



**BOIS FORTE BAND OF CHIPPEWA  
TRIBAL CODE**

**TITLE 2  
RULES FOR CIVIL PROCEEDINGS**

**CODE HISTORY:**

- Adopted by RTC Resolution No. 35-96 (October 5, 1995).
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## BOIS FORTE TRIBAL CODE

### PREAMBLE

The purpose of the Bois Forte Tribal Code (BFTC) is to, whenever possible, restore Minobimaadiziwin (the Good Path of Life) to all persons it serves by providing a progressive, non-judgmental path to health and forgiveness, in accordance with the community's traditional practices and values. First and foremost, the Bois Forte Tribal Court shall be guided by the seven defining Anishinabe teachings or core values:

1. *Nibwaakaawin* — Wisdom;
2. *Zaagi'idiwin* — Love;
3. *Minaadendamowin* — Respect;
4. *Zoongide'ewin* — Bravery;
5. *Gwayakwaadiziwin* — Honesty;
6. *Dabaadendiziwin* — Humility; and
7. *Debwewin* — Truth.

*Accordingly, the Bois Forte Tribal Court's focus in all decisions shall be on the impact it will have seven generations in the future.* If necessary, the presiding Judge may consult a community spiritual leader or elder for guidance when endeavoring to adhere to these principles and the Bois Forte Reservation Council may enact a resolution designating appropriate spiritual leaders or elders available for such consultation.

**TITLE 2  
RULES FOR CIVIL PROCEEDINGS**

**CHAPTER 1 – RULES OF CIVIL PROCEDURE**

**2.1.1. Purpose.**

The purpose of this Code is to promote the health, welfare, economic security, and political integrity of the Bois Forte Band of Chippewa Indians; to preserve and maintain justice; to accord the equal protection of the laws; and to provide a forum and a civil procedure for the hearing and disposition of disputes involving the Bois Forte Band of Chippewa Indians or persons within the civil jurisdiction of the Bois Forte Band.

**2.1.2. Authority.**

This Code is adopted pursuant to the inherent sovereign authority of the Bois Forte Band of Chippewa Indians, as set forth in Article VI of the Revised Constitution and Bylaws of the Minnesota Chippewa Tribe, and as recognized under the Indian Reorganization Act of 1934.

**2.1.3. One Form of Action.**

There shall be one form of action known as a “civil action.”

**2.1.4. Original Jurisdiction.**

The Bois Forte Tribal Court shall have exclusive original jurisdiction over all civil actions to which the Bois Forte Band of Chippewa Indians, any of its subordinate entities, programs, or enterprises, or any of its officers and employees in their official capacity are parties, where such action arises within the Nett Lake Reservation, the Lake Vermilion Reservation, or other Indian Country over which the Bois Forte Band exercises jurisdiction (hereafter, “the territory of the Band”).

**2.1.5. Concurrent Jurisdiction.**

The Bois Forte Tribal Court shall exercise concurrent jurisdiction with other courts of competent jurisdiction over those civil actions arising within the territory of the Band where such action is recognized as a civil cause of action by the Bois Forte Band of Chippewa Indians, and to which at least one of the real parties in interest is a member of the Bois Forte Band of Chippewa Indians.

**2.1.6. Sovereign Immunity of the Band.**

The Bois Forte Band possesses inherent sovereign immunity from suit, and the provisions of this Civil Code and Rules of Procedure shall not be construed as a waiver of such immunity, unless the Bois Forte Reservation Tribal Council has given its express consent to such suit in a valid resolution adopted by the Reservation Tribal Council. No waiver of sovereign immunity may be implied from any action of the Band or its officials, and the bringing of an action by the

Reservation Tribal Council or any tribal officer, employee, or agent acting in his or her official capacity shall not be construed as a waiver of sovereign immunity.

**2.1.7. Actions, Parties, Commencement.**

The party making the complaint in a civil action before the Bois Forte Tribal Court shall be called the Plaintiff, and the party against whom the complaint was made shall be called the Defendant. A civil action is commenced against each defendant by filing a complaint, along with a twenty-dollar (\$20.00) filing fee, with the Clerk of Court. Commencement of an action shall be ineffectual unless a summons is actually served upon the Defendant with the Complaint. No filing fee shall be required of the Bois Forte Reservation Tribal Council or its subordinate entities, programs, or enterprises.

**2.1.8. Limitations of Time.**

(a) **Application; Limitation.** Actions can only be commenced within the periods prescribed by this Code after the cause of action has accrued. Except as otherwise prescribed, the following actions shall be commenced within three (3) years:

- (1) Upon a contract, express or implied.
- (2) Upon a liability created by an ordinance of the Bois Forte Band of Chippewa Indians.
- (3) Trespass upon real estate, forcible entry, or unlawful detainer.
- (4) For taking, detaining, or injury to personal property, including actions for the specific recovery thereof.
- (5) For any other injury to the person or rights of another, not arising on contract, and not hereinafter enumerated.
- (6) For libel, slander, assault, battery, false imprisonment, or other tort resulting in personal injury.

(b) **Periods of Disability Not Counted.** Any of the following grounds of disability existing at the time when a cause of action accrued, or arising any time during the period of limitation, shall suspend the running of the period of limitation until such disability is removed:

- (1) That a party has not attained the age of 18.
- (2) A party's insanity.
- (3) A party is not a resident of the territory of the Band.

Where two or more disabilities coexist, the suspension shall continue until all are

removed.

(c) **Exceptions.** Exceptions to the three-year period during which a suit must be brought are as follows:

(1) Where a party is incarcerated;

(2) Where a party is in military service;

(3) Where a party is willfully absent for the purpose of avoiding suit; or

(4) Where the cause of action is a claim of the Bois Forte Band which arose more than three years prior to the effective date of this Code and continued in existence as of such date.

### **2.1.9. Complaint.**

A complaint shall contain the following information:

(a) The name of the Bois Forte Tribal Court;

(b) The names of the parties;

(c) A short and plain statement of the claim showing that the pleader is entitled to relief; and

(d) A demand for judgment for the relief to which the pleader deems himself to be entitled. If the demand is for property, a definite description of the property shall be made. If the demand is for money, the amount demanded shall be stated.

### **2.1.10. Summons.**

A summons shall contain the following:

(a) The name of the Bois Forte Tribal Court;

(b) The names of the parties;

(c) The signature of the Clerk of Court;

(d) It shall state that the Defendant has 20 days following service in which to serve his answer; and

(e) It shall notify the Defendant that failing to answer the complaint and to serve his answer within 20 days will result in a default judgment against him and an award by the Court of the relief requested in the complaint.

**2.1.11. Form.**

The Court may prescribe a form that includes both complaint and summons.

**2.1.12. Service of Complaint.**

A copy of the complaint shall be served with the summons.

**2.1.13. Service.**

Service of a summons within the territory of the Bois Forte Band of Chippewa shall be made upon an individual residing or physically present within the territory of the Band by delivering a copy of the complaint and summons to him personally, to his attorney, or by leaving a copy of the complaint and summons at his usual place of abode with some person of suitable age and discretion residing there. As an alternative to personal service, a copy of the complaint and summons may be mailed to the Defendant at his last known address by Certified Mail with a return receipt requested. In actions to recover possession of real or personal property or to foreclose on a mortgage, service may be by publication in a newspaper of general circulation in the territory of the Band, provided that the notice must describe the property and the nature of the action in a manner capable of being understood by a reasonable person. An affidavit of publication shall be filed with the Court.

**2.1.14. Service; When Required.**

Service is required, pursuant to Section 2.1.13, for all claims, pleadings, notices, appearances, motions other than those heard ex parte, order and judgments of the Court and appeals, except that no service shall be required where a party has defaulted for failure to appear or where the party has received notice by the Court.

**2.1.15. Service; How Made.**

Service by the Bois Forte Tribal Court may be made by any peace officer authorized to enforce the laws of the Bois Forte Band or by a designated agent of the Court who is not a party to the action, on any person within the jurisdiction of the Court or their competent agent or representative.

**2.1.16. Return of Service.**

The officer or person causing the service to be made shall attach to the summons and file with the Bois Forte Clerk of Court a Return of Service stating the place, date, time, and person on whom the service was made. If service was made by Certified Mail, the return receipt shall be filed with the Clerk of Court.

**2.1.17. Filings.**

All pleadings, affidavits, and other papers in connection with a civil action shall be filed



with the Clerk of Court unless otherwise provided by this Code or by order of the Court.

#### **2.1.18. Facsimile Transmission.**

Any paper may be filed with the Court by facsimile transmission, provided that the original signed document is filed with the Court within five (5) days, along with the \$5.00 transmission fee and any applicable filing fee. Failure to comply with this rule may result in a striking by the Court of any subject pleadings or parts thereof, staying of further proceedings until compliance is complete, or dismissing the action, proceeding, or any part thereof.

#### **2.1.19. Answer.**

- (a) **Generally.** The Defendant shall state, in short and plain terms, his defenses to each claim asserted by the Plaintiff. The original answer shall be filed with the Bois Forte Clerk of Court, and a copy of the answer shall be mailed by the Defendant to the Plaintiff within the time period prescribed by Section 2.1.10(d).
- (b) **Types of Defenses.** The answer may contain the following types of defenses to the claim asserted by the adverse party:
  - (1) Admission to the entire claim or to any part of the claim.
  - (2) Denial of the entire claim or of any part of the claim.
  - (3) A statement that the pleading party is without knowledge or information sufficient to form a belief as to the truth of the claim or any part of the claim. This statement shall have the same effect as a denial of the claim.
  - (4) A statement that the Court lacks jurisdiction over the subject matter of the action or over the parties.
  - (5) A statement that the facts stated by the adverse party do not constitute a cause of action for which relief can be granted.
  - (6) A statement that the action is barred by the statute of limitations.
  - (7) Any and all other matters constituting avoidance of the claim shall also be stated.

#### **2.1.20. Counterclaim.**

The defendant may assert in his answer a counterclaim stating any claims that he has against the Plaintiff relating to the same subject matter, and in that event the Plaintiff shall have 10 days from the date of service of the counterclaim upon him to file an original of his reply to the counterclaim with the Bois Forte Clerk of Court and to serve a copy of the reply upon the Defendant. The original reply to the counterclaim shall be filed by the Clerk of Court.

### **2.1.21. Third-Party Intervention.**

Any third party seeking to intervene as a plaintiff or defendant in an action brought before the Bois Forte Tribal Court may file such motions as appear necessary, together with supporting briefs and affidavits, where such party's interest is direct and substantial and is otherwise brought in accordance with the provisions of this Code. The standing of such party and the disposition of such claims shall rest with the sound discretion of the Court.

### **2.1.22. Time.**

In computing any period of time prescribed or allowed by these rules, Saturdays, Sundays, or holidays recognized by the Bois Forte Band of Chippewa shall not be counted.

### **2.1.23. Pre-Trial Conferences.**

Within 15 days after the answer has been filed with the Bois Forte Clerk of Court, the Clerk shall schedule a pre-trial conference and shall notify the parties of the time, date, and place of the conference. At the pre-trial conference, the presiding judge shall ascertain the following:

- (a) Whether or not some or all of the issues in the dispute can be settled without adjudication;
- (b) Whether or not justice requires any party to answer written interrogatories, produce any documents, or other evidence or otherwise engage in any pre-trial discovery considered proper by the judge. If the judge determines that pre-trial discovery is proper, he shall set forth the nature, extent and time schedule for its completion;
- (c) Whether or not the claim is ready for trial:
  - (1) if the claim is ready for trial, the judge shall set a date for trial as soon as practicable;  
or
  - (2) if the claim is not ready for trial, the judge shall set a subsequent date for trial; and
- (d) Whether or not resolution is required of constitutional or evidentiary issues. Constitutional and evidentiary issues must be raised in writing at the first pre-trial conference.

### **2.1.24. Issuance of Subpoenas.**

- (a) Upon request of any party or upon the Court's own initiative, the Court shall issue subpoenas to compel the testimony of witnesses, or the production of books, records, documents or other physical evidence relevant to the determination of the case and not an undue burden on the person possessing the evidence. An officer of the Court may issue a subpoena on behalf of the Court where it has been signed by a judge and when it is to be served within the territory of the Bois Forte Band of Chippewa.

- (b) A subpoena shall bear the name of the Bois Forte Tribal Court and the signature of the authorizing judge, shall state the name of the person or a description of the physical evidence subpoenaed, the title of the proceeding, and the time and place where the witness is to appear or the evidence is to be produced.

**2.1.25. Service of Subpoenas.**

A subpoena shall be served in the manner prescribed under Sections 2.1.13 through 2.1.16 of this Code.

**2.1.26. Failure to Obey a Subpoena.**

In the absence of a compelling justification, a party who fails to obey a subpoena issued by the Bois Forte Court in accordance with the provisions of this Code may be cited and held in contempt of the Court.

**2.1.27. Trials.**

All trials shall be court trials.

**2.1.28. Trial Procedure.**

In a civil case, the trial shall proceed in the following order:

- (a) The Plaintiff shall orally state his case and then shall produce the evidence and witnesses on his part.
- (b) The Defendant may then state his case and produce his evidence and witnesses in support of his case.
- (c) The parties may then respectively offer rebuttal evidence only.
- (d) When the evidence has been concluded, the parties may present closing arguments with the Defendant proceeding first.
- (e) When the arguments are closed, the Court shall deliberate, and may issue a ruling from the bench or render a written opinion within 10 days.

**2.1.29. Standards of Evidence and Proof.**

- (a) **Testimonial and Physical Evidence.** All testimony of witnesses shall be given orally under oath in open Court and subject to the right of cross-examination. Documentary and tangible evidence shall also be received in open Court. Findings shall be based upon competent evidence only. The hearing shall be conducted so as to ascertain the substantial rights of the parties.

(b) **Standard of Proof.** The party asserting a claim in a civil matter before the Bois Forte Tribal Court shall have the burden of proving the claim so asserted by a fair preponderance of all the evidence.

#### **2.1.30. Application of Federal Rules.**

The Bois Forte Tribal Court may, in its sound discretion, resolve interpretational, procedural, or evidentiary issues arising under this Code by reference to the Federal Rules of Civil Procedure and the Federal Rules of Evidence.

#### **2.1.31. Civil Contempt of Court.**

Any person who demonstrates intentional disobedience or disregard towards the authority of the Bois Forte Tribal Court, or who engages in the disorderly disruption of the proceedings of the Court, shall be held in contempt of court and shall be subject to a civil fine not to exceed two hundred dollars (\$200.00), and/or removal from the courtroom.

#### **2.1.32. Judgment Definitions; Requirements.**

A judgment shall be entered in each civil case. The Judgment shall be for money, for other relief, or for dismissal. A judgment is complete and is entered when it is signed by the judge and filed with the Bois Forte Clerk of Court. A judgment may include, in the court's discretion, all reasonable costs and disbursements made by the prevailing party in pursuing or defending the action, including, but not limited to, filing fees, service of process fees and mileage, attorney's fees, witness fees, discovery fees, or other costs reasonably incurred in the maintenance of the action.

#### **2.1.33. Judgment by Default.**

When a party against whom a judgment for relief is sought has failed to defend or otherwise answer the claim in accordance with the provisions of this Code, and that fact is made to appear by an affidavit, judgment by default shall be entered by the presiding Judge against the non-answering party for the relief in which the party in whose favor the judgment is rendered, sought in his pleading. The judgment by default shall not be different in kind or exceed in amount prayed for in the demand for judgment.

#### **2.1.34. Satisfaction of Judgment.**

A judgment may be satisfied in whole or in part as to any or all of the judgment debtors by the owner of the judgment executing under oath and filing with the Clerk of Courts an acknowledgement of satisfaction specifying the amount paid and whether it is full or partial satisfaction.

#### **2.1.35. Judgment Constitutes a Lien.**

A judgment shall constitute a lien on any property subject to judgment as defined by Section

2.1.40 of this Code. Notice of this lien may be placed by the judgment creditor with the appropriate public agency.

#### **2.1.36. Life of Judgment.**

No judgment of the Court for money shall be enforceable after five (5) years of filing with the Clerk of Court, unless application to renew the judgment has been filed before the expiration pursuant to Section 2.1.37.

#### **2.1.37. Renewal of Judgment.**

Upon application of the judgment creditor prior to the expiration of five (5) years after the date of the filing of a judgment for the payment of money, the Clerk of Court shall renew the judgment and extend it for an additional five (5) years.

#### **2.1.38. Enforcement of Judgment.**

If any final judgment for money rendered by the Bois Forte Tribal Court is not satisfied within thirty (30) days of its filing by the Clerk of Court, it may be executed or enforced in a manner consistent with Sections 2.1.40 and 2.1.41 of this Code, provided that a certified copy of the judgment has been served upon the party to whom it is directed, and if that party refuses to obey the judgment, he may be held in contempt of court.

#### **2.1.39. Stay of Judgment.**

Except as provided in this section, no execution or enforcement of a judgment shall be issued until the expiration of the thirty (30) days after its filing. When an appeal has been taken from the judgment, the Court may stay the enforcement of its judgment or it may stay or grant an injunction during the pendency of the appeal on such terms as it considers just for the security of the adverse party to the appeal.

#### **2.1.40. Property Subject to Judgments.**

The following property of the judgment debtor shall be subject to the satisfaction of judgments issued by the Bois Forte Tribal Court:

- (a) Up to twenty percent of the judgment debtor's net earnings as an employee of the Bois Forte Reservation Tribal Council or any of its subdivisions or subordinate entities.
- (b) Any moneys held by the Reservation Tribal Council or its subdivisions or subordinate entities in the name of the judgment debtor including any per capita payments made by the Band to its members except to the extent prohibited by federal law.
- (c) Any real or personal property and monies of the judgment debtor, as provided under Minnesota law including Minnesota Statutes Chapter 550.

- (d) The Court may order a judgment debtor disclosure in the form and manner set forth in Minn. Stat. § 550.11.

**2.1.41. Execution of Judgment.**

Upon application to the Court by the judgment creditor, the Court shall issue a Writ of Execution. The Writ of Execution shall refer to the judgment, the names of the parties to the judgment, the amount of the judgment, and the date and time that the judgment was entered. The Writ shall then be directed to the appropriate officer or division of the Bois Forte Reservation Tribal Council or its subordinate subdivision or entity.

**CHAPTER 2 – RULES FOR SMALL CLAIMS**

**2.2.1. Applicability.**

Sections 2.2.1 through 2.2.10 apply to all small claims proceedings in the Bois Forte Tribal Court.

**2.2.2. Small Claims Defined.**

“Small claims” means civil claims in which the amount of money or property that is the subject matter of the claim does not exceed \$7,500.00, and over which the Bois Forte Tribal Court has jurisdiction as provided in Sections 2.1.4 and 2.1.5.

**2.2.3. Commencement of Action.**

An action is commenced against a defendant when a statement of claim as required by Section 2.2.4 is filed with the Bois Forte Clerk of Court and the applicable fee is paid as provided in Section 2.1.7.

**2.2.4. Statement of Claim, Contents.**

Each statement of claim and each counterclaim shall be made in the form approved by the Court and shall contain a brief statement of the amount and nature of the claim, including relevant dates, and the name and address of the plaintiff and defendant. The Clerk of Court shall assist with the completion of the statement of claim and counterclaim upon request. Each statement of claim and each counterclaim shall also be signed and sworn by the party, or the lawyer representing the party in the presence of a notary public or the Clerk of Court.

**2.2.5. Summons; Trial Date; Service.**

- (a) **Trial Date.** When an action has been properly commenced, the Clerk of Court shall set a trial date and prepare a summons. Unless otherwise ordered by a judge, the trial date shall not be less than 10 days from the date of mailing or service of the summons.

- (b) **Contents of Summons.** The summons shall state the amount and nature of the claim;

require the defendant to appear at the trial in person or if a corporation, by officer or agent; shall specify that if the defendant does not appear judgment by default may be entered for the amount due to the plaintiff, including fees, expenses, and other items provided by law or by agreement, and where applicable, for the return of property demanded by the plaintiff; and shall summarize the requirements for filing a counterclaim.

- (c) **Service on Plaintiff.** The Clerk of Court shall summon the Plaintiff by first-class mail.
- (d) **Service on Defendant.** The Clerk of Court shall summon the Defendant by certified mail and proof of service must be filed with the Clerk, provided that service on a Defendant whose address is within the territory of the Band may be by first-class mail or personal service as provided in Section 2.1.13.

#### **2.2.6. Failure to Serve Defendant.**

If the summons is not properly served on the Defendant and proof of service filed with the Clerk of Court within sixty (60) days after issuance of the summons, the action shall be dismissed without prejudice.

#### **2.2.7. Counterclaims.**

- (a) **Counterclaims Allowed.** The Defendant may assert a counterclaim which the Defendant has against the Plaintiff, arising out of the transaction or occurrence which is the subject matter of Plaintiff's claim.
- (b) **Assertion of Counterclaim.** To assert a counterclaim the Defendant shall perform all the following not less than five days prior to the date set for trial of Plaintiff's claim:
  - (1) File with the Clerk of Court administrator a counterclaim required by Section 2.2.4; and
  - (2) Pay to the court administrator the applicable fee prescribed in Section 2.1.7.
- (c) **Clerk's Duties.** The Clerk of Court shall assist with the preparation of the counterclaim on request. When the counterclaim has been properly asserted, the Clerk shall note the filing of the counterclaim on the original claim, promptly mail notice of the counterclaim to the Plaintiff and set the counterclaim for trial on the same date as the original claim.
- (d) **Late Filing.** No counterclaim shall be heard if filed less than five days before the trial date of a plaintiff's claim except by permission of the judge, who has discretion to allow a filing within the five-day period.

### 2.2.8. Settlement.

If the parties agree on a settlement prior to trial, each party who has made a claim or counterclaim shall promptly advise the court in writing that the claim or counterclaim has been settled and that it may be dismissed.

### 2.2.9. Trial.

- (a) **Trial Format.** Trial shall be as provided in Chapter 1 of this Title.
- (b) **Representation by Counsel.** The parties shall appear in person and may be represented by an attorney admitted to practice before the Bois Forte Tribal Court. A corporation or a governmental entity may be represented by an authorized agent or employee.
- (c) **Conciliation; Judgment.** The judge may attempt to conciliate disputes and encourage fair settlements among the parties. If at the trial the parties agree on a settlement, the judge shall order judgment in accordance with the settlement. If no agreement is reached, the judge shall hear, determine the cause, and order judgment. Written findings of fact or conclusions of law shall not be required.
- (d) **Failure of Defendant to Appear.** If the Defendant fails to appear at the trial, after being summoned as provided in these rules, the judge may hear the Plaintiff and may:
  - (1) Order judgment in the amount due to the Plaintiff, including fees, expenses and other items provided by law or by agreement, and where applicable, order return of property to the Plaintiff; or
  - (2) Otherwise dispose of the matter.
- (e) **Failure of Plaintiff to Appear, Defendant Present.** Should the Plaintiff fail to appear at the trial, but Defendant appears, the judge may hear the Defendant and may:
  - (1) Order judgment of dismissal on the merits or order a dismissal without prejudice on the Plaintiff's statement of claim, and, where applicable, order judgment on Defendant's counterclaim in the amount due the Defendant, including fees, expenses and other items provided by law or by agreement, and where applicable, order return of property to the Defendant; or
  - (2) Otherwise dispose of the matter.
- (f) **Continuances.** On proper showing of good cause, a continuance may be granted by the court on request of either party.



### **2.2.10. Vacation of Judgment.**

When a default judgment or judgment of dismissal on the merits has been ordered for failure to appear, the judge within twenty days after notice was mailed may vacate said judgment order ex parte and grant a new trial on a proper showing by the defaulting party of lack of notice, mistake, inadvertence, or excusable neglect as the cause of that party's failure to appear.