

**IN THE COURT OF CENTRAL JURISDICTION  
COURT ORDER 48**

**IN THE MATTER OF THE RULES OF THE COURT OF APPEALS**

**On December 29, 2011, the Court of Appeals adopted amendments to the Rules of the Appellate Court of the Non-Removable Mille Lacs Band of Ojibwe and incorporated the amendments into the existing rules. The Court of Appeals reported the amendments to the Band Assembly on March 20, 2012. The Court finds that the amendments are effective as of June 18, 2012.**

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## **SECTION I. IN GENERAL**

### **Rule 1. Rules to be Liberally Construed**

The rules herein shall be liberally construed to effectuate the purposes intended and to protect the rights of parties who appear before the Court of Appeals.

### **Rule 2. Amendment or Rescission of Rules**

Any rule may be amended or rescinded by the Court of Appeals at any time; provided, however, any amendment or rescission of rules by the Court of Appeals must meet the requirements of 5 MLBSA §105.

### **Rule 3. Time**

In computing any period of time prescribed or allowed by these rules, by the local rules of any district court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a Mille Lacs Band holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the Court Clerk inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than eleven (11) days, intermediate Saturdays, Sundays, and Mille Lacs Band holidays shall be excluded in the computation.

Rules 4-5 reserved for future use.

## **SECTION II. APPELLATE PROCEDURE**

### **Rule 6. Who May Appeal**

(a) Any party in a civil case may appeal a final decision of the District Court to the Appellate Court. The party filing the appeal shall be called the appellant and the party opposing the appeal shall be called the respondent. If more than two parties are involved in an appeal, the parties name shall be used after the appellant/respondent designation, e.g., Appellant Smith, Appellant Jones, Respondent Grand Casino Mille Lacs, Respondent State of Minnesota, etc. (Note: The term “appellee” has been replaced throughout the rules with the term “respondent”.)

(b) A defendant in a criminal case may appeal a conviction or sentence. The prosecution may only appeal an issue of law but not an issue of fact unless the appeal would violate the defendant’s right not to be subject twice to the same prosecution.

### **Rule 7. Procedure for Appeal- Time Period to Appeal**

In civil and criminal cases, a party seeking an appeal must file a notice of appeal no later than thirty (30) days after the entry of the judgment, final order, or sentence, as appropriate, of the District Court. Mille Lacs Band Statutes do not have any provisions for the late filing of a notice of appeal.

### **Rule 8. Appeal**

(a) An appeal is made by the filing of a Notice of Appeal with the Court Clerk of the Court of Appeals and serving a copy of the notice on all parties to the lower court decision.

(b) The Notice of Appeal must specify the party or parties taking the appeal by naming each one in the caption or body of the Notice of Appeal; designating and attaching a certified copy of the judgment, order, or part thereof being appealed; state whether oral arguments are requested, and the decision on the appeal desired from the Court of Appeals. In appeals where a party is a minor, the minor’s initials shall be used in the caption, if applicable, and in all filings, orders, and opinions.

(c) No appeal shall be dismissed for deficiency of form or title of the Notice of Appeal, or for failure to name a party whose intent to appeal is otherwise clear from the Notice of Appeal.

(d) Upon receipt of the Notice of Appeal and the filing fee has been paid, the Court Clerk of the Court of Appeals shall docket the appeal and notify the Chief Justice of the pending appeal.

### **Rule 9. Requirement of Filing Fees**

The appellant must pay the filing fee required by Mille Lacs Band statute. Payments can be made in the form of cash, check, or money order payable to the court. An Application for Waiver of Fee - Paupers Affidavit can be completed and submitted to the Magistrate assigned to the appeal for approval. Band elders shall not be required to pay the filing fee. The Office of Solicitor General shall not be required to pay a fee for cases filed on the authority of that office. No filings will be

accepted by the Court Clerk unless the requirements of this rule are met. The Court shall use the guidance found in 28 USC §1915 to determine whether an action may proceed *in forma pauperis*.

#### **Rule 10. Use of Fax Copies**

Parties may file affidavits, pleadings, motions and other documents by use of fax transmission to the Court Clerk. However, the original documents shall be filed with the Court Clerk within forty-eight (48) hours of filing by fax transmission, unless the Court Clerk or Chief Justice otherwise deems the fax satisfactory for filing purposes. The fax must reflect the sending party's address, phone number and fax number. The phone number for the Court of Appeals is (320) 532-7400 and the fax number is (320) 532-3153.

#### **Rule 11. Bar Membership Required**

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his/her name. Said attorney must be admitted to the bar of the Mille Lacs Band.

#### **Rule 12. Bond or Supersedeas Bond**

Upon the filing of the Notice of Appeal of a civil money judgment, the District Court may order the filing of a bond or other security in an amount sufficient to satisfy the judgment including costs in the event that the judgment is affirmed on appeal. The Court may waive the bond if the party demonstrates by petition or affidavit that he/she is unable to post the bond.

#### **Rule 13. Stay or Injunction**

Application for a stay of the judgment or order of the District Court pending appeal, or for approval of a supersedeas bond, or for an order suspending, modifying, restoring or granting an injunction during the pendency of an appeal must be made first in the District Court. A motion for such relief may be made to the Court of Appeals, but the motion shall show that application to the District Court for the relief sought is not practicable, or that the District Court has denied an application, or has failed to afford the relief which the applicant requested with the reasons given by the District Court for its action. Reasonable notice of the motion shall be given to all parties.

A stay shall be granted if the purposes of justice require it, and irreversible harm may occur if the stay is not granted.

#### **Rule 14. Designation of Record**

Upon receipt of a Notice of Appeal, the Clerk of Court shall prepare a docket sheet for case being appealed. The docket sheet shall list all filings in the case

Upon completion of the docket sheet, the Clerk of Court shall send an electronic copy of the docket sheet to all parties. No later than ten (10) days after the Clerk of Court sends the docket sheet to the parties, the party desiring the appeal shall mail to the other parties and file in both the District Court

and Court of Appeals a designation of any pertinent pleadings or documents filed in the case, a statement as to whether the transcript of proceedings shall be presented to the Court of Appeals, and evidence adduced which are sought to be included in the record of appeal. The Court of Appeals reserves the right to order any additional parts of the entire District Court record to be transmitted to the Tribunal at any stage of the appeal.

The designation of record shall be made using the court docket sheet. Pleadings and other documents filed with District Court Clerk in the case can be designated by circling the document on a copy of the court docket sheet.

The record on appeal shall not include, unless ordered by the Court of Appeals, the following: subpoenas, summonses, certificate of service, and procedural motions or orders (e.g. extensions, continuances, etc.).

All respondents shall file a counter designation of record in the District Court and Court of Appeals within ten (10) days after appellant's designation of record is filed. The counter designation of record shall be made by using the Court docket sheet.

Unless authorized to proceed *in forma pauperis*, each appellant must advance the costs for transcripts ordered by any party relating to the appeal of the appellant. Failure to pay costs shall not be a good cause for an extension of time to complete the record and shall be grounds for dismissal of the appeal.

### **Rule 15. Record on Appeal**

(a) Upon receiving the designation of record, the Clerk of Court shall compile the record for use by the Court of Appeals. The Clerk of Court shall certify the contents of the record as true, correct, and complete. The Clerk of Court shall mail a copy of the certification of the record to the parties.

(b) In place of the record on appeal, the parties may prepare, sign, and submit to the District Court a statement of the case showing how the issues presented by the appeal arose and were decided in the District Court. The statement must set forth only those facts certain and proved or sought to be proved which are essential to the court's resolution of the issues. If the statement is truthful, the statement, together with any additions that the District Court may consider necessary to a full presentation of the issues on appeal must be approved by the District Court and must then be certified to the Court of Appeals as the record on appeal.

(c) The record on appeal shall be ready for the Court of Appeals no later than five (5) days from the date the respondent(s) file the counter-designation of record.

(d) If the transcript or portions of the transcript of the District Court proceedings are to be included in the record, the Clerk of Court shall make copies of the audio record of the hearings designated by the parties and provide a copy of all recordings to all parties to the appeal. It is the responsibility of the party seeking to include the transcript into the record to transcribe the audio recording and provide a copy of the transcription to all other parties and to the Court of Appeals. The Court of

Appeals shall not be responsible for transcription costs unless the party requesting a transcript has been authorized to proceed *in forma pauperis*.

### **Rule 16. Interlocutory Appeal**

When the District Judge, in making an order in a civil or criminal action not otherwise appealable under this section, shall be of the opinion that such order involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation, he/she shall so state in writing in such order. The Court of Appeals may thereupon, in its discretion, permit an appeal to be taken from such order, if a petition is made to it within thirty (30) days after the entry of the order:

#### (a) Petition for Permission to Appeal.

(1) To request permission to appeal when an appeal is within the court of appeals' discretion, a party must file a petition for permission to appeal. The petition must be filed with the Clerk of Court with proof of service on all other parties to the district court action.

(2) The petition must be filed within the time specified by this Rule.

(3) If a party cannot petition for appeal unless the district court first enters an order granting permission to do so or stating that the necessary conditions are met, the district court may amend its order, either on its own or in response to a party's motion, to include the required permission or statement. In that event, the time to petition runs from entry of the amended order.

#### (b) Contents of the Petition; Answer or Cross-Petition; Oral Argument.

(1) The petition must include the following:

(A) the facts necessary to understand the question presented;

(B) the question itself;

(C) the relief sought;

(D) the reasons why the appeal should be allowed and is authorized by a statute or rule; and

(E) an attached copy of:

(i) the order, decree, or judgment complained of and any related opinion or memorandum, and

(ii) any order stating the district court's permission to appeal or finding that the necessary conditions are met.

(2) A party may file an answer in opposition or a cross-petition within 7 days after the petition is served.

(3) The petition and answer will be submitted without oral argument unless the Court of Appeals orders otherwise.

(c) Grant of Permission; Fees; Cost Bond; Filing the Record.

(1) Within 10 days after the entry of the order granting permission to appeal, the appellant must:

(A) pay the district clerk all required fees unless exempt under Rule 9; and

(B) file a cost bond if required under Rule 12.

(2) A notice of appeal need not be filed. The date when the order granting permission to appeal is entered serves as the date of the notice of appeal for calculating time under these rules.

(3) Once any required fees are paid, the record must be forwarded and filed in accordance with Rule 15.

(d) Stay Pending Appeal

Petition for an appeal hereunder shall not stay proceedings in the District Court unless the District Judge or the Court of Appeals shall so order.

Rules 17-22 reserved for future use.

### **SECTION III. SERVICE AND FILING OF PAPERS**

#### **Rule 23. Service of Process of Papers Generally- Proof of Service**

(a) Only the notice, subpoenas, and show cause orders, and orders of the Court requiring a party to meet a deadline of less than fourteen (14) days from the date of the order will be served personally by the Court. Other pleadings and documents issued by the Court will be served by U.S. First-Class Mail. Except for the Notice of Appeal, it is the responsibility of the party filing a document or pleading to serve the document or pleading on all other parties. The verified return by the individual so serving the pleading or document, setting forth the manner of such service, shall be proof of service. Certified mail, restricted delivery, shall be considered personal service if accomplished. When service is made by registered mail, or by certified mail, the return post office receipt shall be proof of service.

(b) Whenever these rules require or permit the service of pleadings or other papers upon a party, a copy shall also be served on any attorney or other representative of the party who has entered a



written appearance in the proceeding on behalf of the party. If a party is represented by more than one attorney or representative, service upon any of such persons in addition to the party shall satisfy this requirement.

(c) Failure to comply with the requirements of this rule shall be a basis for either

(1) rejection of the document, or

(2) withholding or reconsidering any ruling on the subject matter raised by the document until after service has been made and the served party has had reasonable opportunity to respond.

#### **Rule 24. Date of Service- Filing of Proof of Service**

(a) The date of service shall be the day when the matter served is deposited in the United States mail or is delivered in person, as the case may be.

(b) The person, party, or Court Clerk or Deputy Court Clerk serving the papers or process on other parties shall submit a written statement of service thereof to the Court of Appeals, stating the names of the parties served and the date and manner of service. Proof of service shall be required by the Court of Appeals only if subsequent to the receipt of the statement of service a question is raised with respect to proper service. Failure to make proof of service does not affect the validity of the service.

#### **Rule 25. Certification of Papers and Documents**

The Court Clerk or Deputy Court Clerk of the Court of Appeals or, in the event of their absence or disability, whosoever may be designated by the Chief Justice shall be authorized to certify copies of all papers and documents which are a part of any of the files or records of the Court of Appeals as may be necessary or desirable from time to time.

There shall be a fee of \$2.50 for certifying a document. There shall also be a charge of \$.50 per page for copying a document. The Mille Lacs Band and its entities, agencies, and officers will not be charged said fee for copies of documents requested for official business.

Whenever possible, the Court will provide copies via email. A fee of \$5.00, or \$.50 per page, whichever is greater, will be charged.

Rules 26-28 reserved for future use.

### **SECTION IV. MOTIONS**

#### **Rule 29. Place of Filing- Contents- Service on Other Parties- Time for Filing of Motions and Responses Thereto**

All motions, responses, and replies shall be filed in writing in the office of the Court of Appeals. Filing can be in person, by mail, or fax as provided in Rule 10. A response to a motion shall be filed within ten (10) calendar days of the date the motion was filed. A reply to the response may be filed. If a reply is filed, it must be filed within five (5) calendar days of the date the response was filed.

### **Rule 30. Rulings on Motions Generally**

Except when made during a court hearing, all rulings and orders shall be in writing and served on the parties. Rulings and orders made in open court shall be clearly stated on the record.

### **Rule 31. Motions, Rulings and Orders to be Part of the Record**

All motions, rulings and orders shall become a part of the record.

### **Rule 32. Intervention**

Any person desiring to intervene in any proceeding shall file a motion in writing or, if made at the hearing, may move orally on the record, stating the grounds upon which such person claims an interest. An unstapled original of the written motion shall be filed. Immediately upon filing such motion, the moving party shall serve a copy thereof on the other parties. The Chief Justice shall rule upon all such motions filed and shall cause a copy of said rulings to be served on the other parties. The Chief Justice may, by order, permit intervention in person or by counsel or other representative to such extent and upon such terms as deemed proper. If the Chief Justice is not participating in the proceeding, any other Justice or the Magistrate assigned to the proceeding may act under this Rule.

The Office of Solicitor General shall be allowed to intervene in any matter in which the interpretation or constitutionality of a Mille Lacs Band statute or governmental action is in question or when the Court is called on to answer a constitutional question arising from the Constitution of the Minnesota Chippewa Tribe. Such intervention shall be by notice and leave to intervene need not be requested.

Rules 33-35 reserved for future use.

## **SECTION V. BRIEFS**

### **Rule 36. Filing and Service of Briefs**

(a) The appellant shall file and serve an appellate brief-in-chief within twenty (20) days after the date on which the appellant filed his/her Notice of Appeal. The respondent shall file and serve the respondent's brief within twenty (20) days after service of the brief of the appellant. The appellant may file and serve a reply brief within ten (10) days after service of the brief of the respondent. Absent leave of Court, no further briefs shall be allowed.

(b) The original, unstapled brief shall be filed with the Court Clerk, and one copy shall be served on counsel for each party separately represented.

(c) If an appellant fails to file the appellant's brief within the time provided by this rule, or within the time as extended, the court may dismiss the appeal. If an respondent fails to file the respondent's brief within the time provided by this rule, or within the time as extended, the respondent will not be heard at oral argument except by permission of the court upon a showing of good cause submitted in writing prior to argument; and in determining the appeal, the court may rule on the appellant's statement of the facts and issues.

(d) Upon motion and good cause shown, the Court may grant a party an extension of time in which to file a brief. An extension shall be granted for no more than fourteen (14) days.

### **Rule 37. Briefs**

(a) Briefs filed by both the appellant and respondent shall contain the following:

- (1) A table of contents, with page references.
- (2) A table of cases alphabetically arranged, statutes, and other authorities cited, with references to the pages of the brief where cited.
- (3) A statement of the issues on appeal, with references to the assignments of error to which each issue relates.
- (4) A statement of the case briefly describing the nature of the case, the course of proceedings, and the disposition in the District Court.
- (5) A Statement of Facts with appropriate reference to the record. (References in the briefs to parts of the record shall be to the pages of the parts of the record involved; e.g., Answer p. 2, Transcript p. 47).
- (6) A conclusion briefly stating the relief sought by the party.

(b) Briefs shall not exceed thirty (30) pages in length excluding cover page, table of contents, table of authorities, appendix, attorney signature line and information, and certificate of service.

(c) The Court of Appeals, in its discretion, may permit pro se parties to submit briefs that do not comply with the technical requirements of this rule.

### **Rule 38. Amicus Curiae Brief**

An amicus curiae brief may be filed if accompanied by the written consent of all parties, or by leave of Court pursuant to a properly filed motion, or at the request of the court. The amicus curiae brief shall specify whether consent was granted or if leave was granted by leave of court or whether the brief is one authorized by statute. Its cover shall identify the party supported. The brief shall be

confined to the issues raised by the parties and shall be submitted within the time allowed for filing the brief for the party supported, or if in support of neither party, within the time allowed for filing the petitioner's or appellant's brief.

On questions of interpretation of the constitutionality of any Mille Lacs Band statute or on the constitutionality or legality of an action taken by the Executive or Legislative Branches of the Mille Lacs Band Government, the Office of Solicitor General shall have leave to file an amicus curiae brief at his/her discretion.

Rules 39-40 reserved for future use.

## **SECTION VI. EX-PARTE COMMUNICATIONS**

### **Rule 41. Communication between Justices or Employees of the Court of Appeals and Persons Involved in Proceedings- Communication between Justices and Assistants**

Unless required for the disposition of ex parte matters authorized by law, Justices of the Court of Appeals or their employees involved in a proceeding shall not communicate, directly or indirectly, in connection with any issue of fact, with any party, nor, in connection with any issue of law, with any party, except upon notice and opportunity for all parties to participate. A Justice may communicate with other Justices and may have the advice of one or more persons.

Rules 42-43 reserved for future use.

## **SECTION VII. HEARINGS**

### **Rule 44. Duties and Powers of Court of Appeals Justices Generally**

The Court shall have the authority:

- (a) To administer oaths and affirmations.
- (b) To regulate the course of the hearing and, if appropriate or necessary to exclude persons or counsel from the hearing for contemptuous conduct and to strike all related testimony of witnesses refusing to answer any proper question.
- (c) To hold conferences for the settlement or simplification of the issues.
- (d) To rule on any motions of any kind filed by the parties.
- (e) To approve stipulations voluntarily entered into by all parties so a trial transcript is not needed on appeal.
- (f) To make and file decisions.

(g) To request the parties at any time during the hearing to state their respective positions concerning any issue in the case or theory in support thereof.

(h) To take any other action necessary under the foregoing and authorized by the published rules and procedures of the Court of Appeals.

#### **Rule 45. Use of Federal Rules**

The Rules of the Appellate Court govern all appellate actions in the Court of Central Jurisdiction. If the Rules of the Court of Central Jurisdiction are insufficient on an issue, the Court of Central Jurisdiction shall apply the Federal Rule of Appellate procedure that applies to the issue.

Exception: If the Federal rule of appellate procedure that is to be applied would be contrary to the customs and traditions of the Mille Lacs Band, and it is clearly established by the evidence that the said rule is in conflict, the Court of Central Jurisdiction shall give precedence to custom and tradition.

#### **Rule 46. Opportunity for Oral Argument- Filings of Briefs and Proposed Findings**

Oral argument is not permitted in every case. In its discretion, the Court of Appeals may decide a case without oral argument if argument would not significantly aid the court in determining the legal and factual issues presented in the appeal.

#### **Rule 47. Continuances and Adjournments**

In the discretion of the Chief Justice, the proceeding may be continued from day to day, or adjourned to a later date, by announcement thereof at the proceeding, or by other appropriate notice. If the Chief Justice is not participating in the proceeding, any other Justice or the Magistrate assigned to the proceeding may act under this Rule.

#### **Rule 48. Penalties for Misconduct at any Proceeding Before a Justice**

(a) Misconduct at any proceeding before the Court shall be grounds for summary exclusion from the proceeding.

(b) Such misconduct of an aggravated character, when engaged in by an attorney or other representative of a party, shall be grounds for suspension or disbarment by the Court of Appeals from further practice before it after due notice and hearing.

Rules 49-51 reserved for future use.

### **SECTION VIII. ATTORNEYS**

## **Rule 52. Professional Conduct**

All attorneys practicing before the Court of Central Jurisdiction shall comply with the current MINNESOTA RULES OF PROFESSIONAL CONDUCT, or its successor rules, if any. Violations of said rules shall be acted upon by the Court of Appeals and any disciplinary action taken will be transmitted to the appropriate state licensing agency.

## **Rule 53. Eligibility**

Any member in good standing of the bar of any state is eligible for admission to the Mille Lacs Band Bar Association.

Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his/her name, who is a member of the Mille Lacs Band Bar Association.

## **Rule 54. Admission**

(a) Requirements for Attorneys. No person shall be allowed to practice law before the Court of Central Jurisdiction unless they are a member of the Mille Lacs Band Bar Association and in good standing or as otherwise provided for by law:

- (1) Any person who is licensed to practice law before any state court or federal court and is in good standing with their respective bar association shall be eligible for admission to the Mille Lacs Band Bar Association;
- (2) An eligible law student may, under the supervision of a licensed attorney member of the Mille Lacs Band Bar Association, perform all functions that an attorney may perform in representing and appearing on behalf of any Mille Lacs Band tribal government unit or agency, or any indigent person who is a party to a civil action or is accused of a crime. An eligible law student is one who:
  - (A) is duly enrolled at the time of original certification in a law school approved by the American Bar Association;
  - (B) has completed at the time of original certification legal studies equivalent to at least two semesters of full-time study;
  - (C) has been certified by the dean or designee of the law school as being of good academic standing; and
  - (D) has been identified as a student and accepted by the client.

(b) Pro Se- Representation by Parent or Guardian.

(1) Individuals appearing before the Court of Central Jurisdiction who represent themselves are not required to be members of the Mille Lacs Band Bar Association.

(2) A parent or guardian shall be allowed to appear on behalf of their child or ward and shall not be required to become a member of the Mille Lacs Band Bar Association.

(c) Cultural Causes of Action. All individuals appearing before the Court of Central Jurisdiction in a Cultural Cause of action may represent themselves or another person without becoming a member of the Mille Lacs Band Bar Association.

(d) Employee Representation of a Business. Any business entity or other organization, recognized as such by the Mille Lacs Band, may designate an employee or one of its officers to represent the business or organization before the Court without becoming a member of the Mille Lacs Band Bar Association:

(1) individuals appearing before the Court of Central Jurisdiction pursuant to (d) shall advise the Court of the nature of their appearance for the record;

(2) individuals representing a business or other organization before the Court of Central Jurisdiction pursuant to (d) on more than one occasion in a fiscal year shall be registered with the Court and shall pay an annual registration fee.

(e) Bar Application Process. An individual who desires to become a member of the Mille Lacs Band Bar Association shall submit a completed application to the Court Clerk along with a filing fee. An application which does not include a proper filing fee will not be processed:

(1) An individual who is an attorney admitted to practice in another jurisdiction, as defined in (a)(1), shall include a \$75.00 filing fee along with their application;

(2) An individual who is an attorney admitted to practice in another jurisdiction, as defined in (a)(1), and is an employee of an organization that provides free legal services to its clients, is not required to pay a filing fee, provided they represent clients on a pro bono basis.

(3) An individual who is applying for admission into the Mille Lacs Band Bar Association pursuant to (a)(2) is not required to pay a filing fee.

(f) Fees.

(1) Each member of the Mille Lacs Band Bar Association shall pay an annual fee of \$30.00. The annual fee shall be paid before October 1<sup>st</sup> of each year.

(2) Any business or organization having an individual provide representation in the Court pursuant to (d)(2) shall pay an annual registration fee of \$20.00 per individual appearing before the Court. The annual registration fee shall be paid to the Court Clerk prior to the individual providing representation a second time.

(g) Review of Application. Upon receipt of an individual's application from the Court Clerk, the Justices of the Court of Appeals shall review the application for the Mille Lacs Band Bar Association and make a final determination of whether or not an applicant shall be admitted to practice law in the Court of Central Jurisdiction within thirty (30) working days. The Court Clerk shall mail the applicant the decision on his/her admission by the close of the next working day following the decision by the Justices.

(h) Misconduct. The Court of Appeals shall have original jurisdiction over cases involving the professional misconduct of any person admitted to the Mille Lacs Band Bar Association. Such an action may be filed with the Court Clerk of the Court of Central Jurisdiction by any person with knowledge of professional misconduct. There shall be no filing fee for filing such an action. The Court of Appeals shall have the power to sanction members of the Mille Lacs Band Bar Association, both by imposing monetary fines and restricting the rights of a member to practice before the Court, up to and including permanent disbarment.

#### **Rule 55. Temporary Admission**

Any attorney who is eligible for admission to the Mille Lacs Band Bar Association may, in the discretion of the Chief Justice, be granted temporary admission to practice in a pending case or proceeding. The judicial official presiding in such pending case or proceeding may, in his/her discretion, require presentment of a current certificate of good standing from the attorney's resident bar association prior to granting temporary admission. Any lawyer who seeks, and is granted, temporary admission thereby submits himself/herself to the jurisdiction of the Court of Central Jurisdiction, and the applicability of these rules, during the pendency of such case or proceeding for which it is granted. If the Chief Justice is not participating in the proceeding, any other Justice or the Magistrate assigned to the proceeding may act under this Rule.

#### **Rule 56. Membership in Mille Lacs Band Bar Association Required to Practice Before Mille Lacs Band Courts- Qualifications for Membership**

Unless granted temporary admission, no person shall practice as an attorney and counselor at law in the Court of Central Jurisdiction unless said person first obtains membership in the Mille Lacs Band Bar Association. An attorney shall submit a certificate certifying the attorney's good standing from his/her resident state bar in which the attorney has been admitted. This Tribunal may take into consideration the suspension or disbarment from practice in any other Court of Law. All members in good standing may be admitted upon making application and submitting themselves to the jurisdiction of the Court of Central Jurisdiction and subjecting themselves to the contempt powers of the Court of Central Jurisdiction. Annual dues may be charged for membership in the Mille Lacs Band of Ojibwe Bar.

#### **Rule 57. Removal of Attorney**

Any attorney practicing before the Court of Central Jurisdiction may be removed by the Court of Appeals for any deceit, malpractice, or other violations of the Minnesota Rules of Professional Conduct, or their successor rules, if any, willful neglect of the interests of his/her client, or collusion with the opposite party, upon complaint and showing made to the Court of Appeals, by the aggrieved party, and upon due notification given to the accused of such charge; and the



expenses of any inquiry, instituted by the Court of Appeals in reference to the removal of any attorney, shall be borne by the party at whose instance the expense shall be incurred.

**Rule 58. Choice of Counsel**

Parties may manage, prosecute, or defend their own suits, and by such counsel as they see fit to engage.

**Rule 59. Judge Shall Not Appear as Counsel**

No judge appointed under the authority of the Mille Lacs Band shall be allowed to appear as counsel or attorney and to practice law in the courts of the Mille Lacs Band except to represent himself/herself.

**Rule 60. Discipline by the Court**

(a) Any member of the Mille Lacs Band Bar Association guilty of a violation of the prescribed oath of office, or of a violation of the Minnesota Rules of Professional Conduct, or of any conduct unbecoming a member of the bar of the Mille Lacs Band Bar Association, shall be subject to reprimand, suspension, disbarment, or such other disciplinary action as the Court of Appeals deems appropriate.

(b) Discipline by Other Courts; Criminal Convictions. Whenever it appears to the Court of Appeals that any member admitted to practice in the Court of Central Jurisdiction, including a lawyer granted temporary admission or admission for limited practice, has been suspended or disbarred from the practice of law by any other court of competent jurisdiction or has been convicted of a felony or any crime involving moral turpitude in any court, such disbarment, suspension, or conviction shall operate as an automatic disbarment of the attorney's right to practice in the Court of Central Jurisdiction, and an order of disbarment shall be issued by the Court of Appeals. The order of disbarment shall remain in effect unless, within thirty (30) days from the date of the order of disbarment, the attorney has by motion to the Court of Appeals shown good cause as to why disbarment should not be imposed.

Rules 61-64 reserved for future use.

**SECTION IX. LAY ADVOCATES**

**Rule 65. Lay Advocates**

(a) All non-attorneys representing parties before the Court of Central Jurisdiction shall be guided by the MINNESOTA RULES OF PROFESSIONAL CONDUCT and comply with the spirit expressed therein. All lay advocates must comply with all Court Rules and procedures herein, including case precedents from the Court of Central Jurisdiction.

(b) A person may appear in the Court of Appeals on behalf of a party without being certified by the Court of Appeals if the person is representing an extended family member as defined by 8 MLBSA §3(h). A person who desires to regularly appear before the Court of Appeals as a lay advocate to represent parties who are not extended family members must be certified by the Court of Appeals. Such a person must complete an application and be approved by the Court prior to appearing in a case.

(c) Lay advocates shall not charge or accept a fee from a client for services rendered in a matter before the Court of Appeals except that a lay advocate may accept a traditional gift of nominal value that is freely given by the client.

### **Rule 66. Discipline by the Court**

(a) Any Lay Advocate registered with the Mille Lacs Band guilty of a violation of the Minnesota Rules of Professional Conduct, or of any conduct unbecoming as a Court Advocate of the Mille Lacs Band, shall be subject to reprimand, suspension, losing privilege as Court Advocate, or such other disciplinary action as the Court of Appeals deems appropriate.

(b) Sanctions. Discipline by the Court of Appeals may include fine, loss of privilege as Lay Advocate, suspension from practice for a definite time, reprimand, or other discipline which the Court of Appeals deems proper.

(c) Unauthorized Practice. Any person who before admission to practice as a Lay Advocate of the Mille Lacs Band or who during suspension or loss of privilege exercises any of the privileges bestowed upon members of Lay Advocate Registry or who pretends to be entitled to such privileges shall be guilty of contempt of court and shall be subject to punishment and shall be subject to any other discipline which the Court of Appeals may impose. Lay Advocates shall not charge for their services.

Rules 67-68 reserved for future use.

## **SECTION X. MISCELLANEOUS JUDICIAL RULES**

### **Rule 69. Superintendence over all Courts**

The Court of Appeals shall exercise a general superintendence over all Courts.

### **Rule 70. Judicial Conference**

(a) The Chief Justice of the Mille Lacs Band shall summon annually the Court of Central Jurisdiction to conference.

(b) The Chief Justice shall submit to the Band Assembly and the Chief Executive an annual report of the proceedings of the Judicial Conference and recommendations for legislation.

### **Rule 71. Judicial Promulgation of Rules and Procedures**

The Court of Appeals shall promulgate additional rules and procedures to provide any remedy guaranteed by the Constitution of the Minnesota Chippewa Tribe in the event the Band Assembly has failed to prescribe procedures for such remedy and such rules and procedures shall remain in effect until the Band Assembly prescribes such procedures.

### **Rule 72. Rehearing**

(a) Petition. Applications for a rehearing and a brief in support thereof, unless otherwise ordered by the Court, shall be made by petition to the Court, signed by counsel, and filed with the Court Clerk within twenty (20) days from the date on which the opinion in the cause is filed. The petition must either be received by the Court Clerk by the deadline or be postmarked by the U.S. Postal Service by the deadline. Private postage meter stamps are not sufficient for proof of mailing. No oral argument on a petition for rehearing shall be allowed except upon order of the Court. No petition for rehearing shall be filed or considered without proof of service.

(b) Application for Extension of Time to File Petition. Applications for extension of time to file petitions for rehearing are not favored and are not routinely granted. If an application for an extension of time is filed, it must be filed within twenty (20) days of the date the opinion is filed. No extension of time will be granted for more than twenty (20) days from the original due date for the petition for rehearing. The application will be granted only if the Court determines that *extraordinary cause* is shown in the application. No second extension of time will be granted. Press of business, that the application is not for delay, or that the issues are complex, are insufficient to show extraordinary cause. An oral application for an extension of time to file the petition for rehearing will not be considered.

(c) Petition. The petition must be served on any opposing party.

(d) Response. A response to a petition for rehearing need not be filed unless requested by an order of the Court.

(e) Second Petition for Rehearing. No motion or application for rehearing or review will be accepted for filing after the denial of a petition for rehearing.

(f) Rehearing When Original Jurisdiction Assumed. A petition for rehearing may be filed in any cause where the court has assumed original jurisdiction by order or opinion and denied or granted relief.

(g) When No Rehearing May be Filed. No petition for rehearing may be addressed to:

- (1) an order denying an application to assume original jurisdiction;

- (2) an order denying a petition for certiorari to review a certified interlocutory order;
- (3) an order denying a motion to dismiss with prejudice to its reargument;
- (4) any other predecisional order made in an original proceeding, on certiorari, in an appeal or in a disciplinary proceeding against a member of the bar; or
- (5) an order denying a petition for certiorari to review an opinion of the District Court.

**Rule 73. Opinions Released for Publication**

(a) Memorandum Opinions. An opinion shall be prepared in memorandum form unless it:

- (1) establishes a new rule of law or alters or modifies an existing rule;
- (2) involves a legal issue of continuing public interest;
- (3) criticizes or explains existing law;
- (4) applies an established rule of law to a factual situation significantly different from that in previous published opinions;
- (5) resolves an apparent conflict of authority; or
- (6) constitutes a significant and non-duplicative contribution to legal literature:
  - (A) by an historical review of law; or
  - (B) by describing legislative history.

(b) Publication of Memorandum Opinions and Unpublished Opinions.

- (1) Opinions shall be published only when they satisfy the standards set out in this rule. Disposition by memorandum, without a formal published opinion, does not mean that the case is considered unimportant. It does mean that no new points of law making the decision of value as precedent are believed to be involved. A memorandum opinion shall not be published unless it is ordered to be published by the Court of Appeals.
- (2) A party or other interested person who believes that an opinion of either the Court of Appeals or the District Court which has not been designated by the Court of Appeals for publication has substantial precedential value may file a motion in the Court of Appeals asking that it be published. The motion shall state the grounds for such belief and shall be accompanied by a copy of the opinion.

- (3) Regardless of the foregoing, no opinion superseded by an opinion on rehearing shall be published. An opinion that is modified on rehearing shall be published as modified if it otherwise meets the standards of this rule.
- (4) An opinion shall be published only if the majority of the justices or judges participating in the decision find that one of the standards set out in this rule is satisfied. Concurring and dissenting opinions shall not be published.
- (5) All memorandum opinions are deemed to be without value as precedent and shall not be considered as precedent by any court or cited in any brief or other material presented to any court, except to support a claim of res judicata, collateral estoppel, or law of the case.

(c) Effect of Publication of Formal Opinion.

- (1) Opinions of the Court of Appeals designated For Official Publication when adopted will be released to those internet entities with which the Court of Appeals has an agreement to publish opinions of the Court of Central Jurisdiction.
- (2) Opinions of the District Court which resolve novel or unusual issues may be designated for publication, at the time the opinion is adopted, by order of the Court of Appeals.
- (3) Opinions designated For Official Publication from either court shall be accorded precedential value.
- (4) Opinions shall not be designated For Official Publication and released publication on the internet until the opinion becomes final.

(d) Citation to Designation by Supreme Court and Reporters. Published opinions shall be cited by their case numbers.

IT IS SO ORDERED,

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\_\_\_\_\_, Chief Justice

Dated at Vineland, Minnesota, this \_\_\_\_\_ day of \_\_\_\_\_, 2012

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