

TITLE 06 - TRIBAL COURTS

The statute amends the ordinance passed at the 1989 Tribal Assembly and provides the basic authority for tribal courts of the Central Council of the Tlingit and Haida Indian Tribes of Alaska.

It outlines the authority of the Judiciary Committee, the Trial Court, subordinate Courts and the Tribal Court Bar (Chapter 01), the Supreme Court (Chapter 01), and the Court of Elders (Chapter 02) of the Tribal Court established pursuant to CCTHITA Constitution and statute. It also includes the rules of court and civil procedures (Chapter 20-24) “Open” chapters are left for other statutes to supplement this basic law.

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Chapter 01. Judiciary, Trial Court and Tribal Court Bar

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Sec. 06.01.001 Purpose

- A. WHEREAS, The Central Council, Tlingit and Haida Indian Tribes of Alaska (CCTHITA) and the Communities of Tlingit and Haida Indian Tribes listed in the Rules of Election, desire to develop a model legal system that reflects traditional authority and laws of the Tlingit and Haida Communities; and
- B. WHEREAS, it is believed that a judicial system that exercises the authority set out in this Title would best serve the jurisdictional and socio-economic needs of the communities
- C. WHEREAS, it is recognized that our children are our most vital resources for the continued existence and integrity of the CCTHITA Tribe; and
- D. WHEREAS, the Tribe is compelled to promote and maintain the health and well-being of all of our children;
- E. WHEREAS, there is an urgent need to develop a Magistrate/Judge position and a Child Support Clerk of the Court for the Tribe's Title IV-D Child Support Program.
- F. THEREFORE, BE IT ENACTED, that this statute replaces the previously-enacted Title 06 Tribal Courts Ordinance to carry out the desire

of CCTHITA that the authority and procedure for the CCTHITA judicial system be as set forth in this amended Title 06 of the Code system; and

- G. THAT in all cases and controversies brought before the courts of this judicial system, the Court may apply any laws of the United States that may be applicable and any constitutional provision, statute, law, resolution, custom or code of the CCTHITA intended for enforcement by the courts of this judicial system and not prohibited by federal law; and
- H. THAT as to any matter not covered by the previous subsection, the Tribal Court may be guided by the common law developed by tribal and federal courts, and by tribal and federal statutes.

Sec. 06.01.010 Definitions

When used in this Code, the following words will have the meanings here given, unless the context clearly indicates another meaning. If the meaning of a word is not clear, the Court shall construe the word in harmony with the purpose of the Code.

1. “Tribal Court” or “Tribal Judicial System” means the CCTHITA Judicial System as described in this code.
2. “Trial Court” means the general trial court of the Tribal Court.
3. “Judge” means any Judge or Justice of the Tribal Court.
4. “Magistrate” means the Judge(s) in the Tribal Court presiding over matters as established by tribal statute or as delegated by the Judiciary Committee in consultation with the President and Chief Justice.
5. “Judge Pro Tem” means a Judge who is appointed for the purpose of serving in cases of another Judge(s) absence, recusal or disqualification.
6. “Judiciary Committee” means the standing committee created to conduct business pursuant to Sections 06.01.070. – and 06.01.080.
7. “Administrative Tribal Court Clerk” means the person with duties of carrying out all traditional clerking functions of the Tribal Court.
8. “Tribal Court Clerk” means the clerk of the court that is employed to carry out clerk functions for the Tribal child support cases.
9. “Supreme Court” means the appellate court of the Tribal Court.
10. “Chief Justice” means the Chief Justice of the Supreme Court.
11. “Elders Court” means process to resolve disputes pursuant to traditional or customary laws.

Sec. 06.01.020 Jurisdiction

- A. **General:** The jurisdiction of the Tribal Court shall include all territory described in Article 1 of the CCTHITA Constitution and it shall be over all persons therein, and any enrolled Tribal member citizen and their descendants wherever they are located.
- B. **Civil:**

1. The Tribal Court shall have general civil jurisdiction over all civil actions arising under the Constitution and laws of the Tribe including the tribal common law, over all general civil claims which arise within the tribal jurisdiction, and over all transitory claims in which the defendant or respondent may be served within the tribal jurisdiction.
 2. Personal jurisdiction shall exist over all defendants/respondents served within the territorial jurisdiction of the Court, or served anywhere in cases arising within the territorial jurisdiction of the Tribe, and over all persons consenting to such jurisdiction. The act of entry within the territorial jurisdiction of the Court shall be considered consent to the jurisdiction of the Court with respect to any civil action arising out of such entry.
- C. Criminal:** The Tribal Court shall have original jurisdiction over all criminal offenses enumerated and defined in any ordinance adopted by the Tribe insofar as not prohibited by federal law.
- D. Probate:** To the extent permitted by federal law the Tribal Court shall have probate jurisdiction over all of the real and personal property located within the jurisdiction of the Court at the time of death, and the personal property, wherever located, or any person who is domiciled within the boundaries of the jurisdiction of the Court at the time of death.
- E. Juvenile:** The Tribal Court shall have exclusive original jurisdiction in all proceedings and matters affecting dependent or neglected children, children in need of supervision, or children under the age of eighteen (18) accused of crime, when such children are found within the jurisdiction of the Court, or when jurisdiction is transferred to the Court pursuant to law. The Appeals Court shall hear appeals in juvenile cases as in other civil actions.

Sec. 06.01.030 Acts Subjection Person to Jurisdiction

- A.** Any person, whether or not a member of CCTHITA, who personally or through an agent does any of the acts enumerated in this subsection thereby submits himself to the jurisdiction of the CCTHITA judicial system for any cause of action arising under the laws of CCTHITA, and, from any of the following acts:
1. Operating, conducting, engaging in, or carrying on a business or business venture or having an office or agency within the jurisdiction of CCTHITA.
 2. Committing a tortious act within the jurisdiction of CCTHITA or violating any constitutional provision, ordinance, law, resolution, code or regulation of CCTHITA.
 3. Owning, using, possessing or holding a mortgage or other lien on any real property within the jurisdiction of CCTHITA.

4. Contracting to insure any person, property, or risk located within the jurisdiction of CCTHITA at the time of contracting.
 5. Acting, failing to act, or being otherwise subject to applicable federal public laws of tribal laws.
 6. Causing injury to persons or property within the jurisdiction of CCTHITA arising out of an act or omission by the defendant outside the jurisdiction of CCTHITA in the ordinary course of commerce, trade or use; or
 - a. the defendant was engaged in solicitation or service activities within the jurisdiction of CCTHITA; or
 - b. products, materials or things processed, serviced or manufactured by the defendant anywhere were used or consumed within the jurisdiction of CCTHITA in the ordinary course of commerce, trade or use; or
 - c. the defendant is a member of CCTHITA or was a member of CCTHITA at the time of the act or omission.
 7. Breaching a contract within the jurisdiction of CCTHITA by failing to perform acts required by the contract to be performed within the jurisdiction of CCTHITA subject to the terms and conditions of the contract and applicable conditions precedent to obligations.
 8. With respect to any proceeding to determine paternity or parental obligation with respect to a child that is or is eligible to be an enrolled tribal member.
- B.** A defendant who is engaged in substantial and not isolated activity within the jurisdiction of CCTHITA, whether such activity is wholly within the jurisdiction of CCTHITA or otherwise, is subject to the jurisdiction of the CCTHITA judicial system if the claim arises from that activity.
- C.** Service of the citation or summons and complaint upon any person who is subject to the jurisdiction of the CCTHITA judicial system as provided in this section may be made by personally serving those papers upon the defendant outside the jurisdiction of CCTHITA. The service shall have the same effect as if it had been personally served within the jurisdiction of CCTHITA.
- D.** If a defendant in his response papers demands relief on causes of action unrelated to the transaction forming the basis of the plaintiff's claim, the defendant shall thereafter in that action be subject to the jurisdiction of the Court for any cause of action, regardless of its basis, which the plaintiff may be amendment assert against the defendant.

Sec. 06.01.040 Tribal Judicial System

The Tribal Court is the Judicial System of the CCTHITA Indian Tribe previously established by its Constitution Article XI and is hereby recognized and confirmed as a separate branch of the Tribal Government. The Judicial System shall consist of the Supreme Court, Trial Court and such other subordinate courts or decision-making bodies as the Tribal Assembly or the Executive Council may designate; and the Judiciary Committee.

Sec. 06.01.050 Administrative Tribal Clerk of the Court

The Administrative Tribal Clerk of the Tribal Court shall carry out the duties of that position as set forth in this Code and other positions of Tribal Law.

Sec. 06.01.060 Tribal Child Support Clerk

The Tribal Child Support Clerk shall carry out the administrative duties for the Tribe's Title IV-D Program and shall be supervised by the Magistrate/Judge.

Sec. 06.01.070 Judiciary Committee

- A. The Judiciary Committee will consist of at least five (5) and no more than nine (9) Delegates of the Tribal Assembly as determined by the Executive Council, each of whom shall be duly elected and current regular Delegates to the Tribal Assembly, and serve until successor appointees are qualified and appointed. The President shall appoint the members of the Judiciary Committee and its Chairman. Once appointed, Judiciary Committee members and its Chairman may be removed by the President or for cause as follows:
 - 1. Conviction of a felony while holding office;
 - 2. Conviction of a crime involving moral turpitude within the previous five years; or
 - 3. Gross neglect of duty, malfeasance in office, or misconduct reflecting on the dignity and integrity of the Judiciary Committee and Tribal Court.
 - 4. Breach of CCTHITA Conflict of Interest and Confidentiality Policy of Agreement.
 - 5. Unexcused absences from three (3) or more consecutive meetings of the Committee duly noticed and convened.
- B. During the Tribal Assembly, duly elected and seated delegates other than members of the Judiciary Committee may participate in its business as "members-at-large", however, such "members-at-large" may not participate in actions of the Judiciary Committee pursuant to Section 06.01.080.

Sec. 06.01.080 Judiciary Committee – Authority, Duties

- A. The President, in consultation with the Judiciary committee, shall have the following authority and duties:

1. To fill a vacancy for judge or justice pursuant to Section 06.01.120.
2. To prepare and submit budgets to the Executive Council, report on prior expenditures and recommend annual funding needs to the Tribal Assembly, and recommend funding sources to meet the needs of the Tribal Judicial System.
3. To recommend increases or decreases to judge positions for the Tribal Court to the Tribal Assembly.
4. To promote best practices and familiarity with tribal law through Tribal Court Training sessions in consultation with the Judiciary Committee and Chief Justice.

B. The Judiciary Committee has the authority and duties:

1. To hear and determine complaints against judges and officers of the Court and shall issue written findings on the same. The Judiciary Committee may use the Model Code of Judicial Conduct of the American Bar Association for guidance. As such, the Judiciary Committee's written decision, with respect to complaints against judges and officers of the Tribal Court, are subject to review by the Supreme Court.
2. To approve a list of persons eligible to serve as judges pro tempore.
3. To consider removal of a judge of the Tribal Court under the procedures set forth in Article XI Section 3 of the CCTHITA Constitution and where a majority of the members of the Judiciary Committee vote such action.
4. To recommend Judge(s) Pro Tempore as the circumstances may require and as the Tribal Court budget may allow.
5. The Judiciary Committee shall have the authority to take such additional steps and adopt such rules, procedures, and fees as it deems necessary to establish and maintain an effective court system in compliance with the Constitution and laws of the CCTHITA, subject to the approval of the Tribal Assembly.
6. The Judiciary Committee may discipline a judge where it appears that more than one hundred eighty (180) days has passed since submission of a matter to the judge for decision and no decision has been rendered.

Sec. 06.01.100 Improper Interference Prohibited

Neither the Executive Council nor any Tribal official, employee, or other person, including a Judge not assigned to a case, shall interfere with the administration of justice carried out by the Tribal Court(s) except by participation as a party in a case through the

procedures established by this chapter. Interference prohibited includes, but is not limited to:

- A. Termination of employment of a judge by means other than those set forth in this Code;
- B. Actions to remove a judge from consideration of a case other than by a motion to recuse or other procedures set forth in applicable court rules;
- C. Actions designed to influence the outcome of a case other than:
 - 1. By presentation of argument and legal authority to the court as a party to the case or as an amicus curiae;
 - 2. In the case of the Executive Council, by amendment of Tribal law by means of procedures authorized in the Tribal Constitution.

Sec. 06.01.110 Improper Interference Null and Void

Any action taken into violation of section 06.01.100, above, shall be deemed void ab initio, and shall be of no force or effect.

Sec. 06.01.120 CCTHITA Tribal Court and Judges

The CCTHITA Tribal Court shall be general trial court(s) and appellate court(s) of the Tribal Judicial System.

- A. **Tribal Court Judges.** The Tribal Court shall consist of a Chief Justice of it's Supreme Court and such number of Trial Court Judges and Subordinate Court Judges as is provided by the CCTHITA Constitutional and statutes.
- B. **Qualifications of Judges(s).** A judge shall be over the age of twenty-five (25) and within the proceeding ten (10) years, not have been convicted of a crime involving moral turpitude or other offense involving dishonesty or impugning moral character, as defined in the Federal Canons of Judicial Conduct; submit three character references attesting to the candidates competency and ability to serve as a judicial official; and prior to being elected or appointed shall be admitted to and a member in good standing of the CCTHITA Tribal Bar Association.
- C. **Screening Process.** Candidates for tribal judge shall be screened by the Judiciary Committee to stand for election, serve the term of office, or fill a vacancy so as to ensure the candidate can uphold the integrity and dignity of the Court. Candidates shall submit to the Judiciary Committee a notice of intent to be nominated thirty (3) days prior to the first day of the Tribal Assembly in order to have sufficient time to perform screening prior to elections.
- D. **Term of Office.** Judges shall serve for terms provided for in the CCTHITA Constitution Article XI Section 6. In the event of a vacancy, the Judiciary Committee shall appoint a judge to fill the vacancy until the next annual Tribal Assembly meeting, whereupon the Tribal Assembly shall elect a replacement judge to serve the remaining term of office.

- E. Suspension or Removal.** A Judge of a Trial Court may be suspended or removed only upon the grounds set forth in Article XI Section 3 of the Constitution and where a majority of the Judiciary Committee votes such action pursuant to **Section 06.01.080. (B)**. Suspension or dismissal is subject to review by the Tribe's Supreme Court.
- F. Magistrate Judge.** The Magistrate/Judge shall be the Judge with full authority to hear child support cases pursuant to the Tribe's Title IV-D Program as well as other matters as may be delegated by the Judiciary Committee in consultation with the President and Chief Justice. The Magistrate Judge shall be under the supervision of the Judicial Committee and subject to termination or suspension as outlined in section 06.01.080 (B). Vacancies of the Magistrate Judge shall be made according to section 06.01.120 (G).
- G. Term and Selection of Magistrate.** The Magistrate shall be selected by a committee composed of the Chairman of the Judiciary Committee, a member of the Judiciary Committee designated by its Chairman, and the Chief Justice. Upon selection, the Magistrate shall be subject to termination under subsection D above or may be dismissed if the Tribe has insufficient funding from the Title IV-D program.

Sec. 06.01.130 Duties and Powers of Judges and Clerk

All judges of the Tribal Judicial System shall have the power:

- A.** To determine cases and controversies;
- B.** To issue subpoenas compelling the attendance of witnesses at proceedings and to punish for failure to comply with such subpoenas;
- C.** To determine the intent of any provision of law, including necessary elements of an applicable defense;
- D.** To issue any other order or writ, including contempt citation, necessary and proper to the complete exercise of the judicial power of the CCTHITA;
- E.** To request an advisory opinion from the Court of Elders regarding customary and traditional practices or culture;
- F.** To issue and enforce judgments and orders of the Tribal Court.
- G.** No later than thirty (3) days following complete submission of a matter for decision by a judge, and completion of such briefing as the Court may require, a judge shall render a decision on matters before him; provided however, that in matters involving complex or novel issues the Court may file and serve a notice indicating that up to an additional sixty (60) days may be required to render the decision.
- H.** All Courts within the Tribal Judicial System shall be a court of record and shall keep records of all proceedings, including the titles of cases, the names of parties and counsel, findings of fact and conclusions of law,

material rulings, and such other matters sufficient to permit a thorough review of proceedings.

- I.** Unless sealed by Court order, all records of the Court shall be considered public records and open to inspection by anyone, except juvenile records and confidential information. Juvenile records are not subject to inspection unless by order of the Court allowing inspection
- J.** The Chief Justice or justices of the Supreme, or Appellate Courts, shall hear all appeals of Trial Court or subordinate Court decisions on the record.
 - 1. The Supreme Court matters shall be heard by the Chief Justice and such number of Justices as the Chief Justice shall determine necessary.
 - 2. The Supreme Court shall have jurisdiction of appeals from all final decisions on the record of judges of the CCTHITA Trial Court or subordinate Courts.
 - 3. In appeals brought before it, the Supreme Court shall determine whether the Court's factual findings are supported by substantial evidence and whether its conclusions are in accordance with law. The Supreme Court shall disregard any error or defect in proceedings which does not affect the substantial rights of the parties. The Court shall consider the record of the Trial Court and such briefs and oral arguments as the Supreme Court may allow.
 - 4. The following procedures shall apply in addition to any applicable rules of the Appellate Court:
 - a.** An aggrieved party may file a notice of appeal together with a filing fee with the Clerk of the Court within thirty days after the date of entry of the judgment or order appealed from or after the date of granting, continuing, modifying, refusing, or dissolving an injunction or refusing to dissolve or modify an injunction.
 - b.** A statement of reasons shall be filed by the appellant in every appeal, accompanied by supporting documents that were part of the Court record. If the statement of reasons is not filed with the notice of appeal it shall be filed with the Clerk of the Tribal Court within thirty days after filing the notice of appeal. Any other party to the Tribal Court proceedings may file a response together with supporting documents that were part of the Tribal Court record within thirty days after receipt of the appellant's statement of reasons. The appellant may file a reply brief within thirty days after receipt of a response.

- c. Upon completion of the briefing, the Supreme Court shall schedule such oral arguments and hearings as it deems appropriate.
- d. The decision of the Appellate Court shall be produced as a written order and shall be issued no later than 30 calendar days following the final hearing.
- e. If the Appellate Court determines a petition is without merit or the Court lacks jurisdiction the Court shall produce the written order no later than 30 days from the date of Appellate petition was filed with the Court.

Sec. 06.01.140 Management of Tribal Court

- A. The Tribal Court’s administration shall be the responsibility of the President in order to comply with tribal administrative policies and procedures and requirements of rules and regulations for federal, state or private funding sources. Such administrative requirements shall be implemented without interference with the independent judicial functions of the Tribal Court.
- B. Consistent with separation of powers, in consultation and concurrence with the Chief Justice and Judiciary Committee, tribal government administration shall include but not be limited to planning, development, administration, financial management and reporting, and operation of the tribal court.
 - 1. Applying for external funding for tribal court operations.
 - 2. Personnel Department requirements for recruitment, hire and retention in accordance with tribal personnel handbook.
 - 3. Preparation and submission of a Tribal Court operating plan to the Tribal Assembly and its Finance Committee.
- C. In accordance with the doctrine of separation of powers, the Chief Justice or his/her Designee, shall:
 - 1. Assign Appellate cases;
 - 2. Manage the Appellate Court’s Calendar;
 - 3. Work with the Tribal Court staff to ensure the management of the Appellate cases;
 - 4. Recommend Tribal Court operating and funding needs in consultation with the President and Judiciary Committee; and
 - 5. In consultation and concurrence with the President apply for external funding for tribal court operations.
- D. The Clerk of the Court shall be appointed pursuant to the provisions and limitations of Section 06.01.170. The Clerk of the Court, after taking the

oath of office set forth in 06.01.170 (E) shall perform all traditional clerking functions, administer oaths, and, carry out administration of Court functions in accordance with this Title 6 and the CCTHITA Constitution.

- E.** Within the limitations of this section, the President, in consultation with the Magistrate Judge and the Chief Justice, shall be responsible for the administration of the Tribal Child Support Court as an administrative court of the Tribal Child Support Unit pursuant to the federal rules and regulations that enables the tribal government to operate a comprehensive Tribal Child Support Enforcement program under Title IV-D of the Social Security Act. The Magistrate shall manage this subordinate Court's calendar, and supervise such support staff as may be necessary for the efficient operation of the Child Support Program, that is subject to the administrative direction of the President and the availability of funding provided by the Tribe's Title IV-D program.

Sec. 06.01.150 Management of Child Support IV-D Court Cases

- A.** The Magistrate Judge shall be responsible for the administration of the Tribal Child Support Cases, and shall manage this subordinate Court's calendar, supervise such support staff as necessary for the efficient operation of the Child Support Program, subject to the availability of funding provided by the Tribe's Title IV-D program.
- B.** The Tribal Child Support Clerk shall be selected pursuant to the provisions and limitations of **Section 06.01.170**. The Magistrate may recommend selection of a Tribal Child Support Clerk from the list of approved candidates.
- C.** The Tribal Child Support Clerk shall perform all traditional clerking functions, administer oaths, and, at the Magistrate Judge's direction, carry out the administration of the Tribal Child Support Clerk.

Sec. 06.01.160 Location, Hours of Court Operation

The location of the Tribal Court, the Clerk's office and the hours when the Court will be open for business shall be determined by the President in accordance with Section 06.01.140.

Sec. 06.01.170 Tribal Court Clerk and Child Support Clerk

- A.** The Tribal Court Clerk shall be under the supervision of the Chief Justice. The Clerk before entering his duties, shall, at Tribal expense, post bond in an amount determined by the Judiciary Committee, or shall be covered by a blanket bond provided for other Tribal employees.
- B.** The Tribal Court Clerk shall be responsible for the administration of the Court. The Clerk shall render assistance in answering questions concerning Court procedures. It shall be the duty of the Clerk to attend and keep a written record and tape recordings of all proceedings of the Court, to administer oaths to witnesses, and to perform such other duties as the Chief Justice may designate.

- C. The Tribal Child Support Clerk shall be under the supervision of the Magistrate Judge and shall have the same duties under as the Tribal Court Clerk, except that such duties will be in regard to child support Title IV-D cases only.
- D. The Tribal Court Clerk and Child Support Clerk are prohibited from providing legal advice. The clerk(s) may answer questions on Tribal Court procedure, but shall not provide legal advice.
- E. Before taking office the Court Clerk shall take the following oath which shall be administered by the President:

“I, _____, do solemnly swear:

- 1. I will uphold the Constitution and laws of the Central Council of Tlingit and Haida Indian Tribes of Alaska to the best of my ability;
- 2. I will perform the Clerk’s duties faithfully and honestly;
- 3. I will not let personal views and relationships affect the performance of the Clerk’s duties;
- 4. I will not attempt to influence the course of any Court proceedings;
- 5. I will not reveal any confidential matters which I learn in the course of official duties.”

“Subscribed and sworn to me before this _____ day of _____, 20____.”

Sec. 06.01.180 Tribal Court Bar Membership

- A. To be admitted by the Court as a member, a person must fulfill all of the requirements for membership in the Tribal Court Bar listed in section 06.01.190.
- B. A member may be either a lay advocate or a professional attorney.
- C. The provisions of this Title shall govern membership in the Court Bar and practice before the Court because the practice of law is intimately connected with the proper administration of justice.
- D. The Court may through rules, from time to time, impose additional requirements for admission or practice as justice requires.
- E. No person shall appear in the Court as a lay advocate, professional attorney or judge prior to admission to the Tribal Court Bar.
- F. The Chief Justice, at his discretion and subject to review by the Judiciary Committee:
 - 1. May deem an applicant as qualified for membership in the Tribal Court Bar pursuant to section 06.01.190 who meets any one of the following criteria:
 - a. A practitioner of tribal law;

- b. A legal representative of the CCTHITA or its Tribal Court, or another tribal government or tribal court;
 - c. A legal representative of a state or federal courts or government;
 - d. A legal representative of a non-profit profit organization providing legal assistance to tribal citizens.
2. May waive the admission fee of section 06.01.190(A)(4) for an applicant who so requests and who meets any one of the following criteria:
- a. Is a staff attorney or legal representative for the CCTHITA or another Tribal Court and is appearing on behalf of a member of the Tribe;
 - b. Intends to appear in Tribal Court for one client or case only;
 - c. Is staff attorney or legal representative for a non-profit organization and is appearing on behalf of a client of the organization;
 - d. For good cause and best interests of the CCTHITA.
3. May admit an applicant as a member of the Tribal Court Bar and issue a certificate of membership.

Sec. 06.01.190 Requirements for Admission to Tribal Court Bar

- A. To qualify as a member of the Tribal Court Bar either as a lay advocate or a tribal lawyer, a person must meet the following requirements:
 - 1. The applicant must have:
 - a. At least two years of accredited law school training;
 - b. At least three years of legal internship serving a lawyer or judge licensed in any Court of the United States which lawyer or judge submits an affidavit testifying to the applicant's legal knowledge and abilities, particularly with respect to Native Law, and the applicant satisfies criteria developed by the Judiciary Committee to test knowledge of the Alaska Native Law; or
 - c. Licensing as an attorney in any United States jurisdiction or membership in a tribally recognized bar association; or
 - d. Proof that the applicant has served as a judge for six months or more in any federal or state court, or the court of a federally recognized Indian tribe; or

- e. Has two (2) years experience working as a paralegal or legal assistant for a licensed lawyer, law firm, Tribal, State or Federal Court Judge, or has obtained a paralegal degree or certificate, or has two (2) years experience as a court clerk in a Tribal, State or Federal Court, or
 - f. Other evidence of legal knowledge and abilities acceptable to the Chief Justice, provided that if the applicant cannot satisfy the requirements of subparts (a) – (d) above, he shall not appear in more than one case per year without leave of court; or
 - g. is a traditional Clan Leader who has been so recognized by the local Tlingit and Haida Community Council or IRA Council.
2. The applicant must be of good moral character. The applicant is required to bring to the Court’s attention any matters raising questions regarding the applicant’s stability and any past conduct reflecting upon the applicant’s honest or integrity.
 3. The applicant must be familiar with the organic documents and ordinances of the CCTHITA and its Communities.
 4. The applicant must pay to the Clerk of the Court an admission fee of \$100.00 for a four year-period. The applicant shall also be required to meet such continuing requirements and pay such annual fees as the Court may require.
 5. The applicant must execute the Oath of Admission to the Tribal Court Bar. The oath which all persons desiring to appear as spokesperson in the Tribal Court shall be taken as follows:

“SPOKESPERSON’S OATH”

“I, _____, do solemnly swear that:

- a. I have read the Constitution of the Central Council of Tlingit and Haida Indian Tribes of Alaska and am familiar with its contents;
- b. I will respect and obey the Constitution of the Central Council of Tlingit and Haida Indian Tribes of Alaska in all respects;
- c. I will abide by the Rules established by the Tribal Court of the Central Council of Tlingit and Haida Indian Tribes of Alaska;
- d. I will, at all times, maintain the respect due the Tribal Court and its officers;

- e. I will not counsel or speak for any suit or proceeding which shall appear to me to be unjust, or any defense except such as I believe to be honestly debatable under the law of the Tribe;
- f. I will employ such means only as are consistent with truth and honor and will never seek to mislead a judge or jury by any false statement;
- g. I will abstain from all offensive conduct in the Tribal Court.”

“Subscribed and sworn to before me this ____ day of
 __20,__.” _____ Judge

- B. Upon meeting the above requirements the Court shall admit the applicant as a member of the Tribal Court Bar and issue a certificate of membership. The Clerk of the Tribal Court will maintain a roster of all spokespersons admitted to practice before the Tribal Court. The Clerk will also keep on file the signed oaths of all such persons and the expiration date of each oath.
- C. The Clerk of the Tribal Court will maintain a roster of all Court Bar members admitted to practice before the Tribal Court. The Clerk will also keep on file the signed oaths of all such persons.

Sec. 06.01.195 Tribal Court Bar Roster and Renewal of Membership

- A. A Tribal Court Bar member will retain membership to the bar, by paying \$100 for a subsequent 4-year period before the end of the calendar year membership is due to expire unless he or she is no longer eligible according to 06.01.190(A) or requests the Court Clerk remove him or her from the roster.
- B. The Court Clerk, at the direction of the Chief Justice, will maintain a roster of active Tribal Court Bar members and will:
 1. Issue periodically a roster of all active bar members;
 2. Make available upon request by the public the roster of active bar members;
 3. Prepare the official roster of active bar members and provide a copy to the President’s Office for distribution to all CCTHITA Community Councils by no later than March 1 of each year.

Sec. 06.01.200 Rules of Discipline for Members of the Court Bar

- A. A member of the Court Bar may be subjected to disciplinary sanctions by the Judiciary Committee for any of the following:
 1. The commission of any act constituting dishonesty or impugning the member’s good moral character in a substantial manner.
 2. Violation of any provision of the member’s Oath of Admission to practice before the Court.

3. Disobedience or violation of any Court order.
 4. Suspension, disbarment or other disciplinary action taken against the member by the authorities of a foreign jurisdiction that regulate attorneys or member of its bar or failure within 30 days to notify the Clerk of such action.
 5. Undertaking any action constituting a conflict of interest.
 6. Submission of frivolous or intentionally harassing claims or negligent or intentional abuse of the Court's processes or authority.
 7. Engaging in any conduct compromising the integrity and respect of the Court.
- B.** The Court may use the Model Rules of Professional Conduct of the American Bar Association, as published from time to time, for further guidance.

Sec. 06.01.210 Sanctions Against Tribal Bar Members

- A.** Upon the motion of any party, or upon its own motion, the Court may order an investigation of any allegation of misconduct by a member of the Tribal Court Bar, and appoint an investigator. Upon completion of the investigation, the Court shall conduct an open hearing to determine whether the allegations are well-founded. Prior to such hearing the member of the Tribal Court Bar shall be presented with a written statement of the allegations and the results of the investigation. All interested parties shall be notified at least ten days in advance of the hearing and shall be entitled to present evidence and confront witnesses.
- B.** Following the hearing, the Chief Justice of the Court shall make a finding of whether or not a violation has been established, and, in the event of an affirmative finding, the Chief Justice shall refer the finding to the Judiciary Committee that shall specify the sanction. The disciplinary sanctions affecting the status of a member of the Court Bar include censure, reprimand, suspension and disbarment.
- C.** Any spokesperson failing to maintain the respect due the Tribal Court or engaging in offensive conduct in the courtroom shall be deemed guilty of contempt of Court and subject to immediate sentencing by the Tribal Court Judge to a fine not to exceed Five Hundred Dollars (\$500.00). The sentence may be appealed to the Judiciary Committee.

Chapter 02. Court of Elders

Sec. 06.02.010 Findings and Policy

WHEREAS, there is a need for traditional resolution of appropriate issues according to Tlingit and Haida customary law and traditional methods. THEREFORE, it is the policy of the CCTHITA that the Tribal Court shall certify to a Court of Elders questions on appropriate subjects.

Sec. 06.02.030 Scope of Authority of the Court of Elders

- A.** The Court of Elders shall determine if there are traditional or customary laws applicable to questions or issues certified to it by the Tribal Court and shall respond with written advisory opinions concerning application of such laws.
- B.** Upon the joint written request and knowing consent of the parties to a dispute, the Court of Elders may, in its discretion, accept, hear and mediate an issue applying traditional law and custom.
 - 1. The Court of Elders may hear and mediate only disputes among members concerning matters not governed by a constitutional provision, ordinance, law, resolution, code or regulation of CCTHITA, and not otherwise within the jurisdiction of the Tribal Court. Parties to a matter heard by the Court of Elders may not be represented by attorney or lay advocate.
 - 2. The Court of Elders' written decision or agreement shall be filed by the Clerk of the Tribal Court and treated as a final judgment, except that no appeal shall be permitted from the Court of Elders.

Sec. 06.02.050 Composition of the Court of Elders

- A.** As the need arises, the Judiciary Committee may appoint at least two (2) and not more than six (6) members of the Tlingit and Haida Communities, including elder village tribal members to comprise a Court of Elders for a particular matter.
- B.** The Court of Elders may seek advice from any source knowledgeable on Tlingit and Haida clan custom or tradition, including learned treatises, historical references, prior case law, or persons generally regarded within the Community as learned in tribal custom. The weight to be given to such source shall be determined by the Court of Elders.

Sec. 06.02.060 Records

All responses to certified questions, advisory opinions or determinations of the Court of Elders shall be in writing and filed with the Clerk of the Tribal Court, evidence received that, in the opinion of the Court of Elders, requires confidentiality, shall be filed under seal.

Chapter 20. General Provisions

Sec. 06.20.001 Short Title

This ordinance shall be known as the “CCTHITA Tribal Civil Procedures Code”.

Sec. 06.20.002 Applicability

This code applies to all civil actions in the Tlingit and Haida Indian Tribes of Alaska (the “CCTHITA”) Tribal Court. The term “civil action” includes all non-criminal Court cases in which a party seeks to have the Court award relief against another party or to have a legal right declared or enforced. The Court may require, or the parties by mutual agreement allow, the application of some other set of rules, such as the federal rules of civil procedure, to be applied in a particular civil action. In an appropriate case, the Court may look to the Tribal common law or customs of the Tlingit and Haida clans for assistance in resolving a case or applying this code.

Sec. 06.20.003 Purpose and Construction

This code shall be liberally construed to provide a just and equitable result for the parties to civil actions and citizens of the CCTHITA generally, and to secure the just, speedy, and inexpensive determination of every civil action.

If a procedure is not specifically pointed out by this code, the Tribal Court may adopt any suitable consistent with the spirit of this code or take any measures reasonably necessary to carry out and protect its jurisdiction.

Nothing in this code shall prevent persons involved in a dispute from agreeing to submit their dispute to persons or organizations outside the Court for resolution and nothing herein shall remove the inherent authority of the CCTHITA Tribal Court in a particular case from fashioning and controlling the scope and extent of the proceedings as it deems appropriate.

Nothing herein is intended to limit the inherent civil jurisdiction of the CCTHITA.

Sec. 06.20.004 Relief Allowed

The Court may award all forms of relief necessary to the complete of its jurisdiction, including but not limited to (a) money damages; (b) injunctions; (c) declarations of rights; and (d) such other relief as is just and proper in a particular case.

Sec. 06.20.005 Statute of Limitations

No civil action may be commenced in the CCTHITA Tribal Court unless the cause of action arose within a three-year period preceding the filing of the complaint. The three-year period shall be counted from the date on which the event giving rise to the lawsuit was first known to the complaining party or should have been known through reasonable diligence. Provided, however, that this section shall not apply to claims brought by the CCTHITA or child support enforcement actions brought by the CCTHITA or its Tribal Court.

Sec. 06.20.006 Survival of Actions

All causes of action by a person shall survive to the personal representative of that person if he should die or become unable to pursue the action before its completion.

Sec. 06.20.007 Sovereignty

Nothing in this Code shall be construed as a waiver of the sovereign immunity of the CCTHITA or any of its subordinate boards or bodies.

Chapter 21. Commencement of Actions and Pre-Trial Motions

Sec. 06.21.001	Commencement of Civil Actions
Sec. 06.21.002	Summons
Sec. 06.21.003	Service of Process
Sec. 06.21.004	Long Arm Service
Sec. 06.21.005	Answer
Sec. 06.21.006	Amendment of Pleadings
Sec. 06.21.007	Service and Signing of Pleadings and Papers
Sec. 06.21.008	Motions
Sec. 06.21.009	Preliminary Relief
Sec. 06.21.010	Discovery
Sec. 06.21.011	Pre-Trial Conference

Sec. 06.21.001 Commencement of Civil Actions

A civil action is started by filing a written complaint or petition with the Court and paying any necessary filing fee established by the Clerk of the Court.

The complaint or petition shall be concise and direct and contain a statement of the events complained of or the right sought to be declared or enforced and a statement of what relief is sought. No technical wording is required. A party asserting claims in a complaint or petition may join as many claims as he has against the opposing party.

More than one person may join in bringing an action if their claims involve the same or similar transactions or occurrences and involve common questions of fact or law.

The complaint or petition shall be signed by the party bringing the action or his attorney or representative.

The Court Clerk may assist plaintiffs in putting their complaints in writing by supplying necessary forms.

Sec. 06.21.002 Summons

When a complaint or petition is filed, the Court Clerk shall issue a summons requiring the opposing party to appear and respond to the complaint or petition within twenty days.

The summons shall give notice that failure to respond may result in a default judgment being entered against the defendant or respondent.

Sec. 06.21.003 Service of Process

- A.** The summons, together with a copy of the complaint or petition shall be served upon the defendant or respondent by proper authorities or by any person over the age of eighteen who is not a party to the action. Service may be accomplished by personal service or by leaving a copy of the summons and complaint or petition with a person of suitable age and discretion residing in the residence of the person sought to be served.

Personal service on a business or corporation may be made upon a secretary, officer, registered agent, or owner of the business.

The person or officer effecting service of process shall file proof of such service with the Court.

- B.** The Clerk of Court may also affect service of the Summons and a copy of the Complaint or Petition by certified mail, return receipt requested. In such a case, the return receipt shall be considered proof of service.
- C.** When the defendant or respondent cannot be found within CCTHITA region or within the State of Alaska and upon the filing of an affidavit of the plaintiff stating that the defendant is not a resident in the CCTHITA region or in the State of Alaska or cannot be found therein and that attempts at personal service or service by certified mail have failed, service may be made by publication of notice of the lawsuit once a week for three weeks in a newspaper of general circulation.

Sec. 06.21.004 Long Arm Service

Any person, including a business or corporation, may be served outside the CCTHITA region with the same force and effect as if service was made within the CCTHITA region for any of the following regions:

- A.** Transacted business or performed an act within the CCTHITA region leading to a civil action;
- B.** Contracts for services to be rendered for goods to be furnished within the CCTHITA region;
- C.** Contracts to insure a person, property, or a risk located within the CCTHITA region at the time of contracting; or
- D.** Owns, uses, or possesses any property involved in the case within the CCTHITA region.
- E.** Alleged to be a parent of or have a parental obligation to a child that is enrolled or is eligible to be enrolled as a citizen of the CCTHITA.

Sec. 06.21.005 Answer

Within twenty days after a defendant or respondent is served with the summons and a copy of the complaint or petition, he must file a written answer with the Court Clerk responding to the complaint or petition. The answer shall set forth any affirmative defenses and may deny the complaint or petition in its entirety or may deny it in part.

The following defenses must be raised either in the answer or in a pre-trial motion or they are waived: (1) lack of personal jurisdiction; (2) insufficient or improper service of process.

A defendant may file a counterclaim asserting against a plaintiff any claim or setoff which arises out of the same event as the complaint was filed for. Provided, however, that no counterclaims may be asserted against the CCTHITA or its subordinate boards or bodies.

Failure of a defendant or respondent to answer within twenty days after a complaint or petition is served shall be a default and provide grounds for judgment against the defendant or respondent as asked for in the complaint or petition.

Sec. 06.21.006 Amendment of Pleadings

Parties may freely amend or supplement their pleadings at any time on such terms as are just, as long as the other party is given notice and an opportunity to respond to or oppose the amendment.

Sec. 06.21.007 Service and Signing of Pleadings and Papers

A copy of every pleading or paper filed with the Court after the original complaint or petition must be proved to the other party unless the Court orders otherwise. Every written motion shall be filed with the Court Clerk and a copy supplied to each of the parties.

Service upon the attorney or upon a party or authorized representative shall be made by delivering a copy to them or by mailing it to him at the last known address or, if no address is known, filing with the Clerk of Court an affidavit of attempt to serve.

No service needs to be made on parties in default for failure to appear.

Every pleading, motion, or paper shall be signed by a party or his attorney or representative.

Sec. 06.21.008 Motions

Question regarding procedure or issues of law regarding the rights of the parties which are raised during a lawsuit and which are neither covered by this ordinance nor settled by agreement of the parties may be presented to the court in a motion.

Motions shall be made in writing or presented orally in open court. All motions which might eliminate the need for trial on all or some of the issues involved in a case shall be made at least ten days before trial.

A moving party shall service notice to other parties of any pre-trial motions at least ten days before presenting it in Court, or such other time as the Court feels is necessary to provide the opposing party a fair opportunity to respond. When a motion is supported by a memorandum or affidavit, they shall be served on the other party with the motion.

The non-moving parties shall have ten (10) days to respond to the motion. If a response is filed by any party, the moving party shall then have ten (10) days to file a reply to the response(s). If no party responds to the motion the Court may rule on the motion after the time to respond has expired.

Motions to dismiss the civil action because the Court lacks subject matter jurisdiction or because the plaintiff has not stated a basis for relief may be made at any state of the proceeding.

Sec. 06.21.009 Motion for Continuance

A motion for continuance of a hearing or jury trial will be granted only upon a showing of good cause. A motion for continuance may be made in writing pursuant to Sec. 06.20.008 or orally at a hearing. The following shall be deemed good cause:

- A. Illness, with such verification as may be required by the Court;
- B. Unavoidable and/or unforeseen conflicts;
- C. For trial, lack of discovery, or discovery of new evidence requiring investigation; or
- D. Other causes, in the discretion of the court.

Sec. 06.21.010 Order on Motion for Continuance

The court shall make a written order granting or denying a written motion for a continuance.

Sec 06.21.011 Preliminary Relief

- A. **Temporary Restraining Order.** A Judge may issue a Temporary Restraining Order prohibiting or requiring particular action by another party without prior notice where the party seeking an order shows the Court orally or by affidavit that he will suffer immediate loss or potential injury unless temporary relief is granted. A temporary restraining order shall be good for not more than thirty days after notice of it is given to the party restrained unless the court orders otherwise and may be renewed for the same or a lesser period of time not more than once.
- B. **Preliminary Injunction.** Following notice to all parties and an opportunity to be heard in court or through affidavits, the Court may consider entering a Preliminary Injunction, which shall remain in effect until final judgment in the case, requiring a party or parties to take or refrain from taking certain action while the case is pending. The request for a Preliminary Injunction may be granted if the party seeking it demonstrates a substantial likelihood that he will prevail in the lawsuit and that he will suffer immediate or irreparable loss or injury if the injunction is not issued. The Court may condition the issuance of the injunction upon the posting of a bond by the party seeking it, if necessary to protect the other party.
- C. **Prejudgment.** At the commencement or during the course of a civil action, a party may by affidavit apply to the Court for an order allowing him to attach, garnish, re-levy, or take similar action against an adverse party's property where that is shown to be necessary to insure that any judgment ultimately to be entered can be satisfied. The Court may place such conditions on the granting of such relief as the Court deems just and equitable, including a requirement that the party seeking the order post a bond to protect the other party against losses which might arise from the seizure of his property.

Sec 06.21.012 Discovery

In order to facilitate fair trials and avoid unfair surprise in civil cases, it shall be the policy of the CCTHITA Tribal Court to allow a party to obtain information about the other party's case.

Methods of discovering and exchanging information may include submission of written questions to the other party, requesting admissions of facts, requesting witnesses' names, interviewing the other party's witnesses, and requesting the other party to produce documents or property for inspection. Such requests for information shall be as clear and specific as possible.

A party who receives a request for information shall respond within fourteen days. Failure to respond shall be ground for the other party to seek a court order compelling a response.

If the parties disagree about whether information is required to be disclosed, the Court shall decide the dispute. If the Court deems it, conditions may be placed on the release of information to protect confidential material.

Sec. 06.21.013 Pre-Trial Conference

In the interest of saving time, simplifying issues, and avoiding unnecessary litigation, the judge may schedule a pretrial conference with all parties in a civil action. The pretrial conference may, in the Court's discretion, be held in an informal setting and conducted without formal procedures. The parties and the judge should discuss areas where the parties are in agreement and areas where they disagree. The discussion shall have the purpose of identifying and disposing of issues that can be resolved without trial, identifying the issues of law remaining to be decided and, if necessary, limiting the testimony of witnesses and presentation of evidence. Any agreements reached shall be stated on the record or put in writing and signed by the parties.

Sec. 06.21.014 Orders to Show Cause

An order to show cause requiring a party to appear before the court and explain why they should not be held in contempt of court and subject to sanctions may be issued by the court upon a showing that the person to whom the order is to be directed has violated a valid existing order of the Court after he has had notice of it.

Chapter 22. Trials

Sec. 06.22.001	Trials
Sec. 06.22.002	Burden of Proof
Sec. 06.22.003	Evidence
Sec. 06.22.004	Subpoenas

Sec. 06.22.001 **Trials**

Civil cases shall be tried by the Court without a jury. Procedure at trial shall be as follows unless otherwise agreed by the parties and the Court:

- A.** The party bringing the action may make an opening statement summarizing what he intends to prove, after which the defendant or respondent may make an opening statement summarizing his defense;
- B.** The plaintiff or petitioner shall call witnesses or present other evidence in support of his case to the Court. The witnesses shall testify under oath and be subject to cross examination by the defendant. Following cross examination of witnesses, the plaintiff or petitioner shall have a second opportunity to question the witness about matters raised in cross examination. When the plaintiff has presented all of his witnesses and evidence he shall inform the court that the plaintiffs' case is completed;
- C.** After the plaintiff's case has been presented, the defendant or respondent may move the Court to dismiss the case. If the Court, after considering the evidence in the light most favorable to the party bringing the action, finds that there is insufficient evidence to support the case, the action shall be dismissed;
- D.** If the action is not dismissed, the defendant or respondent shall call witnesses or present evidence. A witness shall testify under oath and be subject to cross-examination by the plaintiff or petitioner, after which the defendant shall have a second opportunity to question the witness about matters brought up during cross examination;
- E.** The Court, in its discretion, may allow the party bringing the action to present additional witnesses or evidence to rebut any new matters presented in the defendant's case, but no evidence or testimony which is merely cumulative or repetitive of the plaintiffs case shall be allowed;
- F.** The parties shall have the opportunity to present final remarks to the Court. Because the party bringing the action has the burden of proving his civil case; he will have an additional opportunity to rebut the opposing party's remarks;
- G.** The Court shall consider all the evidence and announce a judgment or issue a written decision at a later time.

Sec. 06.22.002 Burden of Proof

The Burden of proving a civil claim shall be on the party making the claim to prove his case by a preponderance of the evidence. A party shall be considered to have met the burden of proof if most of the evidence presented tends to prove that party's claim.

Sec. 06.22.003 Evidence

The section governs the presentation of evidence in civil actions. In a particular case, the Court may require or the parties may agree to the application of their rules of evidence, specifically the state or federal rules of evidence.

- A.** Evidence presented in a civil action in the CCTHITA Tribal Court must be related to the issues before the Court. When questioned by the judge or another party, the party who wishes to present certain evidence shall explain why he thinks the evidence is relevant;
- B.** Where there is more than one kind of evidence about the same subject, the Court should allow the most reliable kind of evidence;
- C.** The testimony of persons having personal knowledge, such as firsthand observation and direct knowledge of or participation in a described event shall be preferred and be afforded greater weight than the testimony of persons with secondhand knowledge of the event;
- D.** Copies of written records, photographs, and other documentary evidence may be presented as long as they are reliably identified by the party offering them or if they are certified as true and accurate copies by a reliable source.

Sec. 06.22.004 Subpoenas

A Tribal Court Judge or the Court Clerk may issue a subpoena to compel the attendance at trial of witnesses to give testimony or to command the person to whom it is directed to produce evidence.

The Court may quash or modify a subpoena, at any time before the time specified on its face for compliance, for good cause shown and the court may condition the issuance of a subpoena upon payment of a reasonable bond to offset the affected party's costs of producing the evidence sought.

Subpoenas shall be served in the same manner as a summons and complaint or petition, except that no subpoena shall be served by publication.

Failure to comply with a subpoena may be punishable as contempt of court.

Chapter 23. Judgments

Sec. 06.23.001	Judgments
Sec. 06.23.002	Default Judgments
Sec. 06.23.003	Reconsideration
Sec. 06.23.004	Enforcement of Judgments
Sec. 06.23.005	Types of Execution
Sec. 06.23.006	Exemptions
Sec. 06.23.007	Sale Procedure
Sec. 06.23.008	Enforcement of Foreign Judgments

Sec. 06.23.001 Judgments

The Judge in a civil action shall issue a judgment either orally or later in writing after completion of the trial and announce to basis of the decision. The judgment shall state any relief granted to the prevailing party. It shall be reduced to writing and become final when entered in the record by the Court Clerk.

Sec. 06.23.002 Default Judgments

When a party against whom a judgment is sought fails to appear, plead, or otherwise defend within the time allowed, and that is shown to the Court by a motion and affidavit or testimony, the Court may enter an order of default and, without further notice to the party in default, enter a judgment granting the relief sought in the complaint.

Sec. 06.23.003 Reconsideration

No later than ten days after a judgment is final, a party may ask the judge to reconsider the judgment. The matter may be decided based upon writings without a hearing. The judge may grant reconsideration and change the judgment if one of the following is found to be true:

- A.** The original judgment was reached as a result of fraud or mistake;
- B.** There is newly discovered evidence which could have affected the outcome of the case and which could not have been discovered with reasonable effort at the time of trial; or
- C.** The Court did not have jurisdiction over the subject matter.

Sec. 06.23.004 Enforcement of Judgments

If a party fails to satisfy any money judgment of the CCTHITA Tribal Court, not less than ten days after entry of the judgment the Court may issue an order allowing the judgment to be executed on and satisfied out of property owned by the judgment debtor upon the filing of an application setting forth:

- A.** The date of entry of the judgment, the amount of the judgment, the amount paid on the judgment, the amount currently owing the judgment including interest, the name of the Court, the case number, and the date of registration of the judgment if it is a foreign judgment;

- B.** The name of the requesting party and his address or the address of his attorney or authorized representative;
- C.** A statement of the type of execution sought, the name and address of the person on whom it is to be served, and a description of the property to be seized.

Sec. 06.23.005 Types of Execution

Court order allowing execution of a judgment shall consist of two types:

- A.** Attachment shall be used to seize property in possession of a judgment debtor;
- B.** Garnishment shall be used to seize property of the judgment debtor that is in the hands of another person.

Orders of attachment or garnishment shall be served in the same manner as the summons and complaint or petition, and proof of service shall be filed with the Court.

Sec. 06.23.006 Exemptions

In the execution of any judgment the following shall be exempt from execution to satisfy a judgment;

- A.** All wearing apparel of every person in the family but not to exceed \$500 value in furs, jewelry, beadwork, or personal ornaments for any one person;
- B.** Items of bona fide religious or cultural significance;
- C.** Fishing equipment, gear, and fishing boats of reasonable value
- D.** A minimum amount of tools, instruments, and materials sufficient to allow a judgment debtor to carry on his trade;
- E.** Provisions and fuel for the comfortable maintenance of the home for three months time;
- F.** Land or interests in land held in trust or subject to restrictions against alienation imposed by the United States or other land which is the judgment debtor's principal residence;
- G.** Sixty-five (65%) of a judgment debtor's disposable wages (gross wages minus deduction required by law, but not including voluntary payroll deductions), salary, or other compensation regularly paid to a judgment debtor for personal services each pay period. An exception may apply if the judgment debtor's obligations are in arrears, in which case no less than fifty-five percent (55%) of debtor's disposable wages may apply.
- H.** An automobile of reasonable value necessary for personal or family use.

Provided, that none of the above property shall be exempt from execution for any judgment awarded because of the debtor's failure to pay all or part of the purchase price for that property, and, with the exception of Indian trust land, none of the above property

shall be exempt from execution if it was specifically pledged as collateral or security to the person awarded the judgment.

Sec. 06.23.007 Sale Procedure

When property has been seized or otherwise delivered to the Court in execution of a judgment, the Court shall give the judgment debtor written notice that:

- A. The property is in the possession of the Court pursuant to a Court Order;
- B. The property will be sold at public auction on a date specified in the notice and the proceeds applied to the judgment
- C. The judgment debtor has the right to contest the execution order by filing a written opposition with the Court and requesting a hearing;
- D. At any time prior to the sale, the judgment debtor has the right to satisfy the judgment and obtain the return of the property.

Sec. 06.23.008 Enforcement of Foreign Judgments

Execution on a judgment from a Court other than the CCTHITA Tribal Court shall be allowed in accordance with this code if it has been registered with the Court by filing a certified copy of the judgment with the Court Clerk, paying any necessary filing fee established by the clerk, and serving a copy on the judgment debtor. Before giving effect to a foreign judgment the court may conduct a preliminary inquiry regarding compliance with the Full Faith and Credit Act (FFA), 28 U.S.C § 1738 (1994).

Chapter 24. Miscellaneous

Sec. 06.24.001 **Rules Not Allowed**
Sec. 06.24.002 **Savings Clause**

Sec. 06.24.001 **Rules Not Allowed**

Where this code does not expressly address a question, the court may issue any order to accomplish substantial justice.

Sec. 06.24.002 **Savings Clause**

If any provision of this code is declared to be invalid, the remaining provisions shall not be affected.

Amended: September 7, 2003
 February 8, 2005
 March 16, 2005
 March 18, 2005
 April 19, 2005
 April 23, 2005
 April 17, 2008
 November 17, 2007
 April 14, 2009
 April 15, 2011
 April 20, 2012
 April 20, 2013
 April 22, 2016

ADOPTED this 22nd day of April 2016 by the Tribal Assembly of the Central Council of Tlingit and Haida Indian Tribes of Alaska, by a vote of 97 yeas, 0 nays, 0 abstentions and 0 absence(s).

CERTIFY


Richard J. Peterson, President

ATTEST


Ralph Wolfe, Tribal Secretary