

BLUE LAKE RANCHERIA

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Resolution of the

Blue Lake Rancheria Tribe of California

09-01

SUBJECT: A RESOLUTION OF THE BUSINESS COUNCIL OF THE BLUE LAKE RANCHERIA APPROVING AN AMENDMENT TO RULE 30(b) OF THE RULES OF PLEADING, PRACTICE AND PROCEDURE OF THE BLUE LAKE RANCHERIA TRIBAL COURT.

WHEREAS, the Blue Lake Rancheria (“Tribe”) is a federally-recognized Indian Tribe, organized under the provisions of the Indian Reorganization Act, 25 U.S.C. §476; and

WHEREAS, the Tribe has adopted a Constitution, which has been approved by the Secretary of the Interior and which designates the Blue Lake Business Council as the governing body of the Tribe; and

WHEREAS, in order to provide a tribal court, the Business Council has enacted Ordinance No. ??, an Ordinance of the Business Council of the Blue Lake Rancheria Establishing a Tribal Court (“Tribal Court Ordinance”); and

WHEREAS, Section 11.1.1.030(c) of the Tribal Court Ordinance provides; “[t]he Chief Judge, in consultation with the Business Council, shall promulgate such rules of procedure as are necessary for the efficient prosecution or processing of cases through the Tribal and Appellate Courts; and

WHEREAS, the Chief Judge, in consultation with the Business Council has promulgated “Rules of Pleading, Practice and Procedure of the Tribal Court of the Blue Lake Rancheria;” and

WHEREAS, the Chief wishes to amend such rules to include a definite time period after which a case may be dismissed for failure to prosecute such case; and

WHEREAS, the Chief Judge advises that after a period of one hundred twenty (120) days, a case that has not been prosecuted should be dismissed absent the parties showing good cause exists for the delay.

NOW, THEREFORE, BE IT RESOLVED, that the Business Council, pursuant to the authority granted to it in Section 11.1.1.030(c) of the Tribal Court Ordinance, and having been duly consulted by the Chief Judge, agrees that it is in the best interest of the Tribe that Rule 30(b) of the Tribal Court Rules of Pleading, Practice and Procedure be amended to read as follows;

(b) Involuntary Dismissal: Effect Thereof.

(1) For failure of the plaintiff to prosecute or to comply with these rules or any order of the court, the court may dismiss on its own motion or defendant may move for dismissal of an action or any claim. Whenever it appears that no activity by filing of pleadings, orders of the court or otherwise has occurred for a period of more than one hundred twenty (120) days in any civil action, the court may, on motion of any party or on its own motion, enter an order to show cause why the case should not be dismissed. If no satisfactory cause is shown, the case may then be dismissed by the court for want of prosecution.

(2) After the plaintiff has completed the presentation of his/her evidence, defendant, without waiving its right to offer evidence in the event the motions not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The court as trier of the facts may then determine them and render judgment against the plaintiff or may decline to render judgment against the plaintiff or may decline to render any judgment until the close of all the evidence.

CERTIFICATION

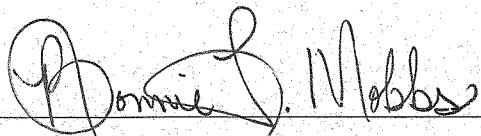
The foregoing resolution was adopted at a regular meeting of the Blue Lake Business council held on the 7th day of January, 2009, by the following vote.

AYES: 5
NAYS: 0
ABSTAIN: 0
ABSENT: 0



Claudia Brundin, Chairperson

ATTESTED:



Bonnie Mobbs, Executive Secretary