

TITLE 4. CIVIL PROCEDURE

Chapter 4.2

COMMENCEMENT OF ACTIONS

Sections:

- 4.2.1 Complaints.
- 4.2.2 Filing Fees.
- 4.2.3 Notice and Service, Answer.
- 4.2.4 Publication.
- 4.2.5 Default.
- 4.2.6 Trial Setting; Want of Prosecution.

4.2.1. Complaints. (a) An action is commenced by filing a complaint with the clerk of the court and by service of the complaint and summons upon the defendant.

(b) No complaint shall be filed nor be valid unless it shall bear the signature of the complainant or the complainant's attorney or legal representative. (Prior code Ch. IV, Art. I, §1: Res. 122 §1.1, passed Dec. 18, 1972; amended by Res. 92-005 (part), passed Oct. 15, 1992 and amended Oct. 19, 1992; amended by Res. 94-154 (part), passed Oct. 10, 1994)

4.2.2. Filing Fees. In all civil suits the complainant shall be required to pay to the Court a filing fee of fifty dollars (\$50). Such fee may be waived by the Court upon a showing of good cause. No fee shall be required in cases where the Tribe is the complainant. (Prior code Ch. IV, Art. I, §3: Res. 122 §1.3, passed Dec. 18, 1972; amended by Res. 94-154, passed Oct. 10, 1994)

4.2.3 Notice and Service, Answer. (a) Except as otherwise provided in any ordinance of the Tribe, service in civil actions shall be either by voluntary appearance and agreement of the parties on the record, or by service upon the defendant of a true copy of the filed complaint and summons. The summons shall be attached to the copy of the complaint and shall inform the defendant of the nature of the action filed against him or her and instruct the defendant that he or she may respond to the complaint by filing and serving an answer within twenty (20) days of the date of service or by notifying the Court, within said twenty (20) days, that he or she requests that a hearing be set by the Court to hear defendant's response. The summons shall further inform the defendant that failure to file an answer or request a hearing in the required time may result in entry of a default judgment without further notice. Any hearing for the purpose of entry of an oral answer shall be held at least twenty (20) but no more than forty (40) days after the date of service. Once the defendant has been served with the complaint and summons, the plaintiff shall file with the Court a proof of service which will set forth the date and manner in which the defendant was served.

(b) Service of process upon any person who is subject to the jurisdiction of the courts of the Suquamish Tribe, as provided in Suquamish Tribal Code §3.2.2, may be made by personally serving the defendant within or outside the reservation, by leaving the complaint and summons at the defendant's residence with someone over the age of fourteen (14), by leaving the complaint and summons at the defendant's place of employment with someone over the age of fourteen (14), or by causing a copy of the complaint and summons to be mailed to the defendant certified mail, return receipt requested. Such service by mail shall be valid only if there is attached to the proof of service a return receipt, signed by defendant, or if the summons and complaint are mailed to an address which is the current address of the defendant on file with any tribal, federal, or state agency with which defendant is required by law to maintain a record of his or her current mailing address.

(c) Service of process on a corporation, partnership, unincorporated association, government, or other entity, other than an individual person, may be made upon any officer, managing agent, or partner thereof, or any agent authorized by the entity or by law to accept service.

(d) Service of process on a government may be made in any manner in which service could be made upon the government under the laws of that government.

(e) Only causes of action arising from acts enumerated in §3.2.2 may be asserted against a defendant in an action in which jurisdiction over him or her is based upon service outside of the reservation.

(f) Nothing in this section shall limit or affect the right to serve process in any other manner now or hereafter provided by law.

(g) Any paper, other than the complaint and summons, may be served upon any person subject to the jurisdiction of the Suquamish Tribe, within or without the Port Madison Indian Reservation. Such service may be made in any manner permitted for the service of process, or by first class mail addressed to the recipient's address of record, or by telefacsimile transmittal to the recipient's telefacsimile number of record, provided such service by facsimile shall be followed by service by mail, or in person. (§4.2.4(a) from prior code Ch. IV, Art. II, §1: Res. 122 §2.1, passed Dec. 18, 1972; §4.2.4(b)–(e) was, prior to the 1991 recodification, §10.1.17: Res. 82-053 §§8.13.020--050, passed June 3, 1982; amended by Res. 83-069 (part), passed Aug. 3, 1983; amended by Res. 92-005, passed Oct. 15, 1992 and amended Oct. 19, 1992; amended by Res. 94-154 (part), passed Oct. 10, 1994)

4.2.4. Publication. Upon a showing by the complainant to the Court that diligent efforts were made to serve the complaint and summons on the defendant pursuant to §4.2.3 and that service could not be made for sufficient reasons, the judge may allow service to be made by posting copies of the summons and complaint in two (2) public places on the reservation for three (3) weeks and by publication of a copy of the summons once a week for three (3) consecutive weeks in the *Kitsap Sun*, or in any newspaper of general

circulation on or adjacent to the Port Madison Indian Reservation, or in a newspaper of general circulation in the town closest to where defendant is known to have last resided. (Prior code Ch. IV, Art. II, §2: Res. 122 §2.2, passed Dec. 18, 1972; amended by Res. 92-005, passed Oct. 15, 1992 and amended Oct. 19, 1992; amended by Res. 94-154 (part), passed Oct. 10, 1994)

4.2.5. Default. Judgment by default may be given if defendant fails to appear or answer within the time required after service of process. Default judgment may be given upon a verified complaint or upon affidavit, without further proof, if the claim is for damages in a certain sum. For any other claim, plaintiff must present proof of claim before a default judgment will be entered. Proof of a claim may be attached to the complaint as an exhibit at the time of filing the complaint or be presented by subsequent affidavit or in open court at a hearing of the matter. (Res. 94-154 (part), passed Oct. 10, 1994)

4.2.6. Trial Setting; Want of Prosecution. The Court may set a case for trial on its own motion, or trial may be set on the motion of plaintiff. If the case is not set for trial within one (1) year from the filing of the complaint, the Court shall notify the plaintiff that the Court will dismiss the complaint without prejudice for want of prosecution, if plaintiff does not, within thirty (30) days of such notice by the Court, either set the matter for trial or show good cause why the matter should be continued. (Res. 94-154 (part), passed Oct. 10, 1994)