

MOHEGAN COURT SYSTEM

**RULES OF
APPELLATE PROCEDURE**

(MRAP)

Effective date: September 17, 2012

TABLE OF CONTENTS

<u>Rule</u>		<u>Page</u>
1.	Scope of Rules	1
2.	Right of Appeal.....	1
3.	The Appeal; Transcripts	2
4.	Stays of Execution	4
5.	The Record on Appeal; Exhibits	4
6.	The Briefs and Appendices	5
7.	Motions; Extensions of Time	7
8.	Preargument Conference.....	8
9.	Oral Argument	8
10.	Fees	9
11.	Decisions on Appeal.....	9
12.	Suspension of Rules	9
13.	General Provisions	10
APPENDIX OF FORMS.....		A-1

**MOHEGAN COURT SYSTEM
RULES OF APPELLATE PROCEDURE**

Rule 1. Scope of Rules

(a) Except where specific procedures are otherwise provided by ordinance, these rules govern procedures in appeals to the Gaming Disputes Court of Appeals and the Mohegan Tribal Court of Appeals (hereinafter collectively "Court of Appeals") from any final judgment of the Gaming Disputes Trial Court or Mohegan Tribal Court Trial Court (hereinafter collectively "Trial Court").

(b) Any procedure, issue, question or other matter not covered by these Rules shall be governed by the Connecticut Rules of Appellate Procedure as published in the Connecticut Practice Book, as amended from time to time.

Rule 2. Right of Appeal

(a) An aggrieved party may appeal from a final judgment of the Trial Court. A final judgment is one that disposes of all issues in the case or that would be appealable under the provisions of Chapter 60 *et seq.* of the Connecticut Rules of Appellate Procedure.

(b) Any appellee(s) aggrieved by the judgment from which the appellant has appealed may file a cross appeal within 10 days from the filing of an appeal. Cross appeals shall proceed in accordance with Conn. Prac. Bk. § 61-8.

(c) Appeals may be consolidated by order of the appropriate Court of Appeals upon its own motion, or upon motion of a party, or by stipulation of the parties to the several appeals.

(d) Notice of Intent to Appeal shall be required only in those circumstances where such notice is required under Conn. Prac. Bk. Sec. 61-5. In such cases, the provisions of said section relating to deferral of appeal and objection thereto shall apply.

Rule 3. The Appeal; Transcripts

(a) Time to Appeal. Except where a different time is provided by ordinance, a party shall have 20 days from the commencement of the appeal period as set forth in this subsection to file an Appeal in the manner prescribed by subsection (d). The appeal period may be extended in accordance with the provisions of Rule 7(a). If circumstances give rise to a new appeal period as provided in subsection (c) of this rule, such new period may be similarly extended as long as no extension of the original appeal period was obtained.

(b) Commencement of Appeal Period. The appeal period shall commence on the date the notice of judgment is given. If notice of the judgment is given in open court, the appeal period shall commence with such notice. If notice of judgment is given by the Clerk by electronic means or is given by mail, the appeal period shall commence on the date notice was sent electronically or mailed to the parties by the Clerk.

(c) New Appeal Period. A motion that would be deemed to create a new appeal period under Conn. Prac. Bk. Sec. 63-1(c) shall be deemed to create a new appeal period under these rules.

(d) Filing the Appeal. The original Appeal shall be filed with the Clerk of the appropriate Court of Appeals accompanied by a certification that a copy has been served upon each counsel of record. At the time the appeal is filed the appellant shall pay to the Clerk the required filing fee as set forth in Rule 10.

The Clerk shall endorse on the forms the date and time of filing, shall docket the appeal in the appropriate Court of Appeals and shall send copies to the Chief Judge of the Mohegan Court System, to the designated Appellate Panel, to the Judge of the Trial Court who rendered the judgment appealed from and to all counsel of record.

(e) Content of Appeal. The Appeal shall specify the party or parties taking the appeal; shall designate the judgment of the Trial Court appealed from and the docket number of the case; shall be signed by the appealing party or counsel; and shall contain a certification of service upon all counsel of record. A sample form of an Appeal is included in the Appendix of Forms.

(f) Ordering and Filing Transcript; Preliminary Statement of Issues.

1. Within 10 days of filing an Appeal, the appellant shall order from the Clerk of the Court, on a form available from the Clerk, a transcript of the proceedings deemed necessary for the appeal or shall file a certificate that no transcript is deemed necessary.

2. Unless the entire transcript is to be included, within the ten-day time provided in subsection (f)(1) of this rule the appellant shall file a preliminary statement of issues the appellant intends to present on appeal, and serve on the appellee a copy of the transcript order or certificate and of the preliminary statement of issues. An appellee who believes that a transcript or other parts of the proceedings is necessary shall order such parts within 10 days after the service of the transcript order or certificate and preliminary statement of issues of the appellant; All orders for transcripts shall be placed with the Appellate Clerk and a copy of such order served on all counsel, spokespersons and *pro se* parties of record.

3. At the time of ordering the transcript a party shall make satisfactory arrangements with the transcriptionist for payment of the costs of the transcript.

4. The Appellate Clerk shall retain a copy of each transcript received for distribution to the Appellate Jurists as set forth in Rule 5, and forward the original to the ordering party.

(g) When Motion to Stay Briefing Obligations May Be Filed. After an appeal has been taken, if any motion is filed that, if granted, would render the judgment ineffective, any party may move to stay the briefing obligations of the parties in accordance with Conn. Prac. Bk. Sec. 67-12.

(h) "Counsel of Record" shall include all counsel of record or Spokespersons appearing in the Trial Court, including those admitted *pro hac vice*, as well as any *pro se* parties.

Rule 4. Stays of Execution

(a) Except where otherwise provided by Tribal Law, or in cases involving enforcement of orders of child support, proceedings to enforce or carry out a judgment of the Court shall be automatically stayed until the time to take an appeal has expired. If an appeal is filed, such proceedings shall be stayed until the final determination of the cause, except as herein provided.

(b) Termination of a stay may be sought in accordance with subsection (c) of this Rule. If the Judge who tried the case is of the opinion that (1) an extension to appeal is sought, or the appeal is taken, only for delay or (2) the due administration of justice so requires, the judge may at any time after a hearing, upon motion or sua sponte, order that the stay be terminated.

(c) The original of the motion to terminate a stay of execution shall be filed with the Clerk, who shall forward the motion to the Judge who tried the case for determination, and file-stamped copies to the appellate judicial panel. The Trial Judge shall file any ruling thereon with the Clerk, who shall provide notice to the parties and to the appellate judicial panel.

Rule 5. The Record on Appeal; Exhibits

The case file in the Trial Court shall be deemed filed with the Clerk of the Appellate Court, and shall include a table of contents listing each item entered in the file according to the assigned number. All exhibits in the Trial Court shall be exhibits on appeal and shall be deemed in the custody of the Appellate Clerk until the appeal is concluded. The Clerk of the Trial Court shall provide to all counsel of record and self-represented litigants a copy of the table of contents and exhibit list.

The Appellate Clerk, in preparing the record on appeal, shall review the case, the designation of pleadings, and preliminary and revised statements of issues to determine which parts of the case file shall become the record on appeal. The Appellate Clerk shall exercise discretion in determining what is necessary for the proper presentation of the statement of issues or for the proper presentation of questions reserved. Such

determination shall be made as soon as possible after the filing of appellant's brief, but may be made earlier in the discretion of the Appellate Clerk. Upon preparation of the record on appeal, the Appellate Clerk shall forward a copy thereof to each counsel of record and self-represented litigant.

After the record has been filed, the Appellate Clerk shall distribute to each Appellate Jurist a copy of any supplement thereto. The Appellate Clerk may designate any transcript or portion thereof as a supplemental record and shall distribute the same to each Appellate Jurist.

A supplement to the record other than a transcript or portion thereof shall also be distributed to all counsel, spokespersons and *pro se* parties of record by the Appellate Clerk.

Rule 6. The Briefs and Appendices

(a) Format; Copies.

1. Briefs shall be printed or typewritten, with double spaced typing, on white 8-1/2 by 11 inch paper.
2. An original copy of each brief and any appendix shall be filed with the Clerk, accompanied by a certificate of service upon all counsel or record.
3. The front cover of each brief and appendix, if a separate document, shall contain the title of the case; the case number; the title of the document (e.g., Brief of Appellant, Brief of the Appellee, Appendix); and the name, address, telephone and facsimile number of the party's counsel of record and/or Spokesperson.

(b) Page Limitations; Time for Filing Briefs and Transcript.

1. Except as otherwise ordered, the brief of the appellant shall not exceed 30 pages and shall be filed within 45 days after the delivery dated of the transcript ordered by the appellant. In cases where no transcript is required, or the transcript has been received by the appellant prior to the

filing of the appeal, the appellant's brief shall be filed within 45 days of the filing of the appeal.

2. The brief of the appellee shall not exceed 30 pages and shall be filed within 45 days after the filing of the appellant's brief.

3. The appellant may file a reply brief, not to exceed 15 pages within 15 days after the filing of the appellee's brief.

4. Where cases are consolidated or a joint appeal has been filed, the brief of the appellants and that of the appellees shall not exceed the page limitations specified above.

(c) Contents of Briefs. The briefs shall contain, under appropriate headings and in the order indicated:

1. A table of contents with page references, and a table of cases (alphabetically arranged), statutes and other authorities cited, with reference to the pages of the brief where they are cited.

2. A list or statement of the issues presented for review, which statement shall be deemed in replacement of the preliminary statement of issues filed, if any.

3. A statement of the nature of the proceedings and the facts of the case.

4. The argument, divided under appropriate headings into as many parts as there are points.

5. The text of the pertinent portions of any constitutional provision, statute, ordinance, or regulation at issue, or upon which appellant relies. Such text need not be included in the brief if it is included in the appendix.

(d) Appendices. No appendix is required. An appendix may be used to excerpt lengthy exhibits or quotations from transcripts or to set forth the text of the pertinent portions of any Constitutional provision, statute, ordinance or regulation at issue or upon which a party relies.

Rule 7. Motions; Extensions of Time

(a) If an appeal has not yet been filed, the judge who tried the case may, for good cause shown, extend the time for filing the appeal, except as may otherwise be provided by ordinance or by these rules. In no event, shall the trial judge extend the time for filing the appeal to a date which is more than 20 days from the expiration of the original appeal period. Where a motion for extension of time within which to appeal has been filed at least 10 days before the time limit sought to be extended, the party seeking to appeal shall have no less than 10 days from the issuance of notice of denial of the motion to file the appeal.

(b) Once an appeal has been filed, the time provided for taking any step necessary to prosecute or defend the appeal may be extended by a Judge of the Court of Appeals.

(c) Extensions shall be granted only upon written motion filed with the Clerk. Only an original of such motion which need be filed, and it must specify the reason for the requested extension and include a statement as to whether the opposing party consents, objects, or takes no position with respect to the motion. Extensions shall be granted only upon showing of good cause. No motion under this rule shall be granted unless it is filed before the time limit sought to be extended by such motion has expired.

(d) An opposing party who objects to a motion for extension of time shall file with the Clerk an objection, with reasons in support thereof, within 7 days from the filing of the motion.

(e) Except as otherwise provided, an original copy of any motion papers shall be filed with the Clerk, accompanied by a certification of service upon all counsel of record or Spokesperson. All motion papers shall be printed or typewritten, double-spaced, on with 8-1/2 by 11 inch paper.

(f) Motions that are not dispositive of the appeal may be ruled on by a single Judge of the appropriate Court of Appeals, subject to review by a full panel upon a motion for reconsideration.

Rule 8. Preargument Conference

(a) The Chief Judge may, in cases deemed appropriate, direct the Clerk to schedule one or more Preargument Conferences in advance of oral argument. The Chief Judge may designate a Judge of the Gaming Disputes Court, the Mohegan Tribal Court, or if necessary, designate an Acting Appellate Judge to preside at any such conference.

(b) In the event that such a Preargument Conference is scheduled, each party shall prepare and file with the Clerk a Preargument Conference Statement, prior to the date of the conference, which shall contain a certification of service to all counsel of record.

(c) The following issues may be considered at a Preargument conference: the possibility of settlement; the simplification of the issues at oral argument; any other appropriate action to aid the proceedings at oral argument or the disposition of the case on appeal.

(d) Except to the extent agreed upon by all parties to the appeal, the proceedings at the Preargument conference shall be deemed confidential and shall not be brought to the attention of the Judges of the Court of Appeals who will hear and decide the appeal.

(e) Failure of counsel, a Spokesperson, or a pro se party to attend the Preargument conference may result in the imposition of sanctions, including costs and payment of attorney's fees to the opposing party, or other appropriate discipline.

Rule 9. Oral Argument

(a) Cases will be considered ready for oral argument when the briefs of all parties, including reply briefs, have been filed or the time for filing reply briefs has expired.

(b) Counsel for the appellant will be entitled to open and close the argument. In cases involving joint appeals, the order of argument shall be determined by the Administrative Judge of the Court of Appeals.

Rule 10. Fees

(a) Except as otherwise provided by ordinance, or unless waived pursuant to subsection (b), at the time of filing an Appeal in the Gaming Disputes Court the appellant shall pay to the Clerk the filing fee of \$300.00. At the time of filing an Appeal in the Mohegan Tribal Court the appellant shall pay to the Clerk the filing fee of \$40.00.

(b) Except as otherwise provided by ordinance, if a party is indigent and desires to appeal, that party may file an Appeal together with an Affidavit in Support of Application for Waiver of Filing Fee, which is available from the Clerk and which Application shall be submitted to the Chief Judge. If the Application is granted, the filing fee will be waived; if the Application is denied, the Appeal shall be dismissed by the Clerk unless the filing fee is paid within 10 days, which period may be extended by the Chief Judge.

Rule 11. Decisions on Appeal

Decisions of the Court of Appeals shall be issued within 120 days from the date of oral argument.

Rule 12. Suspension of Rules

(a) The design of these rules being to facilitate the effective resolution of issues raised on appeal and to advance justice; they will be interpreted liberally in any case where it shall be manifest that a strict adherence to them will work surprise or injustice.

(b) In the interest of expediting the decision, or for other good cause shown, the Court of Appeals may, on motion of a party or on its own motion, may order proceedings in accordance with its direction and/or suspend the requirements or provisions of any of these rules in a particular case, except the time for filing an appeal which may only be extended in accordance with Rule 7(a) hereof.

Rule 13. General Provisions

(a) Filing. If papers must be filed by a certain date, the clerk must receive the document by the close of business on that date.

(b) Service of Papers Required. All papers filed with the Clerk, except the transcript, shall contain a certification that a copy has been served on each other counsel of record or spokesperson including the names, addresses and telephone numbers of all served.

(c) Manner of Service. Service may be personal, by mail, or by electronic or facsimile transmission when otherwise allowed. Service by mail is complete on mailing.

(d) Day. When used in these Rules, "day" means a calendar day. When an action is required on a day when the Office of the Clerk of the Court is not open or has not been open for the entire business day, the required action shall be due on the first day thereafter that the Office of the Clerk is open for business for the entire day.

(e) Administrative Judge. The Chief Judge of the Mohegan Court System shall serve as Administrative Judge of the appropriate Court of Appeals in all appeals except those taken from actions of the Trial Court over which the Chief Judge presided. In such cases or in any other case in which the Chief Judge is not a member of the appellate panel, the Clerk of the Court shall designate, in rotation, a member of the appellate panel to serve as Administrative Judge, who shall act in the place of the Chief Judge under these Rules. The Chief Judge shall have the final decision on any matter involving recusal of any member of the appellate panel.

APPENDIX OF FORMS

APPEAL
MCS 3-171 (Rev. 8/12)

Mohegan Court System
13 Crow Hill Road, P.O. Box 549
Uncasville, CT 06382
Gaming Disputes Court: (860) 862-6155
Mohegan Tribal Court: (860) 862-6342

APPEAL TO: GAMING DISPUTES COURT OF APPEALS
 MOHEGAN TRIBAL COURT OF APPEALS

NAME OF CASE: (State full name of case as appears in the judgment file)

CLASSIFICATION: Appeal Consolidated Appeal
 Cross Appeal Stipulation for Reservation
 Joint Appeal Corrected/Amended Appeal Form
 Amended Appeal Other: (Specify)

TRIAL COURT DOCKET NO.: _____ TRIAL COURT JUDGE: _____

JUDGMENT FOR: Plaintiff Defendant Other: _____

JUDGMENT DATE: _____ DATE FOR FILING EXTENDED APPEAL: _____

DATE OF ISSUANCE OF NOTICE ON ANY ORDER ON ANY MOTION WHICH WOULD RENDER JUDGMENT INEFFECTIVE: _____

CASE TYPE: Civil (Specify): _____
 Administrative Appeal: License Appeal Non- License Appeal
 Workers Compensation Other (Specify): _____

APPEAL FILED BY: Plaintiff _____ Defendant _____
 Other _____

FROM (THE ACTION THAT CONSTITUTES THE FINAL JUDGMENT): _____

BY: _____ DATED: _____ TELEPHONE NO.: _____
(Signature of Attorney or pro se party)

ATTACHMENTS (Indicate which of the following are attached by placing an "X" in the proper box(es)):
 Preliminary Statement of Issues Preliminary Designation of Pleadings
 Certificate Re: Transcript Appearances

CERTIFICATION: I hereby certify that a copy hereof was served on all counsel and pro se parties of record on: _____

SIGNED BY (Individual Counsel): _____ DATED: _____

FILING FEE PAID	<input type="checkbox"/> NO FEE	DOCKET NO.:

COURT USE ONLY – FILE DATE