



Walker River Paiute Tribe

1022 Hospital Road • P.O. Box 220 • Schurz, Nevada 89427

Telephone: (775) 773-2306

Fax: (775) 773-2585

RESOLUTION OF THE GOVERNING BODY OF THE WALKER RIVER PAIUTE TRIBE RESOLUTION NO. WR-47-2021

BE IT RESOLVED BY THE TRIBAL COUNCIL OF THE WALKER RIVER PAIUTE TRIBE THAT:

WHEREAS, the governing body of the Walker River Paiute Tribe ("Tribe") is organized under the provisions of the Indian Reorganization Act of June, 1934, as amended, to exercise certain rights of home rule and to be responsible for the promotion of the economic and social welfare of its members, and

WHEREAS, the Tribe's Constitution and By-Laws create the foundation for the governance of the Tribe and the framework for all Tribal operations and authorizes the Walker River Paiute Tribal Council to act on behalf of the Walker River Paiute Tribe and to promulgate ordinances for the purpose of safeguarding the peace and safety of residents of the Reservation, and

WHEREAS, pursuant to this power, the Tribal Council has created a Law & Order Code and other laws and ordinances to govern the conduct of people within the Tribe's jurisdiction, and

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

WHEREAS, to meet this goal, the Tribal Council drafted a new Title 2 of the Law & Order Code titled "Civil Procedure", and

WHEREAS, the new proposed Title 2 was posted for at least thirty days to allow for public comment, the Tribal Council considered the comments and is now prepared to take action to approve Title 2,

NOW THEREFORE BE IT RESOLVED, by the Walker River Tribal Council, the governing body of the Walker River Paiute Tribe, hereby adopts, approves and promulgates the attached

version of Title 2 titled "Civil Procedure" of the Tribe's Law & Order Code, which shall go into effect on June 1, 2021, and which shall supersede and replace any and all prior versions of Title 2, and


BE IT FURTHER RESOLVED, that the Walker River Tribal Council hereby directs that the Tribal Court make Title 2 of the Law & Order Code available to those Tribal members and attorneys/advocates who request a copy. The expense for each copy will be at the cost of the requester, and

BE IT FURTHER RESOLVED, that the Tribal Chairwoman or her designee is hereby authorized to effectuate any and all administrative actions necessary for the implementation of this resolution and the approved Title 2 of the Law & Order Code, and

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


CERTIFICATION

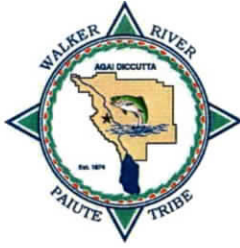
It is hereby certified that the foregoing resolution of the Walker River Paiute Tribal Council of the Walker River Paiute Tribe composed of seven members, of whom 7, constituting a quorum were present a meeting held on the 29th day of April 2021, and that the foregoing resolution was adopted by the affirmative voter of 6-FOR, 0-AGAINST and 0-ABSTENTIONS, pursuant to the authority contained in Article VI, Section I (e), of the Constitution and Bylaws of the Walker River Paiute Tribe of Nevada, approved on March 26, 1937.


Gina L. Wachsmuth, Tribal Council Secretary
WALKER RIVER PAIUTE TRIBE

RE-CERTIFICATION

It is hereby certified that the foregoing resolution of the Walker River Paiute Tribal Council of the Walker River Paiute Tribe composed of seven members, of whom 6, constituting a quorum were present a meeting held on the 8th day of July 2021, and that the foregoing resolution was adopted by the affirmative voter of 5-FOR and 0-AGAINST and 0-ABSTENTION, pursuant to the authority contained in Article VI, Section I (e), of the Constitution and Bylaws of the Walker River Paiute Tribe of Nevada, approved on March 26, 1937.


Gina L. Wachsmuth, Tribal Council Secretary
WALKER RIVER PAIUTE TRIBE



Walker River Paiute Tribe
Tribal Court

Title 2

Civil

Procedure

Title 2 Approved by Walker River Tribal Council April 29, 2021
Resolution No.: WR-47-2021
Effective: June 1, 2021

LAW AND ORDER CODE
TITLE 2 – CIVIL PROCEDURE

Table of Contents

	<u>Page</u>
<u>2-10</u> <u>JURISDICTION –</u>	5
2-10-010 Subject Matter Jurisdiction	5
2-10-020 Jurisdiction Over Persons and Things	5
<u>2-20</u> <u>APPLICABLE LAW –</u>	6
2-20-010 Choice of Law	6
2-20-020 Non-Convenient Forum	6
<u>2-30</u> <u>CIVIL PROCESS –</u>	6
2-30-010 Beginning an Action; Complaint or Petition	6
2-30-020 Summons	6
2-30-030 Service of Process	7
2-30-040 Subpoenas	8
<u>2-40</u> <u>PLEADINGS AND MOTIONS –</u>	9
2-40-010 Pleadings	9
2-40-020 Affirmative Defenses	10
2-40-030 Effect of Failure to Deny	11
2-40-040 Pleading to be Concise and Direct	11
2-40-050 Consistency	11
2-40-060 Signing of Pleadings	11
2-40-070 Changing or Adding Pleadings	12
2-40-080 Counter-Claims and Cross-Claims	12
2-40-090 Motions	12
<u>2-50</u> <u>OTHER PRE-TRIAL PROCEDURES –</u>	12
2-50-010 Pre-Trial Conference	12
2-50-020 Inspecting Real or Personal Property	13
2-50-030 Continuances (postponements)	13
2-50-040 Discovery; Written Interrogatories	13
2-50-050 Depositions	14
2-50-060 Use of Discovery	14
2-50-070 Sanctions for Failure to Comply with Court Orders on Discovery	14
2-50-080 Settlement	14
<u>2-60</u> <u>PARTIES –</u>	14
2-60-010 Party Filing the Suit	14

2-60-020	Substitution of Parties	15
2-60-030	Joinder of Parties	15
<u>2-70</u>	<u>TRIALS –</u>	15
2-70-010	General Matters at Commencement of Trial	16
2-70-020	Failure of Party to Appear	16
2-70-030	Record of the Trial	16
2-70-040	Interpreters	16
2-70-050	Oaths of Witnesses	16
2-70-060	Continuances (Delays)	17
2-70-070	Bonds	17
<u>2-80</u>	<u>JURY TRIALS –</u>	17
2-80-010	Right to a Jury Trial	17
2-80-020	Composition of Jury	17
2-80-030	Eligibility to Serve as Juror	17
2-80-040	Questioning of Jurors	17
2-80-050	Challenges to Jurors	18
2-80-060	Instructions to the Jury	18
2-80-070	Verdicts	18
2-80-080	Hung Jury	18
2-80-090	Separation of Jury	19
2-80-100	Deliberation	19
2-80-110	Things Taken by the Jury	19
2-80-120	Additional Instructions	19
<u>2-90</u>	<u>JUDGMENTS –</u>	19
2-90-010	Definition	19
2-90-020	Default	19
2-90-030	Judgment of a Default	20
2-90-040	Costs	20
2-90-050	Judgment on Multiple Claims	20
2-90-060	Summary Judgment	20
2-90-070	Effectiveness	20
2-90-080	Satisfaction	20
2-90-090	Amendment	20
2-90-100	Relief from Judgment or Order	21
2-90-110	Execution	21
2-90-120	Payment from Individual Indian Moneys	22
2-90-130	Judgments Against Deceased Parties	22
2-90-140	Execution Of Judgments Issued By Courts Of Different Jurisdictions	22
<u>2-100</u>	<u>APPEALS –</u>	22
2-100-010	In General	22

2-100-020	Service	22
2-100-030	Stay of Execution of Judgment Pending Appeal	22
<u>2-110</u>	<u>SMALL CLAIMS –</u>	23
2-110-010	In General	23
<u>2-120</u>	<u>FEES –</u>	23
2-120-010	In General	23

LAW AND ORDER CODE

TITLE 2

CIVIL PROCEDURE

2-10 JURISDICTION –

2-10-010 Subject Matter Jurisdiction –

The Tribal Court had unlimited subject matter jurisdiction over all civil matters, not to be limited by the amount in controversy.

2-10-020 Jurisdiction Over Persons and Things –

The Court may exercise jurisdiction on any basis not inconsistent with the Constitution of the Tribe, the Constitution of the United States, or any applicable Federal law. Example of cases where the Court may assert jurisdiction, but are not limited to:

- (a) Actions involving the status of property on the Reservation (as defined in Section 1-10-020).
- (b) Actions where the defendant is served on the Reservation.
- (c) Actions where the defendant consents to the Court's jurisdiction. A person who enters upon Reservation consents to the jurisdiction of the Court with respect to any civil action arising out of his/her entry. The act of filing a Pleading with the Court shall be considered consent to the jurisdiction of the Court unless the Pleading is filed solely for the purpose of contesting the Court's jurisdiction.

A person who comes onto the Reservation solely for the purpose of making a Court appearance to contest the Court's jurisdiction and is served while on the Reservation shall not be subject to the Court's jurisdiction unless he would have been subject to it had the service of process taken place off the Reservation.

- (d) Actions arising out of a contract signed or performed on the Reservation.
- (e) Actions arising out of the delivery of goods on the Reservation.
- (f) Actions arising out of a contract to insure any person, property, or risk located on the Reservation at the time of contracting.
- (g) Actions arising out of the transaction of any business on the Reservation, including any business involving any telephone, telegraph, or postal contacts with any person on the Reservation.
- (h) Actions arising out of the commission of a tortious act on the Reservation, including the commission of an act on the Reservation which causes an

injury off the Reservation, and commission of an act off Reservation which causes injury on the Reservation.

- (i) Actions arising out of the ownership, use, or possession of any real estate situated on the Reservation.

2-20 APPLICABLE LAW –

2-20-010 Choice of Law –

The law applied by the Tribal Court shall ordinarily be chosen as set out in Chapter 1-30 of this Law and Order Code. The Judge may determine, either on his own initiative or on motion of any party, if another jurisdiction's law might be more appropriately applied to the case. The Judge shall then consider whether or not the Tribe has an interest in having its own law applied. If the Tribe does have such an interest, the Judge shall apply Tribal law. If the application of tribal law would not advance any policy of the Tribe, and there is another jurisdiction that has an interest in having its law applied, the Judge may apply non-tribal law. If the Tribe has no interest in applying its own law, and there is more than one other jurisdiction with an interest, the Judge should dismiss the case if it falls under the provisions of Section 2-20-020; otherwise, the Judge may apply the law of either interested jurisdiction depending upon which law appears most fair, or which law appears most similar to the law of the Tribe.

2-20-020 Non-Convenient Forum –

If the Judge, acting on his own initiative or on the motion of a party, finds that in the interest of justice an action should be heard in a forum other than the Tribal Court, the Judge shall stay or dismiss the action, in whole or in part, on the basis that the action may be brought in the other forum.

2-20-030 Statute of Limitations for Civil Actions –

The Tribal Court shall have no jurisdiction over any action brought more than three years after the cause of action arose.

2-30 CIVIL PROCESS –

2-30-010 Beginning an Action: Complaint or Petition –

A civil action is begun by filing a Complaint or Petition with the Court. The contents of a Complaint are set out in Section 2-40-010. A Complaint and a Petition are identical in content; only the name differentiates the two.

2-30-020 Summons –

When the plaintiff files the Complaint, the Clerk shall sign a Summons and give it to a law enforcement officer for service on the defendant. Service of the Summons and Complaint may be by other means as approved by the Court. The Summons shall be prepared in accord with the rules of the Court. It shall contain the name of the Court, the names of the parties, the name and address of the plaintiff's representative, if he has one, or the address of the plaintiff. It shall

notify the defendant that he is required to file an Answer to the Complaint within twenty (20) days, unless he has good cause for an extension of that time, in which case he must make a motion to the Court asking for such an extension. The Summons shall also state that in case of the defendant's failure to answer within the time allowed, Judgment by Default will be entered against him for the relief asked for in the Complaint. It shall also notify the defendant that the Clerk or Judge will be willing to help explain to him the meaning and consequences of the Complaint and Summons, and what he must do to prepare an Answer.

2-30-030 Service of Process –

When any paper is required to be served, it may be served either by delivery or by mailing, unless this Code specifically provides otherwise.

- (a) Delivery – Service by delivery may be made by delivering the required papers to the party in person or to some person of suitable age and discretion over fourteen (14) years old at the party's home or principal place of business. If a person to be served refuses to accept delivery, service shall be considered performed if the person is informed of the purpose of the service and is offered copies of the papers to be served. Service by delivery will be made by a Law Enforcement Officer.
- (1) If the party to be served is a minor, service must be made on the party and also on his parent, guardian, or custodian, or if they are not living on the Reservation, to any other person living on the Reservation who has the care or control of the minor, or with whom the minor is living.
 - (2) If the party has a representative, service may be made upon the representative rather than on the party.
 - (3) If the Court has placed the party under a guardianship, service must be made on the party and also on the guardian.
 - (4) If the party is a corporation, service may be made by delivery to the president or any other officer of the corporation, or to any director of the corporation.
- (b) Delivery of Service – The person who has delivered the papers shall return a statement that he served the papers, stating the name of the person served, the place, date, and time of service, and his signature, under penalty of perjury (Section 5-80-080). This statement shall be filed with the Clerk and shall be the proof of service.
- (c) Mailing - The party may be served by registered or certified mail, and the return receipt will be proof of the service. A party may be served by regular mail if some confirmation of service, either by mail or oral communication is made later. Service by mail is complete on mailing, but the time allowed for a response does not begin until confirmation of service is given. If regular mail is used, proof of service shall be a statement by the person who

mailed the letter, together with a statement of the confirmation.

- (d) Mailing and Publication - If the person to be served is not living on the Reservation, or has departed from the Reservation, or cannot be found on the Reservation after efforts have been made to find him, the party trying to serve process may file a statement with the Court to that effect. The Judge may then allow service to be made by mail, together with publication or posting. The mailing shall be to the person's last known address. Publication shall be made at least once a week in a newspaper or other publication of general circulation in the area of the person's last known address, for a period of at least four weeks. Posting shall consist of posting a notice at a place designated by the Judge; the place chosen should be one where a notice is likely to be seen by as large a number of people as possible. When service of the Summons is by publication or posting, the Summons shall contain a brief statement of the object of the action, for example, "This is an action for dissolution of the marriage between you and the plaintiff," or "This action is brought to collect the money owed on a washing machine bought at Smith's store," or according to the facts of the case. When service is by mailing and publication or posting, proof of service shall be a statement of the person that he mailed the letter, giving the date and place of mailing, along with a statement that the notice was published in accordance with the requirements of this subsection (d).
- (c) Proof of Service - Failure to make proof of service does not affect the validity of the service. Proof of service is admissible as evidence that service was properly performed.

2-30-040

Subpoenas - A Subpoena is a form issued by the Clerk or Judge, requiring the person it is served on to appear for a trial, hearing, or other proceeding. It may also specify documents or other things that the person must bring with him when he appears.

- (a) How Issued - The Clerk shall issue a subpoena, signed but otherwise is blank, to a party requesting it, who shall fill it in before service.
- (b) Service - Subpoenas shall be served by the Law Enforcement Officer, or other method approved by the Court. Except by order of the Court, no subpoena shall be served between the hours of 9:00 P.M. and 7:00 A.M. Otherwise, service of subpoenas shall be according to the requirements of Section 2-30-030. A subpoena shall be served at least 48 hours before the appearance is required unless the Court specifically authorizes later service.
- (c) Failure to Obey a Subpoena - A person who has been properly served with a subpoena and fails to appear or fails to produce the things named in the subpoena may be found in contempt of Court and may be fined and/or imprisoned under the provisions of Section 5-80-180.

- (d) Objection to the Subpoena – A person who has been served with a subpoena may make a motion to the Court to invalidate the subpoena. If the person gives a good reason, the Judge shall send a notice to the party trying to subpoena the person, informing him of his opportunity to contest the invalidation of the subpoena. The party who served the subpoena may then present evidence to the Judge contradicting the reason given by the person being subpoenaed, and the Judge shall decide whether or not to invalidate the subpoena. The party being subpoenaed need not be present at this hearing but shall be bound by the result of it.
- (e) Return of Service - The Law Enforcement Officer who serves a subpoena shall give the Clerk a Return of Service, that is, a statement that he served the subpoena, stating the name of the person served, the place, date, and time of service, and his signature, under penalty of perjury for the intentional making of a false return. No steps may be taken against a person under subsection (c) above for failure to obey a subpoena unless a Return of Service for the subpoena has been filed with the Clerk.

2-40 PLEADINGS AND MOTIONS –

2-40-010 Pleadings –

Pleadings are the formal allegations of the parties of their claims and defenses. The first Pleading in a case is ordinarily the Complaint, although there are some cases that are initiated by a Petition to the Court, which has the same effect and falls under the same rules as the Complaint. The Pleadings filed by the defendant in response to the Complaint is called the Answer. The Complaint and Answer are always allowed. In addition, a responsive Pleading is allowed whenever, by cross-claim, or otherwise, a party is first claimed against, unless the Court orders otherwise. The Court may grant permission to file additional Pleadings in the interest of narrowing and defending issues or as justice may require.

A Pleading which sets forth a claim for affirmative relief shall contain:

- (a) A short, plain statement of the reason the Court has jurisdiction over the case; for instance, “the defendant lives on the Reservation,” or, “the defendant sold a car to the plaintiff, knowing that the plaintiff lived on the Reservation, and does business knowing that a significant part of what he sells is used on the Reservation by people living on the Reservation.”
- (b) A short, plain statement of the claim showing that the pleader is entitled to relief; for instance, “plaintiff delivered hay to defendant on (date), for which defendant agreed to pay \$400, and defendant had paid only \$300.”
- (c) A demand for Judgment for the relief to which the pleader considers himself entitled. Such claims for relief may be in the alternative or for several types of relief.

All Pleadings shall be filed with the Clerk, and a copy shall be served on the opposing party or his representative in accordance with Section 2-30-030. The

time limit for filing a Pleading shall be twenty (20) days after the service of the Pleading to which the Pleading to be filed is responding, unless the Judge grants an extension of time for good reason.

If the action is brought under the Small Claims provisions, the defendant is not required to file an Answer to the Complaint. However, whenever an Answer or other responsive Pleading is filed, it must state in short and plain terms the defenses to each claim asserted and shall admit or deny the statements upon which the opposing party relies. If the party does not have sufficient knowledge or information to form a belief as to the truth of a statement, he shall so state, and this has the effect of a denial.

2-40-020

Affirmative Defense –

If the party filing a responsive Pleading feels that there are further facts not stated by the opposing party which would defeat the claim for relief, he must state these further facts in the responsive Pleading, so that the opposing party may have notice of what the issue will be at trial, what facts are in dispute, and how he should prepare his case. Defenses which require the statement of such further facts, rather than just a denial of statements in the Pleading being answered, are called affirmative defenses. Some examples of affirmative defenses are as follows:

- (a) Accord and satisfaction, payment, or release: the parties agreed on a certain amount to settle the case, and this amount was paid.
- (b) Arbitration and award: the parties agreed to have the matter settled by the decision of some other person or persons, and that person or those persons reached a decision on the matter.
- (c) Assumption of the risk: the first party knowingly and voluntarily exposed himself to the risk of the damage that is the basis of the relief that he now claims.
- (d) Contributory negligence: the first party was wholly or partly to blame for the damage that is the basis of the relief that he now claims.
- (e) Discharge in bankruptcy: the debt that forms the basis of the relief claimed has been the subject of a bankruptcy proceeding.
- (f) Duress, estoppel, fraud, or illegality: the first party acted in such a way that his claim should now be barred.
- (g) Statute of limitations: more time has gone by since the claim arose than is allowed to bring an action in Tribal Court, as in 2-20-030.
- (h) Waiver: the first party has consented that the claim for relief that he is now asserting will not be asserted.

- (i) Res judicata: the question presented in the claim for relief has already been decided in court and should not be tried again.

If an affirmative defense could have been pleaded but is not, the Judge may allow a continuance (a delay) in order that the Pleading may be amended, if this seems necessary for a just result. For instance, a delay might be granted if the party filing the defective Pleading was not represented and did not understand that the defense was one which had to be affirmatively pled.

2-40-030 Effect of Failure to Deny –

Statements in a Pleading to which a responsive Pleading is required or is made, other than those as to the amount of damages, are admitted when not denied in the responsive Pleading. Statements in a Pleading to which no responsive Pleading is required or made shall be taken as denied or avoided.

2-40-040 Pleading to be Concise and Direct –

Each statement in a Pleading shall be simple, concise and direct. No technical forms of Pleading or motions are required.

2-40-050 Consistency –

A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. It is not improper for two of these statements to be contradictory to each other. The party filing the Pleading to know which of the two inconsistent claims or defenses is actually in conformity with the facts and may decide later which claim or defense to try to prove in Court.

2-40-060 Signing of Pleadings –

A party shall sign his Pleading and shall include his address, unless he has a representative and the representative signs the Pleadings and includes his address. The signature constitutes a certificate that the signer has read the Pleadings; that to the best of his knowledge, information, and belief there is good ground to support the action; and that it is not filed just for the purpose of delaying the action.

If a Pleading is not signed or is signed with intent to defeat the purpose of Section 2-40-060, it may be rejected by the Judge as being false and the action may proceed as though the Pleading had not been served. For a willful violation of Section 2-40-060, a representative or party may be subjected to appropriate disciplinary action; the Judge might order the party violating this section to pay the costs and representative's fees of the other party.

Similar action may be taken if scandalous matter is included in a Pleading. The material is scandalous if the content does not contribute to an understanding of what a claim is but serves only as an attack on a person or a source of embarrassment to a person.

2-40-070 Changing or Adding Pleading –

A party may amend his Pleading once at any time before a responsive Pleading is served or before a date for trial has been set. The Pleading may also be amended with permission of the Judge at any time up to 20 days before the date of trial.

2-40-080 Counter-Claims and Cross-Claims –

A counter-claim is a claim presented by a defendant against the plaintiff. A cross-claim is a claim presented by a defendant against the plaintiff or a co-defendant or anyone else, including a combination of several people. If the defendant has a counter-claim or cross-claim, and the decision of his claim will not require the presence of a third party who is outside the Court's jurisdiction, the defendant may state the claim in an Answer to the Complaint.

If a defendant does not raise a counter-claim or cross-claim when the action is brought under the Small Claims provisions, he is not barred from raising it in a separate action. However, in any other action, the defendant is barred from raising a claim against the plaintiff or any other party original action if the claim arose out of the same facts in dispute in that action, unless the Judge grants permission for good cause shown.

2-40-090 Motions –

A motion is an oral or written request to the Judge for an order, stating the grounds upon which it is made and setting forth the relief or order sought.

The Judge may not allow any motions by either party but should act with the primary purpose of achieving justice. The Judge should also keep in mind, in cases under the Small Claims provisions, that those procedures are designed to allow the facts to be presented with a minimum of formality and complication, by people who are not familiar with legal technicalities.

2-50 OTHER PRE-TRIAL PROCEDURES –

2-50-010 Pre-Trial Conference –

In any action, the Judge may, in his discretion, direct the parties or their representatives to appear before him for a conference to consider:

- (a) The simplification of the issues,
- (b) The necessity or desirability of amendments to the Pleadings,
- (c) The possibility of obtaining admissions of fact and agreements on the admissibility of evidence, so as to avoid unnecessary proof at trial, and
- (d) Any other matters that may aid in the disposition of the action.

In an action under the Small Claims provisions, pre-trial procedures will not usually be required, since the informality of the trial procedures should allow any

issues to be raised there. In addition, the Judge should be liberal in granting continuances if any issues arise which a party is not prepared to address.

2-50-020 Inspecting Real or Personal Property –

On the motion of either party or on his own initiative, the Judge may inspect property and, in a jury trial, have the jury inspect any property involved in a case. All parties should be given an opportunity to be present when the property is inspected.

2-50-030 Continuances (Delays) –

The Judge should be liberal in granting continuances when it appears that a delay will aid a party in the presentation of his case, unless it appears that another party may be so inconvenienced by a continuance that it would be unfair to grant it. Continuances are especially appropriate under the Small Claims provisions, where they may serve the same purpose as some of the pre-trial procedures set out in Title 2.

2-50-040 Discovery: Written Questions (Interrogatories) –

(a) Interrogatories in General –

In order to allow the parties to have more information about the facts at issue, to be better prepared for trial, and to avoid surprises at trial, any party may submit to the Judge written questions to be asked of the other party. These questions are called interrogatories. If the Judge approves of them, keeping in mind the complexity of the questions and the knowledge and sophistication of the party to be served, he may allow the questioning party to serve the interrogatories on the other party. The party served shall answer the interrogatories in writing. The answers, signed by the answering party, shall be served on the party submitting the interrogatories within thirty (30) days after the service of the interrogatories, unless the Judge finds good cause to adjust the timing of the service.

(b) Objections to Interrogatories –

If providing answers to the interrogatories would prove unjustifiably annoying, expensive, embarrassing, or oppressive, within ten (10) days after service of the interrogatories, a party may file an objection with the Judge, giving the reasons that the interrogatories should not have to be answered. The Judge shall then determine whether the interrogatories should be answered; he may hold a hearing at which all parties may argue the matter. Answers to interrogatories to which objection is made shall be deferred until the objections are determined.

(c) Continuing Interrogatories –

An interrogatory or set of interrogatories may specify that if any answers to any of the questions change before the end of the trial, the party submitting the interrogatories should be informed of the new, corrected answers. The

party receiving the interrogatories then has the duty to submit such revised answers, just as much as he had the original duty to submit answers.

2-50-050 Depositions –

A party desiring to take oral testimony (“Deposition”) of another party or any other person shall file a Petition for Deposition with the Judge. The petition shall state the facts which the petitioner desires to establish by the proposed testimony, and the names and addresses of the persons whom he desires to question.

If the Judge grants the petition, the party who filed it shall have served on every other party and on every person to be questioned a copy of the petition along with the date and time that the Judge has set for the questioning, at least twenty (20) days before the date set for the questioning.

If any party or person to be questioned objects to the time or place or to being made to testify at all, he may present his objections to the Judge. The Judge may hold a hearing to decide the objection, if he decides that there are not enough grounds for taking depositions to make up for the inconvenience or trouble caused to others, he shall uphold the objection.

2-50-060 Use of Discovery –

Answers to interrogatories and depositions may be used in a motion, hearing, or at trial to impeach or contradict the testimony of the person discovered, or by an adverse party for any purpose.

2-50-070 Sanctions for Failure to Comply with Court Orders on Discovery –

If a person refuses to answer a question when ordered to do so by the Judge, or fails to answer interrogatories that have been properly approved and served on him, he may be charged with contempt of Court in accordance with the provisions of Title 5, Criminal Offenses, of this Code.

The Judge may order instead that any subject matter of the discovery that a party refused or failed to make be taken as established in accordance with the claim of the opposing party.

2-50-080 Settlement –

Nothing in this Code shall prohibit the agreement of the parties to any action to decide the issues according to any other means by their agreement, such as mediation or arbitration, or to reach a mutual agreement that they may have entered as a settlement judgment by the Judge.

2-60 PARTIES –

2-60-010 Party Filing the Suit –

Every suit shall be filed in the name of the real party in interest, that is, the party who is actually interested in the subject matter. A minor or a person who had been declared incompetent by a Court shall be represented by a guardian, and the guardian may file suit on such a person’s behalf. If no guardian has been appointed, the Judge shall appoint a guardian for the purposes of the case.

2-60-020 Substitution of Parties –

If a party dies or becomes incompetent or transfers his interest or separates from some official capacity, the Judge may substitute another appropriate party in his place.

2-60-30 Joinder of Parties –

- (a) In General – If there is another person whose interests would be affected by the outcome of the case, or who should be involved in the case because some issue involving him involves the same, or nearly the same, law or facts as the case in question, that party may be joined as an additional plaintiff or defendant, at the discretion of the Judge.
- (b) Indispensable Parties – If the person's right would be directly affected by the granting of the relief asked for in the suit, that person is called an indispensable party. He must be joined, or else the Court has no jurisdiction and must dismiss the case. For example, if two people own land as joint tenants, and someone sues one of them on a claim concerning the land, the other must be joined as a co-defendant; otherwise his rights would be endangered without his being there to defend them.
- (c) Conditionally Necessary Parties – There may be persons who are not indispensable but who ought to be parties if complete relief is to be accorded between those who are already parties. These persons are called conditionally necessary parties.

Example for purpose of illustration: A Plaintiff might be seeking to set aside a will on the grounds that the testator had already given her the property in the estate. If the plaintiff sued some of the beneficiaries of the will, but not all of them, the other beneficiaries would be conditionally necessary parties.

If there are conditionally necessary parties who are subject to the jurisdiction of the Court, the Judge shall order them summoned to appear in the action.

If the Judge cannot make such person's parties, the judgment in the case will not affect their rights or liabilities.

- (d) Common Claims – The Judge may, in his discretion, join any other parties over whom the Court has jurisdiction, if the claims affecting those parties arise out of the same set of transactions or occurrences as the claims of the original parties.

2-70 TRIALS –

2-70-010 General Matters at Commencement of Trial –

- (a) Disqualification of Judge – If any party feels that the Judge would have a tendency to favor one of the parties or would be unlikely to Judge fairly or impartially, he may move that the Judge disqualify himself. The motion may be in writing, or the party may speak before the trial starts. If the Judge grants the motion, he shall appoint another Judge to hear the case.
- (b) Judge’s Verification of Formalities – Before the trial begins, the Judge shall check to see that, as far as he can determine at the time, there is jurisdiction of the Tribal Court over the parties, over the subject matter of the case, that the matter qualifies to be heard under the Small Claims provisions of Chapter 2-110 if it has been brought in accordance with them, that there has been proper notice to all the parties, and that the time limits and other provisions of this Code have been complied with, insofar as can be determined at that stage of the proceedings.

2-70-020 Failure of Party to Appear –

When a party has filed a Pleading claiming some affirmative relief, and the other party does not appear for the hearing or fails to file a responsive Pleading if one is required, the Judge may grant a Default Judgment. The Judge may conduct a hearing to determine that there is justification for the amount and kind of relief requested. If it later appears that there is good cause for doing so, the Judge may set aside a Default Judgment.

2-70-030 Record of the Trial –

All trials shall be recorded on tape or other recording device that will protect the recording. The recording shall be kept at least three hundred sixty (360) days after the trial and then may be erased and reused unless an appeal has been filed. If an appeal is filed, the recording shall be submitted as part of the record to be considered by the Court of Appeals. The Clerk shall keep the trial recordings and shall be responsible for their condition.

2-70-040 Interpreters –

The Judge, on his own initiative or on the motion of any party, may provide interpreters in order to ensure that all parties understand the proceedings.

2-70-050 Oaths of Witnesses –

The Judge may, as part of the rules of Court authorized in Section 1-40-060, prescribe an oath to be taken by witnesses. If no oath is prescribed, the Judge shall inform each witness of the importance of giving accurate testimony and the penalties for perjury, before the witness begins his testimony.

2-70-060 Continuances (Delays) –

If one party shows a good reason why it would not be fair to make him continue with the trial without a postponement, the Judge may grant such a postponement. However, if this would cause inconvenience to any other party, the Judge may order that the party asking for the postponement pay a reasonable amount to the other party to compensate that party for the inconvenience caused by the delay, or he may decide against granting a postponement.

2-70-070 Bonds –

If the Judge has granted a temporary order, ordering that someone take some action or refrain from doing something, the Judge may require that person to deposit a certain amount of money with the Court. This money is called a bond. If the person violates the order of the Court, the Court may keep the bond to penalize the person. This does not prevent the Court from taking other action against the person, such as citing him for contempt of Court.

2-80 JURY TRIALS –

2-80-010 Right to a Jury Trial –

All cases shall be tried by a Tribal Judge unless a party files a written request for a jury trial and a ten dollars (\$10.00) jury fee at least ten (10) days before the date set for trial. A Judge shall waive the jury fee if he finds that the party requesting the jury trial would not be able to afford the fee.

2-80-020 Composition of Jury –

A jury shall consist of six (6) residents of the Reservation selected at random from a list of eligible jurors prepared each year by the Tribal Council. If the Judge believes that the trial will be a long one, he may also impanel one or more alternate jurors. If any regular juror is unable to continue his duties, because of illness or any other reason, he shall be replaced by the first alternate juror; a second incapacitated juror shall be replaced by the second alternate juror, and so on.

2-80-030 Eligibility to Serve as Juror –

An eligible juror is a resident of the Reservation or an employee of the Tribe who has reached the age of eighteen (18) years and has not been convicted of a felony.

2-80-040 Questioning of Jurors –

The Judge may permit the parties or their representatives to conduct the questioning of prospective jurors or may himself conduct the questioning. If he conducts the questioning himself, he shall permit the parties or their representatives to supplement the questioning by such further inquiry as he deems proper or shall himself submit to the prospective jurors such additional questions of the parties or their representatives as he deems proper.

2-80-50

Challenges to Jurors –

- (a) Challenges for Cause – Before the jury is sworn in, each party has the right to challenge an unlimited number of prospective jurors for cause, if it is shown through their answers to the questions or otherwise that they are not eligible, or that they would not be able to fulfill the duties of a juror with understanding, impartiality, and fairness, or that they might be influenced by an opinion already formed about the case, or a previously formed attitude toward one of the parties. The Judge shall decide whether a prospective juror should be excused for cause.
- (b) Peremptory Challenges – In addition to the challenges for cause, each party has the right to a maximum of three peremptory challenges of jurors, that is, challenges for which no reason need be given and which the Judge may not refuse to grant. If alternate jurors are chosen, each party has the right to one peremptory challenge of a prospective alternate juror. None of the three regular peremptory challenges may be used to excuse a prospective alternate juror.

2-80-060

Instructions to the Jury –

Any party may file written requests that the Judge instruct the jury on the law as set forth in the requests. These requests may be filed at the close of the presentation of evidence, or at such earlier time during the trial as the Judge reasonably directs. The Judge shall inform each party or his/her representative of his proposed action on the requests prior to the arguments to the jury, but the Judge shall instruct the jury after the arguments are completed. No party may appeal on the basis of the giving or the failure to give an instruction to the jury, unless he objects before the jury retires to consider its verdict, stating distinctly the matter to which he objects and the grounds of the objection. Opportunity shall be given to make the objection out of the hearing of the jury.

2-80-070

Verdicts –

The jury shall decide all questions of fact on the basis of the law as instructed by the Judge. The jury shall deliberate in secret and return a verdict. The verdict shall include the amount of damages to be awarded, if any. More than half of the jury must agree with the verdict for it to be valid. If any party has any question as to the verdict, it may request the Judge to poll the jurors. The Judge shall then ask each juror whether he agrees with the verdict and shall report to the parties that there were or were not more than half of the jury in agreement with the verdict.

2-80-080

Hung Jury –

If the jury cannot arrive at a verdict that is agreed on by more than half its members, the Judge may instruct them to try to come to a verdict on some of the issues tried, if possible. For instance, they might come to a decision on who is liable in a certain case, and then only the issue of damages would have to be tried again. Any issues on which the jury cannot agree may be tried again if the initiating party desires a new trial.

2-80-090 Separation of Jury –

Any time prior to their verdict when the jurors are allowed to leave the courtroom, the Judge shall admonish them not to converse with or listen to any other person on the subject of the trial; the Judge shall further admonish the jurors not to form or express an opinion on the case until the case is submitted to the jury for their decision.

2-80-100 Deliberation --

Once the case is submitted to the jury, members shall go to some private place to deliberate, under the charge of an officer of the Court. The officer will refrain from communicating with the jury, except as authorized by the Judge, to relay messages between the jury and the Judge. The officer shall prevent others from improperly communicating with the jury.

2-80-110 Things Taken by the Jury –

When deliberating, the jury may take with them any of the Court's papers, or things received in evidence as exhibits, or notes taken by the jurors themselves. The jury may not take notes of a non-juror to the jury room.

2-80-120 Additional Instructions --

If, after the jury begins deliberations, there is some question on an instruction or other point of law or disagreement regarding the testimony, the jury may request additional instructions or clarifications from the Judge. The Judge may give such instructions or clarifications after notice to the parties or their representatives. The Judge may also have portions of the testimony played back or read back to the jury if they request it.

2-90 JUDGMENTS

2-90-010 Definition –

A Judgment is any final order from which an appeal may be taken.

2-90-020 Default –

When a party against whom a judgment for affirmative relief is sought has failed to file an answer or otherwise defend or appear as provided by this Code, his default may be entered by the Clerk. Once the default is entered, no further notice need be given to the defaulting party of any action taken or to be taken.

2-90-030 Judgment on a Default –

Once a default is entered, if a party's claim against the defaulting party is for a sum of money which is certain or can be made certain by computation, and if the defaulting party has been personally served or otherwise appeared, Judgment may be entered without the necessity of a hearing. Otherwise, Judgment may be entered only after evidence has been presented to the Court showing that the relief asked for is justified.

2-90-040

Costs –

Ordinarily the court costs are to be paid by the party not prevailing, unless there is good reason to have them paid in some other way. Costs may include Court fees and other expenses necessarily incurred in the preparation and conduct of trial. Unless there is good reason, such as the appearance that one party was prolonging the case solely for purposes of delay and harassment, the Court will not ordinarily award attorney's fees or any fee to be paid to the representative of the prevailing party other than reimbursement for expenses as outlined above.

2-90-050

Judgment of Multiple Claims –

When more than one claim for relief is presented in an action, if the Court finds that a final Judgment may be entered on one or more of the claims before the other have been finally decided, he may do so.

2-90-060

Summary Judgment –

At any time at least twenty (20) days after commencement of an action, any party may make a motion for Summary Judgment as to any or all of the issues presented in the case. The motion shall be granted if the Judge finds that there is no genuine issue as to any material fact and that the party making the motion is entitled to the Judgment as a Matter of Law. Such motions must be served on the opposing party not less than twenty (20) days prior to the hearing. They may be supported by affidavits, discovery, or memoranda, all of which must be made available to opposing parties at least two (2) days prior to the hearing.

2-90-070

Effectiveness –

A Judgment shall be valid for ten years after it is entered. It may be renewed for five years at a time.

2-90-080

Satisfaction –

A Judgment may be satisfied, in whole or in part. When the party to whom the Judgment is owed signs a statement that the Judgment has been satisfied, in whole or in part, such a statement may be filed with the Court. When the Judgment is satisfied in whole, it shall no longer have any effect.

2-90-90

Amendment –

A motion to alter or to amend a Judgment may be made within 30 days after entry of the Judgment, for any of the following reasons:

- (a) Error or irregularity which prevented any party from receiving a fair trial,
- (b) Misconduct of the jury or jury members,
- (c) Accident or surprise, or newly discovered evidence which ordinary prudence could not have guarded against or produced at trial,

- (d) Damages so excessive or inadequate that they appear to have been given under the influence of passion or prejudice,
- (e) Insufficiency of the evidence to justify the verdict or other decision, or that it is contrary to the Law; or
- (f) Error in law.

2-90-100 Relief from Judgment or Order --

If a Judgment was obtained through fraud or other improper means the party who is damaged may sue to recover the amount of his damages.

2-90-110 Execution --

- (a) Time -- If within ninety (90) days after entry of a Judgment awarding money damages and/or costs against a party, or within sixty (60) days after final resolution of an appeal to the Appellate Court from such a Judgment, the Judgment Debtor has not paid the Judgment amount in full or commenced making installment payments in a manner agreed to by the parties or found reasonable under the circumstances by the Judge, or if the Judgment Debtor is found by the Judge to be not current in such payments without a reasonable excuse, the Judge shall upon motion of the Judgment Creditor order the Tribal Police to execute on the personal property of the Judgment Debtor as provided in this section. The Judgment Debtor shall be sent notice of the hearing at least five (5) days in advance of the hearing.
- (b) Procedure -- The Court shall order the Judgment Debtor to appear before it and answer regarding all his personal property. The Court shall then determine what property of the Judgment Debtor is available for execution and order the Tribal Police to seize as much of such property as reasonably appears necessary to pay the Judgment amount. If the Judgment Debtor fails to appear, the Court may proceed without his appearance. Sale of the seized property shall be at public auction conducted by the Tribal Police after giving at least ten (10) days public notice posted in at least three (3) conspicuous public places on the Reservation. Property shall be sold to the highest bidder who shall make payment for the property at the time of sale. The person conducting the auction may postpone it in his discretion if there is inadequate response to the auction or the bidding and may reschedule it after giving the required notice. The person conducting the sale shall give a certificate of sale to the buyer and shall file a paper with the Court listing the items sold and the amount received for each item.
- (c) Exemption from Execution -- The Court shall only order seizure and sale of property the loss of which will not impose an immediate substantial hardship on the Judgment Debtor or his family. Only property of the Judgment Debtor himself may be subject to execution; property of his family is exempt from execution.

2-90-120 Payment from Individual Indian Moneys –

Whenever the requirements for execution have been satisfied, and the losing party has funds to his credit at the agency office, the Judge may, upon motion of the Judgment Creditor, request the superintendent to certify to the Secretary of the Interior the record of the case and the amount of the available funds. If the Secretary shall so direct, the disbursing agent shall pay over to the Judgment Creditor the amount of the Judgment, or such lesser amount as may be specified by the Secretary, from the account of the Judgment Debtor.

2-90-130 Judgments Against Deceased Parties –

A Judgment shall be considered a lawful debt in all proceedings held to distribute decedents' estates.

2-90-140 Execution of Judgments Issued by Courts of Different Jurisdiction –

If a person has a Judgment from a court of another jurisdiction against somebody within the jurisdiction of the Tribal Court, he may file a motion for a Judgment with the Tribal Court, specifying the date, number, and amount of the judgment that has not been satisfied. He shall serve a copy of the motion on the defendant, who shall have twenty (20) days to answer. The Court shall then hold a hearing to determine whether the Judgment is good, or whether there is any defense to its validity or enforceability. If it is good, the Court shall issue a Judgment for the amount owing on the original Judgment.

2-100 APPEALS

2-100-010 In General –

Any party who does not agree with the verdict or Judgment in a case may, within thirty (30) days after the Judgment is entered, file an appeal with the Clerk. The appeal shall be a statement of the reasons why the party appealing (called the appellant) disagrees with the verdict or Judgment, together with any supporting documents that party wishes to submit. Appeals shall be handled in accordance with the provisions of Title 1 of this Code.

2-100-020 Service –

The appellant shall serve copies of all the documents he files for the appeal on the other party, against whom the appeal is taken (called the appellee), in accordance with the provisions of Chapter 2-30 of this Title. The appellee may then file any answering documents, such as a brief or memorandum of law in support of his position, within twenty (20) days after service of the appellant's papers on him. The appellee must serve copies of any such answering papers on the appellant.

2-100-030 Stay of Execution of Judgment Pending Appeal –

The appellant may file a petition with the Trial Court requesting a stay of the order or Judgment pending the outcome of the appeal. The appellant shall serve the petition and any supporting documents on the appellee in accordance with the provisions of Chapter 2-30 of this Title. The appellee may respond with any written arguments in writing within twenty (20) days after he is served; he shall

serve his answers on the appellant. A stay shall be granted in all cases in which it is requested unless injustice would result from it. If the Court finds it appropriate, it may order the appellant to deposit a bond with the Court as a guarantee for the appellant's future compliance with the Court's orders, as a condition to granting the stay. This bond may be sued to pay the Judgment or may be forfeited to the Court or to the appellee if the appellant loses the appeal and does not thereafter comply with the order or Judgment within a reasonable time.

2-110 SMALL CLAIMS –

2-110-010 In General –

Small Claims Court is designed to help parties who do not have an attorney or advocate to resolve their disputes quickly and inexpensively. In Small Claims Court, claims must be less than \$15,000. The Judge may only award money judgement to a maximum of \$15,000.

The differences in procedures under the Small Claims Provisions are spelled out in the following sections:

- (a) Section 2-40-010: no answer is required.
- (b) Section 2-40-080: the failure to file a cross-claim or counter-claim does not bar a future action by the defendant.
- (c) Section 2-50: the Judge shall not ordinarily allow pre-trial procedures spelled out in Chapter 2-50, but he should be liberal in granting continuances, to serve the same purpose.

2-120 FEES

2-120-010 In General –

The Tribal Council shall have the power to re-establish fees that the Court shall collect: Thirty-five dollars (\$35.00) for filing of all civil cases excluding divorces, and the filing of divorces will be at a rate of forty-five dollars (\$45.00).

CERTIFICATION

As a duly-elected official of the Walker River Paiute Tribe, I do hereby certify that at a meeting duly called, noticed, and convened on the 29th day of April, 2021, at which time a quorum of 6 was present, the Title 2, Civil Procedures was duly amended by a vote of 6 FOR, 0 AGAINST, 0 ABSTAINED, and said Code has not been rescinded or amended in any form.

Amber Jones

Tribal Council Chairperson

4/30/2021

Date

ATTEST:

Gene L. Stackman

Tribal Secretary

4/30/2021

Date