

TITLE 5. DISPUTE RESOLUTION

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TITLE 5. DISPUTE RESOLUTION**ARTICLE I****GENERAL PROVISIONS**

[NOTE: Except as otherwise noted, the provisions of Article I, Title 5 were enacted on June 9, 2004 by Res. No. 12-2004.]

CHAPTER 1. DEFINITIONS AND CONSTRUCTION**Sec. 5-1101. Definitions.**

Unless the context requires otherwise or a different definition is provided for a particular Article or Chapter, as used in this Title:

- (a) “Attorney for the Tribe” means the general legal counsel for the Tribe.
- (b) “Chief Judge” means the Chief Judge of the Trial Court.
- (c) “Chief Justice” means the Chief Justice of the Court of Appeals.
- (d) “Court of Appeals” means the Court of Appeals of the Tribal Court established by Article II of this Title.
- (e) “Judge” means a judge of the Trial Court of the Tribal Court duly appointed pursuant to Article II of this Title.
- (f) “Justice” means a justice of the Court of Appeals of the Tribal Court duly designated pursuant to Article II of this Title.
- (g) “Trial Court” means the Trial Court of the Tribal Court established by Article II of this Title.
- (h) “Tribal Court” means the Sac & Fox Tribe of the Mississippi in Iowa Tribal Court established by Article II of this Title.
- (i) “Tribe” means the Sac & Fox Tribe of the Mississippi in Iowa and its Tribal Council, commissions, boards, agencies, departments, divisions, instrumentalities, economic enterprises, Tribal Council members, commissioners, board members, officials, agents, officers and employees.

Sec. 5-1102. Construction of Title.

Nothing in this Title shall be construed as a waiver or diminution of or limitation upon the inherent sovereign authority of the Tribe or the jurisdiction of the Tribe.

CHAPTER 2. MISCELLANEOUS**Sec. 5-1201. Sovereign Immunity.**

Subject to the provisions of Section 5-5101 of this Title, nothing in this Title shall be construed as limiting, waiving or abrogating the sovereignty or the sovereign immunity of the Sac & Fox Tribe of the Mississippi in Iowa or any of its agencies, departments, officials or employees.

Sec. 5-1202. Severability.

If any article, chapter, section or provision of this Title or amendment made by this Title is held invalid, the remaining articles, chapters, sections or provisions of this Title and amendments made by this Title shall continue in full force and effect.

TITLE 5. DISPUTE RESOLUTION**ARTICLE II****ESTABLISHMENT AND ORGANIZATION OF COURTS****LEGISLATIVE HISTORY:**

[NOTE: Except as otherwise noted, the provisions of Article II, Title 5 were enacted on June 9, 2004 by Res. No. 12-2004.]

[NOTE: Except as otherwise noted, the provisions of Article II, Title 5, Chapter 2, Sec. 5-2202; Chapter 3, Sec. 5-2302; Chapter 4, Sec. 5-2403 was amended and adopted on May 5, 2015 by Res. No. 10-2015, This shall supersede all prior provisions of the original chapters 2, 3, 4.]

CHAPTER 1. IN GENERAL**Sec. 5-2101. Establishment of Tribal Court.**

[NOTE: Pursuant to Resolution No. 12-2004, the provisions of this Section may only be amended or repealed by the qualified voters of the Tribe in a meeting of the Tribe and no ordinance enacted by the Tribal Council, whether prior to or subsequent to the enactment of this Section, shall be read or construed to abridge, enlarge, diminish, or modify any right granted by this Section, but the Tribal Council may add sections and subsections to this Section in a proper exercise of its power to adopt ordinances.]

There is hereby established an integrated judicial department to be known as the Sac & Fox Tribe of the Mississippi in Iowa Tribal Court and consisting of a Court of Appeals, a Trial Court, and such lower or intermediate courts as the Tribal Council deems necessary which shall resolve disputes as provided by the laws of the Tribe.

Sec. 5-2102. Authority of Tribal Court.

Except as otherwise provided by the laws of the Tribe, the Tribal Court shall exercise all judicial and dispute resolution powers of the Tribe, subject only to the limitations provided in the laws of the Tribe.

Sec. 5-2103. Objective of Tribal Court.

(a) Except where limited by the laws of the Tribe, it shall be the objective of the Tribal Court and the duty of all Judges and Justices of the Tribal Court in resolving all matters before the Tribal Court to discover and determine the truth and, to the extent possible, to seek a resolution which restores balance to the community in accordance with the customs and traditions of the Tribe, repairs relationships, results in fairness, and avoids principles of retribution and punishment.

(b) Except where limited by the laws of the Tribe, the objective of the Tribal Court and the duties of Judges and Justices described in this Section shall take precedence over any strict adherence to law or technical standards.

Sec. 5-2104. Courts of Record.

(c) The Court of Appeals and the Trial Court shall be courts of record.

(d) The Tribal Council may designate other lower courts of the Tribal Court as courts of record upon the establishment of such lower courts.

Sec. 5-2105. Records.

(a) The Tribal Court shall keep and maintain accurate, complete and detailed records of all proceedings before it, including either transcripts or audio tape or audio electronic recordings of all such proceedings; except that Panel of Elder proceedings shall not be recorded or transcribed without approval of the Panel.

(b) Except where the law provides otherwise, records of the Tribal Court shall be available for public inspection during regular business hours. Copies of such records may be obtained by payment of such copying costs as may be established by the Court of Appeals.

Sec. 5-2106. Appropriations.

(a) The Tribal Council shall appropriate and authorize the expenditure of Tribal funds for the operation of the Tribal Court consistent with the needs of the Tribal Court for proper administration of justice within the Settlement and for the Tribe.

(b) The Tribal Council may prescribe a system of accounting for funds received from any source by the Tribal Court.

CHAPTER 2. COURT OF APPEALS

Sec. 5-2201. Composition of Court of Appeals.

The Court of Appeals shall be comprised of a Chief Justice and such Associate Justices as are required. The Chief Justice shall be appointed by the Tribal Council for a term of four years. The Associate Justices shall be selected from the judges of the Trial Court, *provided* that no judge of the Trial Court shall serve on a panel of the Court of Appeals involving an appeal or review of that judge's judgment, order, or decision.

Sec. 5-2202. Qualifications of Chief Justice.

(a) In addition to any other qualifications the Tribal Council may set, the Chief Justice shall be:

- (1) At least 25 years of age;
- (2) A person of honor;
- (3) Law abiding;
- (4) A person of good character;

(5) Have no less than one year of experience as a judge of a court of an Indian tribe, whether as a trial judge, family court judge, or a appellate judge; or have at least five years experience as an attorney, lay advocate, or judge coupled with a demonstrable knowledge of laws related to Indian tribes;

(6) Hold a Juris Doctor degree from an accredited American Bar Association law school; and

(7) Be a member in good standing with any state bar and admitted or eligible for admission to practice law in Iowa, and admitted or eligible for admission to practice in the Meskwaki Tribal Court.

(b) The Chief Justice shall not:

(1) Have pled guilty, nolo contendere, no contest, or been convicted of any felony or other crime of moral turpitude;

(2) Have pled guilty, nolo contendere, no contest, or been convicted of any misdemeanor, except minor traffic violations, within one year immediately preceding his appointment;

(3) Have had the right to practice law before any court or other tribunal revoked or otherwise been disciplined by any court or other tribunal before which he has appeared; or

(4) Also be the Clerk of Court or assistant thereto, a member of the staff of the Tribal Court, or a member of the Tribal Council during his term as Chief Justice.

(c) The Chief Justice shall swear or affirm the following oath before the Tribal Council or its designee:

“I, _____, do solemnly swear [or affirm] that I will support and defend the Constitution of the Sac & Fox Tribe of the Mississippi in Iowa and the Constitution of the United States against all enemies; that I will carry out faithfully and impartially the duties of my office to the best of my ability with impartiality and without improper favor to the end that justice may be fully served; that I will cooperate, promote and protect the best interests of the Sac & Fox Tribe of the Mississippi in Iowa in accordance with the Constitution and Bylaws of the Sac & Fox Tribe of the Mississippi in Iowa.”

[NOTE: Except as otherwise noted, the provisions of Article II, Title 5 Chapter 2, Sec. 5-2202 were enacted on May 5, 2015 by Res. No. 10-2015.]

Sec. 5-2203. Compensation of Justices.

(a) The compensation of the Chief Justice of the Court of Appeals shall be set forth in the annual budget and shall be sufficient to attract and retain quality justices. The Chief Justice shall be

reimbursed for actual expenses related to his duties as Chief Justice, including necessary travel expenses. The compensation rate of the Chief Justice shall not be decreased during the term of the Chief Justice.

(b) The Associate Justices shall not be compensated for their services on the Court of Appeals beyond their compensation as Judges of the Trial Court.

Sec. 5-2204. Resignation and Removal of the Chief Justice.

[NOTE: Pursuant to Resolution No. 12-2004, the provisions of this Section may only be amended or repealed by the qualified voters of the Tribe in a meeting of the Tribe and no ordinance enacted by the Tribal Council, whether prior to or subsequent to the enactment of this Section, shall be read or construed to abridge, enlarge, diminish, or modify any right granted by this Section, but the Tribal Council may add sections and subsections to this Section in a proper exercise of its power to adopt ordinances.]

(a) The Chief Justice may resign by delivering a written resignation to the Tribal Council. Such resignation shall be effective upon receipt, unless otherwise provided by the terms thereof.

(b) Except for an action to compel the Chief Justice to forfeit office brought in accordance with the laws of the Tribe, the Chief Justice may only be removed by an affirmative vote of two-thirds of the eligible voters present at a meeting of the Tribe held in accordance with the laws of the Tribe and the provisions of this Section where no less than one half of the eligible voters of the Tribe appear and are present at the time of the vote. The Chief Justice may only be removed for one or more of the following reasons:

(1) Any act or other occurrence which, if it had occurred prior to the Chief Justice's appointment, would make the Chief Justice ineligible to serve;

(2) Excessive use of intoxicants which impairs the performance of the Chief Justice's duties;

(3) Any conduct which by standards generally applicable to judges could be deemed to be unbecoming to a judge or which might foster disrepute of or disrespect for the Tribal Court or otherwise adversely affect the integrity of the Tribal Court.

(4) Use of the office of Judge for personal gain, including bribery and kickbacks;

(5) Committing an offense which would require the Chief Justice to forfeit his office under Section 13-5508 of the Code or other law of the Tribe; or

(6) Nonfeasance, misfeasance, or malfeasance with regard to official duties.

(c) A meeting of the Tribe to remove the Chief Justice may be called by the Tribal Council as follows:

(1) Upon a petition to the Tribal Council for a meeting of the Tribe called for the sole purpose of determining whether the Chief Justice should be removed signed by no less than thirty percent of the eligible voters of the Tribe, *provided* that if the Tribal Council

refuses to call a meeting of the Tribe after the presentation of a valid petition, the qualified voters of the Tribe may conduct a meeting of the Tribe for the sole purpose of determining whether the Chief Justice should be removed in any manner otherwise permitted under the laws of the Tribe; or

(2) In a meeting of the Tribal Council where all seven members of the Tribal Council are present and at least five members of the Tribal Council vote in favor of calling a meeting of the Tribe for the sole purpose of determining whether the Chief Justice should be removed, *provided* that notice of such meeting of the Tribal Council, including the reason for such meeting, shall be posted at the Tribal government headquarters and otherwise distributed to the qualified voters of the Tribe at least five days prior to such meeting of the Tribal Council.

(d) In the event a meeting of the Tribe is called for the purpose of determining whether the Chief Justice should be removed, the Executive Director of the Tribe shall send a notice of such meeting to the Chief Justice, which shall include the following:

(1) The date and time of the meeting of the Tribe, which shall be no less than five days after the date of the notice;

(2) A description of the alleged basis for removal as provided in this Section;

(3) A statement of the alleged facts that support the basis for removal as provided in this Section; and

(4) A statement that the Chief Justice shall be permitted to appear at the meeting of the Tribe to be heard and defend himself.

(e) In the event of an affirmative vote at a meeting of the Tribe held pursuant to this Section, the removal of the Chief Justice shall be effective immediately. In the event an affirmative vote at a meeting of the Tribe held pursuant to this Section is not obtained, no meeting of the Tribe for the purpose of removing the Chief Justice shall be called prior to the date that is at least four months from the date of the previous meeting.

Sec. 5-2205. Recusal of Justices.

(a) A Justice shall recuse himself from sitting on the Court of Appeals in any proceeding:

(1) When the Justice was the judge who made the decision being reviewed by the Court of Appeals or otherwise participated in any proceedings of substance in the case being reviewed by the Court of Appeals; or

(2) For any of the reasons set forth in Section 5-2305.

(b) In the event recusal of Justices prevents a sufficient number of Justices being available to hear a particular matter, the Chief Justice shall designate sufficient judges pro tempore to compose a panel of the Court of Appeals, including, if necessary, one judge pro tempore to be Acting Chief Justice. Such Acting Chief Justice shall only have the authority to act as Chief Justice for the particular proceeding on which such Acting Chief Justice sits and the designation shall in no manner confer general authority to exercise the general powers of the office of Chief Justice beyond the matter being heard.

Sec. 5-2206. Seal.

(a) The Court of Appeals shall have a seal as devised and adopted by the Justices.

(b) The seal of the Court of Appeals shall be kept by the clerk of the Tribal Court or another designee of the Court of Appeals.

(c) The seal of the Court of Appeals need not be affixed to any proceedings in the Court of Appeals except a summons or a writ or authentication of a copy of a record or proceeding of the Court of Appeals or its officers for the purpose of evidence in another court or place.

Sec. 5-2207. Powers of the Court of Appeals.

The Court of Appeals shall have the following powers and duties:

(a) To regulate, by rule, the qualifications and standards of conduct of persons representing parties to disputes and other proceedings before the Tribal Court;

(b) To, from time to time, promulgate rules regulating pleading, practice and procedure in judicial proceedings before all Courts of the Tribal Court *provided* such rules shall not abridge, enlarge or modify substantive rights of persons appearing before the Tribal Court;

(c) To, from time to time, develop standard forms for use in judicial proceedings before all Courts of the Tribal Court;

(d) To, from time to time, promulgate rules and policies regulating the internal and administrative operations of the Tribal Court and its clerks and staff;

(e) To adopt, by rule, a schedule of reasonable filing fees and other charges for services rendered relating to transcripts and the furnishing or certifying of copies of proceedings, files and records;

(f) To apply fees and charges received to defray the administrative costs of the Tribal Court; and

(g) To exercise all other authority delegated to it by law or as may be reasonably necessary in the implementation of any provisions of this Title.

Sec. 5-2208. Powers and Duties of Justices.

- (a) Justices shall have the following authority:
 - (1) To administer oaths and affirmations; and
 - (2) To discharge the duties and exercise the authority conferred by law.
- (b) All Justices shall:
 - (1) Support the Constitution, By-laws and laws of the Tribe;
 - (2) Faithfully and impartially discharge the duties of the office;
 - (3) Observe and maintain high standards of conduct so that the integrity of the Tribal Court will be preserved;
 - (4) Be patient, dignified and courteous to those appearing before him or those the Justice deals with in his capacity as a Justice and shall require similar conduct of court officials subject to the Justice's direction and control;
 - (5) Accord every person in a proceeding the right to be heard in accordance with the law; and
 - (6) Dispose of all judicial matters promptly, efficiently, and fairly.
- (c) The Court of Appeals shall have administrative supervision over all the Trial Courts and judges of the Tribe.

Sec. 5-2209. Powers and Duties of Chief Justice.

- (a) The Chief Justice shall exercise the Court of Appeals' administrative supervision over all the Trial Courts and Judges.
- (b) The Chief Justice shall exercise administrative supervision of the Justices.

Sec. 5-2210. Actions of the Court of Appeals.

The Court of Appeals shall hear appeals from the Trial Court and otherwise act in accordance with the following:

- (a) A panel of three Justices shall be required to hear and decide any appeal or take any other final action properly before the Court of Appeals, *provided* that the Chief Justice, when he

deems it appropriate due to the importance of the matter or otherwise, may mandate that a panel of all Justices (excluding pro tem justices) preside over a matter properly before the Court of Appeals.

(b) The Chief Justice shall preside over all proceedings of the Court of Appeals and may make administrative and procedural orders without the participation of other Justices.

CHAPTER 3. TRIAL COURT

Sec. 5-2301. Composition of Trial Court.

(a) The Trial Court shall be comprised of at least three Judges, one of whom shall be designated by the Tribal Council as Chief Judge of the Trial Court, all appointed by the Tribal Council for a term of four years.

(b) The Tribal Council may appoint additional Judges as it deems necessary or appropriate in accordance with this Article.

(c) The Trial Court provided for in this article shall constitute a single court, composed of all the duly appointed Judges of the Trial Court. The judgments, decrees, orders, and proceedings of any session of the Trial Court held by one or more Judges shall have the same force and effect as if all the Judges of the Trial Court had presided.

(d) In the event a permanent vacancy occurs in the Trial Court which results in an insufficient number of Judges remaining on the Trial Court, the Tribal Council shall appoint another Judge in accordance with this Article to ensure the minimum number of required Judges under this Section. Such appointment shall not be amenable to change and succeeding Tribal Councils shall be bound by such selection absent formal proceedings for resignation, removal or recusal as set forth in this Code.

Sec. 5-2302. Qualifications of Judges.

(a) In addition to any other qualifications the Tribal Council may set, a Judge shall be:

- (1) At least 25 years of age;
- (2) A person of honor;
- (3) Law abiding;
- (4) A person of good character;

(5) Have no less than one year of experience as a judge of a court of an Indian tribe, whether as a trial judge, family court judge, or an appellate judge; or have at least five years experience as an attorney, lay advocate, or judge coupled with a demonstrable knowledge of laws related to Indian tribes;

(6) Hold a Juris Doctor degree from an accredited American Bar Association law school;

(7) Be a members in good standing with any state bar and admitted or eligible for admission to practice law in Iowa, and admitted or eligible for admission to practice in the Meskwaki Tribal Court.

(b) A Judge shall not:

(1) Have pled guilty, nolo contendere, no contest, or been convicted of any felony or other crime of moral turpitude;

(2) Have pled guilty, nolo contendere, no contest, or been convicted of any misdemeanor, except minor traffic violations, within one year immediately preceding his appointment;

(3) Had the right to practice law before any court or other tribunal revoked or otherwise been disciplined by any court or other tribunal before which he has appeared; or

(4) Also be the Clerk of Court or assistant thereto, a member of the staff of the Tribal Court, or a member of the Tribal Council during his term as Judge.

(c) Every Judge shall swear or affirm the following oath before the Tribal Council or its designee:

“I, _____, do solemnly swear [or affirm] that I will support and defend the Constitution of the Sac & Fox Tribe of the Mississippi in Iowa and the Constitution of the United States against all enemies; that I will carry out faithfully and impartially the duties of my office to the best of my ability with impartiality and without improper favor to the end that justice may be fully served; that I will cooperate, promote and protect the best interests of the Sac & Fox Tribe of the Mississippi in Iowa in accordance with the Constitution and Bylaws of the Sac & Fox Tribe of the Mississippi in Iowa.”

[NOTE: Except as otherwise noted, the provisions of Article II, Title 5 Chapter 3, Sec. 5-2302 were enacted on May 5, 2015 by Res. No. 10-2015.]

Sec. 5-2303. Compensation of Judges.

The compensation of Judges shall be set forth in the annual budget and shall be sufficient to attract and retain quality judges. Judges shall be reimbursed for actual expenses related to their duties as Judges, including necessary travel expenses. The compensation rate of a Judge shall not be decreased during the term of that Judge.

Sec. 5-2304. Resignation and Removal of Judges.

(a) Any Judge may resign by delivering a written resignation to the Tribal Council. Such resignation shall be effective upon receipt, unless otherwise provided by the terms thereof.

(b) Except for an action to compel a Judge to forfeit office brought in accordance with the laws of the Tribe, a Judge may only be removed by an affirmative vote of two-thirds of the eligible voters present at a meeting of the Tribe held in accordance with the laws of the Tribe and the provisions of this Section where no less than one half of the eligible voters of the Tribe appear and are present at the time of the vote. A Judge may only be removed for one or more of the following reasons:

(1) Any act or other occurrence which, if it had occurred prior to the Judge's appointment, would make the Judge ineligible to serve;

(2) Excessive use of intoxicants which impairs the performance of the Judge's duties;

(3) Any conduct which by standards generally applicable to judges could be deemed to be unbecoming to a judge or which might foster disrepute of or disrespect for the Tribal Court or otherwise adversely affect the integrity of the Tribal Court.

(4) Use of the office of Judge for personal gain, including bribery and kickbacks;

(5) Committing an offense which would require the Judge to forfeit his office under Section 13-5508 of the Code or other law of the Tribe; or

(6) Nonfeasance, misfeasance, or malfeasance with regard to official duties.

(c) A meeting of the Tribe to remove a Judge may be called by the Tribal Council as follows:

(1) Upon a petition to the Tribal Council for a meeting of the Tribe called for the sole purpose of determining whether the Judge should be removed signed by no less than thirty percent of the eligible voters of the Tribe, *provided* that if the Tribal Council refuses to call a meeting of the Tribe after the presentation of a valid petition, the qualified voters of the Tribe may conduct a meeting of the Tribe for the sole purpose of determining whether the Judge should be removed in any manner otherwise permitted under the laws of the Tribe; or

(2) In a meeting of the Tribal Council where all seven members of the Tribal Council are present and at least five members of the Tribal Council vote in favor of calling a meeting of the Tribe for the sole purpose of determining whether the Judge should be removed, *provided* that notice of such meeting of the Tribal Council, including the reason for such meeting, shall be posted at the Tribal government headquarters and otherwise

distributed to the qualified voters of the Tribe at least five days prior to such meeting of the Tribal Council.

(d) In the event a meeting of the Tribe is called for the purpose of determining whether a Judge should be removed, the Executive Director of the Tribe shall send a notice of such meeting to the affected Judge, which shall include the following:

- (1) The date and time of the meeting of the Tribe, which shall be no less than five days after the date of the notice;
- (2) A description of the alleged basis for removal as provided in this Section;
- (3) A statement of the alleged facts that support the basis for removal as provided in this Section; and
- (4) A statement that the Judge shall be permitted to appear at the meeting of the Tribe to be heard and defend himself.

(e) In the event of an affirmative vote at a meeting of the Tribe held pursuant to this Section, the removal of the Judge shall be effective immediately. In the event an affirmative vote at a meeting of the Tribe held pursuant to this Section is not obtained, no meeting of the Tribe for the purpose of removing that Judge shall be called prior to the date that is at least four months from the date of the previous meeting.

[NOTE: Pursuant to Resolution No. 12-2004, the provisions of this Section may only be amended or repealed by the qualified voters of the Tribe in a meeting of the Tribe and no ordinance enacted by the Tribal Council, whether prior to or subsequent to the enactment of this Section, shall be read or construed to abridge, enlarge, diminish, or modify any right granted by this Section, but the Tribal Council may add sections and subsections to this Section in a proper exercise of its power to adopt ordinances.]

Sec. 5-2305. Recusal of Judges.

(a) A Judge shall recuse himself from sitting on any Trial Court in any proceeding in which the Judge's impartiality might reasonably be questioned, including but not limited to the following instances:

- (1) Where the Judge has a personal bias or prejudice concerning a party or a party's representative;
- (2) Where the Judge has personal knowledge of the dispute or the facts involved in the proceeding;
- (3) Where the Judge is a witness concerning the dispute or facts involved in the proceeding;
- (4) Where the Judge or a member of the Judge's immediate family:
 - (i) Has more than an insignificant interest in the outcome of the dispute;

(ii) Is a party to the proceeding or representing a party to the proceeding;
or

(iii) Is likely to be a material witness in the proceeding.

(b) A Judge may voluntarily recuse himself from sitting on any Trial Court in any proceeding when the Judge, in his own discretion, believes that:

(1) He cannot act fairly or without bias; or

(2) There would be an appearance that he could not act fairly or without bias.

(c) Nothing in this Section shall preclude a Judge from participating in any dispute, proceeding or decision by a Court of Appeals solely because the dispute:

(1) Generally affects members of the Tribe or a class of members of the Tribe; or

(2) Affects an agency, department or enterprise of the Tribe; insurer of the Tribe or an agency, department or enterprise of the Tribe; or a person or entity in a contractual relationship with an agency, department or enterprise of the Tribe.

(d) For purposes of this Section, “immediate family” means brother, sister, son, daughter, mother, father, grandparent, grandchild, husband, wife, step-brother, step-sister, half brother or half sister; or brother, sister, son, daughter, mother, father, grandparent or grandchild by adoption.

Sec. 5-2306. Seal.

(a) The Trial Court shall have a seal as devised and adopted by the Chief Justice of the Court of Appeals.

(b) The seal of the Trial Court shall be kept by the clerk of the Tribal Court or another designee of the Court of Appeals.

(c) The seal of the Trial Court need not be affixed to any proceedings in the Trial Court except a summons or writ or authentication of a copy of a record or proceeding of the Trial Court or its officers for the purpose of evidence in another court or place.

Sec. 5-2307. Powers and Duties of Judges.

(a) Judges shall have the following authority:

(1) To administer oaths and affirmations; and

(2) To discharge the duties and exercise the authority conferred by law.

- (b) All Judges shall:
- (1) Support the Constitution, By-laws and laws of the Tribe;
 - (2) Faithfully and impartially discharge the duties of his office;
 - (3) Observe and maintain high standards of conduct so that the integrity of the Tribal Court will be preserved;
 - (4) Be patient, dignified and courteous to those appearing before him or those the Judge deals with in his capacity as a Judge and shall require similar conduct of court officials subject to the Judge's direction and control;
 - (5) Accord every person in a proceeding the right to be heard in accordance with the law; and
 - (6) Dispose of all judicial matters promptly, efficiently and fairly.

Sec. 5-2308. Powers and Duties of Chief Judge.

The Chief Judge of a Trial Court shall exercise the administrative supervision over the Trial Court and Judges thereof.

[NOTE: Except as otherwise noted, the provisions of Article VI, Title 13 Chapter 8 were enacted on April 22, 2015 by Res. No. 11-2015.]

CHAPTER 4. PRO TEMPORE JUDGES

Sec. 5-2401. Judges Pro Tempore.

(a) The Chief Justice shall appoint at least three Judges pro tempore, but may appoint as many Judges pro tempore as he deems necessary or desired, who shall serve as Judges and Justices from time to time as provided in this Chapter.

(b) Judges pro tempore shall not serve on the Trial Court or Court of Appeals or perform any duties related to the Tribal Court except when designated or requested to do so by the Chief Justice or the Chief Judge, *provided* that the Chief Judge may only designate or request the services of a Judge pro tempore for matters before the Trial Court or as otherwise provided by the laws of the Tribe.

(c) A Judge pro tempore may serve as a Judge or Justice, as the case may be, under any of the following circumstances:

- (1) When necessary to comprise a full Court of Appeals in those cases where there are insufficient Judges to serve as Justices to hear a particular matter due to recusal or other unavailability;
- (2) When necessary to fill the role of a Judge due to recusal or other unavailability of a particular Judge to hear a particular matter before the Trial Court;
- (3) When necessary to fill the role of a Judge who is unavailable for a duration of time due to vacation, illness, or other similar reason;
- (4) For the purpose of performing specific duties as may be assigned by the Chief Judge or the Chief Justice, as the case may be;
- (5) When required to comprise, from time to time, one or more temporary additional Trial Courts to hear a particular matter or matters properly before the Tribal Court;
or
- (6) When necessary to fill a vacancy in the Trial Court pending appointment of a Judge by the Tribal Council pursuant to Chapter 3.

Sec. 5-2402. Term of Judges Pro Tempore.

- (a) The term of a Judge pro tempore may be for any period of time not to exceed one year for any one term and a person previously appointed as Judge pro tempore may be reappointed by the Chief Justice.
- (b) The powers and duties of a Judge pro tempore shall extend beyond the period of his appointment where necessary to hear and determine any proceeding required for a final determination of a cause heard by him in whole or in part during the period of his appointment.

Sec. 5-2403. Qualifications of Judges Pro Tempore.

- (a) In addition to any other qualifications the Chief Justice may set, a Judge pro tempore shall be:
 - (1) At least 25 years of age;
 - (2) A person of honor;
 - (3) Law abiding; and
 - (4) A person of good character.
 - (5) Have no less than one (1) year of experience as a judge of a court of an Indian Tribe, whether as a trial judge, family court judge, or an appellate justice; or have at least five

(5) years of experience as an attorney, lay advocate, or judge coupled with a demonstrable knowledge of laws related to Indian Tribes;

(6) Hold a Juris Doctor degree from an accredited American Bar Association law school;

(7) Be a member in good standing with any state bar and admitted or eligible for admission to practice law in Iowa, and admitted or eligible for admission to practice law in Iowa, and admitted or eligible for admission to practice in the Meskwaki Tribal Court.

(b) A Judge pro tempore shall not:

(1) Have pled guilty, nolo contendere, no contest, or been convicted of any felony or other crime of moral turpitude;

(2) Have pled guilty, nolo contendere, no contest, or been convicted of any misdemeanor, except minor traffic violations, within one year immediately preceding his appointment;

(3) Had the right to practice law before any court or other tribunal revoked or otherwise been disciplined by any court or other tribunal before which he has appeared;

(4) Also be the Clerk of Court or assistant thereto, a member of the staff of the Tribal Court, or a member of the Tribal Council during his term as Judge pro tempore;

(c) Every Judge pro tempore shall swear or affirm the following oath before the Chief Justice or his designee:

“I, _____, do solemnly swear [or affirm] that I will support and defend the Constitution of the Sac & Fox Tribe of the Mississippi in Iowa and the Constitution of the United States against all enemies; that I will carry out faithfully and impartially the duties of my office to the best of my ability with impartiality and without improper favor to the end that justice may be fully served; that I will cooperate, promote and protect the best interests of the Sac & Fox Tribe of the Mississippi in Iowa in accordance with the Constitution and Bylaws of the Sac & Fox Tribe of the Mississippi in Iowa.”

[NOTE: Except as otherwise noted, the provisions of Article II, Title 5 Chapter 4, Sec. 5-2403 were enacted on May 5, 2015 by Res. No. 10-2015.]

Sec. 5-2404. Compensation of Judges Pro Tempore.

(a) Judges pro tempore shall be compensated based upon the actual performance of duties at a rate and manner set by the Chief Justice.

(b) In no event shall a Judge pro tempore be compensated for attending Tribal Court proceedings or serving as Judge pro tempore except when sitting as a Judge or Justice or otherwise performing the duties of a Judge or Justice upon proper request of a Chief Judge or the Chief Justice.

Sec. 5-2405. Authority of Judges Pro Tempore.

(a) When sitting on a Trial or Court of Appeals:

(1) A Judge pro tempore shall perform the duties and functions of a Judge of the Trial Court or Justice of the Court of Appeals, as the case may be.

(2) The findings, rulings, opinions and orders of a Judge pro tempore in matters properly submitted to a Court on which he sits shall have the same force and effect as if made and entered by a Judge or a Justice.

(3) A Judge pro tempore shall have all of the prerogatives and authority of office of a Judge or Justice, as the case may be.

(b) The appointment of a Judge pro tempore shall be personal and shall not create an office which survives the death, resignation or removal of the appointee.

Sec. 5-2406. Removal of Judges Pro Tempore.

The Chief Justice may at any time terminate the term of a Judge pro tempore, except that a Judge pro tempore shall not be removed from a case, matter, dispute, or proceeding to which he is assigned until the termination or resolution of such case, matter, dispute or proceeding unless the Judge pro tempore is removed from office for cause related to or reflecting upon the office of Judge pro tempore.

CHAPTER 5. COMMUNITY PANEL

Sec. 5-2501. Establishment.

There is hereby established a Community Panel composed of any number of members of the Tribe appointed by the Tribal Council.

Sec. 5-2502. Qualifications of Panel Members.

To be eligible for appointment, a member of the Community Panel shall be recognized as knowledgeable of the customs and traditions of the Tribe.

Sec. 5-2503. Compensation of Panel Members.

(a) Members of the Community Panel may be compensated based upon the actual performance of duties at a rate and manner set by the Tribal Council.

(b) In no event shall a member of the Community Panel be compensated for attending Tribal Court proceedings or serving as a member of the Community Panel except when performing duties under this Chapter upon proper request of the Tribal Court.

Sec. 5-2504. Removal of Panel Members.

(a) Any member of the Community Panel may be removed from office by the Tribal Council with or without cause, except as otherwise provided in this Title.

(b) A member of the Community Panel shall not be removed from a case, matter, dispute, or proceeding to which he is assigned to give advice or consultation until the termination or resolution of such case, matter, dispute, or proceeding unless the member is removed from office for cause related to or reflecting upon the office of member of the Community Panel.

Sec. 5-2505. Actions of Panel.

Whenever the Tribal Court seeks the advice of the Community Panel, the Community Panel shall select three or more of its members to instruct the Tribal Court regarding the customs and traditions of the Tribe. In the event that there is a disagreement among Panel members regarding which Panel members shall instruct the Court, the Panel shall select, by majority vote, a chief of the panel who shall pick the members who shall instruct the Court.

Sec. 5-2506. Powers and Duties of Panel.

(a) Upon request from the Tribal Court, the Community Panel shall determine the customs and traditions of the Tribe related to the matter requested.

(b) The Tribal Court, in its discretion, may provide the Panel with findings of fact and request that the Panel determine the application of the customs and traditions of the Tribe to the facts presented.

(c) A determination of the Community Panel on issues submitted to it shall be binding on the Tribal Court and the parties to the case.

(d) Upon a request to the Court from the parties to the matter to ask the Community Panel to take part in reaching resolution of the pending matter, the Court shall request the Community Panel to convene and participate in a just resolution of the issue before the Court, notwithstanding that a determination of the customs and traditions of the Tribe is not a factor in resolution of the matter.

Sec. 5-2507. Confidentiality.

Whenever advice on the customs and traditions of the Tribe is required or requested, the Community Panel shall provide such advice only to the Tribal Court, Tribal Council, and parties to the action or proceeding in the Tribal Court. Any and all advice provided or introduced in an action

or proceeding shall be privileged and strictly confidential. Unless the Community Panel issues a written order permitting disclosure of the advice, the advice shall not be disclosed by any party to the action or proceeding, the Tribal Council or the Tribal Court to any person not a party to the action or proceeding.

TITLE 5. DISPUTE RESOLUTION

ARTICLE III

OFFICERS AND EMPLOYEES OF COURTS

[NOTE: Except as otherwise noted, the provisions of Article III, Title 5 were enacted on June 9, 2004 by Res. No. 12-2004.]

CHAPTER 1. CLERKS AND STAFF

Sec. 5-3101. Appointment and Discharge of Clerks and Staff.

(a) The Chief Justice shall appoint a clerk of the Tribal Court and may also appoint assistants thereto, all of whom shall serve at the pleasure of the Chief Justice.

(b) The clerk and any assistants thereto shall, before entering on the duties of the office, take an oath of office to be administered by the Chief Justice.

(c) The Chief Justice may also appoint other administrative staff, subject to appropriations, as it deems necessary to assist the Tribal Court and its Justices and Judges in performing their administrative functions.

Sec. 5-3102. Duties of Clerks and Staff.

(a) The clerk of the Tribal Court shall have the following duties and responsibilities:

(1) Attend sessions of the Tribal Court;

(2) Issue writs and processes of the Tribal Court;

(3) Enter, under the direction of the Tribal Court, all orders, judgments and decrees required to be entered, the title of each proceeding or action, the date of filing such proceeding or action with the Tribal Court, and a memorandum of all subsequent proceedings, with the date and the fees charged;

(4) Keep a schedule of fees charged in proceedings and actions;

(5) Collect fines, fees and other monies imposed or charged by the Tribal Court, deposit such monies into the proper account of the Tribal Court, and account for the receipt and deposit of such monies;

(6) Assist persons in the drafting and execution of form complaints, petitions, answers, motions and other pleadings and documents for proceedings before the Tribal Court, subject to the prohibitions of this Chapter;

(7) Administer oaths and witness execution of documents;

(8) Keep and maintain such other books of record required by law or rule of the Tribal Court;

(9) Perform such other duties related to the operation of the Tribal Court, other than those specifically performed by a Justice or Judge; and

(10) Perform such other administrative and ministerial duties as may be prescribed by the laws of the Tribe or assigned to him by the Chief Justice.

(b) Any assistant clerks and staff of the Tribal Court shall have such duties as the Chief Justice may, from time to time, designate.

Sec. 5-3103. Prohibitions of Clerks and Staff.

The clerk and assistants thereto as well as administrative staff of the Tribal Court shall not:

(a) Give advice on questions of law; or

(b) Appear or act on behalf of any person in any proceeding or action before the Tribal Court.

Sec. 5-3104. Compensation of Clerks and Staff.

The clerk and any assistants thereto as well as administrative staff of the Tribal Court shall be compensated at a rate set by the Court of Appeals.

CHAPTER 2. COURT REPORTER

Sec. 5-3201. Appointment of Court Reporter.

(a) The Court of Appeals shall appoint a court reporter and any deputies thereto it deems necessary.

(b) The court reporter and any deputies thereto shall, before entering on the duties of the office, take an oath of office to be administered by the Chief Justice.

Sec. 5-3202. Duties of Court Reporter.

The court reporter or a deputy thereof shall:

(a) Attend proceedings of the Tribal Court during the hearing of all matters before it unless excused by the Chief Justice or Chief Judge, as appropriate;

(b) Make stenographic notes or audio tape or audio electronic recordings of all oral proceedings before the Tribal Court, but unless requested by the Court of Appeals or Trial Court, as appropriate, or a party or his representative, the court reporter or deputy thereof need not make stenographic notes or recordings of arguments of a party or his representative, unless requested by a party.

Sec. 5-3203. Sale of Transcripts.

Upon payment of any prescribed fee, the court reporter shall furnish to any person a typewritten transcript of all or any part of the proceedings reported by him, and upon request, certify that such transcript is a correct and complete statement of such proceedings.

Sec. 5-3204. Compensation of Court Reporter.

The court reporter and any deputies thereof shall be compensated at a rate set by the Court of Appeals.

CHAPTER 3. BAILIFFS**Sec. 5-3301. Appointment of Bailiffs.**

(a) The Chief Justice shall appoint such bailiffs as necessary to insure orderly transaction of the business of the Tribal Court and shall prescribe the duties of such bailiffs.

(b) The Chief Justice may appoint bailiffs from the Sac & Fox Tribe of the Mississippi in Iowa Police Department or may appoint any other person as a bailiff, subject to such qualifications as the Chief Justice shall prescribe. Such bailiffs shall be vested with and exercise all the powers and authority of peace officers of the Tribe.

Sec. 5-3302. Compensation of Bailiffs.

(a) Bailiffs of the Tribal Court shall be compensated for their services in a manner provided by the Chief Justice, *provided* that bailiffs of the Tribal Court from the Sac & Fox Tribe of the Mississippi in Iowa Police Department shall only receive such compensation as they receive as officers of the Sac & Fox Tribe of the Mississippi in Iowa Police Department and shall receive no additional compensation for performing the duties of bailiff.

(b) The compensation of bailiffs of the Tribal Court from the Sac & Fox Tribe of the Mississippi in Iowa Police Department shall be funded by the Sac & Fox Tribe of the Mississippi in Iowa Police Department and shall not be a part of the operating budget of the Tribal Court. The compensation of other bailiffs of the Tribal Court shall be provided for in the operating budget of the Tribal Court.

CHAPTER 4. PROCESS SERVERS

Sec. 5-3401. Appointment of Process Servers.

(a) Law enforcement officers of the Tribe and any bailiffs of the Tribal Court shall have the authority to serve, within the jurisdiction of the Tribe, all process, writs, orders, pleadings or papers required or permitted by law to be served subject to any rules of the Tribal Court governing service of process.

(b) The Tribal Court, pursuant to rule, may also appoint and register private persons to serve all process, writs, orders, pleadings or papers required or permitted by law to be served prior to, during, or independently of a proceeding or action before the Tribal Court, *provided*:

(1) Such private process servers shall not be authorized to serve writs or orders requiring the service officer to sell or take into his custody persons or property;

(2) Such private process servers shall not be permitted to serve process within the jurisdiction of the Tribe on behalf of any other jurisdiction or court or tribunal; and

(3) The Tribal Court may otherwise limit the authority of private process servers by rule.

(c) Writs and orders requiring the service officer to sell, deliver or take into his custody persons or property may only be served by a law enforcement officer of the Tribe or a law enforcement officer of another jurisdiction duly and specially appointed by the Tribe to serve such writs and orders.

(d) A process server appointed and registered pursuant to this Section and rule of the Tribal Court is an officer of the Tribal Court.

Sec. 5-3402. Fees of Process Servers.

(a) The Tribal Court may charge or authorize the charge of such reasonable fees for service of process by any bailiffs of the Tribal Court and deposit such fees into the account of the Tribal Court to defray costs of administration.

(b) The law enforcement agencies or departments of the Tribe may charge or authorize the charge of such reasonable fees for service of process by any of their law enforcement officers.

(c) A private process server appointed and registered pursuant to this Chapter may charge such fees for his services as may be agreed upon between him and the party engaging him.

(d) A party adjudged entitled to recover his costs of suit in any civil proceeding or action shall be awarded in any such judgment or order the costs of service made by a process server in the amount actually charged the party by such process server, *provided* that if the party utilized a private process server, the amount actually charged is reasonable.

TITLE 5. DISPUTE RESOLUTION**ARTICLE IV****JURISDICTION AND PROCEDURE**

[NOTE: Except as otherwise noted, the provisions of Article IV, Title 5 were enacted on June 9, 2004 by Res. No. 12-2004.]

CHAPTER 1. JURISDICTION**Sec. 5-4101. Subject Matter Jurisdiction of Trial Court.**

(a) Except for limitations, restrictions, or exceptions imposed by or under the authority of the Constitution or laws of the United States, or by the Constitution or Bylaws of the Tribe, or by this Title, or by express provision elsewhere in the laws of the Tribe, the Trial Court shall have original jurisdiction over all civil causes of action and over all controversies between any persons.

(b) The Trial Court shall also have:

(1) Jurisdiction to issue injunctions, writs and other orders necessary and proper to the complete exercise of its jurisdiction;

(2) Jurisdiction to certify questions of Tribal law to any federal court or questions of Tribal law to any state court which has a procedure for certifying questions of law;

(3) Jurisdiction to recognize, but not enforce, valid judgments and orders issued by courts and tribunals of other jurisdictions where the matters subject of the judgment are not otherwise within the jurisdiction of the Trial Court and recognition is proper to assist the Trial Court in a matter otherwise properly within its jurisdiction;

(4) Jurisdiction to recognize and enforce certain foreign judgments pursuant to SAC & FOX TR. OF MISS. CODE § 5-5103; and

(5) Such other jurisdiction as may be provided by the laws of the Tribe.

(c) The Trial Court shall not have jurisdiction over any cause of action related to the management, ownership, interest in, or right to possession of lands of the Tribe or any interest therein or to adjudicate or hear any matter or issue, including in probate proceedings, related to land assignments governed by Article XI of the Constitution where such matter is within the authority of the Tribal Council pursuant to such Article XI of the Constitution, except for a cause of action initiated by the Tribe for ejectment, trespass, or the like.

(d) The Trial Court shall not have jurisdiction over any cause of action brought against the Tribe or any of its agencies, departments or enterprises, including the officers, agents and employees of the Tribe in their capacity as such, unless such jurisdiction is unequivocally and expressly granted by the laws of the Tribe, and the grant of jurisdiction provided in this Title shall not be construed to include a waiver of the Tribe's sovereign immunity from suit.

(e) Notwithstanding any other provision of the laws of the Tribe, the Trial Court shall have jurisdiction over all civil causes of actions and over all controversies commenced by the Tribe and nothing in this Section or elsewhere in this Title shall be construed as limiting the jurisdiction of the Trial Court to hear and determine matters commenced by the Tribe, *provided* that nothing herein shall be construed as granting jurisdiction to the Trial Court to hear or determine any cross-claim or counterclaim against the Tribe or to award any monetary relief, including costs and attorney's fees, against the Tribe in an action commenced by the Tribe.

[NOTE: This section was amended on January 25, 2006 by Tribal Council Resolution ___-2005.]

Sec. 5-4102. Personal Jurisdiction of Trial Court.

(a) Except for limitations, restrictions, or exceptions imposed by or under the authority of the Constitution or laws of the United States, or by the Constitution or Bylaws of the Tribe, or by the ordinances or laws of the Tribe, or by express provision elsewhere in the laws of the Tribe, the Trial Court shall have personal jurisdiction over:

- (1) Any person residing, located or present within the Settlement for any civil cause of action;
- (2) Any person who transacts, conducts or performs any business or activity within the Settlement, either in person or by an agent or representative, for any civil cause of action arising from such business or activity;
- (3) Any person who owns, uses, leases or possesses any property within the Settlement for any civil cause of action arising from such ownership, use, lease or possession;
- (4) Any person who commits a tortious act or engages in tortious conduct within the Settlement, either in person or by an agent or representative, for any civil cause of action arising from such act or conduct;
- (5) Any person who commits an act or omission which occurs, wholly or in substantial part, within the Settlement, by his own conduct or the conduct of another for which he is legally accountable, for any civil cause of action related to such act or omission;

(6) Any person who commits an act or omission outside the Settlement, but has or is intended to have substantial effect within the Settlement for any civil cause of action involving such act or omission or its effects;

(7) Any person who enters into a contract, agreement, or other consensual relationship with the Tribe or any of its members, for any civil cause of action arising from such contract, agreement, or other consensual relationship; and

(8) Any licensee or permittee of the Tribe for any civil cause of action arising from such person's activities as a licensee or permittee of the Tribe.

(b) None of the foregoing bases of jurisdiction is exclusive, and jurisdiction over a person may be established upon anyone or more of them as applicable or upon any independent basis existing at law but not set forth herein.

(c) The Tribal Court shall not have jurisdiction over the Tribe or any of its agencies, departments or enterprises, including the officers, agents and employees of the Tribe in their capacity as such, without the unequivocal and express consent of the Tribe or an unequivocal and express provision in the laws of the Tribe.

Sec. 5-4103. Jurisdiction of Court of Appeals.

The Court of Appeals shall have:

(a) Appellate jurisdiction in all actions and proceedings properly before and originating in or permitted by law to be appealed from the Trial Court;

(b) Jurisdiction to issue injunctions, writs and other orders necessary and proper to the complete exercise of its jurisdiction;

(c) Jurisdiction to certify questions of federal law to any federal court or questions of state law to any state court which has a procedure for certifying questions of law;

(d) Jurisdiction to issue opinions to a foreign court or other tribunal upon proper request or certification of a question of Tribal law from such foreign court or other tribunal; and

(e) Such other jurisdiction as may be provided by the laws of the Tribe.

Sec. 5-4104. Immunity of the Tribe.

(a) Nothing in this Chapter shall be deemed to constitute a waiver or renunciation of the sovereign immunity of the Tribe for any purpose and the sovereign immunity of the Tribe shall bar the Tribal Court from hearing any claim or cause of action against the Tribe even where the Tribal Court has jurisdiction pursuant to this Section or other provisions of the laws of the Tribe, unless the Tribe has expressly and unequivocally waived its sovereign immunity in writing in a provision of the

laws of the Tribe or in a written contract or other agreement or instrument validly approved by the Tribal Council and signed by its duly authorized designee.

(b) The authority and jurisdiction of the Tribal Court with regard to any claim or cause of action involving the Tribe for which the Tribe has properly waived its sovereign immunity shall be strictly limited to the scope of the waiver of such sovereign immunity as expressed in the provision of the laws of the Tribe or other writing providing for such waiver.

Sec. 5-4105. Concurrent Jurisdiction.

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

Sec. 5-4106. Reduction of Jurisdiction.

Notwithstanding any other provision of the laws of the Tribe, any ordinance, resolution, order, or act of the Tribal Council or any other law of the Tribe which operates to reduce or limit the existing jurisdiction of the Tribal Court shall have prospective effect only and shall not have any effect on the jurisdiction of the Tribal Court over causes of action or controversies pending before the Tribal Court at the time of effectiveness of such ordinance, resolution, order, act, or law.

[NOTE: Pursuant to Resolution No. 12-2004, the provisions of this Section may only be amended or repealed by the qualified voters of the Tribe in a meeting of the Tribe and no ordinance enacted by the Tribal Council, whether prior to or subsequent to the enactment of this Section, shall be read or construed to abridge, enlarge, diminish, or modify the provisions of this Section, but the Tribal Council may add sections and subsections to this Section in a proper exercise of its power to adopt ordinances.]

CHAPTER 2. REPRESENTATION OF PARTIES

Sec. 5-4201. Representation.

(a) Any person who is a party in any proceeding before the Tribal Court may be represented, at his own arrangement and expense, by:

- (1) Himself or, in the case of an entity, a duly appointed officer of the entity; or
- (2) An advocate or professional attorney who is licensed by the Court of Appeals to practice law on the Settlement and before the Tribal Court.

(b) The Tribe may be represented in any proceeding before the Tribal Court by a person, advocate, or professional attorney employed, retained, under contract, or otherwise duly authorized to represent the Tribe, subject to the following:

- (1) No such person, advocate, or professional attorney shall be appointed by the Tribal Court to represent any person in any matter in the Tribal Court; and

(2) Notwithstanding any other provision of law, no such person, advocate, or professional attorney shall be prohibited or prevented from representing the Tribe in any matter before the Tribal Court except by express action of the Tribal Council.

(c) No person shall be entitled to representation provided at the expense of the Tribe in any matter before the Tribal Court.

(d) No person, advocate, or professional attorney shall be appointed by the Tribal Court to represent any person before the Tribal Court, except as specifically authorized by the laws of the Tribe.

(e) No person shall represent or attempt to represent any person before the Tribal Court except as permitted by the Tribal Court and this Chapter. No person shall practice law or attempt to practice law within the Settlement unless such person is also authorized to appear before the Tribal Court on behalf of others pursuant to this Chapter and the rules of the Tribal Court.

Sec. 5-4202. Licensing of Representatives.

(a) The Court of Appeals shall establish standards and requirements by rule governing the licensing of persons to practice before the Tribal Court as well as the revocation and suspension of the right to practice before the Tribal Court. Any such standards and requirements governing the licensing of persons to practice before the Tribal Court shall include an oath or affirmation that such licensed person shall uphold and support the laws of the Tribe.

(b) The Court of Appeals may also establish standards and requirements by rule of the Tribal Court governing the conduct of persons licensed to practice before the Tribal Court, including, but not limited to, conduct before the Tribal Court, duties to the Tribal Court and parties to proceedings, and ethical responsibilities related to the practice of law on the Settlement.

Sec. 5-4203. Duties of Representatives.

(c) All advocates, professional attorneys, or other persons representing parties in a proceeding before the Tribal Court shall have the duty and responsibility to ensure that all necessary, helpful, and relevant facts are discovered such that the Tribal Court can determine the truth and make a proper, informed, and just decision in accordance with the objective of the Tribal Court as set forth in this Title.

(d) All advocates, professional attorneys, or other persons representing parties in a proceeding before the Tribal Court shall have an affirmative duty and responsibility to assist the Tribal Court in determining the truth and ensuring that a fair and just resolution is obtained and that the objectives of the Tribal Court as set forth in this Title are secured.

(e) The duties and responsibilities of advocates, professional attorneys, and other persons to the parties they represent before a proceeding in the Tribal Court shall be secondary to the duties and responsibilities of such advocates, professional attorneys, and other persons to the Tribal Court.

(f) Notwithstanding any other duty or responsibility that an advocate, professional attorney, or other person representing a party before the Tribal Court may have to that party, an advocate, professional attorney, or other person representing a party before any proceeding in the Tribal Court shall inform the Tribal Court of all relevant facts and other matters and circumstances known to the advocate, professional attorney, or other person which will enable the Tribal Court to determine the truth and make a proper, informed, and just decision, whether or not the facts, matters, or circumstances are adverse or exculpatory.

(g) Advocates, professional attorneys, and other persons representing parties before any agency or tribunal of the Tribe, including the Tribal Council, shall have the duties and responsibilities set forth herein when appearing before those agencies or tribunals in any matter and regardless of whether there is an adverse party.

CHAPTER 3. GENERAL PROCEDURE

Sec. 5-4301. Proceedings Before the Tribal Court.

(a) Unless otherwise provided or permitted by the laws of the Tribe, all proceedings before the Tribal Court shall be brought by the person actually injured or aggrieved and seeking or in need of relief. Unless otherwise provided or permitted by the laws of the Tribe, if applicable, all proceedings shall be brought against the person who caused the injury or aggravation or is responsible for the injury or aggravation.

(b) Except where expressly permitted by the laws of the Tribe, the Tribal Court shall not issue any writ, decree, judgment or other order in any proceeding without providing all persons party to the proceeding a proper opportunity to be heard.

(c) The Tribal Court shall memorialize all writs, decrees, judgments and other orders of any kind in writing and serve copies of all orders issued in a proceeding to all parties to the proceeding.

(d) All pleadings, writs, decrees, judgments, orders, and other documents filed with or issued by the Tribal Court shall contain the title of the Court with which it is filed or from where it is issued. In the case of the Trial Court, the title shall be "In the Trial Court of the Sac & Fox Tribe of the Mississippi in Iowa Tribal Court" and in the case of the Court of Appeals, the title shall be "Court of Appeals of the Sac & Fox Tribe of the Mississippi in Iowa Tribal Court." "Meskwaki Settlement" shall appear immediately below the title of the Court, followed immediately below thereof by the name or style of the case and such other information as may be required by the rules of the Tribal Court.

(e) In accordance with the provisions of this Title, the Court of Appeals shall establish and promulgate such rules of procedure for the conduct of its proceedings not inconsistent with this Title or other law of the Tribe.

Sec. 5-4302. Law Applicable in Civil Actions.

(a) In all civil cases, the Tribal Court shall apply the laws of the Tribe, including the common law of the Tribe, as it is set forth in Section 1-2101 of Title 1 of the Code. The Tribal Court may request the advice and assistance of the Community Panel to determine the customs and traditions of the Tribe as part of the common law of the Tribe.

(b) In the absence of law of the Tribe specific to an issue before it, the Tribal Court may be guided by the law of another Indian tribe, the United States or the several states of the United States, *provided* that the use of such law as guidance shall not in any manner be construed or interpreted as an adoption, in whole or in part, of the law of any other jurisdiction or authority or consent to the exercise of regulatory, legislative, or adjudicatory authority of any such jurisdiction.

Sec. 5-4303. Contempt of Court.

(a) A person commits contempt of court if he engages in willful and unjustifiable misbehavior which:

(1) Disrupts, obstructs, or otherwise interferes with the conduct of any proceeding by the Tribal Court;

(2) Obstructs or interferes with the administration of justice by the Tribal Court;
or

(3) Constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree or command of the Tribal Court.

(b) When contempt of court is committed in the presence of the Tribal Court it may be rectified summarily by the Tribal Court. In such case, an order shall then be made reciting the facts constituting the contempt, adjudging the person to be in contempt, and prescribing the punishment or other action therefor.

(c) When it appears to the Tribal Court that a contempt may have been committed out of the presence of the Tribal Court, the Tribal Court may issue a summons to the person so charged directing him to appear at a time and place designated for a hearing on the matter. If such a person served with a summons fails to appear at a time and place so designated, the Tribal Court may order his arrest and the delivery of him forthwith before the Tribal Court for hearing or deem the failure to appear a default. The court shall conduct a hearing, and if it finds the person to have committed contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person to be in contempt, and prescribing the punishment or other action therefor.

(d) Any person found in contempt of court as specified in this Section or elsewhere in the Code or other law of the Tribe may be fined an amount not to exceed five thousand dollars.

Sec. 5-4304. Notices and Service.

The Court of Appeals shall promulgate rules, in accordance with the provisions of this Title and not inconsistent with this Title or other law of the Tribe, governing the service of process and notices upon parties and other persons who are required to be served or may be served under the laws of the Tribe and the rules of the Tribal Court, including the provision of service by registered mail upon persons located off the Settlement.

Sec. 5-4305. Assistance to the Tribal Court.

The Tribal Court may request and obtain advice, recommendations and opinions on questions of law from the Attorney for the Tribe, except in relation to a proceeding before the Tribal Court in which the Tribe is a party. Any such advice, recommendation or opinion obtained specifically to aid in the disposition of a pending trial, case, or proceeding thereto shall be written, and copies shall be made available to all parties thereto prior to any decision on the subject by the Tribal Court.

Sec. 5-4306. Hearing.

The Trial Court shall within twenty (20) days of the filing of any motion for which a hearing is requested or required, set a hearing date, time, and location, and notify all parties of the hearing date, time, and location. The hearing date must fall within the time limits established by the applicable laws of the Tribe, and shall in no event be more than sixty (60) days from the date of the filing of the motion.

[NOTE: This section was amended on October 3, 2007 by Res. No. 22-2007]

Sec. 5-4307. Decision.

(a) The Trial Court shall render a decision on every motion within sixty (60) days after the motion hearing or after the final submission of briefs or memoranda by the parties, whichever is later.

(b) The Trial Court shall render a decision on every other matter submitted for consideration, including all trials within sixty (60) days of date the matter was submitted for consideration.

(c) The Chief Judge may waive the requirements of this section for good cause shown, but in no event shall the Court render a decision in any matter more than ninety (90) days after the matter is submitted to the Court for consideration.

(d) All cases pending before the Court as of the date of enactment of this Section 5-4307 shall be decided and a decision issued within sixty (60) days.

[NOTE: This section was amended on October 3, 2007 by Res. No. 22-2007]

CHAPTER 4. APPEALS PROCEDURE**Sec. 5-4401. Judgments and Orders Which May Be Appealed.**

(a) An appeal may be taken from the Trial Court to the Court of Appeals and shall be heard by the Court of Appeals in the following circumstances:

(1) From a final judgment entered in a proceeding before the Trial Court or the Tribal Council;

(2) From any special order made after final judgment in a proceeding before the Trial Court;

(3) From any order affecting a substantial right made in any proceeding before the Trial Court when the order in effect determines the proceeding and prevents judgment from which an appeal might otherwise be taken; and

(4) From an order:

(i) Granting or refusing a new trial or hearing;

(ii) Granting, continuing, modifying, refusing or dissolving an injunction, or refusing to grant, continue, modify or dissolve an injunction; or

(iii) Dissolving or refusing to dissolve an attachment or garnishment;

(iv) By the Tribal Council deciding that the Council has jurisdiction over the matter under 5-4601 to 5-4604.

(b) An appeal may be taken from the Trial Court to the Court of Appeals and may be heard by the Court of Appeals in its discretion in the following circumstances:

(1) When an order in a proceeding that is not otherwise appealable under this Section involves a controlling question of law as to which there is substantial ground for difference of opinion and an immediate appeal from the order may materially advance the ultimate termination of the proceeding; and

(2) From any other order which is not otherwise appealable under this Section that the Court of Appeals provides by rule may be appealed.

Sec. 5-4402. Method of Appeal.

(a) An appeal permitted by law as of right from the Trial Court may be taken only by filing a notice of appeal with the Trial Court and the Court of Appeals within the time prescribed by the rules of the Tribal Court, but in no event more than thirty days from the issuance of the order or judgment of the Trial Court being appealed.

(b) An appeal from a decision of the Tribal Council must be filed no later than thirty days after entry of the final judgment of the Tribal Council.

(c) When the Court of Appeals has discretion to hear an appeal:

(1) The party desiring to appeal must file a petition for permission to appeal with the Court of Appeals within the time prescribed by the rules of the Tribal Court, but in no event more than thirty days from the issuance of the order or judgment of the Trial Court being appealed; and

(2) After providing any other parties to the proceeding an opportunity to be heard, the Court of Appeals will then decide whether to grant permission to appeal.

Sec. 5-4403. Power of Court of Appeals on Appeal from Trial Court decision.

After hearing an appeal, the Court of Appeals may affirm, reverse, or modify the judgment or order appealed from and, as justice might require:

(a) May render such judgment or order as the Trial Court should have rendered;

(b) May remand the action to the Trial Court with directions or instructions to render such judgment or order; or

(c) May direct that a new trial, hearing or other proceedings be had.

Sec. 5-4404. Oral Argument.

Requests for oral argument must be filed no later than twenty (20) days after the filing of the notice of appeal. In appeals when oral argument is appropriate under the applicable laws of the Tribe, the Court of Appeals shall, within twenty (20) days of the filing of the notice of appeal or the filing of a request for oral argument, whichever is later, set a date, time, and location for oral argument, and notify all parties of the date, time, and location set for oral argument. The date set for oral argument must fall within the time limits established by the applicable laws of the Tribe, and shall in no event be more than ninety (90) days from the date of the filing of the notice of appeal or of the filing of a request for oral argument, whichever is later. If all parties to an appeal agree, the Court of Appeals may waive or modify the requirements of this section.

[NOTE: This section was amended on October 3, 2007 by Res. No. 22-2007]

Sec. 5-4405. Decision.

The Court of Appeals shall render a decision in every appeal within ninety (90) days after oral argument or after the final submission of briefs or memoranda by the parties, whichever is later. The Chief Justice may waive or modify the requirements of this section for good cause shown.

[NOTE: This section was amended on October 3, 2007 by Res. No. 22-2007.]

TITLE 5. DISPUTE RESOLUTION

ARTICLE V

LIMITATIONS OF ACTIONS

[NOTE: Except as otherwise noted, the provisions of Article V, Title 5 were enacted on June 9, 2004 by Res. No. 12-2004.]

CHAPTER 1. GENERAL PROVISIONS

Sec. 5-5101. Applicability.

(a) This Article shall apply to any and all causes of action which accrue on or after the date of enactment of this Article.

(b) For causes of action which accrued prior to the date of enactment of this Article, the time limit for bringing such action shall begin to run from the date of enactment of this Article.

Sec. 5-5102. Accrual of Actions Defined.

For purposes of this Article, a cause of action accrues when the damaged or injured party knows or reasonably should know he or she has been damaged or injured and knows or reasonably should know the cause, source, act, event, instrumentality or condition which caused or contributed to the alleged damage or injury.

Sec. 5-5103. Foreign Judgments and Causes of Action.

(a) No action which arises in another jurisdiction outside of the Settlement shall be maintained against a person if such action is barred by the law of limitations of such other jurisdiction.

(b) An action upon a judgment or decree rendered in another jurisdiction outside the Settlement shall be barred if by the laws of such other jurisdiction such action would be barred there and the judgment or decree is incapable of being otherwise enforced there.

(c) Full Faith and Credit recognition shall be given by the Tribal Court to the final judgment, decree, or order of a federal, state, or other tribal court located within the boundaries of the United States, provided that the jurisdiction in question has established a reciprocal provision for the recognition of the judgments, decrees, and orders of the Sac & Fox Tribe of the Mississippi in Iowa Tribal Court.

(d) Where a final judgment, decree, or order of a federal, state, tribal court or other nation is not entitled to full faith and credit under subsection (c), the Tribal Court may provide comity recognition of the foreign judgment where the interests of justice so require.

(e) A foreign judgment which is recognized by the Tribal Court under this section has the same effect and is subject to the same procedures, defenses, and proceedings for reopening, vacating, or staying as a judgment of the Sac & Fox Tribe of the Mississippi in Iowa Tribal Court, and may be enforced or satisfied in a like manner.

[Amended on January 25, 2006 by Council Resolution __-2005.]

Sec. 5-5104. Exemption of Tribe from Limitations.

Except as otherwise provided by the laws of the Tribe, the Tribe shall not be barred by the limitations of actions prescribed in this Article or any other time limitation under the laws of the Tribe, except where such time limitation is made expressly applicable to the Tribe.

CHAPTER 2. TIME FOR COMMENCEMENT OF ACTIONS

Sec. 5-5201. Contracts and Agreements.

(a) An action upon a written contract or other written agreement shall be brought within six years after the cause of action accrues and not afterward.

(b) An action upon an oral contract or other oral agreement shall be brought within three years after the cause of action accrues and not afterward.

Sec. 5-5202. Torts.

An action for injury to a person or property or for other tortious conduct shall be brought within two years after the cause of action accrues and not afterward.

Sec. 5-5203. General Limitation.

Actions for which no limitation is otherwise prescribed shall be brought within four years after the cause of action accrues and not afterward.

Sec. 5-5204. Presumption of Death.

A person who is absent from the place of his last domicile for five successive years shall be presumed dead in any action wherein his death comes in question, unless proof is made that he was alive within that time.

Sec. 5-5205. Actions Against the Tribe.

Notwithstanding any other time limitations provided in this Chapter, any and all actions against the Tribe shall be brought within two years after the cause of action accrues and not afterward unless another provision of the law of the Tribe provides a different time.

CHAPTER 3. TOLLING OF LIMITATIONS**Sec. 5-5301. Effect of Absence from the Settlement.**

When a person against whom there is a cause of action is absent from the Settlement at the time the cause of action accrues or at any time during which the action might have been maintained, such action may be brought against such person after his return to the Settlement. The time during which a person against whom there is a cause of action is absent shall not be counted or taken as a part of the time limited against the absent person's opposing party or parties by the provisions of this Article or any other time limitation against the opposing party or parties under the laws of the Tribe.

Sec. 5-5302. Effect of Imprisonment.

If a person entitled to bring an action is at the time the cause of action accrues imprisoned, the period of such disability shall exist only until such time as the person imprisoned discovers the right to bring the action or with the exercise of reasonable diligence should have discovered the right to bring the action, whichever occurs first, and such person shall have the same time after the disability ceases to exist which is allowed all others.

Sec. 5-5303. Saving of Action Timely Commenced.

(a) If an action is timely commenced within the period of limitations prescribed for the action and the action is terminated in any manner other than by abatement, voluntary dismissal, dismissal for lack of prosecution, or a final judgment on the merits, the plaintiff, or a successor or personal representative, may bring a new action for the same cause of action within six months after the expiration of the time so limited.

(b) The provisions of subsection (a) apply to judgments on appeal as well as counterclaims, cross-claims and defenses of the defendant.

Sec. 5-5304. Tacking of Disabilities Prohibited.

The period of limitation shall not be extended by the connection of one disability to another. When the law of limitation begins to run, it shall continue to run notwithstanding a supervening disability of the party entitled to sue or liable to be sued.

TITLE 5. DISPUTE RESOLUTION

ARTICLE VI

DISPUTES INVOLVING THE TRIBE

[NOTE: Except as otherwise noted, the provisions of Article VI, Title 5 were enacted on June 9, 2004 by Res. No. 12-2004.]

CHAPTER 1. GENERAL PROVISIONS

Sec. 5-6101. Applicability.

Notwithstanding any other provision of law, this Article shall apply to any claim whereby a person alleges or believes that the Tribe is liable to him in whole or in part for damages or other injury or where a person alleges or believes that an official, agent, officer or employee of the Tribe has violated the law.

Sec. 5-6102. Definitions.

Unless the context requires otherwise, as used in this Article:

(a) "Claimant" means a person who has a claim for injury or damages.

(b) "Insurer" means a person or entity whom the Tribe has engaged by contract in the form of a policy of insurance to insure the Tribe in the event of an accident, but does not include workers' compensation insurance.

Sec. 5-6103. Arising of Claim Defined.

For purposes of this Chapter, a claim arises on the date when the claimant knows or reasonably should know he has been damaged or injured and knows or reasonably should know the cause, source, act, event, instrumentality or condition which caused or contributed to the alleged damage or injury.

Sec. 5-6104. Sovereign Immunity.

Nothing in this Article, including the hearing, payment, or settlement of any claim pursuant to this Article or the procurement of insurance, shall be deemed or construed to constitute a waiver or limitation of the sovereign immunity of the Tribe.

CHAPTER 2. PROCEEDINGS CHALLENGING TRIBAL LAWS

Sec. 5-6201. Claims Against Tribe Challenging Tribal Laws.

(a) Notwithstanding the provisions of Chapter 4 of this Article governing claims for damages against the Tribe, except where otherwise provided by the laws of the Tribe, the Tribal Court shall have jurisdiction over a civil cause of action against the Tribe when the cause of action

seeks declaratory, injunctive or other equitable relief for the sole purpose of challenging the validity of a law of the Tribe or an action of the Tribe which may affect a right provided by the laws of the Tribe.

- (b) The jurisdiction granted in this Section shall not extend to:
 - (1) Issuing or granting any relief that is retroactive;
 - (2) Issuing or granting any damages, costs, fees or other monetary relief;
 - (3) A cause of action challenging the validity of a law of the Tribe where the issue of the validity of the law of the Tribe can reasonably be brought in another cause of action, such as an enforcement action, whether pending or not; or
 - (4) A cause of action challenging the validity of a law of the Tribe where there is a more specific cause of action under the laws of the Tribe which would provide appropriate resolution or specifically governs the injury complained of, *provided* the ability to challenge the validity of a law of the Tribe in such specific action is not prohibited.

Sec. 5-6202. Notice to Tribe.

In any action, suit or proceeding before the Tribal Court to which the Tribe is not a party, wherein the constitutionality or validity of any law of the Tribe is drawn into question, the Tribal Court shall certify such fact to the Tribe and provide notice to the Chairman of the Tribal Council, the Executive Director of the Tribe, and the Attorney for the Tribe.

Sec. 5-6203. Right of Intervention.

(a) In any action, suit or proceeding before the Tribal Court to which the Tribe is not a party, wherein the constitutionality or validity of any law of the Tribe is drawn into question, the Tribal Court shall permit the Tribe to intervene for presentation of evidence, if evidence is otherwise admissible in the proceeding, and for argument on the question of constitutionality or validity.

(b) In the event the Tribe intervenes in an action, suit or proceeding pursuant to this Section, the Tribe shall have all the rights and obligations of a party to the extent necessary for a proper presentation of the facts and law relating to the question of constitutionality or validity.

(c) Intervention by the Tribe pursuant to this Section shall not be deemed to waive or limit the Tribe's sovereign immunity, to otherwise authorize any cross-claim, counterclaim, or other claim against the Tribe, or to authorize the award of costs, attorneys' fees, or other monies against the Tribe.

Sec. 5-6204. Rules of the Tribal Court.

The Tribal Court may promulgate rules to implement this Chapter as it promulgates other rules in accordance with the laws of the Tribe.

CHAPTER 3. SERVING PROCESS ON THE TRIBE

Sec. 5-6301. Service of Process Upon the Tribe.

(a) Notwithstanding any other provision of law, service of process upon the Tribe shall be effected only by personal delivery of a copy of the summons and of the complaint to the Chairman of the Tribal Council, the Executive Director of the Tribe, and the Attorney for the Tribe. Service made in any other manner on the Tribe shall be invalid and ineffective.

(b) Notwithstanding any other provision of law, service of process upon an agency, department, division, instrumentality, economic enterprise, official, agent, officer or employee of the Tribe shall be effected only by serving the Tribe in the manner prescribed by subsection (a) of this Section and by also sending a copy of the summons and of the complaint by registered or certified mail to the agency, department, division, instrumentality, economic enterprise, official, agent, officer or employee of the Tribe.

Sec. 5-6302. Savings and Limitations.

Nothing in this Chapter shall be construed as:

(a) A consent to the exercise of jurisdiction over the Tribe by the Tribal Court except where authorized by the laws of the Tribe;

(b) A consent to service of process under or pursuant to the authority of any sovereign or jurisdiction other than the Tribe;

(c) A consent to service of process in an action initiated in any court or other tribunal except the Tribal Court of the Tribe;

(d) A consent to the exercise of jurisdiction, personal or otherwise, over the Tribe, its members, or the Settlement by any sovereign, jurisdiction or authority or by a court or other tribunal of any sovereign, jurisdiction or authority other than the Tribe; or

(e) A diminution of the sovereignty of, or a waiver or limitation upon the sovereign immunity of, the Tribe.

CHAPTER 4. CLAIMS AGAINST THE TRIBE GENERALLY

Sec. 5-6401. Tribe as Party.

(a) Except where otherwise provided by the laws of the Tribe, no action brought against the Tribe shall be brought in the name of an agency, department, division, instrumentality, economic enterprise, official, elected official, agent, officer, or employee of the Tribe, but shall be brought in the name of the Sac & Fox Tribe of the Mississippi in Iowa.

(b) In actions brought by a subdivision of the Tribe against another subdivision of the Tribe, the action shall be brought in the names of the subdivisions of the Tribe, but service shall be in accordance with Section 5-6301.

(c) Nothing in this Section shall prohibit the Tribe from being dismissed from a suit as a party and having an agency, department, division, instrumentality, economic enterprise, official, elected official, agent, officer, or employee of the Tribe who is a real party in interest substituted independently in its place.

Sec. 5-6402. Claims For Damages.

Except where provided otherwise by law, claims for damages against the Tribe shall be brought as follows:

(a) A claimant shall serve a written notice on the Chairman of the Tribe, the Executive Director of the Tribe, and the Attorney for the Tribe within one hundred eighty days after the claim arises.

(b) The claim shall contain facts sufficient to permit the Tribe to understand the basis upon which liability is claimed. The claim shall also contain a specific amount for which the claim can be settled and the facts supporting that amount.

(c) Any claim which is not filed within one hundred eighty days after the claim arises is barred and no action may be maintained thereon.

(d) A claim against the Tribe filed pursuant to this Section is deemed denied two hundred forty days after the filing of the claim unless the claimant is advised of the denial in writing before the expiration of two hundred forty days, except that the Tribe may extend such two hundred forty day period for any particular claim for the purposes of further investigation by so notifying the claimant in writing.

Sec. 5-6403. Exclusiveness of Remedy.

Except where another express provision of the laws of the Tribe provides a different remedy or procedure, the remedy and procedure provided in this Chapter for claims of damages against the Tribe is exclusive of any other civil action or proceeding for money damages against the Tribe. Any other civil action or proceeding for money damages against the Tribe is precluded without regard to when the act or omission complained of occurred.

Sec. 5-6404. Payment of Claim as Bar.

The payment of any claim and acceptance thereof by the claimant pursuant to this Chapter shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the Tribe.

Sec. 5-6405. Claims for Relief Against Tribal Officials.

(a) Except where otherwise provided by the laws of the Tribe, the Tribal Court shall have jurisdiction over a civil cause of action against any member of the Tribe Council or official, agent, officer or employee of the Tribe, when the cause of action seeks declaratory, injunctive or other equitable relief for the sole purpose of compelling such member of the Tribal Council or official, agent, officer or employee to comply with the laws of the Tribe.

(b) The jurisdiction granted in this Section shall not extend to:

(1) Issuing or granting any relief that is retroactive;

(2) Issuing or granting any damages, costs, fees or other monetary relief;

(3) Issuing or granting any declaratory, injunctive or other relief which would truly operate against the Tribe and not the official;

(4) Hearing any proceeding or action against an official, agent, officer or employee of the Tribe where the proceeding or action challenges the validity of a law of the Tribe which the official, agent, officer or employee acted or acts pursuant to; or

(5) Issuing or granting any declaratory, injunctive or other relief in cases where the laws of the Tribe permit the official, agent, officer or employee of the Tribe to:

(i) Act with discretion; or

(ii) Act in more than one possible manner.

CHAPTER 5. CLAIMS INVOLVING INSURANCE COVERAGE**Sec. 5-6501. Filing Claims.**

Claims for damages against the Tribe where the Tribe is covered by a policy of insurance applicable to the claim shall be brought as follows:

(a) A claimant shall file a written claim in accordance with Chapter 4 of this Article.

(b) The Executive Director of the Tribe shall notify the appropriate insurer within ten days of the filing of the claim and provide written notice to the claimant that the claim has been directed to the appropriate insurance company and notifying the claimant of the insurer's contact information.

(c) A claim against the Tribe filed pursuant to this Section is deemed denied one hundred eighty days after the filing of the claim unless the claimant is advised of the denial in writing by the insurer or the Executive Director before the expiration of one hundred eighty days, except that the insurer may extend such one hundred eighty day period for any particular claim for the purposes of further investigation upon written agreement of the claimant.

(d) An action seeking review of a denial of an insurance claim shall be brought within one year after denial has been served.

Sec. 5-6502. Exclusiveness of Remedy.

The remedy and procedure provided in this Chapter for claims of damages against the Tribe where the Tribe is covered by a policy of insurance is exclusive of any other civil action or proceeding for money damages against the Tribe where the Tribe is covered by a policy of insurance. Any other civil action or proceeding for money damages against the Tribe where the Tribe is covered by a policy of insurance is precluded without regard to when the act or omission occurred.

Sec. 5-6503. Jurisdiction of Tribal Court.

(a) The Trial Court of the Tribal Court shall have subject matter jurisdiction over any action seeking review of an insurer's denial of a claim in accordance with this Chapter.

(b) The Tribal Court shall have personal jurisdiction over any insurer of the Tribe. Notwithstanding any provision of the applicable policy of insurance to the contrary, any insurer of the Tribe shall be deemed to have consented to the personal jurisdiction of the Tribal Court by accepting payments from the Tribe for a policy of insurance.

(c) Unless an insurer provides specifically for a person authorized to receive service of process, service of process upon an insurer of the Tribe may be effected by serving the Tribe in accordance with Section 5-6301 of this Title.

Sec. 5-6504. Payment of Claim as Bar.

The payment of any claim by an insurer and acceptance thereof by the claimant shall constitute a complete bar to any action by the claimant, by reason of the same subject matter, against the insurer.

Sec. 5-6505. Review of Insurance Claims.

(a) If after a claim has been filed under this Chapter, the insurer denies the claim in whole or in part, the claimant may seek review of that denial before the Tribal Court in accordance with this Chapter.

(b) Except as otherwise provided herein, if a claimant desires review of an insurer's denial of a claim, the claimant may initiate a proceeding before the Tribal Court in the same manner as other proceedings are initiated before the Trial Court.

(c) In addition to any other requirements of law or rule of the Tribal Court, a filing for review of an insurer's denial of a claim before the Tribal Court shall:

- (1) State that it is a review of an insurer's denial of a claim;
- (2) Name the appropriate insurer as the party against whom relief is sought;

(3) Request only relief covered and permitted in the applicable policy of insurance; and

(4) Request no more monetary compensation than is permitted in the amounts of the policy of insurance.

(d) The relief may be sought only against the insurer in any action under this Chapter. The Tribe shall not be a necessary or indispensable party to any claim made under this Chapter. In the event a claimant names the Tribe without its permission, the Tribal Court shall dismiss the Tribe upon its own motion or the motion of the Tribe prior to any other proceedings in the matter, including discovery.

(e) The Tribal Court shall hear a review of an insurer's denial of a claim as it hears other matters generally. Except where provided otherwise in this Chapter, the laws of the Tribe governing service of process and all other matters relating to the conduct of Tribal Court proceedings shall apply to any review of an insurer's denial of a claim under this Chapter.

Sec. 5-6506. Obtaining Evidence.

In any proceeding under this Chapter, by order upon motion and showing of sufficient relevancy and admissibility, and subject to the laws of the Tribe related to privilege and confidentiality, the Tribal Court may:

(a) Require the appearance and testimony of any official, officer, agent or employee of the Tribe with personal and first-hand knowledge necessary to the proper resolution of the claim; and

(b) Require any official, officer, agent or employee of the Tribe to deliver to the Tribal Court documentary or physical evidence necessary to the proper resolution of the claim, *provided* that any such documentary or physical evidence shall be kept under seal and not made available to the public and shall be returned to the Tribe upon termination of the proceedings before the Tribal Court.

Sec. 5-6507. Decision of Tribal Court.

(a) After hearing a review of an insurer's denial of a claim, the Tribal Court may determine all issues properly before it, including fault, and enter judgment as it enters judgment in other proceedings, subject to the following:

(1) The Tribal Court may grant judgment, award damages or grant relief only against or in favor of the insurer or the claimant;

(2) The Tribal Court shall not have jurisdiction to enter judgment, award damages or grant other relief against the Tribe, regardless of any fault or conduct of the Tribe;

(3) The Tribal Court shall not have jurisdiction to award judgment, an amount of damages, or grant other relief for events, occurrences, acts or omissions not covered by the applicable policy of insurance;

(4) The Tribal Court shall not have jurisdiction to award any damages or other monies in an amount in excess of the amounts of coverage in the applicable policy of insurance; and

(5) Any judgment, award of damages or other monies, or other relief granted a claimant shall be enforceable only against the insurer and only for events, occurrences, acts and omissions, and in such amounts, established by the insurance policy.

(b) Nothing in this Section shall prohibit the Tribal Court from construing the policy of insurance as necessary to properly resolve the proceedings.

Sec. 5-6508. Defenses of Insurer.

(a) In any action or proceeding brought against an insurer pursuant to this Chapter, the insurer may assert any defense that would be available to the Tribe if it were a party to the action or proceeding except as otherwise provided in this Chapter.

(b) In any action or proceeding brought against an insurer pursuant to this Chapter, the insurer shall not be permitted to assert the Tribe's sovereign immunity as a defense to judgment, damages, or other relief.

Sec. 5-6509. Terms of Insurance Policy Void.

Any term, clause, provision or endorsement of a policy of insurance which conflicts with or purports to alter any of the provisions of this Chapter shall be deemed void and unenforceable and severed from the policy of insurance.

Sec. 5-6510. Rules of the Tribal Court.

The Tribal Court may promulgate rules to implement this Chapter as it promulgates other rules in accordance with the laws of the Tribe.