

## TITLE IV

### CHAPTER 4

#### SMALL CLAIMS PROCEDURES

##### Part 1

##### General Provisions

**4-4-101. Purpose.** It is the purpose of this Chapter to promote the disposition of small claims in Tribal Court without the necessity of a formal trial.

**4-4-102. Application and Parties.** (1) Procedures provided by this Chapter shall be applied by the Tribal Court sitting as the Small Claims Division of the Tribal Court in all actions for money damages, as follows:

- (a) when the amount claimed is not less than \$50, nor more than \$3000, exclusive of costs; and
  - (b) when the claim arises within the exterior boundaries of the Flathead Reservation; and
  - (c) when the parties are subject to the jurisdiction of the Tribal Court pursuant to Section 1-2-104 of this Code and applicable federal law.
- (2) A plaintiff in a small claims action may be an individual, partnership, corporation, association, firm, government agency or subdivision, guardian, conservator, or personal representative.
- (3) No plaintiff may file an assigned claim in the Small Claims Division.
- (4) By filing a claim pursuant to these procedures, a plaintiff consents to the jurisdiction of the Tribal Court for the purpose of adjudicating any counterclaim against him or her that the defendant may have. *(Rev. 4-15-03)*

**4-4-103. Representation.** (1) A party in a small claims proceeding may not be represented by an attorney or a Tribal Court Advocate unless every party is represented by an attorney or advocate. In the event that all parties are represented, each representative shall file a notice of appearance with the Clerk of Court no later than three (3) Tribal working days prior to the time set for hearing.

(2) An individual may represent himself or herself in a small claims action. A partnership may be represented by a partner or by an employee. Any other kind of organization may be represented by a member or an employee. *(Rev. 4-15-03)*

**Part 2**  
**Procedure Before Trial**

**4-4-201. Commencement of a small claims action and assistance to claimant.**

(1) A small claims action is commenced whenever any person appears before the Clerk of Court and executes a sworn small claims complaint in substantially the same form as that set forth in Section 4-4-202.

(2) The Clerk of Court shall assist any claimant who requests assistance in preparing his or her complaint. The Clerk of Court shall prepare, in plain language, instructions explaining the procedures for prosecuting and defending a small claim. The Clerk shall give the plaintiff a copy of the instructions when the plaintiff appears to execute his or her complaint, and a copy must be attached to the order of court/notice to defendant.

**4-4-202. Form of Complaint, and Order of Court, and Notice to Defendant.** The sworn complaint, the order of court, and the notice to defendant shall substantially conform to the appropriate sample forms included at the end of this Chapter. *(Rev. 4-15-03)*

**4-4-203. Hearing date.** The date for the appearance of the defendant to be set forth in the order shall be determined by the Clerk of Court and may not be more than 30 working days nor less than 15 working days from the date of the order. Service of the order and a copy of the sworn complaint shall be made upon the defendant not less than 7 working days prior to the date set for his or her appearance by the order. If the order is not timely served, the plaintiff may have a new appearance date set by the Clerk and a new order delivered to the process server. If necessary, repeated orders may be issued at any time within one year after the commencement of the action. If no service is accomplished within one year from the date of the complaint, the complaint will be dismissed without prejudice. *(Rev. 4-15-03)*

**4-4-204. Service on defendant, return of service, and notification to plaintiff.** (1) The original of the order and notice shall be shown to the defendant and a copy of it together with a copy of the sworn complaint shall be served upon the defendant in the same manner provided for service of process in civil actions generally.

(2) The process server shall, after effective service, remit the original order, with his or her signature and the time of service affixed thereto, to the Clerk of Court. Upon receipt of the returned original order, the Clerk shall mail a copy thereof, first class, postage prepaid, to the plaintiff.

**4-4-205. Removal from Small Claims Division and effect of failure to remove.** (1) Any action commenced in the small claims division of the Tribal Court may be removed to the trial court of the Tribal Court by a defendant upon the filing of a notice of removal, in substantially the same form as that provided in Section 4-4-206, with the Clerk of the Court within 5 working days of the service of the complaint and order, or by a plaintiff within 3 working days of the service of a counterclaim as provided in Section 4-4-207.

(2) From the time of the filing of the notice of removal, the small claims division has no further jurisdiction over the claim, and the trial court of the Tribal Court has and exercises the same jurisdiction as though the action had been originally commenced in that court.

(3) Upon the filing of a notice of removal, the Clerk of Court shall mail first class, postage prepaid, a copy of the notice to the other party in the action. The plaintiff is not required to replead unless the court so orders, and no additional fee is required of a plaintiff for the filing of the complaint or of a defendant for the filing of a Counterclaim. The time for the defendant to file an answer to the complaint commences upon the date of the filing of the notice of removal. All laws and rules governing proceedings originally commenced in the trial court of Tribal Court are applicable to removed proceedings.

(4) Failure to request removal within the time provided in subsection (1) constitutes a waiver of the right to trial by Jury and to representation by an attorney or by a Tribal Court Advocate, and the judge shall inform the parties of such fact prior to the hearing. *(Rev. 4-15-03)*

**4-4-206. Notice of removal.** A notice of removal shall substantially conform to the appropriate sample form included at the end of this Chapter. *(Rev. 4-15-03)*

**4-4-207. Defendant's counterclaim.** (1) The defendant may assert a counterclaim against the plaintiff arising out of the same transaction that is the subject matter of the plaintiff's claim by appearing before the Clerk of Court and executing a sworn small claims counterclaim in substantially the same form as set forth in subsection (3). The defendant shall cause the counterclaim to be served on the plaintiff not less than 3 working days before the date set for the hearing. Service shall be made in the same manner and according to the same terms and conditions in which service of the order of court and notice to defendant is made on the defendant. A defendant may not assert as a counterclaim any claim not arising out of the transaction that is the subject matter of the plaintiff's claim.

(2) A counterclaim or set-off may not exceed \$3000. If a counterclaim or set-off is asserted in excess of \$3000, the claim and counterclaim shall be removed to the trial court of the Tribal Court by the filing of a notice of removal by the Clerk of Court, and the action will proceed as provided in Section 4-4-205 (2).

(3) A counterclaim filed by a defendant shall substantially conform to the appropriate sample form included at the end of this Chapter. *(Rev. 4-15-03)*

**4-4-208. No further pleading.** No form of pleading other than the complaint, the order of the court and notice to defendant, and the counterclaim of the defendant, if there is one, is allowed. *(Rev. 4-15-03)*

**4-4-209. Fees.** The Clerk of Court shall collect a fee of:

(1) \$25 from the plaintiff upon the filing of the sworn complaint; and

(2) \$10 from the defendant upon the execution of a sworn counterclaim.

## Part 3

### Proceedings at Hearing

**4-4-301. Proceedings to be informal.** The hearing and disposition of small claims actions shall be informal.

**4-4-302. Witnesses, evidence, and subpoena power.** The plaintiff and the defendant may offer evidence in their behalf by witnesses appearing at such hearing or by written evidence, and the judge may direct the production of evidence as he or she considers appropriate. The small claims division has the subpoena power of Tribal Court. *(Rev. 4-15-03)*

**4-4-303. Burden of proof.** A plaintiff has the burden of proving his or her claim by a preponderance of the evidence and a defendant bears the burden of proof of his or her counterclaim by a preponderance of the evidence.

**4-4-304. Record of Proceedings.** The Clerk of Court shall keep a record of all pleadings, returns of service, and the judgment in a small claims action. All proceedings in Small Claims Court are held before a judge of Tribal Court designated to hear such cases. Proceedings in Small Claims Court are tape recorded and the tape is maintained for a period of 20 days after entry of judgment but the tape will not be archived unless a timely appeal is filed in the manner provided by this Code. Decisions rendered in Small Claims Court may be appealed according to the Rules of Appellate Procedure. *(Rev. 4-15-03)*

## Part 4

### Judgment and Appeal

**4-4-401. Entry of Judgment.** Upon the conclusion of the hearing, the judge shall make his or her findings and enter judgment. The entry of judgment shall be prepared by the Clerk of Court, and a copy of the same shall be mailed, first class postage prepaid, by the Clerk to the parties within 5 days of the conclusion of the hearing. The form of the judgment shall substantially conform to the appropriate sample form included at the end of this Chapter. *(Rev. 4-15-03)*

**4-4-402. Default Judgment and dismissal.** (1) A defendant's failure to appear at hearing may result in a default judgment against him or her and in a dismissal with prejudice of any counterclaim he or she may have filed.

(2) A plaintiff's failure to appear at hearing may result in a dismissal of his or her claim and, if a counterclaim has been filed in a default judgment against him or her on the counterclaim.

(3) Non-appearance by both parties at a hearing will result in dismissal of the action with prejudice. *(Rev. 4-15-03)*

**4-4-403. Execution on judgment.** Proceedings to enforce or collect a judgment are governed by the laws relating to execution upon Tribal Court judgments. *(Rev. 4-15-03)*

**4-4-404. Costs and interest.** The prevailing party in an action before the small claims division is entitled to costs. If a money judgment is awarded, the party in whose favor the judgment is entered will be entitled to interest on the judgment amount commencing on the date of entry of judgment and continuing until the principal balance and accumulated interest is paid in full, by execution on the judgment or otherwise. Interest will be at the rate agreed to by the parties or 10% per annum on the judgment amount and accumulated balance, whichever is less. *(Rev. 4-15-03)*

**4-4-405. Appeal to the Tribal Court of Appeals.** Judgments of the court of the Small Claims Division may be appealed according to the rules and practices of the Tribal Court of Appeals. *(Rev. 4-15-03)*

**4-4-406. Attorney's fees upon removal or appeal.** (1) If a either party removes a matter to the trial court under the provisions of Section 4-4-205 (1) and (2) but does not prevail in the trial court, the court may grant the other party reasonable attorney's fees, if any.

(2) A party may be represented upon appeal by an attorney and the court may grant the prevailing party reasonable attorney's fees in addition to costs of suit. *(Rev. 4-15-03)*

**APPENDIX OF FORMS TO BE USED IN SMALL CLAIMS COURT:** (Rev. 4-15-03)

(Name & Address of Plaintiff)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN THE SMALL CLAIMS DIVISION OF THE TRIBAL COURT  
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES

_____ ,	)	
Plaintiff,	)	Cause No. 00- _____ - SC
	)	
vs.	)	SMALL CLAIMS
	)	COMPLAINT
_____ ,	)	
Defendant.	)	

**COMES NOW** the Plaintiff named above, being first duly sworn, and upon oath complains that the Defendant is indebted to the Plaintiff in the sum of \$ \_\_\_\_\_ for

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, which sum is now due and owing, and remains unpaid despite demands for payment. The Plaintiff also seeks the award of the costs of this action.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY: \_\_\_\_\_, Plaintiff

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_, Clerk of Tribal Court

IN THE SMALL CLAIMS DIVISION OF THE TRIBAL COURT  
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES

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_____ ,	)	)	Cause No. 00- _____ - SC
Plaintiff,	)	)	SMALL CLAIMS
vs.	)	)	ORDER OF COURT AND
_____ ,	)	)	NOTICE TO DEFENDANT
Defendant.	)	)	

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TO THE DEFENDANT NAMED ABOVE:

You are hereby directed to appear and answer the attached Small Claims Complaint against you at the courtroom of the Tribal Court in the Tribal Complex at Pablo, Montana, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_:\_\_ a.m. / p.m., or as soon thereafter as the matter may be heard, and to have with you all books, papers, and other evidence, as well as witnesses, you may need in presenting your defense and/or in proving your counterclaim. IF YOU FAIL TO APPEAR AT THE APPOINTED TIME, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE ENTIRE AMOUNT DEMANDED IN THE COMPLAINT AND FOR THE COSTS OF BRINGING SUIT.

You are hereby further notified that, within 5 working days of receiving this Order and Notice, you may request that this case be removed from the Small Claims Division and transferred to the civil trial court in Tribal Court to be formally heard under the law and procedure provided under Tribal law. Please carefully read the attached Complaint and Small Claims Instructions and Forms. You may also seek legal advice in deciding how to proceed.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge of Tribal Court

RETURN OF SERVICE

I, \_\_\_\_\_, hereby certify that I am legally qualified to provide service in Cause No. \_\_\_\_\_ and that I personally served the SMALL CLAIMS COMPLAINT and SMALL CLAIMS ORDER OF COURT AND NOTICE TO DEFENDANT and SMALL CLAIMS INSTRUCTIONS AND FORMS upon the Defendant named therein at the place, date, and time given below.

Place served: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date served: \_\_\_\_ / \_\_\_\_ /20\_\_

Time served: \_\_\_\_ : \_\_\_\_ a.m. / p.m.

Signature of Process Server: \_\_\_\_\_

Address of Process Server: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Name & Address of Plaintiff)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN THE SMALL CLAIMS DIVISION OF THE TRIBAL COURT OF  
THE CONFEDERATED SALISH AND KOOTENAI TRIBES

_____ ,	)	
Plaintiff,	)	Cause No. 00- _____ -SC
vs.	)	SMALL CLAIMS
	)	AFFIDAVIT AND REQUEST
_____ ,	)	FOR SUMMONS BY
Defendant.	)	PUBLICATION

The undersigned deposes and says that:

1. I am the Plaintiff in the above captioned action.
2. After diligent search and inquiry, I am unable to serve the above named Defendant either personally or by registered mail.
3. Therefore, I request that the Clerk of Court issue a Small Claims Summons By Publication as prescribed in Title I, Chapter 2, Part 7, Rule 9(3), of the CS&KT Laws Codified.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY: \_\_\_\_\_  
(Plaintiff's signature)

ACKNOWLEDGMENT

STATE OF MONTANA     )  
                                  : ss.  
COUNTY OF LAKE             )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, before me \_\_\_\_\_, a Notary Public for the State of Montana, personally appeared \_\_\_\_\_, known to me to be the person whose name is subscribed to the above instrument, and acknowledged to me that he/ she executed the same.

IN WITNESS WHEREOF, I have set my hand and affixed my official seal.

(SEAL)

\_\_\_\_\_  
Notary Public for the State of Montana  
Residing at \_\_\_\_\_  
My Commission expires \_\_\_\_\_

IN THE SMALL CLAIMS DIVISION OF THE TRIBAL COURT OF  
THE CONFEDERATED SALISH AND KOOTENAI TRIBES

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\_\_\_\_\_, )  
 ) Cause No. 00- \_\_\_\_\_ -SC  
Plaintiff, )  
 )  
vs. ) SMALL CLAIMS  
 ) SUMMONS BY  
 ) PUBLICATION  
\_\_\_\_\_, )  
 )  
Defendant. )

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TO THE DEFENDANT NAMED ABOVE:

You are hereby directed to appear and answer the above captioned Small Claims Complaint against you at the courtroom of the Tribal Court in the Tribal Complex at Pablo, Montana, on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_:\_\_ a.m. / p.m., or as soon thereafter as the matter may be heard, and to have with you all books, papers, and other evidence, as well as witnesses, you may need in presenting your defense and/or in proving your counterclaim. IF YOU FAIL TO APPEAR AT THE APPOINTED TIME, A DEFAULT JUDGMENT MAY BE ENTERED AGAINST YOU FOR THE ENTIRE AMOUNT DEMANDED IN THE COMPLAINT (\$\_\_\_\_\_) AND FOR THE COSTS OF BRINGING SUIT.

You are hereby further notified that, within 5 working days of receiving this Summons By Publication, you may request that this case be removed from the Small Claims Division and transferred to the civil trial court in Tribal Court to be formally heard under the law and procedure provided under Tribal law. You should immediately come to Tribal Court to read the Complaint and the Small Claims Instructions and Forms packet. You may also seek legal advice in deciding how to proceed.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

S/s \_\_\_\_\_  
CLERK OF TRIBAL COURT

(Name & Address of Defendant)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN THE SMALL CLAIMS DIVISION OF THE TRIBAL COURT  
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES

_____ ,	)	
Plaintiff,	)	Cause No. 00- _____ - SC
	)	
vs.	)	SMALL CLAIMS
	)	COUNTERCLAIM
_____ ,	)	
Defendant.	)	

**COMES NOW** the Defendant named above, being first duly sworn, and upon oath alleges that the Defendant is entitled to Counterclaim against the Plaintiff in this action in the sum of \$ \_\_\_\_\_ for

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, which sum is now due, together with the Defendant's costs of this action.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

BY: \_\_\_\_\_, Defendant

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_, Clerk of Tribal Court

Plaintiff's name and address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RETURN OF SERVICE

I, \_\_\_\_\_, hereby certify that I am legally qualified to provide service in Cause No. \_\_\_\_\_ and that I personally served the SMALL CLAIMS COUNTERCLAIM upon the Plaintiff named therein at the place, date, and time given below.

Place served: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Date served: \_\_\_\_\_/\_\_\_\_\_/20\_\_

Time served: \_\_\_\_\_ : \_\_\_\_\_ a.m. / p.m.

Signature of Process Server: \_\_\_\_\_

Address of Process Server: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Party's name and address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN THE SMALL CLAIMS DIVISION OF THE TRIBAL COURT  
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES

_____ ,	)	
Plaintiff,	)	Cause No. 00- _____ - SC
	)	
vs.	)	SMALL CLAIMS
	)	NOTICE OF REMOVAL
_____ ,	)	
Defendant.	)	

TO: \_\_\_\_\_, the above named Plaintiff / Defendant:

YOU ARE HEREBY NOTIFIED that the above captioned action is removed from the Small Claims Division of the Tribal Court and is now pending in the Civil Trial Court of the Tribal Court, pursuant to the procedures set forth in Section 4-4-205 of the *CS&KT Laws Codified*, and that any time previously set for hearing is now vacated.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Signature of Party

CERTIFICATE OF MAILING

I, \_\_\_\_\_, Clerk of Court, do hereby certify that I mailed a true and correct copy of the SMALL CLAIMS NOTICE OF REMOVAL to the named party at the address shown below by depositing same in the U.S. Mail, postage prepaid at Pablo, Montana, on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Party's Name and Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Clerk of Court

By \_\_\_\_\_  
Deputy Clerk of Court

IN THE SMALL CLAIMS DIVISION OF THE TRIBAL COURT  
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES

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	)	
	)	Cause No. 00- _____ -SC
Plaintiff,	)	
	)	
vs.	)	SMALL CLAIMS
	)	JUDGMENT
	)	
Defendant.	)	

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The Plaintiff brought this action for money damages against the Defendant in the Small Claims Division of Tribal Court. The Complaint was filed on \_\_\_\_\_, \_\_\_\_\_, and was properly served upon the Defendant on \_\_\_\_\_, \_\_\_\_\_. The matter was heard in open court on \_\_\_\_\_, \_\_\_\_\_. At that hearing the Plaintiff appeared / did not appear and the Defendant appeared / did not appear. From the oral testimony and other evidence presented at the hearing, the Court finds in favor of the Plaintiff and issues Judgment against the Defendant.

THEREFORE, IT IS HEREBY ORDERED AND ADJUDGED that the Plaintiff recover the sum of \$ \_\_\_\_\_ from the Defendant together with interest at the rate of \_\_\_ % per annum from the date of this Judgment until paid, and for the court costs of the Plaintiff in the amount of \$ \_\_\_\_\_, for a total current Judgment amount of \$ \_\_\_\_\_.

SO ORDERED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge of Tribal Court

CERTIFICATE OF MAILING

I, \_\_\_\_\_, Clerk of Court, do hereby certify that I mailed true and correct copies of the SMALL CLAIMS JUDGMENT to the parties first named therein at the addresses shown below by depositing same in the U.S. Mail, postage prepaid at Pablo, Montana, on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Plaintiff:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Defendant:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Clerk of Court

BY \_\_\_\_\_  
Deputy Clerk of Court

(Name & Address of Plaintiff or  
of Plaintiff's Attorney)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

IN THE SMALL CLAIMS DIVISION OF THE TRIBAL COURT  
OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION

_____ ,	)	
	)	Cause No. 00 - _____ - SC
Plaintiff,	)	
	)	
vs.	)	SATISFACTION
	)	OF JUDGMENT
_____ ,	)	
Defendant.	)	

THIS SHALL CERTIFY that the JUDGMENT entered in the Small Claims Division of the Tribal Court of the Confederated Salish and Kootenai Tribes of the Flathead Reservation on the \_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, in favor of the Plaintiff, and against the Defendant, has been fully paid, settled, and satisfied, and the Clerk of Tribal Court shall enter satisfaction of record.

DATED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

BY: \_\_\_\_\_  
(Plaintiff's or plaintiff's attorney's signature)

SO ORDERED this \_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Judge of Tribal Court

CERTIFICATE OF MAILING

I, \_\_\_\_\_, Clerk of Court, do hereby certify that I mailed true and correct copies of the SATISFACTION OF JUDGMENT to the parties first named therein at the addresses shown below by depositing same in the U.S. Mail, postage prepaid at Pablo, Montana, on this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Plaintiff

Defendant

Tribal Records Manager

\_\_\_\_\_ Clerk of Court

BY \_\_\_\_\_  
Deputy Clerk of Court

**AMENDMENT TO ORDINANCE  
OF THE TRIBAL COUNCIL OF  
THE CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION**

WHEREAS, the Tribal Council, as primary governing body of the Flathead Nation, having found it in the best interests of the Tribes to have fair, understandable, and enforceable laws in a form readily accessible to the public, enacted the CSKT Laws Codified by passing Tribal Ordinance 103-A on December 9, 1999; and

WHEREAS, it has been brought to the attention of the Tribal Council that in order to be as accurate, clear, and consistent as possible, the newly codified laws enacted December 9, 1999, require certain technical amendments; and

WHEREAS, the Tribal Council recognizes the dynamic nature of the law and the importance of continuing to update and codify Tribal law;

THEREFORE, the Tribal Council hereby amends Tribal Ordinance 103-A to reflect needed typographical and technical corrections, by revising the following sections of the CSKT Laws Codified:

- 1-2-202. Appointment, staggered terms, and advertisement. . . .  
REINSERTION OF SUBSECTIONS (5), (6), & (7) INTO THE CODE. THESE SUBSECTIONS WERE INADVERTENTLY DELETED IN ORDINANCE NO. 103-A, AMENDMENT #2. NEW SUBSECTION (8) TO PROVIDE FOR PRO TEMPORE APPOINTMENTS.
- 1-2-302. Appointment and duties of Clerk of Court.  
PROVISION FOR RECORDING PROCEEDINGS IN TRAFFIC AND SMALL CLAIMS
- 1-2-501. Attorneys.  
REVISION TO MAKE READMISSION DEADLINE JANUARY 1, TO REVISE REQUIREMENTS FOR ADMISSION OF ATTORNEYS, & TO PROVIDE FOR ATTORNEY DISCIPLINE
- 1-2-506. Pro Se and Tribal Member Representation.  
REVISION TO PROVIDE FOR PRO SE REPRESENTATION OF BUSINESS ENTITIES
- 1-2-605. Jurors' compensation and reimbursement.  
REVISION TO LIMIT PAID COMPENSATION TO JURORS AND ALTERNATES
- 1-2-611. Privileged confidentiality in certain relations.  
CORRECTION OF THE TENSE OF THE WORD "ACQUIRE" IN (11) ABOVE
- Title I, Chapter 2, Part 7, Rule 3. Trial Scheduling.  
REVISION TO PROVIDE PROCEDURE AND FORMS FOR TRIAL SCHEDULING
- Rule 5. Computation of Time.  
INSERTION OF LANGUAGE TO EXCLUDE DURATION OF CRIMINAL SENTENCES FROM THE GENERAL RULE

Rule 9. Service of Process in Civil Actions.

REVISION OF NUMBER OF DAYS ALLOWED FOR VARIOUS FILINGS AND INSERTION OF LANGUAGE RESTRICTING THE USE OF SERVICE BY PUBLICATION.

Rule 10. Pleading in Civil Actions.

REVISION OF NUMBER OF DAYS ALLOWED FOR VARIOUS FILINGS.

Rule 14. Motions.

REVISION OF NUMBER OF DAYS ALLOWED FOR VARIOUS FILINGS AND PROVISION FOR SPECIFIC MOTIONS.

Rule 19. Findings of Fact and Conclusions of Law

NEW RULE PROVIDING FOR FILING OF PROPOSED FINDINGS AND CONCLUSIONS BEFORE BENCH TRIAL.

Rule ~~19~~. 20. Orders, Judgments or Decrees.

RENUMBERING OF SECTION AND PROVISION FOR FILING WITH FINDINGS AND CONCLUSIONS.

Rule 21. Exceptions Unnecessary.

RULE ADDED TO PROVIDE FOR PRESERVATION OF ISSUES FOR APPEAL

2-1-113. Temporary orders of protection.

EXPANSION OF THE SCOPE OF TPOs TO INCLUDE ANY ALLEGED VICTIM OF ONE OF THE ENUMERATED TRIBAL OFFENSES

2-1-~~113~~ 114 . Definitions.

SECTION RENUMBERED TO MAKE ROOM FOR INSERTION OF NEW SECTION ON TPOs

2-1-511. ~~Elder abuse~~ Abuse of an elderly or vulnerable person.

REVISION TO INCLUDE ANY VULNERABLE PERSON AS A VICTIM OF OFFENSE

2-1-701. Domestic abuse.

SUBSECTIONS 2 - 6 MOVED TO NEW SECTION 2-1-113 AND REVISED TO EXPAND SCOPE OF TPOs

2-2-911. Determination of fitness to proceed -- effect of finding of unfitness -- expenses.

REFERENCE TO ORDINANCE CORRECTED TO APPROPRIATE CODE SECTION

2-2-913. Commitment upon finding of not guilty by reason of mental disorder -- hearing to determine release or discharge.

REFERENCE TO ORDINANCE CORRECTED TO APPROPRIATE CODE SECTION

2-2-1205. Restitution.

REVISION TO CORRECT NUMBER

2-2-1209. Failure to pay a fine ~~or restitution~~.

REVISION TO REMOVE RESTITUTION FROM CONSIDERATION IN THIS SECTION

Title II, Chapter 2, Part 13 Traffic Court Procedure

NEW PART TO PROVIDE TRAFFIC COURT PROCEDURE

3-1-103. Divorce or separation..

CORRECTION TO REFERENCE

3-1-104. Procedure.

CORRECTION TO REFERENCE

3-1-108. Dependent and neglected children.

CORRECTION TO REFERENCE

- 3-1-109. Termination of parental rights.  
CORRECTION TO REFERENCE
- 3-1-111. Probate, descent and distribution.  
CORRECTION TO REFERENCE
- 3-2-106. Confidentiality.  
REVISION INCLUDES THE FIRST SENTENCE OF SECTION 3-2-107.
- ~~3-2-107. Disposition of Records.~~  
UNNECESSARY SECTION
- 3-2-302. Reports and Action on Reporting.  
CORRECTION TO REFERENCE
- 3-2-311. Initial Hearing.  
CORRECTION TO REFERENCE
- 3-2-313. Final Disposition Hearing.  
CORRECTION TO REFERENCE
- 3-2-402. Methods of Termination.  
CORRECTION TO REFERENCE
- 3-2-405. Suspension of Parental Rights.  
CORRECTION TO REFERENCE
- 3-2-406. Adoptions.  
CORRECTION TO REFERENCE
- 3-2-407. Confidentiality of Records and Proceedings.  
CORRECTION TO REFERENCE
- 3-2-408. Informal Adoptions.  
CORRECTION TO REFERENCE
- 3-2-506. Proceedings upon transfer.  
CORRECTION TO REFERENCE
- 3-4-102. Purpose.  
CORRECTION TO REFERENCE
- 3-4-103. Definitions.  
REVISED TO CAREFULLY DEFINE REQUIRED CREDENTIALS FOR A "PROFESSIONAL PERSON"
- 3-4-201. Voluntary Admission.  
CORRECTION TO REFERENCE
- 3-4-202. Standards for Detention for Emergency Situation.  
EXPAND TIME TO ALLOW THOROUGH EXAMINATION & FILINGS
- 3-4-203. Detention to be in Least Restrictive Environment.  
CORRECTION TO REFERENCE
- 3-4-204. Procedural Rights.  
REVISED TO CONFORM WITH ELIMINATION OF JURY TRIAL AND WAIVER OF COUNSEL
- ~~3-4-209. Request for Jury Trial.~~

ELIMINATE JURY TRIAL FOR MENTAL HEALTH HEARINGS TO PROMOTE CONFIDENTIALITY

- 3-4-216. Confidentiality of Records.  
REVISED TO SPECIFY CONFIDENTIALITY REQUIREMENTS
- 3-5-101. Purpose.  
CORRECTION TO REFERENCE
- 3-5-103. Civil nature of ~~Code~~ Chapter.  
CORRECTION TO REFERENCE
- 3-5-104. Procedural rights.  
CORRECTION TO REFERENCE
- 3-5-107. Designated tribal authority's investigative action on reports.  
CORRECTION TO REFERENCE
- 3-5-111. Procedures for determining incapacity.  
CORRECTION TO REFERENCE
- 4-1-104. Laws applicable in civil actions.  
REVISION TO CLARIFY INTERNAL REFERENCE.
- 4-1-401 Immunity from suit.  
CODIFIED PURSUANT TO ORDINANCE NO. 103-A, AMENDMENT #4
- 4-1-402 Limited waivers of immunity.  
CODIFIED PURSUANT TO ORDINANCE NO. 103-A, AMENDMENT #4
- 4-2-204. Limitation on tort recovery from Tribes and Tribally owned corporations.  
CODIFIED PURSUANT TO ORDINANCE NO. 103-A, AMENDMENT #4
- 4-2-603. Consent to repossession.  
REVISION FOR CLARITY AND (c) ADDED.
- 4-2-605. Action for repossession commenced by filing complaint.  
EDITED FOR CLARITY
- 4-3-105. Default.  
RESTORATION OF ACCIDENTALLY DELETED WORD FOUND IN ORDINANCE NO. 97, AMENDMENT # 1.
- 4-3-110. Docketing of judgment--period of lien.  
PROVISION ADDED REGARDING PERIOD OF LIEN AND RENEWAL OF LIEN AFTER 10 YEARS AND EXEMPTING CERTAIN JUDGMENTS AND RESTITUTION.
- 4-3-204. Filing and status of state court judgments and the judgments of other tribal courts.  
REVISION PROVIDING THE REFERENCED LANGUAGE FROM 4-3-104(1).
- 4-3-301. Time limit for issuing execution.  
REVISION OF TIME LIMIT & PROVISION FOR CHILD SUPPORT
- 4-3-302. Renewal after ~~6~~ 10 years.  
PROVISION ADDED REGARDING PERIOD OF LIEN AND RENEWAL OF LIEN.
- 4-3-307. ~~Duty of secured party.~~  
REVISION TO CLARIFY AND PROVIDE PROCEDURAL DETAILS

4-3-308. Contents of writ.

PROVISION ADDED FOR NOTICE OF RIGHT TO JUDGMENT DEBTOR

4-3-311. To whom execution issued.

CLARIFICATION OF AUTHORITY.

4-3-312. How writ executed.

INSTRUCTIONS FOR TRIBAL RECORDS MANAGER WHERE THERE ARE COMPETING WRITS.

4-3-316. Property subject to execution -- limitations and exemptions.

REVISION TO ALLOW VOLUNTARY ASSIGNMENT OF PER CAPITA AND TO PRIORITIZE ORDERS FOR EXECUTION AND LEVY

4-3-317. Property exempt from execution.

PROVISION ADDED TO CLARIFY APPLICATION OF TRIBAL AND FEDERAL LAW ON GARNISHMENT

Title IV, Chapter 4, Small Claims Procedures

Minor changes in wording throughout to clarify procedure, to raise the damages limit and provide for appeal to the Tribal Appellate Court, and to provide forms to the pro se litigants.

Effective date of this enactment shall be July 15, 2003.

**CERTIFICATION**

The foregoing Amendment to Ordinance 103-A was duly enacted by the Tribal Council on the 15<sup>th</sup> day of April, 2003, with a vote of 7 for, 0 opposed, and 1 not voting, pursuant to the authority vested in the Tribal Council by Article VI, Section 1(a), (l), (n), (p), (q), (r), and (u) of the Tribes' Constitution adopted and approved under Section 16 of the Act of June 18, 1934 (48 Stat. 984), as amended.

SIGNED:

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D. Fred Matt , Chairman, Tribal Council

ATTEST:

\_\_\_\_\_  
Joseph Dupuis, Executive Secretary

APPROVED:

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Superintendent of the Flathead Reservation

\_\_\_\_\_  
Secretary of the Interior