

# *Pyramid Lake Paiute Tribal Council*

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**RESOLUTION NO.: PL 049-19**

## **RESOLUTION OF THE TRIBAL COUNCIL OF THE PYRAMID LAKE PAIUTE TRIBE NIXON, NEVADA**

**WHEREAS,** the Pyramid Lake Paiute Tribe is organized pursuant to the provisions of Section 16 of the Indian Reorganization Act (25 U.S.C. § 476) and is federally recognized by the United States Government through the Secretary of the Interior and the Bureau of Indian Affairs; and possesses attributes of sovereignty over both the members and territory.

**WHEREAS,** the Pyramid Lake Paiute Tribe, pursuant to Article VI, Section 1 of the Constitution and By-laws of the Pyramid Lake Paiute Tribe, authorized the Pyramid Lake Tribal Council to act on behalf of the Pyramid Lake Tribe, and to promulgate ordinances to safeguard the peace and safety of residents of the Reservation and to establish courts for the adjudication of claims and disputes; and

**WHEREAS:** pursuant to these powers, the Tribal Council has created a Law & Order Code and other laws and ordinances to govern the conduct of people within the Tribe's Reservation; and

**WHEREAS:** the Tribal Council has recognized the importance of reviewing and updating the Law and Order Code to ensure the Code meets the Tribe's needs and best serves to protect the interests of the Tribe, its members and persons living and working on Tribal lands; and

**WHEREAS:** to meet this goal, the Tribe's Law and Order Committee has recommended that the Tribal Council add revised Chapters 1- TITLE, AUTHORITY AND POLICY, 2 – TRIBAL COURT SYSTEM and 3 – CRIMINAL PROCEDURE, of the Law and Order Code 2013 to current code.

**WHEREAS:** the revised Chapters 1 ,2, and 3 was posted for at least thirty days to allow for public comment, No comments received by the Law and Order Committee and the Committee submitted its recommendation to the Tribal Council;

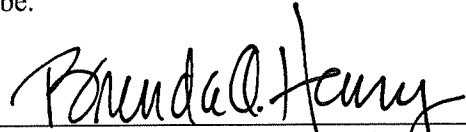
**NOW, THEREFORE BE IT RESOLVED,** that the Pyramid Lake Paiute Tribal Council hereby accepts the recommendation of the Law and Order Committee and hereby adopts the revised Chapter 1, 2, and 3 of the Law and Order Code.

**BE IT FURTHER RESOLVED,** the Tribal Chairman or designee is hereby authorized to effectuate any and all administrative actions necessary for implementation of this resolution.

**BE IT FINALLY RESOLVED**, nothing in this resolution shall be construed as a waiver of the sovereign immunity of the Pyramid Lake Paiute Tribe.

**CERTIFICATION**

It is hereby certified that the foregoing resolution of the Pyramid Lake Paiute Tribal Council, governing body of the Pyramid Lake Paiute Tribe, composed of ten members, of whom ten (10) constituting a quorum were present at a meeting duly held on the 16<sup>th</sup> day of May, 2019 was adopted by the affirmative vote of eight (8) FOR and zero (0) AGAINST, with one (1) ABSTENTION; pursuant to the authority contained in the Constitution and By-laws of the Pyramid Lake Paiute Tribe.



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Brenda A. Henry, Tribal Secretary  
Pyramid Lake Paiute Tribal Council

# **CHAPTER 1**

## **TITLE, AUTHORITY AND POLICY**

### **3.1.100 Title**

This Code shall be known as the Law and Order Code of the Pyramid Lake Paiute Tribe.

### **3.1.102 Authority**

This Code is adopted by the Pyramid Lake Paiute Tribal Council pursuant to Article VI, Section 1 (i) and (j) of the Constitution of the Pyramid Lake Paiute Tribe, and Article V of the By-laws of the Tribe.

### **3.1.104 Policy**

A. The Pyramid Lake Paiute Tribe has existed as an independent, sovereign nation since time immemorial. Historically, the Tribe held sole and absolute jurisdiction over Pyramid Lake and its surrounding area. Today, the Tribe continues to govern the Pyramid Lake Indian Reservation, limited in its authority only by its Constitution and By-laws, and the Constitution and laws of the United States of America. This Code is to be interpreted in a manner that recognizes the Tribe's intent to assert the fullest extent of its sovereign authority over the Pyramid Lake Indian Reservation.

B. The Pyramid Lake Paiute Tribal Council is the governing body of the Pyramid Lake Paiute Tribe in accordance with the authority of its Constitution and By-laws. Under the Constitution and By-laws, the Tribal Council is charged with the responsibility of safeguarding the peace and safety of residents of the reservation and with the establishment of a Tribal Court upon the reservation. The purpose of this Law and Order Code is the fulfillment of those responsibilities.

C. The Tribe, in order to protect the general welfare of the residents of the reservation and the resources of the reservation, hereby asserts the full extent of its criminal and civil jurisdiction over reservation activities as authorized by the Constitution and By-laws of the Tribe and the laws of the United States of America.

D. Nothing in this Law and Order Code shall be construed as a waiver of the sovereign immunity of the Pyramid Lake Paiute Tribe.

### **3.1.106 Amendments**

Any amendments to this Code shall be by resolution of the Pyramid Lake Paiute Tribal Council and in accordance with applicable Tribal and Federal law.

### **3.1.108 Severability**

If any clause, sentence, paragraph, section, or part of this Law and Order Code shall, for any reason be adjudicated by any court of competent jurisdiction, to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which the judgment shall have been rendered.

# CHAPTER 2

## TRIBAL COURT SYSTEM

### **3.2.100 PYRAMID LAKE TRIBAL COURT (hereinafter "Court")**

#### **3.2.102 Judges**

A. CHIEF JUDGE. The Court shall include one Chief Judge who shall have the authority to hear all cases before the Court, or otherwise designate an Associate Judge to hear a case. The Chief Judge shall also be responsible for the management of the Court in consultation with the Court Administrator. The Chief Judge shall be appointed by the Tribal Council in accordance with applicable hiring or contracting procedures.

B. ASSOCIATE JUDGE. The Court shall further consist of one or more Associate Judges. An Associate Judge may act only when so designated by the Chief Judge or when immediate action by a Tribal Judge is required and the Chief Judge cannot be reached. The Associate Judge shall be appointed by the Tribal Council in accordance with applicable hiring or contracting procedures.

#### **3.2.104 Term of Office**

A. Each Judge shall hold office for a period of three (3) years, unless sooner removed for cause. Each judge shall be eligible for reappointment.

B. A judge may be removed for cause under the following circumstances:

1. Neglect of duty
2. Violation of Tribal law or custom;
3. Violation of the Tribe's Code of Ethics;
4. Disciplinary proceedings against the judge by a state bar where he is licensed resulting in suspension and/or disbarment.

#### **3.2.106 Qualifications of Judges**

A person shall be eligible to serve as the Chief Judge of the Pyramid Lake Tribal Court if that person:

1. has a degree from an accredited law school;
2. is licensed to practice law by the highest court of any state; and
3. is familiar with Federal Indian law and the laws of the Pyramid Lake Paiute Tribe.

B. A person shall be eligible to serve as an Associate Judge of the Pyramid Lake Tribal Court if that person meets the qualifications set out for Chief Judge of the Pyramid Lake Tribal Court, or

1. is an Indian or Tribal member familiar with the laws and customs of the Pyramid Lake Paiute Tribe;
2. is at least 25 years of age;
3. has never been convicted of a felony within five (5) years prior to the appointment; or
4. has never been convicted of a misdemeanor within five (5) years prior to the appointment.

C. No judge shall be qualified to act as a judge in any case when he has any direct interest or wherein any relative by marriage or by blood, in the first or second degrees, is a party.

### **3.2.108 Discipline of a Judge**

A. A complaint against a judge may be filed with the Tribal Secretary's office in accordance with the Tribe's Complaint Policy. Upon receipt of the complaint and within thirty (30) days, the Law and Order Committee shall investigate the allegations. If no reasonable grounds are found, the Law and Order Committee shall dismiss the complaint. If reasonable grounds appear to exist, the Law and Order Committee shall prepare and submit a written recommendation to the Tribal Council to conduct a disciplinary hearing.

B. Within ten (10) days of receiving a recommendation to conduct a disciplinary hearing from the Law and Order Committee, the Tribal Council shall decide by majority vote whether the recommendation is frivolous and should be dismissed, or whether the recommendation requires a disciplinary hearing before the Tribal Council. Within five (5) days of this decision, the Judge shall be notified of the Tribal Council's decision.

C. If the Tribal Council decides to proceed to a disciplinary hearing, the notice of the Tribal Council's decision shall include a copy of the complaint and the Law and Order Committee's recommendation. The notice shall also state the date, time and location of the disciplinary hearing, and must be served upon the Judge at least ten (10) days prior to the date of the hearing. The notice shall be served upon the Judge via certified mail, return receipt requested.

D. The Tribal Council shall have the discretion to determine the process to follow in conducting the disciplinary hearing. However, the Judge shall have an opportunity to address the Tribal Council regarding the complaint. After due consideration of all the evidence presented at the disciplinary hearing, the Tribal Council shall decide by at least a two-thirds (2/3) majority vote whether grounds exist to discipline the Judge, and if grounds exist to discipline the Judge, then the Tribal Council shall determine the type of discipline to impose on the Judge, which may include removal. Notice of the Tribal Council's disciplinary hearing decision must be sent via certified mail to the Judge within five (5) days of the decision.

E. A Judge removed for cause may be reappointed after five (5) years from the date of removal.

**3.2.110 Rules of Court**

A. PROMULGATION. The time and place of court sessions and all other details of judicial procedure not prescribed in this Law and Order Code shall be prescribed in Court Rules promulgated by the Chief Judge. The Court Rules shall be deemed in effect within thirty (30) days of promulgation unless repealed or modified by the Tribal Council in consultation with the Law and Order Committee and Court Administrator.

B. LAW AND ORDER COMMITTEE RECOMMENDATION AND TRIBAL COUNCIL REVIEW. Immediately following promulgation of any Court Rules, the Chief Judge shall deliver a copy of the rule(s) to the Law and Order Committee in consultation with the Court Administrator, for recommendation to the Tribal Council. The Tribal Council may repeal or modify any Court Rule upon recommendation of the Law and Order Committee.

C. APPLICABILITY OF FEDERAL RULES OF PROCEDURE AND EVIDENCE. To the extent that court procedures are not covered by the Pyramid Lake Tribal Court Rules of Court, this Law and Order Code or any applicable rules of appellate procedure, the Federal Rules of Civil Procedure, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the Federal Rules of Appellate Procedure shall apply.

**3.2.112 Prosecutor**

The Tribal Prosecutor shall serve as an officer of the Court. The Prosecutor shall represent the Tribe in all adult criminal and adult quasi-criminal matters and in juvenile justice matters before the Court. The Prosecutor shall institute criminal or civil proceedings against any persons who violate the provisions of this Code. The Tribal Prosecutor shall be appointed by the Tribal Council in accordance with applicable hiring or contracting procedures.

**3.2.114 Defense Advocate**

The Defense Advocate shall serve as an officer of the Court. The Defense Advocate shall represent criminal defendants unable to afford their own criminal defenses, shall represent juvenile offenders as provided in the Juvenile Code herein and perform other duties as prescribed in this Code. The Defense Advocate shall be appointed by the Tribal Council in accordance with applicable hiring or contracting procedures.

**3.2.116 Court Administrator**

The Court Administrator shall serve as an officer of the Court. The Court Administrator shall establish, implement and maintain the Tribal Court system, including, but not limited to, case management, record keeping, judicial program management and overseeing and coordinating the administrative and management functions of the Judicial Department, in consultation with the Chief Judge. The Court Administrator shall collect fines, civil penalties, and fees authorized by this Code; shall submit all such funds to the Tribe's Finance Department; and shall make an accounting thereof to the Tribal Council. The Court Administrator shall follow all Tribal Financial Policies and Procedures. When necessary, the Court Administrator will also undertake the duties of the Clerk of the Court. The Court

Administrator will be selected by the Tribal Council in accordance with applicable hiring procedures.

**3.2.118 Clerk of the Court**

The Clerk of the Court ("Court Clerk" or "Clerk") shall serve as an officer of the Court and shall be selected by the Court Administrator in consultation with the Chief Judge, in accordance with applicable hiring procedures. The Clerk of the Court shall be supervised by the Court Administrator in consultation with the Chief Judge. The duties of the Clerk shall include but are not limited to, attending and keeping a written record or a taped transcript of all proceedings of the Court, administering oaths to witnesses, and performing other related duties as required or assigned.

**3.2.120 Probation Officer**

The Probation Officer shall serve as an officer of the Court. The Probation Officer shall insure that persons on probation shall obey the orders of the Court and the requirements of this Code. The Probation Officer shall perform other duties as prescribed in this Code or in an order issued by the Court. The Probation Officer shall be supervised by the Court Administrator for all administrative matters (e.g., sick leave, training, annual leave, etc.) and by the issuing Judge in probation matters. The Probation Officer will be selected by the Court Administrator in accordance with applicable hiring procedures.

**3.2.122 Juvenile Probation Officer**

The Juvenile Probation Officer shall serve as an officer of the Court. The Juvenile Probation Officer shall insure that persons on probation shall obey the orders of the Court and perform other duties as prescribed in this Code or in an order issued by the Court. The Juvenile Probation Officer shall be supervised by the Court Administrator for all administrative matters (e.g., sick leave, training, annual leave, etc.) and by the issuing judge in probation matters. The Juvenile Probation Officer will be selected by the Court Administrator in accordance with applicable hiring procedures.

**3.2.124 Children's Advocate**

The Children's Advocate shall serve as an officer of the Court. The Children's Advocate shall act on behalf of a minor under the age of 18 in accordance with the Juvenile Code and perform other duties as prescribed in this Code. The Children's Advocate shall be supervised by the Court Administrator for all administrative matters (e.g., sick leave, training, annual leave, etc.) and by the Chief Judge or Associate Judge for Children's Court or Juvenile Court, or other domestic or family law matters. The Children's Advocate will be hired by the Court Administrator in accordance with applicable hiring procedures.

**3.2.126 Guardian ad Litem**

The *Guardian ad Litem* serves as an officer of the Court. Any presiding Judge of the Court may appoint a *Guardian ad Litem* to represent the interests of a minor in any court proceeding as required by law.

**3.2.128 Definition of "Indian"**

For all purposes in the Pyramid Lake Paiute Tribe Law and Order Code, unless otherwise stated, an "Indian" shall be defined as any person who is a member of the

Pyramid Lake Paiute Tribe, a federally recognized tribe or who is eligible to be a member of a Federally recognized tribe; or who is defined as "Indian" by applicable Federal law.

**3.2.200 JURISDICTION**

**3.2.202 Criminal Jurisdiction**

A. The Pyramid Lake Tribal Court shall have jurisdiction over all criminal offenses committed by any Indian as provided in this Law and Order Code. The Tribal Court is authorized to exercise criminal jurisdiction over any person to the fullest extent permitted under Federal law.

B. CONCURRENT FEDERAL JURISDICTION. With respect to any of the offenses enumerated in the ordinances of the Pyramid Lake Paiute Tribe over which federal courts may have lawful jurisdiction, the jurisdiction of the Pyramid Lake Tribal Court shall be concurrent and not exclusive. It shall be the duty of the Pyramid Lake Tribal Court to order delivery to the proper authorities any person detained or in the custody of the Tribe according to applicable Federal or Tribal law.

**3.2.204 Civil Jurisdiction**

A. SUBJECT MATTER JURISDICTION. The Pyramid Lake Tribal Court shall have jurisdiction over all civil suits wherein the cause of action arose within the exterior boundaries of the Pyramid Lake Indian Reservation. No judgment shall be given on any suit unless the defendant has received actual or constructive notice of such suit and has been given ample opportunity to appear in court in his/her defense. Evidence of service of the notice shall be kept as part of the record in the case.

B. The Pyramid Lake Tribal Court shall have *in rem* jurisdiction over property located within the exterior boundaries of the Pyramid Lake Indian Reservation so long as such jurisdiction is not inconsistent with Federal law.

C. PERSONAL JURISDICTION. The Pyramid Lake Tribal Court shall have personal jurisdiction over all persons who have had sufficient minimum contact with the Pyramid Lake Paiute Tribe or the Pyramid Lake Indian Reservation including but not limited to, those who reside, commit a tort, enter into a marriage, drive, obtain any Tribal license, enter into or perform contracts, transact business or own or lease real property within the exterior boundaries of the Pyramid Lake Indian Reservation.

D. Definition of Person. For purposes of this Law and Order Code, "person" shall be defined as any individual, partnership, corporation or other entity.

**3.2.300 PYRAMID LAKE TRIBAL COURT OF APPEALS**

**3.2.302 Jurisdiction**

There is hereby established an appellate court which shall be called the Pyramid Lake Court of Appeals. The Court of Appeals shall have jurisdiction over all cases appealed from the Tribal Court.

**3.2.304 Composition**

A. All judges of the Pyramid Lake Tribal Court shall be eligible to sit on the Court of Appeals, except that the judge from whose decision the appeal is taken shall not sit on



the Court of Appeals for that case. Three judges shall sit on the Pyramid Lake Court of Appeals.

1. At least one (1) judge of the Pyramid Lake Tribal Court of Appeals must meet the qualifications for the Chief Judge as set forth in this Chapter.
2. At least one (1) judge on the Appellate Panel must be an enrolled member of the Pyramid Lake Paiute Tribe who does not have to be an attorney, cannot be a member of the Tribal Council; cannot have any interest in the case under appeal; and have an understanding and knowledge of the Tribe's Law and Order Code.

B. Nothing in §3.2.300 to §3.2.308 shall prevent the Tribal Council from entering into an agreement with other tribes, reservations and colonies of Nevada Indians to form an appellate court system to hear appeals from various tribal courts, including the Pyramid Lake Tribal Court. Any such agreement by the Tribal Council and the rules of the intertribal appellate court system shall take precedence over the general provisions contained in §3.2.300 to §3.2.308, except for §3.2.306.A.

### **3.2.306 Appellate Procedure**

A. Any party may appeal a final decision or judgment of the Tribal Court by filing a written Notice of Appeal with the Clerk of the Court within thirty (30) calendar days of service of the formal notice of the entry of the Judge's decision. Where a decision is not delivered at a hearing with both parties present, the thirty (30) days does not begin to run until the service date of the formal notice of the decision. The Clerk of the Court shall serve the notice of entry of the order to the parties within five (5) days of receipt from the Judge. A decision of the Tribal Court on subject-matter jurisdiction over a case against the Tribe or its officials, employees, or agents in their official capacities shall be considered final for appellate court purposes.

B. Upon receiving the Notice of Appeal, the Clerk of the Court shall create an appellate case file and transfer the entire record, including any notation indicating the existence of a recording of the proceedings, to the Court of Appeals. Only specific and relevant parts of the recorded transcript shall be necessary to become a part of the appellate record. A party shall designate the specific parts of the recorded transcript needed and shall pay the appropriate cost as required.

C. Whenever possible, in order to eliminate unnecessary travel and delay, appeals shall be decided on the record of the case or briefs of the parties of the case, including the written order or decision and any recording or transcript of the trial proceedings. The Court of Appeals, exercising its discretion, may require an oral argument or if one of the parties so requests.

D. After the Appellate Court decides an appeal, their decision shall be reduced to writing, signed by all judges participating in the decision and a copy of the decision shall be sent to each party by certified mail. The original shall be filed in the case file and remain a part of the record in any further proceedings.

### **3.2.308 Stay of Execution**

Any party may request a Stay of Execution of the Judgment until final disposition of the case by the Court of Appeals is made. Such request shall be filed with the trial court

who may issue protective orders, a bond, and take other action necessary to protect the interests of the parties as required.

**3.2.400 PRACTICE BEFORE THE TRIBAL COURT**

**3.2.402 Establishment of the Pyramid Lake Tribal Court Bar Association and Roll of Attorneys**

The Chief Judge is hereby authorized to establish the Pyramid Lake Tribal Court Bar Association by Court Rules setting forth the requirements, qualifications and disciplinary and ethical rules as required.

A. The Bar of the Tribal Court shall consist of those persons who have previously been admitted to practice and those who will in the future be admitted to practice before the Court;

B. The names of all persons admitted to practice in Tribal Court shall be recorded on the Court's Roll of Attorneys/Advocates. The Court Administrator shall be responsible for maintaining the Roll of Attorneys/Advocates.

**3.2.404 Eligibility for Admission to the Bar of the Court**

A. Any attorney who is a member in good standing of any Federal, District, or State Supreme Court shall be eligible for admission to practice before the Court upon fulfilling the procedural requirements set forth in this Chapter.

B. Any member of a Federally-recognized tribe who is twenty-one (21) years of age or older shall be eligible for admission to practice before the Tribal Court, provided that he has fulfilled the procedural requirements set forth in this Chapter and has never been convicted of a felony.

C. Any person has the right to represent himself before the Tribal Court.

D. Any person who practices as an attorney/advocate before the Tribal Court shall be required to have adequate knowledge of substantive and procedural Tribal law as set forth in this Law and Order Code and the Rules of the Court to properly and adequately represent the best interests of his client.

E. Any qualified person who is not licensed to practice law shall be permitted to practice before the Court. Non-attorney advocates shall enter their appearance by filing an action or a notice of appearance in writing with the Clerk of the Court. Non-attorney Advocates shall be held to the same standards of knowledge and ability as are expected of attorneys. A person who retains the services of a non-attorney Advocate in his defense of a criminal charge against him thereby exercises his right to the assistance of counsel. Any person who retains the services of a non-attorney Advocate does so at his own risk regarding the competency of the Advocate.

F. Any person who practices as legal counsel before the Tribal Court shall sign an Oath of Confidentiality, which will be kept on file with the Court. By signing this Oath, the Advocate shall be deemed to understand that criminal and/or civil charges may be brought against him for any unauthorized disclosure of privileged information, in addition to his immediate dismissal from the bar. Other violations of applicable standards for

attorneys/advocates, such as misuse or tampering with Tribal property, shall be prosecuted under the appropriate sections of this Code.

### **3.2.406 Procedure for Admission**

A. Each applicant for admission to the Bar of the Tribal Court shall file with the Clerk of the Court an application to practice before the Court, setting forth the following:

1. Residence and office addresses and telephone numbers;
2. General and legal education;
3. Courts to which the applicant has been admitted to practice;
4. Whether or not he is a Tribal member or a member of another tribe;
5. Age;
6. Whether or not he has been convicted of a felony; and
7. Any other information required by the Court as set forth in the approved Rules of Court.

B. Each applicant shall be required to demonstrate competence through adequate knowledge of substantive and procedural Tribal law as set forth in this Code and the approved Rules of the Court.

C. Each applicant shall execute the Court Officer's Oath as set forth in the approved Rules of the Court.

D. The Chief Judge will review the application and will grant admission to the Pyramid Lake Tribal Bar if the applicant satisfies all of the requirements of this Chapter.

### **3.2.408 Permission to Participate in a Particular Case**

A person eligible to practice before the Court pursuant to this Chapter may be granted permission by the Judge to participate in a particular case without filing a full petition, but must file an affidavit stating that he is eligible to practice before the Court under the provisions of this Section.

### **3.2.410 Admission**

A. All persons admitted to practice in the Court and wishing to maintain enrollment in the Pyramid Lake Tribal Bar shall pay an annual fee, as determined by the Chief Judge, by January 31<sup>st</sup> of each year.

B. All persons admitted to practice before the Court for a particular case shall pay the fee set by the Chief Judge upon the grant of permission by a Tribal Judge.

C. The Clerk of the Court shall post a list of all attorneys and advocates admitted to practice before the Court, in a place accessible to those persons who may need legal representation; however, a person is not restricted to using only those attorneys or

advocates listed so long as any other attorney or advocate follows the procedures for admission to the bar.

D. The proceeds from the annual admission fees shall be deposited with Tribal Finance and may be used by the Court for court costs and expenditures associated with regulation of Admission to the Bar as provided in this Chapter.

### **3.2.412 Disbarment and Discipline**

A. The Chief Judge and a representative from the Law and Order Committee may jointly disbar a person from practice before the Court upon the recommendation of a Chief Judge or another Tribal Judge in consultation with the Court Administrator, or may suspend from practice said person as deemed appropriate on any of the following grounds:

1. False swearing;
2. Conviction of a felony;
3. Disbarment by Federal or State Court or Bar Association;
4. Conduct unbecoming an officer of the Court;
5. Failure to adhere to the provisions of the Law and Order Code or the Rules of the Court; or
6. Failure to meet the standards of knowledge and ability to represent a client adequately.

B. The Court may otherwise discipline a person admitted to practice before the Court on the above grounds if it deems that disbarment or suspension is not warranted under the circumstances.

### **3.2.500 LAW AND ORDER COMMITTEE**

#### **3.2.502 Establishment**

The Law and Order Committee is hereby established as a standing committee of the Pyramid Lake Paiute Tribe.

#### **3.2.504 Membership**

A. The Law and Order Committee shall consist of five (5) Pyramid Lake Tribal members who shall be at least twenty-one (21) years of age and a resident of the Pyramid Lake Indian Reservation for at least one (1) year prior to appointment to the Committee.

B. At such time of a resignation or removal of a Committee member, a new member will be appointed in accordance with the provisions of this Chapter. The Tribal Council shall select the Committee member from the list of interested individuals, following the posting of the vacancy.

#### **3.2.506 Power and Authority of the Law and Order Committee**

The Law and Order Committee shall have the power and authority to:

A. Review and study law enforcement and judicial problems on the Reservation in consultation with appropriate staff and to report its findings and recommendations thereon to the Tribal Council;

B. Review and make recommendations to the Tribal Council on Rules of Court submitted by the Judges of the Court;

C. Review and make recommendations to the Tribal Council on proposed revisions to the Hunting and Fishing Regulations in consultation with appropriate staff;

D. Review and make recommendations to the Tribal Council on General Orders of the Tribal Police Department in consultation with appropriate staff;

E. Review and make recommendations to the Tribal Council on proposed revisions to the Law and Order Code in consultation with appropriate staff;

F. Participate in the selection process of all Court personnel in accordance with applicable hiring procedures;

G. Participate in hearings on the removal of judges; and

H. No individual Committee member may act on behalf of the Committee without the express consent of the entire Committee.

### **3.2.508 Meetings**

The Law and Order Committee shall meet monthly at a time and place on the Reservation designated by the Committee Chairman. Meeting agendas will be prepared by the Committee Secretary in consultation with the Committee Chairman and posted in all public posting locations prior to the established meeting date.

### **3.2.510 Minutes**

All minutes of Law and Order Committee meetings will be maintained and stored at the Tribal Secretary's office, who may release approved meeting minutes upon request. Confidential material shall not appear in the minutes.

## **3.2.600 RECORDS OF THE COURT**

### **3.2.602 Court Files**

A. Except as expressly limited by this Code, the Court shall keep a record of all proceedings of the Court for inspection by the public. These records shall be maintained and stored by the Clerk of the Court under the supervision of the Court Administrator.

B. Court records shall include title of the case, the names of the parties, the pleadings filed in the case, the names and addresses of all witnesses, the date of the hearing or trial, the name of the judge by whom the hearing or trial was conducted, the findings of the court or jury and the judgment of the Court, together with any other documents deemed to be of importance to the case.

C. All written decisions of the Pyramid Lake Tribal Court of Appeals shall be filed and made available for public inspection by the Clerk of the Court.

D. The Clerk of the Court shall electronically record all court proceedings. The proceedings shall be identified by case number by the Clerk of the Court and kept for a period of no less than five (5) years.

E. The Court Administrator will ensure safe and to the extent possible, permanent storage of all court orders. The copy of a record shall be made available to the public upon written request submitted to the Court Administrator.

The person requesting a copy of the record of a court proceeding shall pay the costs of preparing such recording, including the costs of transcribing electronically recorded records of court proceedings. The Court Administrator shall be responsible for determining the amount to be charged for preparing copies of court records and collecting the fees. Such fees shall not exceed actual costs of reproduction. The Court Administrator will ensure that all fees are posted and made available to the public at all times.

F. Records of all juvenile proceedings shall not be open to the public for inspection. Such records shall only be available to authorized law enforcement personnel and the juvenile's parents or legal guardian upon written request submitted to the Court.

G. Archival Records. The Court Administrator shall cause court records to be archived in a permanent, appropriate and cost-effective manner for retrieval.

**3.2.604 Expungement of Criminal Records**

A. Except as otherwise provided in this Code, a person may petition the Court for sealing of all records relating to a conviction in the Court of:

1. A Class 1 Offense after fifteen (15) years from the date of final payment of all fines or the date of release from actual custody or discharge from parole and probation, whichever occurs later;
2. A Class C Offense, after twelve (12) years from the date of final payment of all fines or the date of release from actual custody or discharge from parole or probation, whichever occurs later;
3. A Class B Offense, after seven (7) years from the date of final payment of all fines or the date of release from actual custody or discharge from parole or probation, whichever occurs later;
4. A Class A Offense, after seven (7) years from the date of final payment of all fines or the date of release from actual custody or discharge from probation, whichever occurs later;
5. For a violation of a battery that constitutes domestic violence, after seven (7) years from the date of final payment of all fines or the date of release from actual custody or from the date when the person is no longer under a suspended sentence, whichever occurs later.

B. A petition filed under this Section must be accompanied by current, verified records of the petitioner's criminal history received from:

1. The Central Repository for Nevada Records of Criminal History; and

2. The local law enforcement agency of the city or county in which the conviction was entered.

The petition must include a list of any other public or private agency, company, official or other custodian of records that is reasonably known to the petitioner to have possession of records of the conviction and to whom the order to seal records, if issued, will be directed.

The petition must include information that, to the best knowledge and belief of the petitioner, accurately and completely identifies the records to be sealed.

C. Upon receiving a petition pursuant to this Section, the Court shall notify Tribal Police that arrested the petitioner for the crime, the Prosecutor and any person having relevant evidence that may testify and present evidence at the hearings on the petition.

D. If, after the hearing, the Court finds that, in the period prescribed in this Section, the petitioner has not been charged with any offense for which the charges are pending or convicted of any offense, except for minor moving or standing traffic violations, the Court may order sealed all records of the conviction which are in the custody of the Court.

E. A person may not petition the Court to seal records relating to a conviction of a crime against a child or a sexual offense.

F. A person whose petition is denied under this Section may petition for a rehearing not sooner than two (2) years after the denial of the previous petition and no person may petition for more than two (2) hearings.

G. Where the Court orders the sealing of a record pursuant to this Section, the petitioner must send a copy of the order to the Central Repository for Nevada Records of Criminal History, and each public or private company, agency or official named in the order, and that person shall seal the records in his or her custody which relate to the matters contained in the order, and shall advise the Court of compliance and shall then seal the order.

H. If the Court orders a record sealed pursuant to this Section, all proceedings recounted in the record are deemed never to have occurred, and the person to whom the order pertains may properly answer accordingly to any inquiry, including without hesitation, any inquiry relating to an application for employment, concerning the arrest, conviction, dismissal or acquittal and the events and proceedings relating to the arrest, conviction, dismissal or acquittal.

# CHAPTER 3

## CIVIL PROCEDURE

### **3.3.100 GENERAL PROVISIONS**

#### **3.3.102 Scope**

Except as otherwise provided by law, these rules shall govern the procedure in the Tribal and Appellate Courts of the Pyramid Lake Paiute Tribe in all actions, suits and proceedings of a civil nature, and in any other special proceedings established by this Chapter.

#### **3.3.104 Jurisdiction**

The Court shall have jurisdiction over all civil actions as set forth in this Chapter.

#### **3.3.106 Construction**

These rules shall be liberally construed to secure a just, speedy, and inexpensive determination of every action.

#### **3.3.108 Definitions**

A. "Affidavit" means a written statement of facts sworn to by the person signing it (the "affiant") and verified by a Notary Public or the Clerk of the Court.

B. "Answer" means a written document that a Defendant may file in the Court when a Plaintiff has filed a complaint against him; the answer contains the Defendant's version of the dispute.

C. "Attachment" means a legal procedure before the Court whereby the Tribal Police are authorized and required to seize certain personal property belonging to a debtor in order to ensure that a creditor will be able to collect on a judgment when it is finally entered by the Court.

D. "Civil Action" pertains to a lawsuit filed in the Court whereby one person seeks to resolve a non-criminal dispute against another by obtaining a judgment from the Tribal Court. An example would be a lawsuit to recover on a debt that is due.

E. "Complaint" means the first written document that starts the lawsuit and contains the complaining party's version of the facts of the civil dispute; the complaint usually lists what amount of money or thing of value the complaining party wants from the other party.

F. "Counterclaim" means a party against whom a claim has been made may assert in his answer any claims he has against the party claiming against him.

G. "Creditor" means a person who is owed a debt, money or anything of value by another person.



H. "Cross complaint" is a counterclaim whereby the Defendant in a lawsuit brings a legal claim against another party to recover money or things of value.

I. "Disposable earnings" means that portion of a debtor's earnings remaining after the deduction of all amounts required by law to be withheld.

J. "Execution" means a legal procedure that takes place after the Tribal Court has entered a judgment, whereby the Tribal Police or other law enforcement officers of county or state agencies are authorized and required to enforce the court's judgment by seizing certain personal property of the judgment debtor, such as personal furniture.

K. "Exemption" means those items of personal property which are not subject to execution of a judgment.

L. "Final judgment" refers to a Tribal Court Judgment, including any supporting opinion of the court that determines the rights of the parties involved in a civil dispute.

M. "Comity" refers to acceptance and recognition by the Court of final judgments entered by the courts of the fifty (50) states, the Federal courts and of other Federally-recognized Indian tribes.

N. "Defendant" is a person or party against whom a claim is made for money, performance or services through the filing of a lawsuit.

O. "Garnishment" means a legal process through which the earnings or other monies of a debtor are required to be withheld by a third party for payment of a debt which has been reduced to a Court judgment.

P. "Hearing" means an opportunity for the parties in dispute to present all relevant oral testimony and documentary evidence in their favor in order to allow the Tribal Judge to evaluate the merits of the dispute and render a decision. All hearings require that the party being served be given at least ten (10) days' notice before the hearing unless ordered otherwise by the Judge, or unless otherwise stated in this Code or other applicable Tribal law.

Q. "Household goods" refers to clothing, furniture, appliances, linens, kitchenware, and personal effects of any consumer and his or her dependents.

R. "Indian" for all purposes in this Code, unless otherwise stated, is defined as any person who is a member of the Pyramid Lake Paiute Tribe, a member of any other Federally-recognized tribe (non-member Indian), or any person who is eligible to be a member of a Federally-recognized tribe.

S. "Injunction" is a temporary or permanent court order to prevent someone from doing an action that may cause harm if carried out.

T. "Judgment creditor" is a party who has obtained a court judgment against a debtor.

U. "Judgment debtor" is a party against whom a court judgment has been obtained by a creditor.

V. "Jurisdiction" means the power of a court, as the Tribal Court, to hear and decide a dispute; to inquire into facts, apply the law, and make decisions and declare judgments.

W. "Motor vehicle" means any vehicle with two or more wheels that operates with a combustion engine.

X. "Personal Property" means everything that is the subject of ownership that does not come under the denomination of real property; any right or interest that an individual has in movable things, including but not limited to: motor vehicles, furniture, appliances, televisions, stocks, bonds and other intangible property.

Y. "Personal service" means the delivery of legal papers as described in §3.3.204 herein.

Z. "Protective Order" is an order issued by the Court to protect a person who is threatened by immediate harm from another person, including someone who is related to the person or who is a spouse or in a domestic relationship.

AA. "Repossession" means the physical recovery by a creditor of personal property that has been sold to a debtor or purchase on an installment credit basis.

BB. "Statute of Limitations" means the time in which an action must be filed or be forever barred.

CC. "Summons" means a written document that specifically notifies a person that he must appear in Court to respond to a complaint filed by another person.

DD. "Temporary Restraining Order" means an order of the Court directing a person, agency or other entity to take certain actions or refrain from certain actions during a specified and limited period of time.

EE. "Trust Property" means any property which is held by the United States in trust for the benefit of any Indian or tribe, and which is subject to restrictions on alienation or encumbrance without the consent of the United States; or acquired by an Indian through a loan from the Pyramid Lake Paiute Tribe when the funds for such loan are provided by the United States.

FF. "Writ" means a written judicial order to perform a specific act, or giving authority to have it done.

**3.3.110 Law Applicable to Civil Actions**

A. In all civil cases, the Court shall apply any laws and regulations of the United States that may be applicable, and any ordinances or customs of the Tribe not prohibited by Federal law.

B. Where any doubt arises as to the customs and usages of the Tribe, the Court or the parties may request the advice of a Tribal elder familiar with these customs and usages. Testimony of said Tribal elder shall be presented in Court with opposing party having the right of cross-examination.

C. Any matters that are not covered by a Tribal ordinance or the traditional customs and usages of the Tribe, or by applicable Federal laws and regulations, shall be decided by the Court according to the decisions of the Court and Federal case law. The Court may also refer to and rely upon the decisions of other tribal courts or state courts where appropriate.

**3.3.112 Legal Process from Other Jurisdictions**

All civil action writs and legal processes issued by state, county, and municipal courts for persons or property within the boundaries of the Pyramid Lake Indian Reservation shall be presented to the Court for a determination of validity. All such legal writs and processes determined to be valid shall be ordered served by a Tribal law enforcement officer. Such service shall not amount to personal service for purposes of a state, county, or municipal court jurisdiction, as the Reservation is outside of such court's jurisdiction, but is merely the way substituted service shall be effected within the Reservation.

**3.3.200 COMMENCEMENT OF ACTION AND PRELIMINARY MATTERS**

**3.3.202 Commencement of the Action**

A civil action shall be commenced by the filing of a complaint with the Clerk of the Court and the payment of the filing fee. The fee may be waived by the Court on a show of good cause.

**3.3.204 Statute of Limitations for Civil Actions**

Every action not covered by the criminal provisions of this Code, unless specifically addressed elsewhere in this Code or other applicable Tribal law, shall be barred unless the complaint is filed within two (2) years after the cause of action first occurs.

**3.3.206 The Complaint**

There shall be one (1) form of civil action in which the party complaining shall be designated "Plaintiff" and the adverse party, "Defendant." The Complaint shall contain:

- A. A short, plain statement of the grounds of the Court's jurisdiction;
- B. A short, plain statement of the claim showing that the Plaintiff is entitled to relief;
- C. A demand for judgment for the relief to which the Plaintiff considers himself entitled. Such claim for relief may be in the alternative or for several types of relief; and
- D. An affidavit under penalty of perjury, witnessed by a member of the Court staff or a licensed Notary Public, attesting that the facts set out in the complaint are true and correct, based upon information and belief.

**3.3.208 Notification**

A. NOTICE AND SERVICE. Personal service of process shall consist of delivering to the party served a copy of the complaint, along with a summons issued by the Clerk of the Court, which advises the party that he is required to answer the complaint within twenty (20) days or a default judgment maybe entered against him.

1. The return of service shall be endorsed with the name of the person making service and the date, time and place of service and shall be filed with the Clerk of the Court.
2. Service shall be made on a party by a Tribal law enforcement officer or such other officer of the Court who may be assigned the duties of service of process, or by such other person following the method authorized by a court order.
3. If a person personally refuses to accept service, service shall be deemed performed if the person is informed of the purpose of the service and offered copies of the papers served.

B. SERVICE BY MAIL OR DELIVERY. Service of all papers required to be filed, except the summons and complaint, may be made by depositing them in the United States Mail, first class, certified mail with return receipt postage prepaid thereon and properly addressed, at the person's last known address, or by hand delivery to the person. If a party is represented by an attorney or advocate, service under this Subsection must be made on the attorney/advocate unless the Court orders service on the party. The person making the service shall file with the Court a proof of service by certificate of the attorney/advocate or his/her employee, or by written admission, or by affidavit of a party, or other proof satisfactory to the Court.

### **3.3.210 Response to the Complaint**

An answer filed in the Court shall contain the following information:

- A. Name, address and telephone number of the Defendant named in the Complaint and his counsel, if any;
- B. Names of the parties and the case number which has been assigned by the Clerk of the Court;
- C. A general or specific denial or admission of the allegations in the complaint; and
- D. A short, plain statement of any affirmative defenses which the Defendant is asserting against the claim or complaint of Plaintiff if he is filing an answer.

### **3.3.212 Amendment of Pleadings**

A. AMENDMENT BEFORE TRIAL. A party may amend his pleadings once, before the opposing party has responded or if no response is required, not less than twenty (20) days before the case is scheduled for trial. The opposing party may respond, if appropriate. Other amendments shall be allowed only upon motion and order of the Court.

B. AT TRIAL. When issues or evidence not raised in the pleadings are heard at trial, the judgment may conform the pleadings to such issues or evidence without the necessity of amending the pleadings, but only if each party has been provided an opportunity to object and to properly address any prejudice that may result.

### **3.3.214 Setting of Trial**

The Clerk of the Court shall schedule a hearing on the action as soon as possible after the Answer is filed. The Clerk shall furnish the parties with a copy of the notice

showing the time and place of the hearing and shall affix such notice to the copy of the Answer to be served in a manner deemed appropriate by the Court. If the case is ready for trial, the Judge may try it immediately or set a subsequent date for trial. If the case is not ready for trial, the Judge shall set a subsequent date for trial and order such preparation by the parties as he deems necessary.

**3.3.216 Time**

A. COMPUTATION OF TIME. In computing any period of time, the day from which the period is to commence shall not be counted and the last day of the period shall be counted; provided, however, that for any time period under eleven (11) days, Saturdays, Sundays or legal holidays in the period will not be counted, and for any period which would otherwise end on a Saturday, Sunday, or legal holiday will be deemed to end on the next day which is not a Saturday, Sunday or legal holiday.

B. EXTENSION OR CONTRACTION OF TIME. The Court may, for good cause shown, extend or contract the time within which any required act may be done.

C. NOTICE OF MOTIONS. Written motions and any notice of a hearing thereon, other than ones which may be heard *ex parté*, shall be served at least ten (10) days prior to the time specified for the hearing, unless otherwise ordered by the Court.

D. SERVICE BY MAIL. Whenever service is accomplished by mail, three (3) days shall be added to the prescribed period of time, but such addition shall not cause Saturdays, Sundays, or legal holidays to be counted in the time period if they would not otherwise have been counted.

**3.3.218 Parties**

A. REAL PARTY IN INTEREST. Every action shall be prosecuted in the name of the real party in interest. An executor, administrator, guardian, bailee, trustee of an express trust, a party with whom or in whose name a contract has been made for the benefit of another, or a party authorized by statute may sue in his own name without joining with him the party for whose benefit the action is brought; and when a statute of the Pyramid Lake Paiute Tribe so provides, an action for the use or benefit of another shall be brought in the name of the Tribe.

B. *Guardian ad Litem*. When a minor child or an incompetent person who has not had a guardian appointed is a party, the Court shall appoint a *guardian ad litem* to represent such person in the suit or action.

C. JOINDER OF PARTIES. To the greatest extent possible, all persons or parties interested in a particular action may be joined in the action, but failure to join a party over whom the Court has no jurisdiction will not require dismissal of the action unless it would be impossible to reach a just result without such party.

D. INDISPENSABLE PARTIES.

1. Persons to be joined if feasible. A person who is subject to service of process and whose joinder will not deprive the Court of jurisdiction over the subject matter of the action shall be joined as a party in the action if:

- a. In the person's absence, complete relief cannot be accorded among those who are already parties; or
  - b. The person claims an interest relating to the subject of the action and is so situated that the disposition of the action in the person's absence may:
    - i. As a practical matter impair or impede the person's ability to protect that interest, or
    - ii. Leave any of the persons already parties subject to a substantial risk of incurring double, multiple or otherwise inconsistent obligations by reason of the claimed interest. If the person should join as a plaintiff but refuses to do so, the person may be made a defendant, or, in a proper case, an involuntary plaintiff. If the joined party objects to venue and joinder of that party would render the venue of the action improper, that party shall be dismissed from the action.
2. DETERMINATION BY THE COURT. If a person as described in §3.3.216 D.1., hereof cannot be made a party, the Court shall determine whether or not in equity and good conscience the action should proceed among the parties before it, or should be dismissed, if the Court finds the absent person indispensable. The factors to be considered by the Court include: first, to what extent a judgment rendered in the person's absence might be prejudicial to the person or those already parties; second, the extent to which, by protective or other measures, the prejudice can be lessened or avoided; third, whether or not a judgment rendered in the person's absence will be adequate; fourth, whether or not the plaintiff will have an adequate remedy if the action is dismissed for non-joinder.
3. PLEADING REASONS FOR NON-JOINDER. A pleading asserting a claim for relief shall state the names, if known, to the pleader, of any persons as described in §3.3.216.hereof who are not joined and the reasons why they are not joined.

E. SUBSTITUTION OF PARTIES. A party may be joined or substituted if a party dies, becomes incompetent, transfers his interest or is sued in his official capacity, and is no longer functioning in that official capacity.

### **3.3.300 INTERVENTION**

A person may intervene and be treated in all respects as a party to an action in cases in which the applicant claims an interest relating to the property or transaction which is the subject of the action, unless the applicant's interest is adequately represented by existing parties.

### **3.3.400 PROSECUTION OF THE ACTION**

#### **3.3.402 DISCOVERY**

A. TIME. The parties may obtain discovery upon the filing of the answer to the complaint.

B. INTERROGATORIES. A party may submit written interrogatories to any other party and that party shall answer them in writing, under oath, within thirty (30) days of their receipt.

C. DEPOSITIONS. A party may take the oral deposition of an adverse party or non-party witness under oath upon thirty (30) days' notice specifying the person taking the deposition, and the time and place where the deposition will take place within the Reservation.

D. PRODUCTION, ENTRY, OR INSPECTION. A party may request another party to produce any documents or other things in his custody or possession for inspection or copying or request permission to enter and inspect property of another party that is reasonably related to the case, and the opposing party shall within thirty (30) days, reply as to whether or not such production, entry and inspection will be allowed and, if not, why not.

E. SCOPE OF DISCOVERY. Parties may obtain discovery regarding any matter not privileged, which is relevant to the pending action, whether or not such discovery would be admissible at trial, if it appears reasonably calculated to lead to the discovery of admissible evidence, except that discovery may not be had of the work product of a party's attorney.

F. PROTECTIVE ORDER. A party against whom discovery is sought may move the Court for a protective order to prevent undue annoyance, harassment, embarrassment, oppression or undue burden or expense, and the Court may order that the discovery cease or proceed only upon specified conditions.

G. FAILURE TO COMPLY WITH DISCOVERY. If a party fails to respond or appear for discovery as provided in this Section, the opposing party may move for an order to compel the defaulting party to perform and the Court may award costs to the non-defaulting party. If a party fails to perform after being ordered to do so by the Court, the Court may, upon motion, order that a certain fact, claim, or defense be deemed established or strike part of a claim or defense, or dismiss or render a judgment by default against the non-complying party.

H. USE OF DISCOVERY. Answers to interrogatories and depositions may be used in a motion, hearing or at trial for any purpose, by any party.

I. EXPEDITED DISCOVERY. Discovery may be expedited by any party upon a showing of need.

### **3.3.404 Motions**

A. Motions in any pending case may be heard separately or may be consolidated at the discretion of the Court.

B. All motions filed in Court by the parties shall be served on the opposing party or his counsel, along with an affidavit of mailing certifying that the documents were sent. The Clerk of the Court shall serve any motions if so requested by the parties.

C. Unless otherwise ordered by the Court, a response shall be filed and served by an opposing party within fourteen (14) days after service of the motion, and a reply may be filed and served by the moving party within ten days (10) after service of the response.

### **3.3.406 Subpoenas**

A. ISSUANCE. Upon the written request of any party or by the Court's own action, subpoenas for attendance of witnesses at Court or production of documents or things necessary for the presentation of the case shall be issued by a Judge or the Clerk of the Court and served personally by the Tribal Police or other officer of the Court assigned to perform such service at any place within the jurisdiction of the Tribal Court. Subpoenas must be served at least seven (7) days prior to the appearance date, unless otherwise ordered by the Court.

B. FAILURE TO OBEY. Failure, without an adequate excuse, to obey a properly served subpoena may be deemed a contempt of Court, and prosecution thereof may proceed upon the order of the Court. No contempt shall be prosecuted unless a return of service of the subpoena has been made on which is endorsed the date, time and place of service and the name and signature of the person performing such service.

C. SUBPOENA UNNECESSARY. A person present in Court may be required to testify in the same manner as if he were in attendance upon a subpoena.

D. If a subpoena is requested by a party to an action, the necessary witness and mileage fees will be collected in advance of issuing the subpoena. The fees shall be stated in the Rules of the Court or other order of the Court.

### **3.3.408 Disqualification of a Judge**

A. Whenever a party to any action or proceeding, or his attorney shall make and file an affidavit that the judge before whom such action or proceeding is to be tried or heard has a bias or prejudice, either against such party or his attorney or in favor of any opposite party to the suit, such judge shall proceed no further therein, except to call in another judge to hear and determine the matter.

B. Every such affidavit shall state the facts and the reasons for the belief that such bias or prejudice exists, and shall be filed as soon as practicable after the case has been assigned or such bias or prejudice is known. If the judge against whom the affidavit is directed questions the sufficiency of the affidavit, he shall enter an order directing that a copy thereof be forthwith certified to another judge who shall then pass upon the legal sufficiency of the affidavit, or if the judge to whom the affidavit is certified finds that it is legally sufficient, another judge must be called in to try the case or determine the matter in question. No party shall be entitled in any case to file more than one (1) affidavit; and no such affidavit shall be filed unless accompanied by a certificate of counsel of record that such affidavit and application are made in good faith.

### **3.3.410 Disability of a Judge**

If, by reason of death, sickness, or other disability, a judge before whom an action has been heard is unable to perform the duties to be performed by the Court under this Chapter, then any other judge regularly sitting or assigned to the Court may perform those duties following review of the records and transcripts.

### **3.3.412 Dismissal for Want of Prosecution**

All civil actions that have been pending in the Court for more than two-hundred seventy (270) days without any proceeding of record having been taken may, after notice, be dismissed for want of prosecution on motion of a party or the Court.



**3.3.500 TEMPORARY RESTRAINING ORDER**

**3.3.502 Notice of Temporary Restraining Order**

No temporary restraining order shall be issued without written notice to the adverse party.

**3.3.504 Temporary Restraining Order: Notice, Hearing and Duration**

A. No temporary restraining order shall be granted without notice to the adverse party unless it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before notice can be served and before the adverse party can be heard in opposition. The moving party shall specifically state why notice should not be required.

B. Every temporary restraining order granted without notice shall be endorsed with the date and hour of issuance; and shall be filed with the Clerk of the Court and entered of record.

C. The order shall define the injury and state why it is irreparable and why the order was granted without notice.

D. The order shall expire by its terms within such time after entry, not to exceed fifteen (15) days, as the Court determines, unless within the time so determined, the order for good cause shown is extended for a like period – or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be entered of record.

E. In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence over all matters except older matters of the same character.

F. When the motion comes on for hearing, the party who obtained the temporary restraining order shall proceed with the application for a preliminary injunction and, if he does not do so, the Court shall dissolve the temporary restraining order without notice or on such shorter notice to that party as the Court may prescribe. The adverse party may appear and move for its dissolution or modification and in that event the Court shall proceed to hear and determine such motion as expeditiously as the ends of justice require.

G. A temporary restraining order cannot be issued against the Tribe unless it has prior notice of the action and has an opportunity to appear and defend.

**3.3.506 Form and Scope of Injunction or Restraining; Service**

Every order granting an injunction and every restraining order shall be specific in its terms and the reasons why it is issued; shall describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained; and is binding only upon the parties to the action, their officers, agents, servants, employees and attorneys and upon those persons in active concert or participation with them who receive actual notice of the order by personal service or otherwise.

**3.3.508 Grounds for an Extended Restraining Order**

An extended restraining order may be granted when it appears:

A. By the pleadings on file that a party is entitled to the relief demanded, and such relief, or any part thereof, consists in restraining the commission or continuance of some act complained of, either for a limited period or perpetually;

B. From the pleadings or by affidavit that the commission or continuance of some act during the litigation would produce great or irreparable harm or injury to the party seeking relief;

C. During the litigation that either party is doing or threatens to do, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party respecting the subject matter of the action, and tending to render the judgment ineffectual; or

D. In all other cases where an injunction would be proper in equity.

### **3.3.600 TRIAL**

#### **3.3.602 Procedures and Evidence**

A. In the absence of Court Rules or a specific provision in this Code, the time and place of court sessions, the rules of evidence to be followed by the Court and all other details of judicial procedure are those set out in the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

B. All testimony of witnesses shall be given orally under oath in open court and subject to the right of cross-examination. Documentary and tangible evidence shall also be received in open court.

#### **3.3.604 Order of Trial**

A. Civil cases shall be tried before a judge and not a jury.

B. The Court shall call the case name and number and ask the parties if they are ready to proceed. If the parties are not ready, the Court, in its discretion, may continue the case or direct the case to proceed.

C. The case of the Plaintiff shall be presented first, followed by the case of the Defendant. If rebuttal is required, the Plaintiff shall proceed first, followed by the Defendant.

D. The Court may question the witnesses directly, generally to clarify the testimony of the witness, but shall not interfere with the rights of either party to examine and cross-examine the witnesses, except to the extent necessary to enforce applicable rules of evidence or procedure.

E. At the conclusion of the evidence, the Plaintiff and the Defendant, each in turn, may summarize the proof and make final argument.

F. The Judge shall then make his decision or announce the time at which he will present his decision.

### **3.3.700 JUDGMENTS**

#### **3.3.702 Generally**

A. DEFINITION. A judgment includes any final order from which an appeal is available and no special form of judgment is required. A judgment shall be entered in each civil case. The judgment shall be for money, for performance of certain acts, for surrender of specified property or other relief or for dismissal of the case. A judgment is complete and shall be deemed entered when it is signed by the Judge and filed with the Clerk of the Court.

B. DEMAND FOR JUDGMENT.

1. Generally. Except in the case of a default judgment, every final judgment shall grant the relief to which the party whose favor it is rendered is entitled, even if such relief is not demanded in the pleadings. It may be given for or against one (1) or more of several claimants and it may, if justice so requires, determine the ultimate rights of the parties on each side as between or among themselves.
2. Judgment by Default. A judgment by default shall not be different in kind from, or exceed in amount, that specifically prayed for in the demand for judgment.

C. COSTS. Unless the Court shall otherwise direct, necessary costs and disbursements shall be awarded to the prevailing party or parties as a matter of course. Such prevailing party shall file a memorandum with the Court stating the costs and necessary disbursements under penalty of perjury, within five (5) days of the entry of judgment and serve a copy of the memorandum on the opposing party. If no objections to the memorandum are received within ten (10) days of service, the costs and disbursements shall be deemed to be a part of and included in the judgment rendered. Costs shall not be awarded against the Tribe, its agencies or its officers, employees and agents acting in the official capacities unless allowed by specific Tribal law.

D. ATTORNEY'S FEES. The Court shall not award attorney's fees unless a contract or agreement of the parties specifically so provides or unless it reasonably appears that the case had been prosecuted for purposes of harassment only, or that there was no reasonable expectation of success on the part of the claiming party. Attorney's fees shall not be awarded against the Tribe, its agencies or its officers, employees and agents acting in the official capacities unless allowed by specific Tribal law.

**3.3.704 Fault; Compensation**

A. In all civil actions, judgment may consist of an order of the Court awarding money damages to be paid to the injured party or directing the surrender of specified property to the injured party, or any other relief deemed proper by the judge for the benefit of the injured party.

B. Where the injury inflicted was the result of carelessness of the Defendant, the judgment shall fairly compensate the injured party for the loss he has suffered if such relief is requested.

C. Where the injury was deliberately inflicted, the judgment may impose an additional award in the nature of punitive damages to the injured party where the conduct resulting in injury was outrageous and unacceptable in a civilized society in an amount not more than three (3) times the actual damages. Before any such award is made, the Court

shall make a determination, on the record, that such actions were intentional and the resultant injuries foreseeable, and more probably than not.

D. Where the injury was inflicted as a result of an accident, or where both the Complainant and the Defendant were at fault, the judgment for compensation to the Plaintiff shall take into consideration the extent to which the Plaintiff was responsible for his injury. Plaintiff's damages should be reduced by the percentage his negligence contributed to his injury.

E. This Section shall not be construed nor apply to matters in which the Tribe is a defendant and no punitive damages shall be assessed against the Tribe pursuant to this Section. This Section shall not be construed in any way so as to waive the sovereign immunity of the Tribe.

### **3.3.706 Default Judgments**

A. ENTRY OF DEFAULT. When a party against whom a judgment for affirmative relief is sought has failed to file an answer or otherwise defend as provided by these rules, his default may be entered by the Clerk of the Court and judgment by default granted. Once the default is entered and notice of default has been provided to the defaulting party, no further notice to the defaulting party of any action taken or to be taken need be given.

B. JUDGMENT BY DEFAULT. Judgment by default may be entered by the Clerk of the Court if a party's claim against the opposing party is for a sum of money which is or can by computation be made certain, and if the opposing party has been personally served. Otherwise, judgment by default can be entered only by the Court upon receipt of whatever evidence the Court deems necessary to establish the claim. No judgment by default shall be entered against the Pyramid Lake Paiute Tribe, its agencies, or its officials, employees or agents in their official capacities.

C. SETTING ASIDE DEFAULT. The Court may for good cause shown set aside either an entry of default or a default judgment. The motion to set aside shall be made within one (1) year from the entry of the default judgment.

### **3.3.708 Entry of Judgment**

A. Judgments shall be signed by the Judge and filed with Clerk of the Court.

B. A judgment is complete and shall be deemed entered for all purposes when it is signed and filed with the Clerk of the Court. The Clerk of the Court shall, upon entering the judgment, mail a copy of the judgment to the parties which shall start the time for appeal.

C. A judgment may be satisfied, in whole or in part, by the judgment creditor executing under oath and filing an acknowledgment of satisfaction of judgment specifying the amount paid and whether or not such is a full or partial satisfaction. A judge may order the entry of satisfaction of judgment upon proof of payment and failure of the judgment creditor to file a satisfaction. The Clerk of the Court shall file all satisfactions of judgment.

D. Effect of Satisfaction.

1. A judgment satisfied in whole shall cease to operate as a judgment.

2. A partially satisfied judgment or unsatisfied judgment shall continue in effect for five (5) years or until satisfied. An action to review the judgment remaining unsatisfied may be maintained any time prior to the expiration of five (5) years and will extend the period of limitations an additional five (5) years.

### **3.3.710 Relief from Judgment or Order**

A. Clerical Mistakes. Clerical mistakes in judgments, orders or other parts of the record and errors therein arising from oversight or omission may be corrected by Court at any time on its own initiative or on the motion of any party and after such notice as the Court may direct.

B. Mistakes: Inadvertence, Excusable Neglect, Newly Discovered Evidence, Fraud. On motion and upon such terms as are just, the Court may, in the furtherance of justice, relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons:

1. Mistake, inadvertence, surprise, or excusable neglect;
2. Newly discovered evidence which by due diligence could not have been discovered;
3. Fraud, misrepresentation or other misconduct of an adverse party;
4. Lack of proper service upon the defendant and resulting failure to appear;
5. Void judgment;
6. Satisfaction, release or discharge of judgment or reversal or vacation of a prior judgment on which this judgment is based, or inequity of prospective enforcement of the judgment; or
7. Other reasons justifying relief from the operation of the judgment. A motion shall be made within a reasonable time and for reasons 1, 2, 3 or 4, not more than three (3) months after the judgment, order or proceeding was entered or taken. A motion under this Section does not affect the finality of a judgment or suspend its operation. This rule does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order or proceeding or to set aside a judgment for fraud upon the Court. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these rules or by an independent action.

### **3.3.712 Harmless Error**

No error in either the admission or the exclusion of evidence, and no error or defect in any ruling or order or in anything done or omitted by the Court or by any of the parties, is grounds for granting a new trial or otherwise disturbing a judgment or order unless refusal to take such action appears to the Court inconsistent with substantial justice. The Court at every stage of the proceedings shall disregard any error or defect in the proceeding which does not affect the substantial rights of the parties.

### **3.3.800 EXECUTION OF JUDGMENTS**

#### **3.3.802 Judgment Constitutes a Lien**

A judgment shall constitute a lien on any nonexempt property of the Judgment Debtor. Notice of this lien may be placed by the Judgment Creditor in the public records of any tribe, county, or state where such property is located.

#### **3.3.804 Stay of Proceedings to Enforce a Judgment**

A. STAY UPON ENTRY OF JUDGMENT. Proceedings to enforce a judgment may issue no sooner than ten (10) days after the entry of judgment unless the Court, in its discretion and on such conditions for the security of the adverse party as are proper, otherwise directs.

B. STAY OF JUDGMENT UPON MULTIPLE CLAIMS. When the Court has ordered a final judgment on some but not all of the claims presented in the action under the conditions stated in §3.3.702, the Court may stay enforcement of that judgment until the entering of subsequent judgment or judgments and may prescribe such conditions as are necessary to secure the benefit thereof to the party in whose favor the judgment is entered.

C. WAIVER OF UNDERTAKING. In all cases, the parties may, by written stipulation, waive the requirements of this Section with respect to the filing of a bond or undertaking. In all cases where an undertaking is required by this Chapter, a deposit to the Court in the amount of such undertaking, or such lesser amount as the Court may order, is equivalent to the filing of the undertaking.

#### **3.3.806 Procedure for Examination of the Judgment Debtor**

A. SETTING THE EXAMINATION. At any time after the time for appeal has passed, but within three (3) years of the judgment, the Judgment Creditor may file a Request for Examination of Judgment Debtor with the Court. The Clerk of the Court shall set a date and time in the Court for the Debtor to answer specific questions regarding his personal assets. At the beginning of the hearing, the Tribal Judge shall swear the Judgment Debtor under oath and both the Judge and the Judgment Creditor may ask questions directly related to the Judgment Debtor's personal assets and finances. The questions and answers may be electronically recorded.

B. RECORDS. At the time the Judgment Creditor files the Request for Examination of Judgment Debtor, he may also request the Clerk of the Court to subpoena certain documentation to be provided at the time of the hearing. This documentation may include, but is not limited to, the following:

1. Bank records and bank accounts;
2. Payroll stubs;
3. Tax returns;
4. Securities investments; or
5. Motor vehicle registration and car license plate information.

C. NOTICE REQUIREMENTS. A Request for Examination of Judgment Debtor must be personally served on the debtor at least five (5) days prior to the hearing.

D. CONTEMPT. The Judge may issue an order of contempt against the Judgment Debtor in the following instances if:

1. The Judgment Debtor fails to appear personally in court after being personally served and a valid proof of service has been filed; or
2. The Debtor fails to disclose certain assets when questioned by the Judge or the Judgment Creditor.

### **3.3.808 Garnishment**

A. PROCEDURE. At any time after the time for appeal has passed, but within three years of the judgment, a Judgment Creditor may proceed to enforce his judgment by garnishment in the Court. A Writ of Garnishment may extend to a Judgment Debtor's payroll wages, bank accounts and any IIM account. Garnishment of IIM accounts is subject to the rules and regulations which have been promulgated under 25 CFR Part 115 as they may from time to time be amended. Application for an Order of Garnishment must be made through the Court.

1. A Judgment Creditor must first file a Petition for Writ of Garnishment with the Court which requests the Court to issue an Order of Garnishment pursuant to a judgment previously obtained. The Order of Garnishment may allow for an additional fee for reasonable attorney's fees.
2. The Petition for Writ of Garnishment must be personally served on the Judgment Debtor at least five (5) days before the date set to hear the petition.

B. EARNINGS SUBJECT TO GARNISHMENT. The maximum portion of earnings of a judgment debtor that are subject to garnishment is twenty-percent (20%) of the Debtor's disposable earnings, with the exception of garnishment for child support. Garnishment for payment of child support and any arrears which may be due shall not exceed fifty-percent (50%) of the Debtor's disposable earnings.

C. HEARINGS.

1. The hearing on the Petition for Writ of Garnishment shall be recorded by any approved method and/or transcribed. If a Judgment Debtor has received at least five (5) days' notice of the hearing and fails to appear, the Judgment Debtor shall be deemed to have waived his right to a hearing and a default order may be issued. At the hearing the Judgment Debtor may show through testimony and other documentation that a substantial hardship will be imposed on the Judgment Debtor and his dependents if any of his wages should be garnished. The Judgment Debtor may also show that a lesser amount than set forth in §3.3.808. B should be garnished. At the conclusion of the hearing, the Judge shall have the discretion to determine whether or not a substantial hardship has been shown or a smaller portion of the Debtor's wages should be garnished.

2. The Judgment Debtor may also establish by a preponderance of the evidence that the garnishment is wrongful either by showing there was no personal service or no valid judgment in effect at the time of the garnishment or that the judgment has already been satisfied.

D. DISMISSAL BY EMPLOYER. No employer shall discharge an employee based solely on a Judgment Creditor obtaining a wage garnishment. If an employer discharges an employee for this exclusive reason, the employee may commence a civil action within ninety (90) days of the dismissal date to recover lost wages and to request reinstatement to his job.

### **3.3.810 Attachment Remedy**

A. PROCEDURE. At the time of the issuance of a summons and complaint in a civil action, or at any time prior to final judgment, a Creditor may file a request for a Pre-Judgment Order of Attachment with the Clerk of the Court. All requests for Pre-Judgment Orders of Attachment shall be accompanied by an affidavit of the Creditor which shall contain the following facts to establish that:

1. A debt is owed to the Creditor by a Debtor and a description of the nature and amount of the debt owed;
2. The personal property being attached must be specifically identified as non-trust personal property belonging to the Debtor;
3. The creditor has reasonable cause to believe that the specific property sought to be attached may be lost, damaged, vandalized or removed off the Reservation prior to payment of a final judgment and such loss, damage, vandalism or removal of the property would jeopardize the ability of the creditor to collect on the judgment that may later be obtained.

If the Judge is satisfied after reviewing the complaint and affidavit, an Order of Attachment may be issued to identify the designated personal property. The Police shall be given the Order of Attachment and the Police shall seize any property identified by the Order. Such property shall be kept in storage under the control of the Police. Such personal property shall be held by the Police pending any further order of the Court. If the Judgment Creditor prevails on his complaint against the Judgment Debtor, the Judgment Creditor must follow the Section in this Chapter regarding the Execution of Judgment.

B. BOND. An Order of Attachment shall not be issued until the Creditor has filed with the Clerk of the Court a surety bond or cash bond in the sum of at least One-Thousand Dollars (\$1,000.00). This bond shall be necessary to ensure that the Creditor will pay the amount of the bond to the Debtor in the event that the order of attachment was wrongfully issued and the Debtor was damaged, or in the event the Debtor prevails when final judgment is rendered.

C. SERVICE OF ATTACHMENT ORDER. The Debtor shall be served with the Order of Attachment at the time the Police seize the personal property of the Debtor. If the Debtor is not available or is not present at the time the personal property is seized, the Order of Attachment shall be posted in a conspicuous place on the door of the Debtor's house or residence, and a copy mailed to his last known address. The service shall be documented and filed with the Court for the record.



D. **WRONGFUL ATTACHMENT.** At any time following the issuance of an Order of Attachment, the Debtor shall be entitled to challenge the validity of the writ. The Debtor may contest the Writ of Attachment by filing a Response to Writ of Attachment with the Court. At the time of the filing with the Clerk of the Court, the Court shall set a hearing and notice of the hearing shall be served on the Creditor at least five (5) days prior to the hearing. At the hearing the Debtor must establish by a preponderance of the evidence that:

1. The specific personal property sought to be attached would not be likely to be lost, damaged, vandalized or removed from the Reservation prior to final judgment and that any such loss, damage, vandalism or removal of property would not result in hindering the ability of the creditor to collect on a judgment if one should subsequently be obtained; or
2. No debt is owed to the creditor; or
3. The property sought to be attached is exempt under the provisions of this Chapter regarding exemptions or is trust property.

If the Court determines that the pre-judgment writ of attachment was wrongfully issued, the Court may impose a fine up to One-Thousand Dollars (\$1,000.00) and/or the amount of damages incurred, and order payment of the other party's attorney's fees and costs.

### **3.3.812 Exemptions**

A. **HOMESTEAD.** The homestead of every family, including a mobile home, designated as the place of residence by that family is entitled to a full and absolute exemption from all collection processes as set forth herein; however, the mobile home is subject to the legal process of repossession in accordance with Chapter 14 of this Code, if the Debtor defaults on payments to the creditor dealer who sold him his home or his assignee. The homestead is automatic and no filing of any documents shall be necessary to preserve it. All other real property in which the Debtor owns a possessory interest is also entitled to a full exemption from any collection process.

B. **PERSONAL PROPERTY.** Every person residing within the exterior Reservation boundaries shall have exempt from seizure and sale upon any attachment, execution or other process issued from the Court, the following articles of personal property:

1. Provisions, including food, fuel and clothing which are in the possession of the Debtor or any dependents in his household and which are reasonably necessary for sustaining the Judgment Debtor for a period of one (1) year;
2. Ornaments belonging to Debtor or the dependents in his household, including jewelry, not to exceed a value of Five Thousand Dollars (\$5,000.00);
3. The Debtor's interest, not to exceed Fifteen Thousand Dollars (\$15,000.00), in one means of conveyance regularly used for the transportation of the Debtor to and from the Debtor's place of work, except that the value limitation specified in this Subsection shall not apply when the means of conveyance is a vehicle designed or equipped, or both, for handicapped persons;

4. Burial plot or crypt or any cemetery lot;
5. Books, furniture, instruments, tools, implements and equipment, the breeding stock, seed grain or growing plants stock, or other tangible means of production regularly and reasonably necessary in carrying on the person's profession, trade, business or occupation in an aggregate value not to exceed Seven Thousand Five Hundred Dollars (\$7,500.00);
6. All household and kitchen furniture and items and appliances up to a value of Twelve Thousand Dollars (\$12,000.00); in the case that the debtor owns more than Twelve Thousand Dollars (\$12,000.00) in value for all household and kitchen furniture and items and appliances, the Debtor must select those items he desires to retain up to a value of Twelve Thousand Dollars (\$12,000.00) and all other items shall then be abandoned for legal process;
7. All miscellaneous books, musical instruments and family pictures for the use of the family that do not exceed Two Thousand Dollars (\$2,000.00) in value; and
8. Any interest in any pension plans, individual retirement accounts or 401(k) plans.

### **3.3.814 Enforcement of Foreign Judgments**

A. FOREIGN JUDGMENTS DEFINED. "Foreign judgment" means any judgment, decree or order of a court of the United States, another Indian Nation or of any other court.

B. FILING OF FOREIGN JUDGMENTS. A copy of a certified authenticated foreign judgment may be filed in the office of the Clerk of the Court.

### **3.3.816 Doctrine of Comity**

A. COMITY. The Pyramid Lake Paiute Tribe shall apply the doctrine of comity to the judicial proceedings of all foreign courts in which a final judgment has been issued.

B. DEFINITIONS. Unless the context clearly indicates otherwise, the following words and phrases shall mean:

1. "Comity" means the recognition and enforcement by the Court, under the review criteria as set forth in §3.3.816-E herein, of final judgments of all foreign courts.
2. "Foreign court" refers to all federal and state courts, and the courts of Federally-recognized Indian Nations.
3. "Foreign court judgments" are the judgments issued by Federal and state courts, and the courts of Federally-recognized Indian Nations.
4. "Petitioner" refers to the person who files a petition in the Court requesting that a foreign court's judgment be recognized by the Court based upon comity.

5. "Respondent" refers to the person(s) against whom a petition has been filed in the Pyramid Lake Tribal Court seeking enforcement of a foreign court judgment.
6. "Verified copy of foreign court's judgment" refers to the requirement that all copies of foreign court judgments shall be authenticated and certified by the Clerk of the issuing court who shall attest to the fact that the verified copy is an accurate copy of the original judgment on file with the issuing court.

C. JURISDICTION. Any person who has obtained a final foreign court judgment shall be entitled to seek enforcement of a foreign court judgment based upon comity through the Tribal Court.

D. PROCEDURE FOR REQUESTING COMITY OF FOREIGN COURT JUDGMENTS.

1. The Petitioner shall file a written petition with the Clerk of the Court which shall be accompanied by two verified copies of the foreign court's judgment sought to be enforced. The Petition shall set forth the following:
  - a. Names of all parties to the foreign court judgment sought to be recognized and their respective addresses;
  - b. Type of relief granted in the foreign court's judgment;
  - c. Full amount of the judgment, if money was awarded;
  - d. Court costs and attorney's fees;
  - e. Date the foreign court's judgment was entered;
  - f. Record of entries filed in the foreign court after the entry of the judgment, such as levies, execution, garnishment, partial satisfaction; and
  - g. Any additional information which the Petitioner believes is relevant.
2. The Petition shall be served upon the Respondent in the same manner as authorized by this Code.
3. The Respondent may file with the Clerk of the Court a written answer to the Petition at any time prior to the hearing on the petition.
4. A hearing on the Petition seeking comity of the foreign court judgment shall be held at least twenty (20) days after notice is given to the Respondent. The Petitioner shall have the burden of proof in the hearing on the petition; however, in accordance with the provisions of §3.3.816 of this Code, the Court shall inquire into the underlying facts of the foreign court's judicial proceedings as well as the underlying facts and circumstances of the incident which formed the basis for such proceedings.

E. REVIEW. After the hearing upon the petition, the Court shall examine the underlying facts of the foreign court's judicial proceedings that are the subject of the petition. Only after the following requirements are met shall the Court give comity to the judgment that:

1. The foreign court had proper jurisdiction over both parties and the subject matter;
2. The foreign court judgment was not obtained fraudulently;
3. The foreign court judgment was rendered by a system of law reasonably assuring the requisites of an impartial administration of justice due through notice and hearing were afforded; and
4. The foreign court judgment did not contravene the public policy of jurisdiction in which it was determined.

F. ENTRY OF JUDGMENT. If the Court is satisfied that the four elements listed in §3.3.816 E have been met, then and only then, shall the foreign court judgment be entitled to be recognized under the doctrine of comity by the Court. The Court shall then enter a judgment in favor of the Petitioner which shall entitle the Petitioner to enforce his judgment against the Respondent in the Court.