

# FOREST COUNTY POTAWATOMI TRIBAL COURT

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## In re the Adoption of Rule 14 – Contempt of Court

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### ORDER

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Pursuant to its power under Sec. 1.04 of the Tribal Court Code the Court hereby adopts Rule 14 as follows, effective on June 1, 2012:

### CONTEMPT OF COURT

#### 1.01 Definitions

#### 1.02 Power of court to punish for contempt of court

#### 1.03 Procedure

#### 1.04 Sanctions authorized

#### 1.05 Limitation on imprisonment

#### 1.06 Tribal prosecutors, tribal attorney general, and special prosecutors.

#### 1.01 Definitions. In this chapter:

- 1) "contempt of court" means intentional:
  - a. Misconduct in the presence of the court which interferes with a court proceeding or with the administration of justice, or which impairs the respect due the court;
  - b. Disobedience, resistance or obstruction of the authority, process or order of a court;
  - c. Violation of any provision of a domestic abuse or family law-related restraining order, injunction or order;
  - d. Refusal as a witness to appear, be sworn or answer a question; or
  - e. Refusal to produce a record, document or other object.
- 2) "Punitive sanction" means a sanction imposed to punish a past contempt of court for the purpose of upholding the authority of the court.
- 3) "Remedial sanction" means a sanction imposed for the purpose of ending a continuing contempt of court.

**1.02 Power of court to punish for contempt of court.** Any Forest County Potawatomi tribal court of record may impose a remedial or punitive sanction for contempt of court under this chapter.

#### 1.03 Procedure.

##### (1) Non-summary Procedure.

- a. Remedial sanction. A person aggrieved by a contempt of court may seek imposition of a remedial sanction for the contempt by filing a

motion for that purpose in the proceeding to which the contempt is related. The court, after notice and hearing, may impose a remedial sanction authorized by this chapter.

- b. The Court may, on its own motion, after notice and an opportunity to be heard, find a person in contempt of Court and issue remedial sanctions as described in this rule.
- c. Punitive sanction. The tribal prosecutor, the tribal attorney general or a special prosecutor appointed by the court may seek the imposition of a punitive sanction by issuing a complaint charging a person with contempt of court and reciting the sanction sought to be imposed. The tribal prosecutor, tribal attorney general or special prosecutor may issue the complaint on his or her own initiative or on the request of a party to an action or proceeding in a tribal court or of the judge presiding in an action or proceeding. If the contempt alleged involves disrespect to or criticism of a judge, that judge is disqualified from presiding at the trial of the contempt unless the person charged consents to the judge presiding at the trial.
- d. Joint hearing and trial. The court may hold a hearing on a motion for a remedial sanction jointly with a trial on a complaint seeking a punitive sanction.

(2) **Summary procedure.** The judge presiding in an action or proceeding may impose a punitive sanction upon a person who commits a contempt of court in the actual presence of the court. The judge shall impose the punitive sanction immediately after the contempt of court and only for the purpose of preserving order in the court and protecting the authority and dignity of the court.

(3) **Appeal.** A person aggrieved by a determination under this chapter may appeal in accordance with enabling tribal law or ordinance.

#### **1.04 Sanctions authorized.**

(1) **Remedial sanction.** A court may impose one or more of the following remedial sanctions:

- a. Payment of a sum of money sufficient to compensate a party for a loss or injury suffered by the party as the result of a contempt of court.
- b. Imprisonment if the contempt of court is of a type included in sec. 1.01(b),(c),(d), or (e). The imprisonment may extend only for so long as the person is committing the contempt of court or 6 months, whichever is the shorter period.
- c. A forfeiture not to exceed \$500 for each day the contempt of court continues.
- d. An order designed to ensure compliance with a prior order of the court.

- e. A sanction other than the sanctions specified in pars. (a) to (d) if it expressly finds that those sanctions would be ineffectual to terminate a continuing contempt of court.

**(2) Punitive sanction.**

- a. Non-summary procedure. A court, after a finding of contempt of court in a non-summary procedure under sec. 1.03 (1) (b), may impose for each separate contempt of court a fine of not more than \$500 per day of contempt or imprisonment in jail for not more than one year, or both.
- b. Summary procedure. A court, after a finding of contempt of court in a summary procedure under sec. 1.03(2) may impose for each separate contempt of court a fine of not more than \$500 or imprisonment in jail for not more than 30 days, or both.

**(3) Past conduct.** A punitive sanction may be imposed for past conduct which was a contempt of court even though similar present conduct is a continuing contempt of court.

**(4) Payment of Fines.** The court shall, after the imposition of a forfeiture or fine for contempt of court, provide a reasonable period of time, not to exceed sixty (60) days, within which the fine imposed must be paid. In its discretion, the court may extend the time for payment. In the event of nonpayment, in whole or in part, after sixty (60) days the court may order the tribal accounting department to deduct the fine imposed from the contemnor's per capita distribution(s) until paid in full. Any such deduction shall not exceed a sum equivalent to 25% of each gross per capita distribution.

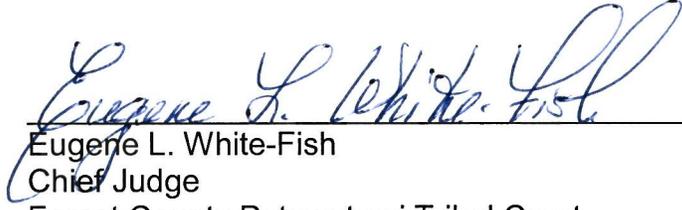
**(5) Conversion to judgment.** After proper notice, contempt fines can be converted to a judgment that can be enforced and collected in accordance with tribal law and policy.

**(6) Community service.** The court has the authority to order the contemnor to perform community service where it is in the interests of justice.

**1.05 Limitation on imprisonment.** In any case in which the contempt of court is based upon interference with visitation rights or upon failure to respond to a citation, summons or warrant, or any other failure to pay or to appear in court for a nonmoving traffic violation, the court may not impose imprisonment as a sanction under this chapter.

**1.06 Tribal prosecutors, tribal attorney general, and special prosecutors.** A tribal prosecutor, tribal attorney general, or special prosecutor conducting an action or proceeding or as a party to the action or proceeding may petition the tribal court for a remedial or punitive sanction specified in sec. 1.04 for conduct specified in sec. 1.01 in the action or proceeding.

Enacted this 18<sup>th</sup> day of May, 2012

  
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Eugene L. White-Fish  
Chief Judge  
Forest County Potawatomi Tribal Court