



HABEMATOLEL POMO OF UPPER LAKE

TITLE 2. JUDICIAL

CHAPTER 1. JUDICIAL CODE

TABLE OF CONTENTS

ARTICLE 1. TITLE.....	4
ARTICLE 2. PURPOSE.....	4
ARTICLE 3. JURISDICTION.....	4
SECTION 3.1. JURISDICTION OF THE TRIBAL COURT.....	4
SECTION 3.2. JURISDICTION OF THE TRIBAL COURT OF APPEALS	5
SECTION 3.3. TRIBAL COURT SYSTEM RULES OF PROCEDURE	5
SECTION 3.4. NO ACCEPTANCE OF STATE OR FOREIGN JURISDICTION	5
SECTION 3.5. LAW APPLICABLE IN CIVIL ACTIONS	5
SECTION 3.6. SUITS AGAINST THE TRIBE.....	5
ARTICLE 4. DEFINITIONS.....	6
SECTION 4.1. DEFINED TERMS	6
ARTICLE 5. JUDGES.....	7
SECTION 5.1. JUDGES GENERALLY.....	7
SECTION 5.2. TRIBAL COURT JUDGES.....	8
SECTION 5.3. TRIBAL COURT OF APPEALS JUSTICES	8
SECTION 5.4. TEMPORARY AND CONFLICT JUDGES.....	9
SECTION 5.5 MINIMUM QUALIFICATIONS	9
SECTION 5.6 DISQUALIFIED AS JUDGE.....	10
ARTICLE 6. COURT CLERK.....	13
SECTION 6.1. APPOINTMENT, SALARY, & DISCHARGE	13
SECTION 6.2. DUTIES	13
ARTICLE 7. COUNSEL	14
SECTION 7.1. LEGAL REPRESENTATION.....	14
SECTION 7.2. TRIBAL LICENSING OF PROFESSIONAL ATTORNEYS.....	14
SECTION 7.3. LAY ADVOCATE	15
SECTION 7.4. REVOCATION OF A PROFESSIONAL ATTORNEY’S OR LAY ADVOCATE’S TRIBAL LICENSE	16
ARTICLE 8. CONTEMPT OF COURT	16
SECTION 8.1. DEFINITION OF CONTEMPT	16
SECTION 8.2. CONTEMPT IN PRESENCE OF COURT	16
SECTION 8.3. CONTEMPT OUTSIDE PRESENCE OF COURT	16
SECTION 8.4. PUNISHMENT FOR CONTEMPT.....	17
ARTICLE 9. FOREIGN JUDGMENTS	17
SECTION 9.1. DEFINITION OF VALID FOREIGN JUDGMENTS	17

SECTION 9.2. FILING AND STATUS OF VALID FOREIGN JUDGMENTS	17
SECTION 9.3. FEES	17
ARTICLE 10. OTHER PROVISIONS	18
SECTION 10.1. SOVEREIGN IMMUNITY	18
SECTION 10.2. AMENDMENTS	18
SECTION 10.3. SEVERABILITY	18
SECTION 10.4. EFFECTIVE DATE	18

ARTICLE 1. TITLE

This chapter shall be titled the Habematolel Pomo of Upper Lake Judicial Code and may be cited as the HPUL Judicial Code. This chapter shall be codified as Chapter 1 of Title 2 of the Habematolel Pomo of Upper Lake Book of Codes.

ARTICLE 2. PURPOSE

The purpose of this Chapter is to provide an impartial forum in which to decide disputes and provide for the administration of justice. It shall strive to maintain peace by protecting the health, safety, and welfare of all that come before the Tribal Court System. The Tribal Court System shall fairly and consistently apply the Tribe's Constitution and laws and, where practical and appropriate, administer justice in a manner that reflects the Tribe's Pomo culture and traditions.

ARTICLE 3. JURISDICTION

SECTION 3.1. JURISDICTION OF THE TRIBAL COURT

- (A) The Tribal Court System's jurisdiction is broadly defined in Article XII of the Constitution. It includes, but is not limited to, the following:
- (1) The Tribal Court shall be a court of general jurisdiction and have the authority to fully exercise the Tribe's inherent judicial powers. The powers include, but are not limited to, matters relating to the governmental processes internal to the Tribe and over matters arising:
 - (a) Within the Tribe's traditional reservation boundaries, trust lands, and any interest in property that satisfies the requirements of Article II, Section 1, of the Constitution;
 - (b) Between all persons within any geographical area referred to above who are subject to the jurisdiction and governmental power of the Tribe, to the extent not prohibited by federal law;
 - (c) Between all members of the Tribe, enrolled or eligible for enrollment, regardless of the geographic location of the member;
 - (d) Over all entities and persons, including non-Indians, who enter into consensual relations with the Tribe or a member of the Tribe, or whose activities affect the political integrity, economic security, or the health or welfare of the Tribe or its members; or
 - (e) Any matters implied or delegated by the federal or a state government.
 - (2) The Tribal Court shall have exclusive original jurisdiction in all matters in which the Tribe or its officers or employees are parties in their official capacities.

- (a) Nothing contained in the preceding paragraph or elsewhere in this Judicial Code shall be construed as a waiver of the sovereign immunity of the Tribe, its officers, or its enterprises. Waivers may only be valid if unequivocally expressed by formal resolution of the Executive Council.

- (3) The jurisdiction invoked by this Judicial Code over any person, cause of action, or subject shall be concurrent with any valid jurisdiction over the same of the courts of the United States, any state, or any political subdivision thereof; provided, however, this Judicial Code does not recognize, grant, or cede jurisdiction to any other political or governmental entity in which jurisdiction does otherwise exist in law.

SECTION 3.2. JURISDICTION OF THE TRIBAL COURT OF APPEALS

The Tribal Court of Appeals has jurisdiction over any appeals from the Tribal Court pursuant to Article XII, Section 11, of the Constitution. The Tribal Court of Appeals also has jurisdiction over all other areas specifically assigned to it by the Constitution or pursuant to the Tribal Code.

SECTION 3.3. TRIBAL COURT SYSTEM RULES OF PROCEDURE

The Tribal Court of Appeals shall establish the Court Rules of Procedure consistent with the terms of Article XII of the Constitution. The Executive Council retains authority to change those Court Rules of Procedure or establish the initial Court Rules of Procedure consistent with Article XII, Section 3(D), of the Constitution.

SECTION 3.4. NO ACCEPTANCE OF STATE OR FOREIGN JURISDICTION

Nothing in this Judicial Code shall be deemed to constitute acceptance of, or deference to, the jurisdiction of the State of California or any other foreign over any civil or criminal matter, where such jurisdiction does not otherwise exist.

SECTION 3.5. LAW APPLICABLE IN CIVIL ACTIONS

- (A) In all civil actions the Tribal Court System shall apply the Tribal Book of Codes and where applicable and appropriate, the Tribe's customs.

- (B) In the event that an issue arises in an action which is not addressed by the Tribal Book of Codes, or the Tribe's customs, the Tribal Court System may recognize and apply statutes, regulations and case law of any federally recognized tribe, the federal government, or any state. Application of such law shall not be deemed an adoption of such law or an action to defer to the jurisdiction from which that law originates.

SECTION 3.6. SUITS AGAINST THE TRIBE

- (A) The sovereign immunity from suit of the Tribe, every elected member of the Executive Council, tribal official, or tribal enterprise with respect to any action taken in an official capacity or in the exercise of the official powers of any such office, in any court, federal, state, or tribal is hereby affirmed. Nothing in this Code shall constitute a waiver of the Tribe’s sovereign immunity. The Tribal Court shall have no jurisdiction over any suit brought against the Tribe or an elected tribal official acting in their official capacity absent an unequivocally expressed waiver of sovereign immunity by the Executive Council.
- (B) No enforcement action taken pursuant to this Judicial Code, including the filing of an action by the Tribe or any agency of the Tribe in Tribal Court, shall constitute a waiver of sovereign immunity from suit of the Tribe, or any elected member of the Executive Council or tribal official with respect to any action taken in an official capacity, or in the exercise of the official powers of any such office, either as to any counterclaim, regardless of whether the counterclaim arises out of the same transaction or occurrence, or in any other respect.
- (C) The sovereign immunity of the Tribe or any elected member of the Executive Council or tribal official with respect to any action taken in an official capacity, or in the exercise of the official powers of any such office, in any action filed in the Tribal Court with respect thereto, may only be waived by a formal resolution of the Executive Council after consultation with its attorneys. All waivers shall be unequivocally expressed in such resolution. No waiver of the Tribe’s sovereign immunity from suit may be implied from any action or document. Waivers of sovereign immunity shall not be general but shall be specific and limited as to duration, grantee, action, and property or funds, if any, of the Tribe or any entity of the Tribe subject thereto. No express waiver of sovereign immunity by resolution of the Executive Council shall be deemed consent to the levy of any judgment, lien, or attachment upon property of the Tribe or any agency of the Tribe other than property specifically pledged or assigned therein.

ARTICLE 4. DEFINITIONS

SECTION 4.1. DEFINED TERMS

For purposes of this Chapter, the following terms shall have the meanings ascribed below:

- (A) **“Book of Codes”** shall mean the compilation of Codes and Ordinances enacted by the Executive Council and any legislation adopted pursuant to the Initiative and Referendum provisions of Article XIV of the Constitution that would have the same legislative impact of a Code or Ordinance as compiled and updated pursuant to this Codification Code;
- (B) **“Chapter”** shall mean Chapter 1. Judicial Code;
- (C) **“Constitution”** shall mean the Constitution of the Habematolel Pomo of Upper Lake;
- (D) **“Executive Council”** shall mean the governing body of the Habematolel Pomo of Upper Lake;

- (E) **“Judicial Code”** shall mean this code;
- (F) **“Membership”** shall mean all duly enrolled members of the Habematolel Pomo of Upper Lake in accordance with Article III of the Constitution;
- (G) **“Reservation”** shall mean all lands within the exterior boundaries of the Habematolel Pomo of Upper Lake Reservation located in Lake County, California and all lands owned by the Tribe both fee and non-fee land and lands held in trust for individuals and all lands considered “Indian lands” under federal, state or tribal law;
- (H) **“State” or “State Government”** shall mean the State of California and its government;
- (I) **“Tribal Code”** shall mean all duly enacted laws and regulations of the Tribe;
- (J) **“Tribal Court”** shall mean the Habematolel Tribal Court established pursuant to Tribal ordinance. If a Tribal Court is not in operation, the Executive Council or their designee shall operate as the Tribal Court;
- (K) **“Tribal Court of Appeals”** shall mean the appellate and court of last resort for the Habematolel Pomo of Upper Lake Tribal Court System;
- (L) **“Tribal Court System”** shall mean the Tribe’s judiciary consisting of the Tribal Court and Tribal Court of Appeals;
- (M) **“Tribal Member”** shall mean an enrolled member of the Habematolel Pomo of Upper Lake; and
- (N) **“Tribe”** shall mean the Habematolel Pomo of Upper Lake, a federally- recognized Indian tribe, or an authorized official or agency thereof.

ARTICLE 5. JUDGES

SECTION 5.1. JUDGES GENERALLY

- (A) The Tribal Court consists of one Chief Judge and three (3) Associate Judges. The Tribal Court shall be considered legally functioning upon the appointment of a Chief Judge so long as all other judges are elected within a year of the first Chief Judge Appointment.
- (B) The Tribal Court of Appeals consists of one Chief Justice and two (2) Associate Justices. The Tribal Court of Appeals shall be considered legally functioning upon the appointment of a Chief Justice.
- (C) The Executive Council may choose to give preference to enrolled Native Americans of any federally recognized tribe when appointing the Chief Judge and Chief Justice.

SECTION 5.2. TRIBAL COURT JUDGES

(A) Chief Judge.

- (1) The Executive Council shall appoint, by the affirmative vote of five (5) members, one Chief Judge to the preside over the Tribal Court for a period of three (3) years pursuant to Article XII, Section 6 (A) of the Constitution. After appointment of the first Chief Judge, the Chief Judge shall be appointed at or around the same time as a regular election for the calendar year that their term is expiring. The Chief Judge is eligible for reappointment.
- (2) The Chief Judge shall, hear all cases filed in the Tribal Court unless they have a conflict of interest or a scheduling conflict; refer matters to Associate Judges/Peacemakers for dispute resolution and mediation; and oversee court personnel in the daily administration of the judiciary.

(B) Associate Judges.

- (1) The Executive Council, within a year of the appointment of the first Chief Judge, upon an affirmative vote of five (5) members, shall call for the election of three (3) Associate Judges of the Tribal Court pursuant to Article XII, Section 6, of the Constitution. Associate Judges' terms shall be for two (2) years. Associate Judges shall be eligible for re-election.
- (2) An Associate Judge shall act as a peacemaker for the Tribal Court and attempt to resolve disputes through mediation and traditional peacemaking practices in cases involving at least one member members of the Tribe that are referred to them by the Chief Judge.
- (3) An Associate Judge may not make final decisions in cases but may make recommendations for settlement and resolution to the Chief Judge for consideration in their final decision.
- (4) An Associate Judge may also be known as a Peacemaker.

SECTION 5.3. TRIBAL COURT OF APPEALS JUSTICES

(A) Chief Justice.

- (1) The Executive Council shall appoint, by the affirmative vote of five (5) members, one Chief Justice to reside over the Tribal Court of Appeal for a period of four (4) years pursuant to Article XII, Section 6 (B) of the Constitution. After appointment of the first Chief Justice, the Chief Justice shall be appointed at or around the same time as a regular election for the calendar year that their term is expiring. The Chief Justice is eligible for reappointment.
- (2) The Chief Justice shall establish the Court Rules of Procedure in collaboration with the Executive Council and Chief Judge; preside over all Appeals unless there is a conflict of interest; decide motions for a full-panel review (en banc) by Associate Judges; and appoint Conflict Judges as

needed for the Tribal Court.

(B) Associate Justices.

- (1) The Executive Council shall call for the election of two (2) Associate Justices of the Tribal Court of Appeals pursuant to Article XII, Section 6, of the Constitution. Associate Justices are eligible for re-election.
- (2) Associate Justices will hear cases as assigned by the Chief Justice.
- (3) Associate Justices who meet the qualifications of a Licensed Attorney Judge as stated in this law can hear any case assigned by the Chief Justice whether on a panel of all three justices or as an individual justice.
- (4) Non-attorney Tribal Member justices can only be assigned to matters that will be heard by the panel of all three justices.

SECTION 5.4. TEMPORARY AND CONFLICT JUDGES

- (A) When a conflict of interest arises, as defined under Section 6 of this Chapter, the Chief Justice may appoint a Temporary Conflict Justice to temporarily substitute as the judge or justice in a single case.
- (B) A Temporary Conflict Justice shall carry out the duties of the judge or justice for whom they are substituting.
- (C) A Temporary Conflict Judge or Justice must meet the same minimum qualifications as the judge or justice they are substituting for.
- (D) The election process and requirements shall not apply to temporary judge appointments.

SECTION 5.5 MINIMUM QUALIFICATIONS

- (A) Licensed Attorney Judges. The Chief Judge, Chief Justice, and at least one (1) Associate Justice must be licensed attorneys and shall meet the following minimum requirements:
 - (1) Attained the minimum age of thirty (30) years at the time of appointment or election;
 - (2) May not be a sitting member of the Executive Council;
 - (3) May not have been convicted by a court of the United States or of any state of the United States of a felony. A felony is defined by the laws of the jurisdiction where the presiding court resided;
 - (4) Shall be a graduate of a law school accredited by the American Bar Association and a member in good standing of any state bar;
 - (5) Must have a minimum of five (5) years of practice as an attorney or judge in the area of Indian law;
 - (6) Must submit to drug and alcohol testing in accordance with the Tribes policies for committee members.

- (B) Tribal Member Judges: Up to three (3) associate judges and up to one (1) associate justice may be elected as tribal member judges if they meet the following requirements:
- (1) Be an enrolled member of the Tribe, in good standing;
 - (2) Attained the minimum age of thirty (30) years at the time of appointment or election;
 - (3) Experience working in the tribal government and services functions as an employee, committee member, or elected official;
 - (4) May not be a sitting member of the Executive Council;
 - (5) May not have been convicted by a court of the United States or of any state of the United States of a felony. A felony is defined by the laws of the jurisdiction where the presiding court resided;
 - (6) Must submit to drug and alcohol testing in accordance with the Tribes policies for committee members;

SECTION 5.6 DISQUALIFIED AS JUDGE

- (A) Generally, the Chief Judge, Associate Judges (Peacemakers), Chief Justice, and Associate Justices will be considered ineligible to serve if:
- (1) They have current or ongoing additional business relations with the Tribe; or
 - (2) They currently represent the Tribe as legal counsel, including working at a law firm that represents the Tribe; or
 - (3) They have formerly (in the past) served as legal counsel to the Tribe; or
 - (4) They have ever served as legal counsel for an opposing party to the Tribe in litigation, negotiations, or any other matters.
- (B) Individuals who would otherwise be disqualified under this section may, at the time they are applying as a candidate for election or appointment, petition the Executive Council for an approved a special exception in order for the individual to be considered for an appointment or to be added to an election ballot. The Executive Council must officially consider these petitions on as a case-by-case basis and approve or deny each petition by resolution through the resolution process.

SECTION 5.7 JUDICIAL ELECTIONS

- (A) All elected judges and justices shall be elected during the General Tribal Election regular tribal elections on a two-year cycle.
- (B) In advance of the election, the Executive Council shall put out a call for interested Licensed Attorney Judges and Tribal Member Judges to submit their qualifications in a process set forth by the Executive Council.
- (C) The Executive Council shall screen all interested candidates to ensure that they meet

the minimum qualifications and that they have no current or prior relationships with or against the tribe that would disqualify them from serving as a judge or justice for the Tribe.

- (D) The Executive Council may use the Election Board for assistance in soliciting interested candidates and administering the judicial election.
- (E) Interested candidates shall specify which position they are interested in running for. Tribal Members, who are licensed attorneys, may qualify for multiple positions and must specify which they are interested in running for:
 - (1) Associate Justice (these candidates must meet the qualifications for a Licensed Attorney Judge or for a Tribal Member Judge)
 - (2) Associate Judge – Peacemaker (these candidates must meet the qualifications for a Tribal Member Judge)
- (F) Election Results shall be determined as follows:
 - (1) The candidate for Associate Justice who meets the qualifications for a Licensed Attorney Judge and receives the highest number of votes shall be awarded the first Associate Justice position. After one (1) Associate Justice position is filled with a Licensed Attorney Judge, the candidate with the highest number of votes from among the remaining candidates shall be awarded the second Associate Justice Position.
 - (2) The candidates who ran for Associate Judge – Peacemaker, who receive the first, second and third highest number of votes that meet or exceed the majority vote requirement shall be seated.

SECTION 5.8. OATH OF OFFICE

Each person, prior to assuming the office of Judge or Justice in the Tribal Court System, shall take the following oath before the Chairperson of the Executive Council:

“I swear that I will support and defend the Constitution, laws, and regulations of the Habematolel Pomo of Upper Lake, and the Constitution of the United States, and that I will faithfully and diligently perform my duties (insert office) to the utmost of my ability, with impartiality and without improper favor, to the end that justice may be fully served.”

SECTION 5.9. CONFLICTS OF INTEREST

- (A) A Judge or Justice shall remove themselves from hearing a case or controversy involving first degree relatives including parents, children, spouses, romantic partners, siblings, grandparents, grandchildren, or anyone living in their same home.
- (B) A Judge or Justice shall remove themselves from any cases in which they have

a significant, personal, financial, or other interest.

- (C) A Judge or Justice shall remove themselves from hearing any case in which they cannot offer fair adjudication for any reason.
- (D) A Judge or Justice shall inform the Chief Judge or Chief Justice of their inability to participate in any case where there is a conflict of interest or bias. In the case of the Chief Judge or Chief Justice, they shall inform the Executive Council of their inability to participate in any case where there is a conflict of interest or bias. In the event that the Chief Judge or Chief Justice removes themselves from a case, the Executive Council may appoint a temporary Chief Judge or Chief Justice for the sole purpose of presiding over the case where the conflict of interest or bias arose. The appointment shall be made by the affirmative vote of five (5) members of the Executive Council.
- (E) When determining whether a conflict or bias exists the Judge or Justice shall utilize a “reasonable appearance” standard.

SECTION 5.10. REMOVAL FROM OFFICE

The Executive Council may suspend, dismiss, or remove any Judge or Justice for the reasons outlined in the Article XII, Section 10 of the Constitution utilizing the procedures established therein. Failure of a Judge or Justice to remove themselves from cases in violation of Section 5 of this Chapter shall constitute grounds for suspension, dismissal, or removal from the Tribal Court System.

SECTION 5.11. VACANCIES

The Executive Council shall appoint a person to fill any vacancy that occurs on the Tribal Court or Tribal Court of Appeals because of death, resignation, or any other reason. The appointed person shall fill the vacancy for the remainder of the term. The appointment of a Chief Judge or Chief Justice shall require the affirmative vote of five (5) members of the Executive Council. Associate Judges and Associate Justices only require a simple majority vote of the Executive Council.

SECTION 5.12. SALARY

The Chief Judge, Associate Judges, Chief Justice, and Associate Justices shall be paid either a salary to be determined by the Executive Council or pursuant to the terms of a contract approved by resolution of the Executive Council. The salary of any Chief Judge, Associate Judge, Chief Justice, or Associate Justice shall not be reduced during their term of office.

ARTICLE 6. COURT CLERK

SECTION 6.1. APPOINTMENT, SALARY, & DISCHARGE

The Executive Council shall appoint a Tribal Court Clerk by a simple majority vote. The Executive Council shall prescribe the salary of the Tribal Court Clerk. A Tribal Court Clerk may be discharged from the position for any reason upon the affirmative vote of five (5) members of the Executive Council.

SECTION 6.2. DUTIES

The Tribal Court Clerk shall be responsible for the administration of the Tribal Court and the Tribal Court of Appeals, and for such other administrative and ministerial duties as may be prescribed by the Judicial Code, or assigned to them by the Executive Council, Chief Judge, or Chief Justice. The duties will include, but are not limited to, the following:

- (A) Administering oaths and witnessing execution of documents.
- (B) Maintaining the records of the Tribal Court and Tribal Court of Appeals.
- (C) Maintaining all pleadings, documents, and other materials filed with the Tribal Court and Tribal Court of Appeals.
- (D) Maintaining all evidentiary materials, transcripts, and records of testimony filed with the Tribal Court and Tribal Court of Appeals.
- (E) Collecting and accounting for fines and other monies and properties taken into custody by the Tribal Court or Tribal Court of Appeals.
- (F) Preparing and serving notices, summons, subpoenas, warrants, rulings, findings, opinions, and orders as prescribed by the Judicial Code and as may be designated by the Chief Judge or Chief Justice.
- (G) Assisting persons in the drafting and execution of complaints, petitions, answers, motions, and other pleadings and documents for Tribal Court and Tribal Court of Appeals proceedings; provided, however, the Tribal Court Clerk shall not give advice on questions of law, nor shall they appear or act on behalf of any person in any Tribal Court or Tribal Court of Appeals proceedings.
- (H) Providing copies of documents in the Tribal Court and Tribal Court of Appeals files to other persons upon request, and upon receipt of a charge therefore to be prescribed by the Tribal Court Clerk to cover the costs of such services; provided, however, there shall be no charge for such service to the Judges or Justices of the Tribal Court System.
 - (1) No copies of documents shall be provided from files which are to be kept confidential or unavailable for public inspection pursuant to any provisions

of the Judicial Code, Tribal Court Rules, Tribal Code, or if prohibited by any court order.

- (I) Maintaining the security of all files, documents, and materials filed with or in the custody of the Tribal Court or Tribal Court of Appeals, and insuring that they are not removed from the offices of the Tribal Court Clerk and the Tribal Court System except upon specific instruction of the Chief Judge, Judge, Chief Justice, or Justice of the Tribal Court System.
- (J) Maintaining the confidences of matters within the Tribal Court System. Breaching the confidences of the Tribal Court System by releasing in any matter, including verbally, confidential information will be cause of immediate termination by the Executive Council or disciplinary action by the Tribal Court System.

ARTICLE 7. COUNSEL

SECTION 7.1. LEGAL REPRESENTATION

Any person who is a party in any civil trial or proceeding before the Tribal Court System may represent themselves, be represented by any other member of the Tribe, a lay advocate that is licensed to practice before the Tribal Court System, or be represented by a professional attorney who is licensed to practice law before the Tribal Court System. The Tribal Court Clerk, staff of the Tribal Court System, and members of the Executive Council may not represent individuals before the Tribal Court System.

SECTION 7.2. TRIBAL LICENSING OF PROFESSIONAL ATTORNEYS

Professional attorneys may appear on behalf of any party in any trial or proceeding before the Tribal Court System, provided they are licensed to practice law before the Tribal Court System. Such licenses shall be issued by the Tribal Court Clerk upon compliance with the following:

- (A) Filing an affidavit with the Tribal Court Clerk stating that the applicant is licensed to practice law before the highest court of any state.
- (B) Filing an affidavit with the Tribal Court Clerk stating that the applicant is familiar with the Tribe's Constitution and laws, Title 25 of the United States Code, and Title 25 of the Code of Federal Regulations.
- (C) Paying the annual license fee.
 - (1) The annual license fee shall be proposed by the Chief Judge and submitted to the Executive Council for approval. The Executive Council may approve, deny, or amend the license fee. If the Executive Council does not act within thirty (30) days of receipt of the proposal it shall be deemed approved. The annual license fee shall be publicly posted at the Office of the Tribal Court Clerk.

- (D) Taking the following oath before the Tribal Court Clerk:

“I do solemnly swear that I will support the Constitution of the United States and the Constitution and laws of the Habematolel Pomo of Upper Lake; I will maintain the respect due to the Tribal Court System and its judicial offices; I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly valid or debatable under the law; I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and I will never mislead any judge by any false statement or misrepresentation of fact or law; In the conduct of my duties as an attorney I will not impugn the morals, character, honesty, good faith, or competence of any person, nor advance any fact prejudicial to the honor or reputation of any person, unless required by the justice of the cause with which I am charged.”

SECTION 7.3. LAY ADVOCATE

A lay advocate is a person who is not a licensed attorney but is licensed to practice law before the Tribal Court System. Licenses shall be issued to lay advocates by the Tribal Court Clerk upon compliance with the following:

- (A) Filing an affidavit with the Tribal Court Clerk stating that the applicant is versed in the Tribe’s Constitution, laws, and court procedures.

- (B) Paying the annual license fee.

- (1) The annual license fee shall be proposed by the Chief Judge and submitted to the Executive Council for approval. The Executive Council may approve, deny, or amend the license fee. If the Executive Council does not act within thirty (30) days of receipt of the proposal it shall be deemed approved. The annual license fee shall be publicly posted at the Office of the Tribal Court Clerk.

- (C) Taking the following oath before the Tribal Court Clerk:

“I do solemnly swear that I will support the Constitution of the United States and the Constitution and laws of the Habematolel Pomo of Upper Lake; I will maintain the respect due to the Tribal Court System and its judicial offices; I will not counsel or maintain any suit or proceeding which shall appear to me to be unjust, nor any defense except such as I believe to be honestly valid or debatable under the law; I will employ for the purpose of maintaining the causes confided to me such means only as are consistent with truth and honor, and I will never mislead any judge by any false statement or misrepresentation of fact or law; In the conduct of my duties as a lay advocate I will not impugn the morals, character, honesty, good faith, or competence of any person, nor advance any fact prejudicial to the honor or reputation of any person, unless required by the justice of the cause with which I am charged.”

SECTION 7.4. REVOCATION OF A PROFESSIONAL ATTORNEY’S OR LAY ADVOCATE’S TRIBAL LICENSE

A license issued pursuant to Section 7.2 of this Chapter may be revoked or suspended by the Tribal Court of Appeals. Such action may be taken on its own motion or upon sworn complaint by any member of the Tribe or the Tribal Court System. Revocation or suspensions shall be ordered only after written notice to the licensee of the motion or complaint and after a hearing before all judges of the Tribal Court System unless a conflict of interest prohibits such participation. Following a hearing, the Tribal Court of Appeals may revoke or suspend the license upon a finding that the licensee has been disbarred or suspended from the practice of law by any court of the United States, any state court, or any tribal court, or has filed a false affidavit with the Tribal Court Clerk to obtain their license, or has violated their oath made pursuant to Sections 7.3 or 7.4 of this Chapter, or has engaged in misconduct or unethical conduct in the performance of their duties as an attorney, or has been found in contempt of court by the Tribal Court System.

ARTICLE 8. CONTEMPT OF COURT

SECTION 8.1. DEFINITION OF CONTEMPT

Contempt of court is any willful misbehavior by any person which disrupts, obstructs, or otherwise interferes with the conduct of any proceeding in the Tribal Court System, or which obstructs or interferes with the administration of justice by the Tribal Court System, or which constitutes disobedience or resistance to or interference with any lawful summons, subpoena, process, order, rule, decree, or command of the Tribal Court System. The willful failure of a party to comply with the terms of a judgment directed against them, with which they are able to comply, shall be contempt of court, which will be punished by the Tribal Court System in the manner prescribed by the Judicial Code.

SECTION 8.2. CONTEMPT IN PRESENCE OF COURT

When contempt of court is committed in the presence of the Chief Judge, Associate Judge, Chief Justice, or Associate Chief Justice it may be punished summarily by that judge or justice. In such case an order shall then be made reciting the facts constituting the contempt, adjudging the person guilty of contempt, and prescribing the punishment in accordance with Section 4 of this Chapter.

SECTION 8.3. CONTEMPT OUTSIDE PRESENCE OF COURT

When it appears to the Tribal Court System that a contempt may have been committed outside of the presence of the Tribal Court System, the Chief Judge may issue a summons to the person so charged directing them to appear at a time and place designated for a hearing on the matter. If such person served with the summons fails to appear at the time and place so designated, the Chief Judge shall proceed with conducting a hearing, and if it finds them guilty of contempt, an order shall then be made reciting the facts constituting the contempt, adjudging the person

guilty of contempt, and prescribing the punishment in accordance with Section 8.4 of this Chapter.

SECTION 8.4. PUNISHMENT FOR CONTEMPT

The presiding judge or justice may issue a civil fine not to exceed the contempt penalty schedule posted at the Office of the Tribal Court Clerk per offense to any person found in contempt of court or of any ordinance of the Tribe while in the presence of the court. The Chief Judge may issue a civil fine not to exceed the contempt penalty schedule posted at the Office of the Tribal Court Clerk per offense to any person found in contempt of court or of any ordinance of the Tribe while outside the presence of the court.

- (A) The contempt penalty schedule shall be proposed by the Chief Judge and submitted to the Executive Council for approval. The Executive Council may approve, deny, or amend the contempt penalty schedule. If the Executive Council does not act within thirty (30) days of receipt of the proposal it shall be deemed approved. The annual contempt penalty schedule shall be publicly posted at the Office of the Tribal Court Clerk.

ARTICLE 9. FOREIGN JUDGMENTS

SECTION 9.1. DEFINITION OF VALID FOREIGN JUDGMENTS

A "valid foreign judgment" is any final judgment, decree or order of a court of the United States or any other court which is entitled to full faith and credit by the Habematolel Pomo of Upper Lake either by authority of the Tribe's Laws or other controlling federal law. The Tribe shall grant full faith and credit to judgments from other courts, on a case-by case determination, provided the other court jurisdiction grants full faith and credit to judgments from the Tribal Court System.

SECTION 9.2. FILING AND STATUS OF VALID FOREIGN JUDGMENTS

A certified copy of any valid foreign judgment may be filed with the Tribal Court Clerk. The Tribal Court shall then verify the validity of the foreign judgement citing the legal authority for granting full faith and credit to the judgement. The Tribal Court Clerk shall treat the valid foreign judgment in the same manner as a judgment from the Tribal Court System. A judgment so filed has the same effect and is subject to the same procedures, defenses and proceedings for reopening, vacating or staying as a judgment of the Tribal Court System, and may be enforced or satisfied in like manner.

SECTION 9.3. FEES

Any person filing a foreign judgment shall pay to the Tribal Court Clerk the same fee as provided for filing a civil action in Tribal Court. Fees for docketing, transcription, or other enforcement proceedings shall be as provided for judgments of the Tribal Court.

ARTICLE 10. OTHER PROVISIONS

SECTION 10.1. SOVEREIGN IMMUNITY

Nothing in the provisions of this Chapter constitutes consent by the Habematolel Pomo of Upper Lake or its sub-organizations to be sued in any court. Neither this Title nor any action (or inaction) taken by the Habematolel Pomo of Upper Lake or its sub-organizations pursuant to this Title represents a waiver of the Tribe’s sovereign immunity for any purpose.

SECTION 10.2. AMENDMENTS

This Chapter, or any section herein, may be amended by a majority vote of the Executive Council.

SECTION 10.3. SEVERABILITY

If any part of this Chapter is found void and without legal effect, the remainder of the Chapter shall continue to remain in full force and effect, as though such part had not been contained therein.

SECTION 10.4. EFFECTIVE DATE

This Chapter shall take effect on the date it is approved by the Executive Council.

CERTIFICATION

As a duly elected official of the Habematolel Pomo of Upper Lake, I do hereby certify that, at a meeting duly called, noticed, and convened on the 10th day of December, 2021, at which time a quorum of 7 was present, Chapter 1. Topic was duly adopted by a vote of 6 FOR, 0 AGAINST, 1 ABSTAINED, and said Chapter has not been rescinded or amended in any form.

Executive Council Chairperson

Date

ATTEST:

Executive Council Secretary

Date