

CHITIMACHA TRIBAL COURTS

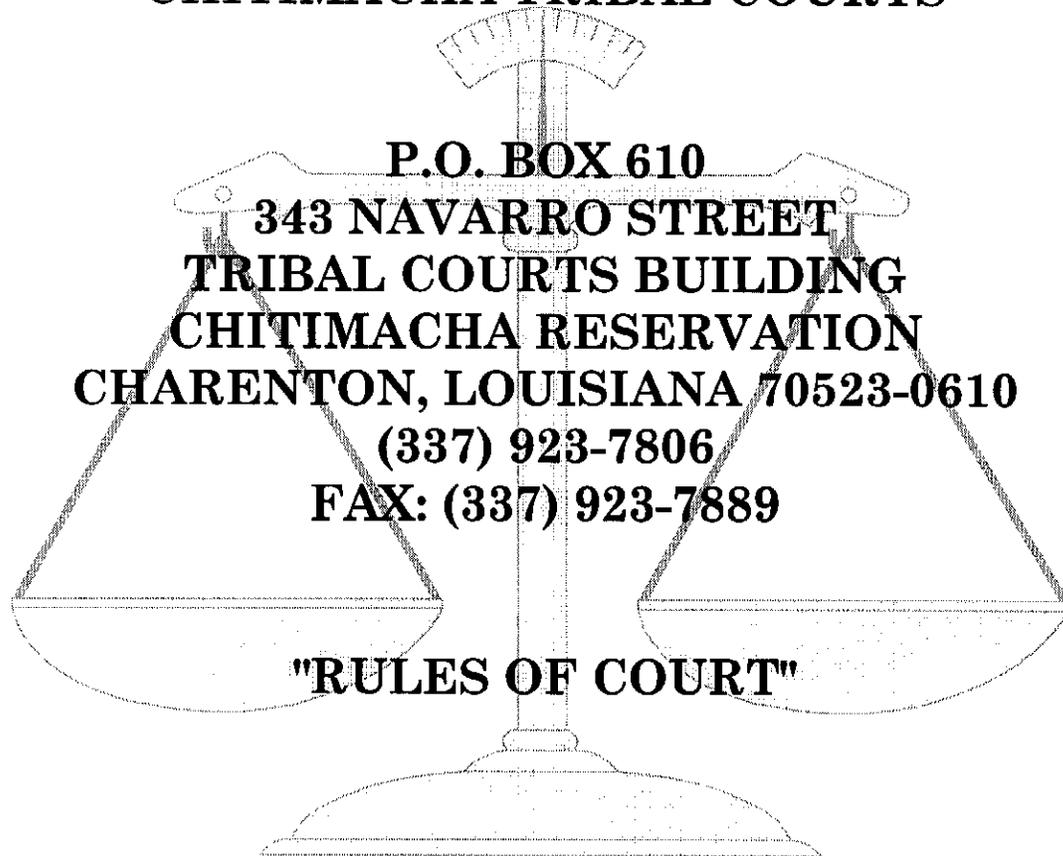


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RULE 1. PLEADINGS, FILINGS, AND WITHDRAWAL OF FILES

1.01 Place of Filing. All filings shall be made with the office of the clerk.

1.02 Form: Statement Regarding Filing of Papers. All papers drafted for filing in this court shall be on 8 1/2 by 11 inch paper, plainly written or printed without defacing erasures or interlineations, and shall be double spaced, except that quotations and footnotes may be single spaced.

If a jury demand is made in the document, the caption shall contain words indicating that a demand for jury trial is being made therein.

Judgments must be on a separate sheet of paper and shall bear the caption of the action. Orders must also be on a separate sheet of paper and shall bear the caption of the action.

1.03 Signing of Pleadings, Motions and Other Papers. Every pleading, motion, or other paper presented for filing shall be signed personally by counsel or the party themselves, in his or her individual name. In addition, the pleading shall include the name, address, and telephone number, typed or printed under his or her signature.

Documents filed by a party not represented by counsel shall be signed by the party. The party's name, address and telephone number shall be typed or clearly printed.

Each attorney and pro se litigant has a continuing obligation to apprise the court of any address change.

1.04 Trial Attorney. If a law firm or more than one attorney represents a party, one attorney will be designated in the first pleading filed on behalf of that party as "Trial Attorney" or "T.A.". This attorney may, but need not, be the attorney who personally signs pleadings.

The designated trial attorney will be responsible for the case and all notices and other communications with respect to it will be directed to the designated trial attorney, or to local counsel in the event a visiting attorney is designated as trial attorney. The designation of the trial attorney may be changed at any time by ex parte motion. If a party desires to change the trial attorney, the new trial attorney will be promptly designated.

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

description of all such actions then known to counsel and a brief summary of the relationship. If information concerning any such action or proceeding is obtained subsequent to the filing of the original pleading in the latter case, it shall be the duty of counsel obtaining such information to notify the court and opposing counsel in writing of the information so received in the same manner.

1.06 Consolidated Cases. Unless otherwise ordered by the court, where cases are consolidated, whether for trial only or otherwise, the caption of all papers filed after consolidation shall list first the name and docket number of the lowest numbered case in the group, with words indicative of the consolidation. This shall be followed by a listing of the names and docket numbers of only those cases to which the paper applies. Attorneys shall furnish copies of papers filed according to the number of cases to which the papers apply.

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

1.07 Nonconforming Pleadings or Documents. Unless otherwise ordered by the court, the clerk may refuse to accept pleadings or other documents not conforming to the provisions of these rules.

1.08 Certificate of Service. Every pleading and every brief or memorandum filed in any proceeding in this court shall bear a certificate by the attorney or party who files it that, prior to filing, copies have been served on all parties or their attorneys, either in person or by mailing it postage prepaid, properly addressed. This certificate may be by rubber stamp or typing, or it may be contained in the text of the pleading.

1.09 Withdrawal of Files. Files in the office of the clerk may be removed from it only:

A. for the use of the court;

B. with leave of court or permission of the clerk first obtained.

RULE 2. MOTIONS

2.01 Motion Days. Motions will be designated for hearing by order of the individual judge to whom the action is allotted. The court considers contradictory motions requiring action by the court after hearing evidence and other matters required by law or court order to be heard and determined summarily.

Oral argument will be allowed when requested by a party, or at the discretion of the trial judge. All other motions will be decided by the court on the basis of the record, including timely filed briefs and any supporting or opposing documents filed therewith.

2.02 Submission of Motions. All motions except those made during a hearing or trial which is being properly recorded into the court record shall be made in writing. Each motion and its accompanying documents shall be filed in duplicate; one copy is for the record and the other is for the use of the hearing judge. Papers filed with the motion are thereby made a part of the record. If the court decides not to hear oral argument in a specific case, involved counsel will be timely notified.

2.03 Motions Must Be Accompanied by Memorandum. The moving party shall submit and serve opposing parties with a copy of the motion and memorandum. Except if a party is unrepresented and the court waives said requirement, all motions shall be accompanied by a memorandum commonly referred to as a "Memorandum in Support", which shall contain (1) a concise statement of reasons in support of the motion, and (2) citations of the authorities on which he relies or copies of these authorities. If the motion requires the consideration of facts not appearing of record, the movant shall also file with the clerk and serve upon opposing counsel a copy of all documentary evidence he or she intends to submit in support of the motion. Memoranda may not be supplemented except with leave of court first obtained.

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

2.05 Motions Not Requiring Memorandum. All motions listed below, while not required to be accompanied by a memorandum, must state the grounds therefor and cite any applicable rule, statute, or other authority justifying the relief sought. No memorandum or hearing is required by either movant or respondent, unless otherwise directed by the court, with respect to the following motions: (1) For extension of time for the performance of an act required or allowed to be done, provided request therefor is made before the expiration of the period originally prescribed or as extended by previous orders; (2) to continue a pretrial conference,

hearing, motion, or the trial of an action; (3) to add additional parties; (4) to amend pleadings; (5) to file supplemental pleadings; (6) to appoint next friend or guardian ad litem; (7) to intervene; (8) for substitution of parties; (9) joint motions to dismiss or consolidate; and (10) to withdraw as counsel; (11) Small claims filed by unrepresented parties where the amount in dispute is less than \$10,000.00. A proposed order shall accompany each motion filed under this paragraph.

2.06 Response and Memorandum. Each party opposing a motion shall file in duplicate, a memorandum of the reasons advanced in opposition to the motion and a list of citations of the authorities upon which the opponent relies or copies of these authorities no later than the five days prior to the noticed hearing date and shall at the same time serve a copy thereof on the opposing parties. The opposition memorandum, in duplicate, must be in the hands of the judge who will hear the motion no later than the day such memorandum is due to be filed.

A copy of the memorandum will be delivered to opposing counsel in the same fashion in which delivery to the judge is made.

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

No supplemental opposition memoranda may be filed except with leave of court first obtained.

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

2.08 Motions for Summary Judgment. Every motion for summary judgment shall be accompanied by a separate, short and concise statement of the material facts as to which the moving party contends there is no genuine issue to be tried.

2.09 Opposition to Summary Judgment. Each copy of the papers opposing a motion for summary judgment shall include a separate, short and concise statement of the material facts as to which there exists a genuine issue to be tried. All material

facts set forth in the statement required to be served by the moving party will be deemed admitted, for purposes of the motion, unless controverted as required by this rule.

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

2.11 Objections to Interrogatories or Requests for Admission. Objections to interrogatories and to requests for admission, and objections to the answers to them, shall set forth in full, immediately preceding each answer or objection, the interrogatory, request or answer to which objection is being made.

RULE 3. DISCOVERY MATERIALS

All discovery shall be conducted in a manner to be determined by the Court to the extent that it does not conflict herein with the Chitimacha Comprehensive Codes of Justice or the Tribal Constitution.

3.01 Non-filing of Disclosure, Discovery Requests and Responses, Retention by Requesting Party. Disclosure, Interrogatories, Answers thereto, Requests for Production or Inspection, Requests for Admissions, and responses thereto shall be served upon other counsel or unrepresented parties, but shall not be filed with the court, unless the court orders that such materials be filed. Notices of depositions may be filed with the court, but depositions shall not be filed unless otherwise authorized. The party preparing and responsible for service of the disclosure or discovery material shall retain the original and become the custodian of any such non-filed materials.

3.02 Disputed Discovery Materials to Be Filed With Request for Relief. If there is a disagreement concerning discovery concerning any disclosure, interrogatories, requests for production or inspection, requests for admissions, answers to interrogatories or responses to requests for admissions, copies of the portions of the disclosure, interrogatories, requests, answers or responses in dispute shall be filed with the court contemporaneously with any such motion.

3.03 Pretrial Filing of Disclosure and Discovery Materials to Be Used at Trial. If disclosure or pretrial discovery materials will be used at trial or are necessary to a pretrial motion which might result in a final order, the portions to be used shall be filed with the clerk at the outset of the trial or at the filing of the motion insofar as their use can be reasonably anticipated. Nothing in this rule is intended to preclude use of disclosure or discovery materials for impeachment if the attorney could not reasonably anticipate that it would be used at trial.

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

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

RULE 4. BRIEFS

Except with permission of the judge, no brief shall exceed 15 pages in length, exclusive of pages containing a table of authorities or a table of contents, and no reply brief shall exceed 10 pages. Any brief exceeding 10 pages shall contain (1) a table of contents with page references and (2) a table of cases (arranged alphabetically), statutes and other authorities cited, with references to the pages of the brief where they are cited.

RULE 5. FEES AND COSTS

5.01 Memorandum of Costs. Within 30 days after receiving notice of entry of judgment, unless otherwise ordered by the court, the party in whose favor judgment is rendered and who claims and is allowed costs, shall serve on the attorney for the adverse party and file with the clerk a notice of application to have the costs taxed, together with a memorandum signed by the attorney of record and stating that the items are correct and that the costs have been necessarily incurred.

5.02 Hearings. The party applying for taxation of costs shall notice the matter for hearing before the Court.

5.03 Objections. Specific objections may be made at any time prior to the hearing to any item of costs. If no objection is made then the Court shall cause the clerk to thereupon tax the costs.

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

RULE 6. EVIDENCE

6.01 Applicable laws. Under Title IV Section 501 of the Chitimacha Comprehensive Codes of Justice, the Court shall determine the admissability and applicability of any evidence sought to be received.

RULE 7. TRIAL EXHIBITS

7.01 Custody. After being received in evidence, all exhibits shall be placed in the custody of the clerk, unless otherwise ordered by the court.

7.02 Disposition. All exhibits in the custody of the clerk shall be removed within 30 days of the final disposition of the case. The party offering exhibits shall be responsible for their removal and shall give a detailed receipt for the clerk's records. If the parties or their attorneys fail or refuse to remove exhibits within 30 days, the exhibits may be destroyed or otherwise disposed of by the clerk.

RULE 8. CONFERENCE IN CHAMBERS - NOTICE

Except as to applications normally considered and acted upon ex parte, before any attorney or party shall confer, or arrange to confer, with a judge of this court in chambers relative to a matter then pending before the judge, he or she shall first give notice of the date and hour of the proposed conference to opposing counsel, or if counsel is unknown, to the opposing party, and shall satisfy the judge that this has been done.

RULE 9. HEARINGS

9.01 Civil Claims. On all civil claims subject to Title IV, Section 103 requirements, the Court upon filing of the claim may enter an alternative scheduling order for adjudication of the claim dependent upon the nature and complexity of the claim, length of trial and number of parties thereto.

9.02 Orders. Any order entered herein may be modified by the Court upon its own motion, or upon the request of any party subject to the action.

RULE 10. TEMPORARY RESTRAINING ORDERS AND PRELIMINARY INJUNCTIONS

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

RULE 11. DISMISSAL FOR FAILURE TO PROSECUTE

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

RULE 12. NOTIFICATION OF WITNESSES

12.01 Notification of Witnesses. It is the duty of counsel who has provided the issuance of a subpoena to notify the person subpoenaed if his or her attendance will not be required in time to prevent the witness from making a needless trip. Counsel failing to comply with this rule may be subject to appropriate sanctions.

RULE 13. TRIAL

13.01 Contacting Prospective Jurors. Prospective jurors shall not be contacted, either directly or through any member of their immediate family, in an effort to secure information concerning the background of any member of the jury panel.

13.02 Interviewing Jurors.

A. No juror has any obligation to speak to any person about any case and may refuse all interviews or comments;

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

C. Under no circumstances except by leave of court granted upon good cause shown shall any attorney, party to an action or other person examine or interview any juror. No juror who may consent to be interviewed shall disclose any information with respect to the following:

1. The specific vote of any juror other than the juror being interviewed;

2. The deliberation of the jury.

13.03 One Counsel to Examine Witness and Present Objections. Only one counsel for each separate interest shall conduct the examination of any one witness, present argument or urge objections with respect to the testimony of that witness, except with leave of court.

13.04 Offer and Marking of Exhibits. Before referring to or using or offering in evidence any exhibit, (whether book, paper, document, model, diagram or any other type of exhibit), counsel shall first ensure that it is marked for identification.

13.05 Subpoena Duces Tecum to Hospitals.

A. When a subpoena duces tecum is served upon the custodian of records or other qualified witness from a hospital or other health care facility in an action in which the hospital or facility is not a party and such subpoena requires the production for trial of all or any part of the records of the hospital or facility relating to the care and treatment of a patient in such hospital or facility, it shall be sufficient compliance therewith if the custodian or other officer of the hospital or facility delivers by registered mail or by hand a true and correct copy of all records described in such subpoena to the clerk of court or other tribunal, or if there is no clerk, then the court or other tribunal, together with the affidavit described in Subsection B. Production of the record shall occur prior to the time fixed for the trial, but no earlier than two working days before the trial date unless otherwise

directed in the pretrial order. This section is limited to procedures for complying with a subpoena duces tecum for purposes of trial and shall not affect the rights of parties to production of documents pursuant to laws governing discovery or other laws pertaining thereto.

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

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

C. If the hospital or facility has none of the records described, or only part thereof, the custodian shall so state in the affidavit, and deliver the affidavit and such records as are available in the manner provided in Subsection A.

RULE 14. BUILDING SECURITY

14.01 Reasons for Building Security. The purpose of these rules is to minimize interference with and disruptions of the court's business, to preserve decorum in conducting the court's business and to provide effective security in the buildings wherein proceedings governed by these rules are held. These buildings are hereinafter collectively referred to as "the premises".

14.02 Security Personnel. The term "Security Personnel" means a deputized court security officer.

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

14.04 Search of Persons. Security personnel may search the person of anyone entering the premises or any space in it. Anyone who refuses to permit such a search shall be denied entry. Should any defendant in a criminal case whose appearance is required refuse to permit such a search, security personnel shall deny the person entry and shall immediately notify the judge before whom the appearance is required. The judge may take the appropriate action, including, but not limited to, detention and search, and ordering revocation of bond, if the defendant is on bond.

14.05 Unseemly Conduct. No person shall:

- A. Loiter, sleep or conduct himself/herself in an unseemly or disorderly manner in the premises;
- B. Interfere with or disturb the conduct of the court's business in any manner;
- C. Eat or drink in the halls of the premises or in the courtrooms;
- D. Block any entrance to or exit from the premises or interfere in any person's entry into or exit from the premises.

14.06 Entering and Leaving. All persons shall enter and leave courtrooms only through such doorways and at such times as shall be designated by the security personnel.

14.07 Spectators. Spectators shall enter or depart courtrooms only at such times as the presiding judge may direct. No spectator shall enter or remain in any courtroom unless spectator seating is available. Spectators shall sit in that portion of the courtroom designated by security personnel. Spectators excluded because of lack of seating and spectators leaving the courtroom while court is in session or at

any recess shall not loiter or remain in the area adjacent to the courtroom.

14.08 Cameras and Electronic Equipment. Unless authorized by the court, no camera, recording equipment, or other type of electrical or electronic device shall be brought into the premises. No person shall introduce or attempt to introduce any type of camera, recording equipment or other type of electrical or electronic device into the premises without court permission.

14.09 Weapons. No person shall be admitted to or allowed to remain in the premises with any object that might be employed as a weapon unless he has been authorized in writing by a judge or unless he is a Tribal Law Enforcement agent, a U.S. Marshal, a Louisiana State Police Officer, a publicly employed law enforcement officer or a person designated by the court. No person, except those above shall have any such object in his possession while in any courtroom or judges' chambers.

14.10 Enforcement. Security personnel shall enforce the whole of this Rule 14. In addition to such other penalties as may be prescribed by law, violators of this rule may be held in contempt of court and subject to the imposition of sanctions.