

TRIBAL COURT RULES AND CIVIL PROCEDURE

CHAPTER 1: GENERAL PROVISIONS AND TRIBAL COURT BAR

Section 1.1. - JURISDICTION

For the purpose of enforcing the provisions of this code, or other subject matter codes already enacted or enacted in the future, the Sitka Community Association Tribal Court ("Court") shall exercise jurisdiction in a manner not inconsistent with the Constitution and Bylaws of the Sitka Community Association (hereinafter "Tribe"), a federally recognized Indian Tribe.

Section 1.2. - JUDICIARY

The Court shall consist of one Chief Judge and such associate judges as are appointed by the Tribal Council. Each judge shall be appointed by a majority vote of Tribal Council.

To be eligible to serve as a judge, a person must be over the age of 25 and within the preceding five years not have been convicted of an offense involving dishonesty or impugning his*/ moral character.

Each judge shall hold office for a period of four years, unless sooner removed for cause, and shall be eligible for reappointment. In the event of a vacancy, the Tribal Council shall appoint a judge to serve the unexpired term.

A judge may be suspended or removed only upon a showing of good cause, and where a majority of Tribal Council votes such action. Prior to such suspension or removal, the judge shall be presented with a written statement of allegations constituting good cause, and shall be notified ten days in advance of a required hearing on the charges. The judge shall be fully informed of the nature of the charges, shall be confronted with witnesses against him, shall be entitled to present witnesses in his favor, and shall have the right to be represented by

* / The use of "his," "he" or "him" in these codes shall refer to a person of either sex unless otherwise indicated.

counsel at his own expense. Following the hearing, Tribal Council shall prepare written findings of fact, and their decision shall be by roll call vote.

No judge shall be qualified to act in any cause in which he has a direct interest.

Tribal Council shall appoint a prosecutor to represent the Tribe in Court. In civil actions involving the Tribe, the Prosecutor may represent the Tribe or the Tribe may appoint anyone eligible to practice in court to represent it.

Tribal Council shall appoint a Clerk of the Court to perform and carry out all traditional clerking functions, including the administering of oaths, and, at the Chief Judge's direction, the administration of Court functions.

The Court shall be a court of record, and shall keep records of all proceedings, including the titles of cases, the names of parties and counsel, material rulings, and such other matters sufficient to provide a thorough review of proceedings.

Section 1.3. - DUTIES AND POWER OF JUDGES

The judges of the Court shall have the power:

- (1) To try cases:
- (2) To issue subpoenas compelling the attendance of witnesses at proceedings, and to punish for failure to comply with such subpoenas:
- (3) To determine the construction of any code provision, including necessary elements of an offense, and applicable defenses:
- (4) To issue any other order or writ necessary and proper to the complete exercise of their power.

The Chief Judge shall be responsible for the administration of the Court, and shall assign cases, manage the Court's calendar, and appoint such support staff as are necessary for the smooth operation of the Court.

Notwithstanding the above provisions, when circumstances indicate an immediate need, the Chief Judge may nominate a Judge Pro Tempore to serve on a particular case only. The Tribal Council must approve such a judge by majority vote. The Judge Pro Tempore will cease to have any official status with the Tribe at the conclusion of the matter he is handling.

Section 1.4. - TRIBAL COURT BAR

Any person appearing before the Court has a right, at his own expense, to be represented by a member of the Tribal Court Bar. A "member" may be either a lay spokesman or a professional attorney. In order to be admitted by the Court as a member, a person must fulfill all of the requirements for membership in the Sitka Community Association Tribal Court Bar (hereinafter "Court Bar") listed below.

The rules provided for below shall govern membership in the Court Bar, and practice before the Court. Because the practice of law is so intimately concerned with the administration of justice, these rules are intended only as a general guideline, and the Court may, from time to time, impose additional requirements for admission and practice as justice requires.

Section 1.5. - REQUIREMENTS FOR ADMISSION

To qualify as a member of the Court Bar, a person must meet the following requirements:

- (a) The applicant must be of good moral character. The applicant is required to bring to the Court's attention any matters raising questions regarding the applicant's mental or emotional stability, and any past conduct reflecting upon the applicant's honesty and integrity;
- (b) the applicant must be familiar with the Constitution and Codes of the Tribe and;
- (c) the applicant must pay an admission fee of \$30.00

to the Clerk of the Court, or move the Court successfully for a waiver of such fee:

- (d) the applicant must execute the Oath of Admission to the Court Bar.

Upon meeting the above requirements, the Court shall admit the applicant as a member of the Court Bar, and issue a certificate of membership.

Section 1.6. - RULES OF DISCIPLINE FOR MEMBERS OF THE COURT BAR

A member of the Court Bar may be subjected to disciplinary sanctions for any of the following causes.

- (a) The commission of any act constituting dishonesty, or impugning the member's

good moral character.

- (b) Violation of any provision of the member's Oath of Admission to practice before the Court.
- (c) Disobedience or violation of any Court order.
- (d) Suspension, disbarment or other disciplinary action taken against the member by an authority of a foreign jurisdiction.
- (e) Undertaking any action constituting a conflict of interest.
- (f) Engaging in any conduct compromising the integrity and respect of the Court.

Section 1.7. - SANCTIONS

Upon the motion of any party, or upon its own motion, the Court may order an investigation of any allegations of misconduct by a member, and appoint an investigator. Upon completion of the investigation, the Court shall conduct an open hearing to determine whether the allegations are well-founded. All interested parties shall be notified at least ten days in advance of the hearing, and shall be entitled to present evidence and confront witnesses.

Following the hearing, the Chief Judge shall make a finding of whether or not a violation has been established, and in the event of an affirmative finding, the Chief Judge shall specify the sanction. The disciplinary sanctions affecting the status of a member are censure, reprimand, suspension, or disbarment.

CHAPTER II: CIVIL PROCEDURE CODE

Section 2.1. - APPLICATION

This title shall be applicable to all civil actions in the Court unless otherwise specifically provided in other codes of the tribe. The term "civil action" shall include all court actions which do not have as their object the imposition of a criminal penalty.

Section 2.2 - CONSTRUCTION: MEANS TO CARRY JURISDICTION INTO EFFECT

This code shall be liberally construed so as to provide a just and equitable result for the parties and for members of the community generally. When jurisdiction is vested in the Court, all the means necessary to carry that jurisdiction into effect are also given; and in the exercise of this jurisdiction, if the course of proceeding is not specifically pointed out by this Code, any suitable process or mode of processing may be adopted by the Court which appears most consistent with the spirit of tribal law. Where the Court deems appropriate, it may determine and apply customary law of the Tribe. The Court may refer to foreign sources of law, such as other Tribes, federal, state and international for guidance.

Section 2.3. - FORM OF ACTION

There shall be one form of action to be known as "civil action," although a litigant may title particular pleadings as he sees fit.

Section 2.4. - PARTIES

The party initiating the action will be known as the plaintiff or petitioner depending upon the type of action initiated. The party against whom the action is commenced shall be known as the defendant or respondent, depending upon the type of proceeding. Additional parties may be added to a case after it has been initiated. They shall be designated as plaintiffs (petitioners) or defendants (respondents) depending upon their interest in the case. When a minor or incompetent has a representative or fiduciary, that person may sue or defend on behalf of the minor or incompetent person. Persons who would be liable to the plaintiff may be joined as third party defendants.

Section 2.5. - MULTIPLE LIABILITY

Persons having claims against the plaintiff may be joined as defendants when their claims may expose the plaintiff to multiple liability. At the discretion of the Court, claims, remedies, or persons may be joined in the action when necessary to protect the rights of existing parties.

Section 2.6. - RELIEF ALLOWED

The Court shall have the power to award all forms of relief necessary to the complete exercise of its jurisdictions, including but not limited to: (1) money damages, (2) injunctions, and (3) declarations or rights. No action shall be maintained unless there is an actual controversy between the parties.

Section 2.7. - LIMITATION OF ACTIONS

No complaint shall be filed in a civil action unless the cause of action arose within the three-year period preceding the filing of the complaint.

Section 2.8. - SURVIVAL OF ACTIONS

All causes of actions by a person shall survive to the personal representatives of that individual if he should die or become unable to pursue the action before its completion.

Section 2.9. - SOVEREIGN IMMUNITY

Nothing in the Code shall be construed as a waiver of the sovereign immunity of the Tribe or any of its subordinate boards or bodies unless such waiver is explicitly stated.

Section 2.10. - COMMENCEMENT OF ACTION

Except as otherwise specified in this Code, all civil actions shall be commenced by the filing of a complaint in the Court.

Section 2.11. - COMPLAINT CONTENTS

The complaint shall be in writing in substantially the form maintained by the clerk of the Court. It shall contain the following: (a) names of the parties if known; (b) a brief statement of the facts which justify the granting of the relief asked for; (c) a brief statement of the facts which show the Court has jurisdiction over the parties and the subject matter of the lawsuit; (d) a statement of the relief asked for; (e) the signature of one or more of the plaintiffs or their attorney or spokesperson, judge or clerk of the Court, swearing or affirming that the person signing the

complaint has read the complaint, and believes the contents to be true and correct.

Section 2.12. - SERVICE OF NOTICE

After the complaint has been filed, the defendant shall be served with a copy of the complaint and a summons in the form maintained by the Court Clerk. Services of the summons and complaint shall be the responsibility of the plaintiff. The defendant may be served by any person over the age of 18 years, who is not a party to the action, nor a member of the immediate family of the party. Personal service may be affected by personally delivering a copy of the summons and complaint to the party or by leaving a copy of the summons and complaint with a person of suitable age and discretion at the residence of the person to be served, with directions to deliver it to the person to be served.

Where the defendant cannot be found within a radius of 30 miles of the Court, service may be accomplished by registered mail.

Section 2.13. - THE SUMMONS - FORM AND CONTENT

The summons will be in a form maintained by the office of the Court Clerk. The summons shall notify the defendant the complaint has been filed and that if he does not appear or answer the complaint within 20 days from the date of service, the Court may grant judgment in favor of the plaintiff.

Section 2.14. - THE SUMMONS - PROOF OF SERVICE

The person serving the summons and complaint shall file with the Court certification that he has served the defendant, including the date and place of service. If service was made on a person other than the defendant as provided in Section 2.12, the certification shall state the name of the person served, the date and place of service, and instructions given. In the case of service by certified mail, the return receipt shall constitute the proof of service. The plaintiff's cause of action shall not become ripe for relief until proof of service has been filed with the Court.

Section 2.15. - DEFENDANT'S ANSWER, DEFENSES AND COUNTERCLAIMS

Within 20 days after the defendant is served with a copy of the civil complaint, he must contact the Court Clerk and state whether he will appear in Court to respond to the complaint. A written answer stating the nature of the defense should be filed with the Court within 20 days, and if filed, a copy shall be sent to the plaintiff. If a written answer is not filed, an oral answer may be given to the clerk who shall write down the substance of the answer, enter it in the Court file and send a copy to the plaintiff or his legal representative.

In addition to any defenses the defendant may raise, the defendant may counterclaim against the plaintiff.

Section 2.16. - FILING FEE

In all civil suits the complaining party shall be required to pay to the Court a filing fee of \$25.00 at the time the complaint is filed. The filing fee may be waived by the Court upon a showing good cause. The Tribe is not required to pay a filing fee.

Section 2.17. - CERTIFICATION OF SERVICE

Once a complaint and answer are properly filed with the Court, further pleadings may be served by regular mail, with the original filed with the Court together with a certification of service.

PRELIMINARY RESTRAINING ORDERS

Section 2.18. TEMPORARY RESTRAINING ORDERS

When the complaining party demonstrates to the Court by affidavit or verified complaint that immediate and irreparable damage, injury or loss will occur unless restrained by the Court, the Court may issue a temporary restraining order without notice to the adverse party; provided that the applicant provides the Court with written reasons supporting his claim that notice should

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not be required and certifying his efforts, if any, to notify the adverse party. Any temporary restraining orders shall contain a statement of the injury, why it is irreparable, and why the order was granted without notice. Such orders shall be effective from the time of its service of the summons and complaint. No temporary restraining order shall be issued unless a complaint in writing shall have been filed with the Court. A temporary restraining order shall expire by its own terms not more than 20 days from the date of its issuance and this fact shall be shown on the face of the order. Such an order may be renewed for a like period of time not more than once. Such renewal must be requested before the expiration of the initial order and shall be granted only upon notice to the opposing party. A temporary restraining order may be modified, vacated or set aside by motion of either party upon notice and opportunity for a hearing.

Section 2.19. - PRELIMINARY INJUNCTION

Following opportunity for hearing, either on affidavits or on testimony, the Court may enter a preliminary injunction restraining a party from taking certain action or requiring a party to take certain action during the pendency of the lawsuit. Following the filing of a complaint, a preliminary injunction may be entered only after an appropriate motion by a party and after notice and opportunity to be heard by the opposing party or parties.

Section 2.20. - BOND

The Court may, in its discretion, require a bond of the party seeking preliminary relief to protect the party to be restrained in the event that such relief ultimately is determined to be unjustified; provided, however, that no such bond shall be required of the Tribe unless specifically required by ordinance or resolution.

MOTIONS

Section 2.21. - MOTIONS

All motions in a case pending before the Court shall be made upon five days notice to the opposing party or in open court during the course of proceedings. Motions made in open Court may allow the opposing party such time as the Court may determine, the Court may also shorten

or extend the time for responding to any motion as justice requires.

Section 2.22. - MODIFICATION OF EXISTING ORDERS

In any case where the Court has continuing jurisdiction, a party may move the Court to modify a previously entered order, judgement or decree.

Section 2.23. - ORDERS TO SHOW CAUSE

An order to show cause may be issued by the Court upon showing that the person to whom the order is to be directed has violated a valid, existing written order. A person seeking the order shall specify (a) the order which has been violated; (b) the date on which the order was entered; (c) the circumstances of the violating parties knowledge of the order; (d) the specific facts which constitute the violation, including the date and place of violation where applicable.

DISCOVERY

Section 2.24. - DISCOVERY - GENERAL POLICY

The truth will be revealed more readily if all parties in a civil case have access to all information and evidence related to the case. Therefore, in preparation for a trial, the parties may ask each other and persons not parties to the dispute for information and evidence in the other's possession or control which can be reasonably expected to lead to admissible evidence, unless such information is protected by a recognized privilege.

Section 2.25. - METHODS OF DISCOVERY

Methods of discovering and exchanging information may include but not be limited to written questions or oral examination; requests for the names of witnesses, requests for admissions, physical inspection of property, requests to perform scientific or physical tests, requests for permission to enter upon land or other property, and requests for documents. The party who makes a request under this rule shall be as clear and specific as possible in describing what he wants.

Section 2.26. - PRIVILEGES

A person may refuse to make available the information requested if its release would cause undue hardship, or would violate a confidence which it is tribal policy to protect. If the parties disagree about whether the responding party is required to release the information, the Court shall decide the dispute. The Court may place conditions on a release of information in order to protect confidential material, prevent unreasonable burden or expense to a party and shall otherwise insure fairness to all parties.

Section 2.28. - SUBPOENAS

The Court shall have the authority to issue subpoenas to anyone over whom it has jurisdiction. A subpoena may be issued to compel the appearance of witnesses to give testimony or to command the person to whom it is directed to produce evidence.

The Court may squash or modify a subpoena at any time before the time specified on its face for compliance for good cause shown, and the Court may condition denial of the subpoena on payment by the requesting party of the reasonable cost of producing the requested evidence.

When a subpoena is issued pursuant to a request by a party, service shall be accomplished according to Section 2.12. of this Code.

A subpoena may be issued to compel discovery, provided that the person to whom the subpoena is served may object in writing to the Court. If objection is made, the person served need not comply with the subpoena except pursuant to an order of the Court.

Failure without adequate excuse by any person to obey a properly served subpoena may be deemed contempt of court, and dealt with pursuant to section 2.29.

Section 2.29. - FAILURE TO COMPLY WITH SUBPOENA OR OTHER COURT ORDER

If a person fails to obey a court order to testify or to provide or permit discovery, the Court may take such action in regard to the failure as is just. Such action may include but is not limited to the following

- (a) The Court may issue an order disallowing the disobedient party to support or

oppose designated claims or defenses or introduce designated matters into evidence.

- (b) The Court may order parts of the whole pleadings to be stricken;
- (c) The Court may stay further proceedings until the order is obeyed;
- (d) The Court may dismiss parts or the whole of the action and render a judgment by default against the disobedient party;
- (e) The Court may hold the disobedient party in civil contempt and jail the party until he is in compliance. No individual shall be jailed where he is unable to bring himself into compliance.

Unless the Court finds that failure to comply was substantially justified, the Court may require the disobedient person to pay the reasonable expense by failure to comply with the order.

TRIAL

Section 2.30. - JURIES

There is no right to a jury trial in a civil action, but where requested by a party and in the discretion of the Court, a jury trial may be ordered with the party requesting the jury trial paying all costs thereby incurred. A civil jury shall be comprised of five tribal members of voting age, randomly selected by the Court. Three of five must vote for a valid verdict.

Section 2.31. - ORDER OF TRIAL

In the trial of all civil actions, the order of trial shall be as follows:

- (a) Selection of the jury, if the case involves a jury;
- (b) An opening statement summarizing what he intends to prove may be given by the plaintiff;
- (c) An opening statement summarizing what he intends to prove may be given by the defendant;
- (d) The plaintiff shall call witnesses and present other evidence to the court. The witnesses shall be subject to cross-examination by the other parties in the case. Following cross-examination, the plaintiff shall have a second opportunity to question the witnesses he has called. Then the other parties shall have a second

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opportunity to question the witnesses. When the plaintiff has presented all his witnesses and evidence, he shall inform the court that his case is complete;

- (e) Following the completion of the plaintiff's case, the defendant may move to dismiss the case. If, in the opinion of the judge, after resolving all the disputed pieces of evidence and testimony in favor of the plaintiff and drawing all reasonable inferences in favor of the plaintiff, there is insufficient evidence to support the case, the case shall be dismissed;
- (f) In the event the case is not dismissed, the defendant may call witnesses and present evidence. The witnesses shall be subject to cross-examination by other parties. Following the testimony of all witnesses and the introduction of all evidence by the defendant, the defendant shall inform the Court that his case is complete;
- (g) The plaintiff shall then have an opportunity to introduce additional evidence to rebut the evidence produced by the defendant;
- (h) The defendant shall then have an opportunity to present additional evidence to rebut that presented by the plaintiff;
- (i) In the case of a jury trial, the Court shall then instruct the jury about the law governing the case;
- (j) The plaintiff shall then make a closing argument to the jury or the judge, as the case may be. The defendant shall then have an opportunity to make his closing argument. The plaintiff shall have an opportunity to rebut the arguments made by the defendant;
- (k) The jury or judge shall then deliberate upon the case and announce its verdict;
- (l) Judgment shall be entered on the verdict in accordance with the Code.

Section 2.32. - BURDEN OF PERSUASION

All relevant evidence may be admitted in the sound discretion of the Court, which shall consider whether the prejudicial value of evidence outweighs its probative value. The Court is not bound by any other rules of evidence.

DISMISSAL ACTIONS

Section 2.34. - VOLUNTARY DISMISSAL

The plaintiff may dismiss any action without an order of the Court if the defendant (s) has neither served an answer, filed a counterclaim, nor moved for summary judgment, or if all parties sign and file a stipulation for dismissal. Otherwise, dismissal at the plaintiff's instance requires a Court order. Unless otherwise specified in such order, any dismissal under this section is without prejudice.

Section 2.35. - INVOLUNTARY DISMISSAL

The defendant may move for a dismissal of a claim against him for:

- (a) failure of the plaintiff to prosecute; or
- (b) failure of the plaintiff to comply with any court order; or
- (c) failure of the plaintiff to present evidence supporting a cause of action.

The Court may, upon its own motion or that of the defendant, order dismissal for lack of jurisdiction or failure to join a party.

JUDGEMENT

Section 2.36. - ENTRY OF JUDGMENT

Following the announcement of the verdict, the judge shall announce the judgement in the case. Where there is no jury, the verdict and judgment may be combined in the same announcement. The judgment shall be reduced to writing. A copy shall be delivered to each of the parties or to their legal representative.

Section 2.37. - JUDGMENT - CONTENTS

The judgment shall contain a statement of all the relief granted to the prevailing party including, where appropriate, the declaration of the rights and responsibilities of the parties, an assessment of damages including a provision for interest until the judgement is paid, an order directing that certain actions be taken or not taken, and an assessment of the costs of the action. A reasonable fee may also be included in the discretion of the Court to cover the cost of legal representative.

Section 2.38. - JUDGMENT - PREPARATION

Where desired by one or more of the parties or where directed by the Court, the parties shall prepare a proposed written judgment incorporating the verdict of the Court. In addition, the parties may prepare and present to the judge proposed findings of fact and conclusions of law. No such proposed findings, conclusions or judgment shall be signed by the judge until the other parties have been given five days notice of their presentation to the judge, or such notice has been waived.

Section 2.39. - DEFAULT

When a party against whom a judgment is sought fails to appear, plead or otherwise defend within the time allowed, and that fact is demonstrated to the Court by appropriate motion and affidavit or testimony, a default judgment may be entered by the Court, and notice of default judgment shall be sent to the defaulting party. The moving party may obtain a default judgment upon satisfactory proof to the Court of the Following:

- (a) Proper service of the Summons and Complaint;
- (b) A complaint alleging facts to support a cause of action;
- (c) Evidence supporting the granting of the requested relief;
- (d) Jurisdiction of the Court over the persons and subject matter of the action.

Section 2.40. - DEFAULT SET ASIDE

For good cause shown the Court may set aside a default judgment.

Section 2.41. - RECONSIDERATION

No later than seven days after a judgment is final, a party may ask the judge for a rehearing, reconsideration, correction, vacation, or modification of the judgment. The judge may grant a new hearing or reconsider and change the judgment if he finds the following to be true:

- (a) The original judgment was based on or reached as a result of fraud or mistake;
- (b) There is new information available which could have affected the outcome of the case which could not, with reasonable effort, have been discovered in time for the hearing

on the case; or

- (c) The Court did not have jurisdiction over a party or over the subject matter.

ENFORCEMENT OF JUDGMENT

Section 2.42. - EXECUTION - WHEN ALLOWED

Execution shall be allowed on any money judgment entered in the Court commencing not less than thirty days following the entry of the judgment. No execution may issue on any judgment that is more than three years old.

Section 2.43 - FOREIGN JUDGMENTS - REGISTRATION

Execution of a foreign judgment shall be allowed once the foreign judgment has been registered with the Court. Registration shall be accomplished by filing a certified copy of the judgment with the Clerk of the Court, paying a filing fee of \$25.00 or successfully moving for its waiver, and serving a copy of the notice of registration on the judgment debtor. The Court shall give full faith and credit to the valid judgments of other courts. Before giving effect to a foreign judgment, the Court may conduct an inquiry regarding the validity of the foreign judgment.

Section 2.44. - TYPES OF EXECUTION

Execution shall consist of two types of orders: attachment and garnishment; both subject to the exemptions set forth in Section 2.48.

- (a) Attachment shall be used to seize property of a judgment debtor which is in the possession of the judgment debtor.
- (b) Garnishment shall be used to seize the property of the judgment debtor which is in the hands of another.

Section 2.45. - APPLICATION FOR ORDER

The judgment creditor shall file an application for the desired order with the Court. The application shall contain the following information:

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- (a) The date of entry of judgment, the amount of the judgment, the amount paid on the judgment, the amount currently owing on the judgment including interest, and if it is a foreign judgment, the name of the Court, the case number and the date of registration of the judgment.
- (b) The name of the requesting party and his address or the address of his attorney or legal representative.
- (c) A statement of the type of execution sought, the name and address of the person on whom it is to be served, and a description of the property to be seized.

Section 2.46. - ISSUANCE OF ORDER

After a finding of indebtedness by one person to another and a finding that the property to be garnished belongs to the debtor, the Court may issue a garnishment order. The garnishment order shall be directed to the person in possession of the garnished property and shall direct him to pay over to the Court any and all monies or other things of value in his possession and belonging to the debtor up to the amount of the judgment and subject to the exemptions contained in Section 2.48. of this Code.

Upon receipt of an order of garnishment a third party shall pay over to the Court, any property in his possession and belonging to or owed to the judgment debtor, subject to the exemptions set out in Section 2.48. . up to the amount of the judgment. Failure to respond to the order of garnishment or disbursement of the property of the judgment debtor or to any person other than the Court following receipt of the order may subject the garnishee-defendant to appropriate sanctions determined by the Court.

The judgment creditor must pay all the costs of enforcing judgments and executing judgments, and the Court shall order a particular amount to be paid.

An order of attachment may be directed to the Tribal police and shall direct them to seize the described property and hold it for sale at the direction of the Court. No order shall issue which is beyond the resources of the Tribe to comply with.

Orders of attachment or garnishment shall be served in the same manner as the Summons and Complaint. Proof of service shall be filed with the Court.

Section 2.47. - SALE PROCEDURE - NOTICE

When property has been paid over to the Court or seized and delivered to the Court in accordance with this section, the Court within ten days of receipt shall give the judgment debtor a written notice of the following:

- (a) That the described property is in the possession of the Court pursuant to court order;
- (b) That the property will be sold a public auction on a date specified in the notice and the proceeds applied to the judgment;
- (c) That the judgment debtor has the right to contest the execution order by filing an appropriate pleading with the Court requesting a hearing;
- (d) That the judgment debtor has the right to satisfy the judgment and obtain the return of the property.

Section 2.48. - EXEMPTIONS

In the execution of any judgment the following shall be exempt from execution:

- (a) All wearing apparel of every person in the family except that only \$500 in value in furs, jewelry, beadwork, and personal ornaments for any one person shall be exempt.
- (b) Items of bona fide religious or cultural significance;
- (c) Any tools, instruments and materials used to carry out one's primary trade;
- (d) Provisions and fuel for the comfortable maintenance of the home for three months time.
- (e) Any real property;
- (f) 75% of the disposable wages (gross wages minus deductions required by law, but not including voluntary payroll deductions), salary or other compensation regularly paid for personal services per pay period;
- (g) A motor vehicle not exceeding \$2,500 in value.

No property shall be exempt under this section from execution issued upon judgment for all or any part of the purchase price thereof, or for any tax levied upon such property, or if the

property has been specifically pledged as security to the judgment creditor.

Section 2.49. - CLAIM OR EXEMPTION - WAIVER

When a debtor claims personal property to be exempt he shall deliver to the officer executing the order to the Court, a list of property owned or claimed by him, and shall verify such a list by affidavit. He shall also deliver to such officer of the Court a separate list of items of the property he claims as exempt. Failure to claim items as exempt shall result in a waiver of the exemption, provided, that the judgment debtor shall be served with a copy of the exemption section of the code at the time of the service of the writ of execution.

