

# TITLE I-A – CHITIMACHA PEACEMAKER COURT

## CHAPTER 1. GENERAL PROVISIONS

### Sec. 101. Purpose and Construction

(a) The intent of these rules is to provide formal support, structure and enforcement to traditional American Indian methods of resolving disputes through mediation, restorative justice and the use of traditional ways.

(b) These rules shall be interpreted liberally and informally with the goal of providing a fair, informal, inexpensive and traditional means of resolving disputes. The rules shall be used and applied in as close in accordance with Chitimacha tradition and custom as possible.

### Sec. 102. Establishment of Peacemaker Court

The Chitimacha Peacemaker Court of the Chitimacha Tribe of Louisiana is hereby established as part of the Chitimacha Tribal Court System. The Chief Judge of the Chitimacha Tribal Court shall supervise the activities of the Chitimacha Peacemaker Court and shall exercise supervisory control over any Peacemaker appointed pursuant to these rules.

### Sec. 103. Subject Matter Jurisdiction; Personal Jurisdiction; Attorneys

(a) Any judge of the Chitimacha Tribal Court may appoint a Peacemaker where the matter in dispute involves certain personal and community relationships, including, but not limited, to the following:

- (1) Marital disputes and disputes involving family strife;
- (2) Disputes among traditional or extended family relations;
- (3) Minor disputes between neighbors as to community problems such as nuisances, animal trespass or annoyance, disorderly conduct, breaches of the peace and like matters;
- (4) Alcohol use or abuse by family members or neighbors;
- (5) Minor community business transactions involving a sum or value of \$3,000 or less;
- (6) Any other matter which the Chitimacha Tribal Court finds should or can be resolved through the use of the Chitimacha Peacemaker Court.

(b) The Chitimacha Peacemaker Court shall have the power to compel all persons within the jurisdiction of the Chitimacha Tribe of Louisiana to appear and participate as witnesses in Chitimacha Peacemaker Court proceedings and to compel attendance of parties. Peacemakers

shall not have authority to decide a disputed matter unless all parties to the dispute consent to such authority in writing. Subpoenas shall be issued and served by the Clerk of the Chitimacha Tribal Court but only upon the request of the Peacemaker (parties or others may not have subpoenas issued and served). A person who has been properly served with a subpoena and fails to appear or produce may be deemed in contempt of Court. Only the Peacemaker is authorized to request that contempt proceedings be initiated by the Chitimacha Tribal Court for failure to appear or produce. The Chitimacha Tribal Court shall proceed with any such request pursuant to applicable provisions of the Chitimacha Comprehensive Codes of Justice as if the request was made by a Tribal Court Judge or other party entitled to initiate contempt proceedings in Chitimacha Tribal Court.

(c) Attorneys are prohibited from participating in or otherwise attending any proceedings of the Chitimacha Peacemaker Court unless they have been called as witnesses or are parties and except to the extent that they may assist persons with respect to protective orders, complaints, judgments or appeals as provided in the Chitimacha Comprehensive Codes of Justice.

## **CHAPTER 2. PEACEMAKERS**

### **Sec. 201. Appointment and Qualifications**

(a) General Qualifications. Any person who has the respect of the Chitimacha tribal community, an ability to work with Reservation residents and Tribal members, a reputation for integrity, honesty, humanity and an ability to resolve local problems shall be eligible to be appointed as Peacemaker, except that no person shall be eligible for appointment while serving as a member of the Chitimacha Tribal Council.

(b) Appointment. The Chitimacha Tribal Council may select and certify the names of individuals as proposed Peacemakers to the Chitimacha Tribal Court. The individuals selected must agree in writing or by oath administered by a judge or the Clerk of Court to serve under the direction of the Chitimacha Tribal Court and work with individuals under the supervision of the Chitimacha Tribal Court. The Clerk of Court shall maintain a roll of Peacemakers. Peacemakers shall be appointed from that roll. Names may be added to or deleted from the roll at any time.

(c) Action where no appointment. If the Chitimacha Tribal Council fails to certify Peacemakers, or there is an insufficient number of Peacemakers, the Chitimacha Tribal Court may appoint a Peacemaker from among persons known to it to be qualified.

(d) Agreement as to Peacemaker. The parties to any dispute may by mutual agreement have a specified individual serve as Peacemaker for the resolution of their dispute if the Chitimacha Tribal Court so approves. In such cases, the Peacemaker need not appear on the roll of Peacemakers kept by the Chitimacha Tribal Court and need not be a member of the Chitimacha Tribe of Louisiana.

**Sec. 202. Authority of Peacemakers**

(a) Peacemakers are officers of the Chitimacha Tribal Court when acting as a Peacemaker and performing the functions of the Chitimacha Peacemaker Court under these rules, and they shall have the same privileges and immunities as Tribal Court judges.

(b) Peacemakers shall have the authority to:

- (1) Meditate disputes among persons involved in the peacemaking process by attempting to get them to agree as to the nature and scope of the problems affecting them and to agree on what should be done to resolve those problems;
- (2) Use Tribal religious or other traditional ways of mediation and community problem-solving;
- (3) Instruct or lecture individuals on the traditional Tribal teachings relevant to their problem or conduct;
- (4) Compel persons involved in a dispute, affected by it, or in any way connected with it to meet to discuss the problems being worked on and to participate in all necessary peacemaking efforts; and
- (5) Use any reasonable means to obtain the peaceful, cooperative and voluntary resolution of a dispute subject to peacemaking. No force, violence or the violation of rights secured to individuals by the Indian Civil Rights Act or Chitimacha Comprehensive Codes of Justice or custom will be permitted.

**Sec. 203. Limitations; Peacemakers Not Judges; Agreed Arbitration**

Peacemakers shall only have the authority to use traditional and customary methods to mediate disputes and obtain the resolution of problems through agreement. Peacemakers shall not have the authority to decide a disputed matter unless all parties to the dispute agree to such authority in writing or before the Chitimacha Tribal Court. Any such decision will have the effect of a court judgment when entered by the Chitimacha Tribal Court.

**Sec. 204. Duties of Peacemakers**

Upon notice to an individual of his or her appointment as a Peacemaker for an individual matter, the Peacemaker shall notify the Chitimacha Tribal Court of (A) any disqualification or inability to serve in the matter or (B) acceptance of the appointment. The Clerk of Court may be notified in writing or by telephone. If the Chitimacha Tribal Court is not notified within ten (10) days of the mailing of the notice, another Peacemaker may be appointed. The Peacemaker will informally contact the parties to the dispute and any other persons involved, advise all interested persons of his or her authority to compel them to participate in the peacemaking, and make other necessary arrangements to conduct peacemaking sessions. The Peacemaker may conduct a

reasonable number of sessions in an attempt to achieve peacemaking efforts using procedures and techniques which are accepted in the community. Where the parties involved accept or practice a given religious belief, discipline or teaching, the accepted methods and teaching of that religious way may be used.

**Sec. 205.      Reports to Chitimacha Tribal Court**

Either at the conclusion of the peacemaking or at such time as the Peacemaker finds there can be no resolution of the matter, the Peacemaker must report the results of his or her efforts to the Chitimacha Tribal Court. The reports may be informal but must be reduced to writing, either by the Peacemaker or the Chitimacha Tribal Court. This written record shall be maintained in the Court file.

**CHAPTER 3. PROCEDURE**

**Sec. 301.      Request for Peacemaking**

Any individual may ask the assistance of the Chitimacha Peacemaker Court by filing a written request with the Chitimacha Tribal Court. The request may be informal and handwritten, and it may be made either on a form provided by the Tribal Court or in any writing which gives the Chitimacha Tribal Court the following information:

- (a) The name and mailing address of the person who requests the use of the Chitimacha Peacemaker Court;
- (b) The names of all persons (parties) involved in the dispute, and their mailing addresses and their place of residence;
- (c) The reason the individual wants to use the Chitimacha Peacemaker Court and a short statement of the problem involved;
- (d) The name and mailing address of each person who should be contacted by the Peacemaker and involved in the peacemaking; and
- (e) Information showing the status of each and every one of the individuals involved as either Indian or non-Indian and tribal affiliation and membership, if any.

**Sec. 302.      Requests and Objections**

- (a) Any party can request transfer of his or her case to Chitimacha Peacemaker Court.
- (b) Any party can, by objection, prevent transfer of his or her case to Chitimacha Peacemaker Court.
- (c) The written consent of all parties must be obtained by Chitimacha Tribal Court prior to

transfer of a case to the Chitimacha Peacemaker Court. Parties cannot withdraw their consent to transfer absent a showing by clear and convincing evidence in Court that their consent was obtained by fraud or undue influence;

(d) Non-parties can neither request nor prevent transfers to Chitimacha Peacemaker Court.

**Sec. 303. Duties of Clerk of Tribal Court**

The Clerk of Court and staff members of the Chitimacha Tribal Court will assist parties before the Chitimacha Peacemaker Court by providing information about the Court, assisting individuals in filling out requests, assisting the Peacemakers in making reports and obtaining subpoenas, advising individuals with regard to how to obtain a protective order or file a complaint and in giving whatever kind of assistance individuals may need to make the Chitimacha Peacemaker Court effective and to carry out the intent of this Title.

**Sec. 304. Appointment of Peacemaker**

Upon filing by a party of a request for peacemaking, the Clerk of Court will immediately present the request to a judge of the Chitimacha Tribal Court. A judge may grant the request on the basis of the information provided in the request, grant or deny the request in open court or in chambers, or order an informal conference among the parties to the problem in chambers prior to making a decision on the request. If the request is granted, the judge will so indicate on the face of it or in a separate order, and the Chitimacha Tribal Court will appoint a named Peacemaker to conduct peacemaking proceedings.

**Sec. 305. Notice to Begin Proceedings**

Notice of the appointment of the Peacemaker shall be provided by the Clerk of Court, who shall send copies of the request and order to the named Peacemaker by first class mail. If the Clerk of Court does not receive notification from the Peacemaker of acceptance of the appointment within ten (10) days, the Clerk of Court shall so advise the judge for the purpose of appointing another person as Peacemaker. The Peacemaker is responsible to informally advise the parties, witnesses and participants of his or her appointment, and the copies of the request and order sent to the Peacemaker shall be evidence of his or her authority.

**Sec. 306. Compensation of Peacemaker**

The parties shall, at the time of their consent to transfer their case to the Chitimacha Peacemaker Court, pay into the Chitimacha Tribal Court a reasonable sum to be determined by the Chitimacha Tribal Court as compensation and expenses for the Peacemaker's services. The Chitimacha Tribal Court may develop procedures and forms for use in implementing this section.

**Sec. 307. Subpoenas**

The Peacemaker may obtain any necessary subpoena for the attendance of parties, witnesses or

other interested persons from the Clerk of the Chitimacha Tribal Court. Such subpoenas shall be served in accordance with the Chitimacha Rules of Civil Procedure.

**Sec. 308.     Fees**

Fees will be standard court fees in accordance with the Chitimacha Tribal Court schedule of fees and costs.

**CHAPTER 4. ACTIONS BY THE TRIBAL COURT**

**Sec. 401.     Protective Orders**

Any party, witness or participant in the Chitimacha Peacemaker Court may petition the Chitimacha Tribal Court for a protective order ending the peacemaking process or putting limitations upon it. The grounds for protective orders are:

- (a) Harassment by the Peacemaker or harassment by another which is not properly handled by the Peacemaker;
- (b) Invasion of personal privacy by the Peacemaker to an unreasonable extent;
- (c) Conduct of the Peacemaker in the peacemaking process which is degrading, inhuman, dangerous, assaultive or otherwise violative of an individual's rights; and/or
- (d) Conduct of the Peacemaker in violation of Section 501 (Conduct of Peacemakers – General Standards).

**Sec. 402.     Action by the Court**

A petition for a protective order may be made in writing, and must be made in writing if the party seeking the order has counsel. Otherwise it may be made orally in open court. Upon considering the petition for a protective order, which may be heard ex parte, the Chitimacha Tribal Court may issue an immediate order terminating peacemaking proceedings and must issue an order for the purpose of conducting a hearing on the petition for a protective order. Upon a full hearing, following notice to the parties, the Chitimacha Tribal Court may terminate peacemaking proceedings or place reasonable limitations upon them. The person seeking a protective order must pay a standard fee in accordance with the Chitimacha Tribal Courts Schedule of Fees and/or Costs to the Clerk of Court at the time of filing of the petition.

**Sec. 403.     Judgments**

Where the parties in Chitimacha Peacemaker Court reach an agreement that they wish to have confirmed and recorded by a formal judgment or order of the Chitimacha Tribal Court, they may present a draft judgment to the Chitimacha Tribal Court of its consideration. The Chitimacha Tribal Court may enter a judgment only when the following conditions have been met:

(a) The Chitimacha Tribal Court has jurisdiction over the parties and the subject matter of the agreement;

(b) All necessary parties have actual knowledge of the proposed judgment and have either agreed to it or have agreed to submit the question to the Peacemaker for a decision;

(c) The proposed judgment contains the complete agreement of the parties and contains sufficient information regarding that full agreement so that a dispute as to the provisions of the judgment is not likely to arise in the future; and

(d) The proposed judgment is otherwise proper and enforceable by the Court.

**Sec. 404. Method of Presenting Proposed Judgment**

The parties need not be represented by counsel to present a proposed judgment, and the Chitimacha Tribal Court may prepare a proposed written judgment following an informal oral conference with the parties. Where necessary, the Chitimacha Tribal Court may require a member of its staff to assist the Peacemaker in preparing a proper form of judgment.

**Sec. 405. Form of Judgment**

All judgments must contain the following information:

(a) The names and jurisdictional information with regard to each and every party (i.e. residence, consent to jurisdiction, et cetera);

(b) A statement of the fact that all necessary parties to the dispute have actual knowledge of it and that they have all agreed to the proposed judgment;

(c) If the dispute was resolved by the agreement of all the parties that it would be submitted for the Peacemaker's decision, a statement of that fact;

(d) A statement that the judgment is based upon Chitimacha Peacemaker Court proceedings, and the name and tribal affiliation, if any, of the Peacemaker;

(e) A general description of the dispute; and

(f) The actual judgment of the Chitimacha Tribal Court.

**Sec. 406. Enforcement of Judgment**

A judgment of the Chitimacha Tribal Court upon Chitimacha Peacemaker Court proceedings may be enforced as any other judgment of the Tribal Court may be enforced.

## **CHAPTER 5. CONDUCT OF PEACEMAKERS**

### **Sec. 501. General Standards**

Peacemakers shall be bound by the Chitimacha Code of Judicial Conduct which applies to the Judges of the Chitimacha Tribal Court insofar as such canons and rules are consistent with the nature and purpose of the Chitimacha Peacemaker Court. Peacemakers shall not participate in any matter in which they have a personal or financial interest or close relation to a party, and they shall conduct themselves with honesty, integrity and in harmony with traditional and customary Tribal ways.

### **Sec. 502. Complaints Regarding Peacemakers**

Complaints against Peacemakers shall be made in writing to the Chief Judge of the Chitimacha Tribal Court, and, to the extent practical, such complaints shall be treated as any complaint against a court or a judge.

### **Sec. 503. Action on Complaint**

Upon finding that a Peacemaker has violated an ethical standard, the Chief Judge may suspend the name of the individual from the Peacemaker rolls. Where criminal activity is involved, the Chief Judge may direct the Clerk of Court to refer the matter to the Tribal Prosecutor or other authority for possible prosecution. The Court shall notify in writing any Peacemaker who has been suspended from the rolls and the reason(s) therefore within ten (10) days. The Peacemaker shall have fifteen (15) days to appeal such suspension to the Chitimacha Court of Appeals. Such appeals shall thereafter proceed pursuant to applicable provisions of Title I of the Chitimacha Comprehensive Codes of Justice

## **CHAPTER 6. TRANSFER OF CASES FROM TRIBAL COURT TO PEACEMAKER COURT**

### **Sec. 601. General Policy**

Certain civil and criminal actions in the Chitimacha Tribal Court may be transferred to the Chitimacha Peacemaker Court where they fall within the kinds of matters within the jurisdiction of the Chitimacha Peacemaker Court or where it is in the interests of justice to make such a referral for good cause shown, and where all parties agree to the transfer.

### **Sec. 602. Civil Matters**

Civil actions falling within the provisions of Section 103 of this Title may be referred to the Chitimacha Peacemaker Court with the written stipulation of all the parties to the action.

**Sec. 603. Criminal Matters**

Any criminal matter within the provisions of Section 103 of this Title may be transferred to the Chitimacha Peacemaker Court, upon consent of the parties, where:

- (a) The case does not involve injury to person or property; or
- (b) Where the victim to the alleged offense consents; or
- (c) Where there is a guilty plea, a finding of guilt or a finding tantamount to guilt and peacemaking would be an appropriate condition of probation for achieving harmony and reconciliation with the victim.

**Sec. 604. Criminal Probation**

The Chitimacha Tribal Court may, as a condition of criminal probation, require the defendant to submit to the Chitimacha Peacemaker Court for traditional and customary counseling, instruction and lectures appropriate to his or her offense. The Chitimacha Tribal Court may require the defendant to pay a reasonable fee as required of other parties before the Chitimacha Peacemaker Court pursuant to Section 306.

**Sec. 605. Transfer on Condition**

Any case may be transferred to the Chitimacha Peacemaker Court on any reasonable condition, with a stay of proceedings before the Chitimacha Tribal Court, and the Chitimacha Tribal Court may resume jurisdiction over a case upon breach of or the failure to satisfy any condition imposed.

**CHAPTER 7. MISCELLANEOUS PROVISIONS**

**Sec. 701. Forms**

The Chief Judge of the Chitimacha Tribal Court may adopt standard forms for implementation of these rules.

**Sec. 702. Plain Language Version of Rules**

Informal or plain language versions of these Chitimacha Peacemaker Court rules may be adopted by the Chitimacha Tribal Court and published for the use of persons not trained in law or formal legal language. In the event of any inconsistencies between this Title and any informal or plain language versions that may be published, the language and terms of this Title shall prevail.

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