

Part 2 ADMINISTRATIVE RULES

Section 1.32 Court Sessions

Regular sessions of the Court will be held as needed in the Kickapoo Traditional Tribe of Texas Tribal Court located in the Kickapoo Traditional Tribe of Texas Reservation in Eagle Pass, Maverick County, Texas. All trials, will begin at a designated time and place that the Court determines. The parties will receive reasonable notice of the time and place. All parties, as well as judges may appear virtually, whether by video or audio technology.

Section 1.33 Courts of Record

1. The Trial and Appellate Courts are hereby declared to be Courts of record and the Clerk thereof shall certify under seal as to the accuracy and validity of the files and records of all proceedings before the Kickapoo Traditional Tribe of Texas Tribal Court.
2. The Court Clerks shall take, preserve and certify under seal to the accuracy of a verbatim record of the proceedings before the Courts. Such record may be taken and recorded by a stenographic, electronic, mechanical, or other recording means of devices approved by the Judge of the Court as a trustworthy means of creating a permanent verbatim record of all proceedings.
3. The Judge of the Trial Court, by rule, shall prescribe the length of time such verbatim shall be preserved by the Clerk.
4. It shall be a criminal offense, punishable by the penalties and under the rules and procedures of tribal law for the Court Clerks to knowingly make or keep a false file, record or certificate or to alter, amend or destroy any file, record or transcript without lawful authority.

Section 1.34 Official Station

Current records of the Kickapoo Traditional Tribe of Texas Tribal Court will be kept at the Kickapoo Traditional Tribe of Texas Tribal Court, Kickapoo Reservation, Eagle Pass, Texas, which is the official station of the clerk of the court.

Section 1.35 Court Reporter and Transcripts

All trials shall be recorded by digital audio. Any party wishing for a copy of the audio of the trial shall bear the cost, therefore.

Section 1.36 Court Decorum

- A. All court proceedings will be conducted in a dignified and respectful manner. All persons addressing the Court shall speak clearly and courteously.

B. There may be no interference or disturbance with the proceedings before the Court. The following rules will govern court decorum:

- i. The judge will appoint a law enforcement officer as court bailiff, and the bailiff will open each session of court and be present to keep order in the courtroom at all times.
- ii. Spectators are permitted in the courtroom during trial sessions, except that the judge may prohibit spectators from entering the courtroom at the judge's discretion.
- iii. All persons in the courtroom must remove their hats, and must be dressed cleanly, neatly, and appropriately. No person may smoke, use tobacco products, or vape in the courtroom.
- iv. Loud or unusual noises, the use of profane language, or disturbances of any kind will not be allowed in the courtroom.
- v. No one will be allowed in the courtroom who appears to be under the influence of intoxicating liquor or drugs.
- vi. Respect and courtesy must be shown to the judge at all times.
- vii. A flag of the Kickapoo Traditional Tribe of Texas, United States, and Texas, if available, will be displayed in the courtroom at all times.

C. Participating in a virtual courtroom requires professional appearance and a quiet, distraction-free environment. Ensure your technology (internet, camera, mic) is ready and you remain muted unless speaking, avoiding interruptions or multitasking. Treat the virtual setting with the same respect as a physical courtroom to ensure an orderly and dignified process.

Section 1.37 Location of Filing

All pleadings, motions, and other papers must be filed with the clerk of the court at the Kickapoo Traditional Tribe of Texas Tribal Court.

Section 1.38 Copies of Documents

All copies of documents must be requested with the clerk of the court at the Kickapoo Traditional Tribe of Texas Tribal Court.

Section 1.39 Admission of Counsel

- A. Any counsel who wishes to be admitted to practice before the Kickapoo Traditional Tribe of Texas Tribal Court may be admitted to practice upon motion in writing by order of the Judge.
- B. Any person who is a member in good standing of the bar of any state or territory of the United States or District of Columbia, is of good moral character, and demonstrates to the Court a thorough knowledge of tribal law and federal laws and regulations applicable to the Kickapoo Traditional Tribe of Texas, and some knowledge of the culture and traditions of its members is eligible to apply for admission to general practice as a licensed attorney in the Kickapoo Traditional Tribe of Texas Tribal Court.
- C. Any person who is 18 years of age or older, has not ever been convicted of a felony nor of a misdemeanor in the past year, is of good moral character, and demonstrates to the Court a thorough knowledge of tribal law, the rules of the Kickapoo Traditional Tribe of Texas Tribal Court, and knowledge of the culture and traditions of the Kickapoo Traditional Tribe of Texas people is eligible to apply for admission to general practice in this Court.

Section 1.40 Restriction on Counsel Activities

- A. No counsel admitted to practice in this Court may act as security for cost or as surety on any appeal or other bond in any pending case in which he or she is interested.
- B. No attorney in a case may testify as a witness in the trial of that case, except upon receiving permission from the Court.

Section 1.41 Communication with Judges

No witness or party to any case may under any circumstances, either before or during trial, attempt to discuss any case pending before the Court with any of the judges except in open court and with either the clerk of the court or one of the other judges present, or may attempt to influence the Court's decision unless in the course of regular court proceedings.

Section 1.42 Communication with Jurors

No person, including Court staff members, of any of the parties or witnesses, or any other person, may discuss with any known juror any case pending before that juror or which may come before that juror, either before or during the trial; and the judge may excuse any juror who has any personal knowledge about the case or who has discussed it with any of the parties, witnesses, or court officials.

Section 1.43 Contempt of Court

- A. Direct contempt shall consist of disorderly or insolent behavior committed during the session of the Court and in its immediate view, and presence, and of the unlawful and willful refusal of any person to be sworn as a witness, and the refusal to answer any legal

or proper question; and any breach of the peace, noise or disturbance, so near it as to interrupt its proceedings, shall be deemed direct contempt of court, and may be summarily punished as hereinafter provided for.

- B. Contempt of Court shall be addressed in accordance with the Kickapoo Traditional Tribe of Texas Penal Code.

Section 1.44 Ex Parte Calendar

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

Section 1.45 Courtroom Safety

- A. No person, except regularly commissioned law enforcement officers of the Kickapoo Traditional Tribe of Texas, State of Texas, or the United States government actively on duty are allowed in the Kickapoo Traditional Tribe of Texas 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 substances, or any incendiary device.
- B. 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.
- C. A license to carry a concealed pistol does not allow any of the items listed in this rule to be brought into the courthouse.

Section 1.46 Filing and Pre-marking Requirements

- A. Pleadings. When filing pleadings 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 by email. Filings received by electronic mail on weekends or court holidays will be deemed filed on the next business day. This policy ensures that all submissions are processed consistently within standard operational hours, while accommodating the convenience of electronic transmission outside of those hours.
- B. Pre-Marking Exhibits. In all cases, exhibits shall be pre-marked. Arrangements shall be made with the Court Clerk for the marking of all exhibits prior to trial. In a criminal case, only the prosecution is required to pre-mark exhibits, unless otherwise ordered by the Court.

Section 1.47 Working Copies of Motions and 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 juvenile 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 emailed 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 corner, the following: the date and time of such hearing and the name of the judge hearing the matter.

Section 1.48 Cited Cases

A copy of any case cited within a pleading must be attached to the Judge's copy.

Section 1.49 Computation of Days

- A. 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.
- B. 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.

Section 1.50 Service of Process.

- A. On Attorney or Party.
 - i. 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 is ordered by the Court. Service upon the attorney or upon a party shall be made by delivering a copy 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 the party; or leaving it at his/her office with his/her clerk or other person in charge thereof; or, if there is no one in charge, leaving it at his dwelling house or usual place of abode with some person of suitable age and discretion then residing therein.
- B. General Authority.
 - i. Service of summons may be effectuated by any of the following:
 - 1. A Tribal Law Enforcement officer; or
 - 2. A person specially appointed by the court for that purpose.
- C. Service by Mail.

- i. Service of process shall consist of delivering to the party served, a copy of the petition along with summons, issued by a Judge or Court Clerk, which advises the defendant that he is required to answer the petition within thirty (30) days, or a default judgement will be entered against him/her. All documents required to be filed shall be served as under this rule, except for the complaint, may be served on the attorney of a party.
- ii. Return of service shall be endorsed with the name of the person making service, date, time, and place of service, and shall be filed with the court clerk.

D. Service by Posting Public Notice.

- i. Service may be effectuated by posting on at least two Kickapoo Traditional Tribe of Texas Government buildings.

E. Service by Publication

- i. Service by publication is a last-resort method for serving individuals who cannot be located after diligent efforts. It requires filing a sworn affidavit with the court detailing these unsuccessful attempts to find the defendant. If approved, notice must be published weekly for three consecutive weeks in a newspaper, with a copy also mailed to any last known address.
- ii. To prove service by publication, a party must file a declaration of publication from the publishing newspaper and a copy of what was published.
- iii. Upon motion of the court, a judge may waive notice by publication if costs are excessive, instead ordering notice through other social or electronic means.

Section 1.51 Extension of Time

No extension of time shall be granted upon stipulation of counsel alone, but with a showing of good cause, may be allowed by order of the Judge. Once an extension of time is granted, the Judge shall promptly notify the court clerk of the extension of the new date set. Notice of the extension of time shall be sent to the parties by the court clerk.

Section 1.52 Sealing and Redaction of Court Records

A. 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 the Kickapoo Traditional Tribe of Texas and applicable federal law. However, even within a sealed file, the Court may further limit or determine access to sensitive documents.

B. Definitions.

- i. “Court file” means the pleadings, orders, and other papers filed with the clerk of the court under a single or consolidated cause number(s).
- ii. “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 Kickapoo Traditional Tribe of Texas to which the Court has access, but which is not entered in the record.
- iii. “Seal” means to protect from examination by the public and unauthorized court personnel.
- iv. “Redact” means to protect from examination by the public and unauthorized court personnel a portion or portions of a specified court record.
- v. “Restricted Personal Identifiers” are social security numbers, account numbers and driver’s license numbers.
- vi. “Strike” a motion to or order to strike from the record is not a motion or order to seal or destroy.
- vii. “Vacate” means to nullify or cancel.

C. Sealing or Redacting Court Records.

i. 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.

ii. Written Findings

After the hearing, the court may order the court files and records in the proceedings, 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 including findings that:

- a. The sealing or redaction is permitted by Kickapoo Traditional Tribe of Texas law;
- b. The redaction includes only restricted personal identifiers contained in the court record; and/or
- c. Another identified compelling circumstance exists that requires the sealing or redaction.

iii. 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.

iv. Sealing of Entire Court File

When the clerk receives 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 Kickapoo Traditional Tribe of Texas law.

v. Sealing of Specified Court Records

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

- a. On the docket, preserve the docket code, document title, document or subdocument number and date of the original court records;
- b. 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 records ordered sealed exists in another storage medium to prevent unauthorized viewing of the sealed court record; and
- c. File the Order to seal and the written findings supporting the order to seal. Both shall be accessible to the parties.
- d. Before a court file is made available for examination, the clerk shall not allow access to the sealed court records.

vi. 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.

Section 1.53 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.

- i. A sealed court record in a criminal case shall be ordered unsealed only upon proof of compelling circumstances, unless otherwise provided by Kickapoo Traditional Tribe of Texas law or other applicable law, and only upon motion and written notice to the persons entitled to notice under subsection 1.15(C)(1) of this rule except:
 - a. 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 Kickapoo Traditional Tribe of Texas laws 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.

D. Maintenance of Sealed Records.

Sealed records may be maintained in mediums other than paper.

E. 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.

F. 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.

Section 1.54 Examination of Court Files

- A. The following court files may not be viewed without a judge's authorization: youth in need of care; guardianship; paternity; adoption; domestic relations; Indian Child Welfare; 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.
- B. The following parts of court files may not be viewed without a judge's authorization: parts of files covered by HIPPA; medical information; financial information; portions of files that are sealed; or reports marked sealed or confidential.
- C. File may be viewed only in the Court Clerk's office under the supervision of a Court Clerk.
- D. The following conditions must be met in order to view court files:
 - i. A request form must be filled out.
 - ii. The viewer may not:
 - a. Remove anything from the court file;
 - b. Add anything to the court file;
 - c. Write in the court file; or
 - d. Make any alteration to the court file whatsoever.
- E. 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.

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

Section 1.55 Default on Fine

When a defendant defaults in paying a fine or any installment of a fine, the Court on its own motion will order the defendant to show cause why he or she is not in contempt and may issue a summons or an arrest warrant for the defendant's appearance. If good faith is shown, the Court may allow additional time for payment or revoke all or part of the unpaid fine; otherwise, the court may order his or her imprisonment until the fine is paid.

Section 1.56 Disposition of Payments Made to the Court

Any funds paid to the Kickapoo Traditional Tribe of Texas Tribal Court as a result of this code's provisions or other lawful orders of the Court must be paid and a receipt is issued for those funds and will be deposited into the general tribal court treasury. The funds will be recorded upon the accounts of the Tribe and will be available for expenditure upon order of the judge of the Tribal Court and by appropriation of the Tribe for operating expenses of the tribal judiciary and for such other purposes as the Kickapoo Traditional Tribe of Texas Tribal Council may direct.

Section 1.57 Disposition of Property Confiscated by the Court

Any property, including equipment, which has been confiscated by lawful order of the Court, after the owner of the property has notice and an opportunity to be heard, under this code's provisions will become the property of the Kickapoo Traditional Tribe of Texas, and the Kickapoo Traditional Tribe of Texas shall dispose of the property. If the property is sold, the funds will be recorded upon the accounts of the Tribe and will be available for expenditure upon order of the judge of the tribal judiciary and for such other purposes as the Kickapoo Traditional Tribe of Texas Tribal Council may direct.

Section 1.58 Warrant Quashes

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

Section 1.59 Information Technology Equipment in the Courtrooms

All courtrooms are equipped with electrical outlets, guest wireless internet access, and web-ex technology suitable for virtual hearings. However, it is the responsibility of the parties to provide any other equipment necessary for courtroom hearings.

Section 1.60 Guest Wireless Internet Access

A. Guest User Account.

Free public wireless internet access is available throughout the courthouse. To obtain a guest user account and password, please contact the Court Clerk.

B. Agreement of Terms of Use.

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

Section 1.61 Courtroom Photography and Recording by the News Media

A. Permission.

Generally, video and audio recording and still photography by the news media are not allowed in the courtroom during and between sessions. The judge of the Court may grant the use of video and audio recording and still photography by the news media in limited circumstances. In the event the use of such recording and photography is granted, the news media shall sign in with tribal police prior to recording and/or reporting.

B. Discretion.

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

C. Guiding Principles.

- i. 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 be related to the specific circumstances of the case before the court rather than reflecting merely generalized views.

Part 3 GENERAL RULES

Section 1.62 Guiding Principles for Interpretation of KTTT Laws

A. Purpose.

To administer justice within the jurisdiction of the Kickapoo Traditional Tribe of Texas in a manner that respects and incorporates tribal law, customs, and culture.

B. Kickapoo Traditional Tribe of Texas Vision and Values.

To uphold and administer justice that reflects the values, traditions, and sovereignty of the Kickapoo Traditional Tribe of Texas, ensuring a fair, accessible, and culturally appropriate legal system for all.

C. Incorporated Values.

i. Sovereignty

We honor and protect the inherent sovereignty of the Kickapoo Traditional Tribe of Texas through the exercise of independent and culturally grounded judicial authority.

ii. Justice

We strive for fairness, impartiality, and due process in all court proceedings and decisions.

iii. Traditions and Culture

We treat all individuals with dignity, compassion and understanding, recognizing the worth of every person who comes before the court.

iv. Integrity

We operate with honesty, accountability, and transparency, maintaining the trust of the community we serve.

D. Rules Governing Procedures.

Rules, not inconsistent with these provisions herein, governing procedures of the Kickapoo Traditional Tribe of Texas Tribal Court will become effective upon the

Judge of the Court's recommendation and/or the Tribal Council's approval and may be amended or supplemented in the same way.

Section 1.63 Involuntary Dismissal

A. Effect.

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

B. 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.

C. Dismissal on Court Clerk's Motion.

i. Notice

In all civil cases in which no action of record has occurred, 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 a party or attorney takes action on the 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.

ii. 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.

iii. 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.

iv. 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.

Section 1.64 Exhibits

All separate documents, photographs, papers, and written or printed instruments of any nature must have separate exhibit numbers, with exhibits for the plaintiff numbered numerically and exhibits for the defendant marked alphabetically. In civil cases, the clerk will deliver or mail all exhibits in his or her custody after judgment becomes final or after final disposition of the action to the party, offering the same or to his or her counsel. The clerk may destroy or otherwise dispose of any exhibits refused by a party or counsel.

Section 1.65 Rules of Evidence and Procedure

Except as Kickapoo Traditional Tribe of Texas rules or federal rules otherwise expressly provides, the Federal Rules of Evidence, the Federal Rules of Civil Procedure, and the Federal Rules of Criminal Procedure apply to this Court's criminal and civil proceedings. Should it be determined that neither tribal law nor federal law addresses particular subject matter, then the Court may apply state law only if the Court determines it to be consistent with tribal custom.

Section 1.66 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.

Section 1.67 Disclosure of Witnesses

A. 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.

B. Criminal Cases.

Disclosure of witnesses in criminal cases shall be governed by the Federal Rules of Criminal Procedure.

Section 1.68 Motion for New Trial and Amendment of Judgments

A. Grounds for New Trial.

- i. 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 questions 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 the injury or detention of property;
 - f. That there is 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.

B. Time for Motion; Contents of Motion.

A motion for a new trial shall be filed no 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 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.

C. Time for Serving Affidavits.

When a motion for a 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.

D. On Initiative of the 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 been 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.

E. Hearing on Motion.

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

1. Time of Hearing

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

2. 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

3. 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.

F. 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 of the record, the Court shall state the facts and circumstances upon which it relied.

G. 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.

H. 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.

I. Alternative Motions.

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

J. 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.

K. Challenge to Pro-Tem Ruling.

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

1.69 Disposition of Exhibits After Appeal Period Has Run

A. Civil Cases.

No one shall withdraw an exhibit without a court order. After 30-day notice to all parties of record following 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.

B. 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 purposes 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 the 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.

1.70 Withdrawal of Attorneys Counsel

A. Withdrawal by Attorney in a Civil Case.

i. 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 of the motion will be heard.

ii. Withdrawal by Notice

Except as provided in subsection (1) and (3) of this rule, an attorney may withdraw by notice in the manner provided in this rule.

iii. 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 Rules of Professional Conduct of the state in which the attorney is licensed to practice, 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.

iv. 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 attorneys 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 this rule.

v. 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.

vi. Effect of Objection

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

vii. Withdrawal and Substitution

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.

viii. 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.

ix. Circumstances of Denial of Withdrawal

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

B. 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.

1.71 Proof of Compliance

A. Requirement.

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

For purposes of these Court Rules a Proof of compliance refers to the formal documentation submitted to the court demonstrating that a party has met a specific legal requirement or followed a particular court order. It serves as evidence that a required action has been completed according to the rules. For example, in the

context of alternative service, an "affidavit of compliance" would be filed to show that the steps ordered by the court for serving a party through non-traditional means were actually carried out. This ensures accountability and confirms that due process has been observed.

B. Responsibility.

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

C. Electronic Transmissions.

Electronic transmission of proof of compliance is allowed.

1.72 Results of Drug and Alcohol Tests

A. Results.

The results of the field tests authorized by the Court that determine use of drugs or alcohol are presumptively valid.

B. Burden of Proof.

The burden to prove invalidity is on the contesting party.

C. 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.

1.73 Hearings Regarding Impound Fees

A. All impound fees are the responsibility of the property owner.

B. Persons who have vehicles or other personal property (e.g. handguns, rifles, shotguns, cameras, telephones, etc.) confiscated by the Kickapoo Traditional Tribe of Texas Police Department may request a hearing to determine if the confiscation was lawful by filing a petition requesting a hearing to determine if the confiscation was authorized by law. The petition and order setting the hearing shall be served on the Kickapoo Traditional Tribe of Texas Police Department or the Kickapoo Traditional Tribe of Texas Legal Department.

1.74 Jury Demand

When a demand for trial by jury is contained within a pleading instead of being filed separately, the demand must be brought to the attention of the Court Clerk.

1.75 Jury Trial

All parties and/or defendants are provided the right to a trial by an impartial jury. The rules governing trial by jury are as follows:

- A. A jury will consist of six (6) persons and one (1) alternate, drawn randomly from a list of eligible jurors, consisting of Kickapoo Traditional Tribe of Texas tribal members who reside in Maverick County, Texas. Jurors must be eighteen (18) years of age or older. The Tribal Enrollment Officer will certify the list as to tribal membership to the clerk of the Court. The list will be revised from time to time.
- B. If the Kickapoo Traditional Tribe of Texas is exercising Special Domestic Violence Criminal Jurisdiction (SDVCJ) under the Violence Against Women Act Reauthorization Act of 2022, the Court will ensure the following:
 - i. A jury will consist of six (6) persons and one (1) alternate, consisting of Kickapoo Traditional Tribe of Texas tribal members and tribal member spouses who reside in Maverick County, Texas. The Court shall ensure that it does not systematically exclude any distinctive group in the community, including non-Indians; and
 - ii. Anyone detained under SDVCJ is timely notified of his or her rights and responsibilities.
- C. The Court Clerk will randomly draw the names of six (6) jurors and one (1) alternate. Either party to a case may challenge not more than three (3) jurors without cause and any number of jurors for cause. Cause consists but is not limited to:
 - i. Non-eligibility as a juror or such physical or mental defect as to make the juror unable to perform his or her duties;
 - ii. Having been a juror, party, or witness in any civil or criminal case involving the same facts and parties; or
 - iii. Such family or business relationship with the defendant or having such an opinion of the defendant's guilt or innocence as would make impartiality as a juror impossible.
- D. When the jury of six (6) and one (1) alternate has been seated, the judge will administer the juror's oath.
- E. The jury's verdict must be unanimous. In the case of a non-unanimous verdict, the judgement will be entered for the defendant and the case dismissed.

- F. Each juror is entitled to a fee for each day of jury service, as the Court Clerk will determine, plus the federal per diem rate per mile for travel to and from court, payable by the Kickapoo Traditional Tribe of Texas.
- G. In cases involving Indian child welfare, adult protective services and criminal cases a jury trial may be requested.
- H. The Court may order a juror who becomes sick or is otherwise unable to perform his or her duty to be discharged and will substitute the alternate juror for the discharged juror. If there is no alternate available and the parties do not stipulate to continue the trial with five (5) or fewer jurors, the jury will be discharged and a new jury will be formed to hear the case.

1.76 Right to Counsel

- A. All parties in Indian Child Welfare cases and all defendants in criminal cases have the right to have effective assistance of counsel equal to at least that guaranteed in the Kickapoo Traditional Tribe of Texas Constitution to represent them at their own expense. Defense counsel in all criminal proceedings must be attorneys licensed in any jurisdiction in the United States that applies appropriate professional licensing standards and effectively ensures the competence and professional responsibility of its licensed attorneys.
- B. All persons charged with crimes under the laws of the Kickapoo Traditional Tribe of Texas and involved in matters in Indian Child Welfare are entitled to representation by a licensed attorney at the Kickapoo Traditional Tribe of Texas' expense, provided that sufficient funds are available and have been set aside by the Tribal Council for that purpose. All parties involved in civil matters are not entitled to representation by a licensed attorney.
- C. No defendant may be prosecuted for any felony crimes unless he or she has been appointed an attorney that meets the standards set forth herein.
- D. Additional Procedures and Court Rules. The Judge may implement such other procedures or rules, consistent with this section's provisions, as he or she determines is appropriate to administer this section.

1.77 Subpoenas

- A. Every judge of the Kickapoo Traditional Tribe of Texas court has the power to issue subpoenas for the attendees of witnesses, either on his or her own motion or upon the motion of any party to the case.
- B. Service of subpoenas will be by any qualified member of the KTTT law enforcement staff or other KTTT Court officer or by any person the Court appoints for the purpose.

- C. Witnesses will be compensated at a rate that the Court Clerk will determine per day of trial and the federal per diem rate per mile for travel to and from court by the party who subpoenaed them, except in criminal cases where the defendant is found to be indigent.

1.78 New Criminal Trial. The grounds for a new trial are as follows:

- A. The jury received evidence the Court did not authorize;
- B. The verdict was determined by lot, through intimidation, or without a fair expression of opinion;
- C. The court refused to instruct the jury correctly as to the law;
- D. The defendant did not receive a fair and impartial trial; or
- E. New evidence is discovered that was not available at the time of the original trial.

1.79 Appellate Procedure

- A. Any final judgment of the trial court may be appealed by filing a notice of appeal with the Court Clerk within 10 days after judgment is entered.
- B. The appeal will be heard by the Southwest Intertribal Court of Appeals or the Kickapoo Traditional Tribe of Texas Tribal Court of Appeals if established, and the appeals court's judgement will be final.
- C. If an appeal is taken, the cause will be tried on the record.

1.80 Terms of Probation. The Court as a condition of any order granting probation to a defendant may require the defendant:

- A. To meet his or her family responsibilities;
- B. To devote himself or herself to a specific employment or occupation;
- C. To undergo available medical or psychiatric treatment, to attend regular rehabilitation programs, or to enter and remain in a specified institution;
- D. To pursue a particular course of study or vocational training;
- E. To attend or reside in a facility established for the instruction, recreation, or residence of persons on probation;

- F. To stay away from unlawful or disreputable places or associating with disreputable persons;
- G. To possess no firearm or other dangerous weapon unless the Court grants written permission;
- H. To make restitution or reparation for the loss or damage of his or her unlawful acts, as the Court may direct;
- I. To remain within the Court's jurisdiction, to provide a physical address to the Probation Officer and not to leave that jurisdiction without the Court's permission, and to notify the Court or one of its officers of any change in address or employment;
- J. To report as directed to the Court, probation officer, or other person the Court designates;
- K. To post a cash bond, subject to the performance of any of these conditions; or
- L. To satisfy any other conditions reasonably related to the defendant's rehabilitation.
- M. Any other requirements under the KTTT Supervised Community Service Code.

PART 4 Criminal Rules

1.81 Criminal Conflict Counsel

In the event the person(s) acting as Court appointed attorney for the Kickapoo Traditional Tribe of Texas has a conflict of interest in representing a defendant in Kickapoo Traditional Tribe of Texas Court, conflict counsel may be appointed by the Court if the defendant qualifies for such appointment, on such terms as the Court sets.

1.82 Jury Information Forms

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

1.83 Jury Questionnaires

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

1.84 Instructions to the Jury for Criminal Cases

- A. Proposed Instruction.

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.

B. Submission.

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

C. Form.

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

D. Disregarding Requests.

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

E. 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.

1.85 Appearance in Person in Criminal Cases

When counsel and defendant are located within the Reservation, they must appear at hearings in person. When counsel and defendant are located outside the Reservation, counsel and defendant may appear at hearings virtually with the permission of the Court, notice to the Court Clerks, and/or approval by the defendant.

1.86 Video Conference

A. General Principles.

- i. Video conferencing technology shall be utilized in criminal proceedings to enhance access, efficiency, and safety, provided that the rights of all parties, particularly the defendant, are fully protected and preserved.
- ii. The dignity and decorum of the Court and the seriousness of criminal proceedings must be maintained at all times during video conference sessions.

B. Permissible Uses.

- i. Subject to the consent of the defendant, and as otherwise provided by tribal law and court rules or applicable federal law and regulations, video conferencing may be used for:
 - a. Initial appearances
 - b. Arraignments
 - c. Pretrial hearings and conferences
 - d. Witness testimony (with appropriate procedures for ensuring authentication and reliability).
 - e. Other proceedings deemed appropriate by the court, with due consideration for fairness and the protection of constitutional rights.
- ii. The Court may, in its discretion, authorize remote public and media access to certain proceedings, subject to any limitations or restrictions deemed necessary to ensure fairness and the integrity of the proceedings.

C. Defendant's Consent.

A defendant's consent to participate in a video conference proceeding must be knowing, voluntary, and informed, and should be clearly articulated on the record.

The court shall ensure that the defendant understands their right to be physically present in the courtroom for certain proceedings and that their consent to video conferencing is not coerced.

- i. In the event the defendant does not compile with Judge's order the Judge may issue a bench warrant.

D. Technical Requirements and Procedures.

- i. The Court shall confirm that all participants in a video conference proceeding have access to reliable and appropriate technology, including a secure and stable internet connection, functional audio and video equipment, and a quiet and private location from which to participate.
- ii. Prior to any video conference proceeding, the Court shall provide clear instructions to all participants regarding the use of the technology, the required courtroom etiquette, and the procedures for presenting evidence and making objections.
- iii. The Court shall take all necessary steps to ensure that video conference proceedings are conducted fairly and in a manner that protects the defendant's right to due process, including the right to confront witness, present evidence, and consult with counsel.

E. Ensuring Fairness and Due Process.

- i. The Court shall take all necessary steps to ensure that video conference proceedings are conducted fairly and in a manner that protects the defendant's right to due process, including the right to confront witnesses, present evidence and consult with counsel.
- ii. The court shall ensure that attorney-client communications remain confidential during video conference proceedings, potentially utilizing secure breakout rooms or alternative means of communication.
- iii. The Court shall ensure that video conference proceedings are recorded and that accurate transcripts are made available to all parties consistent with existing court procedures.

F. Recording and Broadcasting.

- i. Unauthorized recording, broadcasting, or capturing of images from video conference proceedings is strictly prohibited, and violation of this prohibition may result in a finding of contempt.

- ii. Any authorized recording or broadcasting of video conference proceedings shall be conducted in accordance with established court policies and guidelines.

G. Discretion of the Court.

- i. The presiding judge retains the final, discretionary authority to determine whether a particular proceeding is suitable for video conferencing and to grant or deny specific requests to appear in person.
- ii. The Court shall continually evaluate the use of video conferencing technology and adjust procedures as needed to ensure the fairness and effectiveness of criminal proceedings.

1.87 Jail Transport

A. Notice/Service of Process.

If the Respondent is in the jail when served with a pleading, they shall attend court virtually for a hearing. The Petitioner shall notify the Respondent of the process to be brought to court for the hearing. The Respondent or his or her attorney shall make the request to the Court in writing at least one week prior to the hearing.

B. Jail Transport for Parents with Cases Involving Minors

A parent to a case involving minor(s) may be transported from jail to court for any Court proceeding as ordered by the Judge or if the parent or parent's attorney shall make the request to the Court in writing at least one week prior to the hearing.

C. Other Civil Cases.

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

D. Costs

The Tribal Court presiding in the matter may order transportation costs to be paid at discretion of the Judge.

1.88 Participation in Corrections Programs and/or Community Services Programs

- A. Defendants and offenders may participate in the Community Corrections programs provided by the State of Texas Corrections Program or any other State in the United States if ordered to do so by the Court.
- B. Defendants and offenders may participate in the Kickapoo Traditional Tribe of Texas Supervised Community Services Program if ordered to do so by the Court.

Part 5 CIVIL RULES

1.89 Filing Fee Schedule

The filing fee schedule is available at the Kickapoo Traditional Tribe of Texas District Court.

1.90 Pleadings in Civil Cases

A. Late Filings; 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.

B. Motions; Contents Of.

A motion must contain the following:

- i. The specific relief the Court is requested to grant;
- ii. A concise statement of the grounds upon which the Court is requested to rule;
- iii. The evidence on which the motion or reply is based shall be identified with particularity.
- iv. Any legal authority relied upon must be cited and copies of case law must be provided.

C. Evidence Supporting Motion.

Motions must be supported by admissible evidence.

D. Scheduling Orders.

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. Schedule
 - a. Case Designation type;
 - b. Anticipated Trial time;
 - c. Motion deadlines;

- d. Discovery methods allowed and deadlines;
- e. Dispositive motion deadlines;
- f. Designation of expert witness deadlines;
- g. Witness list deadlines;
- h. Exhibit list and exhibit pre-marking deadlines, if applicable.
- i. Plaintiff/Defendants deadline to amend pleadings;
- j. Trial readiness hearing date;
- k. Any other matter the Court deems necessary for scheduling.

E. Mediation

i. Party Agreement

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.

ii. Court Ordered

The Court may order the parties to mediate upon a parties' motion or on its own motion.

iii. Cost of Mediation

Each Party shall pay 50% of mediation costs or a different amount by agreement.

F. 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.

1.91 Setting Hearing Date

Once the Return 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.

1.92 Types of Evidence Allowed in Civil Motion Hearings

Civil motions shall allow all types of evidence including live testimony.

1.93 Sanctions for Failure to Make Discovery Available in Civil Cases

A. 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.

B. 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, caused by the failure, unless the Court finds that the failure was substantially justified or that other circumstance make an award of expenses unjust.

C. 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 expense unjust.

D. 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:

- i. Serve answers or objections to interrogatories after proper service of the interrogatories; or
- ii. 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.

- E. 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 expense 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.

1.94 Mediation for Civil Cases

A. 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.

B. Matter Subject to Mediation.

- i. Mediation is mandatory for all tort claims.
- ii. It is 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.
- iii. Mediation is not required if there is a history of domestic violence between the parties.

C. Attorney Involvement.

- i. Attorneys will be permitted during mediation for dissolution or custody issues.
- ii. Attorneys may be permitted during mediation for tort claims or any other civil case at the discretion of the Court.

D. Costs

Each Party shall pay 50% of mediation costs or a different amount by agreement.

1.95 Attorneys Appointed on Behalf of Children or Incapacitated Persons

A. Purpose.

The purpose of these rules is to establish a minimum set of standards applicable to all court cases when the Court appoints any attorney to represent the best interests of a child, an alleged incapacitated person, or an adjudicated incapacitated person.

B. General Responsibilities of a Court Appointed Attorney Ad-Litem (AAL).

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

i. Represent Best Interests

A Court appointed AAL shall represent and advocate for the legal rights and expressed wishes of whom he or she is appointed. The attorney 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.

ii. Maintain Independence

A court appointed AAL shall maintain independence, objectivity and the appearance of fairness in dealings with parties and professionals, both in and out of the courtroom.

iii. Professional Conduct

A court appointed ad-litem shall maintain the ethical principles established by the Court.

iv. Avoid Conflicts of Interests

A court appointed AAL shall avoid any actual or apparent conflict of interest or impropriety in the performance of the court appointed responsibilities. A court appointed AAL shall avoid self-dealing or association from which an AAL might directly or indirectly benefit, other than for compensation as court appointed AAL. An AAL shall take-action immediately to resolve any potential conflict or impropriety. An AAL 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. An AAL shall not accept or maintain appointment if the performance of the duties as may be materially limited by the AAL responsibilities to another client or a third person, or by the AAL's own interests.

v. Treat Parties with Respect

An AAL is an officer of the court and as such shall at all times treat the parties with respect, courtesy, fairness, and good faith.

vi. Become Informed About Care

An AAL shall make reasonable efforts to become informed about the facts of the case and to contact all parties. An ad-litem shall examine material information and sources of information, considering the positions of the parties.

vii. Timely Inform the Court of Relevant Information

An AAL shall file a written report with the Court and the parties as required by law or by the court order, no later than 5 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.

viii. Limit Duties to Those Ordered by Court

An AAL shall comply with the Court's instructions as set out in the order appointing the attorney 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, an AAL obtains additional instruction, clarification or expansion of the scope of such appointment.

ix. Appear at Hearings

The AAL shall comply with the Court's instruction as set out in the order appointing an AAL 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, an AAL obtains additional instruction, clarification or expansion of the scope of such appointment.

x. Maintain Privacy of Parties

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

C. Qualifications.

The Court shall establish qualifications for an AAL:

i. Credentials

- a. A current valid license to practice law;

b. Qualification(s) requirement by the Judge.

D. Cultural Competency.

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

E. AAL Reports.

All AAL shall prepare two reports for the Court. A comprehensive sealed report and 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.

1.96 Appearance by Telephone/Virtually in Civil Cases

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

- i. The party lives out of state;
- ii. The party has a medical condition preventing travel;
- iii. The party is in treatment thus is unable to be present; or
- iv. Any other reason as deemed appropriate by the Court.

B. The party requesting to appear by telephone should contact the Court to make the request. The opposing party may object to such an appearance and a hearing may be scheduled by the Court to hear the objection after notice of the request by the Court. 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.