



within the time fixed for filing. The Administrator shall note upon each such paper or document the time of filing and transmit the same to the Justices and any substitute judge designated to hear the matter.” Subsection (3) states, “Except as otherwise provided in these rules, a signed original and three copies of all papers shall be filed with the Appellate Administrator.”

Rule 14. Computation and Extension of Time states:

In computing any period of time prescribed by these rules, (1) Saturdays, Sundays, and Tribal legal holidays are excluded from the computation, and (2) the day from which the designated period of time begins to run shall not be included, but the last day of the period is included. For good cause shown, the Chief Justice may order an extension of the time prescribed by these rules. All motions or orders for extension of time shall include a date certain on or before which date the act for which an extension of time is requested must be performed.

Further, Rule 6. Effect of Dismissal states, “The dismissal of an appeal is in effect an affirmance of the judgment or order appealed from unless the dismissal is expressly made without prejudice to another appeal.”

Rule 5. Docketing the Appeal and Filing the Record (1) states:

At the time of filing the notice of appeal, the appellant shall pay to the Clerk of the Tribal Court a fee of \$25 for filing and transmitting the record on appeal, unless the fee is waived by the Chief Justice upon the granting of leave to proceed in forma pauperis or for other good cause shown. . . .”

Here, the party seeking appeal has failed to timely file a notice of appeal, and pursuant to Rule 1 Notice of Appeal (1), this is grounds for dismissal of the appeal. The Appellate Court was provided notice of this matter initially when the record was transferred from the trial court on November 14, 2023; and later when the Appellate Administrator was provided a copy of the Notice of Appeal and Request for Stay of Judgment via email from counsel Justin Kalmbach on

December 20, 2023. The Court has not issued any date certain for an extension of time prescribed by the rules. Further, there has not been any good cause shown for delay of filing upon which to base an extension of time for filing a notice of appeal.

It appears that a copy of the Notice of Appeal and Request for Stay of Judgment went to the Clerk of the Tribal Court, on August 9, 2023; but the original Notice of Appeal and Request for Stay of Judgment was not filed with the Appellate Administrator, as is required by Rule 12 Filing and Service, Subsections (1) and (3). The Court notes that in practice, during past few years during COVID, the Appellate Administrator began accepting filings via email, but the email filing did not reach the Appellate Administrator until December 20, 2023. The Court presumes that the date of the order of the trial court at issue, was sometime between July 12, 2023 and August 7, 2023. The copy of Notice of Appeal and Request for Stay of Judgment filed with the Appellate Administrator five months later, will not suffice.

WHEREFORE, the COURT, upon finding good cause, hereby ORDERS:

The Appeal in this matter is hereby DISMISSED.

THEREFORE, pursuant to Rule 6. Effect of Dismissal, the Tribal Court's denial of the Proof of Claim filed against the estate after hearing on July 12, 2023, is hereby AFFIRMED.

In this matter, for good cause found, the \$25 filing fee paid to the Clerk of the Tribal Court, if any, is hereby WAIVED and shall be refunded to the payor.

THEREFORE, the Administrator shall enter the appeal dismissed, and the Clerk of Tribal Court shall refund the \$25 filing fee, if any was paid, in this matter.

DATED THIS 28<sup>th</sup> DAY OF March, 2024.



Kelly P. McDonald  
Kelly P. McDonald, Chief Justice, CSKT Court of Appeals

## Certificate of Mailing

I, Abigail Dupuis, Appellate Court Administrator, do hereby certify that I mailed a true and correct copy of the *Order to Dismiss Appeal* to the persons first named therein at the addresses shown below by depositing same in the U.S. mail, postage prepaid at Pablo, Montana, this 1st day of April, 2024.

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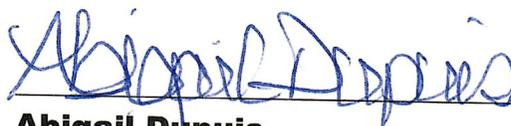
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**Abigail Dupuis**  
**Appellate Court Administrator**