

LEECH LAKE BAND OF OJIBWE

JUDICIAL CODE
TITLE I: COURTS

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LEECH LAKE BAND OF OJIBWE
JUDICIAL CODE

PREAMBLE

THIS CODE OF THE LEECH LAKE BAND OF OJIBWE OF THE LEECH LAKE INDIAN RESERVATION IN THE STATE OF MINNESOTA IS ENACTED FOR THE PURPOSE OF PROTECTING AND PROMOTING TRIBAL SOVEREIGNTY, STRENGTHENING TRIBAL SELF-GOVERNMENT, PROVIDING FOR THE JUDICIAL NEEDS OF THE LEECH LAKE RESERVATION, AND THEREBY ASSURING THE PROTECTION OF TRIBAL RESOURCES AND THE RIGHTS OF THE MEMBERS OF THE LEECH LAKE BAND AND ALL OTHERS WITHIN ITS JURISDICTION.

TITLE 1: COURTS

PART. 1
ESTABLISHMENT AND OPERATION

Section 1. *Establishment of Court.*

The Leech Lake Band of Ojibwe Tribal Court is hereby established. The Tribal Court shall consist of a Trial Division and an Appeals Division. This code supersedes any previously enacted code, ordinance, or resolution that established or organized a court or other judicial body for the Leech Lake Band.

Section 2. *Tribal Designation.*

Wherever the formal designation "Band", "Tribe", or "Tribal", appears in this Code, such designation shall refer to the Leech Lake Band of Ojibwe unless specifically designated otherwise.

Section 3. *Appropriations and Funding*

- A. The Reservation Tribal Council (RTC) shall appropriate and authorize the expenditure of Band funds for the operation of the Tribal Court. The amounts to be appropriated shall be consistent with the needs of the Tribal Court for proper administration of justice within the Reservation and for the Band as determined by the RTC.

- B. To assist the RTC in making appropriations for operation of the court , the Court Administrator, in consultation with the Chief Judge shall submit proposed budgets and reports of expenses and expenditures at such intervals and in such form as may be prescribed by the Tribal Council.
- C. The RTC may prescribe a system of accounting for funds received from any source by the court and the Court Administrator.

Section 4. *Conflict with Other Laws.*

A. Tribal Laws.

To the extent that this code may conflict with tribal laws or ordinances which have been enacted to comply with statutes or regulations of any agency of the United States, such tribal laws or ordinances shall govern over the provisions of this code if they have specific applicability and are clearly in conflict with the provisions of this code.

B. Federal Laws.

Where a conflict may appear between this code and any statute, regulation, or agreement of the United States, the federal law shall govern if it has specific applicability and if it is clearly in conflict with the provisions of this code.

C. State Laws.

To the extent that the laws of any state may be applicable to the subject matter of this code such laws shall be read to be advisory and not directly binding and shall not govern the relations of the parties.

**PART II
JURISDICTION**

Section 1. *Leech Lake Band Tribal Court Jurisdiction.*

A. Territory.

The jurisdiction of the Tribal Court and the effective area of this code shall extend to disputes arising within or concerning all territory within the Leech Lake Indian Reservation boundaries, including, but not limited to, trust lands, fee patent lands, allotments, assignments, roads, waters, bridges, and existing and future lands outside the boundaries owned or controlled by the Band for its benefit, the benefit of its members, the benefit of other enrolled members of the Minnesota Chippewa Tribe, or the benefit of other Indian persons. The territory of the Band to which this code applies shall also include boundary waters of the Leech Lake Reservation which means those lakes, rivers and streams bisected by the exterior boundary of the Leech Lake Reservation, including the portions of which extend outside the exterior boundary line and are identified as follows:

<u>Name</u>	<u>County</u>	<u>Township</u>	<u>Range</u>
Mississippi River	Cass/Itasca	144/145/55	25/26
Leech Lake River	Cass	143/144	26/27/28
Leech Lake	Cass		
Boy Lake	Cass	142	27/28
Boy River	Cass	141/142/143	27
Hazel Lake	Cass	141	29
Steamboat Lake	Cass/Hubbard	144	31/32
Mud Lake	Hubbard	145	32
Wolf Lake	Hubbard/Beltrami	145/146	32
Swenson Lake	Beltrami	146	32
Unnamed	Beltrami	146	32
Pimushe	Beltrami	147/148	30/31
Moose Lake	Beltrami	147	30
Third River	Itasca	147	29
Squaw Lake	Itasca	149	27
Rice Lake	Itasca	149	27
Little Whitefish Lake	Itasca	149	26
Four Town Lake	Itasca	148/149	25/26
Bowstring Lake	Itasca	147	25/26
Taylor Lake	Itasca	147	25

B. Subject Matter.

The jurisdiction of the Tribal Court shall extend to:

1. All persons who reside or are found within the territorial jurisdiction of the Band and are: Band members or eligible for membership in the Band;

members of the Minnesota Chippewa Tribe; members of other Federally recognized Indian tribes; or Indians who are recognized as such by an Indian community or by the Federal government for any purpose.

2. All persons described in Subdivision B. 1., wherever located, while exercising tribal rights pursuant to federal, state or tribal law.
3. All persons outside the exterior boundaries of the Leech Lake Indian Reservation, as defined herein, within the jurisdiction of the Band pursuant to federal or tribal law.
4. All other persons whose actions involve or affect the Band, or its members, through commercial dealings, contracts, leases, or other arrangements. For purposes of this code, person shall mean all natural persons, corporations, joint ventures, partnerships, trusts, trust funds, public or private organizations, or any business entity of whatever kind.

C. Actions.

The judicial power of the Tribal Court shall extend to:

1. All matters and actions within the power and authority of the Leech Lake Band including controversies arising out of the Constitution of the Minnesota Chippewa Tribe, by- laws, statutes, ordinances, resolutions, and codes enacted by the Reservation Tribal Council; and such other matters arising under enactments of the Reservation Tribal Council or the customs and traditions of the Ojibwe people of the Leech Lake Reservaton.
2. All civil causes of action arising at common law including, without limitation, all contract claims (whether the contract at issue is written or oral or existing at law), all tort claims (regardless of the nature), all property claims (regardless of the nature), all insurance claims, and all claims based on commercial dealings with the Band, its agencies, subentities, and corporations chartered pursuant to its laws, and all nuisance claims. The court shall have original jurisdiction whether the common law cause of action is one which has been defined as Band common law, or is one which exists at common law in another jurisdiction and which is brought before the Tribal Court based upon reference to the law of that other jurisdiction. For the purposes of this Code, "common law" shall mean the body of those principles and rules

of action, relating to the government and security of persons and property, which derive their authority solely from the usages and customs, or from the judgments and decrees of courts recognizing and affirming such usages and customs, and as is generally distinguished from statutory law.

3. Other actions arising under the laws of the Band as provided in those laws.
4. Limitation of Actions.

No complaint shall be filed in a civil action unless the events shall have occurred within a six year period prior to the date of filing the complaint: provided, that this general statute of limitations shall not apply to suits filed to recover public moneys or public property intentionally or erroneously misspent, misappropriated, or misused in any way; and further provided that this general statute of limitations shall not apply to any debt owed the Band or any of its agencies, arms, or instrumentalities, whether organized or not under Band law.

D. Concurrent Jurisdiction.

The jurisdiction invoked by this code over any person, cause of action, or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; *provided, however*, this code does not recognize, grant, or cede jurisdiction to any state or other political or governmental entity in which jurisdiction does not otherwise exist in law.

Inclusion of language, definitions, procedure, or other statutory or administrative provisions of the State of Minnesota or other state or federal entities in this code shall not be deemed an adoption of that law by the Band and shall not be deemed an action deferring to state or federal jurisdiction within the Leech Lake Reservation where such state or federal jurisdiction may be concurrent or does not otherwise exist.

Section 2. *Suits Against the Band.*

A. Sovereign Immunity of Band.

The sovereign immunity from suit of the Band and every elected Tribal Council member, or tribal official with respect to any action taken in an official capacity or

in the exercise of the official powers of any such office, in any court, federal, state or tribal is hereby affirmed; nothing in this code shall constitute a waiver of the Band's sovereign immunity. The Tribal Court shall have no jurisdiction over any suit brought against the Band in the absence of an unequivocally expressed waiver of that immunity by the Tribal Council.

B. Tribal Action Not A Waiver of Sovereign Immunity.

No enforcement action taken pursuant to this code, including the filing of an action by the Band or any agency of the Band in the Tribal Court, shall constitute a waiver of sovereign immunity from suit of the Band, or any elected tribal council member or tribal official with respect to any action taken in an official capacity, or in the exercise of the official powers of any such office, either as to any counterclaim, regardless of whether the counterclaim arises out of the same transaction or occurrence, or in any other respect.

C. Resolution Required for Waiver of Sovereign Immunity.

The sovereign immunity of the Band and any elected tribal council member or tribal official with respect to any action taken in an official capacity, or in the exercise of the official powers of any such office, in any action filed in the Tribal Court with respect thereto, may only be waived by a formal resolution of the RTC. All waivers shall be unequivocally expressed in such resolution. No waiver of the Band's sovereign immunity from suit may be implied from any action or document. Waivers of sovereign immunity shall not be general but shall be specific and limited as to the jurisdiction or forum within which an action may be heard, duration, grantee, action, and property or funds, if any, of the Band or any agency, subdivision or governmental or commercial entity of the Band subject thereto. No express waiver of sovereign immunity by resolution of the Tribal Council shall be deemed a consent to the levy of any judgment, lien or attachment upon property of the Band or any agency, subdivision or governmental or commercial entity of the Band other than property specifically pledged or assigned therein.

Section 3. Prior Title 1 of Judicial Code and Prior Inconsistent Codes and Ordinances Repealed.

Title 1 of the Judicial Code of the Leech Lake Band enacted on 1/06/98 is hereby repealed in its entirety. Any and all other codes and ordinances of the Band which

conflicts in any way with the provisions of this Title are hereby repealed to the extent that they are inconsistent with, or are contrary to, the spirit and/or purpose of this code.

Section 4. Amendments and Revision.

This code may be amended by action of the Reservation Tribal Council. Amendments, additions, and deletions to this code shall become a part hereof for all purposes and shall be codified and incorporated herein in a manner consistent with its numbering and organization. No enactment, ordinance, resolution, or otherwise, shall apply to any pending cases before the Tribal Court at the time action is taken by the Reservation Tribal Council.

Section 5. Code Reviser.

A. Appointment.

The Tribal Court Administrator is hereby appointed Code Reviser for the Band.

B. Duties of Reviser.

The Reviser shall carry out all duties assigned under this Section, including, but not limited to:

1. Certify by signature and date, any and all amendments, corrections, revisions, updates, and expansions to this code, and other codes, ordinances, and statutory laws enacted by the Reservation Tribal Council. Provided however, the Reviser's actions shall be ministerial in nature and the Reviser shall not be empowered to determine whether an action is necessary or sufficient for the lawful enactment into law of any amendment, correction, revision, update, or expansion of this code or other Band laws.
2. Keep an official indexed and written record, which shall be public, of all Certifications made by the Reviser under this section.
3. Provide copies of all certified revisions of the code to any person or agency requesting such copies. The Reviser may establish a reasonable cost for such copies.

C. Certification to Code Reviser.

Upon adoption of any and all amendments, corrections, revisions, updates, or expansions of the code by the Reservation Tribal Council, the Secretary/Treasurer of the Tribal Council shall convey a copy of the amendment, correction, revision, update or expansion of the code together with a copy of the resolution adopting it, to the Reviser.

D. Effective Date of Revisions.

Upon receipt of all the necessary documents from the Secretary/Treasurer, the Reviser shall make a written and dated Certification of Amendment which shall be permanently attached to the said documents and kept in the permanent files of the Reviser. All revisions of the Code shall be effective on the date of the written certification required by this Section, and not before.

E. Distribution.

Distribution of new Code provisions shall be at the discretion of the Reviser and may be at a cost established by the him/her.

PART III JUDGES

Section 1. *Trial Division.*

The judiciary of the Tribal Court, Trial Division, shall consist of a Chief Judge and one or more associate judges.

The Reservation Tribal Council by resolution, or the Chief Judge by order, may appoint additional persons to serve as deputy judges or justices. Each such appointment of a deputy judge or justice shall be personal and shall not create an office which survives the death, resignation or removal of the appointee. The appointment of a deputy judge may be for the performance of such specific duties or cases as may be assigned him/her by the Chief Judge or by the Reservation Tribal Council, and she/he shall serve until the cases or duties specifically assigned have been completed, or pursuant to the terms of any contract.

A deputy judge shall perform the duties and functions of a judge of the Tribal Court as may be designated by his/her appointment or contract subject to any restrictions or limitations imposed by law, by resolution of the Reservation Tribal Council, or the Chief Judge, as the case may be. The findings, rulings, opinions and orders of a deputy judge or

justice shall be signed "Judge" or "Justice", as appropriate to the case and shall have the same force and effect as if made by a regular judge or justice of the court.

Section 2. *Appellate Division.*

In any appeal from a final decision of a trial judge, whether chief, associate, or deputy, an appeals tribunal of three justices shall be constituted from the remaining judges of the Tribal Court with the appointment of one or more deputy justices to complete the panel. Such justices of an appeals tribunal so constituted shall serve until cases specially assigned them have been completed. A justice of an appeals tribunal may only be removed prior to completion of assigned matters by the RTC pursuant to the provisions of this code for the removal of a judge of the Tribal Court, Section 10 of this chapter.

Section 3. *Qualifications.*

1). Any person 25 years or older shall be eligible to serve as a Judge of the Tribal Court, except the following:

- A. The Court Administrator, Assistant Clerks, and members of the RTC.
- B. Those who have been convicted by a court of the United States or of any state of the United States for a felony, as a felony is defined by the laws of that jurisdiction or a gross misdemeanor within one year immediately preceding the proposed appointment as judge or justice.

2). All judges or justices of the Tribal Court, whether chief, associate, or deputy, shall be lawyers experienced in the practice of tribal and Federal Indian law and licensed to practice in the highest court of any state.

Section 4. *Evaluation and Selection.*

Candidates for the positions of Chief Judge shall be screened by a committee of five or more Band members selected for that purpose by the Reservation Business Committee. The screening committee may be composed of any combination of the Executive Director for the Band, department heads, elders, or other respected members of the Band. The screening committee shall submit its recommendations for appointments to the Reservation Tribal Council which shall make a final selection. Associate judges shall be selected in the same manner except that the Chief Judge shall participate on the screening committee.

Section 5. *Appointment, Terms, Compensation.*

The Chief Judge and Associate Judge shall be appointed by the Reservation Tribal Council to three (3) year terms under written contracts specifying the compensation and other terms and conditions of the employment of the judge. Ninety days prior to the expiration of the term of office of each judge the Reservation Tribal Council shall consider whether to renew the contract of employment of each Judge for an additional term. If the Reservation Tribal Council determines to not renew the contract it shall so notify the judge in writing at least thirty days prior to the expiration of the judge's current term. Failure of the Reservation Tribal Council to take affirmative action to nonrenew the judge's contract as provided herein shall result in an automatic appointment for an additional three year term and renewal of the existing contract of employment. The compensation of any judge shall not be reduced during his/her term of office.

Section 6. Removal of Judges.

The Reservation Tribal Council may remove any judge or justice of the Tribal Court during the term of his/her office only for cause based upon any of the following grounds:

- A. Serious misconduct or incompetence in the performance of her/his duties as judge.
- B. Personal conduct involving moral turpitude, whether or not related to judicial duties, or conduct which brings the prestige of her/his office or that of the Band into public disrepute.
- C. Habitual neglect of her/his duties as judge or justice.
- D. Persistent illness or other disability which renders her/him incapable or otherwise unable to regularly perform her/his duties as judge or justice.

Such removal shall be by an affirmative vote of two-thirds of the RTC at a valid meeting called for the purpose of considering such removal, provided that the subject judge or justice shall be given a full hearing and fair opportunity to present testimony and evidence in her/his behalf, and to cross-examine and rebut all witnesses and evidence considered by the RTC in support of removal. The subject judge or justice shall be given not less than twenty days written notice in advance of the hearing, which notice shall include an itemization of the charges or grounds for removal which are to be considered. Such notice shall be served by registered or certified mail, or delivered personally to her/him by a party duly authorized by the RTC.

Section 7. *Conflicts of Interest.*

No judge or appellate justice shall officiate in any proceeding in which she/he has any personal interest, or in which any party, witness or counsel is related to her/him by blood or marriage, within the third degree, or in which any party, witness or counsel stands or has previously stood in relationship to the judge of ward, attorney, client, employer, employee, landlord, tenant, business associate, creditor or debtor.

Any party may bring a motion for disqualification of a judge or appellate justice on the grounds set forth herein or on the grounds of personal bias or prejudice towards any party to the proceeding. A motion for disqualification shall be supported by an affidavit of the party bringing the motion setting forth the grounds therefore. If the judge grants the motion he/she shall appoint another judge to preside over the case. If the judge denies the motion, she/he shall do so by written order setting forth the reasons for denial.

Section 8. *Oath of Office.*

Prior to assuming any judicial office of the Tribal Court, the appointee shall take the following oath:

"I swear (or affirm) that I will support and defend the Constitution of the Minnesota Chippewa Tribe, the By-laws of the Minnesota Chippewa Tribe and the Leech Lake Band, and the laws of the Leech Lake Band of Ojibwe, and that I will faithfully and diligently perform the duties of (Chief Judge, Associate Judge, Deputy Judge, Appellate Justice, as applicable) of the Tribal Court, to the utmost of my ability, with impartiality and without improper favor, to the end that justice may be fully served."

The Chief Judge and Associate Judge shall take the prescribed oath before the Chairperson of the Reservation Tribal Council. Deputy judges and justices may take the prescribed oath by affidavit, before the Chief Judge, or before any member of the Reservation Tribal Council.

PART IV COURT ADMINISTRATOR

Section 1. *Appointment, Salary, Discharge.*

The Court Administrator shall be appointed by the Tribal Council. The Tribal Council may appoint such clerks and assistants for the Court Administrator as may be needed for operation of the court. The Reservation Tribal Council shall prescribe the salary to be

paid the Administrator and his/her assistants which shall be paid by the Band. Any person serving as Court Administrator, clerk or as an assistant may be discharged from that position pursuant to a two-thirds vote of the Tribal Council.

Wherever the formal designation "Clerk" or "Clerk of Court" appears in this code, such designation shall also refer to the Court Administrator. The terms Clerk of Court and Court Administrator shall be interchangeable.

Section 2. *Duties.*

The Court Administrator shall be responsible for the administration of the Tribal Court, and for such other administrative and ministerial duties as may be prescribed by this code or assigned to her/him by the Reservation Tribal Council or the Chief Judge. The duties of the Court Administrator shall include but shall not be limited to the following:

- A. Maintaining records of all court proceedings to include identification of the title and nature of all cases, the names of the parties, the substance of the complaints, the names and addresses of all witnesses, the dates of hearings and trials, names and addresses of all parties and witnesses appearing at all hearings and trials, all court rulings and decisions, findings, orders and judgments, and any other facts or circumstances decided by the judges or deemed of importance by the Court Administrator.
- B. Maintaining all pleadings, documents, and other materials filed with the Court.
- C. Maintaining all evidentiary materials, transcripts, and records of testimony filed with the court.
- D. Collecting and accounting for fines, fees, and other monies and properties taken into custody by the Tribal Court, and transmitting them to the accounting department of the Band. Funds received from the office of the Court Administrator by the accounting department shall be designated as Tribal Court funds and shall be used only for expenses incurred by the Tribal Court, or for training of Leech Lake Band police officers, at the discretion of the Court Administrator with the approval of the Chief Judge.
- E. Preparing and serving notices, summons, subpoenas, warrants, rulings, findings, opinions, and orders as prescribed by this Code and as may be designated by the Judges of the court.

- F. Assisting persons in the drafting and execution of complaints, petitions, answers, motions and other pleadings and documents for Tribal Court proceedings; provided, however, the Clerk and her/his assistants shall not give advice on questions of law, nor shall they appear or act on behalf of any person in any Tribal Court proceedings.
- G. Administering oaths and witnessing execution of documents.
- H. Maintaining a supply of blank forms to be prescribed by the court for use by all persons having business before the Tribal Court.

PART V. COUNSEL

Section 1. Legal Representation.

Any person who is a party in any trial or other proceeding before the court may represent himself or herself, or be represented by lay counsel, or a professional attorney, who is licensed to practice law before the court.

Section 2. Licensing of Professional Attorneys.

Professional attorneys may appear on behalf of any party in any proceeding before the court, provided they are licensed to practice. A license to practice may be issued by the Tribal Court upon compliance with the following:

- A. Filing with the Court Administrator an affidavit attesting that the applicant is licensed to practice law before the highest court of any state. A photocopy of said license shall be submitted with the affidavit.
- B. Filing an affidavit that the applicant has studied and is familiar with the Constitution of the Minnesota Chippewa Tribe, the by-laws of the Minnesota Chippewa Tribe and the Leech Lake Band, this code, all other ordinances or codes of the Band, Title 25 of the United States Code and Title 25 of the Code of Federal Regulations.
- C. Paying an annual license fee of one hundred dollars (\$100). The annual license fee may be reduced to twenty-five dollars (\$25) in the discretion of the Chief Judge for any attorney who is employed by a not-for-profit legal services program or otherwise seeks to represent clients on a pro-bono or reduced fee basis.

D. Taking the following oath before the Court Administrator or the Chief Judge, by affidavit or in person:

"I do solemnly swear (or affirm) that I will support the Constitution of the Minnesota Chippewa Tribe and By-laws of the Leech Lake Band;

I will maintain the respect due to the Tribal Court and its judicial officers;

I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly valid or debatable under the law; I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and I will never seek to mislead any judge or jury by any artifice, or by false statement or misrepresentation of fact or law;

I will employ in the conduct of my duties the highest degree of ethics and moral standards with which my profession is charged, and I will be guided at all times by the quest for truth in justice;

In the conduct of my duties as an attorney I will not impugn the morals, character, honesty, good faith, or competence of any person, nor advance any fact prejudicial to the honor or reputation of any person, unless required by the justice of the cause with which I am charged."

Section 3. Licensing of Advocates.

A member of the Band or a member of another Band affiliated with the Minnesota Chippewa Tribe may be licensed to practice in the Tribal Court. To qualify for licensure as an advocate the applicant must be at least 21 years old; of good moral character; have never been convicted of a felony and not had his/her civil rights restored; have never been convicted of a crime against the Band or any other Indian tribe; and must be familiar with the Constitution of the Minnesota Chippewa Tribe, the by-laws of the Band, and the codes, statutes and ordinances of the Band.

No fee shall be assessed for licensing as an advocate.

An applicant seeking licensure as an advocate shall subscribe to the oath set forth in Section 2 for professional attorneys, substituting the term "advocate" for "attorney therein.

Section 4. Revocation or Suspension of License.

A license issued pursuant to this Part V. may be revoked or suspended by the Tribal Court. Such action may be taken on its own motion or upon sworn complaint by any member of the Band or on motion of the court. Revocation or suspension shall be ordered only after written notice to the licensee of the motion or complaint and after a hearing before all judges of the court unless a conflict of interest prohibits such participation. Following a hearing, the court may revoke or suspend the license upon a finding that the licensee has been disbarred or suspended from the practice of law by any court of the United States, any state, or a tribal court or has filed a false affidavit to obtain his/her license, or has violated his/her oath, or has engaged in misconduct or unethical behavior in the performance of his/her duties as an attorney or lay advocate or has been found in contempt of court by the Tribal Court.

Section 5. Implied Consent to Jurisdiction of the Court.

Any person who submits an application for licensure as a professional attorney under this code gives implied consent to the assertion of jurisdiction of the court over him/her for all purposes relating to his/her practice of law before the court, whether or not, the court would otherwise have such jurisdiction.

PART VI CONTEMPT OF COURT

Section 1. Definition.

Willful behavior by any person which disrupts, obstructs, or otherwise interferes with the conduct of any proceeding by the court, which obstructs or interferes with the administration of justice, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of the Tribal Court shall constitute contempt. The willful failure of a party to comply with the terms of a judgment directed against him/her, with which she/he is able to comply, shall be contempt of court which shall be punished in the manner prescribed by this code.

Section 2. Contempt in Presence of Court.

When contempt of court is committed in the presence of a Tribal Judge it may be punished summarily by that judge. In such case an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment therefore in accordance with Section 4 of this Part. Failure to appear in response to any citation of an enforcement officer of the Band on any matter, or to a subpoena, summons, order or other notice, *duly issued by the court, shall constitute*

contempt in the presence of the court and may be summarily punished by the court without further notice.

Section 3. Contempt Outside Presence of Court.

When it appears to the court that a contempt may have been committed out of the presence of the court, it may issue a summons to the person so charged directing her/him to appear at a time and place designated for a hearing and show cause why he/she should not be held in contempt. If such person served with the summons fails to appear at the time and place so designated, the Tribal Court shall conduct a hearing, and if it finds him/her guilty of contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment therefore in accord with Section 4 of this Part VI.

Section 4. Punishment for Contempt.

Any person found in contempt of court shall be subject to a fine not to exceed five hundred dollars (\$500.) and imprisonment not to exceed ninety days, as may be determined by a judge of the court. The person charged or found in contempt shall be notified of the finding of the court and the prescribed punishment by any means permitted in this code for service of process and the penalty may be enforced by the means provided in this section or for the execution and enforcement of judgments as provided in Title 2 of this code.

If the court determines to impose a penalty of imprisonment it is authorized to issue a warrant commanding a law enforcement officer of the Band to arrest the person and detain him/her pending a hearing before the court. The warrant issued shall provide for release on cash bail in an amount set by the court not to exceed the amount of fines or restitution for any underlying offense(s) together with the contempt penalty which has been or could be imposed.

PART VII GENERAL COURT PROCEDURES

Section 1. Assignment of Cases.

The Chief Judge shall be responsible for assignment of cases and other matters for determination or disposition to the respective judges or justices of the court.

Section 2. Court Rules and Procedures.

The Chief and Associate Judges of the court may promulgate rules of procedure for the conduct of its proceedings which are not inconsistent with this Code or other governing and applicable law.

Section 3. Sessions of Court.

The Tribal Court may hold such sessions of court as deemed necessary, commencing at such time as designated by the Court Administrator in consultation with presiding judges for a particular case. Special sessions of the Tribal Court may be called by the Chief Judge at any time, or, in her/his absence by an Associate Judge. Judges may conduct trials or other proceedings for individual cases assigned to them at such times as they may designate, and such trials or proceedings may be recessed and reconvened from time to time until they are completed.

Section 4. Jury Trials.

All cases before the Tribal Court shall be tried to a judge sitting without a jury, unless a jury trial, is otherwise required by applicable law.

Section 5. Means to Carry Jurisdiction Into Effect.

Where jurisdiction over any matter is vested in the court, all the means necessary to carry such jurisdiction into effect are also included; and in the exercise of its jurisdiction, if the means are not specified in this code or the rules promulgated by the court, the court may adopt any suitable process or mode of proceeding which appears to the court to be fair and just and most consistent with the spirit of Band law.

Section 6. Law Applicable in Civil Actions.

- A. In all civil actions the court shall first apply such written laws of the Band which have been enacted by the Reservation Tribal Council.
- B. Where there are no superseding written laws the court shall apply tribal customary and traditional law if such exists. Tribal customary or traditional law shall mean those traditional values and practices of the Leech Lake Ojibwe handed down, through the generations, either orally or through writing. In the event any doubt arises as to the customs and usage's of the Band, the court may request the advice and assistance of elders who are knowledgeable about such matters.
- C. Where an issue arises in an action which is not addressed by written laws or

custom and traditional law, the court may apply the laws of any tribe, the federal government, or any state. Application of such law shall not be deemed an adoption of such law or deference to the jurisdiction from which that law originates.

Section 7. Bureau of Indian Affairs Relations.

No employee of the Bureau of Indian Affairs, or the Department of Interior shall obstruct, interfere with, or control the functions of the court, nor shall she/he seek to influence such functions in any manner.