

SPIRIT LAKE TRIBAL COURT  
SPIRIT LAKE INDIAN RESERVATION

COURT RULES AND PROCEDURES<sup>1</sup>

Promulgated: April 9, 2014  
Amended May 14, 2014

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<sup>1</sup> That Chief Judge Joseph H. Morsette, on Wednesday, April 09, 2014 hereby establishes Promulgated Court Rules and Procedures for the Spirit Lake Tribal Court, Pursuant to the Spirit Lake Tribe Law & Order Code, §2-7-102 – Court Rules and Procedures, which reads in its entirety: “The Chief Judge and Associate Judges of the Tribal Court may establish and promulgate rules of procedure for the conduct of its proceedings which are not inconsistent with this Code or other governing and applicable law;”see also §2-7-104 – Means to Carry Jurisdiction Into Effect.

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- Rule 1           Scheduling of Criminal Jury Trials, & defaulting to a Bench Trial (promulgated on 4/9/2014)
- A.               That except for good cause shown, each criminal defendant shall lose their right to a criminal jury trial, if the defendant is properly served for their jury trial selection date and fails to appear, or is properly served for their jury trial date and fails to appear.
- B.               That in both instances, the Court shall reset each case for a bench trial, unless motioned by either party for change, such as: Order To Show Cause, Change of Plea, or Dismissal.
- Rule 2           Reduction in Criminal Sentences (promulgated on 4/9/2014)
- A.               That all requests for reduction of each sentence shall be by written motion identifying the case in question, the sentence, the grounds for the request, and the proposed change in sentence.
- B.               That unless an exception is codified within the Spirit Lake Tribe Law and Order Code, NO minimum mandatory sentencing shall be reduced at any time, unless a party motions the Court for an emergency.
- Rule 3           Tribal Licensing to Practice Law by Professional Licensed Attorneys who are members of the Spirit Lake Tribe (promulgated on 4/9/2014)
- A.               That all Professional Licensed Attorneys who are members of the Spirit Lake Tribe shall comply in the same manner as Professional Licensed Attorneys who are not members of the Spirit Lake Tribe pursuant to §2-4-103 – Tribal Licensing of Attorneys.
- Rule 4           Tribal Licensing to Practice Law by Certified Lay Advocates (non-licensed attorneys) (promulgated on 4/9/2014)
- A.               That all Certified Lay Advocates who are, and who are not members of the Spirit Lake Tribe shall comply with the following: §2-4-103 subsections (2) and (4) as Certified Lay Advocates, licensed to practice law within the Spirit Lake Tribal Courts.
- Rule 5           Tribal Licensing to Practice Law by University of North Dakota School of Law, Law Students as Certified Lay Advocates (promulgated on 4/9/2014)
- A.               That it is in the interest of the Spirit Lake Tribe that UND law students gain a competence in Indian law and Tribal Court practice. The Chief Judge may permit the practice of law by law students of UND School of Law before the Spirit Lake Tribal Courts on the following conditions:

1. That any UND law student shall comply with §2-4-103 subsections (2) and (4) as Certified Lay Advocates.
2. That any UND law student shall successfully complete an application for admission to practice law before the Spirit Lake Tribal Courts;
3. That any UND law student in good standing with the School of Law, must first be qualified and accepted for practice under the student practice provisions in the courts of North Dakota and if applicable, so certified by the supervising Professional Licensed Attorney;
4. That any UND law student practicing before the Spirit Lake Tribal Courts shall be subject to supervision by a Professional Licensed Attorney admitted to the Tribal Courts, and shall be subject to the same limitations of practice as provided by applicable Tribal, federal, or state law.

Rule 6 Waiver of Paying an Annual Licensing Fee (promulgated on 4/9/2014)

- A. That it is hereby established, the annual licensing fee shall be waived for all Certified Lay Advocates to include: (1) tribal prosecutors, (2) tribal public defenders, (3) tribal guardian ad litem, (4) UND law students, and (5) non-profit organizations, such as legal services of North Dakota.

Rule 7 Revocation of Tribal License for Professional Licensed Attorneys who are members of the Spirit Lake Tribe, and for Certified Lay Advocates (promulgated on 4/9/2014)

- A. That all Professional Licensed Attorneys who are members of the Spirit Lake Tribe, and all Certified Lay Advocates shall comply in the same manner as Professional Licensed Attorneys who are not members of the Spirit Lake Tribe pursuant to §2-4-104 – Revocation of Attorneys Tribal License.

Rule 8 Ex-Parte Communications with Spirit Lake Tribal Judges (promulgated on 4/9/2014)

- A. Ex-Parte contacts by Professional Licensed Attorneys, Certified Lay Advocates, and any parties, or potential witnesses as to the merits of any pending case are forbidden.

Rule 9 Increased Filing Fee for a Civil Jury Trial (promulgated on 5/14/2014)

- A. That the dilemma the Tribal Court has run into is that the cost of a civil jury trial is only a fee of one hundred (\$100) dollars according to section 4-1-142 (1) of the Spirit Lake Tribe Law & Order Code, but the jury compensation for each juror that serves on each jury trial shall be paid the sum of fifty (\$50) dollars for service

as a juror in a case pending before the Spirit Lake Tribal Court according to section 2-8-113 of the Spirit Lake Tribe Law & Order Code.

- B. That essentially, the Tribal Court is losing money when a civil jury trial occurs, because of the cost to file for one is substantially lower than the cost to pay each juror required for their services. Since the Tribal Court pays the jurors, and not the Petitioner, or filing party, the Tribal Court has been the one that has incurred this loss.
  
- C. That §4-1-142(1) would now read: “Trials of all civil actions shall be to the Tribal Court without a jury, unless a party to the action files a request for a jury trial and pays a fee of four hundred (\$400) dollars at the time of filing the initial pleadings. The Tribal Court will then fix the time and place for hearing the request for a jury trial, which the Tribal Court may postpone until the pleadings have been completed and the issues formulated. The Tribal Court shall determine whether significant issues of face are presented which will be determinative of the legal issues. If so, a jury trial shall be granted; otherwise no jury trial will be allowed.”