

**ORDINANCE #04/92, AS AMENDED,
CIVIL CODE OF THE FOND DU LAC BAND OF
LAKE SUPERIOR CHIPPEWA**

Adopted by Resolution #1135/92 of the Fond du Lac Reservation Business Committee on May 5, 1992.

Amended by Ordinance #09/98, adopted by Resolution #1221/98 of the Fond du Lac Reservation Business Committee, dated July 16, 1998.

Amended by Resolution #1352/01 of the Fond du Lac Reservation Business Committee on January 24, 2002.

Amended by Resolution #1160/11 of the Fond du Lac Reservation Business Committee on May 17, 2011.

Amended by Resolution #1400/11 of the Fond du Lac Reservation Business Committee on December 6, 2011.

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Amended by Resolution #1299/22 of the Fond du Lac Reservation Business Committee on October 5, 2022.

CHAPTER 100
FOND DU LAC COURT RULES OF CIVIL PROCEDURE

101. PURPOSES. The purposes of this Code are to promote the health, welfare, economic security and political integrity of the Fond du Lac Band of Lake Superior Chippewa; to preserve and maintain justice and the rule of law; to accord the equal protection of the laws; and to provide a forum and a civil procedure for the hearing and redress of grievances and disputes involving the Fond du Lac Band of Lake Superior Chippewa or persons within the civil jurisdiction of the Fond du Lac Band of Lake Superior Chippewa.

102. SCOPE OF RULES. Except when the law of the Fond du Lac Band of Lake Superior Chippewa provides otherwise, these Rules shall govern the procedure in the courts of the Fond du Lac Band of Lake Superior Chippewa in all actions, suits, and proceedings of a civil nature, and in all proceedings established by law. These Rules shall be liberally construed to secure a just, speedy, and inexpensive determination of every action.

103. AUTHORITY. This Code is adopted pursuant to the inherent authority of the Fond du Lac Band of Lake Superior Chippewa, as granted by Article VI of the Constitution of the Minnesota Chippewa Tribe, and as recognized under Section 16 of the Indian Reorganization Act, 25 U.S.C. § 476. These Rules may be amended at any time by action of the Fond du Lac Reservation Business Committee. No amendment shall apply to any pending cases before the Fond du Lac Court at the time action is taken to amend the Rules.

104. APPLICATION OF TRADITIONAL PRACTICES. The Fond du Lac Court shall, in all matters, give judicial notice and attach primary importance to the native traditions, customs, and usages of the Fond du Lac Band of Lake Superior Chippewa, and shall regard all other evidentiary standards as suppletive to traditional values, except where expressly prohibited by federal law.

105. APPLICATION OF FEDERAL RULES. The Fond du Lac Court may, in its sound discretion, resolve interpretational, procedural or evidentiary issues arising under this Code by reference to the Federal Rules of Civil Procedure and the Federal Rules of Evidence. Application of such rules is not deemed an adoption of the rules.

106. REPEAL OF INCONSISTENT ORDINANCES, RESOLUTIONS AND PROVISIONS. All ordinances, resolutions or provisions, or parts thereof, which are inconsistent with the operation of the Fond du Lac Court as prescribed under the provisions of this Code are hereby repealed, except where such ordinances, resolutions or provisions are specifically applicable to actions elsewhere authorized under the Fond du Lac Rules of Court.

107. SEVERABILITY. If any provision of Chapter 100 or 200 of this Code, or the application thereof, to any person, business, corporation or state government or any political subdivision or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Code which can be given effect without the invalid provisions. To this end, the provisions of Chapter 100 and 200 of this Code are declared severable.

108. COURT DATES. The Fond du Lac Court shall convene on the first Monday of each month, and any other day the Chief Judge deems necessary. If the regularly scheduled court date falls on a Monday which is recognized as a holiday by the Reservation Business Committee, the Court shall convene on the following Monday.

109. ONE FORM OF ACTION. There shall be one form of action known as a 'civil action.

110. ORIGINAL JURISDICTION. Subdivision 1. **Territory**. Except as limited by federal state, or tribal law, original jurisdiction of the Fond du Lac Court shall extend to actions that arise within the exterior boundaries of the Fond du Lac Reservation, or upon other Indian Country within the possession or control of the Fond du Lac Band of Lake Superior Chippewa.

Subdivision 2. Persons. Original jurisdiction shall extend to all persons within any geographical area referred to in Subdivision 1 of this Section who are subject to the jurisdiction and governmental power of the Fond du Lac Band, to the extent not prohibited by federal law; all members of the Fond du Lac Band, wherever located; and all persons, property outside the exterior boundaries of the Fond du Lac Reservation included within the jurisdiction of the Fond du Lac Band pursuant to federal, state, or tribal law.

Subdivision 3. Subject Matter. Original jurisdiction shall extend to all civil actions

(a) to which the Fond du Lac Band of Lake Superior Chippewa is a party;

(b) that concern the regulation of treaty rights as vested in the Fond du Lac Band of Lake Superior Chippewa;

(c) arising under the inherent authority of the Fond du Lac Band of Lake Superior Chippewa;

(d) arising under the Constitution of the Minnesota Chippewa Tribe or as is recognized under the Constitution and laws of the United States;

(e) arising under the by-laws, statutes, ordinances, resolutions, codes, and laws enacted by the Fond du Lac Reservation Business Committee;

(f) arising under the customs and traditions of the Ojibwe people of the Fond du Lac Band of Lake Superior Chippewa; and

(g) arising at common law including, but not limited to, contract claims, tort claims, property claims, insurance claims, and claims based on commercial dealings with the Fond du Lac Band, its agencies, sub-entities, and corporations chartered pursuant to its laws.

111. **CONCURRENT JURISDICTION.** The jurisdiction over any person, cause of action, or subject invoked by Section 110 shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Code does not recognize, grant, or cede jurisdiction to any other political or governmental entity in which jurisdiction does not otherwise exist in law.

112. **SOVEREIGN IMMUNITY OF THE FOND DU LAC BAND OF LAKE SUPERIOR CHIPPEWA.** The Fond du Lac Band of Lake Superior Chippewa possesses inherent sovereign immunity from suit, and the provisions of these Rules shall not be construed as a waiver of such immunity, unless the Fond du Lac Reservation Business Committee has given its express consent to such suit.

113. **ADMISSION TO PRACTICE.** Any person admitted to practice and is in good standing before the bar of any State or the District of Columbia shall be deemed to be admitted to practice before the Fond du Lac Court. The Court may, in its sound discretion, admit non-attorneys to practice before it, provided that such individuals have demonstrated familiarity with the principles of Indian law and conduct themselves in a manner consistent with the ethical standards and rules of decorum of the Fond du Lac Court.

114. **ACTIONS, PARTIES, COMMENCEMENT.** Subdivision 1. **Generally.** The party making a complaint in a civil action before the Fond du Lac Court shall be called the Plaintiff, and the party against whom the complaint is made shall be called the Defendant. A civil action is commenced against each defendant by filing a complaint, along with a fifty dollar (\$50.00) filing fee, with the Fond du Lac Clerk of Courts. Commencement of an action shall be ineffectual unless a summons is actually served upon the Defendant with the Complaint.

Subdivision 2. **Real Party in Interest.** Every action shall be prosecuted in the name of the real party in interest, except a personal representative or other person in a fiduciary position, including an executor, administrator, guardian, bailee, or trustee, can sue in his or her name without joining the party for whose benefit the action is maintained.

Subdivision 3. Guardian ad Litem. When an infant, insane, or incompetent person is a party and does not have a guardian or representative, the Court may appoint a guardian ad litem to represent such person in the action.

Subdivision 4. Joinder of Parties. To the greatest extent possible, all persons or parties with an interest in a particular action shall be joined in the action. The failure to join a party over whom the Court does not have jurisdiction will not require dismissal of the action unless the Court deems it impossible to reach a just result in the absence of the party. When joinder of an interested person is not possible, the Court shall attempt to fashion a resolution so as to do the greatest justice possible under the circumstances.

Subdivision 5. Authorization of in forma pauperis. (a) Any court of the Fond du Lac Band of Lake Superior Chippewa may authorize the commencement or defense of any civil action, appeal therein, or the filing of any motion requiring service under Rule 120 without the prepayment of fees, costs, and security for costs by a natural person who makes affidavit stating (1) the person's monthly income and necessary monthly expenses; (2) that the person is financially unable to pay the fees, costs and security for costs; and (3) that the action is brought, or the motion filed, in good faith.

(b) Upon a finding by the court that the action or motion is not of a frivolous nature, the court shall allow the person to proceed in forma pauperis if the affidavit is substantially in the language required by this subdivision and is not found by the court to be untrue.

(c) If, at commencement of the action, the court finds that a party does not meet the eligibility criteria under paragraph (b), but the court also finds that the party is not able to pay all of the fees, costs, and security for costs, the court may order partial payment of the fees, costs, and security for costs, to be paid as directed by the court.

115. LIMITATIONS OF TIME. Subdivision 1. **Application; Limitation.** Actions can only be commenced within the periods prescribed by these Rules after the cause of action has accrued. Except as otherwise prescribed, the following actions shall be commenced within three (3) years:

(a) Upon a contract, express or implied.

(b) Upon a liability created by the Fond du Lac Civil Code.

(c) Trespass upon real estate, forcible entry or unlawful detainer.

(d) For taking, detaining or injury to personal property, including actions for the specific recovery thereof.

(e) For criminal conversion, or for any other injury to the person or rights of another, not arising on contract, and not hereinafter enumerated.

(f) For libel, slander, assault, battery, false imprisonment, or other tort resulting in personal injury.

Subdivision 2. Periods of Disability Not Counted. Any of the following grounds of disability existing at the time when a cause of action accrued, or arising any time during the period of limitation, shall suspend the running of the period of limitation until such disability is removed:

(a) That a party has not attained the age of 18.

(b) A party's insanity.

(c) The party the action would be brought against is not subject to the jurisdiction of the Fond du Lac Court.

Where two or more disabilities coexist, the suspension shall continue until all are removed.

Subdivision 3. Exceptions. Exceptions to the three-year period during which a suit must be brought are as follows:

(a) Where a party is incarcerated;

(b) Where a party is in military services; or

(c) Where a party is willfully absent for the purpose of avoiding suit.

116. COMPLAINT. A complaint shall contain the following information:

(a) The name of the Fond du Lac Court;

(b) The names of the parties;

(c) Date(s) of the violation(s);

(d) A short and plain statement of the claim showing that the pleader is entitled to relief; and

(e) A demand for judgment for the relief to which the pleader deems himself to be entitled. If the demand is for property, a definite description of the property shall be made. If the demand is for money, the amount demanded shall be stated.

117. **SUMMONS**. A summons shall contain the following:

(a) The name of the Fond du Lac Court;

(b) The names of the parties;

(c) The signature of the Judge of the Fond du Lac Court or, in the case of a citation issued by an authorized law enforcement officer or agent, the signature of the issuing officer or agent;

(d) It shall state that the Defendant has 20 days following service in which to serve his answer; and

(e) It shall notify the Defendant that failing to answer the complaint and to serve his answer within 20 days will result in a default judgment against him and an award by the Court for the relief requested in the complaint.

118. **SERVICE OF COMPLAINT**. A copy of the complaint shall be served with the summons.

119. **SERVICE OF SUMMONS**. Service of a summons shall be completed according to the Federal Rules of Civil Procedure requirements for service of a summons, with the following exceptions:

(a) If in a particular case an ordinance provides for a different method of service, that method of service shall be used; and

(b) As an alternative to personal service, a copy of the complaint and summons may be mailed to the Defendant at the Defendant's last known address by Certified Mail with a return receipt requested.

120. **SERVICE OF PLEADINGS AND OTHER PAPERS: WHEN REQUIRED**. Service is required for all claims, pleadings, notices, appearances, motions other than those heard ex parte, orders and judgments of the Court and appeals, except that no service shall be required where a party has defaulted for failure to appear or where the party has received notice by the Court.

121. **SERVICE OF PLEADINGS AND OTHER PAPERS: HOW MADE**. When service of a document is required under Section 120, service of the document shall be completed according to the Federal Rules of Civil Procedure requirements for service of pleadings and other papers, except that if in a particular type of case an ordinance provides for a different method of service, that method of service shall be used.

122. RETURN OF SERVICE. The officer or person causing the service to be made shall attach to the served document and file with the Fond du Lac Clerk of Courts a Return of Service stating the place, date, time, and person on whom the service was made. If service was made by Certified Mail, the return receipt shall be filed with the Clerk of Courts.

123. FILINGS. All pleadings, affidavits, and other papers in connection with a civil action shall be filed with the Clerk of Courts unless otherwise provided by this Code or by order of the Court.

124. FACSIMILE TRANSMISSION. Any paper may be filed with the Court by facsimile transmission, provided that the original signed document is filed with the Court within 5 days, along with the \$5 transmission fee and any applicable filing fee. Failure to comply with this Rule may result in a striking by the Court of any subject pleadings or parts thereof, staying of further proceedings until compliance is complete, or dismissing the action, proceeding, or any part thereof.

125. ANSWER. Subdivision 1. Generally. The original answer shall be filed with the Fond du Lac Clerk of Courts, and a copy of the answer shall be mailed by the Defendant to the Plaintiff within twenty (20) days of the service of the complaint. The answer may deny the truth of all or some of the statements in the complaint, admit the truth of all or some the statements in the complaint, or state that the pleading party is without knowledge or information sufficient to form a belief as to the truth of the claim or any part of the claim, which shall operate as a denial of the claim. The answer shall also state, in short and plain terms, any legal defenses to each claim asserted by the Plaintiff or any counterclaims or crossclaims.

126. DISMISSAL OF ACTIONS. Subdivision 1. Voluntary Dismissal. Prior to a party against whom a claim has been made filing a responsive pleading, a motion to dismiss, or a motion for summary judgment, the party making the claim may file a notice of dismissal and the party's claim shall be deemed dismissed without prejudice. In all other circumstances, a party may move the Court to dismiss the party's own claim, and the Court shall do so either with or without prejudice as is just given the stage of the proceedings. If, however, a crossclaim or counterclaim has been filed against the moving party, the judge shall dismiss the claim only with the consent of the adverse party or only if it appears that the other party can prosecute its claim independently without undue additional hardship.

Subdivision 2. Motion to Dismiss. A party against whom a claim has been made may move the Court to dismiss the claim of the adverse party upon any of the following grounds:

- (a) lack of jurisdiction over the subject matter of the action or over the parties;
- (b) insufficiency of process;

- (c) insufficiency of service of process;
- (d) failure to state a claim upon which relief can be granted;
- (e) the action is barred by the statute of limitations;
- (g) failure to join an indispensable party under Rule 114, Subdivision 4.

A motion to dismiss under this Subdivision must be made prior to answering a complaint if an answer is permitted or required by these Rules. An answer will not be due until ten (10) days after the disposition of the motion by the Court. If, on a motion to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment, and all parties shall be given reasonable opportunity to present all material pertinent to such a motion.

127. FILING ANSWER. The Defendant's answer to the complaint shall be filed with the Fond du Lac Clerk of Courts.

128. COUNTERCLAIM & CROSSCLAIM. Subdivision 1. **Counterclaim.** The Defendant may assert in an answer a counterclaim stating any claims that the Defendant has against the Plaintiff relating to the same subject matter. The Plaintiff shall have 10 days from the date of service of the counterclaim to file an original of the Plaintiff's reply to the counterclaim with the Fond du Lac Clerk of Courts and to serve a copy of the reply upon the Defendant. The original reply to the counterclaim shall be filed by the Clerk of Courts.

Subdivision 2. Crossclaim. A pleading may state as a crossclaim any claim by one party against a co-party arising out of the transaction or occurrence that is the subject matter either of the original action or of a counterclaim therein or relating to any property that is the subject matter of the original action. Such crossclaim may include a claim that the party against whom it is asserted is or may be liable to the cross-claimant for all or part of a claim asserted in the action against the cross-claimant.

129. THIRD-PARTY INTERVENTION. Any third party seeking to intervene as a plaintiff or defendant in an action brought before the Fond du Lac Court may file such motions as appear necessary, together with supporting briefs and affidavits, where such party's interest is direct and substantial and is otherwise brought in accordance with the provisions of this Code. The standing of such party and the disposition of such claims shall rest with the sound discretion of the Court.

130. TIME. Subdivision 1. **Generally.** In computing any period of time prescribed or allowed by these rules, Saturdays, Sundays, or holidays recognized by the Fond du

Lac Band of Lake Superior Chippewa shall not be counted. The day of the act, event, or default after which the designated period begins to run is not to be included.

Subdivision 2. Extension. The Court for good cause shown may extend the prescribed period of time within which a required act may be done.

131. AMENDMENT OF PLEADINGS. Subdivision 1. Amendments. A party may amend pleadings as a matter of course once before the opposing party has replied or, if no reply is required, not less than twenty (20) days before the case is scheduled for trial. The opposing party may respond, if appropriate, and the trial date may be delayed if necessary. Other amendments shall be allowed only upon a party's motion and an order of the Court in its discretion, but the Court should give leave for such amendments when justice so requires.

Subdivision 2. Amendments to Conform to the Evidence. When issues or evidence not raised in the pleadings are heard at trial, the judgment may conform to such issues or evidence without the necessity of amending the pleadings.

132. SUPPLEMENTING PLEADINGS. Upon motion of a party, the Court may permit the party to serve a supplemental pleading setting forth transactions, occurrences, or events transpiring since the date of the pleading sought to be supplemented was initially filed. In its discretion, the Court may order the adverse party to plead in response to the supplemented pleading, specifying the requisite timeframes.

133. MOTIONS PRACTICE. Subdivision 1. Scope and Application. This Rule shall govern all civil motions. There are two categories of motions under these Rules: dispositive and non-dispositive.

(a) Dispositive Motions are motions which seek to dispose of all or part of the claims or parties, except motions for default judgment. They include motions for summary judgment under Section 134, motions for judgment on the pleadings under Section 135, and motions to dismiss under Section 126, Subdivision 2.

(b) Non-Dispositive motions are all other motions, including but not limited to discovery, third-party practice, temporary relief, intervention, and amendment of pleadings, among other requests.

Subdivision 2. Form and Service. All motions shall be made in writing unless made orally on the record before the Court. All motions shall state with particularity the rule or substantive law upon which they are based, and shall state clearly and succinctly the relief sought and the law and facts that warrant such relief. Service of motions must comply with Section 121.

Subdivision 3. Obtaining Hearing Date; Notice to Parties. A hearing date and time shall be obtained from the Fond du Lac Clerk of Courts. A party obtaining a date and time for a hearing on a motion or for any other calendar setting, shall promptly give notice advising all other parties who have appeared in the action so that cross motions may, insofar as possible, be heard on a single hearing date.

Subdivision 4. Dispositive Motions. (a) No motion shall be heard until the moving party serves a copy of the following documents on opposing counsel and files the original with the Clerk of Courts at least 28 days prior to the hearing:

- (1) Notice of motion and motion;
- (2) Proposed Order;
- (3) Any affidavits and exhibits to be submitted in conjunction with the motion; and
- (4) Memorandum of law.

(b) The party responding to the motion shall serve a copy of the following documents on opposing counsel and shall file the originals with the Clerk of Courts at least 9 days prior to the hearing:

- (1) Memorandum of law; and
- (2) Supplementary affidavits and exhibits.

(c) Reply Memoranda. The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving a copy on opposing counsel and filing the original with the Clerk of Courts at least 3 days before the hearing.

(d) Additional Requirement for Summary Judgment Motions. For summary judgment motions, the memorandum of law shall include:

- (1) A statement by the moving party of the issues involved which are the grounds for the motion for summary judgment;
- (2) A statement identifying all documents (such as depositions or excerpts thereof, pleadings, exhibits, admissions, interrogatory answers, and affidavits) which comprise the record on which the motion is made. Opposing parties shall identify in their response Memorandum of Law any additional documents on which they rely.

(3) A recital by the moving party of the material facts as to which there is no genuine dispute, with a specific citation to that part of the record supporting each fact. A party opposing the motion shall, in like manner, make a recital of any material facts claimed to be in dispute. Such recitals shall be excluded from the page limitations of this Rule; and

(4) The party's argument and authorities.

Subdivision 4. Non-Dispositive Motions. (a) No motion shall be heard until the moving party serves a copy of the following documents on the other party or parties and files the original with the Clerk of Courts at least 14 days prior to the hearing:

(1) Notice of motion and motion;

(2) Proposed order;

(3) Any affidavits and exhibits to be submitted in conjunction with the motion; and

(4) Any memorandum of law the party intends to submit.

(b) The party responding to the motion shall serve a copy of the following documents on the moving party and other interested parties and shall file the original with the Clerk of Courts at least 7 days prior to the hearing:

(1) Any memorandum of law the party intends to submit; and

(2) Any relevant exhibits and affidavits.

(c) Reply Memoranda. The moving party may submit a reply memorandum, limited to new legal or factual matters raised by an opposing party's response to a motion, by serving a copy on opposing counsel and filing the original with the Clerk of Courts at least 3 days before the hearing.

Subdivision 5. Motions for which No Hearing is Granted. The Court may choose not to grant a hearing on a motion. In that event, and unless the Court orders otherwise, the non-moving party or parties have fifteen (15) days to respond to the motion, and the moving party shall have seven (7) days from the date of the response to file any reply.

Subdivision 6. Page Limits. No memorandum of law submitted in connection with a motion, dispositive or non-dispositive, shall exceed 35 pages, except with permission of the Court. If a reply memorandum of law is filed, the cumulative total of the original memorandum and the reply memorandum shall not exceed 40 pages, except

with the permission of the Court. The Court may waive or modify page limits in its discretion.

Subdivision 7. Failure to Comply. If the moving papers are not properly served and filed under these Rules, the Court may cancel the hearing. If responsive papers are not properly served and filed in a non-dispositive motion, the Court may deem the motion unopposed and may grant the relief requested without a hearing. For a dispositive motion, the Court, in its discretion, may refuse to permit oral argument by the party not complying with rules pertaining to service and filing, may allow reasonable attorney's fees, or may take other appropriate action as it sees fit.

Subdivision 8. Relaxation of Time Limits. In the interests of justice or for good cause shown, the Court may waive or modify the time limits established by this Section, but only if requested by motion of one of the parties.

Subdivision 9. Time limits for Injunctions and Temporary Restraining Orders. This Section shall not apply to motions or applications for injunctions or temporary restraining orders. Briefing and hearing schedules for such motions or applications shall be set by the Court on a case-by-case basis.

134. SUMMARY JUDGMENT. Any time twenty (20) days after commencement of an action, any party may move the Court for summary judgment as to any or all of the issues presented in the case. The motion shall be granted if it appears that there is no genuine issue as to any material fact and that the moving party is entitled to judgment as a matter of law. Scheduling and briefing of such motions shall be governed by Section 133.

135. JUDGMENT ON THE PLEADINGS. After the pleadings are closed but within such time as not to delay the trial, any party may move for judgment on the pleadings. If, on a motion for judgment on the pleadings, matters outside the pleadings are presented to and not excluded by the Court, the motion shall be treated as one for summary judgment, and all parties shall be given reasonable opportunity to present all material relevant to such a motion.

136. PRE-TRIAL CONFERENCES. Upon written request of either party or upon the Court's own motion, the Court may schedule a pre-trial conference between the parties and their counsel, if any. Such conference may be held or requested either before or after the case is scheduled for trial. If scheduled, the Clerk of Courts shall notify the parties of the time, date, and place of the conference. At the pre-trial conference, the presiding judge shall confer with the parties and their counsel, if any, to ascertain the following:

(a) Whether there are any matters/procedures/timelines that will expedite disposition of the case, or will aid in the simplification, clarification, and disposition of the case;

(b) Whether or not some or all of the issues in the dispute can be settled without adjudication; the presiding Judge may participate in settlement discussions to the extent that his or her impartiality at any eventual trial will not be affected;

(c) Whether or not the parties need to engage in any pre-trial discovery. If the judge determines that pre-trial discovery is proper, he or she shall set forth the nature, extent, and time schedule for its completion. If permitted, discovery mechanisms and procedures shall conform the requirements of Section 138 unless the Court provides otherwise;

(d) Whether or not the claim is ready for trial: (1) if the claim is ready for trial, the judge shall set a date for trial as soon as practicable; or (2) if the claim is not ready for trial, the judge shall set a subsequent date for trial; and

(e) Whether resolution is required of constitutional or evidentiary issues. If so, the Court may schedule a pretrial hearing to resolve any such issues.

137. CONSOLIDATION; SEPARATE TRIALS. The Court may, upon motion of any party or its own motion, order some or all of the issues of separate actions to be tried together when there is a common issue of fact or law relating the actions or if consolidation will tend to avoid unnecessary cost or delay. The Court may also order a separate trial of a claim or issue to avoid prejudice or to further convenience.

138. DISCOVERY. Subdivision 1. Generally. Subject to limitations ordered by the judge, parties may obtain discovery regarding any matter, not privileged, which is relevant to the pending action, whether or not the discovered material would be admissible at trial, if it appears reasonably calculated that the discovered material would lead to the discovery of admissible evidence. The work product of a party's attorney or advocate is not discoverable.

Subdivision 2. Interrogatories. A party may submit written interrogatories to any other party who shall answer them in writing, under oath, within twenty-five (25) days of receipt.

Subdivision 3. Depositions. A party may take the oral deposition of an adverse party or non-party witness under oath upon not less than ten (10) days' notice, specifying the time and place the deposition will occur.

Subdivision 4. Production of Documents or Other Things. A party may request another party to produce documents or things in custody for inspection or copying, or may request permission to enter and inspect property reasonably related to the case, and the opposing party shall within twenty-five (25) days reply as to whether such will be allowed and if not, why not.

Subdivision 5. Protection Orders. A party against whom discovery is sought may move the Court for a protective order to prevent undue annoyance, harassment, embarrassment, oppression, or undue burden or expense. The Court may order that the discovery cease or proceed only upon specific conditions.

Subdivision 6. Order to Compel. If a party fails to respond or appear for discovery as provided in this Section, the opposing party may move for an order to compel the defaulting party to perform and the Court may award reasonable costs to the non-defaulting party. If a party fails to perform after being ordered to do so by the Court, the Court may, upon motion, order that a certain fact, claim, or defense be deemed established or strike part of a claim or defense, or dismiss or render a judgment by default against the non-complying party.

Subdivision 7. Use of Answers to Interrogatories and Depositions. Answers to interrogatories and depositions may be used in a motion, a hearing, or at trial to impeach or contradict the testimony of the person discovered, or by an adverse party.

Subdivision 8. Filing of Discovery Documents Not Required. Discovery documents need not be filed with the Court unless the Court orders otherwise.

139. ISSUANCE OF SUBPOENAS. **Subdivision 1.** Upon request of any party or upon the Court's own initiative, the Court shall issue subpoenas to compel the testimony of witnesses, compel inspection of premises, or compel the production of books, records, documents, other physical evidence, or electronically stored evidence relevant to the determination of the case and not an undue burden on the person possessing the evidence. An officer of the Court may issue a subpoena on behalf of the Court where it has been signed by a judge and is served upon the party to whom the subpoena is directed.

Subdivision 2. A subpoena shall bear the name of the Fond du Lac Court and the signature of the authorizing judge, shall state the name of the person or a description of the physical evidence subpoenaed, the title of the proceeding, and the time and place where the witness is to appear, the premises to be inspected, or the evidence is to be produced.

140. SERVICE OF SUBPOENAS. A subpoena shall be served in the manner prescribed under Sections 119-122 of this Code. Proof of service shall be made by filing with the Clerk of Courts from which the subpoena was issued a statement certified by the person who made the service, setting forth the date and manner of service, the county in which it was served, and the names of the persons served.

141. FAILURE TO OBEY A SUBPOENA. In the absence of a compelling justification, a party who fails to obey a subpoena issued by the Fond du Lac Court

in accordance with the provisions of this Code may be cited and held in contempt of Court.

142. TRIALS. All trials shall be court trials.

143. TRIAL PROCEDURE. In a civil case, the trial shall proceed in the following order:

(a) The Plaintiff shall orally state his or her case and then shall produce the evidence and witnesses on his or her part.

(b) The Defendant may then state his or her case and produce the evidence and witnesses in support of his or her case.

(c) The parties may then respectively offer rebuttal evidence only.

(d) When the evidence has been concluded, the parties may present closing arguments with the Defendant proceeding first.

(e) When the arguments are closed, the Court shall deliberate, and may issue a ruling from the bench or render a written opinion within 30 days.

144. STANDARDS OF EVIDENCE AND PROOF. Subdivision 1. Testimonial and Physical Evidence. All testimony of witnesses shall be given orally under oath in open Court and subject to the right of cross-examination. Documentary, tangible, and electronically stored evidence shall also be received in open Court. Findings shall be based upon competent evidence only. The hearing shall be conducted so as to ascertain the substantial rights of the parties.

Subdivision 2. Standard of Proof. The party asserting a claim in a civil matter before the Fond du Lac Court shall have the burden of proving the claim so asserted by a fair preponderance of all the evidence.

Subdivision 3. Enrollment Records. A Minnesota Chippewa Tribe Certificate of Tribal Enrollment or a Minnesota Chippewa Tribe Certificate of Indian Blood is a self-authenticating document if it is signed by the Band's enrollment officer.

145. MOTIONS FOR DIRECTED VERDICT/JUDGMENT NOTWITHSTANDING THE VERDICT. Subdivision 1. At Close of Opposing Party's Evidence. A party may move for a directed verdict as to one or all issues in a trial at the close of all evidence offered by the opposing side. The motion shall be granted with respect to an issue if the Court finds that the opposing party has been fully heard on an issue during trial and that there is no legally sufficient evidentiary basis to find for the party on that issue. A motion for directed verdict shall state with specificity the grounds supporting the motion. A party who moves for a directed verdict at the

close of the evidence offered by the opposing side may offer evidence at trial as if no motion had been made in the event the motion is denied.

Subdivision 2. At Close of All Evidence. A party may move for a directed verdict as to one or all issues at the close of all evidence offered at trial. A party who has made a motion for a directed verdict at the close of all the evidence, which motion has been denied or not granted, may, within ten (10) days after entry of judgment move to have the verdict and any judgment entered thereon set aside and entered according to the party's motion for directed verdict. A motion for new trial under Section 204 may be made in the alternative. The Court shall enter judgment or make any orders consistent with its decision on the motions.

146. CONTINUANCES. A party may move the Court, orally or in writing, to continue a scheduled proceeding for good cause which shall be granted or denied by the Court in its sound discretion. Non-moving parties shall have the right to oppose the continuance. The Court may also continue any proceeding upon its own motion, but must inform the parties of the reason for the continuance.

147. CONTEMPT OF COURT. Any person who demonstrates intentional disobedience or disregard towards the authority of the Fond du Lac Court, or who engages in the disorderly disruption of the proceedings of the Court, shall be held in contempt of court and shall be subject to a civil fine not to exceed two hundred dollars (\$200.00), and/or removal from the courtroom.

148. DISABILITY OR DISQUALIFICATION OF A JUDGE. **Subdivision 1. Disability.** If by reason of death, sickness, or other disability, a judge before whom an action has been assigned is unable to perform the duties required under these Rules, then the Chief Judge shall assign a qualified alternate judge, if available, to perform those duties. If the assigned judge is satisfied that he or she cannot perform necessary duties because he or she did not preside at the trial or for any other reason, the assigned judge may grant a new trial in his or her discretion.

Subdivision 2. Disqualification. A judge shall disqualify himself or herself from hearing any matter in which he or she has a direct interest or in which any party to the matter or counsel representing any party to the matter is a relative by blood at least to the fourth degree (first cousin), or where the judge feels that he or she will not be able to render a just decision in an unbiased manner.

Any party to a legal proceeding before the Court may request that the judge assigned to the proceeding be disqualified by filing with the Court a written affidavit articulating sufficient reasonable grounds for why the judge should not hear the case. The affidavit shall be presented to the judge assigned to hear the case who shall rule on the sufficiency of the request and, if deemed sufficient, shall disqualify himself or herself. All requests for disqualification must be made within five (5) days after the proceeding commences unless the party requesting

disqualification can show good cause as to why the grounds for disqualification were not known to him or her until after the five (5) day period following commencement of the proceeding. No party may file more than one affidavit under this Subdivision in any single proceeding. All affidavits filed under this Subdivision must be accompanied by a certificate of counsel or advocate of record that such affidavit and application are made in good faith.

149. EX PARTE COMMUNICATION. Ex parte communications with judges of the Fond du Lac Court are strongly discouraged. All inquiries shall be directed to the Clerk of Courts, who shall confer with the judge(s).

CHAPTER 200

JUDGMENTS

201. DEFINITIONS: REQUIREMENTS. A judgment shall be entered in each civil case. The Judgment shall be for money, for other relief, or for dismissal. A judgment is complete and is entered when it is signed by the judge and filed with the Fond du Lac Clerk of Courts. The Clerk of Courts shall provide notice of entry of judgment to all parties without counsel or to all counsel if parties are represented. A judgment may include, in the Court's discretion, all reasonable costs and disbursements made by the prevailing party in pursuing or defending the action, including, but not limited to, filing fees, service of process fees and mileage, attorneys fees, witness fees, discovery fees, or other costs reasonably incurred in the maintenance of the action.

202. JUDGMENT BY DEFAULT. When a party against whom a judgment for relief is sought has failed to defend or otherwise answer the claim in accordance with the provisions of this Code, and that fact is made to appear by an affidavit, judgment by default shall be entered by the presiding Judge against the non-answering party for the relief in which the party in whose favor the judgment is rendered, sought in his pleading. The judgment by default shall not be different in kind or exceed in amount that prayed for in the demand for judgment.

203. FULL FAITH AND CREDIT. Subdivision 1. Substantive Requirements. Orders, judgments, decrees, and other judicial proceedings from courts other than the Fond du Lac Court may be given full faith and credit in the Fond du Lac Court after the party seeking full faith and credit establishes by clear and convincing evidence that:(a) the original court had jurisdiction over both the subject matter and the parties;

(b) the order, judgment, decree, or other proceeding was not fraudulently obtained;

(c) the order, judgment, decree, or other proceeding was obtained by a process that assures the requisites of an impartial administration of justice including, but not limited to, adequate notice and an opportunity to be heard;

(d) the order, judgment, decree, or other proceeding complies with the laws, ordinances, and regulations of the jurisdiction from which it was obtained; and

(e) the order, judgment, decree, or other proceeding does not contravene the public policy of the Fond du Lac Band of Lake Superior Chippewa or interfere with the Band's right to make its own laws and be governed by them.

Subdivision 2. MCT Money Judgments. Full faith and credit shall be given to any final civil money judgment or order issued by a court organized under the Revised

Constitution and Bylaws of the Minnesota Chippewa Tribe, subject only to the requirement that the court of original jurisdiction had jurisdiction over the subject matter and the persons identified in the judgment or order.

Subdivision 3. Procedural Requirements. A party seeking to have full faith and credit given to an order, judgment, decree or other judicial proceeding from a court other than the Fond du Lac Court shall file a petition with the Fond du Lac Court setting forth the request. Notice shall be given to the other party or parties to the order, judgment, decree, or other judicial proceeding in the foreign jurisdiction and they shall have an opportunity to respond to the petition in accordance with the Chapter 100 of the Fond du Lac Civil Code (the Fond du Lac Rules of Court) governing responsive pleadings. The Court may hear oral argument on the petition at its discretion. The Court shall enter an order finding that the requirements of this Section have or have not been met within ten (10) days of:

(a) the date of the hearing;

(b) the filing of the response to the petition for full faith and credit if no hearing is ordered; or

(c) if no response is filed, within ten (10) days of the date a response could have been filed pursuant to these Rules.

204. NEW TRIALS. Subdivision 1. Motion for New Trial. Any party may petition for a new trial on any or all of the issues presented by filing and serving a motion not later than ten (10) days after the entry of judgment, for any of the following causes:

(a) Error or irregularity which prevented any party from receiving a fair trial;

(b) Accident or surprise, or newly discovered evidence that through due diligence could not have been found and produced at trial;

(c) Damages so excessive or inadequate that they appear to have been given under influence of passion or prejudice; or

(d) Error in law.

Subdivision 2. Harmless Error. A new trial shall not be granted on the basis of error or irregularity which did not affect substantial justice and was therefore harmless.

Subdivision 3. Memoranda in Support. Parties may include memoranda or affidavits in support of their motions. Reply memoranda and affidavits shall be allowed if requested.

Subdivision 4. Upon the Court's Own Initiative. The Court may, on its own initiative, not later than ten (10) days after entry of judgment, order a new trial on any grounds which may be asserted by a party to the action. The Court shall specify the reasons for ordering a new trial under this Subdivision.

205. RELIEF FROM JUDGMENTS. Subdivision 1. Upon the Court's Own Initiative. Clerical mistakes or errors in judgments, orders, or other parts of the record arising from oversight or omission may be corrected by the Court at any time on its own initiative or on the motion of any party and after such notice as the Court may direct.

Subdivision 2. Upon Motion. When justice so requires and upon motion by any party, the Court may relieve a party or the party's legal representative from a final judgment, order, or proceeding for the following reasons:

- (a) Mistake, inadvertence, surprise, or excusable neglect;
- (b) Newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Section 204;
- (c) Fraud, misrepresentation or other misconduct of an adverse party;
- (d) The judgment is void;
- (e) The judgment has been satisfied, released, or discharged; or a prior judgment should have prospective application; or
- (f) Any other reason justifying relief from the operation of the judgment.

The motion shall be made within a reasonable time and for reasons (a), (b), or (c), not more than one (1) year after the judgment, order, or proceeding was entered or taken. A motion under this Subdivision does not affect the finality of a judgment or suspend its operation. This Section does not limit the power of a court to entertain an independent action to relieve a party from a judgment, order, or proceeding or to set aside a judgment for fraud upon the Court. The procedure for obtaining any relief from a judgment shall be by motion as prescribed in these Rules or by an independent action.

206. SATISFACTION OF JUDGMENT. A judgment may be satisfied in whole or in part as to any or all of the judgment debtors by the owner of the judgment executing under oath and filing with the Clerk of Courts an acknowledgment of satisfaction specifying the amount paid and whether it is full or partial satisfaction.

207. JUDGMENT CONSTITUTES A LIEN. A judgment shall constitute a lien on any property subject to judgment as defined by Section 212 of this Code. Notice of

this lien may be placed by the judgment creditor with the appropriate public agency.

208. LIFE OF JUDGMENT. No judgment of the Court for money shall be enforceable after five (5) years of filing with the Clerk of Courts, unless application to renew the judgment has been filed before the expiration pursuant to Section 209

209. RENEWAL OF JUDGMENT. Upon application of the judgment creditor prior to the expiration of five (5) years after the date of the filing of a judgment for the payment of money, the Clerk of Courts shall renew the judgment and extend it for an additional five (5) years.

210. ENFORCEMENT OF JUDGMENT. If any final judgment for money rendered by the Fond du Lac Court is not satisfied within thirty (30) days of its filing by the Clerk of Courts, it may be executed or enforced in a manner consistent with Sections 212 and 213 of this Code, provided that a certified copy of the judgment has been served upon the party to whom it is directed, and if that party refuses to obey the judgment, the party may be held in contempt of court.

211. STAY OF JUDGMENT. Except as provided in this Section, no execution or enforcement of a judgment shall be issued until the expiration of the 30 days after its filing. When an appeal has been taken from the judgment, the Court may stay the enforcement of its judgment or it may stay or grant an injunction during the pendency of the appeal on such terms as it considers just for the security of the adverse party to the appeal.

212. PROPERTY SUBJECT TO JUDGMENTS. The following property of the judgment debtor shall be subject to the satisfaction of judgments issued by the Fond du Lac Court:

(a) Up to twenty-five percent of the judgment debtor's net earnings as an employee of the Fond du Lac Reservation Business Committee or any of its subdivisions.

(b) If the judgment is from a proceeding brought originally in the Fond du Lac Court, any per capita payments made by the Reservation Business Committee to the judgment debtor.

(c) Any other moneys held by the Reservation Business Committee or its subdivisions in the name of the judgment debtor, except to the extent prohibited by federal law.

(d) Other property of the judgement debtor, if such property is subject to the jurisdiction of the Court.

213. EXECUTION OF JUDGMENT. Upon application to the Court by the judgment creditor, the Court shall issue a Writ of Execution. The Writ of Execution shall refer to the judgment, the names of the parties to the judgment, the amount of the judgment, and the date and time that the judgment was entered. The Writ shall then be directed to the appropriate officer or division of the Fond du Lac Reservation Business Committee.

214. INJUNCTIONS/TEMPORARY RESTRAINING ORDERS. Subdivision 1. Preliminary Injunctions.

(a) No preliminary injunction shall be issued without notice to the adverse party.

(b) Before or after beginning the hearing on a motion for a preliminary injunction, the Court may advance the trial on the merits and consolidate it with the hearing. Even when consolidation is not ordered, evidence that is received on the motion and that would be admissible at trial becomes part of the trial record and need not be repeated at trial.

(c) An injunction may be granted:

(1) When the party's request for relief consists of restraining the commission or continuance of some act complained of, either for a limited period or perpetually, and it appears by the pleadings on file that a party is entitled to the relief demanded;

(2) When it appears from the pleadings or by affidavit that the commission or continuance of some act during the litigation would produce irreparable injury to the party seeking injunctive relief;

(3) When it appears during the litigation that either party is doing or threatens, or is about to do, or is procuring or suffering to be done, some act in violation of the rights of another party respecting the subject matter of the action, and tending to render the judgment ineffectual; or

(4) In all other cases where an injunction would be proper in equity.

Subdivision 2. Temporary Restraining Orders. No temporary restraining order shall be granted without notice to the adverse party unless it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party can be heard in opposition. Every temporary restraining order granted without notice shall:

(a) be endorsed with the date and hour of issuance;

(b) be filed forthwith in the clerk's office and entered of record;

(c) describe the injury and state why it is irreparable and why the order was granted without notice;

(d) expire by its terms within such time after entry, not to exceed fourteen (14) days, as the Court fixes, unless within the time fixed the order, for good cause shown, is extended for a like period or unless the party against whom the order is directed consents that it may be extended for a longer period. The reasons for the extension shall be stated on the record.

In case a temporary restraining order is granted without notice, the motion for a preliminary injunction shall be set down for hearing at the earliest possible time and takes precedence of all matters except older matters of the same character; and when the motion comes on for hearing the party who obtained the temporary restraining order shall proceed with the application for preliminary injunction and, if the party does not do so, the Court shall dissolve the temporary restraining order. On two (2) days' notice to the party who obtained the temporary restraining order without notice or on such shorter notice to that party as the Court may prescribe, the adverse party may appear and move its dissolution or modification and in that event the Court shall proceed to hear and determine such motion as expeditiously as justice requires.

Subdivision 3. Expediting the Preliminary Injunction Hearing. If a temporary restraining order is issued without notice, a hearing for a preliminary injunction on the matter must be set at the earliest possible time. At the hearing, the party who obtained the order must proceed with the motion; if the party does not, the Court shall dissolve the order.

Subdivision 4. Motion to Dissolve Temporary Restraining Order. On not less than two (2) days' notice to the party who obtained the temporary restraining order without notice, the adverse party may move to dissolve or modify the order. The Court must hear and decide the motion as promptly as justice requires.

Subdivision 5. Security. Except as otherwise provided by law, no restraining order or preliminary injunction shall issue unless the applicant gives security in an amount that the Court considers proper to pay the costs and damages, in such sum as the Court deems proper, as may be sustained by any party found to have been wrongfully enjoined or restrained. No such security shall be required of the United States, the Fond du Lac Band of Lake Superior Chippewa, or of an officer, or agency, of either; nor shall it be required of a married person in a suit against the other party to the marriage contract. Nothing in this section shall be construed to give the Fond du Lac Court jurisdiction over the United States or its employees operating within the scope of their employment.

Subdivision 6. Proceedings Against a Surety. When security is given through a bond or other undertaking with one or more sureties, each surety submits to the jurisdiction of the Fond du Lac Court and irrevocably appoints the Clerk of the Courts as his or her agent upon whom any paper affecting his or her liability on the bond or undertaking may be served. Each surety's liability may be enforced on motion without the necessity of an independent action. The motion and such notice of the motion as the Court prescribes may be served on the Clerk of the Courts who shall mail copies to the persons giving the security if their addresses are known.

Subdivision 7. Contents and Scope of Every Injunction and Restraining Order. Every order granting an injunction and every temporary restraining order shall be specific in terms and shall describe in reasonable detail, without reference to the complaint or other document, the act or acts sought to be restrained. Such orders are binding only upon the following who receive actual notice of the order by personal service or otherwise: parties to the action, their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them.

215. DECLARATORY JUDGMENT. In a case of actual controversy within the jurisdiction of the Fond du Lac Court, the Court may, upon the motion of a party, declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgment or decree.

216. EXTRAORDINARY WRITS. Where no other plain, speedy, and adequate remedy exists, relief may be obtained through an extraordinary writ which may be granted for any one of the following grounds:

(a) Where any person usurps, intrudes into, or unlawfully holds or exercises the duties of a public office or does or permits to be done any act which by law works a forfeiture of his or her office;

(b) Where an inferior tribunal, board, or officer exercising judicial or ministerial functions has unlawfully exceeded its jurisdiction or abused its discretion;

(c) Where the relief sought is to compel any inferior tribunal, board, or person to perform an act which the law specially enjoins as a duty resulting from an office, trust, or station; or to compel the admission of a party to the use and enjoyment of a right or office to which he or she is entitled and from which he or she is unlawfully excluded by such inferior tribunal, board or person;

(d) Where the relief sought is to stop the proceedings of any tribunal, board, or person, whether exercising functions judicial or ministerial, when such proceedings are without or in excess of the jurisdiction of such tribunal, board, or person.

No extraordinary writ may be issued against the Fond du Lac Band of Lake Superior Chippewa, or officer or official of the Band, or any entity owned by the Band in its governmental capacity absent an unequivocally expressed waiver of the Band's sovereign immunity from suit.

CERTIFICATION

We do hereby certify that the foregoing Ordinance #04/92, was duly adopted by Resolution #1135/92 by a vote of 4 for, 0 against, 0 silent, with a quorum of 5 being present at a Special Meeting of the Fond du Lac Reservation Business Committee held on May 5, 1992 on the Fond du Lac Reservation, and subsequently amended by Ordinance #09/98, adopted by Resolution #1221/98 on July 16, 1998; by Resolution #1352/01 on January 24, 2002; by Resolution #1160/11 on May 17, 2011; by Resolution #1400/11 on December 6, 2011; by Resolution #1331/12 on October 17, 2012; by Resolution #1379/12 on November 28, 2012; by Resolution #1166/13 on May 2, 2013; by Resolution #1351/14 on September 17, 2014; by Resolution #1043/16 on February 3, 2016; by Resolution #1022/17 on January 31, 2017; and by Resolution #1299/22 on October 5, 2022.



Kevin R. Dupuis, Sr.
Chairman



Robert Abramowski
Secretary/Treasurer

laws:9204(050592:071609:012402:051711:120611:101712:112812:050213:091714:020316:013117:100522)