

Pala Band of Mission Indians
Policy No. 11
Pala Court and Civil Procedure Rules



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Pala Court and Civil Procedure Rules

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**PALA BAND OF
MISSION INDIANS**

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**Policy No. 11
Pala Court and Civil Procedure Rules**

Section 1 Title

This Policy shall be referred to as the “Rules of Court and Civil Rules of Procedure.”

Section 2 Purpose

To establish a policy for the Pala Tribal Court to adjudicate cases for the Pala Band of Missions, Pala Tribal Members and Pala Community Non-Tribal Members.

Section 3 Authority

WHEREAS: The Pala Band of Mission Indians (“Pala Band”) is a federally recognized Indian Tribe; and

WHEREAS: The Band is governed by a federally recognized Tribal Constitution, which established a General Council and Executive Committee to govern affairs and business within its external boundaries; and

WHEREAS: Pursuant to Article III of the Constitution, the governing body of the Band, Is the General Council, whose elected representatives are known as the Executive Committee; and

WHEREAS: The Constitution of the Band grants the Executive Committee the power to represent the Band, between other authorities, with individuals, private businesses, and any other entities seeking tribal approval; and

WHEREAS: Article V of the Constitution, the Executive Committee is granted the power to manage all affairs of the Band pertaining to tribal lands, money and natural resources; and

WHEREAS: The Executive Committee recognizes the need for a policy for the adjudication of cases brought by the Pala Band’s administration, Tribal Members and Non-Tribal Community members.

-Office of the Secretary-

Section 4 **Administrative Rules**

RULE 1. RIGHTS; SOVEREIGN IMMUNITY; SCOPE AND JURISDICTION

A. Creation of Substantive Rights:

1. The Rules of Court shall apply to all actions in the Pala Tribal Court unless otherwise specified by the tribe's law, code or ordinance but shall not be interpreted to create any substantive right

B. Sovereign Immunity:

1. Nothing in the Rules of Court shall be deemed an express or implied waiver of sovereign immunity.

C. Scope:

1. The Rules of Court shall govern all actions of the Pala Tribal Court unless an enacted tribal law, code or ordinance is applicable. The Pala Tribal Court may supplement these Rules of Court, if necessary and the Rules of Court do not adequately address a necessary civil procedure issue, with other provisions of the Federal Rules of Evidence or Federal Rules of Civil procedure, the California Rules of Civil Procedure, or other relevant California common law.

D. Jurisdiction:

1. The Pala Tribal Court operates pursuant to the jurisdiction authorized in the laws of the Pala Band of Mission Indians. These Rules of Court shall not be construed to extend or limit the jurisdiction of the Pala Tribal Court.

RULE 2. INTERPRETATION OF RULES

A. Liberal application:

1. These Rules shall be liberally interpreted in order that justice might be served and cases resolved as impartially, promptly and economically as possible. A document filed by a pro per party may be construed liberally by the court when applying these Rules of Court unless such interpretation would violate the rights of any party.

B. Language:

1. The language of the Rules of Court uses "he" and "she" and related gender pronouns interchangeably.

RULE 3. LAW TO BE APPLIED

A. Burden of Proof:

1. Unless otherwise provided by a specific and applicable tribal code or ordinance, the Petitioner shall have the burden of proving his/her case by a preponderance of the evidence.

RULE 4. ADMISSION AND REQUIREMENTS OF THE PALA TRIBAL COURT BAR

Reserved.

RULE 5. CALCULATION OF DAYS

- A. Unless a different computing of time is provided for in the applicable code section or ordinance, the computing any period of time for the purpose of these Rules shall not include the current day and shall include the last day of the period. Saturdays, Sundays and legal holidays shall not be counted.
 - 1. The Rule applies to periods of ten (10) days or less.
 - 2. The calculation of more than ten (10) days shall include all days.
- B. A period of time required under these Rules may be lengthened for good cause by the court.

RULE 6. COMMUNICATION WITH JUDGES

- A. Unless specified in a tribal code or ordinance, only court personnel shall have ex parte (outside of the courtroom and recorded proceedings) communication with any judge regarding a matter pending before the court until final resolution of the case.
- B. Communication means any type of exchange that is oral, written, telephonic, by electronic device or by any means.
- C. This rule does not limit communication for administrative or procedural purposes such as the scheduling of cases.

RULE 7. LOCATION OF THE COURT

- A. The court clerk's office shall be determined by the Executive Council and may be changed at their discretion.
- B. Court hearings shall be held in the location of the Pala Tribal Court and may be changed with notice to all parties and posting at the Pala Court Clerk's Office.

RULE 8. COURT RECORDS

- A. Storage and Access:
 - 1. Records of all proceedings before the court shall be kept at the Tribal Court Clerk's Office under the supervision and control of the court clerk.
 - 2. Unless sealed by court Order, all files and records of the Pala Tribal Court shall be considered public records and open to inspection by tribal members, except juvenile records, which shall be remain confidential and maintained in a locked file cabinet and open to inspection only by order of the court.

B. Reference to Minors in court records:

1. Any reference to a minor in a court record that is not considered a confidential Children's Court or juvenile record, shall be redacted prior to any examination by a non-party or the processing of a copy request by a non-party. Any party or the court, at its own discretion, may seal a pleading or may redact a minor's information from a court order to maintain the confidentiality of the minor's information.

RULE 9. EXAMINATION

A. Recordings:

1. All hearings or other proceedings before a judge shall be recorded (audio only). If directed by the judge or if requested by a party or the attorney for a party, the court clerk shall provide a copy of the recording of the proceeding.
2. Recordings of judicial proceeding shall be maintained as part of the court record.

RULE 10. SEALING AND REDACTION

A. Sealing a Court File:

1. A party may request the court order that record be sealed.
2. A hearing is required with notice to all parties
3. Written findings will be entered by the court after the hearing. The findings will address the specific sealing or redaction should be granted based on compelling privacy or safety concerns.
4. The court clerk shall seal the file as ordered by placing the documents in a marked confidential envelope and sealing it with the court stamp and tape.
5. A sealed record may only be unsealed by court order after a valid request is received and there is a finding that good cause exists to unseal the record, after a hearing.

B. Sealing Specific Records:

1. When the clerk receives a court order to seal specified court records the clerk shall:
 - a. In the file index, preserve the document title, document or subdocument number and date of the original court records;
 - b. Remove the specified court records, seal them, and return them to the file under seal or store separately. The clerk shall substitute a filler sheet for the removed sealed court record. If the court record ordered sealed exists in another storage medium form other than paper, the clerk shall restrict access to the alternate storage medium so as to prevent unauthorized viewing of the sealed court record; and

- c. File the order to seal and the written findings supporting the order to seal. Both shall be accessible to the parties.
 - d. Before a court file is made available for examination, the clerk shall not allow access to the sealed court records.
- C. Redaction of Records may be requested by any of the parties of a case or a minor who is or was the subject of a case.
 - 1. When a court record is redacted pursuant to a court order, the original court record shall be replaced in the public court file by the redacted copy. The redacted copy shall be provided by the moving party. The original unredacted court record shall be sealed.
- D. Unsealing Records: Sealed court records may be examined by the public only after the court records have been ordered unsealed pursuant to this section or after entry of a court order allowing access to a sealed court record.

RULE 11. DISPOSITION OF EXHIBITS

After Adjudication: All exhibits and evidence shall be returned to the parties. Should a party or owner of exhibit or evidence refuse to retrieve or dispose of the item, after written notice, the court may dispose of the items in a legal and cost-effective manner.

RULE 12. SIGNATURE STAMP

- A. A signature stamp may be used for orders and documents that the judge is unable to sign in person.
- B. The court clerk is not authorized to use a judge's signature stamp unless the judge has reviewed and approved the document prior to the use of the stamp.
- C. A finalized copy of the stamped document shall be transmitted to the issuing judge as soon as possible.
- D. A document stamped with a judge's signature stamp shall be considered signed by the judge unless the signature stamp was used contrary to the Rules of Court.

RULE 13. FEES AND COSTS

- A. First Appearance/Filing Fees, fee waivers and costs shall be set by policy and shall be approved by the Executive Committee and are documented on the Fee and Costs Schedule (Exhibit A) to be posted on the Pala Tribal Court website and at the Court Clerk's Office.
- B. A full payment is required at the time of the filing. Cash, checks or money orders are the only form of payment accepted.

1. Cash payments require the clerk to provide a signed receipt (a photocopy of the cash is not necessary).
2. Checks and money orders are to be made payable to the "Pala Tribal Court".

C. Request to Waive Court Fees

1. Any party may submit the appropriate Pala Tribal Court Form (FW1) to request the court waive the court fees required for the filing in a case and court costs.
2. The income requirements and sliding fee schedules for fee waivers shall be set by policy, approved by the Executive Committee, and documented on the Fee and Costs Schedule posted on the Pala Tribal Court website and at the Court Clerk's Office.
3. A request that court fees and costs be waived must be completed and submitted with the document(s) to be filed.
4. Approval of the request is based on the Sliding Scale for Fee Waiver, which may qualify the person for a full waiver of all fees and costs, a partial waiver, or a denial of the request according to the policies, sliding scale and criteria set by the Executive Committee.
5. If the request is denied, the party must pay the full filing fee within five (5) business days from submission or the filing will be voided and the documents destroyed.
6. If the Plaintiff/Petitioner prevails and is awarded a monetary judgment, the court, at its discretion, may order the Defendant/Respondent to reimburse the court for all fees and costs waived unless otherwise barred by the tribe's ordinances.
7. The fees and costs may be reinstated if the party's income or other circumstances have changed and the qualifications for a waiver or partial waiver are no longer met. The court may request a party re-apply for a fee waiver to update the fee waiver eligibility information.

D. Electronic Filing Payments:

1. If the electronic filing is the first filing/appearance (e.g., complaint, petition, answer, response), the party must mail a check to the court. The envelope must be post-marked the day of the electronic filing.
2. If the check is not received within five business days, the filing shall be voided on the fifth day, destroyed, and an email reflecting such action shall be sent to the party.
3. If the check is received after five business days, the check shall be returned.

E. Copying Costs:

1. Copying costs as set by the Executive Committee and are documented on the Fee and Costs Schedule posted on the Pala Tribal Court website and at the Court Clerk's Office.
2. Copying Costs are to be paid by Cash, Money Order or Check at the time the copied documents are requested.
3. A party to a lawsuit may submit the appropriate Pala Tribal Court Form (FW2) requesting that copying costs be waived; however, such a request must be submitted prior to the request for copying is processed.

F. Certification Fee:

1. The cost of the certification of any court judgment or order shall be set by policy and shall be approved by the Executive Committee and are documented on the Fee and Costs Schedule posted on the Pala Tribal Court website and at the Court Clerk's Office.
2. A Certification Fee is considered a cost for the purpose of a fee and cost waiver.

G. Remote Persons

1. Persons geographically remote have an option to send a check with the amount "not to exceed X dollars" or call the court to ascertain the actual costs for their request.
2. Remote persons must mail a check, payable to "Pala Tribal Court", provide a return envelope, self-addressed envelope bearing prepaid postage, for the transmittal of the requested pages.

RULE 14. APPROPRIATE CONDUCT, DRESS AND CELL PHONES

A. Respect for the Court:

1. All persons appearing in the Pala Tribal Court of shall treat the court and each other respectfully.
2. The court will treat all persons appearing with respect. Respect is appropriate because the court is an expression of the sovereignty of the Pala Band of Mission Indians.

B. Conduct:

1. Parties shall conduct themselves in a manner consistent with doing business of the court. Chewing gum, profanity, arguing with the court, insults or threats, are examples of prohibited behavior, and subjects the person to be held in Contempt of court.
2. Parties must address the judge, and not each other.
3. Cell Phones shall be turned off in the courtroom unless the judge authorizes otherwise.

C. Dress and Headwear:

1. All persons appearing before the Pala Tribal Court shall dress appropriately.
2. Suits and ties are not required, but very informal or provocative clothing, is prohibited.
3. Hats and dark glasses (unless medically required) must be removed upon entering the courtroom.

D. Sanctions:

1. Any person violating these standards of respect may be found in *Contempt of Court* and punished pursuant to Rule 31.

RULE 15. SAFETY

A. Weapons:

1. No person, tribal, state and federal law enforcement officers are allowed in the courtroom while armed with any weapon including firearms, tasers or mace.

B. Other weapons:

1. No person shall be allowed in the court in possession of any explosive device, knife, gas gun, tear gas, noxious gas device, incendiary device or other dangerous weapon.
2. A license to carry a concealed pistol is not an exception to this rule.
3. Anyone found having any of the prohibited items is subject to having the prohibited items seized by law enforcement, bailiffs on court order or as otherwise directed by the court.

RULE 16. OPEN COURT PROCEEDINGS; EXCEPTIONS

- A. Public:** Generally, court proceedings shall be open to the public.

B. Exceptions:

1. Proceedings involving minors and the welfare of minors shall be closed to all persons except the parties, their representatives and such witnesses as may be allowed by the court.
2. The court, for good cause, may find that a proceeding must be closed to persons other than the parties and their representatives.

Section 5 Rules of Procedure

RULE 17. FILING PLEADINGS AND RECEIPT OF DOCUMENTS

A. The clerk shall stamp FILED on Complaints, Petitions, Answers, Responses, Motions, Oppositions, Replies, and other pleadings, submitted by a party to a specific case to enter it as part of the record.

1. Discovery, Correspondence, Memoranda, and Evidentiary documents are not filed with the court clerk.
2. The Clerk shall stamp RECEIVED on correspondence and evidentiary documents (such as correspondence, memoranda and evidentiary documents, submitted separately from a pleading) and the date of receipt shall also be stamped under the RECEIVED stamp.
3. Pleadings submitted on a business day, within 9:00 am and 5:00 pm, shall be FILED on the day it was received by the court.

B. Electronic Filing:

1. Electronic filings are transacted via email to the email address established for that purpose.
2. The first page of the email shall be a cover letter reflecting the party's name, the title of the document(s), a description of the document(s), and the party's address telephone number and email address.
3. The court clerk shall enter the pleading/document, stamp it FILED/RECEIVED as appropriate, scan and transmit a FILED copy back to the party filing the document.
4. See RULE 13 D. regarding payment for an electronic filing.
5. Pleadings submitted on a business day, during the hours the Court Clerk's Office is open, shall be FILED on the day it was received by the court.
6. Pleadings received by electronic means after the Court Clerk's Office hours shall be FILED on the next business day.

RULE 18. CHILDREN'S COURT CASES

- A. All documents, including court reports or letters from parents (parties in the case), filed in a Children's Court case shall be served on all parties of the case.
- B. Any document filed with confidential or redacted information must be filed with a request to file either "Under Seal" as a request to seal the document and not provide it to the other parties or "Redacted" a request to provide redacted copies to the other parties.
- C. Any request to file a sealed document or redacted document in the case, that the other party has a right to receive must be approved by the court by submitting a written request to either seal or file a redacted copy.
- D. Approval to file a document under seal or redacted is at the discretion of the court. The consideration by the court shall be based on: the type of information; the purpose for not providing the information to any party who has a right to receive the information; the effect of the action on the case; and the best interest of the children shall be the controlling interest over any party's interest.

RULE 19. CIVIL VIOLATION OR CITATION (TICKET) CASES

- A. The Citation issued by law enforcement for alleged violations of the Tribal Law Order Code and ordinances are filed with the court clerk instead of a Petition or Complaint.
- B. Response:
 - 1. A response to the Citation is filed by the Respondent using the form on the back of the citation, or a written response filed with the court clerk.
 - 2. The Respondent may request a hearing or pay the fine amount as indicated on the citation.
 - 3. In the case of prior offenses that are relevant to the fine amount, the court clerk will issue a letter indicating the correct fine amount based on a finding that the Respondent is responsible for prior citations for the same offense and the Pala Peace and Security Code requires a higher fine amount based on the prior offense(s).
- C. The civil violation citation hearings shall be scheduled and noticed by the court clerk.
- D. The notice of the hearing date shall be mailed by certified mail and first-class mail to the address indicated on the citation.
 - 1. The lack of mail returned within thirty (30) days shall be considered presumptive proof that the Respondent has received the mail.
 - 2. A default finding shall be vacated by the court, if mail is returned after thirty (days); however, the Respondent may be served with proper notice.

E. Discovery in civil violation citation cases shall consist of copies of materials filed with the court.

1. Respondents may receive copies of materials filed at the time of the Initial Hearing.
2. A fee will not be charged for the materials.

F. Default Judgments:

1. If the Respondent does not appear at the hearing, a default judgment will issue against the Respondent.
2. A copy of the judgment shall be sent by the court clerk to the Respondent.
3. The Respondent shall have thirty (30) calendar days to pay the judgment.
4. Unpaid judgements will be processed for collections by any legal means.

G. Modified, Correct or Vacate:

1. The Respondent may make a written request within thirty (30) days of the order/judgment being issued that one of the following actions be taken by the court:
 - a. Modify or amend a judgment in the interest of justice;
 - b. Amend to correct an error that substantially changes or affects the outcome of the case or the rights of the party;
 - c. Vacate the order/judgment based on a procedural error or new information that was not available at the time the order/judgment was entered.

RULE 20. TELEPHONIC HEARINGS AND APPEARANCES

A. A party or necessary person may appear telephonically at any scheduled hearing, after a request and order of the court.

The request must be filed at least ten (10) business days prior to the hearing and served personally or electronically through email (with the party's consent) on all parties.

1. The opposing party may object to the request to appear telephonically for the hearing and must submit the objection no later than five (5) business days prior to the hearing and served personally or electronically through email (with the party's consent) on all parties.
2. The court will determine if there is good cause that outweighs any prejudice to the opposing party and will issue an order.

3. If the request is denied, the party requesting the telephonic appearance shall appear personally.
- B. Discretion of the court:
1. All requests are approved at the discretion of the court; however, a late request or a request that is not served on the opposing party, will not be granted except in emergency circumstances or when a continuance is not practicable or would not serve the interest of justice.
- C. A party may request a hearing in a shorter time frame or outside of the normal Court Docket (emergency hearing) with the understanding that the hearing will likely be held telephonically.

RULE 21. *FORMAT OF DOCUMENTS/PLEADINGS*

- A. The general requirements for a pleading to be filed in the court are:
1. Typed, printed or legibly handwritten in ink;
 2. Font is a minimum of 12-point Times New Roman or similar;
 3. White paper that is 8 1/1 inches by 11 inches;
 4. Original plus 2 copies shall be filed with the court clerk;
- B. A page limit of 20 pages, excluding a table of authorities/table of cases, statutes and authorities cited and table contents with page references, shall not be exceeded except with permission of the judge.
1. Exhibits in excess of ten (10) per party must be pre-marked and all exhibits shall be coordinated with the court clerk prior to the trial;
 2. Exhibits that are less than ten pages may be marked by the court clerk at the time the each exhibit is presented.
- C. Signed by the party filing the document – one copy must be the original signature. An attached Declaration of Service is required for all documents filed with the court unless excluded by an applicable ordinance, these Rules or specifically by the court.
- D. Forms provided by the court should be used whenever possible and any court form shall not be altered except to insert the requested information.
- E. Amendment of the Pleadings: The court, in its sole discretion, may grant any party a reasonable time, not to exceed ten (10) days to amend any pleading.

RULE 22. *PETITION OR COMPLAINT*

- A. The document that is the written notice to the court and the other party that court action is being initiated.

- B. The information necessary in the Petition includes:
 - 1. The identity and contact information for the Petitioner and the Respondent;
 - 2. A statement by the Petitioner describing the facts of the case;
 - 3. A statement by the Petitioner describing what the court is being asked to do to resolve the case including orders to prevent further harm, restitution for damages, costs to file the case and attorney's fees if applicable; and
 - 4. A statement of the tribal law (written or customary) that was or will be violated.
- C. Three copies of the Petition/Complaint shall be filed and one Conformed Copy shall be returned to the Petitioner.

RULE 23. SUMMONS

- A. A summons is a separate document advising a person or entity that they have been named as a defendant or cross-defendant in a lawsuit. The form also reflects the power of the court to hear the case.
- B. A summons, if applicable, is issued by the court clerk and is served on the party along with the Petition/Complaint. (See Summons in Definitions)

RULE 24. RESPONSE/ANSWER; AMENDMENT

- A. Response:
 - 1. The Respondent may file a written Response or provide a response at the scheduled hearing.
 - 2. The Response, shall address/answer the claims in the Petition.
 - 3. The Response must be filed with the court and served on the Petitioner within thirty (30) days of receiving the Petition.
- B. Amended Papers:
 - 1. A party may, without leave of court, amend its papers once at any time before being served by a Response. Otherwise, a party may amend his/her papers only with permission of the court or by written consent of the adverse party.
 - 2. If a Petition is amended prior to service, the Petitioner must file the Amended Petition with the court clerk prior to service.

RULE 25. FORMS

- A. The court may develop and approve forms to be used by the parties, so as to improve the effectiveness and efficiency of the court's judicial process.
- B. Forms developed and approved are preferred over state forms; however, a filing shall not be rejected solely based on the format for use of a different form.

- C. Forms may be obtained from the Pala Tribal Court Clerk's Office or online from the Tribal Court website.

RULE 26. LATE FILINGS

- A. Documents filed after a deadline that was set by law or by the court through a court order. (Example: a motion is filed and the court orders a written response be filed by a specific date but the party files the response two days after the due date).
- B. Any document/pleading required by law (tribal ordinance or code) to be filed in a specific time frame and without a provision for discretion by the court, shall be stricken from the record by court order with the appropriate findings.
- C. Any document/pleading not required by law (tribal ordinance or code) to be filed within a specific time frame and the law provides that the court has discretion to accept the late filing, may be accepted as part of the court record by the court.
- D. Any document/pleading that has been required by a valid order of the court to be filed by a specific time frame may be stricken from the record or accepted by the court.
- E. The court shall determine whether the interest of justice is served by the acceptance of the filing and if there is a valid reason for the late filing.

RULE 27. SERVICE OF PROCESS

- A. Generally:
 - 1. Service shall be made upon a party or upon the party's attorney if they are represented by legal counsel that has filed with the Pala Tribal Court a Notice of Appearance in the applicable case.
- B. Personal Service:
 - 1. The petition or complaint must be served on the other party (or parties) to the action by personal service. This means that the papers must be delivered personally to the person being served by an individual who is over the age of 18 and not a party to the case.
 - 2. Substituted Service:
 - a. After two good-faith attempts of personal service, Petitioner/Plaintiff may use the method of substituted service.
 - b. Substituted service occurs, when, on the third attempt at personal service, the server leaves a copy of the Summons and Petition/Complaint with a person, over the age of 18, at the home or business of the Respondent/Defendant, and then mails by way of the U.S. Postal Service, a second copy to that home or business, addressed to the Respondent/Defendant, within five days of leaving the copy.

3. Personal Service to a law firm or business:

- a. means handing it to the attorney or to the party; or
- b. leaving it at her office with her clerk or other person in charge; or
- c. if there is no one in charge, leaving it in a conspicuous place;
- d. if the office is closed or the person to be served has no office, leaving it at his/her dwelling house or usual place of residence with a person residing at the residence and who is of suitable age and discretion to give the copy to the party.

C. Subsequent Mail Service:

1. After personally serving the initial documents (petition/complaint and summons), future services may be accomplished by first class mail.
2. Service by Mail: Three (3) additional days, excluding Saturdays, Sundays and tribal holidays, shall be added to any required time period when service is accomplished by mail.

D. Service by Publication or Posting:

1. Upon the unsuccessful service by any of the above means, Petitioner/Plaintiff may, in writing, request an Order Granting Permission to Serve by Publication or Posting.
2. The written request shall include an affidavit signed by the server, under penalty of perjury, describing the good-faith but failed attempts in detail (including dates and times) to personally serve the Respondent/Defendant.
3. Upon a finding of good cause, the court may grant permission to service the Respondent/Defendant by publication or posting, as it deems fair and just.
4. To prove service by publication, a party must file a Declaration of Publication from the publishing newspaper and a copy of what was published.

E. Declaration of Service:

1. The person serving the other party or attorney in a case must sign a sworn statement, known as a "Declaration of Service," as to specific time and place of the service, the name of the person served, and the title of all documents served. The Declaration of Service must be filed with the court.

RULE 28. INITIAL HEARING

- A. The court may schedule an Initial Hearing to determine if the case should proceed, giving the parties an opportunity to address the court.
- B. The pre-trial or trial will be scheduled at the conclusion of the Initial Hearing.
- C. The court may request the parties file or provide additional information.

-Office of the Secretary-

RULE 29. *TRANSFER CASES*

- A. In some cases, a case in the Pala Tribal Court may begin with the transfer of a case from another jurisdiction, for example some juvenile cases.
- B. In transfer cases, the Petition or Citation will conform to the controlling ordinance or law in the jurisdiction where the case was initiated.
- C. A Pala family court case may be transferred to state court only where the parents/guardians agree to such a transfer.

RULE 30. *CONTINUANCES*

- A. Continuances of hearings and trials are disfavored and will be granted only upon a showing of good cause, and on a request, in writing, made as far in advance of the hearing as reasonably possible.
- B. Copies of requests shall be served on all other parties by the party requesting the continuance and a Declaration of Service shall be filed with the court clerk.
- C. In determining whether or not there is good cause to grant a request for a continuance, the court may consider, among other things, the reason claimed, the timing of the request, the relative importance of having the hearing or trial at the scheduled time, and whether or not the requesting party has requested previous continuances. This list is not exclusive.

RULE 31. *FAILURE TO APPEAR; SANCTIONS*

- A. If a party or parties fail(s) to appear at a properly scheduled and noticed hearing or trial, the court, at its discretion, may impose sanctions.
- B. The sanctions may, depending on the circumstances, include entering a ruling in favor of the appearing party or parties with or without sanctions, or a continuance of the hearing or trial with or without sanctions. Sanctions for failing to appear may include a fine, community services, limits on access to services, or other fair sanctions as deemed just and proper by the court.

RULE 32. *CONTEMPT OF COURT*

- A. Conduct that defies the authority or dignity of the court, or interferes with the administration of justice, may be found to be in Contempt of court. Contemptuous conduct includes but is not limited to:
 - 1. Perjury, disorderly or abusive behavior towards the judge or court employees, or other person participating in a court proceeding, disobedience of a court order or subpoena, or disobedience of these Rules including rules governing courtroom conduct and dress.

B. Direct Contempt:

1. If contempt is committed in the presence of the judge in open court, the judge may issue sanctions immediately.

C. Indirect Contempt:

1. If contempt is committed outside the court, or not in the judge's presence, the Party seeking the contempt finding will file a Motion for Contempt pursuant to these Rules governing motions. The court, at its discretion, may also calendar an Order TO Show Cause hearing to provide the alleged party an opportunity to show why they should not be held in contempt.

D. Sanctions:

1. If the court finds a person in contempt, either direct or indirect, the court may impose an appropriate sanction including, but not limited to, a verbal or written warning, exclusion from the court, a fine, community service, or any other sanction that the court deems just and proper.
2. Criminal sanctions shall not be ordered in civil cases, unless extenuating circumstances exist that would allow such sanction to be enforceable by any court of competent jurisdiction.

RULE 33. DISMISSALS

A. Voluntary Dismissal:

1. The Petitioner may file a motion to dismiss a case at any time, prior to the pre-trial conference.

B. Involuntary Dismissal:

1. The effect of the failure of the plaintiff to move forward with the case or comply with these rules or any order of the court, the other party may move for dismissal of an action or of any claim.

C. Discretion of the court:

1. This rule is not a limitation upon any other power that the court may have to dismiss or reinstate any action upon motion or otherwise.

D. Dismissal on Court Clerk's Motion:

1. If no action has occurred in a civil case for a period of twelve (12) months, the court clerk shall notify the parties or attorneys of record by mail that the court intends to dismiss the case for lack of action unless within thirty (30) days following the mailing of the notice, a party or attorney of record acts by notifying the court through the filing of an update on the status.

RULE 34. MOTIONS

- A. Motions must be written unless the party asserting an oral Motion has permission from the court, after the opposing party has had an opportunity to object.
1. Written Motions must be filed with the court and served on all of the parties in the case, a Declaration of Service must be attached at the time of filing.
 2. Oral or spoken motions may be made during a court hearing or trial, where the circumstances do not allow for the motion to have been made in writing, but are allowed at the discretion of the court.
- B. Forms of Motions/Responses/Replies:
1. Brief statement of the party's request
 2. Statement of Grounds:
 - a. The brief statement of the basis for the filing that details the party's request to the court, the relevant background and the reason or argument the party is presenting by filing document.
 3. Statement of Issues:
 - a. The clear statement of law that the party is relying on to support his argument.
 4. Evidence:
 - a. The motion will clearly state the admissible evidence the party is submitting for the court's consideration.
 5. Statement of Witnesses or Parties. Affidavits or declarations in support of any factual contentions in the motion.
 6. A request for a motion hearing or a statement that a hearing is not requested.
 7. Declaration of Service: will be filed with the motion or response document.
- C. Time Requirements:
1. Motions must, be filed and served at least ten (10) calendar days before the next hearing in the case.
 2. Where no hearing has been scheduled, the party making the written motion may ask the court to grant the motion without a hearing, or may ask the court to set a hearing.
 3. Motions must be served by the party filing the motion according to Rule 27.

4. Motions must be served to the other party and filed with a Declaration of Service attached.
5. Shortened time request.
6. Exceptions:
 - a. The court may find good cause to issue an exception to the time requirements for filing.

D. Response:

1. Oppositions to motions must be filed and served within seven (7) calendar days after receipt of the motion.
2. Failure to respond to a motion within the allowed time will result in the court ruling on the motion filed.

E. Reply:

1. The party filing the motion may file a Reply to the Opposition that is limited to the claims and issues in the Response. A Reply is not required but if filed must be filed and served within five (5) business day of the service of the Response.

F. Motion for Reconsideration:

1. Any party may, after a final order has been issued on an issue, request the court reconsider a decision that significantly affects the case resolution, rights of the party or the rights of any other person affected (such as a minor).

G. Evidence supporting motions must be admissible evidence.

H. Motion Hearings:

1. A motion hearing is scheduled by the court that all parties are required to attend;
2. Hearings on motions are not scheduled automatically.
3. Any motion or related document filed must indicate whether a party is requesting a hearing be scheduled by the court to argue the motion.

RULE 35. DISCOVERY

A. Reserved.

Section 6 Rules of Evidence

RULE 36. FEDERAL RULES OF EVIDENCE

- A. The Federal Rules of Evidence shall be used as a tool to assist in the court's decisions regarding the admission or exclusion of evidence and to achieve substantial justice.

RULE 37. OBJECTIONS; PERJURY

- A. An Objection is a statement, verbal or written, opposing something happening in court or in relation to an open case.
- B. A verbal Objection made in court during a proceeding will be ruled on by the judge to either:
 - 1. Upholding and to stop the questioning or action;
 - 2. Require an offer of proof or;
 - 3. Overrule the objection and allow the questioning or action to continue.

RULE 38. EVIDENCE AND TRIBAL CUSTOM

- A. Tribal Custom:
 - 1. In the absence of written Tribal Law pertaining to a case before the court, the court may apply tribal customs and where any doubt arises as to the customs of the Tribe the court may request the advice of elders or other credible individuals familiar with those customs.

RULE 39. JUDICIAL NOTICE

- A. Types of Facts:
 - 1. The court may at any time in a proceeding take judicial notice of an adjudicative fact that is not subject to reasonable dispute in that it is either generally known within the territorial jurisdiction of the court or is capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
- B. When Discretionary:
 - 1. A judge may take judicial notice, whether requested or not.
- C. When Mandatory:
 - 1. A judge shall take judicial notice if requested by a party and supplied with the necessary information.
- D. Opportunity to Be Heard:
 - 1. A party is entitled upon timely request to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.

RULE 40. PRESENTATION IN COURTROOM; PHOTOS AND RECORDING

- A. IT Equipment Use in Courtroom:
 - 1. The courtroom is equipped with monitors and electrical outlets. It is the responsibility of the parties to provide electrical cords and any other electronic equipment for use in the courtroom during hearings.

- B. Any party who wishes to replay video or audio must coordinate with Pala's IT Department to ensure the files/equipment is compatible with the equipment in the courtroom and advise the clerk of the intention to use the equipment in advance of the hearing.

RULE 41. PHOTOGRAPHY, VIDEO AND RECORDING

- A. Photography, video and/or audio recording are not allowed in the courtroom during and between sessions, unless:
 - 1. Permission has been expressly granted by the judge presiding over the hearing; and
 - 2. Media personnel will not, by their appearance or conduct, distract participants in the proceedings or otherwise adversely affect the dignity and fairness of the proceedings.

RULE 42. FOREIGN JUDGMENTS

- A. Application:
 - 1. Any person may apply to the court by written application for an order transferring a civil judgment from another tribal court or a state or federal court as a judgment of the court.
- B. Review by court:
 - 1. The judge shall review the application within five (5) days of its filing. The judge shall then decide whether to enter the judgment of the Foreign Court as a Pala Tribal Court judgment.
 - 2. Unless otherwise provided by the Tribe's law and policies, the judge shall have discretion regarding this matter and shall be guided by the best interests of the Tribe and parties.
- C. Payment of Judgment:
 - 1. Upon the entry of the order declaring the Foreign Court's judgment to be entered as a judgment of the Pala Tribal Court, all provisions of these Rules of Court regarding judgments and execution shall be applicable.
 - 2. The court shall issue a satisfaction of judgment once the judgment has been paid in full.

Section 7 Judicial Conduct

RULE 43. INTEGRITY AND INDEPENDENCE OF THE JUDICIARY

- A. Performance of Duties Impartially and Diligently: All judge presiding in the Pala Tribal Court shall perform their duties with impartiality and diligence to the best of her ability.
- B. Judges of the Pala Tribal Court are held to the standards of conduct contained in the California Code of Judicial Conduct which is incorporated by reference to these Rules of Court.

RULE 44. JUDICIAL DISQUALIFICATION AND RECUSAL

A. Impartiality:

1. No judge shall be qualified to act as such in any case where the judge has any direct interest in the case, personal bias, or prejudice concerning a party, or his impartiality might reasonably be questioned as to influence the court's decision.

B. Affidavit of Prejudice:

1. The party seeking disqualification of a judge shall file a Motion to Disqualify. Such motion shall contain a Declaration shall set forth facts establishing that due to the alleged bias or prejudice of the judge to whom the case is assigned, the case cannot proceed fairly.

C. Timing:

1. A motion to disqualify must be filed as soon as the party is aware or should have been aware of the judge's identity and/or of the facts that would disqualify the judge presiding over the case.

D. Decision:

1. The judge shall provide a written order either granting or denying the motion to disqualify with findings of facts within five (5) business days of the FILED date of the motion.

Section 8 Definitions

RULE 46. DEFINITIONS

A. The Rules of Court and Rules of Civil Procedure shall be interpreted using the following definitions:

1. *Adjudicated* means a formal decision, based on the evidence and record in a case, that is decided by a judge.
2. *Answer* means a written or verbal response to a complaint intended to be filed or entered in a case.
3. *Complaint* means a formal written document that alleges a cause of action against a party that documents the name of the parties, the substance of the allegations, and the party's request for a resolution.
4. *Conference Hearing or Pre-Trial Conference* means a hearing generally held off the record with the purpose of simplifying the case through a discussion of the facts and issues in dispute and evidence to be admitted.
5. *Conformed Copy* means a copy that the court clerk has stamped with the filing date and indication of the clerk receiving it. The conformed copy may or may not be certified (guaranteed to be a true copy of the original).

6. *Contempt of Court* means the willful disobedience of a court order or the disrespect of the court or its judge, in or outside of the courtroom (e.g. follow a court order or committing perjury).
7. *Continuances* means rescheduled hearings or delayed deadlines generally at the request of a party and granted only if the party makes a showing of Good Cause to the court.
8. *Court* means the Pala Tribal Court.
9. *Declaration of Service* means an affidavit signed by a process server or a person over the age of 18 years, not a party to the case, who serves legal papers (e.g. a Petition, Subpoena or Motion) on the other party, either by personal, substitute, mail or publication. The signer declares the specific date, time and location where the service occurred, the name of each document served, with language that the server is signing the declaration under penalty of perjury.
10. *Default* means the failure to fulfill an obligation, such as appear in court.
11. *Default Judgment* means an order entered against a party for the other party based on the defaulting party's failure to appear in court after proper notice.
12. *Evidence* means testimony from a witness or party, real or physical items used to prove or disprove a fact in court.
13. *Fine* means a consequence of a violation of law that requires the payment of money.
14. *Good Cause* means a legally sufficient reason for a judge's decision or ruling.
15. *Judgment* means a final decision by the judge in a legal case before a court.
16. *Judgment Creditor* means a party that was awarded a monetary judgment by the court. After the judgement is awarded, the party becomes the judgment creditor.
17. *Judgment Debtor* means the party that the court has entered a monetary judgment against. After the judgment is awarded, the party becomes the judgment debtor.
18. *Legal Advice* means the advice that may be given by an attorney and may not be given by court staff or court clerks. (Example: giving advice on decisions that will affect the legal status or rights of a person is legal advice; providing the correct form to file for a specific type of case is the job of the clerk).
19. *Motion* means a request to the court for an order either directing the other party to do something or not do something, or it may seek other court action.
20. *Motion Hearing* means a hearing requested by a party filing a motion (asking the court to order something in the pending case) or scheduled by the court, on its own, to allow the parties to tell the court their positions before a decision is made to grant or deny the motion.

21. *Opposition* means the written objection to a Motion that is filed with the court.
22. *Order* means the decision issued by the court that can be a simple command or can be a more complicated and written decision after a hearing directing that a party either stop specific conduct or an order to do something related to the case.
23. *Petitioner* means the person who is filing the first document with the court clerk and is requesting the court to take action against another party that is usually the Respondent.
24. *Pleadings* means any legal document that is filed with the court including a petition, answer, response, motion, declaration and any other document that is meant to be considered by the court and drafted by a party.
25. *Redact* means black out information contained within a document. Generally, this is only allowed if it is specified in a code or rule of court or by permission of the court. (Example: information that is confidential may be redacted in a report before it is provided to the other party such as the protected person's confidential address noted in a police report.
26. *Respondent* means the party who is being sued or must respond to the petitioner's filings in the case. (Respondent and defendant are sometimes used interchangeably in various courts)
27. *Response* means the respondent/defendant's written submission to the court after the respondent has been served with the Petition that addresses the allegations in the Petition.
28. *Seal* means the court clerk's stamp or embossed mark used to identify original court documents or certified copies.
29. *Service and Service of Process* means the delivery of copies of legal documents such as petitions, comments, subpoenas and certain other documents usually by personal delivery (personal service) or by mail (service by mail) to the respondent or other person to whom the documents are directed. In certain cases where the respondent cannot be located, the court may allow service by publication of a notice (publication notice). After the party has filed the complaint, response or any pleading in a lawsuit, further documents are usually served by first-class mail or electronically (only with permission of the party being served).
30. *Subpoena* means a document ordering a party to appear before a judge and testify or to produce documents, things as evidence for a legal proceeding.
31. *Summons* means a form issued by the court that informs the respondent that he has been sued and requires that the respondent to file a response or appear in person on an appointed day for the scheduled hearing. If the respondent refused to act or appear, she will risk having a default entered against her. (Example: failing to appear for a trial may result in a default judgment ordering damages or other relief the

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opposing party requested). A *Summon* issued to a witness, records custodian or other person is a request for them to appear or provide records when the person, business or entity is located outside of the jurisdiction of the court to issue a subpoena.

32. *Trial* means a hearing held after the initial document (petition or complaint) has been filed and the response or answer has been filed. The parties have exchange discovery and are prepared to present evidence and question witnesses before the court so the judge can decide the case. (Example: an order that is no longer necessary may be vacated or set aside so it is in no longer a valid order of the court)

Section 9 Amendment; Effective Date

RULE 47. AMENDMENT OF POLICY


- B. This Policy may be amended by a majority vote of those members present at a duly-noticed Executive Committee meeting at which a quorum is present.


RULE 48. EFFECTIVE DATE

- C. This Policy shall become effective on the day it is approved by the Executive Committee of the Pala Band at a duly-noticed meeting at which a quorum is present.
- D. The effective date shall not be applied retroactively or to any case active on the effective date, if the rights of any party would be violated or justice could not be achieved solely based on the effective date of the Rules.

CERTIFICATION

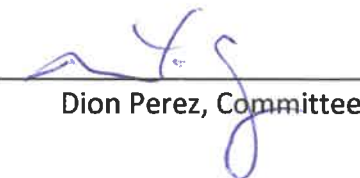
We, the undersigned members of the Executive Committee, do hereby certify that this policy was adopted at a duly called regular meeting of the **Executive Committee**, at which a quorum was present, on this **27th** day of **February, 2019** by a vote of 5 in favor, 0 opposed, and 0 abstaining.


Robert H. Smith, Chairman


Anthony J. Ravago, Sr. Vice Chairman


Theresa J. Nieto, Treasurer


Theressa Villa, Secretary


Dion Perez, Committee




Shelia L. Smith-Lopez, Committee

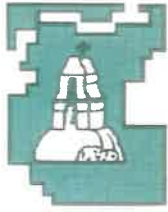
-Office of the Secretary-

EXHIBIT A

**Pala Tribal Court
FEES AND COSTS SCHEDULE**

TYPE OF CASE OR FILING	FEE OR COST
Guardianship (parent(s) in agreement)	\$75 to \$100
Guardianship (parent(s) not in agreement)	\$100 to \$250
Adoption (parent(s) in agreement) – Tribal Customary Adoption	\$100 to \$250
Adoption (parent(s) not in agreement) the fee includes the involuntary termination of parental rights	\$200 to \$350
Child Support (parties in agreement)	\$50 to \$75
Child Support (parties not in agreement)	\$100 to \$250
Termination of Parental Rights	\$100 to \$250
Civil Violation – payment plan request (if a hearing is required)	\$40
Electronic filing (in addition to the case type filing fee)	\$50
Copying costs	Party to the case .25 per page (black and white) Party to the case .50 per page (color) Non-party .50 per page (black and white) Non-party .75 per page (color)
Additional copies of certified court documents (includes copying costs)	\$10

Exhibit B



PALA TRIBAL COURT
34890 Lilac Extension Rd.
Pala, CA 92059
(760) 742-0583

INCOME AFFIDAVIT AND REQUEST FOR FEE WAIVER

1. Case Type: ☐ Guardianship ☐ Adoption ☐ Custody ☐ Other: _____
2. Your information:
 - a. Name: _____ DOB: _____
 - b. Address (mailing and physical): _____
 - c. Phone: _____ Email: _____
 - d. Case # _____ (if a case number has not been assigned, leave blank)
 - e. Tribal Affiliation: ☐ I am a Pala Tribal Member, eligible for membership or a first-generation descendant.
☐ I am a member of another federally recognized tribe
☐ I am non-Indian
3. ☐ I am requesting a waiver of fees because I am an elder (55 or older). **(Go to page 3, sign and date the application – no further information is necessary)**
4. ☐ I am requesting a waiver of fees because I have a financial hardship or am low-income and I have listed my sources of income or support below.
5. ☐ I am requesting a waiver of fees because I am primarily supported by public assistance which I have listed below along with any other sources of income or support:

Please list all sources of public assistance:

1)

2)

3)

**If verifiable public assistance is the household's only income, go to page 3, sign and date the application
(no further information is necessary)**

Please list all other sources of income or support:

Source of Income	Amount	Taxable (Y/N)

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6. Number of people in the home (including **ALL** income earners and legal dependents): _____
 List **ALL persons** in the household and indicate for each either income earners and/or legal dependents:

Name	Age	Relationship	Income Earner (Y/N)	Legal Dependent (Y/N)

(please attach additional information, if more space is needed)

7. **MONTHLY PAYMENTS.** Itemize monthly rent, installment payments, mortgage payments, child support, etc. Itemize **in detail** your monthly payments (e.g., mortgage payments, rent, utilities, food, installment payments, credit card payments, etc.) Do **not** include child support in this section.

Payable to:	Monthly Payment is for:	Total owed:	Payment Amount
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
Total Monthly payments:		\$	

8. Child Support Payments

Amount of Arrears:	Court Name	Case Number	Monthly payment amount
			\$
			\$
			\$
Total Monthly Child Support:		\$	

9. List ALL other court ordered payments:

Purpose of payment or payee:	Court Name	Case Number	Amount
			\$
			\$
			\$
			\$
Total Monthly Court Ordered Payments:			\$
TOTAL OF ALL MONTHLY PAYMENTS:			\$

I swear or affirm under penalty of perjury that the information provided above is true to the best of my information, knowledge and belief.

Date

Affiant's Signature

The above-named party personally appeared before me and signed this *Affidavit* certifying the information contained herein is true. (Notarized acknowledgment required if Affidavit is mailed to the Court)

Date

Signature of Court Staff

ACKNOWLEDGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

THE STATE OF _____, COUNTY OF _____

On _____ 20____ before me, _____
(insert name and title of the officer)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within *Affidavit and Waiver of Filing Fee*, and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument. I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

Given under my hand and seal of office, this day of _____, 20____.

SEAL:

Signature: _____

-Office of the Secretary-

Exhibit C

SLIDING SCALE FOR COURT FEES AND COSTS

The household income will be considered for a partial waiver of court costs and fees according to the following scale.

2019 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA			
PERSONS IN FAMILY/HOUSEHOLD	POVERTY GUIDELINE	INCOME RANGE OVER GUIDELINE TO 150%	INCOME RANGE OVER GUIDELINES TO 180%
Amount of reduction in costs and fees	50% waiver of court costs and fees	40% waiver of court costs and fees	30% waiver of court costs and fees
1	\$12,490 or less	\$12,491 - \$18,735	\$18,736 - \$22,482
2	\$16,910 or less	\$16,911 - \$25,365	\$25,366 - \$30,438
3	\$21,330 or less	\$21,331 - \$31,995	\$31,996 - \$38,394
4	\$25,750 or less	\$25,750 - \$38,625	\$38,626 - \$46,350
5	\$30,170 or less	\$30,171 - \$45,255	\$45,256 - \$54,306
6	\$34,590 or less	\$34,591 - \$51,885	\$51,886 - \$62,262
7	\$39,010 or less	\$39,011 - \$58,515	\$58,516 - \$70,218
8 ¹	\$43,430 or less	\$43,431 - \$65,145	\$65,146 - \$78,174

Example of how the sliding scale applies: A person is filing a Guardianship Petition (the parent is not in agreement) and the Filing Fee is \$170. The family has 4 members and the total income for the family is \$35,000 annually. The fee would be reduced to \$102 (reduced by 40%)

¹ For families/households with more than 8 persons, add \$4,420 for each additional person.

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