

YUROK TRIBAL COURT  
RULES OF COURT

**Governing Principles:** These Rules will govern all actions in the Yurok Tribal Court. They are intended to provide for a just determination in every proceeding and shall be construed to secure simplicity in procedure, fairness in administration and the elimination of unjustifiable expense or delay. Enforcement of these Rules will be guided by the precepts that have from time immemorial guided decision making within the Nation, including, but not necessarily limited to the historic practice of having known parties act as decision makers and/or mediators in disputes that arose among the people. Further these Rules are intended to be in compliance with any and all applicable state and federal laws. The Rules will assume the right of the parties to waive any applicable provision of either state or federal law and proceed with a culturally consistent resolution process without the assertion of any rights which may be applicable pursuant to state and/or federal laws.

The people have made a decision that they will incorporate the precepts of culturally relevant dispute resolution practices into the on-going need to resolve complicated social issues and disputes that arise from time to time among the people. The Yurok Tribal Court will be conducted as a Court that is reflective of certain non-Yurok precepts adopted or accepted by the Yurok Tribe but will also adhere to Yurok cultural precepts whenever such adherence is reflective of the best practices for resolution of the issues before the Court.

In establishing these Rules the Yurok Tribal Council and the Yurok Tribal Court are aware that many times people will come before the Court without formal representation or with representatives/spokespersons who may not be law trained. These Rules are not meant to create an environment that favors law trained represented persons, and will not be enforced in such a manner as to create such an outcome. Rather the Rules are meant to guide the parties to a fair and just resolution by providing a framework for resolution of issues.

The Yurok Tribal Council and the Yurok Tribal Court are committed to the establishment of a Yurok judicial system that is uniquely Yurok and provides a culturally appropriate forum for resolution of conflicts arising within or affecting the Nation. Both the form and substance of the laws of this Nation are meant to create justice within a culturally responsive system, to that end form will not be favored over substance, and the Court will seek results that promote the good stewardship necessary for Yurok country, and the whole land to stay in balance.

**Effective Date:** These Rules will be effective as of October 22, 2008. On the date of the enactment of these Rules all prior Rules of Court are repealed. However, procedural rules established in other ordinances for the purposes of

enforcing those ordinances are specifically not repealed, but may be superseded by these Rules.

**Rule Modification:** The Court Rules will be subject to modification without notice. However, once a rule is changed every member of the Yurok Tribal Bar Association will be noticed of a rule change at the last known address of the member. The Court Rules will be available at the office of the Tribal Court Clerk and made available for review in the Law Library of the Court. The Tribal Court Clerk will make free copies for any branch of government of the Yurok Tribe or for any member of the Tribe. All other persons requesting copies of the Rules will be assessed a ten dollar (\$10.00) fee per copy. The Court may waive this fee at its discretion.

## **RULE 1. NATURE OF PROCEEDINGS COVERED**

**1.1 Scope of Rules.** It is the intention of the Court that these Rules will govern any action that may be filed for the purpose of resolving ongoing disputes or concerns. The Court is in the early years of development; statutes and ordinances are being adopted as quickly as is functionally appropriate. In the interim there may be actions that arise which are not directly addressed in the existing written laws of the Tribe. The Court is not by the establishment of these Rules precluding the ability of the Court to proceed in a fashion consistent with the development of common law; and hereby recognizes the existence of Yurok common law as applicable to dispute resolution. The Court may also, at the request of parties or on the motion of the Court, set up a resolution process that is not specifically described in these Rules so long as that process is agreed to by the parties and is not inconsistent with Yurok precepts of dispute resolution.

In the absence of a governing rule the Chief Judge may establish rules consistent with the governing principles set out above. The Chief Judge may delegate the creation of scheduling to the hearing court or may upon the motion of a party or the Court's own motion establish Rules necessary for the operation of the Courts of the Nation.

The Court, at the request of all parties involved, may accept a matter for the sole purpose of finalizing/formalizing an order or decision agreed to by parties. If the Court makes an order following such an agreement, the order/decision will specify how disputes as to enforcement of the order/decision are to be resolved. The Court is aware that the Yurok people have a history of dispute resolution that did not necessarily involve a judicial officer and is offering this service as a supporting function for the purposes of establishing a record of the order/decision should the parties seek such a record.

**1.2 Proper Judicial Precedent.** In ruling on all motions, the Court shall give greatest weight to relevant prior decisions of the Yurok Tribal Court; where such decisions do not exist the Court will look first to the notions of fairness inherent in the Yurok culture, then to principles of fairness inherent in Yurok

common law and then may consider other Tribal court decisions, Federal decisions, and/or decisions of State courts so long as they do not conflict with Yurok cultural prerogatives.

## **RULE 2. LOCATION OF COURT, FILING, LOCATION OF COURT SESSIONS**

The intention of this Rule is to notify those seeking to use the Court of where and how to initiate actions.

A. The Office of the Court Clerk shall be located at:

Yurok Tribal Court  
P.O. Box 963  
190 Klamath Blvd.  
Klamath, CA 95548  
(707) 482-1350 Ext. 392  
(707) 482-1377 FAX

- B. Documents can only be filed by the Clerk of the Court or a person designated as an associate clerk (or by a Judicial Officer of the Court) for the purposes of filing/receiving documents.
- C. Filing shall be effective upon presentation of document(s) to the Court personnel in the Office of the Court Clerk: or upon receipt of a document in the Office of the Clerk via United States mail identified as a document to be filed; and filing via fax is specifically allowed. Filing in any location or by any method other than as provided by this rule is ineffective.
- D. Late filing of material may be permitted by order of Court provided good cause is shown.
- E. The hours of the Court shall be from 8:30 a.m. to 5:00 p.m., Monday through Friday, except on all Tribal and Federal holidays.
- F. Court sessions may be held at:

Yurok Tribal Office--Klamath  
190 Klamath Blvd., Klamath, CA

Yurok Tribal Office—Weitchpec  
Highway 96, Weitchpec, CA

Others locations as designated by order of the Court.

**2.1 Time Computation** Whenever a rule, or order of the Court requires that an action be taken within a certain number of days, the time computation does not include the day the order is given but begins as of the next day and runs until the last day specified, unless the last day falls on a week-end or a Tribally

recognized holiday, in which event the due date is the next work day.

When a time limit is counted from the time that notice is delivered to a person by mail, it shall be presumed that delivery takes place five days after the day that notice is mailed.

**2.2 Form: Statement Regarding Filing of Papers.** All papers drafted for filing in this Court shall be on 8 1/2 by 11 inch paper, plainly written or printed without erasure marks or items that have been lined out, and shall be double spaced, except that quotations and footnotes may be single spaced. Typed submissions are preferable however, the Court will accept handwritten submissions as long as they are clear, legible, written in ink, and otherwise conform to these rules.

Every pleading, motion, or other paper presented for filing shall have the Court name, case name and docket number displayed and must be signed personally by the party or by party's counsel/advocate. In addition, the pleading shall include the name, address, e-mail address if available, and telephone number, typed or printed under his/her signature.

It is the Court's preference to conform copies of all filings; so that if a duplicate filing is presented the Court Clerk will file stamp it to provide proof of filing of the original document. Judgments must be on a separate sheet of paper and shall bear the caption of the action. Orders must also be on a separate sheet of paper and shall bear the caption of the action.

**2.3 Trial Attorney.** If a law firm or more than one attorney/advocate represents a party, one attorney/advocate will be designated in the first pleading filed on behalf of that party as "Trial Attorney/Advocate" or "T.A.". This attorney/advocate may, but need not, be the attorney/advocate who personally signs pleadings. If no attorney/advocate is designated the signor of the pleadings will be determined to be the T.A.

The designated T.A. will be responsible for the case. All notices and other communications with respect to it will be directed to the designated T.A., "local counsel/advocate" may be designated as the trial attorney. The designation of the T.A. may be changed at any time by a noticed ex parte motion. If a party desires to change the T.A., the new T.A. will be promptly designated.

**2.4 Collateral Proceedings and Refiled Cases.** Whenever a civil matter, commenced in or removed to the Court, involves subject matter that either comprises all, or a material part of, the subject matter or operative facts of another action, whether civil or criminal, then pending before this or another court or administrative agency; or that was previously dismissed or decided by this Court, counsel/advocate shall append on a separate sheet of paper, to the front of the complaint, a list and description of all such actions then known to

counsel/advocate, including a brief summary of the relationship. If information concerning any such action or proceeding is obtained subsequent to the filing of the original pleading in the latter case, it will be the duty of counsel/advocate obtaining such information to notify the Court and opposing counsel/advocate in writing of the information so received in the same manner.

**2.5 Consolidated Cases.** Unless otherwise ordered by the Court, where cases are consolidated, whether for trial only or otherwise, the caption of all papers filed after consolidation shall list first the name and docket number of the lowest numbered case in the group, with words showing a consolidation occurred. This shall be followed by a listing of the names and docket numbers of only those cases to which the papers apply. Counsel/advocate shall furnish copies of papers filed according to the numbers of the cases to which the papers apply.

The caption of the lowest numbered case will serve as the identifying caption during the pendency of the consolidation and will continue to be used even if that particular case is closed.

**2.6 Nonconforming Pleadings or Documents.** The clerk may refuse to accept pleadings or other documents not conforming to the provisions of these rules. Any such refusal will result in the papers being time/date stamped and presented to the Court within 5 (five) court days for review. The party filing such documents will be notified of the decision of the Court as to the review within ten (10) days. Any non-conforming decision by the Court shall include a statement defining specifically what is necessary for the pleadings to become conforming and allow sufficient notice and time for such papers to be conformed by the person filing the papers. Any deadlines will be tolled during such review and conforming process.

**2.7 Proof of Service.** Every pleading, brief, or memorandum filed in any proceeding in this Court shall have attached to the last page a Proof of Service, signed by a person 18 (eighteen) years or older stating that copies have been served on all parties or their attorney/advocate, either in person; by mailing to a true and correct address; by facsimile transmission with a true copy to follow no later than one (1) week from the date of the faxed copy.

In any event, proof of service of summons, whether for civil or for criminal litigation, shall be served on all parties no later than thirty (30) days prior to original trial date, unless exigent circumstances exist and/or the served party waives the right to said service, any party who is not served in a timely fashion may request a continuance. Proof of service must be filed with the Court specifying the date, place and manner of service.

**2.8 Withdrawal of Files.** Files in the office of the clerk may be removed from it only by leave of the Court.

### **RULE 3. MOTIONS**

**3.1 Motion Days.** Motions will be designated for hearing by order of the individual judge to whom the action is allotted. Oral argument will be allowed either when requested by a party, and/or at the discretion of the trial judge. All other motions will be decided by the Court on the basis of the record, including timely filed briefs and any supporting or opposing documents filed therewith.

**3.2 Submission of Motions.** All motions except those made during a hearing or trial shall be made in writing and filed whenever possible thirty (30) days prior to the scheduled court hearing date. Where the original court date is scheduled in less than thirty (30) days a party wishing to file a motion shall file a request to amend this motion schedule. The Court may independent of this Rule establish a motion schedule for any action. Papers filed with a motion are made a part of the record.

**3.3 Motions Must Be Accompanied by Memorandum.** The moving party shall file and serve opposing parties with a copy of any motion and memorandum. Unless the Court waives this requirement, all motions must be accompanied by a memorandum commonly referred to as a “Memorandum in Support”, which shall contain: (1) a concise statement of reasons in support of the motion, and (2) citations of the authorities relied upon or copies of these authorities. If the motion requires consideration of facts not in the record, the movant shall also file with the clerk and serve upon opposing counsel/advocate a copy of all documentary evidence he/she intends to submit in support of the motion. Memoranda may not be supplemented without first obtaining leave of Court.

**3.4 Submission of Ex Parte or Consent Motions.** An application for an order, allowed by these rules to be submitted *ex parte* or by consent, need not be noticed for hearing as described above, but shall instead be accompanied by a proposed order. Except as otherwise ordered in an individual case, every such application shall be submitted to the judge through the clerk.

**3.5 Motions Not Requiring Memorandum.** All motions listed below, while not required to be accompanied by a memorandum, must state the grounds for the motion and cite any applicable rule, statute, or other authority justifying the relief sought. No memorandum or hearing is required by either movant or respondent, unless otherwise directed by the Court, with respect to the following motions: (1) For extension of time for the performance of an act required or allowed to be done, provided the request for the motion is made before the expiration of the period originally prescribed or as extended by previous orders; (2) to continue a pretrial conference, hearing, motion, or the trial of an action; (3) to add additional parties; (4) to amend pleadings; (5) to file supplemental pleadings; (6) to appoint next friend of court or guardian ad litem; (7) to intervene; (8) for substitution of parties; (9) joint motions to dismiss or

consolidate; and (10) to withdraw as counsel; (11) Small claims filed by unrepresented parties where the amount in dispute is less than \$10,000.00. A proposed order shall accompany each motion filed under this paragraph.

**3.6 Response and Memorandum.** Each party opposing a motion shall file a “Memorandum in Opposition” which shall contain : (1) a concise statement of reasons in opposition to the motion and (2) a list of citations of the authorities upon which the opponent relies, or copies of these authorities, no later than the five (5) days prior to the noticed hearing date. A copy thereof shall also be served on the opposing parties.

If the motion requires the consideration of facts not appearing in the record, counsel/advocate shall also serve, and submit, with each copy of his/her opposition, copies of all documentary evidence that he/she intends to submit in opposition to the motion.

No supplemental opposition memoranda may be filed except without first obtaining leave of Court.

**3.7 Motions to Intervene, to Amend Pleadings and to File Third-Party Complaints.** Prior to filing any motion for leave to intervene, to amend pleadings, or to file a third-party complaint, the moving party shall attempt to obtain consent for the filing and granting of such motion from all parties having an interest to oppose. If consent is obtained, the motion shall not be noticed for hearing, but will be filed, accompanied by a proposed order, with a statement of consent signed by opposing counsel/advocate. No such motions, when required to be noticed for hearing, shall be accepted for filing unless accompanied by a certificate of counsel/advocate for the moving party to the effect that opposing counsel/advocate have refused to consent to the filing and granting of such motion. If the court finds that opposing counsel/advocate does not have a good faith reason for failing to so consent, the Court may impose such sanctions as it deems proper.

**3.8 Motions for Summary Judgment.** Every motion for summary judgment shall be accompanied by a separate, short and concise statement of the material facts that serve as the basis for the moving party contention that there is no genuine issue to be tried.

**3.9 Opposition to Summary Judgment.** Each copy of the papers opposing a motion for summary judgment must include a separate, short and concise statement of the material facts as to which there exists a genuine issue to be tried. All material facts set forth in the statement required to be served by the moving party will be deemed admitted, for purposes of the motion, unless controverted as required by this rule.

**3.10 Motions for Clarification.** Any party may seek a clarification from the

Court on any Order or Opinion. Clarification may be sought by filing a noticed motion of inquiry to the ruling court to clarify certain aspects of an order or opinion and must state in a concise manner the issues sought to be clarified. For the purposes of this section any party includes a Court of the Nation. Said motions must be made in a timely fashion given the context of the motion, in particular said motion must be consistent with the requirements of motions for rehearing or reconsideration.

**3.11 Motions for Rehearing/Reconsideration.** Any party may file a motion for rehearing/reconsideration of an order of any Court of the Nation. Said request must be filed with the Court that made the order or whose opinion the requesting party seeks to have reheard or reconsidered. The purposes of such a request is to avoid error, or injustice that may result from an order that is not consistent with Yurok cultural standards of justice and/or is factually/legally in error. Such request must be filed on or before the fifteenth (15<sup>th</sup>) court day following the filing of the order/opinion being questioned.

The ruling Court on its on motion may reconsider or rehear any matter for the purposes of adhering to the standards set forth in this section.

**3.12 Discovery Motions.** All discovery shall be conducted as determined by the Court to the extent that it does not conflict with the Yurok Tribal Constitution. No motion relative to discovery will be accepted for filing unless accompanied by a certificate of counsel/advocate for the moving party, stating that counsel/advocate has conferred in person or by telephone for purposes of amicably resolving the issues and stating why they are unable to agree or stating that opposing counsel/advocate has refused to so confer after reasonable notice. Counsel/advocate for the moving party shall arrange the conference. A proposed order shall accompany each motion filed under this paragraph. If the Court finds that opposing counsel/advocate has willfully refused to meet and confer, or, having met, willfully refused or failed to confer in good faith, the Court may impose such sanctions as it deems proper.

**3.13 Objections to Interrogatories or Requests for Admission.** Objections to interrogatories and to requests for admission, and objections to the answers to them, must be set forth in full, immediately preceding each interrogatory, request, answer or objection. A party may present a motion, in writing, or orally (if at a hearing where all parties are present) to compel answers to those items to which an objection has been made. All such motions will contain statute and case law supporting the motion to compel, including citations of the authorities relied upon and/or copies of these authorities.

**3.14 Depositions.** Parties may by agreement or notice set depositions for either party or witness who is scheduled or ordered to appear in any hearing. Said depositions shall be considered pursuant to the applicable rules of discovery and

evidence.

#### **RULE 4. DISCOVERY MATERIALS**

**4.1 Non-filing of Disclosure, Discovery Requests and Responses, Retention by Requesting Party.** Disclosure, Interrogatories, Answers thereto; Requests for Production or Inspection, Requests for Admissions, and responses thereto must be served upon other counsel/advocate or unrepresented parties, but do not have to be filed with the Court, unless the Court orders that such materials be filed. Notices of depositions may be filed with the court. Depositions do not have to be filed unless ordered by the Court to be filed or they are included in other court filings. The party preparing and responsible for service of the disclosure or discovery material shall retain the original and become the custodian of any such non-filed materials.

**4.2 Disputed Discovery Materials to Be Filed With Request for Relief.** If a disagreement develops regarding discovery issues concerning any disclosure, interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories or responses to requests for admissions, copies of the portions of the disclosure, interrogatories, requests, a party's answers or responses in dispute; either party may seek resolution of said dispute by noticed motion or at the next calendared hearing. Disputes maybe waived if not brought to the Court for resolution in a timely manner.

**4.3 Pretrial Filing of Disclosure and Discovery Materials to Be Used at Trial.** If disclosure or pretrial discovery materials will be used at trial, or are necessary to a pretrial motion that might result in a final order, the portions to be used must be filed with the clerk at the outset of the trial, or at the filing of the motion, when there use can be reasonably anticipated. Nothing in this rule is intended to preclude use of disclosure or discovery materials for impeachment.

**4.4 Construction of the Rule.** This rule shall not be construed so as to preclude the filing of any disclosure or discovery materials to be used as exhibits or evidence in connection with a motion or at a trial.

**4.5 Filing of Disclosure or Discovery Materials for Appeal Purposes.** When documentation of disclosure or discovery not previously in the record is needed for appeal purposes, upon an application and order of the court or by stipulation of counsel, the necessary disclosure or discovery papers shall be filed with the clerk.

#### **RULE 5. BRIEFS**

**5.1 Length of Briefs.** Except with permission of the judge, no brief shall exceed twenty (20) pages in length, exclusive of pages containing a table of authorities or a table of contents, and no reply brief shall exceed one (15) pages. Any brief exceeding twelve (12) pages shall contain: (1) a table of contents with page references and (2) a table of cases (arranged alphabetically), statutes and other

authorities cited, with references to the pages of the brief where they are cited. Cases cited shall be attached in full to the citing brief.

## **RULE 6. FEES AND COSTS**

**6.1 Memorandum of Costs.** Within thirty (30) days after receiving notice of entry of judgment, unless otherwise ordered by the Court, the party in whose favor judgment is rendered and who claims, and is allowed costs, shall serve on counsel/advocate for the adverse party and file with the clerk a notice of application to have the costs paid, together with a memorandum signed by the counsel/advocate of record; and stating that the items are correct and that the costs were incurred as a necessary expense.

**6.2 Hearings.** The party applying for payment of costs shall notice the matter for hearing before the Court.

**6.3 Objections.** Specific objections may be made at anytime prior to the hearing or at the time of the hearing to any item of costs. If no objection is made then the Court shall cause the clerk to thereupon order the costs.

**6.4 Security for Costs.** In any civil matter, the Court, on motion or its own initiative, may order any party to file a bond which is acceptable to the court for costs or additional security for costs in such an amount and so conditioned as it may designate.

## **RULE 7. EVIDENCE**

**7.1 Applicable laws.** Evidence shall comply with the notions of fairness inherent in Yurok culture. The Court in any hearing shall render the final decision as to the admissibility and applicability of any evidence sought to be placed into evidence.

## **RULE 8. TRIAL EXHIBITS**

**8.1 Custody.** After being received into evidence, all exhibits will be placed in the custody of the clerk, unless otherwise ordered by the Court.

**8.2 Disposition.** All exhibits in the custody of the clerk shall be removed within thirty (30) days of the date of the final disposition of the case (included in this computation is the appeal time period). The party offering exhibits is solely responsible for their removal; and shall provide a detailed receipt for the clerk's records. If the parties or their attorneys/advocates fail or refuse to remove exhibits within thirty (30) days, the exhibits may be destroyed or otherwise disposed of by the clerk.

## **RULE 9. CONFERENCE IN CHAMBERS - NOTICE**

Except as to applications normally considered and acted upon *ex parte*, before any attorney/advocate or party shall confer, or arrange to confer, with a judge of this Court in chambers relative to a matter then pending, he/ she shall first give

notice of the date and hour of the proposed conference to opposing counsel/advocate; or, if counsel/advocate is unknown, to the opposing party. The requesting party will provide proof to the judge that this has been done.

## **RULE 10. HEARINGS**

**10.1 Orders.** Any order entered herein may be modified by the Court upon its own motion, or upon the motion of any party subject to the action. See specifically the Rule governing rehearings.

## **RULE 11. TEMPORARY RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS**

**11.1 Application for Injunction or Restraining Order.** An application for a temporary restraining order or preliminary injunction shall be made in a document separate from the underlying complaint. An application for a temporary restraining order shall be accompanied by a certificate of the applicant's attorney/advocate, or by an affidavit, or by other proof satisfactory to the Court, stating: (1) that actual notice of the time of making the application, and copies of all pleadings and other papers filed in the action to date, or to be presented to the Court at the hearing, have been furnished to the adverse party or his/her attorney/advocate, if known, or (2) the efforts made by the applicant to give such notice and furnish such copies. Except in an emergency, the Court will not consider an *ex parte* application for a temporary restraining order or preliminary injunction.

## **RULE 12. DISMISSAL FOR FAILURE TO PROSECUTE**

**12.1 Dismissal for Failure to Prosecute.** A civil action may be dismissed by the Court for lack of prosecution after issuing notice to the parties and the opportunity for hearing when no action has been taken for two (2) years following the date of the last action in the matter.

## **RULE 13. NOTIFICATION OF WITNESSES**

**13.1 Notification of Witnesses.** It is the duty of counsel/advocate who has issued a subpoena to notify the person subpoenaed if his/ her attendance is not required in time to prevent the witness from making a needless trip. Counsel/advocate failing to comply with this rule may be subject to appropriate sanctions, and/or required to pay costs to the witness who appears in response to a subpoena.

## **RULE 14. TRIAL PROCEDURE**

**14.1 Conduct.** All Court proceedings will be conducted in a dignified and respectful manner, consistent with the conduct of Yurok people.

**14.2 Time.** All trials/hearings, both civil and criminal, will begin at a designated time determined by the Court upon reasonable notice of such time to the parties.

**14.3 Impaneling a Jury.** In cases to be tried to a jury, a list of prospective

jurors comprised of members of the Yurok Tribe who have attained at least the age of eighteen (18) will be provided to the parties. This list shall be compiled by the court clerk and kept on file at the Clerk's office. Jury summonses will be sent to prospective jurors no later than two (2) weeks prior to the first day of any trial.

The Clerk shall draw by lot twelve (12) names from the list of summoned jurors. Six (6) members shall then be seated. The parties then will be permitted to question jurors as to their impartiality and fairness. The Judge may excuse any juror if, in the judge's judgment, that juror should not be expected to be a juror in the instant case. Any party to the case may challenge, and have dismissed, any juror for cause. Each of the parties shall then have an opportunity to excuse three (3) jurors without cause, commencing with the complainant and alternating until each has exercised as many challenges as they wish, not to exceed three (3). As a juror is excused, the Clerk shall draw the name of another juror to take their place, and the parties will have an opportunity to examine such juror as to their fairness and impartiality.

**14.4 Contempt.** Jurors failing to respond to a summons from the court clerk may be subject to a ruling of contempt by the Court and any fine(s) attendant thereto.

**14.5 Swearing In a Witness.** All witnesses may be administered an oath by the Clerk of the Court as follows: "You do now solemnly swear (or affirm) the testimony you are to give in the matter now pending before this court to be the truth and nothing but the truth." Such Oath will be administered if requested by a witness prior to their testimony. The Court will make no inferences from the fact that a person declines to be sworn or does not seek to be sworn and it will be presumed that Yurok People and those who are appearing before the Court are in fact telling the truth.

**14.6 Conduct of Trial.** A trial shall commence with the impaneling of the jury, if the case is to be tried to a jury or if no jury when the Court calls the case. Complainant/prosecutor may then make an opening statement setting forth the allegation(s) against the respondent/defendant. The defendant shall have an opportunity to make a statement of their position. Upon the conclusion of such statements, the complainant/prosecutor shall call such witnesses and produce such exhibits as they may see fit. The respondent/defendant then shall have an opportunity to call such witnesses and produce such evidence as they may see fit. The complainant/prosecutor shall thereafter, in rebuttal, have an opportunity to call such witnesses and produce such evidence as they may see fit to rebut the evidence produced by the respondent/defendant. Both the complainant/prosecutor and respondent/defendant shall have the right to cross-examine (question) witnesses produced by the opposing parties.

**14.7 Telephone or Other Appearances.** The Court will allow, with prior

approval, telephonic or other electronic appearances in special circumstances to accommodate parties and/or counsel to actions. Such appearances are not preferred.

**14.8 Offer and Marking of Exhibits.** Before referring to, or using, or offering in evidence any exhibit, (whether book, paper, document, model, diagram or any other type of exhibit), counsel/advocate shall first ensure that it is marked for identification by the Court Clerk. Any exhibits reasonably capable of being duplicated shall be copied and given to opposing party at least ten (10) court days prior to the initial trial date.

**14.9 Final Argument.** Upon the conclusion of the evidence, each party shall be given an opportunity to argue their case. Further argument may be allowed at the Court's discretion.

**14.10 No Discussion With Jurors.** No person, including members of the Court's staff, any of the parties or witnesses, or any other person, shall discuss with any known juror any case pending before such juror; or which may come before such juror, either before or during the trial. Any juror who has any personal knowledge about the case, or who has discussed it with any of the parties, witnesses, or Court officials, may be excused by the Judge, after the Judge has disclosed said information to the parties, who may waive their right to have the juror excused.

**14.11 Interviewing Jurors.** A. No juror has any obligation to speak to any person about any case and may refuse all interviews (except as ordered by the Court). No juror who may consent to be interviewed shall disclose any information with respect to the specific vote of any other juror:

B. No person may make repeated requests for interviews or questions after a juror has expressed his/ her desire not to be interviewed; and

C. Under no circumstances, except by leave of Court granted upon good cause shown shall any attorney/advocate, party to an action, or other person examine any juror. The rules for such an examination will be set by the Court granting the request.

**14.12 Decisions.** A. Bench Trials - In the absence of a jury the Court must decide the disposition of the case. The Court may take a short recess at the end of the trial to review the testimony and reach its determination. The Court may, in its discretion, decide to postpone judgment until such time as the presiding judge or magistrate sees fit, but no longer than thirty (30) days; said decision may be announced in Court or by a written decision or order.

B. Appellate Hearings Once a case is submitted by the parties the decision of the Court shall be made no longer than ninety (90) days from the

date of final submission.

C. Extensions of Time for Decisions Extensions of time for decisions can occur if the Court files or makes an Order showing good cause, but may not exceed an additional thirty (30) days for a trial court, or an additional ninety (90) days for an appellate court.

**14.13 Subpoenas.** Any party shall have the right to compel witnesses to appear in court to testify on his/ her behalf. A subpoena compelling the testimony of a witness or a subpoena duces tecum for production of books, records, documents or any other physical evidence relevant to the determination of the case shall be issued by the Court upon request by an advocate or attorney representing a client in a pending matter, or by a person representing who is self represented. In the event the Court issues a subpoena compelling a witness to testify, or ordering the production of books, records, documents, or any other physical evidence relevant to the determination of the case, the subpoena shall be delivered by law enforcement personnel or in accordance . Service shall be done in accordance with Rule 1.09 of these Rules of Court.

Upon service, a proof of service shall be filed with the court specifying the date, place and manner of service.

**14.14 Subpoena Duces Tecum—Non Party.**

A. When a subpoena duces tecum is served upon the custodian of records or other qualified witness from a business, hospital or other health care facility in an action in which the business, hospital or facility is not a party; and the subpoena requires the production of all or any part of the records of the business, hospital or facility, sufficient compliance will be accorded by the Court if the custodian or other officer of the business, hospital or facility delivers by registered mail or by hand a true and correct copy of all records described in the subpoena to the clerk of court.

B. The records must be accompanied by the affidavit of the custodian or other qualified witness, stating in substance each of the following:

1. That the affiant is the duly authorized custodian of the records and has authority to certify the records.
2. That the copy is a true copy of all records described in the subpoena.
3. That the records were prepared by the personnel of the business, hospital or facility, staff physicians, or persons acting under the control of either in the ordinary course of the business of the business, hospital or facility at or near the time of the act, condition, or event.

C. If the business, hospital or facility has none of the records described, or only

part thereof, the custodian shall so state in the affidavit.

## **RULE 15. BUILDING SECURITY**

**15.1 Reasons for Building Security.** The purpose of these rules is to minimize interference with, and disruptions of, the Court's business; to preserve a respectful environment in conducting the Court's business; and to provide effective security in the buildings wherein proceedings governed by these rules are held. These buildings are hereinafter collectively referred to as "the Court House".

**15.2 Security Personnel.** The term "Security Personnel" means a deputized Yurok Tribal Department of Public Safety Officer or any other law enforcement officer designated to serve as Security Personnel for the Court.

**15.3 Carrying of Parcels, Bags, and Other Objects.** Security personnel may inspect all objects carried by persons entering the premises. No one shall enter or remain in the premises without submitting to such a requested inspection.

**15.4 Search of Persons.** Security personnel may conduct a pat-down search of any person entering the premises or any space in it. Anyone who refuses to permit such a search may be denied entry. Should any defendant in a criminal case whose appearance is required refuse to permit such a search, security personnel will deny the person entry and immediately notify the judge before whom the appearance is required. The judge may take the appropriate action, including, but not limited to, ordering the detention and search of the defendant, and ordering revocation of bond, if the defendant is on bond, or any other lawful order consistent with the laws of the Yurok Nation.

**15.5 Unseemly Conduct.** No person shall:

- A. Conduct himself/herself in an unseemly or disorderly or culturally disrespectful manner while in the Court House knowing such place to be serving as a Court House;
- B. Interfere with or disturb the conduct of the Court's business in any manner;
- C. Block any entrance to, or exit from, the Court House; or purposely interfere with any person's entry into or exit from the Court House knowing same to be serving as a Court House.

**15.6 Entering and Leaving.** All persons who enter and/or leave courtrooms or the Court House knowing such a building to be serving as a Court House, if subject to direction by Security Personnel, having been advised of the status of said personnel are required to comply with said direction. Failure to comply with said direction will subject any such person to sanctions as set out in the

laws of the Yurok Nation, including herein.

**15.7 Spectators.** Spectators seeking to enter a courtroom will be subject to the direction of the presiding judge and/or security personnel. Spectators shall sit in that portion of the courtroom designated by security personnel or the presiding judge. Spectators must follow the directives of the presiding judge and/or security personnel as their entering/leaving/presence in a courtroom or the Court House.

**15.8 Cameras and Electronic Equipment.** Unless authorized by the court, no camera, recording equipment, or other type of electrical or electronic device shall be brought into the premises. No person shall introduce or attempt to introduce any type of camera, recording equipment or other type of electrical or electronic device into the premises without court permission. Cell phones may not be used in any fashion without the permission of the Court, except they may receive and retain messages.

**15.9 Weapons.** No person shall be admitted to, or allowed to remain in the Court House with any object that might be used as a weapon unless they have been authorized in writing by a judge or unless they are a Tribal Law Enforcement agent, a US Marshal, a California Highway Patrol Officer, a publicly employed law enforcement officer or a person designated by the Court. Except that law enforcement officers who are litigants or appearing in any capacity other than Court security or to testify for the Tribe may be required surrender their weapon to Security Personnel before entering the Court House. No person, except those above shall have any such object in their possession while in any courtroom or judges' chambers.

**15.10 Enforcement.** Security personnel shall enforce the whole of this Rule 14. In addition to such other penalties as may be prescribed by law, violators of this Rule maybe held in contempt of court and subject to the imposition of sanctions pursuant to such section of the Rules or to the imposition of any other penalty proscribed by the laws of the Yurok Nation.

## **RULE 16 CONTEMPT OF COURT**

**Contempt Actions.** Anyone found to be in contempt of Court pursuant to these Rules may be sanctioned by the Court.

- A. If the contempt is before the Court the Court may either warn or impose sanctions.
- B. If the contempt action did not occur in the presence of the Court, the Court or Party seeking the contempt finding will notice the other party of the contempt action. Such notice shall proceed pursuant to the Rules of Court as to Motions. The Court, if not on the Court's own motion, will review the Motion

and set a hearing date; must order the presence of the person alleged to have committed the contempt (if not present then the Court must issue a subpoena requiring the presence of that persons presence, specifying the time, date and place of the hearing); witnesses, and evidence may be presented at that hearing.

**Sanctions.** If a party is found to be in contempt, the Court may impose a sanction that may include any or all of the following:

1. Exclusion from the Court;
2. A fine of up to one thousand dollars (\$1,000.00), and/or a fine in an amount established for contempt behaviors defined in any other statute of the Tribe; and
3. Any other sanction(s) deemed appropriate to the circumstances and consistent with Yurok cultural beliefs.

## **RULE 17. PRACTITIONERS IN TRIBAL COURT**

**17.1 Attorneys/advocates.** To practice as an advocate or attorney in the Yurok Tribal Court a person must be a member in good standing of the Yurok Bar Association. Persons may be specially admitted for the purposes of limited appearances or for any other reason deemed sufficient by the Chief Judge.

**17.2 Spokesperson/representative.** A spokesperson/representative may be allowed to act as such at the discretion of a hearing judge of the Nation. If a dispute arises as to the qualifications/abilities of such a person to function in that role the Chief Judge will resolve the dispute.

## **RULES OF APPELLATE PROCEDURE**

### **RULES OF APPELLATE PROCEDURE YUROK TRIBAL COURT**

#### **Rule 1 – PURPOSE OF APPEAL**

- A) The Yurok Tribal Supreme Court shall act as the appellate court for the Yurok Tribal Court. The Supreme Court shall convene when asked by a party to any action in the Tribal Court for the purpose of hearing an appeal of a decision by a trial court of the Tribe. The decision of the Tribal Supreme Court shall be the final decision of the Tribal Court and will bind the parties and serve as precedent for the judicial system of the Tribe.
- B) An appeal shall be possible to correct errors of law, incorrectly interpreted cultural precepts, and any other mistake that would result in the establishment of an incorrect application of the laws or cultural precepts of the Tribe.

#### **Rule 2 – INCORPORATION BY REFERENCE OF YUROK TRIBAL COURT RULES OF COURT**

These appellate rules are meant to be read and enforced in combination with the Yurok Tribal Court Rules of Court, the rule should be read together to provide a complete appellate structure.

#### **Rule 3 – PROCEDURE**

- A) A Yurok Trial Court may set an appellate schedule for any matter at the close of hearing. Failure to set a specific schedule will result in these Rules applying to any appeal from any such hearing.
- B) Where a trial court has not set an appellate schedule an appeal must be filed within ten (10) court days from the decision of the trial court. If said decision is not made in open court with the parties present or having been ordered to be present the appeal must be filed within twenty (20) court days of the decision.
- C) The Appeal filing must include a statement of reasons detailing the basis for the appeal. Such statement shall include a statement of facts supporting the appeal and any claimed error.
- D) The Appeal must state whether a clerks transcript and/or reporters transcript is required. The Court clerk will prepare or cause such record to be prepared.
- E) The appeal must be served on all parties, and must be served on the office of the Tribal Attorney if the Tribe is not a party to the

appeal. Proof of service must be filed with the Clerk, failure to serve the parties and/or the Tribal Attorney may result in a dismissal of the appeal.

**Rule 4 - SCHEDULE**

- A) If the Trial Court has not set a schedule which includes a briefing schedule the appellant (person appealing) shall have twenty (20) court dates from the date of the filing of the appeal to file an opening brief in support of their position.
- B) The appellee shall have twenty (20) court dates from the filing of opening brief to file a response brief.
- C) The appellant shall have ten (10) court dates from the filing of the responsive brief to file a closing brief.
- D) Any interested person/group may request the permission of the Court to file a brief as a friend of the Court on any appellate matter. The presiding judge of the panel will decide if such permission shall be granted and shall establish the briefing schedule for such briefs. Said briefs shall not unduly delay the work of the Court.
- E) Court on its own motion may request additional briefs at any time establishing a schedule for submission of said briefs.

**Rule – 5 SCHEDULING EXCEPTION**

The scheduling deadlines shall be tolled following the filing of the appeal if the clerk’s transcript or reporter’s transcript is required for the appeal. The Clerk will notify the parties when the record(s) are complete and said notification will detail the end of the tolling period. (Tolling in this context means that the scheduling provisions noted above will not apply until the record(s) are ready.)

**Rule – 6 EXTENSION OF TIME**

- A) Extension of time to do any act required under these rules shall be obtained by order of the Presiding Judge of Supreme Court panel established to hear any appeal, and/or by the Chief Judge if no appeal panel has been constituted.
- B) Extension of time will be granted for good cause and shall be consistent with the need to reach a timely resolution of the conflict.

**Rule – 7 APPELLATE PANEL MAKE-UP**

The Chief Judge shall have the responsibility to constitute each appellate court panel pursuant to the Judicial Ordinance.

**Rule – 8 ORAL ARGUMENT**

- A) Either party may request oral argument or the Presiding Judge may order argument of their own motion. The Presiding Judge may deny a request for oral argument. A request for oral argument will be favored.

- B) The Presiding Judge when granting such a request will determine the time allotted to each party.

**Rule – 9 ORDERS/OPINIONS OF THE COURT**

The Supreme Court will endeavor to make their orders final orders, meaning self-executing orders that do not rely upon/or require the Trial Court to set forth or articulating the final orders. That does not preclude remand for the purpose of further hearing or clarification pending the issuance of a final order.

APPENDIX A  
GLOSSARY OF TERMS FOR THE YUROK TRIBAL CODE  
RULES OF COURT

**Actual notice**, that **notice** actually received by, or information actually known to, a person.

**Advocate** is one who writes and speaks for or in behalf of another. One does not have to be a graduate of a law school but must be admitted to the Yurok Tribal Bar Association.

**Answer/response** a responsive pleading in which the defendant/respondent denies or responds to the allegations/charges of the plaintiff/complainant.

**Attorney/Counsel** a person whose profession is to advise or act for clients in legal matters; a person who may or may not be a graduate of a law school, may or may not be licensed by a state to practice law, but is admitted to the Yurok Tribal Bar as an attorney having satisfied the requirements of that Bar.

**Complaint/petition** it is the initial pleading in a case, in which the plaintiff states the facts contending their entitlement to relief and states the relief they are seeking.

**Complainant/Petitioner/plaintiff** a person who makes a complaint, usually a civil complaint, but may refer to the initial instrument charging a person with a crime.

**Constructive notice** information that a person could have or should have known or information conveyed in a way that was reasonably calculated to give **actual notice**.

**Defendant** a person against whom a criminal complaint or other charging instrument has been filed with a court in a criminal case; or the person against whom a lawsuit is brought.

**Deposition** a **discovery** procedure in which a witness testifies in response to questions from the other side. It is done before a court reporter and cross examination is allowed but it normally takes place outside the courtroom and without a judge present.

**Discovery** refers to a set of procedures by which each side in a case may obtain important information, documents or other things from the other, and sometimes from a non-party.

**Ex-parte** means an action taken by or for one side of case or dispute without notice to the other side or party.

**File/filing/filed** to commence an action by filing a **complaint/petition** with the Court; to deposit a copy of each successive court paper/pleading with the court clerk for action as required and for placement in the court's official file.

**Injunction** a court order direction a person to do or refrain from doing some act. Types of injunctions include:

1. **Mandatory injunction** an injunction requiring a person to do some affirmative act.
2. **Permanent injunction** an injunction granted as part of the judgment at the end of a case, directing a party forever to refrain from certain conduct.
3. **Preliminary injunction** an injunction granted shortly after the beginning of a case, to maintain the status quo while the case proceeds. A preliminary injunction will be issued only after a hearing.
4. **Prohibitory injunction** an injunction prohibiting a person from taking certain action. This is the most common kind of injunction. Also called a **restraining order**.

**Interrogatories** a set of written questions about the facts and contentions in a case submitted to an adversary as part of the **discovery** process.

**Judicial notice** acceptance of a fact by a judge in a cases without requiring it to be proved, requires the fact to generally known or because it is ascertainable from standard sources.

**Notice** the act of conveying information of legal significance to a person, or, when such information is conveyed in writing, the document itself.

**Notice by publication** that **notice** achieved by publication of notice in a newspaper in the hopes of reaching persons affected by a matter who cannot otherwise be identified or located.

**Personal service** hand delivery of a copy of the process/papers directly to the intended recipient or to an agent authorized to accept service.

**Pleading** a formal document in which a party to a civil case sets out or responds to a claim or defense.

**Prosecutor** a public/tribal official whose job it is to oversee the prosecution of criminal cases in tribal court.

**Request for admissions** a paper served by one party upon another in a case, demanding that an adversary admit or deny certain facts; often served shortly

before a trial to narrow the issues and eliminate the need to spend court time proving things that are not in dispute.

**Respondent** a person who must respond to a certain action or to a procedural step in a case, such as a petition, motion, or appeal.

**Restraining Order** an **injunction** that prohibits someone from taking some action.

**Service** the giving of formal notice of judicial proceedings or a judicial act to a person involved by delivering a copy of legal papers (papers filed in court or to be filed in court) to the person or following some other procedure prescribed by law.

**Service by publication** the printing of notice of an action in a newspaper in the hopes the affected person will see the notice, used when the actual whereabouts are unknown with the permission of the Court.

**Specially Admitted Advocate/Attorney** a person may apply for permission to appear specially as an advocate/attorney without being a member of the Yurok Tribal Bar. Permission is available by application to the Chief Judge of the Yurok Court.

**Spokesperson/representative** a person who is speaking for another at a hearing with the approval of the Court.

**Subpoena** a process directing a witness to appear and give testimony/evidence in a court proceeding.

**Subpoena duces tecum** a subpoena requiring the person served not only to testify but also to produce specified documents or other physical evidence. The person is required to bring the document/evidence to court or make the document/evidence available at a specific location, time and date.

**Substitute/constructive service** any of several methods of service permitted in place of personal service under certain circumstances, such as service by mail.

**Summary judgment** a judgment entered without a full trial because the evidence (or lack of evidence) brought out in pretrial discovery makes it clear which side must prevail as a matter of law.

**Temporary restraining order (TRO)** an **injunction** granted for a very short time, just to keep things as they are until a hearing can be held to determine whether or it would be appropriate to issue a **preliminary injunction**. A **TRO** may be granted **ex-parte** to avoid tipping off the person to whom it is directed and thus giving that person a chance to hurry up and do the act in question before being ordered not to.

**Third party complaint** an action by which the **defendant/respondent** in a civil case files a **complaint/petition** against a person who was not initially a party to the case, claiming a right of indemnity or contribution from the third party in the event that the **defendant/respondent** is found liable to the **plaintiff/petitioner**. The third party action is an extension of the main action, and the issues in both actions are normally litigated together in one case.

Credited as a guiding source for the definitions in this Glossary is the Random House Webster's Dictionary of the Law, James E. Clapp