

Saginaw Chippewa Tribal Court

Court Procedural Rules

Criminal

The Court recognizes the importance of processing criminal cases in a timely manner which addresses the due process rights of defendants and the interests of the Saginaw Chippewa Tribe, crime victims and the community. The Court further acknowledges the need to memorialize the process for the benefit of the parties and efficient operation of the Court.

THEREFORE IT IS ORDERED that this document will serve as rules of procedure in criminal cases as outlined below.

IT IS FURTHER ORDERED that the following rules of procedure are meant to implement and carry out the intent of the Saginaw Chippewa Tribal Code, and if a conflict should exist, the Code will control.

RULES OF PROCEDURE IN CRIMINAL CASES

1. Arraignment

- 1.101 In custody defendants shall be arraigned at the next regularly scheduled session of the Court or within seventy-two (72) hours, whichever occurs first, including Saturdays, Sundays and legal holidays. Noncustodial defendants shall be scheduled for arraignment as soon as practicable.
- 1.102 If the defendant is represented by an attorney who is not present at the arraignment, the defendant must waive the attorney's presence, or the Court shall set the arraignment over to the next business day.
- 1.103 Adjournments should only be granted upon good cause, and rarely in cases where assaultive conduct is charged. Adjourned arraignments shall be rescheduled and conducted within five business days.
- 1.104 At arraignment, the defendant or his attorney will be provided a scheduling order, indicating the date of the pretrial and final pretrial (if necessary). Pretrial will be scheduled within three weeks of arraignment and final pretrial within six weeks of arraignment.

2. Pretrial Conference

- 2.101 The pretrial conference will be scheduled at arraignment, and held within three weeks of arraignment.
- 2.102 Defendant attendance is mandatory, including when represented by counsel. Failure of a defendant to attend the pretrial, absent good cause, will result in the issuance of a bench warrant.

- 2.103 Adjournments will only be granted for good cause, and will be rescheduled for the following week.

### 3. Final Pretrial Conference

- 3.101 The final pretrial conference will be scheduled at arraignment, and held within six weeks of arraignment.
- 3.102 Defendant attendance is mandatory, including when represented by counsel. Failure of a defendant to attend, absent good cause, will result in the issuance of a bench warrant.
- 3.103 At the final pretrial, defendants are expected to elect to proceed to trial or enter a plea on that date.
- 3.104 If the final pretrial does not result in a plea, the parties will meet with the Court to obtain a trial date. The trial date will be set no later than six weeks from the date of the final pretrial.

### 4. Motions

- 4.101 Motions must be filed by the date of final pretrial relative to any legal issues implicated in the case. Hearing dates should be set as soon as possible.
- 4.102 Motions in limine should be favored as a means to decide evidentiary issues prior to trial, as much as is practicable.
- 4.103 Adjournments of motions will only be granted for good cause, and rescheduled as soon as possible.

### 5. Trials

- 5.101 Plea agreements will not be accepted the day of trial. If the defendant enters a plea to the charged offense(s) on the day of trial, he/she will be assessed additional costs for the jury appearance that day.
- 5.102 Trials will not be adjourned absent good cause, and if requested less than two weeks prior to trial, only upon extenuating circumstances.
- 5.103 Jury instructions and trial briefs are to be filed with the Court no later than one week before trial.
- 5.104 If the parties wish to waive jury, such waiver must be provided to the Court no later than seven days prior to the trial date.

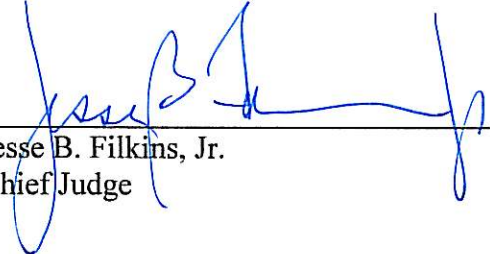
### 6. Adjournments

- 6.101 Adjournments will only be granted for good cause as determined by the Court.

- 6.102 Stipulations for adjournments must indicate the reason for the request and if prior adjournments have been granted. A conflict with another court is not sufficient, if it does not specify the nature of the hearing in conflict and verification that the conflict was scheduled prior to the hearing in this Court.
- 6.103 Stipulations must be signed by counsel for both parties prior to filing. The party requesting the adjournment is responsible for obtaining a new date, acceptable to the other party, and falling within the parameters of the Court's requirements as outlined above, unless this Court approves a date outside those parameters. The new date is to be included in the stipulation for adjournment.

Dated:

January 24, 2013

  
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Jesse B. Filkins, Jr.  
Chief Judge