

UNITED KEETOOWAH BAND OF
CHEROKEE INDIANS
IN OKLAHOMA

APPELLATE PROCEDURE
ACT of 2022

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APPELLATE PROCEDURE

GENERAL PROVISIONS

Section 1. Scope and Applicability of Rules

(a) Scope. This Title governs the procedure in appeals to the Supreme Court from the Tribal District Court, and in applications for writs or other relief which the Supreme Court or a Justice thereof is competent to give. When this Title provides for the making of a motion or application in the Tribal District Court, the procedure for making such motion or application shall be in accordance with the practice of that Court.

(b) “Cherokee Reservation” shall mean all land within the exterior boundaries of an area that was set aside by treaties with the federal government for the Cherokee people, including the predecessors of those Cherokees who Congress would later recognize as a separate tribe called the “Keetoowah Indians of the Cherokee Nation of Oklahoma,” and which would organize as the United Keetoowah Band of Cherokee Indians in Oklahoma, which includes all, or a portion, of fourteen counties in today’s eastern Oklahoma.

(c) “Tribal Courts,” unless otherwise specifically stated or required by the context, shall be deemed to refer to both the Tribal District Court and the Supreme Court.

(d) “Tribal Jurisdiction” means all Indian Country as defined in 18 U.S.C. § 1151, whether within or outside of the Reservation, which is subject to the jurisdiction of the Tribe, but excluding all lands held by the United States in trust for the Cherokee Nation of Oklahoma, or owned in fee by the Cherokee Nation of Oklahoma.

(e) Jurisdiction Not Affected. This Title shall not be construed to extend or limit the jurisdiction of the Supreme Court as may be established by other Tribal laws, and all provisions of this Title shall be subject to the Constitution of the Tribe.

Section 2. Discretionary Authority

Where no procedure is provided in this Title, other statutes of the Tribe, or the Supreme Court rules, the Supreme Court may proceed to exercise its functions in any lawful manner.

CHAPTER ONE

APPEALS FROM JUDGMENTS AND ORDERS OF THE DISTRICT COURT

Section 101. Appeal As of Right - How Taken

(a) Filing the Notice of Appeal. An appeal permitted by the laws of the Tribe as of right from the Tribal District Court to the Supreme Court of the Tribe shall be taken by filing a notice of appeal with the Clerk of the Tribal District Court within the time allowed by Section 102, or by the statute applicable in the specific case. Failure of an appellant to take any step other than the timely filing of a notice of appeal does not affect the validity of the appeal, but is grounds only for such action as the Supreme Court deems appropriate.

(b) Joint or Consolidated Appeals. If two or more persons are entitled to appeal from a judgment or order of the Tribal District Court, and their interests are such as to make joinder practicable, they may file a joint notice of appeal, or may join in appeal after filing separate timely notices of appeal, and they may thereafter proceed on appeal as a single appellant. Appeals may be consolidated by order of the Supreme Court upon its own motion or upon motion of a party, or by stipulation of the parties to the several appeals.

(c) Content of the Notice of Appeal. The notice of appeal shall specify the parties to the appeal; shall designate the order, commitment or judgment appealed from, the docket, civil, criminal, juvenile, or small claims of the Tribal District Court from which the appeal is taken, and a short Statement of the reason or grounds for the appeal. An appeal shall not be dismissed for informality of form or title of the notice of appeal.

(d) Service of the Notice of Appeal. The Clerk of the Tribal District Court shall serve notice of the filing of an appeal by mailing or emailing a copy of the notice of appeal, which copy shall be provided by the appealing party, to counsel of record of each party other than the appellant, and to the party at their last known address; and shall forthwith file in the Supreme Court's case management system, or deliver to the Clerk of the Supreme Court, for filing in the Supreme Court, a certified copy of the notice of appeal. The Clerk of the Supreme Court shall enter such filing upon the docket of the Supreme Court. When an appeal is taken by a defendant in a criminal case, the Clerk of the Tribal District Court shall also serve a copy of the notice of appeal upon the Attorney General and the subject prosecutor, either by personal service, email or by mail addressed to them. The Clerk of the Tribal District Court shall note on each copy served the date on which the notice of appeal was filed. Failure of the Clerk to serve notice shall not affect the validity of the appeal. Service shall be sufficient notwithstanding the death of a party or their counsel. The Clerk shall note in the docket the date of the mailing.

(e) Payment of Fees. Upon the filing of any separate or joint notice of appeal from the Tribal District Court, the appellant shall pay to the Clerk of the Tribal District Court, for deposit in the Court Fund, the filing fee which shall be in such amount as may be determined by rule of the Supreme Court, except that payment of a filing fee shall not be required for an appeal by the Tribe, its officers, or agents when acting in their official capacity. If a private party joins in an appeal by the Tribe, tribal officers, or tribal agents, the private party shall pay the required filing fee. The Supreme Court, or a Justice thereof, may waive payment of the filing fee in criminal cases when the defendant, by affidavit or otherwise, establishes that they are without sufficient funds or

resources with which to pay the required fees.

Section 102. Appeal As of Right - When Taken

(a) Appeals in Civil Cases.

- (1) In a civil case in which an appeal is permitted by law as of right from the Tribal District Court to the Supreme Court, the notice of appeal required by Section 101 shall be filed with the Clerk of the Tribal District Court within the following time periods after entry of the judgment or order appealed from, if a time certain is not otherwise provided by statute:
 - (i) from an order or judgment in an action for forcible entry or forcible or unlawful detainer. Ten (10) days.
 - (ii) from an order, decree, or judgment of the Juvenile Division of the District Court, (except an order, decree, or judgment which terminates parental rights). Thirty (30) days.
 - (iii) from an order, decree, or judgment of the Juvenile Division of the District Court which terminates parental rights. Ninety (90) days.
 - (iv) from a final order, commitment, judgment, or other appealable order in any civil case not hereinabove provided for. Twenty (20) days.
- (2) Except as provided in Subsection (a)(4) of this Section, a notice of appeal filed after the announcement of a decision or order but before the formal entry of the judgment or order shall be treated as filed after such entry and on the day thereof.
- (3) If a timely notice of appeal is filed by a party, any other party may file a notice of appeal within fourteen (14) days after the date on which the first notice of appeal was filed, or within the time otherwise prescribed by this Section, whichever period last expires.
- (4) If a timely motion under the Civil Procedures Act is filed in the Tribal District Court by any party,
 - (i) for judgment notwithstanding the verdict, or
 - (ii) to amend or make additional findings of fact, whether or not an alteration of the judgment would be required if the motion is granted, or
 - (iii) to alter or amend the judgment or for a new trial,

then, and in that event, the time for appeal for all parties shall run from the entry of the order denying a new trial or granting or denying any other such motion. A notice of appeal filed before the disposition of any of the above

motions shall have no effect. A new notice of appeal must be filed within the prescribed time measured from the entry of the order disposing of the motion as provided above. No additional fees shall be required for such filing.

- (5) The Tribal District Court, upon a showing of excusable neglect or good cause, may extend the time for filing a notice of appeal in a civil action upon motion filed not later than thirty (30) days after the expiration of the time prescribed by this Section. Any such motion which is filed before expiration of the prescribed time for the filing of a notice of appeal may be *ex parte* unless the Tribal District Court otherwise requires. Notice of any such motion which is filed after expiration of the prescribed time shall be given to the other parties in accordance with the Civil Procedure Act. No such extension shall exceed thirty (30) days past such prescribed time or 10 days from the date of entry of the order granting the motion, whichever occurs later.
- (6) A judgment or order is entered within the meaning of this Section when it is entered in compliance with the Civil Procedure Act.

(b) Appeals in Criminal Cases. In a criminal case, the notice of appeal by a defendant shall be filed in the Tribal District Court within ten (10) days after the entry of the final judgment and sentence or other order appealed from. A notice of appeal filed after the announcement of a decision, sentence, or order, but before formal entry of the judgment or order shall be treated as filed after such entry and on the day thereof. If a timely motion in arrest of judgment, or a motion for a new trial on any ground other than newly discovered evidence has been made, an appeal from a judgment of conviction may be taken within ten (10) days after the entry of an order denying the motion. A motion for a new trial based on the ground of newly discovered evidence will similarly extend the time for appeal from a judgment of conviction if the motion is made before or within ten (10) days after entry of the judgment. When an appeal by the Tribe is authorized by statute the notice of appeal shall be filed by the Tribe in the Tribal District Court within ten (10) days after the entry of the judgment or order appealed from unless a different time is specifically set by the statute authorizing the appeal. A judgment or order is entered within the meaning of this subdivision when it is entered in the criminal docket pursuant to the Criminal Procedure Act. Upon a showing of excusable neglect, Tribal District Court may, before or after time has expired, with or without motion and notice, extend the time for filing a notice of appeal for a period not to exceed thirty (30) days from the expiration of the time otherwise prescribed by this subdivision of this Section.

Section 103. Interlocutory Appeals in Civil Actions

(a) Interlocutory Appeals A person may appeal to the Supreme Court any order made appealable by law, and any interlocutory order by permission of the Tribal District Court.

(b) Time for Filing Interlocutory Appeals as of Right and Special Rules.

- (1) The party aggrieved may appeal the order to the Supreme Court without awaiting the final determination of the action, by filing the notice of appeal with the District Court Clerk within twenty (20) days after the order is issued.

If the order makes, discharges or modifies an attachment or preliminary injunction, said order shall remain in full force and effect pending the interlocutory appeal, unless the party seeking to appeal, if they desire to stay said order, shall give within ten (10) days after the order is rendered, an appeal bond in such sum as the Court deems proper, to secure the to the appellee the damages they may sustain, including reasonable attorneys' fees, if it is finally decided that the order was properly granted. The bond shall stay the effect of the order pending appeal.

- (2) Where a receiver shall be or has been appointed, upon the appellant filing an appeal bond in such sum as may be required by the District Court, conditioned for the due prosecution of the appeal and the payment of all costs, or damages that may accrue to the Tribe or any officer or person by reason thereof, the authority of the receiver shall be suspended until the final determination of the appeal, and if the receiver has taken possession of any property, real or personal, it shall be returned and surrendered to the appellant upon the filing of the bond.

(c) Interlocutory Appeals by Permission. When a Judge, in making an order or decree in a civil action not otherwise appealable under this Section or another Tribal statute, shall be of the opinion that such order involves a controlling question of law as to which there is substantial grounds for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, they shall so state in writing in such order. The Supreme Court may thereupon, in its discretion, permit an interlocutory appeal to be taken from such order, if application is made within ten (10) days after the entry of the order, provided, however, that application for an appeal hereunder shall not stay proceedings in the Tribal District Court, unless the Judge or at least one Justice of the Supreme Court shall so order.

(d) Petition for Permission to Appeal. An appeal from an interlocutory order containing the Statement prescribed by Section 103(c) may be sought by filing a petition for permission to appeal with the Clerk of the Supreme Court within ten (10) days after the entry of such order in the District Court with proof of service on all other parties to the action in the District Court. An order may be amended to include the prescribed Statement at any time, including by motion of one of the parties, and permission to appeal may be sought within 10 days after entry of the order, as amended.

- (1) The petition shall contain a Statement of the Facts necessary to an understanding of the controlling question of law determined by the order of the District Court; a Statement of the question itself; a Statement of the reasons why a substantial basis exists for a difference of opinion on the question; and why an immediate appeal may materially advance the termination of the litigation. The petition shall include or have annexed thereto a copy of the order from which the appeal is sought and any findings of fact, conclusions of law and opinion relating thereto. Within seven (7) days after service of the petition, an adverse party may file an answer in opposition. The petition and answer shall be submitted without oral argument unless otherwise ordered by the Supreme Court.
- (2) Within ten (10) days after the entry of an order granting permission to appeal,

the appellant shall:

- (i) pay to the Clerk of the District Court the fees established by rule of the Supreme Court for the filing of appeals by permission; and
- (ii) file a bond for costs if required by the Supreme Court.

The Clerk of the Tribal District Court shall notify the Clerk of the Supreme Court of the payment of the fees. Upon receipt of such notice, the Clerk of the Supreme Court shall enter the appeal upon the docket. The record shall be transmitted and filed as in cases of direct appeal by right. A notice of appeal need not be filed.

Section 104. Interlocutory Appeals in Criminal Actions

(a) Appeal by the Defendant. An interlocutory appeal to the Supreme Court may not be taken by the defendant except by leave of the Court in the same manner as the taking of interlocutory appeals by permission in civil actions.

(b) Appeal by the Tribe. An interlocutory appeal by the Tribe to the Supreme Court may be taken from a decision or order of the Tribal Court prior to the beginning of trial suppressing or excluding evidence, or requiring the return of seized property in a criminal proceeding, or dismissing the criminal complaint, and, after the verdict is returned, upon an order granting a new trial, or an order refusing to revoke probation or parole, or an order reducing a valid sentence previously imposed.

Section 105. Appeals by the Tribe in Criminal Actions

(a) An appeal to the Supreme Court may be taken by the Tribe from the final judgment in a criminal action in the following cases:

- (1) Judgment for the defendant, dismissing, quashing, or setting aside the criminal complaint, based on any procedural irregularity occurring prior to trial, or an order in favor of the defendant excluding evidence prior to trial.
- (2) An order of the Court arresting the judgment or acquitting the defendant contrary to the verdict or before such verdict can be rendered.
- (3) An order of the Court directing the jury to find for the defendant.
- (4) An order made after judgment and sentence affecting the substantial rights of the Tribe.
- (5) The criminal complaint shall be reinstated and the case shall proceed if the Tribe's appeal is upheld under Subsection (a)(1) of this Section; the judgment and sentence arrested shall be entered and enforced if the Tribe's appeal is upheld under Subsection (a)(2) of the Section; and a defendant may not be tried again for the same offense if the Tribe's appeal is upheld under

Subsection (a)(3) of this Section.

(b) Pending the prosecution and determination of the appeal in the foregoing instances, the defendant shall be released in accordance with Section 108 of this Act.

Section 106. Bond For Costs on Appeal in Civil Cases

The Tribal District Court may require an appellant to file a bond or provide other security in such form and amount as it finds necessary to ensure payment of costs on appeal in a civil case. Section 107(b) of this Act applies to a surety upon a bond given pursuant to this Section.

Section 107. Stay or Injunction Pending Appeal

(a) Procedure. Application for a stay of the judgment or order of the Tribal District Court pending appeal, or for approval of a supersedeas bond, or for an order suspending, modifying restoring or granting an injunction during the pendency of an appeal must ordinarily be made in the first instance in the Tribal District Court. A motion for such relief may be made to the Supreme Court, or to a Justice thereof, but the motion shall show that application to the Tribal District Court for the relief sought is not practicable, or that the Tribal District Court has denied an application, or has failed to afford the relief which the applicant requested, with the reasons given by the Tribal District Court for its action. The motion shall also show the reasons for the relief requested and the facts relied upon, and if the facts are subject to dispute, the motion shall be supported by affidavits or other sworn statements. The motion shall be filed with such parts of the record as are relevant to the motion. Reasonable notice of the motion shall be given to all parties. The motion shall be filed with the Clerk of the Supreme Court, and normally will be considered by the entire Court, but in exceptional cases where such procedure would be impracticable due to the requirements of time, the application may be made to and considered by a single Justice of the Court pending review by the entire Court. In cases where relief has not been previously requested in the Tribal District Court, the Supreme Court may, if it determines such action to be appropriate under the circumstances, remand the motion to the Tribal District Court for its initial determination.

(b) Bond, Proceedings Against Sureties. Relief available in the Supreme Court under this Section may be conditioned upon the filing of a bond or other appropriate security in the Tribal District Court. If security is given in the form of a bond or stipulation or other undertaking with one or more sureties, each surety submits themselves to the jurisdiction of the Tribal District Court and irrevocably appoints the Clerk of the Tribal District Court as their agent upon whom any papers affecting their liability on the bond or undertaking may be served. It is the responsibility of the surety to provide the Clerk of the Tribal District Court with their proper and current address, and a supply of stamped, self-addressed envelopes, if they wish copies of any papers served upon the Clerk as their agent to be mailed to them. Their liability may be enforced on motion in the Tribal District Court without the necessity of an independent action. The motion and such notice of the motion as the Tribal District Court shall prescribe may be served on the Clerk of the Tribal District Court who shall forthwith mail copies to the sureties if their addresses are known.

(c) Criminal Cases.

(1) A sentence of imprisonment or banishment may be stayed if an appeal is taken and the defendant may be given the opportunity to make bail. Any defendant not making bail or otherwise obtaining release pending appeal shall have all time spent in

- incarceration counted towards their sentence in the matter under appeal.
- (2) A sentence to pay a fine or a fine and costs, may be stayed pending appeal upon motion of the defendant, but the court may require the defendant to pay such money subject to return if the appeal should favor the defendant and negate the requirement for paying such.
 - (3) An order placing the defendant on probation may be stayed on motion of the defendant if an appeal is taken.

Section 108. Release in Criminal Cases

(a) Appeal of Order Denying Release Pending Appeal. An appeal from an order refusing or imposing conditions on a release pending appeal of the underlying judgment of conviction and sentence shall be determined promptly. Upon entry of an order refusing or imposing conditions of release pending appeal of the underlying judgment of conviction and sentence, the Tribal District Court shall state in writing the reasons for the action taken. The appeal in such matters shall be heard without the necessity of briefs after reasonable notice to the appellee upon such papers, affidavits, and portions of the record as the parties shall present. The Supreme Court or a Justice thereof pending action by the entire Court may order the release of the appellant pending the appeal.

(b) Procedure. Application for release after a judgment of conviction shall be made in the first instance in the Tribal District Court. If the Tribal District Court refuses release pending appeal, or imposes conditions of release, the Court shall state in writing the reasons for the action taken. Thereafter, if an appeal is pending, a motion for release, or for modification of the conditions of release, pending review may be made to the Supreme Court or to a designated Justice thereof. The motion shall be determined promptly upon such papers, affidavits, and portions of the record as the parties shall present and after reasonable notice to the appellee. The Supreme Court or a Justice thereof pending action by the entire Court may order the release of the appellant pending disposition of the motion.

(c) Criteria For Release. The decision as to release pending appeal shall be made in accordance with the criteria for bail established by tribal law in the Criminal Procedure Act or otherwise. The burden of establishing that the defendant will not flee or pose a danger to any other person or to the community rests with the defendant.

Section 109. The Record on Appeal

(a) Composition of the Record on Appeal. The original papers and exhibits filed in the Tribal District Court, the transcript or recording of the proceedings, if any, and a certified copy of the docket entries prepared by the Clerk of the Tribal District Court shall constitute the record on appeal in all cases.

(b) Transcript, Duty of Appellant to Order, Notice of Partial Transcript.

- (1) Within ten (10) days after filing the notice of appeal, the appellant shall order from the Clerk or Reporter a transcript of such parts of the proceedings not already on file as he deems necessary. The order shall be in writing and within the same period a copy shall be filed with the Clerk of the Tribal

District Court. If no such parts of the proceedings are to be ordered within the same period, the appellant shall file a certificate to that effect.

- (2) If the appellant intends to urge on appeal that a finding or conclusion is unsupported by the evidence or is contrary to the evidence, they shall include in the record a schedule of all evidence relevant to such finding or conclusion.

Unless the entire transcript is to be included, the appellant shall, within the ten (10) days provided in Subsection (b)(1) of this Section, file a Statement of the issues he intends to present on the appeal and shall serve on the appellee a copy of the order or certificate and of the Statement. If the appellee deems a transcript of other parts of the proceedings to be necessary, they shall, within ten (10) days after the service of the order or certificate and the Statement of the appellant, file and serve on the appellant a designation of additional parts to be included. Unless within ten (10) days after service of such designation, the appellant has ordered such parts, and has so notified the appellee, the appellee may, within the following ten (10) days, order the parts or move in the Tribal District Court for an order requiring the appellant to do so.

- (3) At the time of ordering, a party must make satisfactory arrangements with the Reporter for payment of the cost of the transcript. If a typewritten transcript is ordered, the Clerk or Reporter shall charge a fee to be set by the Court for each original page, and an additional fee for each copy of an original page. All such fees paid on behalf of a Clerk or Reporter who is employed by the Tribe and paid a salary from tribal monies shall be deposited in the Court Fund, unless specific statutory authority for other disposition of such monies is provided. All such fees paid on behalf of an independent reporter appointed or authorized by the Tribal District Court to record its proceedings, but not paid from tribal funds, shall be paid over to such reporter.

(c) Procedure When No Transcript Available. If no recording of the proceedings at a hearing or trial was made, or if a transcript is unavailable, the appellant may prepare a Statement of the evidence or proceedings from the best available means, including their recollection. The Statement shall be served on the appellee, who may serve objections or propose amendments thereto within ten (10) days after service. Thereupon the Statement and any objections or proposed amendments shall be submitted to the Tribal District Court for settlement and approval and as settled and approved, the Statement shall be included by the Clerk of the Tribal District Court in the record on appeal.

(d) Agreed Statement as the Record on Appeal. In lieu of the record on appeal as defined in Subsection (a) of this Section, the parties may prepare and sign a Statement of the case showing how the issues presented by the appeal arose and were decided in the Tribal District Court and setting forth only so many of the facts averred and proved or sought to be proved as are essential to a decision of the issues presented. If the Statement conforms to the truth, the Statement together

with such additions as the Court may consider necessary fully to present the issues raised by the appeal, shall be approved by the Tribal District Court, and shall then be certified to the Supreme Court as the record on Appeal and transmitted to the Supreme Court Clerk's records.

(e) Correction Or Modification of the Record. If any difference arises as to whether the record truly discloses what occurred in the Tribal District Court, the difference shall be submitted to and settled by the Judge of that Court and the record made to conform to the truth. If anything material to either party is omitted from the record by error or accident or is mis-stated therein, the parties by stipulation, or the Tribal District Court, either before or after the record is transmitted to the Supreme Court, on proper suggestion or of its own initiative, may direct that the omission or mis-statement be corrected, and if necessary that a supplemental record be certified and transmitted. All other questions as to the form and content of the record shall be presented to the Supreme Court.

Section 110. Transmission of Record

(a) Chief Clerk to Serve as Clerk of The Supreme Court. The Clerk of the Tribal District Court may also serve as the Clerk of the Supreme Court whenever the position of the Clerk of the Supreme Court is vacant, or, in the opinion of the Supreme Court, such service shall be deemed expedient.

(b) Transmission And Filing of Record. In all cases, including juvenile and criminal actions, the Clerk in charge of the papers in that case shall, within fifteen (15) working days after a Notice of Appeal is filed, prepare, certify, and deliver to the Clerk of the Supreme Court, for filing with the Supreme Court, all papers comprising the record of the case except the transcript. Such compilations shall be indexed with page numbers. The Clerk of the District Court shall notify all parties to the appeal of the filing of the record with the Supreme Court, and a copy of the index to the record shall be attached to the notice for the benefit of the parties. Copies of any documents contained in the record shall be available to the parties at a cost per page to be set by rule of the Supreme Court.

(c) Completion of Record. Upon receipt of an order for a transcript or additional recording, the Clerk or Reporter shall acknowledge at the foot of the order the fact that they have received it and the date on which they expect to have the transcript or copy of the recording completed and shall transmit the order so endorsed, to the Clerk of Supreme Court. If the transcript cannot be completed within thirty (30) days of receipt of the order, the Clerk or Reporter shall request an extension of time from the Clerk of the Supreme Court, and the action of the Clerk of the Supreme Court shall be entered on the docket and the parties notified. In the event of the failure to file the transcript or complete making copies of the recordings within the time allowed, the Clerk of the Supreme Court shall notify the Chief Justice and take such steps as may be directed by the Chief Justice of the Supreme Court. Upon completion of the transcript, the Clerk or Reporter shall file it with the Clerk of the Tribal District Court and shall notify the Clerk of the Supreme Court that they have done so.

(d) Transmission of Transcript. Upon receipt of the Transcript, or notification that requested copies of recordings of the proceedings are completed, or the filing of a Statement as provided in Section 109 (c) or (d) of this Act, the Clerk of the Tribal District Court shall forthwith notify the parties that the transcript, recording, or Statement is completed and ready for transmittal to the Supreme Court, shall State in the notice the date upon which the notice was given, and the date the final record will be delivered to the Supreme Court. The parties may receive their copies (if ordered) of such transcript, recording, or Statements as soon as they become available whether before or

after formal notice of such availability is mailed to the parties. Fifteen (15) days after the mailing of the notice of completion of the transcript, recording, or Statement, the Clerk of the Tribal District Court shall deliver the original thereof to the Clerk of the Supreme Court for filing. Upon filing by the Clerk of the Supreme Court, the record shall be deemed received and completed for the purposes of the appeal.

Section 111. Docketing the Appeal; Filing the Record

(a) Docketing the Appeal. Upon receipt of the Notice of Appeal and of the docket entries and papers transmitted by the Clerk of the Tribal District Court pursuant to Section 110(b), the Clerk of the Supreme Court shall thereupon enter the appeal upon the docket. An appeal shall be docketed under the title given to the action in the Tribal District Court, with the appellant identified as such, but if such title does not contain the name of the appellant, their name, identified as appellant, shall be added to the title. In appeals from the Juvenile Division of the Court, the docket books shall contain the correct names of the parties, however, all opinions or other papers of the Court which may become public information shall contain only initials or other similar designations and not the names of the parties.

(b) Filing the Record. Upon receipt of the completed record on appeal as provided in Section 110(d), the Clerk of the Supreme Court shall file it and shall immediately give notice to all parties of the date on which it was filed.

CHAPTER TWO

EXTRAORDINARY WRITS

Section 201. Mandamus or Prohibition Directed to a Judge

Application for a writ of *mandamus* or of prohibition directed to a District Judge, or to any othersubordinate agency or officer against whom an original action in *mandamus* or prohibition may be filed by law in the Supreme Court, shall be made by filing a petition with the Clerk of the Supreme Court with proof of service on the respondent and on all parties in interest to the action in the District Court. The petition shall contain a statement of the facts necessary to an understanding of the issues presented by the application; a statement of the issues presented and the relief sought; a statement of the reasons why the writ should issue; and copies of any order or opinion or parts of the record which may be essential to an understanding of the matters set forth in the petition. The Clerk shall docket the petition and submit it to the Court upon payment of a docketing fee set by Court rule. An Alternative Writ of *Mandamus* may be issued by a single Justice, but a Peremptory Writ of *Mandamus* should be issued only by a quorum of the Court. The Supreme Court may, in its discretion, remand the writ to the District Court for initial determination.

Section 202. Denial or Order Directing Answer

If the Court is of the opinion that the writ should not be granted in any case on the facts and law stated in the petition, it shall deny the petition. Otherwise, it shall order that an answer to the petition be filed by the respondent within the time fixed by the order. The order shall be served by the Clerk on the named respondent and on all other parties to the action in the District Court. All parties below other than the petitioner shall also be deemed respondents for all purposes. Two or more respondents may answer jointly. If the named respondents do not desire to appear in the proceeding, they may so advise the Clerk and all parties by letter, but the petition shall not thereby be taken as admitted. The Clerk shall advise the parties of the dates on which briefs are to be filed, if briefs are required, and of the date of oral argument, if any. The proceeding shall be given preference over ordinary civil cases. These writs may be used to compel a respondent to perform a required action or to refrain from exceeding their jurisdiction, but may not be used to control the discretionary actions of judges, agencies, or other officials of the Tribe.

Section 203. Other Extraordinary Writs

Application for extraordinary writs other than those provided for in Section 201 of this Chapter shall be made by petition filed with the Clerk of the Supreme Court with proof of service on the parties named as respondents. Proceedings on such applications shall conform, so far as is practicable, to the procedure prescribed in Sections 201 and 202 of this Chapter.

Section 204. Form of Filings

All filings must be made electronically to the Clerk, as may be directed by the Clerk, except that the Clerk shall accept hardcopy filings from any party representing themselves *pro se*, or from any party for good cause shown.

CHAPTER THREE

PROCEEDINGS IN FORMA PAUPERIS

Section 301. Leave from Tribal District Court to Proceed *In Forma Pauperis* to Supreme Court

A party to an action in the Tribal District Court who desires to proceed on appeal *in forma pauperis* shall file in the Tribal District Court a motion for leave so to proceed together with an affidavit showing, in detail, their inability to pay fees and costs or to give security therefor, their belief that they are entitled to redress, and a statement of the issues which they intend to present on appeal. If the motion is granted, the party may proceed without further application to the Supreme Court, and without prepayment of fees or costs in either Court or the giving of security therefor. If the motion is denied, the Tribal District Court shall state in writing the reasons for the denial.

Section 302. Special Rule for Parties Previously Granted Permission to Proceed *In Forma Pauperis*

Notwithstanding the provisions of the preceding Section, a party who has been permitted to proceed in an action in the Tribal District Court *in forma pauperis*, or who has been permitted to proceed there as one who is financially unable to obtain an adequate defense in a criminal case, or a case involving the termination of parental rights, may proceed on appeal *in forma pauperis* without further authorization unless, before or after the notice of appeal is filed, the Tribal District Court shall certify that the appeal is not taken in good faith or shall find that the party is otherwise not entitled so to proceed, in which event the Tribal District Court shall state in writing the reasons for such certification or finding.

Section 303. Remedy for Denial of Motion by Tribal District Court

If a motion for leave to proceed on appeal *in forma pauperis* is denied by the Tribal District Court, or if the Tribal District Court shall certify that the appeal is not taken in good faith, or finds that the party is otherwise not entitled to proceed *in forma pauperis*, the Clerk shall serve notice of such action. A motion for leave so to proceed may then be filed in the Supreme Court within thirty (30) days after service of notice of the action of the Tribal District Court. The motion shall be accompanied by a copy of the affidavit filed in the Tribal District Court, or by the affidavit prescribed by Section 301 of this Subchapter if no affidavit has been filed in the Tribal District Court, and by a copy of the statement of reasons given by the Tribal District Court for its action.

CHAPTER FOUR

GENERAL PROVISIONS

Section 401. Filing and Service

Documents required or permitted to be filed in the Supreme Court shall be filed with the Clerk electronically, as may be directed by the Clerk, except that the Clerk shall accept hardcopy filings from any party representing themselves *pro se*, or from any party for good cause shown. Filings shall not be timely unless the documents are received by the Clerk within the time fixed for filing. If a motion requests relief which may be granted by a single Justice, the Justice may permit the motion to be filed with them, in which event they shall note thereon the date of filing and shall thereafter transmit it to the Clerk.

Section 402. Service of All Papers Required

Copies of all papers filed by any party and not required by this Title to be served by the Clerk shall, at or before the time of filing, be served by that party or person acting for them on all other parties to the appeal or review. Service on a party represented by counsel or lay advocate shall be made on the counsel or lay advocate.

Section 403. Manner of Service

Service may be personal, by United States mail, by email, or in any manner allowed by the Civil Procedure Act for service of motions or briefs. Personal service includes delivery of the copy to a Clerk, secretary, or other responsible person at the office of counsel or lay advocate. Service by mail is complete upon mailing.

Section 404. Proof of Service

Papers presented for filing shall contain an acknowledgment of service by the person served or proof of service in the form of a Statement of the date and manner of service and of the name of the person served, certified by the person who made service. Proof of service may appear on or be affixed to the papers filed. The Clerk may permit papers to be filed without acknowledgment or proof of service but shall require such to be filed promptly thereafter.

Section 405. Computation of Time

In computing any period of time prescribed by this Title, by an order of the Court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period shall be included, unless it is a Saturday, Sunday, or a Tribal holiday. When the period of time prescribed or allowed is equal to or less than seven (7) days, intermediate Saturdays, Sundays, and Tribal holidays shall be excluded in the computation.

Section 406. Enlargement of Time

The Court, upon motion and for good cause shown, may enlarge the time prescribed by this Title or Court rule or by its order for doing any act, or may permit an act to be done after the

expiration of such time, but the Supreme Court may not enlarge the time for filing a notice of appeal.

Section 407. Additional Time After Service by Mail

Whenever a party is required or permitted to do an act within a prescribed period after service of a paper upon them and that paper is served by United States mail, three (3) days shall be added to the prescribed period.

SUBCHAPTER A

MOTIONS AND BRIEFS

Section 411. Content, Response, and Reply to Motions

Unless another form is elsewhere prescribed by this Title, an application for an order or other relief shall be made by filing a motion for such order or relief with proof of service on all other parties. The motion shall be written and made in the form provided by the Civil Procedure Act. The motion shall contain or be accompanied by any matter required by a specific provision of this Title governing such a motion, shall state with particularity the grounds on which it is based, and shall set forth the order or relief sought. If a motion is supported by briefs, affidavits, or other papers, they shall be served and filed with the motion. Any party may file a response in opposition to a motion other than one for a procedural order within seven (7) days after service of the motion, but motions authorized by Sections 107, 108, and 469 may be acted upon after reasonable notice, and the Court may shorten or extend the time for responding to any motion.

Section 412. Determination of Motions for Procedural Orders

Notwithstanding the provisions of Section 411 of this Title as to motions generally, motions for procedural order, including any motion under Section 406, may be acted upon at anytime, without awaiting a response thereto, and pursuant to rule or order of the Court, motions for specified types of procedural order may be disposed of by the Clerk. Any party adversely affected by such action may, by application to the Court, request consideration, vacatur, or modification of such action.

Section 413. Power of a Single Judge to Entertain Motions

In addition to the authority expressly conferred by this Title or by other Tribal law, a single Justice of the Supreme Court may entertain and may grant or deny any request for relief which under this Title that may properly be sought by motion, except that a single Justice may not dismiss or otherwise determine an appeal or other proceeding, and except that the Supreme Court may provide by order or rule that any motion or class of motions must be acted upon by the Court. The action of a single Justice may be reviewed by the Supreme Court.

Section 414. Form of Filings

All filings relating to motions must be filed electronically with the Clerk, at the Clerk's direction.

Section 415. Brief of Appellant

The brief of the appellant shall contain under appropriate headings and in the order here indicated:

- (1) A cover page as described in Section 429.
- (2) A table of contents, with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where they are cited.

- (3) A Statement of the issues presented for review.
- (4) A Statement of the case. The Statement shall first indicate briefly the nature of the case, the course of proceedings, and its disposition in the Court below. There shall follow a Statement of the facts relevant to the issues presented for review, with appropriate references to the record (*see* Section 419).
- (5) An argument. The argument may be preceded by a summary. The argument shall contain the contentions of the appellant with respect to the issues presented, and the reasons therefore, with citations to the authorities, statutes and parts of the record relied on.
- (6) A short conclusion stating the precise relief sought.

Section 416. Brief of Appellee

The brief of the appellee shall conform to the requirements of Section 415, except that a Statement of the issues or of the case need not be made unless the appellee is dissatisfied with the Statement of the appellant.

Section 417. Reply Brief

The appellant may file a brief in reply to the brief of the appellee, and if the appellee has cross-appealed, the appellee may file a brief in reply to the response of the appellant to the issues presented by the cross-appeal. No further briefs may be filed except with leave of Court.

Section 418. References in Brief to Parties

Counsel will be expected in their briefs and oral arguments to keep to a minimum reference to parties by such designations as “appellant” and “appellee.” It promotes clarity to use the designations used in the lower Court or the actual names of the parties, or descriptive terms such as “the employee,” “the injured person,” “the taxpayer,” “the car,” or the names of the parties.

Section 419. References in Briefs to the Record and Statutes

(a) References in the briefs to parts of the record reproduced in any appendix filed with the brief of the appellant shall be to the pages of the appendix at which those parts appear and to the pages in the original record. If an appendix is prepared after the briefs are filed, references in the brief to the record shall be made to the original record. Intelligible abbreviations may be used. If reference is made to evidence, the admissibility of which is in controversy, reference shall be made to the pages of the record or of the transcript at which the evidence was identified, offered, and received or rejected.

(b) If determination of the issues presented requires the study of statutes, rules, regulations, or similar material or relevant parts thereof, they shall be reproduced in the brief or in an addendum at the end, or they may be supplied to the Court in pamphlet form.

Section 420. Length of Briefs

Except by permission of the Court, principal briefs shall not exceed fifty (50) pages, and reply

briefs shall not exceed twenty five (25) pages, exclusive of pages containing the table of contents, table of authorities, and any addendum containing statutes, rules, regulations, and similar material.

Section 421. Briefs in Cases Involving Cross Appeals

If a cross appeal is filed, the plaintiff in the Court below shall be deemed the appellant for the purposes of this Chapter and Sections 426, 427, and 428, unless the parties otherwise agree or the Court otherwise orders. The brief of the appellee shall contain the issues and argument involved in their appeal as well as the answer to the brief of the appellant.

Section 422. Briefs in Cases Involving Multiple Appellants or Appellees

In cases involving more than one appellant or appellee, including cases consolidated for purposes of the appeal, any number of either may join in a single brief, and any appellant or appellee may adopt by reference any part of the brief of another. Parties may similarly join in reply briefs.

Section 423. Notice of Supplemental Authorities

When pertinent and significant authorities are issued after a party's brief has been filed, or after oral argument but before decision, a party may promptly file a Notice of Supplemental Authorities with the Clerk of the Court, with a copy to all counsel, setting forth the citations. There shall be a reference either to a place in the brief or to a point argued orally to which the supplemental authorities pertain, and the Notice shall, without argument, state the reasons for the supplemental authorities. Any response shall be made promptly and shall be similarly limited.

Section 424. Brief of an Amicus Curiae

A brief of an *amicus curiae* may be filed only with the consent of all parties, or by leave of Court granted on motion or at the request of the Court, except that consent or leave shall not be required when the brief is presented by the Tribe, the United States or an officer or agency thereof, or by another Tribe or a State, Territory or Commonwealth. The brief may be conditionally filed with the motion for leave. A motion for leave shall identify the interest of the applicant and shall state the reasons why a brief of an *amicus curiae* is desirable. Save as all parties otherwise consent, any *amicus curiae* shall file its brief within the time allowed the party whose position as to affirmance or reversal the *amicus* brief will support unless the Court, for good cause shown, shall grant leave for later filing, in which event it shall specify within what period an opposing party may answer. A motion of an *amicus curiae* other than the Tribe to participate in the oral argument will be granted only for extraordinary reasons, or on the Court's own motion. A motion of the Tribe to present oral argument as *amicus curiae* shall be granted unless extraordinary reasons appear for refusing to grant such a motion.

Section 425. Appendix to the Briefs

Whenever the record on appeal, including the transcript, is particularly voluminous, the Court may order the appellant to prepare, with notice and consultation by the appellee, an appendix to the brief which shall contain the papers, documents, and portions of the transcript necessary to the determination of the issues presented on appeal. The preparation of an appendix does not prevent further referrals to the original record by any party or the Court. A party may append pertinent parts of the record to his brief when such is necessary for a clear presentation of the issues raised on appeal.

Section 426. Time for Filing and Service of Briefs

Subject to any changes made by order of the Supreme Court or any Justice, the appellant shall serve and file their brief within twenty (20) days after the date on which the completed record is filed in the Supreme Court. The appellee shall serve and file their brief within twenty (20) days after service of the brief of the appellant. The appellant may serve and file a reply brief within fourteen (14) days after service of the brief of the appellee, but, except for good cause shown, a reply brief must be filed at least three (3) days before argument.

Section 427. Consequence of Failure to File Briefs

If an appellant fails to file their brief within the time provided by this Title, or within the time as extended, an appellee may move for dismissal of the appeal. If an appellee fails to file their brief, they will not be heard at oral argument except by permission of the Court.

Section 428. Form of Briefs, the Appendix and Other Papers

(a) Briefs and appendices may be produced electronically by standard word processing and document organizing software, or by any printing, duplicating, or copying process which produces a clear black image on white paper, including legible photocopies. All printed matter must appear in at least twelve (12) point (pica) type on opaque, unglazed paper. Briefs and appendices produced by the standard typographic process shall be bound in volumes having pages 6 1/8 by 9 1/4 inches and type matter 4 1/6 by 7 1/6 inches. Those produced by any other process shall be bound in volumes having pages not exceeding 8 1/2 by 11 inches and type matter not exceeding 6 1/2 by 9 1/2 inches, with double spacing between each line of text, except that quoted matter may be single spaced. Copies of the reporter's transcript and other papers reproduced in a manner authorized by this Section may be inserted in the appendix; such pages may be informally renumbered if necessary.

(b) If briefs are produced by commercial printing or duplicating firms, or, if produced otherwise and the covers to be described are available, the cover of the brief of the appellant should be blue; that of the appellee, red; that of an intervenor or *amicus curiae*, green; that of any reply brief, gray. The cover of the appendix, if separately printed, should be white. The front covers of the briefs and of appendices shall contain:

- (1) the name of the Court and the number of the case,
- (2) the title of the case,
- (3) the nature of the proceedings in the Court (e.g., Appeal; Petition for Review) and the name of the Court below,
- (4) the title of the document (e. g. Brief for Appellant, Appendix), and
- (5) the names, addresses, and telephone number of counsel representing the party on whose behalf the document is filed.

Section 429. Form of Other Papers

(a) Petitions for rehearing shall be produced in a manner prescribed by Section 428.

(b) Motions and other papers may be produced in a like manner, or they may be printed upon opaque, unglazed paper 8 1/2 by 11 inches in size. Lines of typewritten text shall be double spaced. Consecutive sheets shall be attached at the left margin.

(c) A motion or other paper addressed to the Court shall contain a caption setting forth the name of the Court, the title of the case, the file number, and a brief descriptive title indicating the purpose of the paper.

SUBCHAPTER B

ARGUMENT

Section 430. Prehearing Conference

The Court may direct the attorneys for the parties to appear before the Court or a Justice thereof for a prehearing conference to consider the simplification of the issues and such other matters as may aid in the disposition of the proceeding by the Court. The Court or Justice shall make an order which recites the action taken at the conference and the agreements made by the parties as to any of the matters considered and which limits the issues to those not disposed of by admissions or agreements of counsel, and such order when entered controls the subsequent course of the proceedings, unless modified to prevent manifest injustice.

Section 431. Oral Argument in General

Oral argument shall be allowed in all cases unless the Court, after examination of the briefs and record, shall be unanimously of the opinion that oral argument is not needed. In such cases the Court shall notify the parties of its intention to proceed without oral argument, and shall provide any party with an opportunity to file a Statement setting forth the reasons why, in their opinion, oral argument should be heard. Oral argument will be allowed upon request unless the Court unanimously determines:

- (1) the appeal is frivolous,
- (2) the dispositive issue or set of issues has been recently authoritatively decided,
or
- (3) the facts and legal arguments are adequately presented in the briefs and record and the decisional process would not be significantly aided by oral argument.

Section 432. Notice of Argument; Postponement

The Clerk shall advise all parties whether oral argument is to be heard, and if so, of the time and place therefor, and the time to be allowed each side. A request for postponement of the argument or for allowance of additional time must be made by motion filed reasonably in advance of the date fixed for hearing.

Section 433. Order and Content of Argument

The appellant is entitled to open and conclude the argument. The opening argument shall include a fair statement of the case. Counsel will not be permitted to read at length from briefs, records, or authorities.

Section 434. Cross and Separate Appeals

A cross or separate appeal shall be argued with the initial appeal at a single argument unless the Court otherwise directs. If a case involves a cross-appeal, the plaintiff in the action below shall be deemed the appellant for the purpose of this subchapter unless the parties otherwise agree, or the Court otherwise directs. If separate appellants support the same argument, care shall be taken to avoid duplication of argument.

Section 435. Non-Appearance of Parties

If the appellee fails to appear to present argument, the Court will hear argument on behalf of the appellant, if present. If the appellant fails to appear, the Court may hear argument on behalf of the appellee, if counsel is present. If neither party appears, the case will be decided on the briefs unless the Court shall otherwise order.

Section 436. Submission on Briefs

By agreement of the parties, a case may be submitted for decision on the briefs, but the Court may direct that the case be argued.

Section 437. Use of Physical Exhibits at Argument; Removal

If physical exhibits other than documents are to be used at the argument, counsel shall arrange to have them placed in the Courtroom before the Court convenes on the date of the argument. After the argument, counsel shall cause the exhibits to be removed from the Courtroom unless the Court otherwise directs. If exhibits are not reclaimed by counsel within a reasonable time after notice is given by the Clerk, they shall be destroyed or otherwise disposed of as the Clerk shall think best.

Section 438. When Hearing or Rehearing *En Banc* Will Be Ordered

A majority of the Justices of the Court who are in regular active service may order that any motion or other proceeding be heard or reheard by the Supreme Court *en banc*. Such hearing or rehearing is not favored and ordinarily will not be ordered except:

- (1) when consideration by the full Court is necessary to secure or maintain uniformity of its decisions; or
- (2) when the proceedings involve a question of exceptional importance.

Section 439. Suggestion of a Party for Hearing or Rehearing *En Banc*

A party may suggest the appropriateness of a hearing or rehearing *en banc*. No response shall be filed unless the Court shall so order. The clerk shall transmit any such suggestion to the Justices of the Court who are in regular active service, but a vote need not be taken to determine whether

the cause shall be heard or reheard *en banc* unless a Justice in regular active service or the Justice who rendered a decision sought to be reheard requests a vote on such a suggestion made by a party.

Section 440. Deadline for Suggestion of a Party for Hearing or Rehearing *En Banc*; Suggestion Does Not Stay Mandate

If a party desires to suggest that a motion or proceeding be heard initially *en banc*, the suggestion must be made by the date on which the appellee's brief is filed. A suggestion for rehearing a motion *en banc* must be made within ten (10) days after notice of the decision of the Justice initially hearing the motion. The pendency of such a suggestion, whether or not included in a petition for rehearing shall not affect the finality of the judgment of the Supreme Court or stay the issuance of the mandate.

SUBCHAPTER C

JUDGMENT

Section 441. Entry of Judgment

The notation of a judgment in the docket constitutes entry of the judgment. The Clerk shall prepare, sign, and enter the judgment following receipt of the opinion of the Court unless the opinion direct settlement of the form of the judgment, in which event the Clerk shall prepare, sign and enter the judgment following final settlement by the Court. If a judgment is rendered without an opinion, the Clerk shall prepare, sign, and enter the judgment following instruction from the Court. The Clerk shall, on the date judgment is entered, mail to all parties a copy of the opinion, if any, or of the judgment if no opinion was written, and notice of the date of entry of the judgment.

Section 442. Interest on Judgments

Unless otherwise provided by law, if a judgment for money in a civil case is affirmed, whatever interest is allowed by law shall be payable from the date the judgment was entered in the Tribal District Court. If a judgment is modified or reversed with a direction that a judgment for money be entered in the Tribal District Court, the mandate shall contain instructions with respect to allowance of interest.

Section 443. Damages for Delay

If the Supreme Court determines that an appeal is frivolous, it may award justdamages and single or double costs to the appellee.

Section 444. To Whom Costs Allowed

Except as otherwise provided by law, if an appeal is dismissed, costs shall be taxed against the appellant unless otherwise agreed by the parties or ordered by the Court; if a judgment is affirmed, costs shall be taxed against the appellant unless otherwise ordered; if a judgment is reversed, costs shall be taxed against the appellee unless otherwise ordered; if a judgment is affirmed or reversed in part, or is vacated, costs shall be allowed only as ordered by the Court.

Section 445. Costs For or Against the Tribe

In cases involving the Tribe or an agency or officer thereof, if an award of costs againstor for

the Tribe is authorized by tribal statute, costs shall be awarded in accordance with the provisions of Section 444, above, otherwise, costs shall be awarded against the Tribe or its agencies or officers in their official capacity, provided that cost shall be awarded as a matter of course against a criminal defendant when the conviction is affirmed.

Section 466. Costs of Briefs, Appendices, and Copies of Records

Unless otherwise provided by tribal statute or Court, the cost of printing, or otherwise producing necessary copies of briefs, appendices, and copies of records shall be taxable in the Supreme Court at rates not higher than those generally charged for such work within the territorial jurisdiction of the Tribe.

Section 467. Bill of Costs; Objections; Costs Inserted in Mandate or Added Later

A party who desires such costs to be taxed shall state them in an itemized and verified bill of costs which they shall file with the Clerk, with proof of service, within fourteen (14) days after the entry of judgment. Objections to the bill of costs must be filed within ten (10) days of service on the party against whom costs are to be taxed unless the time is extended by the Court. The Clerk shall prepare and certify an itemized statement of costs taxed in the Supreme Court for insertion in the mandate, but the issuance of the mandate shall not be delayed for taxation of costs and if the mandate has been issued before final determination of costs, the statement; or any amendment thereof, shall be added to the mandate upon request by the Clerk of the Supreme Court to the Clerk of the Tribal District Court.

Section 468. Costs on Appeal Taxable in the Tribal District Court

The following costs from the Tribal District Court are taxable on appeal: costs incurred in preparation and transmission of the record, the cost of the Reporter's transcript, if necessary for the determination of the appeal, the premiums paid for cost of supersedeas bonds or other bonds to preserve rights pending appeal, and the fee for filing the notice of appeal in favor of the party entitled to costs under this Title.

Section 469. Petition for Rehearing

(a) Time for Filing, Content, Answer, Action by Court. A petition for rehearing may be filed within fourteen (14) days after entry of judgment unless the time is shortened or enlarged by order of the Court. The petition shall state with particularity the point of law or fact which, in the opinion of the petitioner, the Court has overlooked or misapprehended and shall contain such argument in support of the petition as the petitioner desires to present. Oral argument in support of the petition will not be permitted except upon the Court's own motion. No answer to a petition for rehearing will be received unless requested by the Court, but a petition for rehearing will ordinarily not be granted in the absence of such a request. If a petition for rehearing is granted, the Court may make a final disposition of the cause without reargument or may restore it to the calendar for reargument or resubmission or may make such other orders as are deemed appropriate under the circumstances of the particular case.

(b) Form of Petition; Length. The petition shall be in a form prescribed by Section 429, and copies shall be served and filed as prescribed by Section 427 for the service and filing of briefs. Except by permission of the Court, a petition for rehearing shall not exceed fifteen (15) pages.

Section 470. Issuance of Mandate

The mandate of the Court shall be issued twenty one (21) days after the entry of the judgment unless the time is shortened or enlarged by order. A certified copy of the judgment, a copy of the opinion of the Court, if any, and any direction as to costs shall constitute the mandate, unless the Court directs that a formal mandate issue. The timely filing of a petition for rehearing will stay the mandate until disposition of the petition unless otherwise ordered by the Court. If the petition is denied, the mandate shall issue seven (7) days after entry of the order denying the petition unless the time is shortened or enlarged by order.

Section 471. Voluntary Dismissal

(a) Dismissal In the Tribal District Court. If an appeal has not been docketed, the appeal may be dismissed by the Tribal District Court upon the filing in that Court of a stipulation for dismissal signed by all the parties, or upon motion and notice by the appellant.

(b) Dismissal In the Supreme Court. If the parties to an appeal or other proceedings shall sign and file with the Clerk of the Supreme Court an agreement that the proceeding be dismissed, specifying the terms as to payment of costs, and shall pay whatever fees are due, the Clerk shall enter the case dismissed, but no mandate or other process shall issue without an order of the Court. An appeal may be dismissed on motion of the appellant upon such terms as may be agreed upon by the parties or fixed by the Court.

Section 472. Substitution of Parties

(a) Death of a Party. If a party dies after a notice of appeal is filed or while a proceeding is otherwise pending in the Supreme Court, the personal representative of the deceased party may be substituted as a party on motion filed by the representative or by any party with the Clerk of the Court. The motion of a party shall be served upon the representative in accordance with the provisions of Sections 402, 403, and 404. If the deceased party has no representative, any party may note the death on the record and proceedings shall then be had as the Supreme Court may direct. If a party against whom an appeal may be taken dies after entry of a judgment or order in the Tribal District Court but before a notice of appeal is filed, an appellant may proceed as if death had not occurred. After the notice of appeal is filed, substitution shall be effected in the Supreme Court in accordance with this Section. If a party entitled to appeal shall die before filing a notice of appeal, the notice of appeal may be filed by their attorney of record within the time prescribed by this Title. After the notice of appeal is filed, substitution shall be effected in the Supreme Court in accordance with this Section.

(b) Substitution For Other Causes. If substitution of a party in the Supreme Court is necessary for any reason other than death, substitution shall be effected in accordance with the procedure prescribed in subsection (a).

(c) Public Officers; Death or Separation from Office.

- (1) When a public officer is a party to an appeal or other proceeding in the Supreme Court in their official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and their successor is automatically substituted as a party. Proceedings

following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution.

- (2) When a public officer is a party to an appeal or other proceeding in their official capacity they may be described as a party by their official title rather than by name; but the Court may require that their name be added.

Section 473. Cases Involving Constitutional or Indian Civil Rights Act Questions Where the Tribe is Not a Party

It shall be the duty of a party who draws in question the constitutionality or unlawfulness under the Indian Civil Rights Act of 1968, 25 U.S.C. §§ 1301-1304 of any statutes, ordinance, or other action of the Tribal Council in any proceeding in the Supreme Court to which the Tribe, or any agency, officer, or employee in their official capacity is not a party, upon the filing of the record, or as soon as the question is raised in the Supreme Court, to give immediate notice in writing to the Court of the existence of said question. The Clerk shall certify such fact to the Attorney General and/or Tribal Prosecutor who may intervene upon such question upon motion.