendar

The Court shall establish regularly scheduled calendars to address the quashing of warrants. Under extenuating circumstances, judges may hear warrant quashes at any other time with notice to the parties.

1.14.2 Notice

The Court Clerk shall notify the prosecutor and defense counsel when a warrant quash is requested.

1.14.3 The Court may impose a fee for granting a warrant quash motion.

1.15 INFORMATION TECHNOLOGY EQUIPMENT IN THE COURTROOMS

1.15.1 Responsibility of Parties

All courtrooms are equipped with electrical outlets and guest wireless internet access. However, it is the responsibility of the parties to provide electrical cords, shadow boxes, overhead projectors, laptops, audio/visual equipment or other electronic equipment for use in the courtroom during hearings. The party using private equipment shall provide mats or gaffer's tape for securing cables crossing floors to avoid creating tripping hazards in the courtrooms. Each party who wishes to use private equipment or equipment based on other technologies during court hearings shall obtain approval from the judge.

1.15.2 Technical Coordination and Support

Once the request to use private equipment is approved, the party must contact TDS at 360-716-5101 no later than 10 days prior to the court date. The Court Specialist/TDS will coordinate any necessary installation of equipment in the courtroom. The party must provide their own technical support for any private equipment during the hearing.

1.15.3 Other Considerations

A) There are a limited number of electrical outlets available in each courtroom.
B) Additional telephone and/or network connections may not be available in the courtrooms.
C) Private equipment must not interfere with the line of sight of the judge or jury.

1.16 GUEST WIRELESS INTERNET ACCESS

1.16.1 Guest User Account

Free public wireless internet access is available throughout the courthouse. To obtain a guest user account and password, please contact the TDS Helpdesk at 360-716-5101 and provide the following information: name, company, contact number, and duration needed.

1.16.2 Agreement of Terms of Use

Users should be aware that there are security, privacy and confidentiality risks inherent in wireless communications and associated technologies, and the Tulalip Tribes and its entities do not make any assurances or warranties relating to such risks.

1.16.3 General Access Instructions and Guidelines

A) Power Supply

Electrical outlets may not be readily available, so make sure the laptop or wireless device has a fully charged battery. Should the use of an electrical cord be required, such electrical cords shall not be placed across public pathways or traffic areas. Should any electrical cord pose a safety hazard, court personnel will request its removal.

B) Connecting to Free Public Wireless Internet Access System

i) To connect to the free public wireless internet access system, connect the laptop or wireless device to SSID/Network Name – Tulalip Wi-Fi Guest.
ii) Open a web browser on the laptop or wireless device. The browser will automatically be directed to a Login webpage. If the login webpage does not automatically appear, you may get a message saying "We recommend that you close this webpage and do not continue to this website."
iii) Click "Continue to this website (not recommended)" and then enter the username and password provided in the login webpage. The laptop or wireless device should now have Internet access.

1.16.4 Technical Support

Technical support will not be provided to any user trying to access the guest wireless internet system.

1.17 COURTROOM PHOTOGRAPHY AND RECORDING BY THE NEWS MEDIA

1.17.1 Permission

Video and audio recording and still photography by the news media are allowed in the courtroom during and between sessions, provided that:

A) Permission shall have first been expressly granted by the judge; and

B) Media personnel not, by their appearance or conduct, distract participants in the proceedings or otherwise adversely affect the dignity and fairness of the proceedings.

1.17.2 Discretion

The judge shall exercise reasonable discretion in prescribing conditions and limitations with which media personnel shall comply.

1.17.3 Guiding Principles

If the judge finds that sufficient reasons exist to warrant limitations on courtroom photography or recording, the judge shall make particularized findings on the records at the time of announcing the limitations. This may be done either orally or in a written order. In determining what, if any, limitations should be imposed, the judge shall be guided by the following principles:

A) Open access is presumed; limitations on access must be supported by reasons found by the judge to be sufficiently compelling to outweigh that presumption;

B) Prior to imposing any limitations on courtroom photography or recording, the judge shall, upon request, hear from any party and from any other person or entity deemed appropriate by the judge; and

C) Any reasons found sufficient to support limitations on courtroom photography or recording shall relate to the specific circumstances of the case before the court rather than reflecting merely generalized views.

Section 2
General Rules

2.1 GUIDING PRINCIPLES FOR INTERPRETATION OF TULALIP LAW

2.1.1 Purpose

Tulalip Tribal Law provides that Tulalip Tribal Court shall apply the custom laws of the tribe. To this end, the Court shall incorporate Tulalip Vision and Values into its practices and decisions.

2.1.2 Tulalip Vision and Values

The Court shall consider the following Tulalip Vision and Values in all aspects of the judicial process:

A) Vision

i) We gathered at Tulalip are one people.

ii) We govern ourselves.

iii) We will arrive when each and every person has become most capable.

B) Values

i) We respect the community of our elders past and present and pay attention to their good words.

ii) We uphold and follow the teachings that come from our ancestors.

iii) It is valued work to uphold and serve our people.

iv) We work hard and always try to do our best.

v) We show respect to every individual.

vi) We strengthen our people so that they may walk a good walk.

vii) We do not gossip, we speak the truth.

2.1.3 Incorporated Values

A) Courtroom Conduct

In all proceedings, should time allow, elders in the community shall be allowed to address the court about an ongoing proceeding and their beliefs or recommendations. The Court shall give it appropriate legal weight but shall allow the elder to speak.

B) Judicial Demeanor

In all proceedings, each party shall be given an opportunity to speak uninterrupted.

C) Alternative Sentencing

In all criminal proceedings, the court shall favor treatment for offenders and shall monitor the treatment to insure compliance.

D) Other Incorporated Values

The Court may incorporate the Vision and Values into judicial proceedings in other ways as it deems necessary.

2.2 INVOLUNTARY DISMISSAL

2.2.1 Effect

For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, a defendant may move for dismissal of an action or of any claim against him or her.

2.2.2 Dismissal for Want of Action of Record on Motion of Party

Any civil action shall be dismissed, without prejudice, for lack of action of record whenever the plaintiff, counterclaimant, cross claimant, or third party plaintiff neglects to note the action for trial or hearing within 1 year after any issue of law or fact has been joined, unless the failure to bring the same on for trial or hearing was caused by the party who makes the motion to dismiss. Such motion to dismiss shall come on for hearing only after 10 days' notice to the adverse party. If the case is noted for trial before the hearing on the motion, the action shall not be dismissed.

2.2.3 Dismissal on Court Clerk's Motion

A) Notice

In all civil cases in which no action of record has occurred during the previous 12 months, the Court Clerk shall notify the parties or attorneys of record by mail that the Court will dismiss the case for lack of action of record unless, within 30 days following the mailing of

such notice, a party or attorney takes action of record or files a status report with the Court including the reason for inactivity and projecting future activity and a case completion date. If the Court does not receive such a status report, it shall, on motion of the Court Clerk, dismiss the case without prejudice and without cost to any party.

B) Mailing Notice; Reinstatement
The Court Clerk shall mail notice of impending dismissal not later than 30 days after the case becomes eligible for dismissal because of inactivity. A party who does not receive the Court Clerk's notice shall be entitled to reinstatement of the case, without cost, upon motion brought within a reasonable time after learning of the dismissal.

C) Discovery in Process
The filing of a document indicating that discovery is occurring between the parties shall constitute action of record for purposes of this rule.

D) Other Grounds for Dismissal and Reinstatement
This rule is not a limitation upon any other power that the Court may have to dismiss or reinstate any action upon motion or otherwise.

2.3 TIME ALLOWED FOR ARGUMENT ON MOTION

Each party shall be allocated ten minutes for the purpose of arguing in support of the party's motion, unless otherwise ordered by the Court.

2.4 DISCLOSURE OF WITNESSES

2.4.1 Civil Cases

The names, addresses and telephone numbers of possible primary witnesses and a short summary of their expected testimony shall be disclosed by the parties by filing a statement setting forth that information and serving it on the other parties at a time set by the Court. The names of any possible rebuttal witnesses shall be disclosed in the same fashion after the primary witnesses have been disclosed at a time set by the Court. If disclosure is not made as set forth in this rule, the testimony of the witness not disclosed will not be allowed at trial.

2.4.2 Criminal Cases

Disclosure of witnesses in criminal cases shall be governed by the Tulalip Law and Order Code.

2.5 MOTION FOR NEW TRIAL AND AMENDMENT OF JUDGMENTS

2.5.1 Grounds for New Trial

On the motion of the party aggrieved, a verdict may be vacated and a new trial granted to all or any of the parties, and on all issues, or on some of the issues when such issues are clearly and fairly separable and distinct, or any other decision or order may be vacated and reconsideration granted. Such motion may be granted for any one of the following causes materially affecting the substantial rights of such parties:

A) Irregularity in the proceedings of the court, jury or adverse party, or any order of the court, or abuse of discretion, by which such party was prevented from having a fair trial.

B) Misconduct of prevailing party or jury; and whenever any one or more of the jurors shall have been induced to assent to any general or special verdict or to a finding on any question or questions submitted to the jury by the Court, other and different from his own conclusions, and arrived at by a resort to the determination of chance or lot, such misconduct may be proved by the affidavits of one or more of the jurors;

C) Accident which ordinary prudence could not have guarded against;

D) Damages so excessive or inadequate as unmistakably to indicate that the verdict must have been the result of passion or prejudice;

E) Error in the assessment of the amount of recovery whether too large or too small, when the action is upon a contract, or for the injury or detention of property;

F) That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law;

G) Error in law occurring at the trial and objected to at the time by the party making the application; or

H) That substantial justice has not been done.

2.5.2 Time for Motion; Contents of Motion

A motion for a new trial shall be filed not later than 10 days after the entry of the judgment, order, or other decision. The motion shall be noted at the time it is filed, to be heard or otherwise considered within 30 days after the entry of the judgment, order, or other decision, unless the Court directs otherwise. A motion for a new trial shall identify the specific reasons in fact and law as to each ground on which the motion is based.

2.5.3 Time for Serving Affidavits

When a motion for new trial is based on affidavits, they shall be filed with the motion. The opposing party has 10 days after service to file opposing affidavits, but that period may be extended for up to 20 days, either by the Court for good cause or by the parties' written stipulation. The Court may permit reply affidavits.

2.5.4 On Initiative of Court

Not later than 10 days after entry of judgment, the Court on its own initiative may order a hearing on its proposed order for a new trial for any reason for which it might have granted a new trial on motion of a party. After giving the parties notice and opportunity to be heard, the Court may grant a timely motion for a new trial for a reason not stated in the motion. When granting a new trial on its own initiative or for a reason not stated in a motion, the Court shall specify the grounds in its order.

2.5.5 Hearing on Motion

When a motion for a new trial is filed, the judge by whom it is to be heard may on the judge's own motion or on application determine:

A) Time of Hearing

Whether the motion shall be heard before the entry of judgment;

B) Consolidation of Hearings

Whether the motion shall be heard before or at the same time as the presentation of the findings and conclusions and/or judgment, and the hearing on any other pending motion; and/or

C) Nature of Hearing

Whether the motion or motions and presentation shall be heard on oral argument or submitted on briefs, and if on briefs, shall fix the time within which the briefs shall be served and filed.

2.5.6 Statement of Reasons

In all cases where the Court grants a motion for a new trial, it shall, in the order granting the motion, state whether the order is based upon the record or upon facts and circumstances outside the record that cannot be made a part thereof. If the order is based upon the record, the Court shall give definite reasons of law and facts for its order. If the order is based upon matters outside the record, the Court shall state the facts and circumstances upon which it relied.

2.5.7 Reopening Judgment

On a motion for a new trial in an action tried without a jury, the Court may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions of law or make new findings and conclusions, and direct the entry of a new judgment.

2.5.8 Motion to Alter or Amend Judgment

A motion to alter or amend the judgment shall be filed not later than 10 days after entry of the judgment.

2.5.9 Alternative Motions

Alternative motions for judgment as a matter of law and for a new trial may be made.

2.5.10 Limit on Motions

If a motion for a new trial, or for judgment as a matter of law, is made and heard before the entry of the judgment, no further motion may be made without leave of the court first obtained for good cause shown.

2.5.11 Challenge to Pro-Tem Ruling

Any motion challenging a ruling made by a pro-tem judge shall be decided by a sitting judge. The Chief Judge shall determine which sitting judge shall hear the motion.

2.6 DISPOSITION OF EXHIBITS AFTER APPEAL PERIOD HAS RUN

2.6.1 Civil Cases

No one shall withdraw an exhibit without a court order. After 30-day notice to all parties of record following final disposition, the Court may order the Court Clerk to destroy or dispose of physical evidence unless good cause is shown why it should be preserved.

2.6.2 Criminal Cases

Non-contraband exhibits in the Court's custody, for which there is no dispute as to ownership, shall be returned to the party who produced that exhibit on motion of that party after expiration of the appeal period. In the event of a finding of guilty, for purpose of this rule, the appeal

period shall begin on the day of sentencing. Exhibits not withdrawn shall be delivered by the Court to the applicable law enforcement agency for disposition as abandoned property; or if contraband, for destruction. No exhibit shall be released by the Court without its being receipted for by the receiving person.

2.7 WITHDRAWAL OF ATTORNEYS AS COUNSEL

2.7.1 Withdrawal by Attorney in a Civil Case

A) Withdrawal by Order

A court appointed attorney may not withdraw without an order of the court. The client of the withdrawing attorney must be given notice of the motion to withdraw and the date and place the motion will be heard.

B) Withdrawal by Notice

Except as provided in subsections (A) and (C) of this rule, an attorney may withdraw by notice in the manner provided in this rule.

C) Notice of Intent to Withdraw

The attorney shall file and serve a Notice of Intent to Withdraw on all other parties in the proceeding. The notice shall specify a date when the attorney intends to withdraw, which date shall be at least 10 days after the service of the Notice of Intent to Withdraw. The notice shall include a statement that the withdrawal shall be effective without order of court unless an objection to the withdrawal is served upon the withdrawing attorney prior to the date set forth in the notice. If notice is given before trial, the notice shall include the date set for trial. The notice shall include the names and last known addresses of the persons represented by the withdrawing attorney, unless disclosure of the address would violate the Washington State Rules of Professional Conduct, in which case the address may be omitted. If the address is omitted, the notice must contain a statement that after the attorney withdraws, and so long as the address of the withdrawing attorney's client remains undisclosed and no new attorney is substituted, the client may be served by leaving papers with the Court Clerk.

D) Service on Client

Prior to service on other parties, the Notice of Intent to Withdraw shall be served on the persons represented by the withdrawing attorney or sent to them by certified mail, postage prepaid, to their last known mailing addresses. Proof of service or mailing shall be filed, except that the address of the withdrawing attorney's client may be omitted under circumstances defined by subsection (c)(1) of this rule.

E) Withdrawal Without Objection

The withdrawal shall be effective, without order of court and without the service and filing of any additional papers, on the date designated in the Notice of Intent to Withdraw, unless a written objection to the withdrawal is served by a party on the withdrawing attorney prior to the date specified as the day of withdrawal in the Notice of Intent to Withdraw.

F) Effect of Objection

If a timely written objection is served, withdrawal may be obtained only by order of the court.

G) Withdrawal and Substitution

Except as provided in subsection (A) of this rule, an attorney may withdraw if a new attorney is substituted by filing and serving a Notice of Withdrawal and Substitution. The notice shall include a statement of the date on which the withdrawal and substitution are effective and shall include the name, address, and signature of the withdrawing attorney and the substituted attorney. If an attorney changes firms or offices, but another attorney in the previous firm or office will become counsel of record, a Notice of Withdrawal and Substitution shall nevertheless be filed.

H) Service

Service on an attorney who has appeared for a party in a civil proceeding shall be valid only until the attorney has withdrawn in the manner provided in this rule.

I) Circumstances of Denial of Withdrawal

Nothing in this rule defines the circumstances under which a withdrawal might be denied by the Court.

2.7.2 Withdrawal by Attorney in a Criminal Case

Whenever a criminal cause has been set for trial, no lawyer shall be allowed to withdraw from said cause, except upon written consent of the court, for good and sufficient reason shown.

2.8 PROOF OF COMPLIANCE

2.8.1 Requirement

The Court may require a party to file proof of compliance with any court order.

2.8.2 Responsibility

The party is responsible for filing the proof of compliance with the Court.

2.8.3 Electronic Transmissions

Electronic transmission of proof of compliance is not allowed.

2.9 RESULTS OF DRUG AND ALCOHOL TESTS

2.9.1 Results

The results of tests to determine use of drugs or alcohol are presumptively valid.

2.9.2 Burden of Proof

The burden to prove invalidity is on the contesting party.

2.9.3 Lab Analysis

The party contesting the validity of the results of a test may request further laboratory analysis of the test. If the results of any subsequent tests corroborate the results of the first test, the costs of the subsequent tests shall be paid by the contesting party.

2.10 HEARINGS REGARDING IMPOUND FEES

Persons who have vehicles impounded by the Tulalip Police Department may request a hearing to determine if the impound was lawful by filing a petition requesting a hearing to determine if the impound was authorized by law. The Court will set a hearing to determine the lawfulness of the impound. The petition and order setting the hearing shall be served on the Tulalip Police Department.

Section 3
Civil Rules

3.1 FILING FEES

3.1.1 Petitions

A filing fee will be charged for each petition filed with the Court, unless otherwise specified by law.

3.1.2 Filing Fee Schedule

Type of Petition	Filing Fee
Adoption	$0.00
Child Custody – Uncontested	$100.00
Child Custody – Contested	$200.00
Child Support	$100.00
Court Bar Admission	$100.00
Dependency (YINC)	$0.00
Dissolution – Uncontested	$100.00
Dissolution – Contested	$200.00
Domestic Partnership	$100.00
Elder Protection	$0.00
Employment Appeal (if approved)	$100.00
Exclusion Deferral	$100.00
Gaming Appeal	$100.00
General Civil	$100.00
Guardianship	$0.00
Harassment Protection Order	$0.00
Marriage	$100.00
Name Change	$100.00
Paternity	$100.00
Personal Injury	$250.00
Protection Order	$0.00
Unlawful Detainer	$100.00

Workman's Compensation	$100.00
Zoning	$100.00

3.2 PLEADINGS IN CIVIL CASES

3.2.1 Late Filing; Terms

Any material offered at a time later than required by rule may be stricken by the Court and not considered. If the Court decides to allow the late filing and consider the materials, the Court may continue the matter or impose other appropriate remedies including terms, or both.

3.2.2 Motion; Contents Of

A motion must contain the following:

A) Relief Requested. The specific relief the Court is requested to grant;
B) Statement of Grounds. A concise statement of the grounds upon which the motion is based;
C) Statement of Issues. A concise statement of the issue(s) of law upon which the Court is requested to rule;
D) Evidence Relied Upon. The evidence on which the motion or reply is based shall be identified with particularity.
E) Legal Authority. Any legal authority relied upon must be cited and copies of case law must be provided.

3.2.3 Evidence Supporting Motion

Motions must be supported by admissible evidence.

3.2.4 Scheduling Orders

A) Schedule

After the petition and response have been filed, a scheduling order shall be entered at the pre-trial hearing, which may include the following:

i) Motion deadlines;
ii) Discovery methods allowed and deadlines;
iii) Dispositive motion deadlines;
iv) Witness list deadlines;
v) Exhibit list and exhibit pre-marking deadlines, if applicable;
vi) Trial readiness hearing date; and
vii) Any other matter the court deems necessary for scheduling.

B) Mediation

A scheduling order shall not be entered if the parties are ordered to mediation. If the parties mediate and come to an agreement, a court order may be entered. If the parties mediate and do not come to an agreement, a new pre-trial conference shall be held.

3.2.5 Settlement Dismissal Order

In civil cases where a settlement has been reached such that there will be no need for further litigation, the parties shall file a motion requesting that the case be removed from the active pending caseload of the Court. A hearing shall be set to address the settlement order.

3.3 SETTING HEARING DATE

Once the Declaration of Service has been filed with the Court, the Court Clerk shall set a hearing date and mail a Notice of Hearing to the parties.

3.4 TYPES OF EVIDENCE ALLOWED IN CIVIL MOTION HEARINGS

Civil motions shall be argued only upon sworn affidavits, declarations under penalty of perjury, or stipulated facts. Live testimony shall only be permitted as allowed by the Court.

3.5 DEFAULT AND JUDGMENT

3.5.1 Entry of Default

A) Order of Default

When there has not been an appearance by any non-moving party, the moving party shall seek entry of an Order and Judgment of Default from the Ex Parte Calendar. When there has been an appearance by any non-moving party, the motion for default shall be noted for hearing.

B) Late Appearance or Answer

When a non-moving party has appeared or answered before consideration of the Motion for Order of Default, the moving party shall notify the judge.

3.5.2 Entry of Default Order and Judgment

If the Court determines that testimony is required, the moving party shall schedule the matter.

3.5.3 Setting Aside Default Orders and Judgments

Orders to show cause to vacate default judgments shall be presented to the Ex Parte Calendar. A hearing shall be held to determine whether the order will be set aside or vacated and notice shall be given.

3.5.4 Failure to Appear at Trial

Where a party fails to appear for trial and the appearing party asks the Court to enter judgment in their favor, the Court may in its discretion, require testimony covering the facts alleged or relief requested before granting the request.

3.5.5 Effect of Default

When a party against whom a judgment is sought fails to appear, plead, or otherwise defend within the time allowed, and that is shown to the Court by a motion and affidavit or testimony, the Court may enter an order of a default and, without further notice to the party in default, enter a judgment granting the relief sought in the complaint.

3.6 SANCTIONS FOR FAILURE TO MAKE DISCOVERY AVAILABLE IN CIVIL CASES

3.6.1 Motion for Order Compelling Discovery

If a deponent fails to answer a question or makes an evasive or incomplete answer, fails to designate someone to answer interrogatories or be deposed on behalf of a corporation, or other business entity, or fails to allow inspection, any party may move for an order compelling the

failed act. When taking a deposition on oral examination, the proponent of the question may complete or adjourn the examination before they apply for an order.

3.6.2 Award of Expenses of Motion to Compel

If the motion is granted, the Court shall, after opportunity for hearing, require the party or deponent whose conduct necessitated the motion or the party or attorney advising such conduct to pay to the moving party the reasonable expenses incurred in obtaining the order, including attorney fees, unless the Court finds that the opposition to the motion was substantially justified or that other circumstances make an award of expenses unjust. If the motion is granted in part, and denied in part, the Court may apportion the reasonable expenses incurred in relation to the motion among the parties and persons in a just manner.

3.6.3 Sanctions

If a party, officer, director or managing agent of a party or a person designated as the person to testify or be deposed fails to permit discovery, the Court shall have the discretion to make orders in regard to the failure to comply. In lieu of any orders or in addition, the Court shall require the party failing to obey the order or the attorney advising him or both to pay the reasonable expenses, including attorney fees, caused by the failure, unless the Court finds that the failure was substantially justified or that other circumstance make an award of expenses unjust.

3.6.4 Failure of a Party to Attend at Own Deposition or Serve Answers to Interrogatories or Respond to Request for Production or Inspection

If a party, or an officer, director, or managing agent of a party or a person designated to testify on behalf of a corporation or like entity, fails to:

A) Appear before the officer who is to take his or her deposition, after being served with a proper notice;
B) Serve answers or objections to interrogatories after proper service of the interrogatories; or
C) Serve a written response to a request for production of documents for inspection, after proper service of a request, the Court may make such orders in regard to the failure as are just.

In lieu of any order or in addition, the Court shall require the party failing to act or the attorney advising them to pay the reasonable expenses, including attorney fees, caused by the failure, unless the Court finds that the failure was substantially justified or that other circumstances make an award of expenses unjust. The failure to act described in this rule may not be excused on the ground that the discovery sought is objectionable unless the party failing to act has applied for a protective order. For purposes of this rule, an evasive or misleading answer is to be treated as a failure to answer.

3.7 MEDIATION FOR CIVIL CASES

3.7.1 Purpose

The purpose of mandatory mediation of civil actions is to provide a simplified and economical procedure for obtaining the prompt and equitable resolution of disputes. Mediation hearings should be informal and expeditious.

3.7.2 Matter Subject to Mediation

A) Mediation is mandatory for all tort claims.

B) It is the at the Court's discretion to order mediation for matters involving parenting plans and modification of parenting plans, third party custody, dissolutions, elder protection, and guardianship.

C) Mediation is not required if there is a history of domestic violence between the parties.

3.7.3 Attorney Involvement

A) No attorneys will be permitted during mediation for dissolution or custody issues.

B) Attorneys may be permitted during mediation for tort claims or any other civil case at the discretion of the Court.

3.8 JAIL TRANSPORT

3.8.1 Jail Transport for Youth in Need of Care Cases

A parent to a Youth in Need of Care case may be transported to court for the Adjudicatory Hearing and for the Permanent Plan hearing. The parent or parent's attorney shall make the request to the Court in writing at least one week prior to the hearing.

3.8.2 Other Civil Cases

Upon written request by the Respondent, the Court may order transport to court of the Respondent in other civil cases.

3.9 GUARDIAN AD LITEMS

3.9.1 Purpose

The purpose of these rules is to establish a minimum set of standards applicable to all court cases when the Court appoints a guardian ad litem or any person to represent the best interest of a child, an alleged incapacitated person, or an adjudicated incapacitated person pursuant to tribal law.

3.9.2 Definition

Unless otherwise defined by ordinance or other law, a guardian ad litem shall mean any person or program appointed pursuant to tribal law in an action to represent the best interest of a child, an alleged incapacitated person, or an adjudicated incapacitated person. The guardian ad litem is not a court-appointed attorney.

3.9.3 General Responsibilities of a Guardian ad Litem

Consistent with the responsibilities set forth by tribal law and rules of court, in every case in which a guardian ad litem is appointed, the guardian ad litem shall perform the responsibilities set forth below.

A) Represent Best Interests

A guardian ad litem shall represent the best interests of the person for whom he or she is appointed. Representation of best interests may be inconsistent with the wishes of the person whose interest the guardian ad litem represents. The guardian ad litem shall not advocate on

behalf of or advise any party so as to create in the mind of a reasonable person the appearance of representing that party as an attorney.

B) Maintain Independence
A guardian ad litem shall maintain independence, objectivity and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom.

C) Professional Conduct
A guardian ad litem shall maintain the ethical principles established by the Court.

D) Avoid Conflicts of Interests
A guardian ad litem shall avoid any actual or apparent conflict of interest or impropriety in the performance of the guardian ad litem responsibilities. A guardian ad litem shall avoid self-dealing or association from which a guardian ad litem might directly or indirectly benefit, other than for compensation as guardian ad litem. A guardian ad litem shall take action immediately to resolve any potential conflict or impropriety. A guardian ad litem shall advise the Court and the parties of action taken, resign from the matter, or seek court direction as may be necessary to resolve the conflict or impropriety. A guardian ad litem shall not accept or maintain appointment if the performance of the duties of guardian ad litem may be materially limited by the guardian ad litem's responsibilities to another client or a third person, or by the guardian ad litem's own interests.

E) Treat Parties with Respect
A guardian ad litem is an officer of the court and as such shall at all times treat the parties with respect, courtesy, fairness and good faith.

F) Become Informed About Case
A guardian ad litem shall make reasonable efforts to become informed about the facts of the case and to contact all parties. A guardian ad litem shall examine material, information and sources of information, taking into account the positions of the parties.

G) Timely Inform the Court of Relevant Information
A guardian ad litem shall file a written report with the Court and the parties as required by law or by the court order, no later than 10 days prior to a hearing for which a report is required. The report shall be accompanied by a written list of documents considered or called to the attention of the guardian ad litem and persons interviewed during the course of the investigation.

H) Limit Duties to Those Ordered by Court
A guardian ad litem shall comply with the Court's instructions as set out in the order appointing a guardian ad litem, and shall not provide or require services beyond the scope of the Court's instruction unless by motion and on adequate notice to the parties, a guardian ad litem obtains additional instruction, clarification or expansion of the scope of such appointment.

I) Appear at Hearings
The guardian ad litem shall be given notice of all hearings and proceedings. A guardian ad litem shall appear at any hearing for which the duties of a guardian ad litem or any issues

substantially within a guardian ad litem's duties and scope of appointment are to be addressed. In Elder and Vulnerable Adult Protection proceedings, the guardian ad litem shall appear at all hearings unless excused by court order.

J) Maintain Privacy of Parties

As an officer of the court, a guardian ad litem shall make no disclosures about the case or the investigation except in reports to the Court or as necessary to perform the duties of a guardian ad litem. A guardian ad litem shall maintain the confidential nature of identifiers or addresses where there are allegations of domestic violence or risk to a party's or child's safety. The guardian ad litem may recommend that the Court seal the report or a portion of the report of the guardian ad litem to preserve the privacy, confidentiality, or safety of the parties or the person for whom the guardian ad litem was appointed.

3.9.4 Qualifications

The Court shall establish qualifications for a guardian ad litem.

A) Credentials

i) A current valid license to practice law in the state of Washington or at the Tulalip Tribes; or

ii) A current valid license to practice as a mental health therapist, psychologist or psychiatrist in the state of Washington; or

iii) A Certification of Qualification by the Director of the local CASA program; or

iv) Waiver of the licensure or qualification requirement by the Chief Judge.

B) Core Training

All guardian ad litems shall receive core training before accepting appointment by the Court. Attendance at a guardian ad litem training with a curriculum of at least 16 hours that has been approved by the Chief Judge satisfies this requirement. The curriculum must include specified learning outcomes and activities designed to meet these outcomes, and must cover domestic relations, dynamics of domestic abuse and its effect on children, dynamics of divorce and its effect on children, child development, the effects of abuse, neglect and trauma on children, substance abuse, legal issues and processes, the duties and obligations of the Guardian as an agent of the court and interviewing techniques. For a guardian ad litem acting under the auspices of the CASA program, successful completion of CASA training satisfies this requirement.

3.9.5 Cultural Competency

The guardian ad litem shall establish and maintain a cultural competence of the community as required by the Court.

3.9.6 Guardian ad Litem Reports

A) Types of Reports

All guardian ad litems shall prepare two reports for the Court: 1) a comprehensive sealed report and 2) a redacted report that is available to all parties. The comprehensive report may be viewed by an attorney of record upon a properly filed motion and may be subject to restrictions within the discretion of the Court.

B) Content of Reports
See forms for specific requirements.

3.10 CHILD SUPPORT

Once a petition for a parenting plan and child support has been filed with the Court, the parties have three days to contact the Tulalip Child Support Program (TCSP) to request child support services or provide updated information for enforcement of a child support order. TCSP shall prepare and maintain a referral form for the Court.

3.11 PARENTING SEMINARS; MANDATORY ATTENDANCE

3.11.1 In all cases involving child custody pursuant to tribal law, both parents, and such non-parent parties as the Court may direct, shall participate in, and successfully complete, an approved parenting seminar within 60 days after service of a petition, or an initiating motion, on the responding party. Standards for an approved parenting seminar shall be established by Administrative Order of this Court. Successful completion shall be evidenced by a certificate of attendance.

3.11.2 Special Considerations/Waiver

A) In no case shall opposing parties be required to attend a seminar together.

B) Upon a showing of domestic violence or abuse which would not require mutual decision-making pursuant to tribal law, or that a parent's attendance at a seminar is not in the children's best interest, the Court shall either:

i) Waive the requirement of completion of the seminar; or

ii) Provide an alternative voluntary parenting seminar for battered spouses.

C) The Court may waive the seminar requirement for one or both parents in any case for good cause shown.

3.11.3 Failure to Comply

Delay, refusal or default by one parent does not excuse untimely compliance by the other parent. However, a parent who fails to complete the parenting seminar, shall be precluded from confirming the case for trial or presenting any final order affecting the parenting/residential plan, and may be precluded from seeking affirmative relief in this or subsequent proceedings in this file until the parenting seminar has been successfully completed. Refusal or delay by either parent may constitute contempt of court and result in sanctions imposed by the Court, or may result in the imposition of monetary terms, default and/or striking of pleadings.

3.12 NAME CHANGE FOR MINORS

3.12.1 An applicant who applies to the Court for a change of name must meet the following requirements:

A) Birth Certificate

A certified copy of any minor applicant's birth certificate or tribal identification card shall be presented with the Petition for Name Change.

B) Parental Consent

All applicants under eighteen (18) years of age shall be represented by a parent or legal guardian, and parent or guardian must approve the change of name either by personal appearance or by verified affidavit. In the absence of consent from one of the parents, the Court may grant the petition if such action would be in the best interests of the child and the non-consenting parent has received notice of the hearing on the petition.

3.13 APPEARANCE BY TELEPHONE IN CIVIL CASES

3.13.1 In some situations, a party may be permitted to participate in a hearing by telephone rather than by personally appearing in court based on the following criteria:

A) the party lives out of state;

B) the party has a medical condition preventing travel;

C) the party is in treatment thus is unable to be present; or

D) any other reason as deemed appropriate by the Court.

3.13.2 A party requesting to participate by telephone should contact the Court to make the request. The opposing party may object to such appearance. The requesting party shall provide a number where the Court Clerk can call when the Court is ready to hear the case. Those participating by telephone will not receive priority; therefore the requesting party shall be available at the stated number for at least two hours past the set hearing time.

Section 4
Criminal Rules

4.1 SCREENING FOR ASSIGNMENT OF LEGAL COUNSEL

The presiding Judge will screen a defendant to determine whether he or she meets the qualifications to be assigned legal counsel as described in the Need-Based Legal Services Eligibility Policy. The questioning of the defendant will be conducted under oath.

4.2 CRIMINAL CONFLICT COUNSEL

In the event the University of Washington Tribal Public Defense Clinic, which acts as the public defender in Tulalip Tribal Court, has a conflict of interest in representing a defendant in Tulalip Tribal Court, conflict counsel may be appointed by the Court, if the defendant qualifies for such appointment, on such terms as the Court sets.

4.3 JURY INFORMATION FORMS

Jury information forms shall be provided to the attorneys or pro se defendants prior to voir dire.

4.4 JURY QUESTIONNAIRES

The Court may use jury questionnaires when appropriate. The parties may suggest questions for the jury questionnaires.

4.5 INSTRUCTIONS TO THE JURY FOR CRIMINAL CASES

4.5.1 Proposed Instructions

Unless otherwise ordered by the trial judge, proposed instructions shall be submitted by the parties two days prior to trial. Proposed instructions upon questions of law developed by the evidence, which could not reasonably have been anticipated, may be submitted at any time before the Court instructs the jury.

4.5.2 Submission

A) All instructions filed by a party shall be identified as the party's proposed instructions.
B) Cited instructions shall be numbered and uncited instructions shall not be numbered.
C) Parties shall file their proposed instructions as follows:
   i) Original cited copy file with the Court;
   ii) One cited copy and one uncited copy to the Judge; and
   iii) One cited copy to opposing counsel.

4.5.3 Form

Each proposed instruction shall be typewritten or printed on a separate sheet of letter size paper.

4.5.4 Disregarding Requests

The Court may disregard any proposed instruction not submitted in accordance with this rule.

4.5.5 Written Questions from the Jury during Deliberations

The jury shall be instructed that any question it wishes to ask the Court about the instructions or evidence should be signed, dated, and submitted in writing to the Court Clerk or bailiff without any indication of the status of the jury's deliberations. The Court shall notify the parties of the contents of the questions and provide them an opportunity to comment upon an appropriate response. Written questions from the jury, the Court's response and any objections thereto shall be made a part of the record. The Court shall respond to all questions from a deliberating jury in open court or in writing. In its discretion, the Court may grant a jury's request to rehear or replay evidence, but should do so in a way that is least likely to be seen as a comment on the evidence, in a way that is not unfairly prejudicial and in a way that minimizes the possibility that jurors will give undue weight to such evidence. Any additional instruction upon any point of law shall be given in writing.

4.6 APPEARANCE BY TELEPHONE IN CRIMINAL CASES

When counsel in unable to be physically present at court because of other duties, illness, or other reasonable circumstances, counsel may appear at hearings by telephone with the permission of the Court, notice to the Court Clerks, and approval by the defendant.

4.7 VIDEO CONFERENCING (Reserved)

4.8 PARTICIPATION IN SNOHOMISH COUNTY COMMUNITY CORRECTIONS PROGRAMS
Defendants and offenders may participate in the Community Corrections programs provided by Snohomish County Corrections if ordered to do so by the Court, pursuant to the Pre-trial Release or Sentencing provisions of Tulalip Law and Order Code.

Section 5
Traffic Infraction Rules

5.1 CALL OF CALENDARS
At the start of each session, the judge shall read the names of Respondents scheduled for hearing or trial to be read. When a Respondent fails to appear at the call of the calendar, the Court shall issue a finding that the infraction was committed, and enter a default judgment in the amount of the penalty prescribed, plus penalties for failure to pay the amount of the penalty.

5.2 DISCOVERY
Discovery in traffic infraction cases shall consist of copies of material filed with the Court. Respondents may receive copies of materials in the court file upon filing a written request therefor and paying the cost for copying in advance. The Court Clerk shall determine the copying fee.

5.3 SUBPOENAS
Respondents may request subpoenas for any witnesses they seek to have attend a hearing or trial. The Respondent is responsible for service of any subpoenas issued by the Court.

5.4 EVIDENCE REQUIREMENTS
The Petitioner, the Tulalip Tribes, by and through their police department, the Tulalip Tribal Police, shall furnish evidence to support the traffic infraction alleged by: sworn narrative on the back of the ticket that is filed with the Court; live testimony of the police officer issuing the infraction; or sworn police report. If such evidence is not furnished, the infraction will be dismissed.

5.5 SPEED MEASURING DEVICE EXPERTS
The Tulalip Tribes are not required to furnish speed measuring device experts for trials or hearings. If the Respondent desires such testimony, the Respondent is responsible for subpoenaing and paying for such expert.

5.6 PROCEDURE FOR NOTICES OF TRAFFIC INFRACTION

5.6.1 Issuance of Notice of Infraction

Notice of a traffic infraction may be issued by a police officer in the field or may be filed with the Clerk of Court by a police officer or a prosecuting attorney.

5.6.2 Contents of Notice of Infraction and Procedure

A) The notice of infraction shall set forth the basis for jurisdiction and shall include a sworn statement of the officer initiating the infraction setting forth the facts of the infraction attached to the notice of infraction.

B) If a notice of infraction is filed with the Court Clerk, the Court will mail a copy of the notice to the Respondent.

C) The notice of infraction shall notify the Respondent to respond to the notice within fifteen days of the date of issuance or the date of mailing by paying the fine listed on the notice of infraction or returning a copy of the citation to the Court indicating that the Respondent requests a mitigation hearing or a contested hearing.

D) If the Respondent does not respond within fifteen days a default judgment will be issued which will be sent for collection.

5.6.3 Hearing Requested by Respondent

If a hearing is requested by Respondent, the Court Clerk shall send a notice of hearing to Respondent setting the date and time of hearing. There is no right to jury trial in traffic cases.

5.6.4 Default Judgment

If the Respondent does not appear at the hearing, a default judgment will issue against the Respondent, which will be sent for collection. A copy of the judgment shall be sent by the Court Clerk to the Respondent.

5.7 HEARINGS

5.7.1 Counsel

A person who has received a notice of infraction may be represented by counsel at an infraction hearing. There is no right to counsel; accordingly, counsel must be retained at the party's own expense. The Tribes may be represented by a representative from the Office of the Reservation Attorney;

5.7.2 Contested Hearing

A contested hearing shall be before a judge; a jury trial is not permitted. The burden of proof is upon the Tulalip Tribes to establish the commission of an infraction by a preponderance of the evidence. The Court may consider the notice of traffic infraction and any other written report made under oath submitted by the officer who issued the notice or whose written statement or police report establishes the factual basis for the infraction issued to the responding party. The officer need not appear in person. The responding party may present evidence and examine witnesses present in court. At the conclusion of a contested hearing, the Court shall determine whether there was jurisdiction, and whether the infraction was committed. Where the Court finds that it has not been established that the infraction was committed, an order dismissing the

notice of infraction shall be entered in the Court's records. Where an infraction is found to have been committed, an appropriate order and/or judgment shall enter in the Court's records.

5.7.3 Mitigating Circumstances

A hearing held for the purpose of allowing a person to explain mitigating circumstances surrounding the commission of an infraction shall be an informal proceeding. The person may not subpoena witnesses. The determination that an infraction has not been committed may not be contested at a hearing held for the purpose of explaining mitigating circumstances. After the Court has heard the explanation of the circumstances surrounding the commission of the infraction, the Court shall enter an order and /or a judgment. There shall be no appeal from the Court's ruling.

5.7.4 Deferral of Judgment

In any hearing held under this rule, the Court may defer entry of an order or judgment for up to one year, on conditions set by the Court. An order deferring an infraction may include a fine or other non-monetary sanctions. If, at the end of the deferral period the party has satisfied all of the Court's conditions and has not committed any new traffic violations, the Court may dismiss the infraction. A person may not receive more than one deferral within a seven year period.

5.8 JUDGMENTS ON TRAFFIC INFRACTIONS

5.8.1 Civil Actions

Traffic infractions are civil actions. Accordingly, any hearing relating to a traffic infraction is civil in nature.

5.8.2 Penalty

A) A person found to have committed a traffic infraction shall be assessed a monetary penalty in accordance with the Tulalip Law and Order Code or any fine schedule adopted by the Tulalip Tribal Court.

B) The Court may, in its discretion, waive, reduce or suspend the monetary penalty prescribed for the infraction. The Court may, at an hourly rate not less than the minimum wage, order the completion of community service hours in lieu of a fine payment.

Section 6
Tulalip Tribes Domestic Violence Court Rules

6.1 PURPOSE

Domestic violence offends the traditional Tulalip tribal values of honoring the family and respecting all members of the community, and it is contrary to the best interests of the family, the Tribes and the community. The purpose of the Tulalip Tribes Domestic Violence Court is to promote important traditional Tulalip tribal values by protecting victims of domestic violence and holding perpetrators accountable while ensuring that all persons accused of domestic violence crimes are provided equal protection and due process of law.

6.2 CREATION

The Tulalip Tribal Court shall exercise the jurisdiction conferred by Chapter 4.25 of the Tulalip Tribal Code and while sitting in the exercise of such jurisdiction shall be known and referred to as the "Tulalip Domestic Violence Court."

6.3 DOCKET

6.3.1 Separate Docket

A separate docket shall be maintained for the Tulalip Domestic Violence Court. Cases assigned to the Tulalip Domestic Violence Court will be heard on Mondays, or as otherwise designated by the Tulalip Tribal Court calendar.

6.3.2 Types of Cases Assigned

All criminal domestic violence cases (all criminal cases with the designation "DV") shall be assigned to the Tulalip Domestic Violence Court docket. Additionally, any civil protection order case involving the issuance, modification or enforcement of a permanent or temporary protection order (any civil case with the designation "RO") may be assigned to the Tulalip Domestic Violence docket at the judge's sole discretion.

6.4 RIGHTS OF DEFENDANT

6.4.1 Defendant Rights

It is the policy of Tulalip Domestic Violence Court to provide all defendants the full protection of the laws. Therefore, in all proceedings in which the Tulalip Domestic Violence Court is exercising its Special Domestic Violence Criminal Jurisdiction pursuant to TTC Chapter 4.25, all defendant rights afforded by TTC §4.25.040(2) shall apply. These rights include the following:

A) To be free from excessive bail, excessive fines and cruel and unusual punishment;
B) To defend in person or by counsel;
C) To be informed of the nature of the charges pending against him or her and to have a copy of those charges;
D) To have publicly available, the criminal laws, rules of evidence, and rules of criminal procedure of the Tribes, prior to being charged;
E) To confront and cross-examine all prosecution or hostile witnesses;
F) To compel by subpoena:
    i) The attendance of any witness necessary to defend against the charges; and
    ii) The production of any books, records, documents, or other things necessary to defend against the charges;
G) To have a speedy and public trial by Judge or a jury, unless the right to a speedy trial is waived or the right to a jury trial is waived by the defendant;
H) To have a judge presiding over the criminal proceeding:
    i) Who has sufficient legal training to preside over criminal proceedings; and
    ii) Who is licensed to practice law in any jurisdiction in the United States;

iii) Judge(s) meeting these qualifications can be designated to preside in the Special Domestic Violence Court. The Chief Judge shall designate and assign Judges to the Special Domestic Violence Court every January by standing order and the standing order and qualifications of the Judge will become part of the trial record.

I) To appeal any final decision of the Tulalip Domestic Violence Court to the Tribal Court of Appeals;

J) To be tried only once by the Tulalip Domestic Violence Court for the same offense;

K) Not to be required to testify, and no inference may be drawn from a defendant's exercise of the right not to testify;

L) To have a record of the criminal proceeding, including an audio or other recording, created and maintained;

M) To petition for a writ of habeas corpus under Tulalip Tribal law and federal law; and

N) All other rights whose protection is necessary under the Constitution of the United States including the right to be secure in their persons, houses, papers and effects against unreasonable search and seizures and not to be subjected to a warrant unless it was issued upon probable cause under oath or affirmation and particularly describing the place to be searched and the person or thing to be seized, the right to due process and equal protection of the law and rights in order for Congress to recognize and affirm the inherent power of the participating tribe to exercise Special Domestic Violence Criminal Jurisdiction over the defendant.

6.4.2 Right to Counsel

All defendants, regardless of the length of the potential sentence for the crime being charged, have the right to effective assistance of counsel meeting the requirements of TTC §2.25.070(3)(a) while the Tulalip Domestic Violence Court is exercising its Special Domestic Violence Criminal Jurisdiction conferred by Chapter 4.25 of the Tulalip Tribal Code. An indigent defendant shall be provided the assistance of a defense attorney meeting the requirements of TTC §2.25.070(3)(a) at the expense of the tribal government. Defense attorneys assigned to an indigent defendant will submit their credentials to the court demonstrating they meet the requirements of federal law and such credentials and bar licensing will become part of the trial record.

6.4.3 Right to Jury Trial

A defendant charged under TTC Chapter 4.25 has a right to a trial by jury of six fair and impartial jurors drawn from the community according to TTC §2.05.110. A defendant may waive the right to a jury trial in a written, voluntary statement to the Court. All jury verdicts must be unanimous.

6.5 SUPPLEMENTAL PROCEDURE

6.5.1 Pre-Trial/Trial Procedure—Additional Requirement

A) The initial appearance and/or arraignment will occur as currently outlined in the Tulalip Tribes criminal procedure rules. A Defendant charged with a domestic violence crime shall

also be informed of his/her right to a federal writ of habeas corpus and or a stay under the federal Violence Against Women Act (VAWA). This notification will be contained in the Advisement of Rights Form signed by the Defendant. After the initial appearance and/or arraignment cases will be assigned to the Tulalip Domestic Violence Court calendar.

B) All other generally applicable Civil and Criminal Rules of Procedure apply to these proceedings.

6.5.2 Post-Trial Procedure

Post-trial procedure is meant to describe the general operation of the Domestic Violence Court and does not include procedures relating to appeals to the Tulalip Tribes Court of Appeals. All appeals will be handled as provided by the rules of appellate procedure.

6.5.3 Sentencing and Probation

A) The Tulalip Tribes Domestic Violence Court finds that each person who pleads guilty or is found guilty of a crime of domestic violence should be on monitored probation which includes participation in a certified Domestic Violence Batterer's Re-education program.

B) The Domestic Violence Court will hold a weekly Monday calendar to monitor a participant's progress in their treatment program. This monitoring includes receiving input from treatment providers and probation on the successful participation with the treatment program requirements.

C) The Judge shall review the client's progress at each review hearing and will impose short term or long term sanctions for noncompliance to encourage participation and completion of appropriate treatment modalities.