RINCON BAND OF LUISEÑO INDIANS
RINCON INDIAN RESERVATION, CALIFORNIA

RINCON CIVIL TRIAL COURT
RULES OF COURT
RINCON TRIBAL ORDINANCE § 3.320

Adopted on July 26, 2006
Amended on September 9, 2021

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§ 3.320 GENERAL PROVISIONS

(a) Short Title. This Ordinance shall be known as the Rincon Rules of Court ("Rules").

(b) Application. These Rules apply to proceedings in civil law and motion, court forms, and all other official forms to be filed with the Rincon Civil Trial Court ("court").

(c) Communications with the Court. All filings and communications with the court shall be directed to the attention of the court clerk at clerk@rincontribalcourt.org, or as otherwise provided on the court's website at www.rincontribalcourt.org. Parties and their counsel shall not submit filings to or engage in any ex parte communications with any judge, except as provided for in Section 3.324 of these Rules.

(d) True Copy Certified. A party or attorney who files a form certifies by filing the form that it is a true copy of the form.

(e) Sanctions for Violation of these Rules in Civil Cases.

(1) Sanctions. In addition to any other sanctions permitted by law, the court may order a person, after written notice and an opportunity to be heard, to pay reasonable monetary sanctions to the court or an aggrieved person, or both, for failure without good cause to comply with the applicable rules. For the purposes of this Rule, "person" means a party, a party's attorney, a witness, and an insurer or any other individual or entity whose consent is necessary for the disposition of the case. If a failure to comply with an applicable rule is the responsibility of counsel and not of the party, any penalty must be imposed on counsel and must not adversely affect the party's cause of action or defense thereto.

(2) Notice and Procedure. Sanctions must not be imposed under these Rules except on noticed motion by the party seeking sanctions or on the court's own motion after the court has provided notice and an opportunity to be heard. A party's motion for sanctions must (1) state the applicable rule that has been violated, (2) describe the specific conduct that is alleged to have violated the rule, and (3) identify the attorney, law firm, party, witness, or other person against whom sanctions are sought. The court on its own motion may issue an order to show cause that must (1) state the applicable rule that has been violated, (2) describe the specific conduct that appears to have violated the rule, and (3) direct the attorney, law firm,

party, witness, or other person to show cause why sanctions should not be imposed against them for violation of the rule.

(3) Award of Expenses. In addition to the sanctions awardable under subsection (1), above, the court may order the person who has violated an applicable rule to pay to the party aggrieved by the violation that party's reasonable expenses, including reasonable attorney's fees and costs, incurred in connection with the motion for sanctions or the order to show cause.

(f) Order Imposing Sanctions. An order imposing sanctions must be in writing and must recite in detail the conduct or circumstances justifying the order.

(g) Protection of Privacy.

(1) Exclusion or Redaction of Identifiers. To protect personal privacy and other legitimate interests, parties and their attorneys must not include, or must redact where inclusion is necessary, the following identifiers from all pleadings and other papers filed in the court's case file unless otherwise provided by law or ordered by the court:

(A) Social security numbers. If an individual's social security number is required in a pleading or other paper filed in the public file, only the last four digits of that number may be used.

(B) Financial account numbers. If financial account numbers are required in a pleading or other paper filed in the public file, only the last four digits of these numbers may be used.

(2) Responsibility of the Filer. The responsibility for excluding or redacting identifiers identified in subsection (1), above, from all documents filed with the court rests solely with the parties and their attorneys. The court clerk will not review each pleading or other paper for compliance with this provision.

(3) Confidential Reference List. If the court orders on a showing of good cause, a party filing a document containing confidential identifiers listed in subsection (1), above, may file, along with the redacted document that will be placed in the case file, a reference list. The reference list is confidential. The list must identify each item of redacted information and specify an appropriate reference that uniquely corresponds to each item

of redacted information listed. All references in the case to the redacted identifiers included in the confidential reference list will be understood to refer to the corresponding complete identifier. A party may amend its reference list as of right.

(4) Scope. The requirements of this Rule do not apply to documents or records that by court order or operation of law are filed in their entirety either confidentially or under seal.

§ 3.321 COMMENCING AN ACTION; SERVICE OF PROCESS, PLEADINGS, MOTIONS, AND ORDERS

(a) Paper Requirements.

(1) One-Sided Paper. For all hard-copy filings, only one side of each page may be used.

(2) Size, Quality, and Color of Papers. All papers filed must be 8 1/2 by 11 inches. All papers must be on opaque, unglazed paper, white or unbleached, of standard quality not less than 20-pound weight.

(3) Font Size; Printing. Unless otherwise specified in these rules, all papers filed must be prepared using a font size not smaller than 12 points. Footnotes shall be at least 10 points. All papers must be printed or typewritten or be prepared by a photocopying or other duplication process that will produce clear and permanent copies equally as legible as printing.

(4) Font Style. The font style must be essentially equivalent to Courier, Times New Roman, or Arial.

(5) Font Color. The font color must be black or blue-black.

(6) Margins. The left margin of each page must be at least one inch from the left edge and the right margin at least 1/2 inch from the right edge. The top margin must be at least 1 and 1/2 inches from the top edge and the bottom margin must be at least 1 inch from the bottom edge. Headers and footers are allowed in margins.

(7) Spacing of Lines. The spacing and numbering of lines on a page must be as follows:

(A) The lines on each page must be one and one-half spaced.

(B) Footnotes, quotations, and printed forms of corporate surety bonds and undertakings may be single-spaced if they comply generally with the space requirements of Section 3.321(b).

(8) Page Numbering. Each page must be numbered consecutively at the bottom unless a rule provides otherwise for a particular type of document. The page numbering must begin with the first page and use only Arabic numerals (e.g., 1, 2, 3). The page number may be suppressed and need not appear on the first page.

(9) Footer.

(A) Location. Except for exhibits, each paper filed with the court must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line.

(B) Contents. The footer must contain the title of the paper (examples: "Complaint," "XYZ Corp.'s Motion for Summary Judgment") or some clear and concise abbreviation.

(C) Font size. The title of the paper in the footer must be in at least 10-point font.

(b) Format of First Page. The first page of each paper must be in the following form:

(1) In the space commencing 1 inch from the top of the page, to the left of the center of the page, the name, office address or, if none, residence address or mailing address (if different), telephone number, fax number and e-mail address, and State Bar membership number of the attorney for the party in whose behalf the paper is presented or of the party if the party is appearing in person. All attorneys and lay counselors must also provide their certificate of membership in the Rincon Civil Trial Court Bar. The inclusion of a fax number or e-mail address on any document does not constitute consent to service by fax or e-mail unless otherwise provided by law.

(2) In the first 2 inches of space to the right of the center of the page, a blank space for the use of the clerk.

(3) At or below 3 1/3 inches from the top of the page, the title of the court.

(4) Below the title of the court, in the space to the left of the center of the page, the title of the case. In the title of the case on each initial complaint or cross-complaint, the name of each party must commence on a separate line beginning at the left margin of the page. On any subsequent pleading or paper, it is sufficient to provide a short title of the case (1) stating the name of the first party on each side, with appropriate indication of other parties, and (2) stating that a cross-action or cross-actions are involved (e.g., "and Related Cross-action"), if applicable.

(5) To the right of and opposite the title, the number of the case.

(6) Below the number of the case, the nature of the paper and, on all complaints and petitions, the character of the action or proceeding. In a case having multiple parties, any answer, response, or opposition must specifically identify the complaining, propounding, or moving party and the complaint, motion, or other matter being answered or opposed.

(7) Below the nature of the paper or the character of the action or proceeding, the name of the judge and department, if any, to which the case is assigned.

(c) Separate Causes of Action, Counts, and Defenses. All allegations of a claim or defense shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a statement of a single set of circumstances, and a paragraph may be referred to by number in all succeeding pleadings. Each claim founded upon a separate transaction or occurrence and each defense other than denials shall be stated in a separate count or defense whenever a separation facilitates the clear presentation of the matters set forth. Each separately stated cause of action, count, or defense must specifically state:

(1) Its number (e.g., "first cause of action");

(2) Its nature (e.g., "for fraud");

(3) The party asserting it if more than one party is represented on the pleading (e.g., "by plaintiff Jones"); and

(4) The party or parties to whom it is directed (e.g., "against defendant Smith").

(d) Adoption by Reference; Exhibits. Statements in a pleading may be adopted by reference in a different part of the same pleading or in another pleading or in a motion. A copy of a written instrument which is an exhibit to a pleading is a part thereof for all purposes.

(e) Method of Preparation and Filing. Originals only shall be filed, except where it is necessary to file more than one copy of a pleading.

(f) Erasures and Interlineation. All erasures and interlineation shall be called to the attention of the clerk and noted and initialed by the clerk in the margin, but no erasures or interlineation will be allowed in any order, finding or judgment signed by the court.

(g) Designation of Defendant. When the name of the defendant is unknown to the plaintiff, the defendant may be designated in the pleadings or proceeding by any name. When his true name is discovered the pleading or proceeding may be amended accordingly.

(h) Application for an Order Extending Time.

(1) Application – To Whom Made. An application for an order extending the time within which any act is required by law to be done may be heard and determined by the judge before whom the matter is pending unless the clerk is authorized to make such changes in the Code of Civil Procedure; provided, however, that in case of the inability, death, or absence of such judge, the application may be heard and determined by another judge of the same court.

(2) Disclosure of Previous Extensions. An application for an order extending time must disclose in writing the nature of the case and what extensions, if any, have previously been granted by order of clerk or order of the court or stipulation of counsel.

(3) Filing and Service. An order extending time must be filed immediately and copies served within 24 hours after the making of the order or within such other time as may be fixed by the court.

(i) Filing: Method and Timeliness.

(1) Non-Electronic Filing. For a paper not filed electronically, filing may be accomplished by mail addressed to the Rincon Civil Trial Court, but filing is not timely unless the court clerk receives the papers within the time fixed for filing.

(2) Electronic Filing and Signing. A filing made through an electronic filing mechanism offered by the court together with the name of the attorney of record on a signature block, constitutes that person's signature.

(3) Include Identifying Information When Submitting Electronically. Include the following information when submitting your documents electronically: (1) the party's name on behalf of whom the document(s) is/are being filed; (2) the title(s) of the document(s); and (3) the filing attorney's address, telephone number, and email address.

(4) Bookmarking of Exhibits. All exhibits in electronic documents must be electronically bookmarked.

(j) Case Cover Sheet.

(1) Cover Sheet Required. The first paper filed in an action or proceeding must be accompanied by a case cover sheet as required in subsection (2), below.

(2) Contents of Cover Sheets. The case cover sheet must set out:

(A) The case type that best describes the case
(B) The type of remedies sought
(C) Number of causes of action in the case
(D) Any known related cases.

(3) Failure to Provide Cover Sheet. If a party that is required to provide a cover sheet under this Rule fails to do so or provides a defective or incomplete cover sheet at the time the party's first paper is submitted for filing, the clerk of the court must file the paper. Failure of a party or

a party's counsel to file a cover sheet as required by this Rule may subject that party, its counsel, or both, to sanctions under Section 3.320(e).

§ 3.322 PLEADINGS AND MOTIONS

(a) Definitions and Construction.

(1) Law and Motion Defined. "Law and motion" includes any proceedings:

(A) On application before trial for an order, except for causes seeking civil restraining orders; or

(B) On application for an order regarding the enforcement of judgment, attachment of property, appointment of a receiver, obtaining or setting aside a judgment by default, writs of review, and mandate and prohibition.

(2) Application of Rules on Extending or Shortening Time. Section 3.321(d) on extending or shortening time applies to proceedings under this Section.

(3) Application to Demurrers. Unless the context or subject matter otherwise requires, the rules in this Section apply to demurrers.

(b) Motions and Other Pleadings.

(1) Motions and Required Papers. Unless otherwise provided by the rules in this Section, the papers filed in support of a motion must consist of at least the following:

(A) A notice of hearing on the motion;

(B) The motion itself; and

(C) A memorandum in support of the motion or demurrer.

(2) Other Papers. Other papers may be filed in support of a motion, including declarations, exhibits, appendices, and other documents or pleadings.

(3) Form of Motion Papers. The papers filed under subsections (1) and (2) above may either be filed as separate documents or combined in one or more documents if the party filing a combined pleading specifies these items separately in the caption of the combined pleading.

(4) Motion - Required Elements. A motion must:

(A) Identify the party or parties bringing the motion;

(B) Name the parties to whom it is addressed;

(C) Briefly state the basis for the motion and the relief sought; and

(D) If a pleading is challenged, state the specific portion challenged.

(5) Additional Requirements for Motions. In addition to the requirements of this Rule, a motion relating to the subjects specified in Sections 3.322(b) - (t) of this Section must comply with any additional requirements listed therein.

(6) Motion in Limine. Notwithstanding subsection (1), above, a motion in limine filed before or during trial need not be accompanied by a notice of hearing. The timing and place of the filing and service of the motion are at the discretion of the trial judge.

(c) Memorandum.

(1) Memorandum in Support of Motion. A party filing a motion must serve and file a supporting memorandum. The court may construe the absence of a memorandum as an admission that the motion or special demurrer is not meritorious and cause for its denial and, in the case of a demurrer, as a waiver of all grounds not supported.

(2) Contents of Memorandum. The memorandum must contain a statement of facts, a concise statement of the law, evidence and arguments relied on, and a discussion of the tribal laws, cases, and textbooks cited in support of the position advanced.

(3) Case Citation Format. A case citation must include the official report volume and page number and year of decision. The court must not require any other form of citation.

(4) Length of Memorandum. Except in a summary judgment or summary adjudication motion, no opening or responding memorandum may exceed 15 pages. In a summary judgment or summary adjudication motion, no opening or responding memorandum may exceed 20 pages without the consent of the court. No reply or closing memorandum may exceed 10 pages. The page limit does not include the caption page, the notice of motion and motion, exhibits, declarations, attachments, the table of contents, the table of authorities, or the proof of service.

(5) Application to File Longer Memorandum. A party may apply to the court ex parte but with written notice of the application to the other parties, at least 24 hours before the memorandum is due, for permission to file a longer memorandum. The application must state reasons why the argument cannot be made within the stated limit.

(6) Format of Longer Memorandum. A memorandum that exceeds 10 pages must include a table of contents and a table of authorities. A memorandum that exceeds 15 pages must also include an opening summary of argument.

(7) Effect of Filing an Oversized Memorandum. A memorandum that exceeds the page limits of these rules without the consent of the court must be filed and considered in the same manner as a late-filed paper.

(8) Pagination of Memorandum. The pages of a memorandum must be numbered consecutively beginning with the first page and using only Arabic numerals (e.g., 1, 2, 3). The page number may be suppressed and need not appear on the first page.

(9) Attachments. To the extent practicable, all supporting memorandums and declarations must be attached to the notice of motion.

(10) Exhibit References. All references to exhibits or declarations in supporting or opposing papers must reference the number or letter of the exhibit, the specific page, and, if applicable, the paragraph or line number.

(11) Requests for Judicial Notice. Any request for judicial notice must be made in a separate document listing the specific items for which notice is requested and must provide the court and each party with a copy of the material. If the material is part of a file in the court in which the matter is being heard, the party must:

(A) Specify in writing the part of the court file sought to be judicially noticed; and

(B) Either make arrangements with the clerk to have the file in the courtroom at the time of the hearing or confirm with the clerk that the file is electronically accessible to the court.

(12) Proposed Orders or Judgments. If a proposed order or judgment is submitted, it must be lodged and served with the moving papers but must not be attached to them. The requirements for proposed orders, including the requirements for submitting proposed orders by electronic means, are stated in Section 3.322(j).

(d) Declarations. The caption of a declaration must state the name of the declarant and must specifically identify the motion or other proceeding that it supports or opposes.

(e) Notice of Determination of Submitted Matters.

(1) Notice by Clerk. When the court rules on a motion or makes an order or renders a judgment in a matter it has taken under submission, the clerk must immediately notify the parties of the ruling, order, or judgment. The notification, which must specifically identify the matter ruled on may be given by serving electronically or mailing the parties a copy of the ruling, order, or judgment.

(2) Notice in a Case Involving More than Two Parties. In a case involving more than two parties, a clerk's notification made under this Rule, or any notice of a ruling or order served by a party, must name the moving party, and the party against whom relief was requested, and specifically identify the particular motion or other matter ruled upon.

(3) Time Not Extended by Failure of Clerk to Give Notice. The failure of the clerk to give the notice required by this Rule does not extend the time provided by law for performing any act.

(f) Deposition Testimony as an Exhibit to a Motion.

(1) Title Page. The first page of any deposition used as an exhibit must state the name of the deponent and the date of the deposition.

(2) Deposition Pages. Other than the title page, the exhibit must contain only the relevant pages of the transcript. The original page number of any deposition page must be clearly visible.

(3) Highlighting of Testimony. The relevant portion of any testimony in the deposition must be marked in a manner that calls attention to the testimony.

(g) Time for Filing and Service of Motion Papers.

(1) In General. Unless otherwise ordered or specifically provided by law, all moving and supporting papers must be served and filed in accordance with Rincon Code of Civil Procedure, RTC §3.311(c).

(2) Order Shortening Time. The court, on its own motion or on application for an order shortening time supported by a declaration showing good cause, may prescribe shorter times for the filing and service of papers than the times specified in the Rincon Code of Civil Procedure, RTC §3.311(c).

(3) Time for Filing Proof of Service. Proof of service of the moving papers must be filed no later than five court days before the time appointed for the hearing.

(4) Timely Filing. A paper is deemed timely filed if transmitted electronically by 11:59 p.m. Pacific Time on the date due and is deemed timely filed if submitted on paper before the close of the clerk's office on the date due.

(h) Time of Hearing.

(1) Duty to Notify if Matter Not to be Heard. The moving party must immediately notify the court if a matter will not be heard on the scheduled date.

(2) Notice of Nonappearance. A party may give notice that he or she will not appear at a law and motion hearing and submit the matter without an appearance unless the court orders otherwise. The court must rule on the motion as if the party had appeared.

(3) Action if No Party Appears. If a party fails to appear at a law and motion hearing without having given notice under subsection (2), above, the court may take the matter off calendar, to be reset only upon motion, or may rule on the matter.

(i) Evidence at Hearing.

(1) Restrictions on Oral Testimony. Evidence received at a law and motion hearing must be by declaration or request for judicial notice without testimony or cross-examination, unless the court orders otherwise for good cause shown.

(2) Judicial Notice. A party requesting judicial notice of material under the Rincon Rules of Evidence must provide the court and each party with a copy of the material. If the material is part of a file in the court in which the matter is being heard, the party must:

(A) Specify in writing the part of the court file sought to be judicially noticed; and

(B) Either make arrangements with the clerk to have the file in the courtroom at the time of the hearing or confirm with the clerk that the file is otherwise accessible to the court.

(j) Preparation and Submission of Proposed Order.

(1) Prevailing Party to Prepare. Unless the parties waive notice or the court orders otherwise, the party prevailing on any motion must, within five days of the ruling, serve by any means authorized by law and reasonably calculated to ensure delivery to the other party or parties no later than the close of the next business day a proposed order for approval as conforming to the court's order. Within five days after service, the other party or parties must notify the prevailing party as to whether or not the proposed order is so approved. The opposing party or parties must state any reasons for disapproval. Failure to notify the prevailing party within the time required shall be deemed an approval. The extensions of

time based on a method of service provided under any tribal law or rule do not apply to this Rule.

(2) Submission of Proposed Order to Court. The prevailing party must, upon expiration of the five-day period provided for approval, promptly transmit the proposed order to the court together with a summary of any responses of the other parties or a statement that no responses were received.

(3) Failure of Prevailing Party to Prepare Proposed Order. If the prevailing party fails to prepare and submit a proposed order as required by (1) and (2) above, any other party may do so.

(4) Motion Unopposed. This Rule does not apply if the motion was unopposed and a proposed order was submitted with the moving papers, unless otherwise ordered by the court.

(k) Demurrers.

(1) Grounds Separately Stated. Each ground of demurrer must be in a separate paragraph and must state whether it applies to the entire complaint, cross-complaint, or answer, or to specified causes of action or defenses.

(2) Demurrer Not Directed to All Causes of Action. A demurrer to a cause of action may be filed without answering other causes of action.

(3) Notice of Hearing. A party filing a demurrer must serve and file therewith a notice of hearing that must specify a hearing date in accordance with the Rincon Code of Civil Procedure, RTC § 3.311(d).

(4) Date of Hearing. Demurrers must be set for hearing not more than 35 days following the filing of the demurrer or on the first date available to the court thereafter. For good cause shown, the court may order the hearing held on an earlier or later day on notice prescribed by the court.

(5) Caption. A demurrer must state, on the first page immediately below the number of the case, the name of the party filing the demurrer and the name of the party whose pleading is the subject of the demurrer.

(6) Failure to Appear at Hearing. When a demurrer is regularly called for hearing and one of the parties does not appear, the demurrer must be disposed of on the merits at the request of the party appearing unless for good cause the hearing is continued. Failure to appear in support of a special demurrer may be construed by the court as an admission that the demurrer is not meritorious and as a waiver of all grounds thereof. If neither party appears, the demurrer may be disposed of on its merits or dropped from the calendar, to be restored on notice or on terms as the court may deem proper, or the hearing may be continued to such time as the court orders.

(7) Ex Parte Application to Dismiss Following Failure to Amend. A motion to dismiss the entire action and for entry of judgment after expiration of the time to amend, as provided in an order sustaining a demurrer, may be made by ex parte application to the court.

(8) Time to respond after demurrer. Unless otherwise ordered, defendant has 10 days to answer or otherwise plead to the complaint or the remaining causes of action following:

(A) The overruling of the demurrer;

(B) The expiration of the time to amend if the demurrer was sustained with leave to amend; or

(C) The sustaining of the demurrer if the demurrer was sustained without leave to amend.

(l) Motions to Strike.

(1) Contents of Notice. Any party responding to a pleading may serve and file a notice of a motion to strike the whole or any part thereof. A notice of motion to strike a portion of a pleading must quote in full the portions sought to be stricken except where the motion is to strike an entire paragraph, cause of action, count, or defense which must specifically identified. Specifications in a notice must be numbered consecutively.

(2) Timing. A notice of motion to strike must be given within the time allowed to plead, and if a demurrer is interposed, concurrently therewith,

and must be noticed for hearing and heard at the same time as the demurrer.

(3) Motion to Strike Late-Filed Amended Pleading. If an amended pleading is filed after the time allowed, an order striking the amended pleading must be obtained by noticed motion.

(4) Meet and Confer. Before filing a motion to strike pursuant to this Section 3.322(l), the moving party shall meet and confer in person or by telephone with the party who filed the pleading that is subject to the motion to strike for the purpose of determining if an agreement can be reached that resolves the objections to be raised in the motion to strike. If an amended pleading is filed, the responding party shall meet and confer again with the party who filed the amended pleading before filing a motion to strike the amended pleading.

(m) Motion to Amend Pleadings; Amendments to Pleadings.

(1) Contents of Motion. A motion to amend a pleading before trial must:

(A) Include a copy of the proposed amendment or amended pleading, which must be serially numbered to differentiate it from previous pleadings or amendments;

(B) State what allegations in the previous pleading are proposed to be deleted, if any, and where, by page, paragraph, and line number, the deleted allegations are located; and

(C) State what allegations are proposed to be added to the previous pleading, if any, and where, by page, paragraph, and line number, the additional allegations are located.

(2) Supporting Declaration. A separate declaration must accompany the motion and must specify:

(A) The effect of the amendment;

(B) Why the amendment is necessary and proper;

(C) When the facts giving rise to the amended allegations were discovered; and

(D) The reasons why the request for amendment was not made earlier.

(3) Form of Amendment. The court may deem a motion to file an amendment to a pleading to be a motion to file an amended pleading and require the filing of the entire previous pleading with the approved amendments incorporated into it.

(4) Requirements for Amendment to a Pleading. An amendment to a pleading must not be made by alterations on the face of a pleading except by permission of the court. All alterations must be called to the attention of the clerk and noted and initialed by the clerk in the margin of the pleading.

(n) Motion or Application for Continuance of Trial.

(1) Trial Dates are Firm. To ensure the prompt disposition of civil cases, the dates assigned for a trial are firm. All parties and their counsel must regard the date set for trial as certain.

(2) Motion or Application. A party seeking a continuance of the date set for trial, whether contested or uncontested or stipulated to by the parties, must make the request for a continuance by a noticed motion or an ex parte application under the rules of this Section, with supporting declarations. The party must make the motion or application as soon as reasonably practical once the necessity for the continuance is discovered.

(3) Grounds for Continuance. Although continuances of trials are disfavored, each request for a continuance must be considered on its own merits. The court may grant a continuance only on an affirmative showing of good cause requiring the continuance. Circumstances that may indicate good cause include:

(A) The unavailability of an essential lay or expert witness because of death, illness, or other excusable circumstances;

(B) The unavailability of a party because of death, illness, or other excusable circumstances;

(C) The unavailability of trial counsel because of death, illness, or other excusable circumstances;

(D) The substitution of trial counsel, but only where there is an affirmative showing that the substitution is required in the interests of justice;

(E) The addition of a new party if:

(i) The new party has not had a reasonable opportunity to conduct discovery and prepare for trial; or

(ii) The other parties have not had a reasonable opportunity to conduct discovery and prepare for trial in regard to the new party's involvement in the case;

(F) A party's excused inability to obtain essential testimony, documents, or other material evidence despite diligent efforts; or

(G) A significant, unanticipated change in the status of the case as a result of which the case is not ready for trial.

(4) Other Factors to be Considered. In ruling on a motion or application for continuance, the court must consider all the facts and circumstances that are relevant to the determination. These may include:

(A) The proximity of the trial date;

(B) Whether there was any previous continuance, extension of time, or delay of trial due to any party;

(C) The length of the continuance requested;

(D) The availability of alternative means to address the problem that gave rise to the motion or application for a continuance;

(E) The prejudice that parties or witnesses will suffer as a result of the continuance;

(F) If the case is entitled to a preferential trial setting, the reasons for that status and whether the need for a continuance outweighs the need to avoid delay;

(G) The court's calendar and the impact of granting a continuance on other pending trials;

(H) Whether trial counsel is engaged in another trial;

(I) Whether all parties have stipulated to a continuance;

(J) Whether the interests of justice are best served by a continuance, by the trial of the matter, or by imposing conditions on the continuance; and

(K) Any other fact or circumstance relevant to the fair determination of the motion or application.

(o) Motion for Discretionary Dismissal after One Year for Delay in Prosecution.

(1) Discretionary Dismissal One Year After Filing. The court on its own motion or on motion of the defendant may dismiss an action for delay in prosecution if the action has not been brought to trial or conditionally settled within one year after the action was commenced against the defendant.

(2) Notice of Court's Intention to Dismiss. If the court intends to dismiss an action on its own motion, the clerk must set a hearing on the dismissal and send notice to all parties at least 20 days before the hearing date.

(3) Definition of "Conditionally Settled." "Conditionally settled" means:

(A) A settlement agreement conditions dismissal on the satisfactory completion of specified terms that are not to be fully performed within two years after the filing of the case; and

(B) Notice of the settlement is filed with the court as provided in Section 3.322(u).

(p) Motion to Dismiss for Delay in Prosecution.

(1) Notice of Motion. A party seeking dismissal of a case under the Rincon Code of Civil Procedure must serve and file a notice of motion at least 45 days before the date set for hearing of the motion. The party may, with the memorandum, serve and file a declaration stating facts in support of the motion. The filing of the notice of motion must not preclude the opposing party from further prosecution of the case to bring it to trial.

(2) Written Opposition. Within 15 days after service of the notice of motion, the opposing party may serve and file a written opposition. The failure of the opposing party to serve and file a written opposition may be construed by the court as an admission that the motion is meritorious, and the court may grant the motion without a hearing on the merits.

(3) Response to Opposition. Within 15 days after service of the written opposition, if any, the moving party may serve and file a response.

(4) Reply. Within 5 days after service of the response, if any, the opposing party may serve and file a reply.

(5) Relevant Matters. In ruling on the motion, the court must consider all matters relevant to a proper determination of the motion, including:

(A) The court's file in the case and the declarations and supporting data submitted by the parties and, where applicable, the availability of the moving party and other essential parties for service of process;

(B) The diligence in seeking to effect service of process;

(C) The extent to which the parties engaged in any settlement negotiations or discussions;

(D) The diligence of the parties in pursuing discovery or other pretrial proceedings, including any extraordinary relief sought by either party;

(E) The nature and complexity of the case;

(F) The law applicable to the case, including the pendency of other litigation under a common set of facts or determinative of the legal or factual issues in the case;

(G) The nature of any extensions of time or other delay attributable to either party;

(H) The condition of the court's calendar and the availability of an earlier trial date if the matter was ready for trial;

(I) Whether the interests of justice are best served by dismissal or trial of the case; and

(J) Any other fact or circumstance relevant to a fair determination of the issue.

(6) Tribal Policies to Be Followed. The court must be guided by the policy of the Rincon Band that a plaintiff shall proceed with reasonable diligence in the prosecution of an action but that all parties shall cooperate in bringing the action to trial or other disposition. Except as otherwise provided by tribal law or by rule of court adopted pursuant to tribal law, the policy favoring the right of parties to make stipulations in their own interests and the policy favoring trial or other disposition of an action on the merits are generally preferred over the policy that requires dismissal for failure to proceed with reasonable diligence in the prosecution of an action in construing the provisions of this chapter.

(7) Court Action. The court may grant or deny the motion or, where the facts warrant, the court may continue or defer its ruling on the matter pending performance by either party of any conditions relating to trial or dismissal of the case that may be required by the court to effectuate substantial justice.

(q) Motion for Summary Judgment or Summary Adjudication.

(1) Definitions. As used in this Section:

(A) "Motion" refers to either a motion for summary judgment or a motion for summary adjudication.

(B) "Material facts" are facts that relate to the cause of action, claim for damages, issue of duty, or affirmative defense that is the subject of the motion and that could make a difference in the disposition of the motion.

(2) Motion for Summary Adjudication. If made in the alternative, a motion for summary adjudication may make reference to and depend on the same evidence submitted in support of the summary judgment motion. If summary adjudication is sought, whether separately or as an alternative to the motion for summary judgment, the specific cause of action, affirmative defense, claims for damages, or issues of duty must be stated specifically in the notice of motion and be repeated, verbatim, in the separate statement of undisputed material facts.

(3) Documents in Support of Motion. The motion must contain and be supported by the following documents:

(A) Notice of motion by [moving party] for summary judgment or summary adjudication or both;

(B) Separate statement of undisputed material facts in support of [moving party's] motion for summary judgment or summary adjudication or both;

(C) Memorandum in support of [moving party's] motion for summary judgment or summary adjudication or both;

(D) Evidence in support of [moving party's] motion for summary judgment or summary adjudication or both; and

(E) Request for judicial notice in support of [moving party's] motion for summary judgment or summary adjudication or both (if appropriate).

(4) Separate Statement in Support of Motion.

(A) The Separate Statement of Undisputed Material Facts in support of a motion must separately identify:

(i) Each cause of action, claim for damages, issue of duty, or affirmative defense that is the subject of the motion; and

(ii) Each supporting material fact claimed to be without dispute with respect to the cause of action, claim for damages, issue of duty, or affirmative defense that is the subject of the motion.

(B) The separate statement should include only material facts and not any facts that are not pertinent to the disposition of the motion.

(C) The separate statement must be in the two-column format specified in subsection (8), below. The statement must state in numerical sequence the undisputed material facts in the first column followed by the evidence that establishes those undisputed facts in that same column. Citation to the evidence in support of each material fact must include reference to the exhibit, title, page, and line numbers.

(5) Documents in Opposition to Motion. The opposition to a motion must consist of the following separate documents, titled as shown:

(A) [*Opposing party's*] memorandum in opposition to [moving party's] motion for summary judgment or summary adjudication or both;

(B) [*Opposing party's*] separate statement in opposition to [moving party's] motion for summary judgment or summary adjudication or both;

(C) [*Opposing party's*] evidence in opposition to [moving party's] motion for summary judgment or summary adjudication or both (if appropriate); and

(D) [*Opposing party's*] request for judicial notice in opposition to [moving party's] motion for summary judgment or summary adjudication or both (if appropriate).

(6) Content of Separate Statement in Opposition to Motion. The Separate Statement in Opposition to Motion must be in the two-column format specified in subsection (8).

(A) Each material fact claimed by the moving party to be undisputed must be set out verbatim on the left side of the page, below which must be set out the evidence said by the moving party to establish that fact, complete with the moving party's references to exhibits.

(B) On the right side of the page, directly opposite the recitation of the moving party's statement of material facts and supporting evidence, the response must unequivocally state whether that fact is "disputed" or "undisputed." An opposing party who contends that a fact is disputed must state, on the right side of the page directly opposite the fact in dispute, the nature of the dispute and describe the evidence that supports the position that the fact is controverted. Citation to the evidence in support of the position that a fact is controverted must include reference to the exhibit, title, page, and line numbers.

(C) If the opposing party contends that additional material facts are pertinent to the disposition of the motion, those facts must be set forth in the separate statement. The separate statement should include only material facts and not any facts that are not pertinent to the disposition of the motion. Each fact must be followed by the evidence that establishes the fact. Citation to the evidence in support of each material fact must include reference to the exhibit, title, page, and line numbers.

(7) Documentary Evidence. If evidence in support of or in opposition to a motion exceeds 25 pages, the evidence must be separately bound and must include a table of contents.

(8) Format for Separate Statements. Supporting and opposing separate statements in a motion for summary judgment must follow this format:

(A) Supporting Statement:

Moving Party's Undisputed Material Facts and Supporting Evidence:	Opposing Party's Response and Supporting Evidence:

1. Plaintiff and defendant entered into a written contract for the sale of widgets. Jackson declaration, 2:17-21; contract, Ex. A to Jackson declaration.	
2. No widgets were ever received. Jackson declaration, 3:7-21.	

(B) Opposing statement:

Moving Party's Undisputed Material Facts and Alleged Supporting Evidence:	Opposing Party's Response and Evidence:
1. Plaintiff and defendant entered into a written contract for the sale of widgets. Jackson declaration, 2:17-21; contract, Ex. A to Jackson declaration.	Undisputed.
2. No widgets were ever received. Jackson declaration, 3:7-21.	Disputed. The widgets were received in New Zealand on August 31, 2001. Baygi declaration, 7:2-5.

(C) Supporting and opposing separate statements in a motion for summary adjudication must follow this format:

(a) ***Supporting statement***:

ISSUE 1--THE FIRST CAUSE OF ACTION FOR NEGLIGENCE IS BARRED BECAUSE PLAINTIFF

EXPRESSLY ASSUMED THE RISK OF INJURY

Moving Party's Undisputed Material Facts and Supporting Evidence:	**Opposing Party's Response and Supporting Evidence:**
1. Plaintiff was injured while mountain climbing on a trip with Any Company USA. Plaintiff's deposition, 12:3-4.	
2. Before leaving on the mountain climbing trip, plaintiff signed a waiver of liability for acts of negligence. Smith declaration, 5:4-5; waiver of liability, Ex. A to Smith declaration.	

(b) ***Opposing statement***:

ISSUE 1--THE FIRST CAUSE OF ACTION FOR NEGLIGENCE IS BARRED BECAUSE PLAINTIFF EXPRESSLY ASSUMED THE RISK OF INJURY

Moving Party's Undisputed Material Facts and Alleged Supporting Evidence:	Opposing Party's Response and Evidence:
1. Plaintiff was injured while mountain climbing on a trip with Any Company USA. Plaintiff's deposition, 12:3-4.	Undisputed.
2. Before leaving on the mountain climbing trip, plaintiff signed a waiver of liability for acts of	Disputed. Plaintiff did not sign the waiver of liability; the signature on the waiver is forged.

negligence. Smith declaration, 5:4-5; waiver of liability, Ex. A to Smith declaration. Jones declaration, 3:6-7.

(9) Request for electronic version of separate statement. On request, a party must within three days provide to any other party or the court an electronic version of its separate statement. The electronic version may be provided in any form on which the parties agree. If the parties are unable to agree on the form, the responding party must provide to the requesting party the electronic version of the separate statement that it used to prepare the document filed with the court. Under this subsection, a party is not required to create an electronic version or any new version of any document for the purpose of transmission to the requesting party.

(r) Objections to Evidence. A party desiring to make objections to evidence in the papers on a motion for summary judgment must either:

(1) Submit objections in writing under Section 3.322(s); or

(2) Make arrangements for a court reporter to be present at the hearing.

(s) Written Objections to Evidence.

(1) Time for filing and service of objections. Unless otherwise excused by the court on a showing of good cause, all written objections to evidence in support of or in opposition to a motion for summary judgment or summary adjudication must be served and filed at the same time as the objecting party's opposition or reply papers are served and filed.

(2) Format of objections. All written objections to evidence must be served and filed separately from the other papers in support of or in opposition to the motion. Objections to specific evidence must be referenced by the objection number in the right column of a separate statement in opposition or reply to a motion, but the objections must not be restated or reargued in the separate statement. Each written objection must be numbered consecutively and must:

(A) Identify the name of the document in which the specific material objected to is located;

(B) State the exhibit, title, page, and line number of the material objected to;

(C) Quote or set forth the objectionable statement or material; and

(D) State the grounds for each objection to that statement or material.

(E) Written objections to evidence must follow the following format:

Objections to Jackson Declaration

Material Objected to:	**Grounds for Objection:**
1. Jackson declaration, page 3, lines 7-8: "Johnson told me that no widgets were ever received."	Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).

(3) Proposed order. A party submitting written objections to evidence must submit with the objections a proposed order. The proposed order must include places for the court to indicate whether it has sustained or overruled each objection. It must also include a place for the signature of the judge. The court may require that the proposed order be provided in electronic form. The proposed order must be in the following format:

Objections to Jackson Declaration

Material Objected to:	**Grounds for Objection:**	**Ruling on the Objection**
1. Jackson declaration, page 3, lines 7-8: "Johnson told me that no widgets were ever received."	Hearsay (Evid. Code, § 1200); lack of personal knowledge (Evid. Code, § 702(a)).	Sustained: _____ Overruled: _____

Date: _____ _____

Judge

(t) Duty to Notify Court and Others of Settlement of Entire Case.

(1) Notice of Settlement. Court to be notified. If an entire case is settled or otherwise disposed of, each plaintiff or other party seeking affirmative relief must immediately file written notice of the settlement or

other disposition with the court and serve the notice on all parties. Each plaintiff or other party seeking affirmative relief must also immediately give oral notice to all of the above if a hearing, conference, or trial is scheduled to take place within 10 days.

(2) Dismissal of Case. Except as provided in subsection (3) below, each plaintiff or other party seeking affirmative relief must serve and file a request for dismissal of the entire case within 45 days after the date of settlement of the case. If the plaintiff or other party required to serve and file the request for dismissal does not do so, the court must dismiss the entire case 45 days after it receives notice of settlement unless good cause is shown why the case should not be dismissed.

(3) Conditional Settlement.

(A) Notice. If the settlement agreement conditions dismissal of the entire case on the satisfactory completion of specified terms that are not to be performed within 45 days of the settlement, including payment in installment payments, the notice of conditional settlement served and filed by each plaintiff or other party seeking affirmative relief must specify the date by which the dismissal is to be filed.

(B) Dismissal. If the plaintiff or other party required to serve and file a request for dismissal within 45 days after the dismissal date specified in the notice does not do so, the court must dismiss the entire case unless good cause is shown why the case should not be dismissed.

(C) Hearings vacated.

(i) Except as provided in subsection (2), above, on the filing of the notice of conditional settlement, the court must vacate all hearings and other proceedings requiring the appearance of a party and may not set any hearing or other proceeding requiring the appearance of a party earlier than 45 days after the dismissal date specified in the notice, unless requested by a party.

(ii) The court need not vacate a hearing on an order to show cause or other proceeding relating to sanctions, or for

determination of good faith settlement at the request of a party.

(D) Case disposition time. The filing of a notice of conditional settlement removes the case from the computation of time used to determine case disposition time.

(4) Request for Additional Time to Complete Settlement. If a party who has served and filed a notice of settlement under subsection (1), above, determines that the case cannot be dismissed within the prescribed 45 days, that party must serve and file a notice and a supporting declaration advising the court of that party's inability to dismiss the case within the prescribed time, showing good cause for its inability to do so, and proposing an alternative date for dismissal. The notice and a supporting declaration must be served and filed at least 5 court days before the time for requesting dismissal has elapsed. If good cause is shown, the court must continue the matter to allow additional time to complete the settlement. The court may take such other actions as may be appropriate for the proper management and disposition of the case.

(u) Service and Filing of Notice of Entry of Dismissal. A party that requests dismissal of an action must serve on all parties and file notice of entry of the dismissal.

§ 3.323 EX PARTE APPLICATIONS

(a) Required Documents. A request for ex parte relief must be in writing and must include all of the following:

(1) An application containing the case caption and stating the relief requested;

(2) A declaration in support of the application making the factual showing required under Section 3.323(b)(3);

(3) A declaration based on personal knowledge of the notice given under Section 3.323(d);

(4) A memorandum; and

(5) A proposed order.

(b) Contents of Application.

(1) Identification of Attorney or Party. An ex parte application must state the name, address, e-mail address, and telephone number of any attorney known to the applicant to be an attorney for any party or, if no such attorney is known, the name, address, e-mail address, and telephone number of the party if known to the applicant.

(2) Disclosure of Previous Applications. If an ex parte application has been refused in whole or in part, any subsequent application of the same character or for the same relief, although made upon an alleged different state of facts, must include a full disclosure of all previous applications and of the court's actions.

(3) Affirmative Factual Showing Required. An applicant must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other tribal law basis for granting relief ex parte.

(c) Time of Notice to Other Parties. A party seeking an ex parte order must notify all parties no later than 10:00 A.M. the court day before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice.

(d) Contents of Notice and Declaration Regarding Notice.

(1) Contents of Notice. When notice of an ex parte application is given, the person giving notice must:

(A) State with specificity the nature of the relief to be requested and the date, time, and place for the presentation of the application; and

(B) Attempt to determine whether the opposing party will appear to oppose the application.

(2) Declaration Regarding Notice. An ex parte application must be accompanied by a declaration regarding notice stating:

(A) The notice given, including the date, time, manner, and name of the party informed, the relief sought, any response, and whether

opposition is expected and that, within the applicable time under Section 3.324(c), the applicant informed the opposing party where and when the application would be made;

(B) That the applicant in good faith attempted to inform the opposing party but was unable to do so, specifying the efforts made to inform the opposing party; or

(C) That, for reasons specified, the applicant should not be required to inform the opposing party.

(e) Filing and Presentation of the Ex Parte Application. Notwithstanding the failure of an applicant to comply with the requirements of Section 3.323(c), the clerk must not reject an ex parte application for filing and must promptly present the application to the appropriate judicial officer for consideration.

(f) Service of Papers. Parties appearing at the ex parte hearing must serve the ex parte application or any written opposition on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing may be conducted unless such service has been made.

§ 3.324 CASE MANAGEMENT

(a) Case Management Conference. (*See also*, Rincon Code of Civil Procedure § 3.311(e).)

(1) The Initial Conference. In each case, the court must set an initial case management conference to review the case. At the conference, the court must review the case comprehensively and decide whether to set the case for trial and whether to take action regarding any of the other matters identified in Section 3.324(e). The initial case management conference should generally be the first case management event conducted by court order in each case, except for orders to show cause.

(2) Preparation for the Conference. At the conference, counsel for each party and each self-represented party must appear by telephone or personally and must be prepared to discuss and commit to the party's position on the issues listed in Sections 3.324(d) and (e).

(3) Case Management Order Without Appearance. If, based on its review of the written submissions of the parties and such other

information as is available, the court determines that appearances at the conference are not necessary, the court may issue a case management order and notify the parties that no appearance is required.

(b) Additional Case Management Conferences. The court on its own motion may order, or a party or parties may request, that an additional case management conference be held at any time. A party should be required to appear at an additional conference only if an appearance is necessary for the effective management of the case. In determining whether to hold an additional conference, the court must consider each case individually on its own merits.

(c) Duty to Meet and Confer. Unless the court orders another time period, no later than 15 calendar days before the date set for the initial case management conference, the parties or their respective counsel must meet and confer, in person or by telephone to consider the following:

(1) Determining whether the matter is amenable to mediation and, if so, timeline for completion of mediation;

(2) Evaluating discovery issues such as:

(A) Each and every deposition each party anticipates taking,

(B) Any and all written discovery the parties anticipate exchanging,

(C) Any discovery the parties anticipate seeking from non-parties;

(3) Resolving any discovery disputes and setting a discovery schedule;

(4) Specifying any anticipated filings of cross-complaints or counter-claims;

(5) Identifying and, if possible, informally resolving any anticipated motions;

(6) Identifying the facts and issues in the case that are uncontested and may be the subject of stipulation;

(7) Identifying the facts and issues in the case that are in dispute;

(8) Determining whether the issues in the case can be narrowed by eliminating any claims or defenses by means of a motion or otherwise;

(9) Determining whether settlement is possible;

(10) Identifying the dates on which all parties and their attorneys are available or not available for trial, including the reasons for unavailability;

(11) Any issues relating to the discovery of electronically stored information, including:

(A) Issues relating to the preservation of discoverable electronically stored information;

(B) The form or forms in which information will be produced;

(C) The time within which the information will be produced;

(D) The scope of discovery of the information;

(E) The method for asserting or preserving claims of privilege or attorney work product, including whether such claims may be asserted after production;

(F) The method for asserting or preserving the confidentiality, privacy, trade secrets, or proprietary status of information relating to a party or person not a party to the civil proceedings;

(G) How the cost of production of electronically stored information is to be allocated among the parties; and

(H) Any other issues relating to the discovery of electronically stored information, including developing a proposed plan relating to the discovery of the information.

(d) Case Management Statement.

(1) Timing of Statement. No later than 7 calendar days before the date set for the case management conference or review, each party must file a case management statement and serve it on all other parties in the case.

(2) Joint Statement. In lieu of filing a separate case management statement, any two or more parties may file a joint statement.

(3) Contents of Statement. Parties must include all applicable items from the following list:

(A) Whether it is a joint or separate statement

(B) Complaint and Cross Complaint

(C) Status of Service on the Parties

(D) Description of the case

(E) Trial dates

(F) Estimated length of trial

(G) Trial representation

(H) Related cases, consolidation, and coordination

(I) Bifurcation

(J) Other motions

(K) Discovery status

(L) Other issues to be determined at Case Management Conference

(M) Meet and Confer status

(e) Written Report to the Court. Following the meeting between the parties described in Section 3.324(c), and no later than 7 days prior to the case management conference, the plaintiff shall prepare and submit a written report to the court accurately summarizing the results of the parties' meeting. This report must be approved and signed by all parties or their counsel, and shall include the following certification by all parties:

I certify, under penalty of perjury, that all matters discussed herein are true and correct under the laws of the Rincon Band of Luiseño Indians and the State of California. I have met in person with opposing counsel, and I made a good faith attempt to anticipate, discuss, and resolve any issues in this case over which opposing counsel and I may reach impasse, and I am prepared to have a detailed discussion with the court concerning this matter.

(f) Subjects to Be Considered at the Case Management Conference. In any case management conference or review conducted under this section the parties must address, if applicable, and the court may take appropriate action with respect to, the following:

(1) Whether all parties named in the complaint or cross-complaint have been served, have appeared, or have been dismissed;

(2) Whether any additional parties may be added or the pleadings may be amended;

(3) Whether discovery has been completed and, if not, the date by which it will be completed;

(4) What discovery issues are anticipated;

(5) If the trial date has not been previously set, the date by which the case will be ready for trial and the available trial dates;

(6) The estimated length of trial;

(7) The nature of the injuries;

(8) The amount of damages, including any special or punitive damages;

(9) Any additional relief sought;

(10) Whether there are any insurance coverage issues that may affect the resolution of the case; and

(11) Any other matters that should be considered by the court or addressed in its case management order.

(g) Case Management Order Controls. The order issued after the case management conference or review controls the subsequent course of the action or proceeding unless it is modified by a subsequent order.

(h) Failure to Comply with this Section. If the court, in its discretion, determines the parties have not fully complied with this Section, it may do any or all of the following:

(1) Continue the case management conference to a future date and time;

(2) Order the parties to immediately comply with the requirements of this Section by directing the parties to hold an in-person meeting at the date and time set for the case management conference, and to submit their written report within 24 hours;

(3) Issue monetary sanctions in accordance with these Rules.

§ 3.325 MOTIONS AND DISCOVERY

(a) Format of Discovery Motions.

(1) Separate Statement Required. Any motion involving the content of a discovery request or the responses to such a request must be accompanied by a separate statement as described in detail in subsection (3), below. The motions that require a separate statement include the following motions:

(A) To compel further responses to requests for admission;

(B) To compel further responses to interrogatories;

(C) To compel further responses to a demand for inspection of documents or tangible things;

(D) To compel answers at a deposition;

(E) To compel or to quash the production of documents or tangible things at a deposition;

(F) For medical examination over objection; and

(G) For issue or evidentiary sanctions.

(2) Separate Statement Not Required. A separate statement as described in subsection (3), below, is not required when no response has been provided to the request for discovery.

(3) Contents of separate statement. A separate statement is a separate document filed and served with the discovery motion that provides all the information necessary to understand each discovery request and all the responses to it that are at issue. The separate statement must be full and complete so that no person is required to review any other document in order to determine the full request and the full response. Material must not be incorporated into the separate statement by reference. The separate statement must include—for each discovery request (e.g., each interrogatory, request for admission, deposition question, or inspection demand) to which a further response, answer, or production is requested—the following:

(A) The text of the request, interrogatory, question, or inspection demand;

(B) The text of each response, answer, or objection, and any further responses or answers;

(C) A statement of the factual and legal reasons for compelling further responses, answers, or production as to each matter in dispute;

(D) If necessary, the text of all definitions, instructions, and other matters required to understand each discovery request and the responses to it;

(E) If the response to a particular discovery request is dependent on the response given to another discovery request, or if the reasons a further response to a particular discovery request is deemed necessary are based on the response to some other discovery request, the other request and the response to it must be set forth; and

(F) If the pleadings, other documents in the file, or other items of discovery are relevant to the motion, the party relying on them must summarize each relevant document.

(4) Identification of interrogatories, demands, or requests. A motion concerning interrogatories, inspection demands, or admission requests must identify the interrogatories, demands, or requests by set and number.

(b) Service of Motion Papers on Nonparty Deponent. A written notice and all moving papers supporting a motion to compel an answer to a deposition question or to compel production of a document or tangible thing from a nonparty deponent must be personally served on the nonparty deponent unless the nonparty deponent agrees to accept service by mail at an address specified on the deposition record.

(c) Sanctions for Failure to Provide Discovery.

(1) Sanctions Despite No Opposition. The court may award sanctions in favor of a party who files a motion to compel discovery, even though no opposition to the motion was filed, or opposition to the motion was withdrawn, or the requested discovery was provided to the moving party after the motion was filed.

(2) Failure to Oppose is Not an Admission. The failure to file a written opposition or to appear at a hearing or the voluntary provision of discovery shall not be deemed an admission that the motion was proper or that sanctions should be awarded.

§ 3.326 TRIALS

(a) Trial Readiness Conference. The court shall set a trial readiness conference at least one week before trial to discuss the trial schedule and any remaining issues in the case before going to trial. Trial counsel for each party and all parties must personally attend.

(b) Matters for Consideration at the Trial Readiness Conference. At the trial readiness conference, the court may consider and take appropriate action to ensure the parties are prepared for trial and to ensure the trial proceeds expediently. The court may also consider trial settlement related matters and, if appropriate, order a settlement conference upon application by the parties or on the court's own motion. At least two days before the final trial management conference, the parties shall file a Joint Pretrial Statement that includes the following information:

(1) The type and subject matter of the action to be tried;

(2) The number of causes of action, cross-actions, counter-claims, and affirmative defenses that will be tried;

(3) Whether any significant amendments to the pleadings have been made recently or are likely to be made before trial;

(4) The number of parties with separate interests who will be involved in the trial;

(5) The complexity of the issues to be tried, including issues of first impression;

(6) Any difficulties in identifying, locating, or serving parties;

(7) Whether all parties have been served and, if so, the date by which they were served;

(8) Whether all parties have appeared in the action and, if so, the date by which they appeared;

(9) How long the attorneys who will try the case have been involved in the action;

(10) Specific proposals for settlement;

(11) The trial date or dates proposed by the parties and their attorneys;

(12) The professional and personal schedules of the parties and their attorneys, including any conflicts with previously assigned trial dates or other significant events;

(13) The amount of discovery, if any, that remains to be conducted in the case;

(14) The nature and extent of law and motion proceedings anticipated, including whether any motions for summary judgment will be filed;

(15) Whether any other actions or proceedings that are pending may affect the case;

(16) The amount in controversy and the type of remedy sought;

(17) The nature and extent of the injuries or damages, including whether these are ready for determination;

(18) The court's trial calendar, including the pendency of other trial dates;

(19) The anticipated length of trial;

(20) The number, availability, and locations of witnesses, including witnesses who reside outside the county, state, or country;

(21) Whether there have been any previous continuances of the trial or delays in setting the case for trial;

(22) Anticipated motions in limine and preliminary motions;

(23) Copies of all trial exhibits and effective pleadings, which are for the court's use during trial;

(24) An exhibit list with columns labeled "Offered: "Admitted" and "Refused";

(25) All evidence depositions. Prior to submitting the depositions for ruling, all counsel shall confer in an attempt to resolve any objections. Counsel shall inform the court as to which objections remain; and

(26) Any other factor that would significantly affect the determination of the appropriate date of trial.

(c) Pretrial Orders. After the trial readiness conference, the court shall enter all necessary pretrial orders setting forth the schedule for subsequent proceedings and otherwise providing for the management of the case. These orders may include appropriate provisions, such as:

(1) In the event that a trial date has not previously been set, a date certain for trial if the case is ready to be set for trial;

(2) The estimated length of trial;

(3) Whether all parties necessary to the disposition of the case have been served or have appeared;

(4) The dismissal or severance of unserved or not-appearing defendants from the action;

(5) The names and addresses of the attorneys who will try the case;

(6) The date, time, and place for the final case management conference before trial if such a conference is required by the court or the judge assigned to the case;

(7) The date, time, and place of any further case management conferences or review; and

(8) Any additional orders that may be appropriate, including orders on matters listed in Sections 3.325(d) and (f).

(d) Announcement of Tentative Decision, Statement of Decision, and Judgment.

(1) Announcement and Service of Tentative Decision. On the trial of a question of fact by the court, the court may announce its tentative decision by an oral statement, entered in the minutes, or by a written statement filed with the clerk. Unless the announcement is made in open court in the presence of all parties that appeared at the trial, the clerk must immediately serve on all parties that appeared at the trial a copy of the minute entry or written tentative decision.

(2) Tentative Decision Not Binding. A tentative decision does not constitute a judgment and is not binding on the court. If the court subsequently modifies or changes its announced tentative decision, the clerk must serve a copy of the modification or change on all parties that appeared at the trial.

(3) Provisions in Tentative Decision. The court in its tentative decision may:

(A) State that it is the court's proposed statement of decision, subject to a party's objection under subsection (7), below;

(B) Indicate that the court will prepare a statement of decision;

(C) Order a party to prepare a statement of decision; or

(D) Direct that the tentative decision will become the statement of decision unless, within 10 days after announcement or service of the tentative decision, a party specifies those principal controverted issues as to which the party is requesting a statement of decision or makes proposals not included in the tentative decision.

(4) Request for Statement of Decision. Within 10 days after announcement or service of the tentative decision, whichever is later, any party that appeared at trial may request a statement of decision to address the principal controverted issues. The principal controverted issues must be specified in the request.

(5) Other Party's Response to Request for Statement of Decision. If a party requests a statement of decision under subsection (4), above, any other party may make proposals as to the content of the statement of decision within 10 days after the date of request for a statement of decision.

(6) Preparation and Service of Proposed Statement of Decision and Judgment. If a party requests a statement of decision under subsection (4), above, the court must, within 30 days of announcement or service of the tentative decision, prepare and serve a proposed statement of decision and a proposed judgment on all parties that appeared at the trial, unless the court has ordered a party to prepare the statement. A party that has been ordered to prepare the statement must within 30 days after the announcement or service of the tentative decision, serve and submit to the court a proposed statement of decision and a proposed judgment. If the proposed statement of decision and judgment are not served and submitted within that time, any other party that appeared at the trial may within 10 days thereafter: (1) prepare, serve, and submit to the court a proposed statement of decision and judgment or (2) serve on all other parties and file a notice of motion for an order that a statement of decision be deemed waived.

(7) Objections to Proposed Statement of Decision. Any party may, within 15 days after the proposed statement of decision and judgment

have been served, serve and file objections to the proposed statement of decision or judgment.

(8) Preparation and Filing of Written Judgment When Statement of Decision Not Prepared. If no party requests or is ordered to prepare a statement of decision and a written judgment is required, the court may prepare and serve a proposed judgment on all parties that appeared at the trial within 20 days after the announcement or service of the tentative decision or the court may order a party to prepare, serve, and submit the proposed judgment to the court within 10 days after the date of the order.

(9) Preparation and Filing of Written Judgment when Statement of Decision Deemed Waived. If the court orders that the statement of decision is deemed waived and a written judgment is required, the court may, within 10 days of the order deeming the statement of decision waived, either prepare and serve a proposed judgment on all parties that appeared at the trial or order a party to prepare, serve, and submit the proposed judgment to the court within 10 days.

(10) Objection to Proposed Judgment. Any party may, within 10 days after service of the proposed judgment, serve and file objections thereto.

(11) Hearing. The court may order a hearing on proposals or objections to a proposed statement of decision or the proposed judgment.

(12) Signature and Filing of Judgment. If a written judgment is required, the court must sign and file the judgment within 50 days after the announcement or service of the tentative decision, whichever is later, or, if a hearing was held under subsection (11), above, within 10 days after the hearing. An electronic signature by the court is as effective as an original signature. The judgment constitutes the decision on which judgment is to be entered by the clerk, in conformity to the decision of the court, immediately upon the filing of such decision. In no case is a judgment effectual for any purpose until entered.

(13) Extension of Time; Relief from Noncompliance. The court may, by written order, extend any of the times prescribed by this Rule and at any time before the entry of judgment may, for good cause shown and on such terms as may be just, excuse a noncompliance with the time limits prescribed for doing any act required by this Rule.

(14) Trial within One Day. When a trial is completed within one day or in less than eight hours over more than one day, a request for statement of decision must be made before the matter is submitted for decision and the statement of decision may be made orally on the record in the presence of the parties.

(e) Notice of Intention to Move for New Trial.

(1) Time for Service of Memorandum. Within 10 days after filing notice of intention to move for a new trial in a civil case, the moving party must serve and file a memorandum in support of the motion, and within 10 days thereafter any adverse party may serve and file a memorandum in reply.

(2) Effect of Failure to Serve Memorandum. If the moving party fails to serve and file a memorandum within the time prescribed in subsection (1), above, the court may deny the motion for a new trial without a hearing on the merits.

§ 3.327 JUDGMENTS

(a) Contesting Costs.

(1) Striking and taxing costs. Any notice of motion to strike or to tax costs must be served and filed 15 days after service of the cost memorandum. If the cost memorandum was served by mail, the period is extended by five calendar days, from the date the memorandum was placed in the mail.

(2) Form of motion. Unless objection is made to the entire cost memorandum, the motion to strike or tax costs must refer to each item objected to by the same number and appear in the same order as the corresponding cost item claimed on the memorandum of costs and must state why the item is objectionable.

(3) Extensions of time. The party claiming costs and the party contesting costs may agree to extend the time for serving and filing the cost memorandum and a motion to strike or tax costs. This agreement must be confirmed in writing, specify the extended date for service, and be filed with the clerk. In the absence of an agreement, the court may

extend the times for serving and filing the cost memorandum or the notice of motion to strike or tax costs for a period not to exceed 30 days.

(4) Entry of costs. After the time has passed for a motion to strike or tax costs or for determination of that motion, the clerk must immediately enter the costs on the judgment.

(b) Claiming Attorney's Fees.

(1) Application. This Rule applies in civil cases only to claims for attorney's fees provided for by tribal laws or by contract. Subsections (2) and (3) below, apply when the court determines entitlement to the fees, the amount of the fees, or both, whether the court makes that determination because tribal law or contract refers to "reasonable" fees, because it requires a determination of the prevailing party, or for other reasons.

(2) Attorney's Fees Before Trial Court Judgment.

(A) Time for motion. A notice of motion to claim attorney's fees for services up to and including the rendition of judgment in the trial court—including attorney's fees on an appeal before the rendition of judgment in the trial court—must be served and within 15 days after the date of service of the notice of entry of judgment or dismissal by the clerk or the date of service of written notice of entry of judgment or dismissal, or within 180 days after entry of judgment, whichever is first.

(B) Stipulation for extension of time. The parties may, by stipulation filed before the expiration of the time allowed under subsection (2)(A), above, extend the time for filing a motion for attorney's fees:

(i) Until 60 days after the expiration of the time for filing a notice of appeal; or

(ii) If a notice of appeal is filed, within 40 days after the clerk sends notice of issuance of the remittitur.

(3) Attorney's Fees on Appeal.

(A) Time for motion. A notice of motion to claim attorney's fees on appeal, other than the attorney's fees on appeal claimed under subsection (2) above, under a tribal law or pursuant to a contract requiring the court to determine entitlement to the fees, the amount of the fees claimed must be served and filed within the time for serving and filing the memorandum of costs within 40 days after the clerk sends notice of issuance of the remittitur.

(B) Stipulation for extension of time. The parties may by stipulation filed before the expiration of the time allowed under subsection (3)(A) above, extend the time for filing the motion up to an additional 60 days.

(4) Extensions. For good cause, the trial judge may extend the time for filing a motion for attorney's fees in the absence of a stipulation or for a longer period than allowed by stipulation.

(5) Attorney's Fees Fixed by Formula. If a party is entitled to attorney's fees based on tribal law or contractual provisions, which fees are fixed without the necessity of a court determination, the fees must be claimed in the memorandum of costs.

(c) Inclusion of Interest in Judgment. The clerk must include in the judgment any interest awarded by the court.

(d) No Default against the Rincon Band of Luiseño Indians. No default judgment may be entered against the Rincon Band of Luiseño Indians or its officers and agents.

§ 3.328 APPEALS

(a) Separate Appellate Rules. Appeals shall be handled pursuant to the Rincon Appellate Court Rules and Procedures, RTC §3.800.

§ 3.329 ATTORNEYS AND LAY COUNSELORS

(a) Membership. Representation before the Rincon Civil Trial Court may be provided by a lay spokesperson or a licensed attorney. Representation can be provided

only by persons who have been admitted as members of the Rincon Band Civil Trial Court Bar ("Rincon Trial Court Bar") and who have paid the bar admission fee.

(b) Rules of Practice. The rules in this section shall govern membership in the Rincon Civil Trial Court Bar and practice before the Rincon Civil Trial Court. Because the practice of law is intimately concerned with the administration of justice, these rules are minimum standards only. The Rincon Civil Trial Court may, from time to time, impose additional requirements for admission and practice as justice requires.

(c) Requirements for Admission. To qualify as a member of the Rincon Trial Court Bar, a person must meet the following requirements:

(1) The applicant must be of good moral character. The applicant is required to bring to the Rincon Civil Trial Court's attention any matters raising questions regarding the applicant's mental or emotional stability, and any past conduct reflecting upon the applicant's honesty and integrity.

(2) The applicant must be familiar with Tribal Law and the codes, rules, and procedures of the Rincon Civil Trial Court and understand their application.

(3) The applicant must execute the Oath of admission to the Rincon Civil Trial Court Bar.

(4) The applicant must pay the required admission fee to the Rincon Civil Trial Court Clerk.

(5) The applicant, if a licensed attorney, must be in good standing with a federal or state court or bar.

(6) A licensed attorney may not become a member of the Rincon Trial Court Bar if he or she has been disbarred, or resigned during pendency of any disciplinary investigation, by competent authority of any other tribe, state, federal or foreign jurisdiction. If the applicant becomes reinstated following any disbarment or resignation due to any disciplinary investigation, then the applicant may apply for membership in the Rincon Trial Court Bar.

(d) Oath of Admission. The Rincon Civil Trial Court Clerk shall ensure the Oath of admission is executed by the admitted applicant.

(e) Certificate of Membership and Fees. The Court Administrator or the Court Clerk shall admit to the Rincon Trial Court Bar any applicant who meets these requirements and pays the required admittance fee, and shall issue to the individual a certificate of membership. A written and/or electronic record of those admitted to the Rincon Trial Court Bar shall be maintained by the Court.

(f) Rules of Discipline. A member of the Rincon Trial Court Bar appearing at the Rincon Civil Trial Court may be subjected to disciplinary sanctions, up to and including disbarment, for any of the following:

(1) The commission of any act constituting dishonesty, or impugning the member's good moral character.

(2) Violation of any provision of the member's Oath of admission to practice before the Rincon Civil Trial Court.

(3) Disobedience or violation of any Rincon Civil Trial Court order.

(4) Suspension or other disciplinary action taken against the member by an authority of another jurisdiction, except that disbarment, or resignation during pendency of any disciplinary investigation, by competent authority in any other tribe, state, federal or foreign jurisdiction shall subject the member to automatic disbarment from the Rincon Trial Court Bar until such time as the person has been reinstated in such other jurisdiction in which the person has been disbarred.

(5) Undertaking any action constituting a conflict of interest.

(6) Engaging in any disrespectful conduct towards the Rincon Civil Trial Court.

(g) Disciplinary Procedures.

(1) Any person may file a complaint against a member of the Rincon Trial Court Bar with the Court Administrator, which shall be forwarded to the Judicial Administration Committee for determination. The decision of the Judicial Administration Committee shall be final.

(2) The Court may take any disciplinary measures it deems necessary against a member of the Rincon Trial Court Bar pursuant to these rules.

§ 3.330 REPRESENTATION BY COUNSEL

(a) Right to Counsel. At his or her own expense, a person may have assistance of counsel in any proceeding before the Rincon Civil Trial Court.

§ 3.331 IMPROPER INTERFERENCE WITH COURT PROHIBITED

(a) Judicial Independence. Neither the Tribal Council nor any Tribal Council member, employee, or other person or entity shall interfere with the administration of justice under these rules. Interference prohibited by this section includes, but is not limited to:

(1) Termination of employment of a judge by means other than those set forth in these rules;

(2) Actions to remove a judge from consideration of a case other than by a motion to recuse or other procedures set forth in these rules;

(3) Actions designed to influence the outcome of a case other than:

(A) By presentation of argument and legal authority to the Rincon Civil Trial Court as a party to the case or as an amicus curiae;

(B) In the case of the Tribal Council, by amendment of Tribal Law by means of procedures authorized in the Articles of Association.

§ 3.332 RINCON CIVIL TRIAL COURT ADMINISTRATION

(a) Appointment of Chief Judge. The Rincon Tribal Council, acting on the recommendation of the Judicial Administrative Committee, shall appoint a Chief Judge who, with the assistance of the Judicial Administration Committee, shall be in charge of the administration of the Rincon Civil Trial Court.

(b) Duties of Chief Judge. The Chief Judge so appointed shall determine which cases he or she will hear and which cases shall be heard by a judge selected pursuant to subsection (e) below. The Chief Judge shall also have administrative duties described in this Section which shall be carried out in coordination with the Judicial Administration Committee.

(c) Administration. The Judicial Administration Committee, established at RTC §3.806 of the Rincon Appellate Court Rules and Procedures, shall be responsible, in

coordination with the Chief Judge, for the proper administration of the Rincon Civil Trial Court.

(d) Judicial Administration Committee. The Judicial Administration Committee shall be appointed and removed and have the same authority and duties for the Rincon Civil Trial Court as those prescribed for the Rincon Appellate Court in RTC §3.806 of said Appellate Rules.

(e) Selection of Trial Court Judges for Cases Not Heard by the Chief Judge. The Judicial Administrative Committee, in coordination with the Chief Judge, shall utilize the list of judges maintained for the Rincon Appellate Court in RTC §3.807(a) of the Appellate Court Rules from which to select a trial judge for each case to be heard in the Rincon Civil Trial Court which case is not to be heard by the Chief Judge. The Judicial Administrative Committee, working with the Chief Judge, shall develop procedures for the selection of judges from said list to insure that the judge selected has no conflicts of interest and is well qualified to hear the particular case to which the judge is assigned in the Rincon Civil Trial Court.