SHAKOPEE MDEWAKANTON SIOUX COMMUNITY
COURT DIGEST SYSTEM

Updated through December 2023

REPORTING FORMAT

In General

The digest system summarizes relevant points of law contained within each order or opinion. The digest is prepared by the Office of the Clerk of Court and is not to be relied upon for citation to legal precedent. Any party before the Court must independently research the underlying caselaw before using an opinion or order as authority for any point of law. Copies of cases may be obtained by contacting the Clerk of Court.

Trial Court

Any publicly available written order or opinion of general interest will be digested once the order or opinion is issued, and the Court will occasionally publish updates to the digest containing summaries of these cases.

N.B.: Both the digest and the reporter system do not indicate the disposition of a Trial Court matter on appeal. To determine if a particular opinion or order has been appealed and/or altered on appeal, parties must consult the Shakopee Mdewakanton Sioux Community ("SMSC")[1] Court Appellate Court Reporter and the Table of Cases on Appeal, which appears at the end of the digest and is included in copies of all the Court reporter volumes.

Appellate Court

Any publicly available written order or opinion of general interest will be digested after it is issued, and the Court will occasionally publish updates to the digest containing summaries of these cases.

[1] In prior versions of the digest and reporters, the Court was referred to as the Shakopee Mdewakanton Sioux (Dakota) Community Court. Because the Community government dropped the "(Dakota)" in references to itself, the Court has done so as well, except in case names.

Children's Court

Cases from the SMSC Children's Court are generally not reported, nor are they included in the Court's digest. On occasion, however, the Court will digest and report redacted versions of significant decisions from the Children's Court.

CITATION FORMAT

In General

For materials submitted to the SMSC Court, the citation format should conform to the requirements outlined in the latest edition of *The Bluebook: A Uniform System of Citation*.

SMSC Cases

In addition, citations to previous decisions of the SMSC Court should follow the following format:

> *Case Title*, (Reporter Vol. No.) (Court abbreviation) (page number upon which the case in question begins) (date in parentheses).
>
> The **Case Title** should follow the format for case titles in *The Bluebook: A Uniform System of Citation*.
>
> The **Court abbreviations** are either "Shak. T.C." for the Trial Court, or "Shak. A.C." for the Appellate Court.
>
> The **date** should be the date the order or opinion in question was issued. This will typically be the date on the Clerk's stamp on the front page of the order or opinion, not the date the judge or judges may have signed.

Therefore, a citation to a decision of the SMSC Trial Court should be expressed:

> *Party A v. Party B*, 1 Shak. T.C. 1 (Jan. 1, 2000).

A citation to a decision of the SMSC Appellate Court should be expressed:

> *Party A v. Party B.*, 1 Shak. A.C. 1 (Jan. 1, 2000).

Parties should identify the page of the source material to which the citation refers. This is done by including the relevant page number after the first page of the opinion, followed by a comma, but before the date at the end of the citation. For example, a quotation from the fourth page of a reporter should be expressed as follows:

Party A v. Party B, 1 Shak. T.C. 1, 4 (Jan. 1, 2000).

Guidelines for when citations to source material are required are the same as those included in the latest edition of *The Bluebook: A Uniform System of Citation*. In addition, parties may use appropriate short-form citations as permitted in the latest edition of *The Bluebook: A Uniform System of Citation*.

SHAKOPEE MDEWAKANTON SIOUX COMMUNITY
DIGEST OF OPINIONS

Updated through December 2023

I. ADMINISTRATIVE REMEDIES

a. Exhaustion

The Community can establish reasonable procedures and make reasonable distinctions with respect to eligibility for its programs, and the Community is entitled to insist that persons who seek to become eligible for its programs use the Community's procedures establishing eligibility before seeking review in court.

Welch v. SMS(D)C, 1 Shak. T.C. 113 (June 3, 1993) (distinguishing *Ross v. SMS(D)C*, 1 Shak. T.C. 86 (July 17, 1992)).

It is particularly important for a litigant to exhaust his or her administrative remedies where Community membership is at stake.
Welch v. SMS(D)C, 1 Shak. T.C. 113 (June 3, 1993).

The Court has repeatedly stressed the importance of litigants complying with the Community's administrative procedures, and there is no more important circumstance for such compliance than with determinations of membership.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994).
Cermak v. SMS(D)C, 2 Shak. T.C. 18 (Apr. 11, 1995).

A litigant must first exhaust any applicable administrative procedures of the Community before proceeding to Court.
Welch v. SMS(D)C, 2 Shak. T.C. 79 (Nov. 27, 1995); *see also Welch v. SMS(D)C*, 2 Shak. T.C. 1 (Dec. 23, 1994).

Whether a person is a member of the Community is an issue that must first be evaluated under the administrative procedures developed by the Community.
Welch v. SMS(D)C, 2 Shak. T.C. 79 (Nov. 27, 1995).

b. Review of Administrative Decisions

1. Enrollment

The discretion given to Community officials in evaluating enrollment applications means that applicants do not have a legitimate entitlement to the benefit of Community membership when they submit an application; they have only a unilateral expectation of enrollment. Therefore, an applicant for Community enrollment does not have a property interest in Community membership until his or her application is approved, and before that time, they are not able to state a claim for a violation of due process.
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998).
Weber v. SMS(D)C, 4 Shak. T.C. 26 (Dec. 22, 1999).

Under Community law, the Enrollment Committee and the General Council are given substantial discretion to determine if and when a person's application meets the requirements for membership.
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998).
Weber v. SMS(D)C, 4 Shak. T.C. 26 (Dec. 22, 1999).

When the General Council makes a decision on an appeal from the Enrollment Committee, its decision is final and unreviewable.
Weber v. SMS(D)C, 4 Shak. T.C. 26 (Dec. 22, 1999).

Under the Community's Enrollment Ordinance, an applicant may maintain an action to correct procedural deficiencies in the Enrollment Process, as long as the application has not become moot.
Weber v. SMS(D)C, 4 Shak. T.C. 26 (Dec. 22, 1999).

2. Gaming

Legal conclusions of the Gaming Commission are reviewed under the arbitrary-and-capricious standard, and factual findings are reviewed under the substantial-evidence standard.
In re Prescott Appeal, 1 Shak. A.C. 146 (July 30, 1999).

Under the substantial-evidence test, the Court asks if the record relied on by the Gaming Commission provides sufficient relevant evidence for a reasonable person to reach the Gaming Commission's conclusion.
In re Prescott Appeal, 1 Shak. A.C. 146 (July 30, 1999).

II. APPEALS

a. Generally

A properly filed notice of appeal divests the trial court of jurisdiction over those aspects of the case involved in the appeal.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 77 (Sept. 9, 1997).
Little Six, Inc. v. Prescott, 3 Shak. T.C. 92 (Oct. 6, 1997).

Federal Rule of Civil Procedure 62.1 does not bar the trial court from considering motions for sanctions and modification of custody while an appeal from its dissolution judgment and decree is pending.
Gustafson v. Nguyen, 8 Shak. T.C. 1 (Jan. 6, 2020), *aff'd in part, rev'd in part*, *Nguyen v. Gustafson*, 4 Shak. A.C. 27 (July 10, 2020).

Under Community law, a party has 30 days after the entry of an appealable order to file a notice of appeal with the Court of Appeals.
In re Trust under Little Six, Inc. Ret. Plans, 1 Shak. A.C. 173 (Sept. 13, 2000).
Famularo v. Little Six, Inc., 1 Shak. A.C. 177 (Apr. 19, 2001).

The 30-day time limit for filing a notice of appeal under Community law also applies to motions to the Trial Court to certify an appeal of a non-final order.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 98 (Dec. 29, 2000).

On a petition for rehearing to the Court of Appeals, the Court will only consider matters of material law or fact that it overlooked in deciding the case and that would have generated another result if the Court had considered it. The Court will not reconsider matters that were unsuccessfully argued in the original appeal.
SMS(D)C v. Estate of Feezor, 2 Shak. A.C. 25 (Aug. 18, 2011).

The Court of Appeals will not consider arguments made for the first time on appeal and not adequately presented to the trial court.

SMS(D)C v. Estate of Feezor, 2 Shak. A.C. 25 (Aug. 18, 2011) (citing *Little Six, Inc. v. Prescott,* 1 Shak. A.C. 157 (Feb. 1, 2000)).

A party is not entitled to pursue a new trial on appeal unless the party first makes an appropriate post-verdict motion in the trial court.
Parent of Child. in Need of Assistance v. Fam. & Child. Servs. Dep't, 4 Shak. A.C. 57 (Oct. 16, 2023).

When a party correctly recites the law but fails to apply it to the facts or further develop its argument, the Court of Appeals will deem the argument waived and decline to consider it.
Great Northern Ins. Co. v. Hamilton, 4 Shak. A.C. 21 (June 15, 2020).

On a limited remand, the Trial Court properly denied admission of evidence where no "extraordinary circumstances" existed to permit the Trial-Court judge to go beyond the scope of the limited remand order.
SMS(D)C v. Estate of Feezor, 2 Shak. A.C. 31 (Apr. 5, 2012) (citing *United States v. Buckley*, 251 F.3d 668 (7th Cir. 2001)).

b. Appeals from Final Orders

Generally, a trial-court decision is appealable as a final judgment when it "ends the litigation on the merits and leaves nothing for the court to do but execute the judgment."
Great Northern Ins. Co. v. Hamilton, 4 Shak. A.C. 21 (June 15, 2020) (quoting *Van Cauwenberghe v. Biard*, 486 U.S. 517 (1988)).

SMSC Rule of Civil Procedure 31 allows the Court of Appeals to accept an appeal in any circumstance where an appeal would lie from a decision of a federal district court. Therefore, Rule 31 incorporates the substantive requirements of finality embodied in 28 U.S.C. § 1292, which prohibits the appeal of a non-final order unless the appeal involves a controlling question of law as to which there is a substantial difference of opinion and the appeal would materially advance the termination of the litigation.
Little Six, Inc. Bd. of Dirs. v. Smith, 1 Shak. A.C. 130 (May 28, 1998).

SMS(D)CSMSC Rule of Civil Procedure 31 does not incorporate the procedural requirements of 28 U.S.C. § 1292, nor does Rule 31 impose on tribal-court litigants all the procedural requirements imposed on litigants in federal courts.
Little Six, Inc. Bd. of Dirs. v. Smith, 1 Shak. A.C. 130 (May 28, 1998).

Issue not raised in trial court will not be considered on appeal for the first time.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).

Failure to include an issue in a proper notice of appeal deprives the Court of Appeals of jurisdiction to consider the claim.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).

Clerk of Court's practice of filing a separate notice identifying the entry of judgment for the parties is sufficient to meet the "separate document" rule incorporated into the SMSC Rules of Civil Procedure.
Famularo v. Little Six, Inc., 1 Shak. A.C. 177 (Apr. 19, 2001).

Where order established extent of defendant's liability and set schedule under which plaintiff could seek, and defendant could contest, an award of attorney's fees and expenses, final judgment had not been entered and appeal did not presently lie.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 38 (June 9, 2005).

c. Interlocutory Appeals

Collateral-order doctrine allows for an immediate appeal of orders that (1) conclusively determine disputed questions, (2) are separate from the merits of the action, and (3) would be effectively unreviewable on appeal from a final judgment.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 77 (Sept. 9, 1997).
Little Six, Inc. v. Prescott, 4 Shak. T.C. 98 (Dec. 29, 2000).
Gustafson v. Nguyen, 7 Shak. T.C. 159 (Dec. 11, 2017).
Nguyen v. Gustafson, 3 Shak. A.C. 74 (Jan. 30, 2018).
Jones v. Steinhoff, 4 Shak. A.C. 19 (June 12, 2020).
Great Northern Ins. Co. v. Hamilton, 4 Shak. A.C. 21 (June 15, 2020)

Orders rejecting defenses of absolute or qualified immunity are immediately appealable because immunity is not simply a defense from liability, but entitles its possessor to complete protection against suit. This protection is effectively lost if the matter goes to trial.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 77 (Sept. 9, 1997).
Little Six, Inc. v. Prescott, 4 Shak. T.C. 98 (Dec. 29, 2000).

SMSC Rule of Civil Procedure 31 allows the Court of Appeals to accept an appeal in any circumstance where an appeal would lie from a decision of a federal district court. Therefore, Rule 31 incorporates the substantive requirements of finality embodied in 28 U.S.C. § 1292, which prohibits the appeal of a non-final order unless the appeal involves a controlling question of law as to which there is a substantial difference of opinion and the appeal would materially advance the termination of the litigation.
Little Six, Inc. Bd. of Dirs. v. Smith, 1 Shak. A.C. 130 (May 28, 1998).
Crooks v. SMS(D)C, 4 Shak. T.C. 104 (Feb. 26, 2001).

SMSC Rule of Civil Procedure 31 does not incorporate the procedural requirements of 28 U.S.C. § 1292, nor does Rule 31 impose on tribal-court litigants all the procedural requirements imposed on litigants in federal courts.
Little Six, Inc. Bd. of Dirs. v. Smith, 1 Shak. A.C. 130 (May 28, 1998).
Crooks v. SMS(D)C, 4 Shak. T.C. 104 (Feb. 26, 2001).

An order in which the trial court took the matter of child-support payments under advisement is not appealable under the collateral-order doctrine.
Jones v. Steinhoff, 4 Shak. A.C. 19 (June 12, 2020).

An appeal from an order denying a motion to dismiss is not normally considered an appealable final order.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 98 (Dec. 29, 2000).

An appeal from an order denying a motion to dismiss based on lack of subject-matter and personal jurisdiction does not fall within the collateral-order doctrine

because the Court's decisions can be fully and effectively reviewed by the Court of Appeals after a final judgment is entered.
Gustafson v. Nguyen, 7 Shak. T.C. 159 (Dec. 11, 2017).
Nguyen v. Gustafson, 3 Shak. A.C. 74 (Jan. 30, 2018).

An appeal from an order denying a motion to dismiss based on alleged jurisdictional issues and duplicity of proceedings is not an appealable final judgment. The decision to deny a motion to dismiss does not preclude the Tribal Court from revisiting the question of its jurisdiction in a motion for summary judgment.
Great Northern Ins. Co. v. Hamilton, 4 Shak. A.C. 21 (June 15, 2020).

If a non-final order satisfies either the collateral-order doctrine, or if an appeal would be permitted by a federal court, an appeal may be certified by the trial court.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 98 (Dec. 29, 2000).

Party seeking to certify a non-final order for appeal bears a heavy burden.
Crooks v. SMS(D)C, 4 Shak. T.C. 104 (Feb. 26, 2001).

To bring an interlocutory appeal under Rule 31 of the Rules of Civil Procedure, the moving party must show that a substantial difference of opinion exists in case law and not just between the two parties to the dispute.
Crooks-Bathel v. Bathel, 6 Shak. T.C. 12 (Mar. 18, 2010).

The basic purpose of Rule 31 and § 1292 is to allow an interlocutory appeal in exceptional cases in order to avoid protracted and expensive litigation.
Crooks-Bathel v. Bathel, 6 Shak. T.C. 12 (Mar. 18, 2010).
Dedeker v. Stovern, 7 Shak. T.C. 55 (Sept. 12, 2014).

To be appealable under Rule 31, the case must present a question of law (1) that is controlling, (2) over which there is a substantial difference of opinion, and (3) the resolution of which would materially advance the termination of the litigation.
Crooks-Bathel v. Bathel, 6 Shak. T.C. 12 (Mar. 18, 2010).
Dedeker v. Stovern, 7 Shak. T.C. 55 (Sept. 12, 2014).

Generally, a difference of opinion required to support an interlocutory appeal would be demonstrated by citing to cases or other authorities expressing opposing views. Mere reference to the parties' difference of opinion is insufficient.
Dedeker v. Stovern, 7 Shak. T.C. 55 (Sept. 12, 2014).
Gustafson v. Nguyen, 7 Shak. T.C. 159 (Dec. 11, 2017)

d. Standards of Review

The Appellate Court reviews a matter of law *de novo*.
Stopp v. Little Six, Inc., 1 Shak. A.C. 23 (Jan. 29, 1996).
Welch v. SMS(D)C, 1 Shak. A.C. 42 (Oct. 14, 1996).
In re Estate of Enyart, 3 Shak. A.C. 39 (July 27, 2015).
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).
Parent of Child. in Need of Assistance v. Fam. & Child. Servs. Dep't, 4 Shak. A.C. 57 (Oct. 16, 2023).

Whether the Tribal Court has subject-matter or personal jurisdiction is a matter of law that the Appellate Court reviews *de novo*.
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).

The standard of review for an appeal of an order of dismissal under Rule 12(b)(6) is *de novo*.
Smith v. SMS(D)C Bus. Council, 1 Shak. A.C. 62 (Aug. 7, 1997) (citing *Welch v. SMS(D)C*, 1 Shak. A.C. 42 (Oct. 14, 1996)).

The standard of review following a bench trial is whether the trial court's findings of fact were clearly erroneous and whether the trial court erred in its conclusions of law.
Kostelnik v. Little Six, Inc., 1 Shak. A.C. 92 (Mar. 17, 1998).
SMS(D)C Gaming Enter. v. Prescott, 2 Shak. A.C. 1 (Aug. 9, 2006).

The standard of review following an evidentiary hearing is whether the trial court's findings of fact were clearly erroneous and whether the trial court erred in its conclusions of law.
Nguyen v. Gustafson, 4 Shak. A.C. 27 (July 10, 2020) (citing *Kostelnik v. Little Six, Inc.*, 1 Shak. A.C. 92, 96 (Mar. 17, 1998)).

The standard of review following a permanency order is whether the trial court's findings of fact were clearly erroneous and whether the trial court erred in its conclusions of law.
Parent of Child. in Need of Assistance v. Fam. & Child. Servs. Dep't, 4 Shak. A.C. 57 (Oct. 16, 2023).

A question of negligence is for the trier of fact to determine and should not be disturbed unless there is no evidence that reasonably supports the verdict or it is manifestly contrary to the evidence.
Kostelnik v. Little Six, Inc., 1 Shak. A.C. 92 (Mar. 17, 1998).

A ruling on the admissibility of evidence should be reviewed to determine whether the trial court has abused its discretion. Even if an error was committed, however, relief should only be granted if it might have reasonably changed the result of the trial.
Kostelnik v. Little Six, Inc., 1 Shak. A.C. 92 (Mar. 17, 1998).

Appeal from a denial of summary judgment is a matter of law that is reviewed *de novo*.
Prescott v. Little Six, Inc., 1 Shak. A.C. 104 (Apr. 17, 1998).

The General Council has delegated to the Gaming Commission "the sole authority to regulate any and all gaming activity on the Shakopee Mdewakanton Sioux (Dakota) Reservation." Gaming Ordinance § 200(a). The Court of Appeals will reverse a Commission decision only when its actions are arbitrary, capricious, or clearly an abuse of discretion. Under an arbitrary-and-capricious standard, our inquiry is limited to the record before the agency at the time it made its decision, not any record made on appeal, and not on any matters outside of the record. While the standard of review for the actions of the

Commission is generally a deferential one, the Court of Appeals will review any legal conclusions of the Commission *de novo.*
In re Prescott Appeal, 1 Shak. A.C. 120 (Apr. 30 1998).

The Court of Appeal's review of an order dismissing a complaint under Rule 12(b) is *de novo*. Accepting the factual allegations in the complaint as true, the determination is whether the plaintiff has stated a claim for which relief may be granted.
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998).
Prescott v. Little Six, Inc., 1 Shak. A.C. 190 (Oct. 26, 2001).
Blue v. SMS(D)C, 4 Shak. T.C. 110 (Nov. 14, 2001).

Review of a decision on summary judgment is a matter of law that is reviewed *de novo.*
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).

Under the clearly erroneous standard of review for factual determinations, appellate court must accept the lower court's findings unless upon review the Court of Appeals is left with the definite and firm conviction that a mistake has been committed.
SMS(D)C Gaming Enter. v. Prescott, 2 Shak. A.C. 1 (Aug. 9, 2006).
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

Court of Appeals must accept trial court's findings of fact unless upon review court is left with definite and firm conviction that mistake has been committed. Reweighing evidence or credibility of witnesses is not the Court of Appeal's role.
SMS(D)C Gaming Enter. v. Prescott, 2 Shak. A.C. 1 (Aug. 9, 2006).

The clearly erroneous standard requires deference to the trial court, and the Court of Appeals must give due regard to the trial court's opportunity to judge the witnesses' credibility.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

The determination of the weight to give to conflicting testimony is one of the trial court's fundamental responsibilities. The trial court has extensive opportunity to observe the parties as they testify, and its credibility determinations should not be disturbed on appeal unless they are clearly erroneous.
Nguyen v. Gustafson, 4 Shak. A.C. 27 (July 10, 2020) (citing *Brooks v. Corwin*, 2 Shak. A.C. 5 (Aug. 4, 2008); *SMS(D)C Gaming Enter. v. Prescott*, 2 Shak. A.C. 1 (Aug. 9, 2006)).

Where, at trial, party's attorneys claimed that all of their work at issue was protected by attorney-client privilege, Trial Court's conclusion, in later proceeding, that all such work was done for party, and therefore all fees charged by attorneys for such work properly were attributed to party, was not clearly erroneous.
SMS(D)C Gaming Enter. v. Prescott, 2 Shak. A.C. 1 (Aug. 9, 2006).

A trial court's finding will be reversed only if it is clearly erroneous, i.e., only if it is manifestly contrary to the weight of the evidence or not reasonably supported by the evidence as a whole.
Brooks v. Corwin, 2 Shak. A.C. 5 (Aug. 4, 2008).
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).
Nguyen v. Gustafson, 4 Shak. A.C. 27 (July 10, 2020).
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

The standard of appellate review of an award of spousal maintenance is abuse of discretion.
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).

The standard of appellate review for a spousal-maintenance award in a marriage dissolution is whether the trial court abused its discretion, but the analysis is highly fact-specific.
Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

The trial court's determination of a parent's income for the purpose of child support is a finding of fact that the Court of Appeals reviews for clear error.
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023) (citing *Newstrand v. Arend*, 869 N.W.2d 681 (Minn. Ct. App. 2015)).

The trial court has broad discretion in evaluating and dividing property in a marital-dissolution proceeding and will not be reversed absent an abuse of that discretion. Under the abuse of discretion standard, the Court of Appeals reviews the trial court's findings of fact for clear error and its legal conclusions *de novo*.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

If the terms of a contract are unambiguous, its interpretation is a question of law that appellate courts review *de novo*.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

The trial court has broad discretion to decide custody and parenting-time matters; the Court of Appeals is limited to reviewing whether the trial court abused its discretion by making findings unsupported by the evidence or by improperly applying the law. An abuse of discretion occurs if a relevant factor that should have been given significant weight is not considered, if an irrelevant or improper factor is considered and given significant weight, or if a court commits a clear error of judgment in the course of weighing proper factors.
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).
Nguyen v. Gustafson, 4 Shak. A.C. 42 (Aug. 10, 2020).
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

The inherent authority of the Court of Appeals includes the authority to review trial court's admission of evidence *de novo*.
Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

Trial court committed plain error when it admitted hearsay testimony derived from earlier review of a document, where document itself was available.
Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

In reviewing a maintenance award, the Court of Appeals applies an abuse-of-discretion standard to the trial court's determination of the amount and duration of any award.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).

To decide whether a trial court has abused its discretion with respect to a maintenance award, the Court of Appeals reviews its findings of fact to see if they are clearly erroneous, and its conclusions of law *de novo*.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).

Because a trial court has broad discretion to manage discovery of a pending proceeding, the Court of Appeals reviews the issue of whether the trial court should have permitted additional discovery for abuse of discretion.
In re Estate of Enyart, 3 Shak. A.C. 39 (July 27, 2015).

When the trial court's findings leave the appellate court with the conviction that a mistake has been made and a firm belief that further remand would be futile, then it is necessary to remand with definitive instructions that may not be deviated from.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).

The trial court's findings of fact are important to appellate review because they provide the appellate court with "a clear understanding of the basis for the [trial court's] decision."
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023) (quoting *Midway Mobile Home Mart, Inc. v. City of Fridley*, 135 N.W.2d 199 (Minn. 1965)).

Appellate courts generally will remand a case when the trial court's findings of fact are insufficient.
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023) (citing *Moylan v. Moylan*, 384 N.W.2d 859 (Minn. 1986); *Stich v. Stich*, 435 N.W.2d 53 (Minn. 1989); *Rogge v. Rogge*, 509 N.W.2d 163 (Minn. Ct. App. 1993)).

Appellate courts may not conduct an independent review of the record to find support for a trial court's decision when it is unclear whether the trial court considered factors that are mandated by law.
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023) (citing *Moylan v. Moylan*, 384 N.W.2d 859 (Minn. 1986)).

The wholesale adoption of one party's findings and conclusions raises the question of whether the trial court independently evaluated each party's testimony and evidence.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).

The trial court's single improper reference to an incident that occurred outside the record was harmless error.
Nguyen v. Gustafson, 4 Shak. A.C. 27 (July 10, 2020).

III. ATTORNEYS

a. Conduct

Motion for sanctions under Rule 11 of the SMSC Rules of Civil Procedure will be denied where the defendant's counsel acted reasonably in light of representations she had received that later turned out to be incorrect.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 168 (Sept. 16, 1996).

Where, through oversight, motion for taking attorney's deposition was filed three days after court-imposed deadline, and where attorney's deposition might lead to useful information, deposition could go forward, but sanction for untimely filing, in the form of payment to the attorney of his standard hourly fee for time taken in deposition, was appropriate.
Little Six, Inc. v. Prescott, 5 Shak. T.C. 5 (July 13, 2004).

b. Fees

Parties to a lawsuit normally bear their own costs and fees.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).

It is in the trial court's discretion to grant trustee attorney's fees and other expenses that are reasonably and necessarily incurred in the course of litigation brought to resolve the meaning and legal effect of ambiguous language in the trust instrument, if adjudication is necessary to the administration of the trust, and the litigation is conducted in good faith for the benefit of the trust as a whole.
In re Child.'s Trust Funds, 4 Shak. T.C. 41 (Feb. 7, 2000).

Where trustee employs an attorney for trustee's benefit, and not for the benefit of the beneficiaries, the trustee must pay the attorney without reimbursement from the trust.
In re Child.'s Trust Funds, 4 Shak. T.C. 41 (Feb. 7, 2000).

When one party has been awarded fees, that party bears the burden of establishing the reasonableness of the amount of fees claimed.
In re Child.'s Trust Funds, 4 Shak. T.C. 41 (Feb. 7, 2000).

Computerized legal research should not be imposed as a taxable cost.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 40 (Oct. 26, 2005), *aff'd*, *SMS(D)C Gaming Enter. v. Prescott*, 2 Shak. A.C. 1 (Aug. 9, 2006).

Where party, in earlier related litigation, filed answer claiming right to attorney's fees as a setoff against any liability he might have, and court, after trial, decided liability without explicit discussion of setoff issue, and party's appeal from liability ruling did not raise setoff claim, party was barred by doctrine of claim preclusion from seeking attorney's fees in any subsequently filed litigation.
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

Where specific statutory provision directs that attorney's fees be awarded, general rule that fees are not awarded to prevailing party does not apply.
SMS(D)C Gaming Enter. v. Prescott, 2 Shak. A.C. 1 (Aug. 9, 2006).

Where party's conduct made litigation of marriage-dissolution proceeding unusually difficult and costly, and made mediation impossible, award of attorney's fees for punitive reasons, because party acted "in bad faith, vexatiously, wantonly or for oppressive reasons," was within court's power and was appropriate.
Brooks v. Corwin, 5 Shak. T.C. 83 (Oct. 15, 2007), *aff'd*, *Brooks v. Corwin*, 2 Shak. A.C. 5 (Aug. 4, 2008).

The trial court is justified in awarding attorney's fees as a sanction for bad-faith conduct when such conduct delays the orderly process of a case, adds unnecessary costs, and wastes valuable judicial resources.
Gustafson v. Nguyen, 8 Shak. T.C. 1 (Jan. 6, 2020), *aff'd in part, rev'd in part*, *Nguyen v. Gustafson*, 4 Shak. A.C. 27 (July 10, 2020).

The trial court's inherent power to control its proceedings, which includes the power to assess attorney's fees as a sanction for the willful disobedience of a court order or when a party has acted "vexatiously, wantonly, or for oppressive reasons," is separate from the court's authority to grant sanctions under Rule 11 of the SMSC Rules of Civil Procedure.
Gustafson v. Nguyen, 8 Shak. T.C. 1 (Jan. 6, 2020), *aff'd in part, rev'd in part*, *Nguyen v. Gustafson*, 4 Shak. A.C. 27 (July 10, 2020).

A court's power to control its proceedings includes the power to dismiss a lawsuit and the less severe sanction of an assessment of attorney's fees.
Brooks v. Corwin, 2 Shak. A.C. 5 (Aug. 4, 2008).

Courts may exercise their inherent authority to assess attorney's fees for three reasons: to award fees to a party whose litigation efforts directly benefit others, as a sanction for willful disobedience of a court order, and when a party has acted vexatiously, wantonly, or for oppressive reasons.
Brooks v. Corwin, 2 Shak. A.C. 5 (Aug. 4, 2008).
Estate of Feezor v. SMS(D)C, 7 Shak. T.C. 1 (Mar. 19, 2010).

Because a bad-faith attorney's fee award is punitive, not solely restorative to the other party, fees can be awarded whether the party to whom they are awarded is considered the prevailing party or not, and need not be tied directly to the vexatious behavior.
Brooks v. Corwin, 2 Shak. A.C. 5 (Aug. 4, 2008).

Power to award attorney's fees for bad-faith behavior is inherent in court's power to control courtroom, and so is not governed by procedures applicable to sanctions under Rule 11 of SMSC Rules of Civil Procedure.
Brooks v. Corwin, 2 Shak. A.C. 5 (Aug. 4, 2008).

After parties to a dissolution proceeding enter a stipulated settlement, the trial court does not retain the authority to rule on a motion for sanctions in the form of attorney's fees that was filed before the stipulated settlement and not addressed in the stipulated settlement.
Nguyen v. Gustafson, 4 Shak. A.C. 27 (July 10, 2020).
No award of attorney's fees is appropriate where party against whom award is sought participated fully in proceedings and acted in straightforward and honorable fashion throughout.
Welch v. Welch, 5 Shak. T.C. 127 (Aug. 18, 2008), *aff'd in part and rev'd in part Welch v. Welch*, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).
Estate of Feezor v. SMS(D)C, 7 Shak. T.C. 1 (Mar. 19, 2010).

c. Withdrawal

Attorney should be permitted to withdraw from representation where repeated attempts to contact and work with client have been unsuccessful.
Anderson v. Anderson, 5 Shak. T.C. 48 (Jan 18, 2006).

The Tribal Court will not grant an attorney's motion to withdraw when the motion does not contain sufficient information for the Court to determine whether the attorney's client will be prejudiced by the withdrawal. In determining whether the client will be prejudiced, the Court considers the timing of the motion, the reasons given for withdrawal, whether new counsel has substituted in, and whether the client consented to the motion.
Nguyen v. Gustafson, 4 Shak. A.C. 18 (Feb. 10, 2020).

IV. CONSTITUTIONAL LAW

a. Due Process

In order to invoke the protection of the Due Process Clause of the Indian Civil Rights Act of 1968, a party must first show a liberty or property interest that has been interfered with. Only then does the court inquire whether the procedures leading to the alleged deprivation were constitutionally sufficient.
In re Prescott Appeal, 3 Shak. T.C. 19 (Feb. 20, 1997).
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998).

In order to demonstrate a liberty interest in a person's good name or reputation, the plaintiff must meet the "stigma plus" standard outlined in *Paul v. Davis*, 424 U.S. 693 (1976).
In re Prescott Appeal, 3 Shak. T.C. 19 (Feb. 20, 1997).
In re Removal Process of Brewer, 7 Shak. T.C. 167 (June 29, 2018).

When a person is removed from public office and has met the stigma-plus standard, due process requires that they have the opportunity to be heard at a meaningful time and in a meaningful manner.
In Re Removal Process of Brewer, 7 Shak. T.C. 167 (June 29, 2018).

In order to have a property interest in a benefit, an independent legal source, such as the law of the Community, must give a claimant more than a unilateral expectation of receiving the benefit; rather the person must have a legitimate claim of entitlement to it. The difference between an "entitlement" and a mere "expectancy" of a benefit is determined by the extent to which the discretion of the relevant decisionmaker is constrained by law. If the decisionmaker has substantial discretion in deciding to grant or deny the benefit, it is not possible for the claimant to have a legitimate claim of entitlement because he does not know whether the benefit will be granted.
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998); *see also In re Prescott Appeal*, 3 Shak. T.C. 19 (Feb. 20, 1997).

To state a due-process violation, a party must articulate a cognizable property or liberty interest.
In re Prescott Appeal, 1 Shak. A.C. 120 (Apr. 30 1998).
In re Removal Process of Brewer, 7 Shak. T.C. 167 (June 29, 2018).

A liberty interest is not implicated where a person is removed from a position on the Business Council because Community law does not bar the person from seeking public office again.
In re Removal Process of Brewer, 7 Shak. T.C. 167 (June 29, 2018).

The discretion given to the Community officials in evaluating enrollment applications means that applicants do not have had a legitimate entitlement to the benefit of Community membership when they submit an application. They have only a unilateral expectation of enrollment. Therefore, an applicant for Community enrollment does not have a property interest in Community

membership until his or her application is approved, and before that time, they are not able to state a claim for a violation of due process.
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998).

While it is true that substantive due process, and common notions of fairness and decency, require that decisions affecting the rights of tribal members be made by a neutral arbitrator, a party claiming bias must still overcome the presumption of good faith, honesty, and integrity of the decision maker, and convince the court that an actual risk of bias or prejudgment exists.
In re Prescott Appeal, 1 Shak. A.C. 120 (Apr. 30, 1998).

Mere allegations of bias or bad faith cannot compel a substantive due-process violation without actual evidence of animus to support it. Second- and third-hand allegations of bias, accompanied by an undocumented assumption of political bias, are insufficient to state a due-process violation and to require recusal of the relevant tribal decision maker.
In re Prescott Appeal, 1 Shak. A.C. 120 (Apr. 30, 1998).

An applicant for tribal benefits does not state a property interest sufficient to trigger the protection of the Due Process Clause.
Blue v. SMS(D)C, 4 Shak. T.C. 110 (Nov. 14, 2001).

b. Equal Protection

The "equal opportunities" language in Article VI of the Community's Constitution should be interpreted using the equal-protection analysis generally employed in interpreting the 14th Amendment of the United States Constitution, which is imposed on the Community's actions by the Indian Civil Rights Act of 1968.
Ross v. SMS(D)C, 1 Shak. T.C. 86 (July 17, 1992).

To prevail on a claim that the Community violated a plaintiff's rights to equal protection, the plaintiff must show that that a Community law is based on an impermissible distinction, or that the plaintiff was singled out for unequal treatment under an otherwise facially neutral law.
Crooks v. SMS(D)C, 4 Shak. T.C. 92 (Oct. 31, 2000).

Equal Protection Clause of Indian Civil Rights Act extends equal protection of the law to people who are not members of the Community.
Blue v. SMS(D)C, 4 Shak. T.C. 110 (Nov. 14, 2001).

Absent the presence of a suspect classification, the court asks whether there is a rational basis for the distinction drawn by the Community's law.
Blue v. SMS(D)C, 4 Shak. T.C. 110 (Nov. 14, 2001).

c. Indian Civil Rights Act

Nothing in the Indian Civil Rights Act of 1968 prohibits the Community's General Council from passing an ordinance and making its terms applicable to all pending cases or applications.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 28 (Apr. 14, 1995).

The supermajority requirement contained in Community Resolution No. 8-12-88-001 violates the Constitution of the Community and the Indian Civil Rights Act of 1968 because the resolution is not fundamental to the structure of the Community's government.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 65 (July 31, 1995).

An applicant for Community membership does not have a liberty or property interest protected by the Due Process Clause of the Indian Civil Rights Act of 1968. Therefore, he cannot state a claim for which relief can be granted based on an alleged delay in processing his application for membership.
Crooks v. SMS(D)C, 3 Shak. T.C. 1 (Feb. 10, 1997), *aff'd*, *Crooks v. SMS(D)C*, 1 Shak. A.C. 140 (Nov. 4, 1998).

Bare allegations that one has a particular lineage and that others similarly situated are members of the Community, without allegations that the Community's enrollment processes have been invoked and have operated improperly in some manner that this Court had been given the power to redress, do not state a cause of action under the Indian Civil Rights Act.
Anderson v. SMS(D)C, 3 Shak. T.C. 111 (Sept. 15, 1998).

Article VI of Community Constitution and the Indian Civil Rights Act of 1968 protect the right to express views contrary to the majority, even if such views are

false, but do not protect expressions where there is a clear and present danger of direct and tangible harm.
SMS(D)C Bus. Council v. T.I.M.E., 4 Shak. T.C. 37 (Jan. 12, 2000).

Equal Protection Clause of Indian Civil Rights Act of 1968 extends equal protection of the law to people who are not members of the Community.
Blue v. SMS(D)C, 4 Shak. T.C. 110 (Nov. 14, 2001).
Crooks v. SMS(D)C, 4 Shak. T.C. 104 (Feb. 26, 2001).

d. The SMSC Constitution

Although Article VI of the SMSC Constitution establishes a right of all members to participate in the economic resources of the Community, this provision does not preclude the Community from establishing programs based on a member's need or other circumstances, or from establishing appropriate standards for the disposition of the Community resources.
Ross v. SMS(D)C, 1 Shak. T.C. 86 (July 17, 1992).

Article VI of the SMSC Constitution does not require the Community to simply pass along all its resources in equal shares to all Community members.
Ross v. SMS(D)C, 1 Shak. T.C. 86 (July 17, 1992).

The adoption of an ordinance imposing a residency requirement for the opportunity to receive per-capita distributions did not violate Article VI of the Community's Constitution.
Ross v. SMS(D)C, 1 Shak. T.C. 86 (July 17, 1992).

Community Ordinance 12-29-88-002 violated Article VI of the Community Constitution insofar as it eliminated the residency requirement for the receipt of per-capita distributions for most members, but retained the requirement for a few members.
Ross v. SMS(D)C, 1 Shak. T.C. 86 (July 17, 1992).

The "equal opportunities" language in Article VI of the Community's Constitution should be interpreted using the equal-protection analysis generally employed in interpreting the 14th Amendment of the United States Constitution, which is imposed on the Community's actions by the Indian Civil Rights Act of 1968.

Ross v. SMS(D)C, 1 Shak. T.C. 86 (July 17, 1992).

In deciding whether to apply a decision of constitutional law retroactively, the Court will look to is governed by the three-part test established in *Chevron Oil v. Hudson*, 30 L. Ed. 2d 296 (1971).
Ross v. SMS(D)C, 1 Shak. T.C. 97 (June 3, 1993); *accord Welch v. SMS(D)C*, 1 Shak. T.C. 104 (June 3, 1993); *see also Ross v. SMS(D)C*, 1 Shak. T.C. 124 (July 19, 1993) (denying motion for reconsideration).

The SMSC Constitution and Enrollment Ordinance govern the standards and procedures for membership applications.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994).

SMSC Constitution Article II sets forth membership requirements, and Article II Sections 1(b) and 1(c) are not self-executing.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994).

The law applicable to a case in litigation can change while the case is before a court, perhaps changing the outcome of the case, without offending the litigants' rights to due process.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 28 (Apr. 14, 1995) (citing *New Mexico ex rel. N.M. State Hwy. Dep't v. Goldschmidt*, 629 F.2d 665 (10th Cir. 1980)).

The supermajority requirement contained in Community Resolution No. 8-12-88-001 violates the Community's Constitution and the Indian Civil Rights Act because the resolution is not fundamental to the structure of the Community's government.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 65 (July 31, 1995).

Where a version of an ordinance or resolution submitted to the Secretary of the Interior for approval under Article II, Section 2 of the Community's Constitution differs sufficiently from the version passed by the General Council, any action taken by the Secretary of the Interior concerning that ordinance or resolution is ineffective.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 93 (Jan. 17, 1996).

The General Council has executive powers as well as legislative powers and it has the authority to make reasonable policy decisions that are consistent with applicable legislation.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 168 (Sept. 16, 1996).

The General Council's decision to prospectively change how the 1993 Enrollment Ordinance was implemented did not contravene the 1993 Ordinance, the Community Constitution, the Indian Civil Rights Act of 1968, or any other provision of applicable law. However, the General Council's change only applied prospectively and could not retroactively excuse the Enrollment Officer from failing to fulfill her previous duties under the 1993 Ordinance.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 168 (Sept. 16, 1996).

The power of the legislature to repeal or amend a law cannot be limited by the pendency of administrative or judicial challenges to the law. The legislature's power to enact, amend, and repeal laws is limited only by the requirement that it act constitutionally. Amending or replacing a challenged law while a challenge is pending is certainly within the power of the legislature, even when the legislative change renders the challenge moot.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

This Court, not the United States Assistant Secretary for Indian Affairs, is the proper forum for the final interpretation of the Community Constitution. This Court is not bound by the decisions of the Assistant Secretary.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

Art. V. Sec. 2 of the Community Constitution establishes the process for referring legislation to the United States Secretary of the Interior for approval.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

Under the Community Constitution, the Area Director of the United States Bureau of Indian Affairs has ten calendar days to refuse to approve any ordinance that must be referred to his office under Article V of the Community Constitution, and then report to the Community regarding the basis of his disapproval.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

Article VI of Community Constitution and the Indian Civil Rights Act of 1968 protect the right to express views contrary to the majority, even if such views are false, but does not protect expressions where there is a clear and present danger of direct and tangible harm.
SMS(D)C Bus. Council v. T.I.M.E., 4 Shak. T.C. 37 (Jan. 12, 2000).

The Shakopee Mdewakanton Sioux Community possesses an inherent sovereign authority to adopt positive law and its power to legislate does not depend on a delegation of authority from the United States government.
Thomas v. Lightfoot, 6 Shak. T.C. 61 (Dec. 23, 2013).

e. Voting Procedures

From its inception, the Community has employed the device of requiring supermajorities to amend legislation as a means of achieving structural stability, but it has employed the device sparingly and only in matters most vital to the functioning of the Community.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 65 (July 31, 1995).

The Community Constitution allows the General Council to bind future General Councils with supermajority voting requirements, but such requirements may only be used for matters that are fundamental to the structure of the Community's government.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 65 (July 31, 1995).

The supermajority requirement contained in Community Resolution No. 8-12-88-001 violates the Constitution of the Community and the Indian Civil Rights Act of 1968 because the resolution is not fundamental to the structure of the Community's government.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 65 (July 31, 1995).

The requirement of a supermajority has a legitimate place in the law of the Community, but is limited to matters that are fundamental to the structure of the Community's government.
Barrientez v. SMS(D)C, 2 Shak. T.C. 84 (Dec. 5, 1995), *aff'd*, *Barrientez v. SMS(D)C*, 1 Shak. A.C. 35 (Oct. 14, 1996).

The procedures governing meetings of the General Council are found in Article III of the Bylaws of the Community.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 104 (Feb. 6, 1996).

A requirement of a supermajority vote may only be imposed on matters that are fundamental to the structure of the Community.
Barrientez v. SMS(D)C, 1 Shak. A.C. 35 (Oct. 14, 1996) (citing *Prescott v. SMS(D)C Bus. Council*, 2 Shak. T.C. 65 (July 31, 1995)).

If a quorum of indisputably eligible voters is present at a General Council meeting, and a clear majority of those present vote for an ordinance, the fact that some allegedly ineligible people voted neither deprived the meeting of a quorum, nor prevented the supporters of the ordinance from obtaining a majority vote.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

Among other things, in order to pass a valid Community ordinance, a quorum of the Community General Council must be present and a majority must vote to approve the ordinance.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

The Community's Removal Ordinance does not require that 60% of eligible voters attend a removal hearing under Section 3 of the Ordinance for a removal vote to be valid. It only requires that 60% of eligible voters vote by secret ballot as to whether to remove an officer.
In re Removal Process of Brewer, 7 Shak. T.C. 167 (June 29, 2018).

In the context of the Community's Consolidated Land Management Ordinance, principles of statutory construction and *Robert's Rules of Order* support the Court's interpretation of the phrase "a majority of the voting members present" to mean a majority of all General Council members who are eligible to vote and who are present, not a majority of members present and voting.
Muellenberg v. Anderson, 8 Shak. T.C. 104 (May 2, 2023).

V. CONTRACTS

Two contracting parties may not limit or in any way affect the rights of a third party not participating in the contract.

Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994).

A person not a party to a contract cannot be bound by its terms nor may that person attempt to enforce the terms of the contract on others.
Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994) (citing *Johnson v. Coleman*, 288 S.W.2d 348 (Ky. 1956); *Burdeu v. Elling State Bank*, 76 Mont. 24, 245 P. 958 (1926); *New York Tel. Co. v. Teichner*, 329 N.Y.S.2d 689 (1972); *Williams v. Eggleston*, 170 U.S. 340 (1898); *Corp. of Washington v. Young*, 23 U.S. 406 (1825); *Eastern States Elec. Contractors, Inc. v. Williams L. Crow Constr. Co.*, 544 N.Y.S.2d 600 (1989)).

The Articles of Incorporation for Little Six, Inc. provide that it must waive its immunity from an uncontested suit on a contract by contract basis. A waiver of immunity in a contract with a general contractor is not sufficient to waive immunity for an agreement entered into with a subcontractor.
Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994) (distinguishing *McCarthy & Assoc. v. Jackpot Junction*, 490 N.W.2d 156 (Minn. Ct. App. 1992)).

Absent privity of contract with a sovereign entity, there can be no express waiver of immunity.
Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994) (citing *Erickson Aircrane Co. v. United States*, 731 F.2d 810 (Fed. Cir. 1984); *Pan Arctic Corp. v. United States*, 8 Cl. Ct. 546 (1985); *APAC-Virginia v. Dep't of Hwys. & Transp.*, 388 S.E.2d 841 (Va. App. 1990)).

A contract is a promise or set of promises, the breach of which the law provides a remedy, or the performance of which the law recognizes as a duty.
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).

When performance of a duty under a contract is due, any non-performance is a breach.
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).
Dedeker v. Stovern, 7 Shak. T.C. 39 (Aug. 15, 2014), *aff'd*, *Stovern v. Dedeker*, 3 Shak. A.C. 31 (July 27, 2015).

An oral promise may be binding, and a promise reasonably inducing reliance may be enforceable.

Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).

If one party fails to perform as specified under the contract, the other party may cancel the contract upon consideration of all the circumstances, including the allowance of a reasonable time to cure any failure or defect in performance. The critical inquiry is whether the parties' conduct was reasonable under the circumstances.
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).

Every contract imposes a duty of good fair and fair dealing upon each party.
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).

A contract induced by fraud may rescinded by the defrauded party.
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).

The alleged failure of the Community to enforce a contract requiring a performer to carry liability insurance is not a theory of liability permitted under the Community's Tort Claims Ordinance.
Van Zeeland v. Little Six, Inc., 4 Shak. T.C. 161 (Nov. 25, 2002).

A settlement agreement is contractual in nature and subject to the principles of contract law.
In re Conservatorship of Brooks, 4 Shak. T.C. 173 (Apr. 30, 2003).

The interpretation of a stipulated marital-dissolution judgment and decree is subject to contract-law principles.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

A condition precedent is one which is to be performed before the agreement of the parties becomes operative. It requires the performance of some act or the occurrence of some event after the contract is entered into and upon which the contract is made to depend.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

Courts generally will not construe a contract to contain a condition precedent unless the contract's language unequivocally expresses the parties' intent to establish the condition precedent. Typically, parties express this intent through contingent language such as "if," "provided that," "when," "after," "as soon as," or "subject to." Conversely, the word "shall" indicates a promise to perform.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023) (Hogen, J., dissenting).

When a contract contains a condition precedent, a party to the contract does not acquire any rights under the contract unless the condition occurs.
In re Conservatorship of Brooks, 4 Shak. T.C. 173 (Apr. 30, 2003).
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

When a condition precedent is not performed, the contract has not been breached. Instead, it is unenforceable.
In re Conservatorship of Brooks, 4 Shak. T.C. 173 (Apr. 30, 2003).

A party may unilaterally waive a condition precedent that is intended solely for that party's benefit and protection. This party may also compel performance by the other party who has no interest in the performance or nonperformance of such condition.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

The first step of interpreting a dissolution judgment and decree under contract-law principles is to determine whether the terms of the judgment and decree are ambiguous. A term is ambiguous if it is reasonably susceptible to more than one interpretation.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

In interpreting a contract, the language is to be given its plain and ordinary meaning.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

If the terms of a contract are unambiguous, its interpretation is a question of law that appellate courts review de novo.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

Use of the word "shall" in contractual language reflects a mandatory imposition.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

When contract language is reasonably susceptible to more than one interpretation, judged by its language alone and without resort to extrinsic evidence, it is ambiguous.
In re Conservatorship of Brooks, 4 Shak. T.C. 173 (Apr. 30, 2003).

If contract language is ambiguous, a court may look to extrinsic evidence and the ambiguous term is to be construed against the drafter.
In re Conservatorship of Brooks, 4 Shak. T.C. 173 (Apr. 30, 2003).

In interpreting contractual provisions, contemporaneous understandings may be credited over subsequent conflicting testimony.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 11 (May 11, 2005), *aff'd*, *SMS(D)C Gaming Enter. v. Prescott*, 2 Shak. A.C. 1 (Aug. 9, 2006).

Reasonable pre-judgment interest, as determined under the standards of 28 U.S.C. § 1961, may owe when required to make prevailing party whole again.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 11 (May 11, 2005), *aff'd*, *SMS(D)C Gaming Enter. v. Prescott*, 2 Shak. A.C. 1 (Aug. 9, 2006).

Under SMSC Resolution No. 11-14-05-003, court has subject-matter jurisdiction over contract dispute between residents of SMSC and non-Indian subcontractor who performed work on resident's home, notwithstanding fact that contract at issue was between non-Indian general contractor and non-Indian subcontractor.
Bryant v. Anderson Air., Inc. , 5 Shak. T.C. 92 (Nov. 6, 2007).

Complaint alleging that contract exists, that the plaintiffs were third-party beneficiaries of contract, that contract was breached, and that plaintiffs were damaged, is properly pleaded and cannot be dismissed for failure to state a claim.
Bryant v. Anderson Air., Inc. , 5 Shak. T.C. 92 (Nov. 6, 2007).

Complaint alleging breach of warranty, in action for damages for home renovation, states cause of action upon which plaintiffs could prevail.
Bryant v. Anderson Air., Inc. , 5 Shak. T.C. 92 (Nov. 6, 2007).

Where the contract between two parties does not contain a choice-of-law clause, the Court will apply Community law to the dispute unless the two parties expressly agree to apply state law.
Anderson v. Performance Constr., 6 Shak. T.C. 80 (Aug. 9, 2013).

Where the Shakopee Community Court applies a state construction-defect statute of limitations, the defendant's promise to repair the faulty construction

work tolls the statute of limitations only if the injured party reasonably and detrimentally relied on the promise.
Anderson v. Performance Constr., 6 Shak. T.C. 42 (Aug. 9, 2013) (citing *Lake Superior Ctr. Auth. v. Hammel, Green & Abrahamson, Inc.*, 715 N.W.2d 458 (Minn. Ct. App. 2006)).

Where a general contractor brings a third-party indemnification claim against a product manufacturer, the general contractor must provide evidence to suggest the manufacturer's product was defective to defeat the manufacturer's motion for summary judgment.
Anderson v. Performance Constr., 6 Shak. T.C. 42 (Aug. 9, 2013).

The interpretive rule *contra proferentum* is a secondary rule of interpretation. It only applies when a Contract's words or phrases remain unclear or ambiguous after application of primary rules of contract interpretation such as plain meaning and reading the contract as a whole.
Monte-Brewer v. Bear Tracks, Inc., 7 Shak. T.C. 208 (Mar. 4, 2019).

A misrepresentation of law does not create a cause of action for fraud unless the person making the misrepresentation is either (1) learned in the field, such as a lawyer or an insurance-claims adjustor, or (2) has a fiduciary duty or similar relationship of trust and confidence to the defrauded person. Justification of this rule is that ordinary vigilance will disclose the truth or falsehood of representations as to matters of law.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

A statement of mixed fact and law can create a basis for a claim of fraud if the statement amounts to an implied assertion that facts exist that justify the conclusion of law that is expressed, and the other party would ordinarily have no knowledge of the facts.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

Fraudulent misrepresentation is not the existence of a particular law, but the fact that one has complied with the requirements imposed by the law.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

Settlements would have little meaning if they were voidable simply on the basis that one of the parties later has come to question the merits of a threatened lawsuit.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

Receiving repeated assurances from a person who one believes is dishonest serves as an inadequate basis for a claim of justifiable reliance.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

VI. CORPORATE LAW

Section 68.1 of the Community's Amended and Restated Corporation Ordinance (Ordinance 7-27-94-001), establishes three threshold requirements that must be met before a shareholder may inspect corporate documents: (1) the request must be in writing at least 5 days prior to the proposed inspection date, (2) the request must be in good faith and describe with particularity the documents being sought, and (3) the request is directly related to the purpose of the requestor.
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).

The five-day notice requirement in Section 68.1 of the Community's Amended and Restated Corporation Ordinance (Ordinance 7-27-94-001), requires that a request actually be received by Little Six, Inc. at least five days before the proposed inspection date. Mailing a request five days before the inspection date is not sufficient.
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).

Section 68.1 of the Community's Amended and Restated Corporation Ordinance (Ordinance 7-27-94-001) creates a presumption that a request for corporate documents from a shareholder is made in good faith, and the burden is on the party resisting that request to rebut the presumption.
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).

Concern that the corporation may be improperly disbursing funds is a sufficient shareholder interest related to a legitimate purpose so as to support a request to inspect corporate documents under Section 68.1 of the Community's Amended and Restated Corporation Ordinance (Ordinance 7-27-94-001).
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).

Section 25.3 of the Community's Amended and Restated Corporation Ordinance (Ordinance 7-27-94-001) provides that ten percent of the eligible voting members of the General Council are required to initiate an action requesting the removal of Little Six, Inc. Board members. Not every individual comprising that ten percent must articulate an individual injury to have standing under the Ordinance.
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).

VII. DOMESTIC RELATIONS

a. Trust Fund Disbursement

The Court has jurisdiction over a petition for a disbursement from the Children's Trust Fund under the Business Proceeds Distribution Ordinance, Ord. No. 12-29-88-002, as amended by the Gaming Revenue Allocation Amendments, Ord. No. 10-27-93-002.
In re Petition of Bielke, 2 Shak. T.C. 165 (Aug. 14, 1996).

Where award of payments from a trust account of a child of the Shakopee Community has been made under section 14.6 of the Community's Gaming Revenue Allocation Amendments to the Business Proceeds Distribution Ordinance, a motion to amend or terminate those payments should be brought under that section and not in unrelated proceedings.
Jones v. Steinhoff, 5 Shak. T.C. 134 (Sept. 3, 2008).

b. Child Support

Under the Domestic Relations Code, adopted by Res. No. 5-23-95-002, the Court can order a deduction of per-capita payments only for child support "in the principal action." A state court proceeding given full faith and credit by the Court may form the basis for deductions from per-capita payments.
McArthur v. Crooks, 2 Shak. T.C. 160 (Aug. 13, 1996).

Where a related state-court proceeding was altogether regular and proper, and the defendant raised no objections to those proceedings or the proceedings in this Court, the Court, under the Community's Domestic Relations Code, Res. No. 5-23-95-002, and under the Jurisdictional Amendment, Res. No. 11-14-95-003, may grant the state court proceeding full faith and credit and order child-support deductions from the defendant's per-capita payments.
McArthur v. Crooks, 2 Shak. T.C. 160 (Aug. 13, 1996).

The Domestic Relations Code was amended in 2001 to make clear how child-support awards are to be calculated and how an increase in child support is to be handled.
Cannon v. Prescott, 4 Shak. T.C. 144 (Nov. 25, 2002).
Wright v. Prescott, 4 Shak. T.C. 153 (Nov. 25, 2002).

The new amendments make it clear that the Petitioner bears a high burden in demonstrating the necessity of an upward departure.
Cannon v. Prescott, 4 Shak. T.C. 144 (Nov. 25, 2002).
Wright v. Prescott, 4 Shak. T.C. 153 (Nov. 25, 2002).

The wording of Chapter III, Section 7 indicates that there is a presumption that awards derived under the guidelines are sufficient to support a particular child, but that this Court may exceed the guidelines in a particular case, provided that the Petitioner is able to present concrete evidence of a physical, mental, or emotional need of the child that is not covered by Tribal insurance or programs, and which is not related to the child's lifestyle needs.
Cannon v. Prescott, 4 Shak. T.C. 144 (Nov. 25, 2002).
Wright v. Prescott, 4 Shak. T.C. 153 (Nov. 25, 2002).

In order to demonstrate that the child-support award should be modified, the Petitioner must demonstrate that one of the elements of Chapter III, Section 7(g)(2) are met in such a way as to render the present child-support award unreasonable and unfair.
Cannon v. Prescott, 4 Shak. T.C. 144 (Nov. 25, 2002).
Wright v. Prescott, 4 Shak. T.C. 153 (Nov. 25, 2002).

The amendments to the Domestic Relations Code make it clear that items that affect the lifestyle of the child, presumably including such things as home

improvements, and specifically including extracurricular activities, are not sufficient reasons to support an upward modification.
Cannon v. Prescott, 4 Shak. T.C. 144 (Nov. 25, 2002).

An increase in per-capita payments, by itself, is not a sufficient reason to exceed the child support guidelines in the Domestic Relations Code.
Cannon v. Prescott, 4 Shak. T.C. 144 (Nov. 25, 2002).
Wright v. Prescott, 4 Shak. T.C. 153 (Nov. 25, 2002).

Where court had awarded substantial upward deviation from child-support guidelines to custodial parent, and child later was placed in residential academy where many expenses were paid by Shakopee Community, and custodial parent consequently no longer had certain responsibilities that had prompted court's upward deviation, no justification supported custodial parent's motion for withdrawal from child's trust account under section 14.6.A. of Shakopee Community's Gaming Revenue Allocation Amendments to its Business Proceeds Distribution Ordinance.
Ross v. Fields, 5 Shak. T.C. 100 (Feb. 18, 2008).

Where two parties share custody of a child equally, for the purpose of calculating child support under Chapter III, section 7(a) of the Domestic Relations Code each parent can be considered to be a "non-custodial parent" for the fraction of time the child remains in the other parent's custody.
Farrell v. Friendshuh, 3 Shak. A.C. 1 (Apr. 4, 2014).

Nothing prevents two parties from voluntarily entering into an independent agreement for child support that exceeds the amounts contemplated by the Guidelines in the Domestic Relations Code.
Farrell v. Friendshuh, 3 Shak. A.C. 1 (Apr. 4, 2014).

Where two parties voluntarily enter into an independent agreement for child support and the conditions of the agreement are violated by one party, the Court may vacate the agreement without following the Guidelines for the modification of a child-support award in Chapter III, section 7(g) of the Domestic Relations Code.
Farrell v. Friendshuh, 3 Shak. A.C. 1 (Apr. 4, 2014).

Within the context of an order providing that child-support payments shall continue until the minor child reaches the age of majority or becomes emancipated, the word "emancipated" is a legal term of art that refers to circumstances in which the minor child has become personally and financially independent. The term has no legal application to the child's circumstances after the child reaches the age of majority.
Jones v. Steinhoff, 8 Shak. T.C. 87 (May 4, 2020), *appeal dismissed*, *Jones v. Steinhoff*, 4 Shak. A.C. 19 (June 12, 2020).

When a child subject to a child-support order turns 18 years old but remains in high school, the Tribal Court may terminate the parent's child-support obligation under Chapter II, Section 7.1 of the Community's Domestic Relations Code based on the child's receipt of trust and per-capita payments controlled by a court-appointed conservator of estate.
Jones v. Steinhoff, 8 Shak. T.C. 93 (July 6, 2020).

The Community's Domestic Relations Code Chapter II, Section 7(c)(1)(iv) states that the trial court shall not impute income to a parent who stays home to provide for the joint child who is the subject of the child-support award. Therefore, the trial court does not err by declining to impute additional income to a parent who works a part-time, remote job while caring for the joint child full-time.
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

The trial court does not err by awarding child support retroactive to the child's birth in a final dissolution judgment and decree.
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

The trial court does not err by adjusting the guidelines child-support amount in Chapter II, Section 7(d) of the Domestic Relations Code for inflation in an initial child-support award.
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

c. Custody and Visitation

The Court has jurisdiction to hear a custody dispute under Art. IV, Sec. 5, of the Domestic Relations Code.
In re Wisnewski, 3 Shak. T.C. 79 (May 30, 1997).

The requirements of Article IV, sec. 5.d of the Domestic Relations Code are met where the previous guardian consents to a change in custody and the minor child has been integrated into the family of the new guardian.
In re Wisnewski, 3 Shak. T.C. 79 (May 30, 1997).

The Indian Child Welfare Act, 25 U.S.C. §§ 1901-1963 (2012), does not apply to child-custody determinations in the context of a marriage-dissolution proceeding, and therefore does not limit the jurisdiction of the Shakopee Mdewakanton Sioux Community in such cases.
Thomas v. Lightfoot, 6 Shak. T.C. 61 (Dec. 23, 2013).

The trial court abuses its discretion by denying one parent's request for annual parenting time for a cultural holiday based on the parent's failure to provide evidence of the holiday's unique importance, because it granted the other parent's request for annual parenting time for the SMSC Pow Wow without requiring that parent to provide evidence of the event's unique importance.
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).

A parent's refusal to comply with the joint-custody terms of a final dissolution judgment and decree constitutes a change in circumstances, endangers the joint child's emotional health, and impairs the joint child's emotional development such that modification of custody is warranted under Chapter III, Section 5(c) of the Community's Domestic Relations Code.
Gustafson v. Nguyen, 8 Shak. T.C. 1 (Jan. 6, 2020), *aff'd in part, rev'd in part*, *Nguyen v. Gustafson*, 4 Shak. A.C. 27 (July 10, 2020).

The trial court does not abuse its discretion in considering a petition for modification of custody less than one year after the date of entry of the dissolution judgment and decree where the trial court determines in its sound discretion that the petition for modification creates a reasonable possibility that the circumstances set forth in Chapter III, Section 5(c) of the Community's Domestic Relations Code may exist. The petitioning party need not include

exhibits or other documentation with their affidavit in support of their petition for modification.
Nguyen v. Gustafson, 4 Shak. A.C. 27 (July 10, 2020).

The trial court does not commit reversible error in granting a motion to modify custody when its findings of fact and discussion make clear that it considered information bearing on all relevant best-interest factors.
Nguyen v. Gustafson, 4 Shak. A.C. 27 (July 10, 2020).

The trial court will deny a parent's proposed vacation time when it violates provisions of the court's previous parenting-time orders.
Gustafson v. Nguyen, 8 Shak. T.C. 31 (Feb. 12, 2020).

The trial court will grant a parent's proposed vacation time that complies with the court's previous parenting-time orders and fulfils the parties' purpose to set aside longer periods of time to facilitate and enhance the parent-child relationship.
Gustafson v. Nguyen, 8 Shak. T.C. 33 (Feb. 28, 2020).

It is an abuse of discretion for the trial court to designate a parent's week as a vacation week when that parent was already entitled to parenting time that week under the parties' regular visitation schedule.
Nguyen v. Gustafson, 4 Shak. A.C. 42 (Aug. 10, 2020).

The trial court abuses its discretion by failing to consider all relevant best-interest factors under the Community's Domestic Relations Code Chapter III, Section 2(a), when making an initial custody determination. The trial court must issue detailed findings of fact on all relevant best-interest factors, including relevant factors it finds to weigh neutrally between the parties. The trial court does not abuse its discretion by failing to discuss irrelevant best-interest factors.
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).
The trial court abuses its discretion by failing to make a finding of endangerment to support its decision to require supervised parenting time in an initial custody and parenting-time award.
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

d. Prenuptial and Marital Termination Agreements

There are no grounds for reopening judgment under § 5.g. of the Domestic Relations Code where petitioner has not shown a breach of the earlier Marital Termination Agreement.
Vig v. Vig, 4 Shak. T.C. 31 (Jan. 11, 2000).

e. Insurance

Where, in marriage-dissolution stipulation, party agreed to pay for former spouse's health insurance for as long as such insurance is available, party had only the obligation to pay for insurance, not the obligation to find insurance for former spouse if existing insurance is terminated.
Coulter v. Coulter, 5 Shak. T.C. 80 (Sept. 6, 2007).

f. Property Division

Where marriage-dissolution stipulation inadvertently failed to identify item of personal property, Ch. III, section 5(g) of Domestic Relations Code, limiting court's authority with respect to modifying division of marital property to period of one year following entry of decree, was inapplicable.
Coulter v. Coulter, 5 Shak. T.C. 80 (Sept. 6, 2007).

Where court directed former spouse to continue to make payments on vehicles awarded to other party, court's order did not direct that payments be made from per-capita payments, and therefore did not exceed court's authority.
Brooks v. Corwin, 5 Shak. T.C. 83 (Oct. 15, 2007), *aff'd*, *Brooks v. Corwin*, 2 Shak. A.C. 5 (Aug. 4, 2008).

Property purchased with a Community member's per-capita payments is marital property and can be awarded to the non-member spouse.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

The interpretation of a stipulated marital-dissolution judgment and decree is subject to contract-law principles.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

The trial court may issue orders to implement, enforce, or clarify a dissolution judgment and decree so long as the order does not change the parties' substantive rights by increasing or decreasing the original division of marital property.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

The trial court's order interpreting the property-division terms of a dissolution judgment and decree did not constitute an amendment to the original decree because its purpose was to clarify the intention of the original decree and did not result in a judgment different that what was originally ordered.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023).

Courts should not rewrite, modify, or limit the effect of the property-division terms of a dissolution judgment and decree through a strained construction of the decree's clear and unambiguous language.
Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023) (Hogen, J., dissenting).

The trial court does not abuse its discretion by allocating certain marital debts to one spouse to achieve an equitable division of debts.
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

g. Maintenance

Under Chapter III of the Domestic Relations Code, the Court has no power to ascertain the value of the future stream of a Community member's per-capita payments and award a fraction of that to a former spouse, but court does have the power and duty to consider the position of the former partners, after dissolution, and to order a fixed stream of payments be made to the more vulnerable party.
Welch v. Welch, 5 Shak. T.C. 127 (Aug. 18, 2008), *aff'd in part and rev'd in part*, *Welch v. Welch*, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).
Stade-Lieske v. Lieske, 3 Shak. A.C. 40 (June 8, 2015).
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).

Award of maintenance is justified only if there will be a great disparity between parties' post-dissolution income and there has been both a stable relationship of

considerable duration and a history of notable contributions to the relationship by the party seeking maintenance.
Welch v. Welch, 5 Shak. T.C. 127 (Aug. 18, 2008), *aff'd in part and rev'd in part*, *Welch v. Welch*, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

Not all pre-marital contributions should be considered in making decision on maintenance request, but where parties had cohabited for 20 years and respondent had lived with petitioner for virtually her entire adult life, had accepted considerable responsibilities, consideration of respondent's pre-marital contributions was appropriate.
Welch v. Welch, 5 Shak. T.C. 127 (Aug. 18, 2008), *aff'd in part and rev'd in part*, *Welch v. Welch*, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

Where there was no chance that party seeking maintenance would be able to earn any significant amount, and would receive only minimal Social Security payments, award of permanent spousal maintenance was appropriate.
Welch v. Welch, 5 Shak. T.C. 127 (Aug. 18, 2008), *aff'd in part and rev'd in part*, *Welch v. Welch*, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

The standard of appellate review for a spousal-maintenance award in a marriage dissolution is whether the trial court abused its discretion, but the analysis is highly fact-specific.
Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

The Domestic Relations Code does not impose a limitation with respect to the source of income that can be used to fund spousal-maintenance payments.
Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

An award of permanent maintenance is inappropriate where trial court found that spouse to whom award was made will be able to work after parties' child's 18th birthday. Where necessity of permanent award is uncertain, proper approach is for court to award temporary maintenance and leave award open for later modification.
Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

The unique character of per-capita payments is a proper factor for the trial court to consider in evaluating a request for spousal maintenance.
Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

The inclusion of what are commonly considered luxury items cannot be considered to serve to meet financial needs, even if a party has become accustomed to them over time. Their inclusion in a maintenance award must be expressly justified.
Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

It is an abuse of discretion to place no value on a spouse's non-financial contributions, during a marriage dissolution action.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).

The standard of living to which a non-member spouse has become accustomed is relevant to the analysis that the Trial Court should perform when deciding questions relating to the amount and duration of spousal maintenance that should be awarded in a marriage-dissolution proceeding.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).

When determining the amount and duration of spousal maintenance that should be awarded, the Trial Court needn't ensure that the parties' standards of living post-dissolution be equal.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).

Where the parties to marriage dissolution were married a significant time, with one spouse staying out of the workforce and foregoing career development at the request of the other, this factor weighs heavily in favor of a higher and longer-term maintenance award.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).

Where the spouse requesting spousal maintenance in a marriage-dissolution action made significant non-financial contributions that added value to the parties' marriage, this factor weighs in favor of higher and longer-term spousal maintenance.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).

The standard of living that the parties enjoyed during the marriage weighs in favor of higher spousal maintenance to help support the lower wage-earning

spouse's enjoyment of certain amenities that some married couples may not have enjoyed.
Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015).
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).

The Court commits error, as a matter of law, where it considers the misconduct of either spouse when making its maintenance determination.
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).

h. Jurisdiction

The Court has subject-matter jurisdiction over a marriage-dissolution proceeding between a member and non-member who meet the residency requirements of Chapter III, section 1 of the Domestic Relations Code.
Crooks-Bathel v. Bathel, 6 Shak. T.C. 1 (Feb. 17, 2010).

Regardless of where the parties' marriage ceremony took place, the Court has jurisdiction over a marriage-dissolution proceeding if both parties have resided within the Shakopee Reservation for at least 90 days before the action's filing.
Crooks-Bathel v. Bathel, 6 Shak. T.C. 1 (Feb. 17, 2010).

The Court may exercise personal jurisdiction over a non-member who has personally availed himself of the benefits of the tribal community, which may include living on the Shakopee Reservation, partial ownership of a business located on the Reservation, employment in that business for an extended period, participation in the Community's medical-insurance program, and raising children on the Reservation.
Crooks-Bathel v. Bathel, 6 Shak. T.C. 1 (Feb. 17, 2010).

When parties to a marriage-dissolution proceeding have filed for dissolution in both a state court and the Shakopee Community Court, the Shakopee Court will use a nine-factor test, as set forth in *Teague v. Bad River Band*, 665 N.W.2d 899, 917–18 (Wis. 2003), to determine whether the principles of comity compel the Shakopee Court to stay its proceedings.
Crooks-Bathel v. Bathel, 6 Shak. T.C. 1 (Feb. 17, 2010).
Stade-Lieske v. Lieske, 7 Shak. T.C. 7 (May 15, 2014).
Gustafson v. Nguyen, 7 Shak. T.C. 111 (Nov. 10, 2017).

The Shakopee Mdewakanton Sioux Community Court has a significant institutional interest in maintaining jurisdiction over non-member spouses that have resided on the Shakopee Reservation and have participated as part of the Reservation community.
Stade-Lieske v. Lieske, 7 Shak. T.C. 7 (May 15, 2014).

Under Chapter III, section 1 of the Domestic Relations Code, the phrase "jurisdiction over all persons who have resided on its Reservation" means that the Court has jurisdiction in a marriage-dissolution proceeding over residents of the Community.
Thomas v. Lightfoot, 6 Shak. T.C. 61 (Dec. 23, 2013).

Public Law 280 authorizes the courts of the State of Minnesota to hear and decide civil cases that may arise on the Shakopee Reservation under state law, but nothing in Public Law 280 limits, or was intended to limit, the inherent civil and criminal jurisdiction of the Shakopee Mdewakanton Sioux Community.
Thomas v. Lightfoot, 6 Shak. T.C. 61 (Dec. 23, 2013).
Gustafson v. Nguyen, 7 Shak. T.C. 111 (Nov. 10, 2017).

Under Public Law 280, the requirements of Minnesota's "Safe at Home" program, Minn. Stat. § 5B.05(a), apply within the SMSC. The Tribal Court may not order a party to a custody-modification proceeding whose address is protected under Minn. Stat. § 5B.05(a) to disclose their address absent a statutory exception.
Nguyen v. Gustafson, 4 Shak. A.C. 42 (Aug. 10, 2020).

The residency requirement in Chapter III, section 1 of the Domestic Relations Code may be satisfied when a party regularly spent time on the Shakopee Reservation, availed herself or himself of the Community's services, and maintains personal property in a home on the Shakopee Reservation.
Thomas v. Lightfoot, 6 Shak. T.C. 79 (Feb. 10, 2014).
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).

A party's use of multiple residences does not deprive the Tribal Court of jurisdiction over a marriage dissolution proceeding under the Domestic Relations Code.
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).

Under Chapter III, section 1 of the Domestic Relations Code, "residence" does not mean "domicile." A party may have more than one residence, and a party's residence may not necessarily be his or her domicile.
Thomas v. Lightfoot, 6 Shak. T.C. 79 (Feb. 10, 2014).

i. Right to Marry

A person who is the subject of Conservatorship of Person under the Shakopee Mdewakanton Sioux Community's Conservatorship Ordinance does not lose the right to marry unless that right has been explicitly restricted, in advance, by an Order of the Community's Court.
Gustafson v.Nguyen, 7 Shak. T.C. 63 (Feb. 5, 2015).

j. Children's Court Matters

The standard of review following a permanency order is whether the trial court's findings of fact were clearly erroneous and whether the trial court erred in its conclusions of law.
Parent of Child. in Need of Assistance v. Fam. & Child. Servs. Dep't, 4 Shak. A.C. 57 (Oct. 16, 2023).

The Court of Appeals will affirm a permanency order when the appellant-parent does not assert how the Children's Court erred and the appellee-department provides ample background and information to support the Children's Court's consideration and determination of the issues.
Parent of Child. in Need of Assistance v. Fam. & Child. Servs. Dep't, 4 Shak. A.C. 57 (Oct. 16, 2023).

VIII. ENROLLMENT

Unless something is out of the ordinary in the manner in which the General Council makes its determinations, this Court will refrain from interfering with membership determinations of the General Council and the disenrollment process governed by the Community's enrollment ordinance.
Smith v. SMS(D)C, 1 Shak. T.C. 168 (July 8, 1994), *aff'd*, *SMS(D)C v. Smith*, 1 Shak. A.C. 1 (June 19, 1995).
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

Article II of the SMSC Constitution sets forth membership requirements and Article II Sections 1(b) and 1(c) are not self-executing.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994).

The Community's Enrollment Ordinance requires prospective members to submit an application to the Enrollment Committee, that the Enrollment Committee either approve or reject the application, and that the Committee post a notice to all voting Community members of the application approval.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994).

The Enrollment Ordinance provides an opportunity to every voting member of the Community to challenge the application approval.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994).

The history of Community enrollment demonstrates that, with the exception of Article II, Section 1(a) or the SMSC Constitution, automatic enrollment has never been recognized.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994).

A Tribe's right to determine its own membership is a retained right of local self-government that is central to its existence as a sovereign Indian nation and central to its right to make its own laws and be governed by them.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994) (citing *Santa Clara Pueblo v. Martinez*, 436 U.S. 71 (1978); *United States v. Wheeler*, 435 U.S. 313 (1978); *United States v. Mazurie*, 419 U.S. 544 (1975); *Roff v. Burney*, 168 U.S. 218 (1897); *Worcester v. Georgia*, 6 Pet. 515, 8 L. Ed. 483 (1832)).

Unexecuted enrollment cards, or certificates of membership that were not properly issued by the Community, are not evidence of a person's membership in the Community.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994).

Because the Community retains its inherent sovereign power to determine its own membership, neither the Community Constitution nor the Enrollment Ordinance provide for automatic enrollment.
Cermak v. SMS(D)C, 2 Shak. T.C. 18 (Apr. 11, 1995) (citing *Welch v. SMS(D)C*, 2 Shak. T.C. 1 (Dec. 23, 1994)).

The Court has repeatedly stressed the importance of litigants complying with the Community's administrative procedures, and there is no more important circumstance for such compliance than with determinations of membership.
Cermak v. SMS(D)C, 2 Shak. T.C. 18 (Apr. 11, 1995); *see also Welch v. SMS(D)C*, 2 Shak. T.C. 1 (Dec. 23, 1994).

The SMSC Constitution and Enrollment Ordinance govern the standards and procedures for membership applications.
Cermak v. SMS(D)C, 2 Shak. T.C. 18 (Apr. 11, 1995); *see also Welch v. SMS(D)C*, 2 Shak. T.C. 1 (Dec. 23, 1994).

While Court cannot entertain a challenge to the merits of an individual enrollment decision by the General Council, it may entertain a claim that the enrollment process itself, or the General Council's actions under the enrollment process, are inconsistent with Community law or the Community's Constitution.
Crooks v. SMS(D)C, 1 Shak. A.C. 23 (Jan. 24, 1996).
Crooks v. SMS(D)C, 4 Shak. T.C. 92 (Oct. 31, 2000).

A complaint that claims the plaintiffs are enrolled members, without alleging any affirmative action by the Community, was reasonably treated as claim of automatic enrollment and dismissed under Rule 12b(6).
Welch v. SMS(D)C, 1 Shak. A.C. 42 (Oct. 14, 1996).

The Shakopee Community's Enrollment Ordinance does not provide for self-enrollment or automatic enrollment.
Welch v. SMS(D)C, 2 Shak. T.C. 112 (Feb. 7, 1996), *aff'd*, *Welch v. SMS(D)C*, 1 Shak. A.C. 42 (Oct. 14, 1996); *see also Welch v. SMS(D)C*, 2 Shak. T.C. 1 (Dec. 23, 1994); *Smith v. SMS(D)C*, 1 Shak. T.C. 168 (July 8, 1994), *aff'd*, *SMS(D)C v. Smith*, 1 Shak. A.C. 1 (June 19, 1995).

Although the Community's Enrollment Ordinance does not impose a specific timeframe in which the Enrollment Committee must act on an application, it seems probable that the Committee is required to act within a reasonable time, considering all the circumstances.
Amundsen v. SMS(D)C Enrollment Comm., 3 Shak. T.C. 87 (July 29, 1997).

The General Council has consistently interpreted the authority it is granted in Article II, Section 2 of the Community Constitution as permitting the "voting in"

of new members to the Community without requiring those persons to demonstrate that they possess one-fourth Mdewakanton Sioux blood, and this Court has held that the General Council's interpretation of Article II, Section 2 is reasonable.
Smith v. SMS(D)C Bus. Council, 1 Shak. A.C. 62 (Aug. 7, 1997); *see also Feezor v. SMS(D)C Bus. Council*, 3 Shak. T.C. 155 (May 19, 1999); *Feezor v. SMS(D)C Bus. Council*, 3 Shak. T.C. 97 (Aug. 24, 1998).

A person who seeks enrollment in the Community must do so within the framework of proceedings under either Article II, Section 1 or Article II, Section 2 of the SMSC Constitution.
Anderson v. SMS(D)C, 3 Shak. T.C. 111 (Sept. 15, 1998).

Article II of the Community Constitution outlines the requirements for membership.
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998).

It is up to the Community, not this Court, to decide who meets the requirements for Community membership. There is no automatic or self-enrollment under Article II, Sec. (b) or (c) for people who claim they meet the membership requirements -- applications for membership must be approved by the appropriate Community officials under standards established in accordance with the Constitution and the Enrollment Ordinance.
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998).
Crooks v. SMS(D)C, 4 Shak. T.C. 92 (Oct. 31, 2000).

Under Community law, the Enrollment Committee and the General Council are given substantial discretion to determine if and when a person's application meets the requirements for membership. Nothing in the Constitution or Enrollment Ordinance requires the Enrollment Committee or General Council to approve or disapprove an application within a certain time frame.
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998)*; see also Weber v. SMS(D)C*, 4 Shak. T.C. 26 (Dec. 22, 1999).

Bare allegations that one has a particular lineage and that others similarly situated are members of the Community, without allegations that the Community's enrollment processes have been invoked and have operated

improperly in some manner which this Court had been given the power to redress, do not state a cause of action under the Indian Civil Rights Act.
Anderson v. SMS(D)C, 3 Shak. T.C. 111 (Sept. 15, 1998).

There is nothing in the Community's Constitution or Enrollment Ordinance that requires the Enrollment Committee or General Council to approve or disapprove an application within a certain time frame.
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998).
Crooks v. SMS(D)C, 4 Shak. T.C. 135 (Apr. 24, 2002).

The discretion given to the Community officials in evaluating enrollment applications means that applicants do not have had a legitimate entitlement to the benefit of Community membership when they submit an application -- they have only a unilateral expectation of enrollment. Therefore, an applicant for Community enrollment does not have a property interest in Community membership until his or her application is approved, and before that time, they are not able to state a claim for a violation of Due Process.
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998)*; see also Weber v. SMS(D)C*, 4 Shak. T.C. 26 (Dec. 22, 1999).

When General Council makes a decision on an appeal from the Enrolment Committee, its decision is final and unreviewable.
Weber v. SMS(D)C, 4 Shak. T.C. 26 (Dec. 22, 1999).

Under Enrollment Ordinance, applicant may maintain an action to correct procedural deficiencies in Enrollment Process, as long as application has not become moot.
Weber v. SMS(D)C, 4 Shak. T.C. 26 (Dec. 22, 1999).

Court notes, in dicta, that Enrollment Committee must give applicant sufficient notice to inform applicant of reasons that enrollment application was rejected.
Weber v. SMS(D)C, 4 Shak. T.C. 26 (Dec. 22, 1999).

"One of an Indian Tribe's most basic powers is the authority to determine questions of its own membership," and "[a] tribe has power to grant, deny, revoke, and qualify membership."
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).
Smith v. SMS(D)C, 1 Shak. T.C. 168 (July 8, 1994), *aff'd*, *SMS(D)C v. Smith*, 1 Shak. A.C. 1 (June 19, 1995).

In the SMSC, the ultimate authority for membership determinations is vested with the Community's governing body, the General Council, not with this Court.
Smith v. SMS(D)C, 1 Shak. T.C. 168 (July 8, 1994), *aff'd*, *SMS(D)C v. Smith*, 1 Shak. A.C. 1 (June 19, 1995).
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).
Crooks v. SMS(D)C, 4 Shak. T.C. 135 (Apr. 24, 2002).

If Community officials or the General Council ignore Community law or act in an arbitrary manner in the administration of the enrollment process, the Court has the power to remedy those violations of the law.
Crooks v. SMS(D)C, 4 Shak. T.C. 92 (Oct. 31, 2000).

There does not appear to be any provision of Community law that allows the Court to make someone a member after the General Council has voted to deny that person membership. This is true even if the person in question meets every other objective qualification for membership.
Crooks v. SMS(D)C, 4 Shak. T.C. 135 (Apr. 24, 2002).

Under the Enrollment Ordinance, the Community is not required to make final enrollment decisions within any set timeframe. Therefore, a claim for money damages against a member parent for delay in applying for membership for a child is not an actionable.
Cannon v. Prescott, 4 Shak. T.C. 144 (Nov. 25, 2002).

IX. EQUITY

a. Generally

Those seeking relief in equity must approach this Court with clean hands, or risk the denial of their claims.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

Fact that petitioner repeatedly failed to participate in proceedings and failed to work with his attorney should not be allowed to prejudice respondent in scheduling of trial.
Anderson v. Anderson, 5 Shak. T.C. 48 (Jan. 18, 2006).

Equity is not served by mandating prospective application of a marital judgment and decree's obligation that a surviving ex-spouse make loan payments after ex-spouse's death, when the negotiation and joint drafting of the parties' dissolution agreement contemplated that the agreement be effective only for the ex-spouse's life.
Knutson v. Knutson, 7 Shak. T.C. 30 (July 3, 2014).

b. Contempt

The Court has power to find party in civil contempt.
Gatzke v. Campbell, 3 Shak. T.C. 131 (Mar. 10, 1999).

The Tribal Court has the inherent authority to hold parties in contempt to ensure that judicial processes and personnel are protected.
Nguyen v. Gustafson, 4 Shak. A.C. 51 (Sept. 1, 2020).

The enforcement, or contempt power of a court lies at the core of a sovereign's authority to make its own laws and to be governed by them.
Enyart v. Enyart, 5 Shak. T.C. 1 (June 10, 2004).
In re Minor Child. in File No. CC079-13, 7 Shak. T.C. 100 (Sept. 8, 2017).

Part of the court's contempt power is the ability to regulate the behavior and conduct of the attorneys who practice before it.
In re Minor Child. in File No. CC079-13, 7 Shak. T.C. 100 (Sept. 8, 2017).

The requirements for the imposition of a civil contempt order are simple notice and an opportunity to be heard.
Nguyen v. Gustafson, 4 Shak. A.C. 51 (Sept. 1, 2020).

The Court may find parties in summary contempt for behavior actually observed by the Court.
Enyart v. Enyart, 5 Shak. T.C. 1 (June 10, 2004).

Communication with court personnel by email is appropriate grounds for a contempt proceeding, despite that the communication was not uttered in open court.
Nguyen v. Gustafson, 4 Shak. A.C. 51 (Sept. 1, 2020).

Under the remedial powers inherent to the Court, the Court may enforce its orders by holding parties subject to its personal jurisdiction in contempt for failure to abide by the orders of the Court, and the Court may do so by garnishing per-capita payments.
Enyart v. Enyart, 5 Shak. T.C. 1 (June 10, 2004)

Rules of SMSC Court do not contemplate use of motion for order to show cause, so such a motion should be treated simply as a motion to hold party in contempt.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 120 (June 9, 2008).

Courts have considerable discretion in determining contempt issues, and contempt is not appropriate where allegedly contemptuous action is simply resisting effects of court's judgment in another forum, and effect of contempt holding would simply extend the cost and time of proceedings.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 120 (June 9, 2008).

Defendant's efforts, in collection proceedings brought in Minnesota state courts, to assert state-law defenses that he believed were available to judgment rendered in SMSC Court, did not constitute culpable or exceptional conduct sufficient to warrant contempt-of-court finding.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 124 (Aug. 6, 2008).

Contempt powers must be used very carefully and should not be used merely as a collection tool when other mechanisms are available.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 124 (Aug. 6, 2008).

A parent's failure to exercise parenting time does not constitute contempt of court for which the court may award attorney's fees as a sanction.
Jones v. Steinhoff, 8 Shak. T.C. 93 (July 6, 2020).

c. Estoppel

Although any person seeking to estop a government has a heavy burden to carry, under proper circumstances estoppel may lie against the SMSC to the same extent, and for the same cause, as it would against the United States government.
Barrientez v. SMS(D)C, 1 Shak. T.C. 55 (Sept. 7, 1990).

Estoppel is premised on one party's reasonable reliance in good faith on the representations of a person or entity with the apparent authority to make such representations.
Kukacka v. Little Six, Inc., 2 Shak. T.C. 76 (Oct. 24, 1995).

The doctrine of estoppel could have application, in the appropriate circumstances, in interpreting the Community's worker's compensation plan.
Kukacka v. Little Six, Inc., 2 Shak. T.C. 76 (Oct. 24, 1995) (citing *Kahn v. State*, 289 N.W.2d 737 (Minn. 1980)).

An employee's reliance on his supervisor's incorrect representation regarding the employee's health insurance coverage was not reasonable, for purposes of estoppel, when the employee had received a written explanation of his coverage less than two months earlier.
Kukacka v. Little Six, Inc., 2 Shak. T.C. 76 (Oct. 24, 1995).

d. Laches

Plaintiffs' delay of one year in bringing suit to challenge manner in which an ordinance was passed does not, as a matter of equity, bar their suit. If plaintiffs' allegations that the ordinance was improperly passed are true, the harm to the Community would outweigh the fact that plaintiffs sat on their rights for more than one year.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 65 (July 31, 1995).

The party asserting the laches defense has the burden of establishing three things: (1) an unjustifiable delay in bringing a claim, (2) a lack of excuse for the delay, and (3) resulting evidentiary or economic prejudice to the party against whom the claim has been made.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

Because the doctrine of laches is so heavily founded on the equities of a particular case, the Trial Court is entitled to a great deal of discretion in deciding that question.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

Delay alone does not constitute laches.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

While delay is a critical element of a laches defense, the reasonableness of the delay is a more important component of the analysis.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

The question of prejudice, such as the loss of witnesses, the destruction or loss of documents, and the fading memories resulting from an unreasonable delay, is of enormous importance in considering whether laches bars a claim.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

e. Mandamus

Section II of the Court Ordinance No. 2-13-88-01 clearly gives the Court the authority to issue Writs of Mandamus.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 28 (Apr. 14, 1995).

Mandamus is an extraordinary remedy to be reserved for extraordinary circumstances and should not issue unless a party seeking such a writ demonstrates a clear right to the relief sought, a plainly defined and preemptory duty on the part of the other party to do an act in question, and the absence of any other adequate remedy.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 28 (Apr. 14, 1995) (citing *Gulfstream Aerospace Corp. v. Mayacamus Corp.*, 485 U.S. 271 (1988)).

A Writ of Mandamus shall issue ordering the Enrollment Officer to process the applications of the plaintiffs under the terms of the 1993 Enrollment Ordinance as that Ordinance would have been implemented at the time. The Enrollment Committee, the Business Council, and the other defendants owed no clear duty to the plaintiffs, so a Writ of Mandamus would not issue against them.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 168 (Sept. 16, 1996).

f. Preliminary relief

In deciding whether to grant preliminary injunctive relief, the Court will look to the standards adopted by the federal courts: irreparable injury, injury to the defendants, the likelihood of success on the merits, and the public interest.
Welch v. SMS(D)C Enrollment Comm., 1 Shak. T.C. 74 (Jan. 9, 1992).

The SMSC Court follows the test for preliminary relief established by the United States Court of Appeals for the Eighth Circuit in *Dataphase Sys. Inc. v. C. L. Sys. Inc.*, 640 F.2d 109, 114 (8th Cir. 1981).
Smith v. SMS(D)C Bus. Council, 1 Shak. T.C. 138 (Feb. 7, 1994), *aff'd*, *SMS(D)C v. Smith*, 1 Shak. A.C. 1 (June 19, 1995).

Mere payment or non-payment of money generally does not create the possibility of irreparable harm warranting preliminary relief.
Welch v. SMS(D)C, 1 Shak. T.C. 135 (Feb. 4, 1994).
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

Where the harm to the public interest outweighs the harm worked against the plaintiffs, and the plaintiffs' showing of irreparable harm was not overwhelming, preliminary relief may be denied.
Prescott v. SMS(D)C, 1 Shak. T.C. 153 (May 17, 1994).
SMS(D)C Bus. Council v. T.I.M.E., 4 Shak. T.C. 37 (Jan. 12, 2000).

The Court is hesitant to grant a temporary restraining order preventing the General Council from meeting on the basis of what may or may not occur at the meeting. As the legislative arm of the government, the General Council should be permitted to fully debate and freely decide the matters that come before it. If, thereafter, a claim can be made that procedures were inappropriate or that a decision was contrary to Community law, this Court can hear that claim and fashion an appropriate remedy.
Brooks v. SMS(D)C, 2 Shak. T.C. 46 (June 28, 1995).

The burden imposed by the last-minute filing for a restraining order, by similar parties seeking a similar injunction, after an earlier voluntary dismissal of a preliminary injunction, smacked of unclean hands and would itself justify the denial of the requested restraining order.
Brooks v. SMS(D)C, 2 Shak. T.C. 46 (June 28, 1995).

Normally, a motion for a temporary restraining order would be considered first, and motion for preliminary injunction would be entertained at a later date.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

Temporary restraining orders and preliminary injunctions are extraordinary remedies and are normally only used to preserve the status quo until an adjudication on the merits can be reached.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

Rule 29 of this Court's Rules of Civil Procedure incorporates Rule 65 of the Federal Rules of Civil Procedure and requires that a motion for a temporary restraining order be accompanied by an affidavit or verified complaint attesting to the truth of the allegations therein. Failure to provide such factual support is grounds to deny a party's request for preliminary relief.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

The four factors considered in a decision for preliminary injunctive relief are: (1) whether irreparable harm would be worked on the plaintiffs in the absence of preliminary relief, (2) whether the plaintiff is likely to succeed on the merits, (3) the extent of injury experienced by the defendants if relief is granted, and (4) the public interest.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

g. Ratification

Governments may ratify prior defective actions, provided the government had the authority to take the action in the first place, and the defect was procedural or technical.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

h. Duress

Duress does not lie where the lack of a party's alternatives to entering into a contract is the result of his or her own necessities.
Dedeker v. Stovern, 7 Shak. T.C. 39 (Aug. 15, 2014), *aff'd*, *Stovern v. Dedeker*, 3 Shak. A.C. 31 (July 27, 2015).

Whether the particular facts as alleged are sufficient to constitute a defense of duress is a matter of law for the court, while the question of whether the facts alleged actually exist is an issue for the factfinder.
Dedeker v. Stovern, 7 Shak. T.C. 39 (Aug. 15, 2014), *aff'd*, *Stovern v. Dedeker*, 3 Shak. A.C. 31 (July 27, 2015).

In order to successfully challenge a contract on the basis that it was formed under impermissible duress, a party must prove that he or she involuntarily executed the agreement because circumstances permitted no other alternative, and that those circumstances were the result of coercive acts by the other party.
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

X. ERISA

ERISA broadly covers any plan that is established or maintained by an employer engaged in commerce or in any industry or activity affecting commerce.
In re Trust under Little Six, Inc. Ret. Plans, 3 Shak. T.C. 120 (Jan. 19, 1999).

"Top hat" plans designed to provide deferred compensation to a select group of management or highly compensated persons do not appear to be included in ERISA's funding, participation, vesting or fiduciary requirements, but may still be covered by ERISA's reporting, disclosure, administration, and enforcement provisions.
In re Trust under Little Six, Inc. Ret. Plans, 3 Shak. T.C. 120 (Jan. 19, 1999).

If an ERISA plan exists, federal courts have exclusive jurisdiction to entertain claims related to that plan.
In re Trust under Little Six, Inc. Ret. Plans, 3 Shak. T.C. 120 (Jan. 19, 1999).
In re Trust under Little Six, Inc. Ret. Plans, 4 Shak. T.C. 57 (Mar. 29, 2000).

The Employee Retirement Income Security Act (ERISA), 29 U.S.C. §§ 1001-1500, applies to Indian tribes, including the SMSC and its subsidiary Little Six, Inc.
In re Trust under Little Six, Inc. Ret. Plans, 4 Shak. T.C. 57 (Mar. 29, 2000).

To determine if an ERISA plan exists, the pivotal inquiry is whether an employer has established a separate, ongoing administrative scheme to administer plan benefits.
In re Trust under Little Six, Inc. Ret. Plans, 4 Shak. T.C. 57 (Mar. 29, 2000) (citing *Kulinski v. Medtronic Bio-Medicus*, 21 F.3d 254 (8th Cir. 1994)).

XI. EVIDENCE

A hospital record is admissible as a business record if it relates to the medical history, diagnosis, or treatment of a patient.
Kostelnik v. Little Six, Inc., 1 Shak. A.C. 92 (Mar. 17, 1998).

A facsimile transmission is a method that generally provides accurate reproductions.
Kostelnik v. Little Six, Inc., 1 Shak. A.C. 92 (Mar. 17, 1998).

Parties' psychological makeup, and their present ability to provide proper parenting for child, are appropriate subjects of expert testimony, but statutory standard of child's "best interests" is issue of law and not proper subject for expert testimony.
In re Karlstad, 5 Shak. T.C. 61 (Sept. 28, 2006).

It is error for a trial court to admit testimony with respect to documents relating to bills and expenses when the documents themselves were available and not offered into evidence.
Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

Trial court committed plain error when it admitted hearsay testimony derived from earlier review of a document, where document itself was available.
Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009) (*plurality opinion*).

The Court will not consider a legislative body's post-enactment statements when using legislative history as a tool of statutory construction.
SMS(D)C v. Estate of Feezor, 2 Shak. A.C. 31 (Apr. 5, 2012) (citing *Bruesewitz v. Wyeth L.L.C.*, 131 S. Ct. 1068, 1082 (2011)).

The trial court does not abuse its discretion by excluding prejudicial and cumulative evidence of a spouse's substance use at a dissolution trial.
Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023).

XII. FOREIGN JUDGMENTS

Affidavit of service attesting that petition was left at respondent's address with "John Doe, whose true and correct name is unknown," does not satisfy requirement of Rule 6(b) that service be made by leaving petition at respondent's "dwelling house of usual place of abode with some person of suitable age and discretion then residing therein . . . ."
Gatzke v. Campbell, 3 Shak. T.C. 94 (Aug. 7, 1998).

Under Rule 34, Respondent has 20 days to respond to petition for enforcement of final judgment.
Texidor v. Cleveland, 3 Shak. T.C. 153 (Apr. 12, 1999).

Late response failing to raise valid objection to enforcement of foreign judgment would not be considered.
Texidor v. Cleveland, 3 Shak. T.C. 153 (Apr. 12, 1999).

Where a State court has ordered the foreclosure of a member's off-reservation property, the Court will give full faith and credit to the State-court order under Rule 34 of the Rules of Civil Procedure so long as there are no substantial questions with respect to either the jurisdiction of the State court or the regularity of the State court's proceeding.
Viking Sav. Bank v. Brooks, 6 Shak. T.C. 14 (Mar. 6, 2012).

Under Rule 34 of the this Court's Rules of Civil Procedure, the Court will enforce a default judgment from State court when the State court judgment comports with the State's rules of procedure, no part of the decision was appealed, and the defendant repeatedly failed protect his own interests during the State court proceedings.
Bunde v. Brewer, 6 Shak. T.C. 21 (Mar. 19, 2012).

XIII. FRAUD

The elements of fraud are making a false representation of a past or existing material fact that is susceptible of knowledge, while knowing it to be false, or without knowing whether it is true or false, with the intention of inducing the person to whom it was made to act in reliance upon it to his or her detriment.
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).

A contract induced by fraud may rescinded by the defrauded party.
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).

XIV. GAMING

Legal conclusions of Shakopee Community's Gaming Commission are reviewed under arbitrary-and-capricious standard, and factual finding is reviewed under substantial-evidence standard.
In re Prescott Appeal, 1 Shak. A.C. 146 (July 30, 1999).

Under the substantial-evidence test, Court asks if the record relied on by the Shakopee Community's Gaming Commission provides sufficient relevant evidence for a reasonable person to reach the conclusion reached by the Gaming Commission.
In re Prescott Appeal, 1 Shak. A.C. 146 (July 30, 1999).

XV. INTEREST

Interest may be due in a contract dispute if required to make one party whole.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 11 (May 11, 2005), *aff'd*, *SMS(D)C Gaming Enter. v. Prescott* 2 Shak. A.C. 1 (Aug. 9, 2006).

Since there is no positive Community law on the rate applicable to judgments, the Court will use the floating rate of 28 U.S.C. § 1961 to determine rates for pre- and post-judgment interest.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 11 (May 11, 2005), *aff'd*, *SMS(D)C Gaming Enter. v. Prescott* 2 Shak. A.C. 1 (Aug. 9, 2006).

XVI. THE SMSC JUDICIARY

a. Judicial Interpretation

The Court will not imply a Constitutional or statutory term where the meaning of the provision is plain on its face.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994).
In Re Removal Process of Brewer, 7 Shak. T.C. 167 (June 29, 2018).

Where possible, the Court must interpret two validly enacted provisions so as to give both effect.
Welch v. SMS(D)C, 2 Shak. T.C. 1 (Dec. 23, 1994) (citing *Stade v. SMS(D)C*, 1 Shak. T.C. 42 (Apr. 25, 1989)).

To understand the meaning of a statutory provision, the Court begins by looking at the text of the statute. "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which the language is used, and the broader context of the statute as a whole."
Muellenberg v. Anderson, 8 Shak. T.C. 104 (May 2, 2023) (quoting *Robinson v. Shell Oil Co.*, 519 U.S. 337, 341 (1997)).

When a statute's language has a plain meaning, the Court presumes that the plain meaning is consistent with legislative intent and will decline to further interpret the statute.
Muellenberg v. Anderson, 8 Shak. T.C. 104 (May 2, 2023).

b. Judicial Notice

The Court may take judicial notice of matters that are of record in litigation that has previously been before it.
Smith v. SMS(D)C Bus. Council, 1 Shak. A.C. 62 (Aug. 7, 1997) (citing *Day v. Moscow*, 955 F.2d 807 (2d Cir. 1991)); *Commodity Future Trading Comm'n v. Co Petro Mktg. Grp.*, 680 F.2d 573 (9th Cir. 1982)).

The Court may consider "matters incorporated by reference or integral to the claim, items subject to judicial notice, matters of public record, orders, items appearing in the record of the case, and exhibits attached to the complaint whose authenticity is unquestioned."
Muellenberg v. Anderson, 8 Shak. T.C. 104 (May 2, 2023) (quoting *Miller v. Redwood Toxicology Lab, Inc.*, 688 F.3d 928, 931 n.3 (8th Cir. 2012)).

c. Precedential Value of Cases

Earlier case that was dismissed by stipulation of the parties before final judgment, and in which Court issued order vacating all pending orders as of date of dismissal, was of no precedential value for same party in later action.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

d. Recusal

Where recusal of an arguably disqualified judge would destroy the jurisdiction of the only Court that could hear the matter, the rules regarding disqualification yield to the rule of necessity and the judge must hear the case.
In re Prescott Appeal, 1 Shak. T.C. 190 (Dec. 8, 1994), *aff'd*, *In re Prescott Appeal*, 1 Shak. A.C. 11 (Nov. 7, 1995).
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 14 (Apr. 5, 1995), *aff'd*, *In re Prescott Appeal*, 1 Shak. A.C. 11 (Nov. 7, 1995).
Cermak v. SMS(D)C, 1 Shak. T.C. 182 (Nov. 11, 1994).

If the rule of necessity may overcome disqualification based on direct financial interest, it can overcome disqualification based on more remote and indirect interests.
In re Prescott Appeal, 1 Shak. T.C. 190 (Dec. 8, 1994), *aff'd*, *In re Prescott Appeal*, 1 Shak. A.C. 11 (Nov. 7, 1995).

Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 14 (Apr. 5, 1995), *aff'd*, *In re Prescott Appeal*, 1 Shak. A.C. 11 (Nov. 7, 1995).
Cermak v. SMS(D)C, 1 Shak. T.C. 182 (Nov. 11, 1994)

The Court, on its own motion, may recuse itself in order to avoid any appearance of bias.
Welch v. SMS(D)C, 1 Shak. T.C. 151 (Apr. 19, 1994).

Where no judge 1) has evinced a personal bias with respect to any party to a case, 2) has served as counsel for either party in the matter, 3) is a material witness in the case, and 4) where no judge or family member of a judge has any interest in the case financial or otherwise, there is clearly no requirement that the judge disqualify him or herself under Rule 32(b) of the SMSC Rules of Civil Procedure.
In re Prescott Appeal, 1 Shak. A.C. 11 (Nov. 7, 1995).

The Court Ordinance No. 02-13-88-001 does not give the Court the power to appoint additional judges.
In re Prescott Appeal, 1 Shak. A.C. 11 (Nov. 7, 1995).

e. Res Judicata

A Tribal Court Judge who participated in a General Council meeting as a private attorney during which the Civil Court Ordinance was adopted should recuse himself from deciding whether the civil court was properly created.
Hove v. Stade, 1 Shak. T.C. 1 (July 11, 1988).

A Tribal Court Judge who participated in a General Council meeting as a private attorney during which the Civil Court Ordinance was adopted should recuse himself from deciding whether the Ordinance waived the Community's sovereign immunity.
Hove v. Stade, 1 Shak. T.C. 1 (July 11, 1988).

A Tribal Court Judge who previously served as an attorney for the Community should only recuse him or herself from participation in a matter, or a portion thereof, if the Judge directly participated as an attorney in the matter actually in controversy before the Court.
Hove v. Stade, 1 Shak. T.C. 1 (July 11, 1988).

Res judicata can take one of two forms: (1) claim preclusion, which bars the same claim between two parties where a final judgment has been issued on the merits in an earlier case by a court of competent jurisdiction, and (2) issue preclusion, which prevents the relitigation of a specific legal or factual issue decided between two related parties in an earlier case.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 73 (Aug. 8, 2000), *aff'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 190 (Oct. 26, 2001).

To demonstrate that claim preclusion bars a subsequent suit, a party must show that the earlier action was (1) between the same parties, (2) brought in a court of competent jurisdiction, (3) based on the same cause of action, and (4) resulted in a judgment on the merits.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 73 (Aug. 8, 2000), *aff'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 190 (Oct. 26, 2001).
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

Whether two cases involve the same cause of action for purposes of claim preclusion is determined by analyzing whether they stem from the same nucleus of operative facts. Another way to analyze this same question is to ask whether the cause of action alleged in the second action could have been raised in the first action.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 73 (Aug. 8, 2000), *aff'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 190 (Oct. 26, 2001).

Issue preclusion bars a subsequent suit, or a part of a subsequent suit, when the issue in question is identical in both suits, the earlier judgment was on the merits, the estopped party was a party or in privity with a party in the earlier litigation, and the estopped party was given a full and fair opportunity to be heard.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 73 (Aug. 8, 2000), *aff'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 190 (Oct. 26, 2001).

Issue preclusion operates only as to matters actually litigated, determined by, and essential to a previous judgment.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 73 (Aug. 8, 2000), *aff'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 190 (Oct. 26, 2001).

Claim preclusion applies to bar claims that either could have been, or were in fact, raised in the earlier litigation.

Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

f. Retroactivity

Jurisdictional resolutions may be applied retroactively to litigation pending at the time the legislation was passed.
Little Six, Inc. v. Prescott, 2 Shak. T.C. 152 (July 1, 1996) (citing *Landgraf v. USI Film Prods., Inc.*, 511 U.S. 244 (1994)), *aff'd*, *Little Six, Inc. v. Prescott*, 1 Shak. A.C. 48 (Dec. 31, 1996).

Generally, the court is to apply the law in effect at the time it renders its decision, unless doing so is in manifest injustice or there is statutory direction or legislative history to the contrary.
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).

Where the Community's code was amended during the pendency of litigation and neither the amendment nor its legislative history demonstrated legislative intent that the amendments be applied retroactively and where applying the amended code would greatly increase expense to the parties and delay resolution of the case, the court should apply the pre-amendment code.
Stade-Lieske v. Lieske, 3 Shak. A.C. 53 (July 26, 2016).

g. Role of the Judiciary

Passage of Resolution No. 11-05-92-001 was in the best interest of the Community.
In re SMS(D)C, 1 Shak. T.C. 96 (Dec. 7, 1992).

Section 63 of the SMSC Corporate Ordinance, No. 2-27-91-004, requires that before any action to amend or repeal a portion of the Corporate Ordinance is to become effective, the SMSC Court must issue a declaratory judgment that such action is in the "best interests" of the Community. The Court's role under Section 63 is quite limited. Judicial review under Section 63 is undertaken only to insure that there is no fraud, overreaching, or coercion in the adoption of the proposal, that all appropriate procedures were followed, and that all persons or entities

who can legitimately claim to have an interest in the deliberations are given a fair chance to be heard.
In re Amendments to SMS(D)C Corp. Ordinance, 1 Shak. T.C. 180 (Sept. 28, 1994); *see also In re SMS(D)C*, 1 Shak. T.C. 118 (June 3, 1993).

Passage of the July 27, 1994 amendments to the Corporation Ordinance No. 2-27-91-001 were in the best interest of the Community.
In re Amendments to SMS(D)C Corp. Ordinance, 1 Shak. T.C. 180 (Sept. 28, 1994).

The power to make judicial appointments rests with the General Council, not this Court.
In re Prescott Appeal, 1 Shak. T.C. 190 (Dec. 8, 1994), *aff'd*, *In re Prescott Appeal*, 1 Shak. A.C. 11 (Nov. 7, 1995).
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 14 (Apr. 5, 1995), *aff'd*, *In re Prescott Appeal*, 1 Shak. A.C. 11 (Nov. 7, 1995).

Although not all of the restrictions that are imposed on Federal and State courts apply to the SMSC Court, it is this Court's function to hear cases and controversies -- justiciability and the adversarial process alone produce the sort of complete record that permits sound decisions.
In re Advisory Request from Bus. Council, 1 Shak. T.C. 142 (Feb. 11, 1994).

With great reluctance and trepidation, the SMSC Court may render an advisory opinion, but such an opinion should only issue if the Community is faced with a Constitutional crisis.
In re Advisory Request from Bus. Council, 1 Shak. T.C. 142 (Feb. 11, 1994).

The Court has jurisdiction under Sec. II of Ord. No. 02-13-88-01 to render an advisory opinion, but it only exercises that jurisdiction with great reluctance.
In re Request for Advisory Opinion by Sec'y-Treasurer, 3 Shak. T.C. 70 (May 9, 1997).

Avoiding protracted litigation and ensuring a valid vote on amendments to the Adoption Ordinance are not sufficient reasons to render and advisory opinion, particularly when earlier case law makes an advisory opinion on membership and voting rights unnecessary.
In re Request for Advisory Opinion by Sec'y-Treasurer, 3 Shak. T.C. 70 (May 9, 1997).

The power of the legislature to repeal or amend a law cannot be limited by the pendency of administrative or judicial challenges to the law. The legislature's power to enact, amend, and repeal laws is limited only by the requirement that it act constitutionally. Amending or replacing a challenged law while a challenge is pending is certainly within the power of the legislature, even when the legislative change renders the challenge moot.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

SMSC Court has no power to abolish the Shakopee Community's authority to create corporate entities separate from Community itself.
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

h. Scope of Review

Factual issue raised for first time in post-hearing briefs will not be entertained when party failed to raise argument at hearing and failed to object to evidence to the contrary.
In re Trust under Little Six, Inc. Ret. Plans, 4 Shak. T.C. 57 (Mar. 29, 2000).

XVII. JURISDICTION

a. Generally

Court had personal and subject matter jurisdiction over Minnesota Dakota Indian Housing Authority where Authority conducted business on the Community's Reservation by claiming to have a leasehold mortgage on lands within the reservation and where the Community challenged the claimed leasehold mortgage as not conveyable under federal law.
Barrientez v. SMS(D)C, 1 Shak. T.C. 61 (June 17, 1991).

Article V, Section 5 of the Minnesota Dakota Indian Housing Authority Ordinance was intended to prevent the four participating tribal governments from adopting substantive or procedural barriers to the Authority's accomplishment of its tasks. It was not intended to neutralize all law or to prevent the establishment of a forum where the Authority's compliance with applicable law could be heard.
Barrientez v. SMS(D)C, 1 Shak. T.C. 61 (June 17, 1991).

The Court has no jurisdiction to consider a dispute involving a contract between two non-Indians, which was neither executed on Indian lands nor affects the rights or interests of the Community or its individual members.
Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994).

The Court has jurisdiction to decide whether the actions of the Shakopee Community's General Council in adopting Resolution 03-31-93-001 were effective.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 65 (July 31, 1995).

It is fundamental to the structure of the Community Government for the Court to retain its full range of powers to award relief, therefore, it is acceptable (in the Community Resolution adopting Ordinance No. 02-13-88-01) to require the approval of a supermajority of the voting members of the Community to limit the Court's power to grant relief.
Barrientez v. SMS(D)C, 2 Shak. T.C. 84 (Dec. 5, 1995), *aff'd*, *Barrientez v. SMS(D)C*, 1 Shak. A.C. 35 (Oct. 14, 1996).

If an action of the Community Government has the effect of limiting the ability of the Court to award judicial relief, the action will be considered an amendment to the Court Ordinance, No. 02-13-88-01, and will require the approval of three-fourths of the voting members of the Community.
Barrientez v. SMS(D)C, 2 Shak. T.C. 84 (Dec. 5, 1995), *aff'd*, *Barrientez v. SMS(D)C*, 1 Shak. A.C. 35 (Oct. 14, 1996).

The Court has original jurisdiction to hear and decide all controversies arising out of actions of the General Council, or one of its committees, pertaining to membership in the Community. This jurisdiction includes review of any alleged inappropriate inaction of the General Council or one of its committees.
Welch v. SMS(D)C, 2 Shak. T.C. 112 (Feb. 7, 1996) (citing *Hove v. Stade*, 1 Shak. T.C. 12 (July 13, 1988)), *aff'd*, *Welch v. SMS(D)C*, 1 Shak. A.C. 42 (Oct. 14, 1996).

Ordinance 02-13-88-01, which created the Court, limited the jurisdiction of the Court to hear various matters. However, the subsequent jurisdictional amendments in Resolution 11-14-95-003 clearly expanded the jurisdiction of the Court.
Little Six, Inc. v. Prescott, 2 Shak. T.C. 147 (June 13, 1996).

Resolution 11-14-95-003, by which the General Council expanded the jurisdiction of the Court, could be retroactively applied to a case pending at the time the resolution was passed to provide the Court with subject matter jurisdiction.
Little Six, Inc. v. Prescott, 2 Shak. T.C. 152 (July 1, 1996), *aff'd*, *Little Six, Inc. v. Prescott*, 1 Shak. A.C. 48 (Dec. 31, 1996).

The Court has jurisdiction over a petition for a disbursement from the Children's Trust Fund under the Business Proceeds Distribution Ordinance, Ord. No. 12-29-88-002, as amended by the Gaming Revenue Allocation Amendments, Ord. No. 10-27-93-002.
In re Petition of Bielke, 2 Shak. T.C. 165 (Aug. 14, 1996).

Where a party commences parallel actions in a federal and Tribal Court, the federal abstention doctrine and the tribal exhaustion doctrine both support the principle that the Tribal Court should have the first opportunity to determine its jurisdiction over a matter, and if jurisdiction is found, to carry the case out to its conclusion.
Hamilton v. Great Northern Ins. Co., 8 Shak. T.C. 36 (Mar. 31, 2020), *appeal dismissed*, *Great Northern Ins. Co. v. Hamilton*, 4 Shak. A.C. 21 (June 15, 2020).

Under the law-of-the-case doctrine, a party generally may not relitigate jurisdictional issues on which the court ruled in earlier stages of the case unless the court is convinced that its prior decision was clearly erroneous and failure to allow relitigation would result in a manifest injustice.
Gustafson v. Nguyen, 8 Shak. T.C. 1 (Jan. 6, 2020), *aff'd in part, rev'd in part*, *Nguyen v. Gustafson*, 4 Shak. A.C. 27 (July 10, 2020).

The party asking the Court to hear a case generally has the burden of demonstrating that the Court has jurisdiction.
Little Six, Inc. v. Prescott, 2 Shak. T.C. 152 (July 1, 1996), *aff'd*, *Little Six, Inc. v. Prescott*, 1 Shak. A.C. 48 (Dec. 31, 1996).
In re Trust under Little Six, Inc. Ret. Plans, 3 Shak. T.C. 189 (June 7, 1999).
Gustafson v. Nguyen, 7 Shak. T.C. 111 (Nov. 10, 2017).
Hamilton v. Great Northern Ins. Co., 8 Shak. T.C. 36 (Mar. 31, 2020), *appeal dismissed*, *Great Northern Ins. Co. v. Hamilton*, 4 Shak. A.C. 21 (June 15, 2020).

The Court has jurisdiction to hear a custody dispute under Art. IV, Sec. 5, of the Domestic Relations Code.
In re Wisnewski, 3 Shak. T.C. 79 (May 30, 1997).

The Court has considerable discretion in deciding when and where to resolve questions relating to personal or subject-matter jurisdiction. The Court may defer resolution of these fact questions until trial, or it may decide to resolve them earlier.
Thomas v. Lightfoot, 6 Shak. T.C. 61 (Dec. 23, 2013) (citing *Cutco Indus. v. Naughton*, 806 F.2d 361 (2d Cir. 1986)).
Gustafson v. Nguyen, 7 Shak. T.C. 111 (Nov. 10, 2017).

The trial court has discretion with respect to the manner it resolves factual disputes bearing on residence for the purpose of determining jurisdiction, and it may decide the matter solely based on the pleadings or by a proceeding at which evidence is heard.
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).

By its terms, the Domestic Relations Code gives the Trial Court the responsibility and the authority to protect children in need of assistance who are domiciled on the Community's Reservation if the children are eligible for Community membership, or if they are members of another Indian tribe.
In re Minor Child. in File No. CC083-15, 7 Shak. T.C. 70 (Mar. 3, 2016).

The Community has inherent sovereign authority to protect children residing on its reservation who are members of the Community, eligible for Community membership, or are members of another tribe; and the Indian Child Welfare Act confirms that authority. If that authority were restricted or withdrawn, the potential harm to the children would directly threaten the health and welfare of the Community. The Community's exercise of its jurisdiction therefore falls squarely within the second exception in *Montana v. United States.*
In re Minor Child. in File No. CC083-15, 7 Shak. T.C. 70 (Mar. 3, 2016) (citing *Montana v. United States*, 450 U.S. 544 (1981)).

A parent's status as a non-Indian does not deprive the Community or its Tribal Court of jurisdiction in proceedings to protect the welfare of children residing on the reservation who are members of the Community, eligible for Community membership, or are members of another Indian tribe.
In re Minor Child. in File No. CC083-15, 7 Shak. T.C. 70 (Mar. 3, 2016).

b. Personal Jurisdiction

Court had personal jurisdiction over non-member Indian former employee.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 48 (Dec. 31, 1996).

"Minimum contacts" doctrine developed in federal courts under *International Shoe v. Washington*, 326 U.S. 310 (1945) applies in the SMSC Tribal Court.
Little Six, Inc. v. Prescott, 2 Shak. T.C. 152 (July 1, 1996), *aff'd*, *Little Six, Inc. v. Prescott*, 1 Shak. A.C. 48 (Dec. 31, 1996).
Gustafson v. Nguyen, 7 Shak. T.C. 111 (Nov. 10, 2017).
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).
Hamilton v. Great Northern Ins. Co., 8 Shak. T.C. 36 (Mar. 31, 2020), *appeal dismissed*, *Great Northern Ins. Co. v. Hamilton*, 4 Shak. A.C. 21 (June 15, 2020).

Sections 10.01 and 10.02 of Ordinance No. 3-27-90-003 expanded the jurisdiction of the Court such that it has personal jurisdiction over parties who contract with a corporation wholly owned by the Community, or who are employed by the Community.
In re Trust under Little Six, Inc. Ret. Plans, 3 Shak. T.C. 120 (Jan. 19, 1999).

The Court may exercise personal jurisdiction over a non-member who has personally availed himself of the benefits of the tribal community, which may include living on the Shakopee Reservation, partial ownership of a business located on the Reservation, employment in that business for an extended period, participation in the Shakopee Community's medical-insurance program, and raising children on the Reservation.
Crooks-Bathel v. Bathel, 6 Shak. T.C. 1 (Feb. 17, 2010).

Under Chapter III, section 1 of the Domestic Relations Code, the phrase "jurisdiction over all persons who have resided on its Reservation" means that the Court has jurisdiction in a marriage-dissolution proceeding over residents of the Shakopee Community.
Thomas v. Lightfoot, 6 Shak. T.C. 61 (Dec. 23, 2013).

The Court has considerable discretion in deciding when and where to resolve questions relating to personal or subject-matter jurisdiction. The Court may defer resolution of these fact questions until trial, or it may decide to resolve them earlier.
Thomas v. Lightfoot, 6 Shak. T.C. 61 (Dec. 23, 2013) (citing *Cutco Indus. v. Naughton*, 806 F.2d 361 (2d Cir. 1986)).

Public Law 280 authorizes the courts of the State of Minnesota to hear and decide civil cases that may arise on the Shakopee Reservation under State law, but nothing in Public Law 280 limits, or was intended to limit, the inherent civil and criminal jurisdiction of the Shakopee Mdewakanton Sioux Community.
Thomas v. Lightfoot, 6 Shak. T.C. 61 (Dec. 23, 2013).

The Indian Child Welfare Act, 25 U.S.C. §§ 1901-1963 (2012), does not apply to child-custody determinations in the context of a marriage-dissolution proceeding, and therefore does not limit the jurisdiction of the Community in such cases.
Thomas v. Lightfoot, 6 Shak. T.C. 61 (Dec. 23, 2013).
Gustafson v. Nguyen, 7 Shak. T.C. 111 (Nov. 10, 2017).

The residency requirement in Chapter III, section 1 of the Domestic Relations Code may be satisfied when a party regularly spent time on the Shakopee Reservation, availed herself or himself of the Community's services, and maintains personal property in a home on the Shakopee Reservation.
Thomas v. Lightfoot, 6 Shak. T.C. 79 (Feb. 10, 2014).
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).

The residency requirement of the Domestic Relations Code does not require that residency be established solely by proof that a person owned or maintained a residence on the SMSC Reservation; a person may reside on the SMSC Reservation by living with other family members.
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).

A party's use of multiple residences does not deprive the Tribal Court of jurisdiction over a marriage-dissolution proceeding under the Domestic Relations Code.
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).

The Court may exercise personal jurisdiction over a non-member who has personally availed himself of the benefits of the tribal community, which may include staying on the Reservation, using a Reservation mailing address, relying on the tax advantages of living on Reservation, relying on their Community member spouse's per-capita payments as their sole source of income, and availing themselves to Community provided services.
Gustafson v. Nguyen, 7 Shak. T.C. 111 (Nov. 10, 2017).

c. Subject-Matter Jurisdiction

Under Section II of Ordinance 02-13-88-01, the Court has jurisdiction over a complaint addressing membership issues, wrongdoing by Community officials, and claims under the Indian Civil Rights Act.
Crooks v. SMS(D)C, 4 Shak. T.C. 92 (Oct. 31, 2000).

Under SMSC Resolution No. 11-14-05-003, court has subject-matter jurisdiction over all civil causes of action arising on lands subject to SMSC jurisdiction, including all lands held in trust by the United States for the Community.
Bryant v. Anderson Air., Inc. , 5 Shak. T.C. 92 (Nov. 6, 2007).
Hamilton v. Great Northern Ins. Co., 8 Shak. T.C. 36 (Mar. 31, 2020), *appeal dismissed*, *Great Northern Ins. Co. v. Hamilton*, 4 Shak. A.C. 21 (June 15, 2020).

The Tribal Court has subject-matter jurisdiction over breach-of-contract and insurance-policy claims brought by a Community member against a non-Indian insurance company that issued a homeowner's insurance policy covering an on-reservation home.
Hamilton v. Great Northern Ins. Co., 8 Shak. T.C. 36 (Mar. 31, 2020), *appeal dismissed*, *Great Northern Ins. Co. v. Hamilton*, 4 Shak. A.C. 21 (June 15, 2020).

The Court has subject-matter jurisdiction over a marriage-dissolution proceeding between a member and non-member who meet the residency requirements of Chapter III, section 1 of the Domestic Relations Code.
Crooks-Bathel v. Bathel, 6 Shak. T.C. 1 (Feb. 17, 2010).
Stade-Lieske v. Lieske, 7 Shak. T.C. 7 (May 15, 2014)), *aff'd in part, rev'd in part*, *Stade-Lieske v. Lieske*, 3 Shak. A.C. 10 (June 8, 2015).
Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020).

The Community has a substantial interest in the proper interpretation and application of its laws that govern the disposition of Community resources.
Stade-Lieske v. Lieske, 7 Shak. T.C. 7 (May 15, 2014), *aff'd in part, rev'd in part*, *Stade-Lieske v. Lieske*, 3 Shak. A.C. 10 (June 8, 2015).

Marital events occurring primarily within the Reservation of the Community can give rise to Community Court's subject-matter jurisdiction over the dissolution of the marriage.
Stade-Lieske v. Lieske, 7 Shak. T.C. 7 (May 15, 2014), *aff'd in part, rev'd in part*, *Stade-Lieske v. Lieske*, 3 Shak. A.C. 10 (June 8, 2015).

Regardless of where the parties' marriage ceremony took place, the Court has jurisdiction over a marriage-dissolution proceeding if both parties have resided within the Shakopee Reservation for at least 90 days before the action's filing.
Crooks-Bathel v. Bathel, 6 Shak. T.C. 1 (Feb. 17, 2010).

The Court has subject-matter jurisdiction over a non-member in a marriage-dissolution case when the elements required under the consensual-relationship test in *Montana v. United States*, 450 U.S. 544 (1981) are met. This test is not limited solely to commercial consensual relationships and may be satisfied when the non-member has consented to marry a Community member, the dissolution of marriage involves the resolution of custody and support of their Community-member child.
Gustafson v. Nguyen, 7 Shak. T.C. 111 (Nov. 10, 2017). *But see Nguyen v. Gustafson*, 4 Shak. A.C. 1 (Jan. 23, 2020) (opining that the trial court has inherent, retained jurisdiction to regulate the domestic affairs of its members, and thus, its subject-matter jurisdiction over a non-member in a marriage-dissolution case does not depend on the satisfaction of either *Montana* exception).

d. Bars to Jurisdiction

1. Justiciability

aa. Case or Controversies

Although not all of the restrictions that are imposed on Federal and state courts apply to the SMSC Court, it is this Court's function to hear cases and controversies -- justiciability and the adversarial process alone produce the sort of complete record which permits sound decisions.
In re Advisory Request from Bus. Council, 1 Shak. T.C. 142 (Feb. 11, 1994).
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023).

With great reluctance and trepidation, the Court may render an advisory opinion, but such an opinion should only issue if the Community is faced with a Constitutional crisis.
In re Advisory Request from Bus. Council, 1 Shak. T.C. 142 (Feb. 11, 1994).

bb. Mootness

The Court has jurisdiction under Sec. II of Ord. No. 02-13-88-01 to render an advisory opinion, but it only exercises that jurisdiction with great reluctance.
In re Request for Advisory Opinion by Sec'y-Treasurer, 3 Shak. T.C. 70 (May 9, 1997).

Avoiding protracted litigation and ensuring a valid vote on amendments to the Adoption Ordinance are not sufficient reasons to render and advisory opinion, particularly when earlier case law makes an advisory opinion on membership and voting rights unnecessary.
In re Request for Advisory Opinion by Sec'y-Treasurer, 3 Shak. T.C. 70 (May 9, 1997).

Plaintiffs' claims, seeking action on their enrollment applications, was rendered moot when the Enrollment Committee rendered a decision on their applications.
Amundsen v. SMS(D)C Enrollment Comm., 3 Shak. T.C. 87 (July 29, 1997).

Legal issues are generally moot if they are no longer live, the parties lack a cognizable interest in the outcome of the litigation, the court can no longer fashion effective relief, or the substantially same relief has been obtained through other means. Even if moot, however, an action can still be maintained if the issue

is capable of repetition, yet evading review, or if public policy demands resolution of the issue.
Little Six, Inc. Bd. of Dirs. v. Smith, 1 Shak. A.C. 130 (May 28, 1998).

Having concluded that a party's claim is moot, the most appropriate course is usually to vacate the decision below and remand with instructions to dismiss. This practice clears the path for the relitigation of the issue between parties who are truly adverse, and eliminates a judgment the review of which has been prevented by happenstance or the unilateral action of the prevailing party below.
Little Six, Inc. Bd. of Dirs. v. Smith, 1 Shak. A.C. 130 (May 28, 1998).

cc. Standing

Unless relevant Community law provides to the contrary, the SMSC Court applies the Federal court's interpretation of the case-or-controversy requirement found in Article III of the United States Constitution in determining a plaintiff's standing to sue.
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023).

Standing is an essential prerequisite to a person's right to pursue cause of action.
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).

Standing is an essential component to the Court's jurisdiction, without which the Court cannot exercise its jurisdiction.
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023).

In order to establish standing a plaintiff must demonstrate injury in fact, a causal connection between the injury and defendant's action, and redressibility.
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023).

"Injury in fact" must be actual or imminent, not conjectural or hypothetical.
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023).

Injury in fact is defined as an invasion of a legally-protected interest, and it must be concrete and particularized.
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023).

As to a causal connection, the injury must be fairly traceable to the challenged action of the defendant(s), and not the result of the independent action of some third party not before the court.
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023).

A plaintiff must demonstrate that it is likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision.
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996).
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023).

The party asserting jurisdiction bears the burden of establishing the elements of standing.
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023).

Under the one-plaintiff rule established in federal courts, the Article III case-or-controversy requirement is satisfied if one plaintiff can establish standing in a case involving joined, individual plaintiffs bringing a shared claim seeking a single remedy.
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023).

General Council members who voted on a land assignment resolution have "a plain, direct and adequate interest in maintaining the effectiveness" of their votes, which satisfies the standing doctrine's injury-in-fact requirement.
Muellenberg v. Anderson, 8 Shak. T.C. 116 (Sept. 21, 2023) (quoting *Coleman v. Miller*, 307 U.S. 433, 438 (1939)).

2. Official Immunity

aa. Generally

Ordinance 02-13-88-01, which created the Court, waives the immunity of officers of the Community for controversies pertaining to the performance of their duties.
Little Six, Inc. v. Prescott, 3 Shak. T.C. 44 (Apr. 1, 1997), *rev'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 104 (Apr. 17, 1998).

The Corporate Charter of Little Six, Inc. waives the immunity of Little Six, Incorporated officials for suits brought by the Community or individual Community members.
Little Six, Inc. v. Prescott, 3 Shak. T.C. 44 (Apr. 1, 1997), *rev'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 104 (Apr. 17, 1998).

Officers of Little Six, Incorporated are considered tribal officials for the purposes of raising immunity defenses.
Prescott v. Little Six, Inc., 1 Shak. A.C. 104 (Apr. 17, 1998).

Sovereign authority has the power to waive the official immunity of its officers, as long as such waiver is clear and unequivocal.
Prescott v. Little Six, Inc., 1 Shak. A.C. 104 (Apr. 17, 1998).

Neither §§ 3.1 or 3.2 of Little Six, Inc. charter, nor § II of Community's Court Code, waives the official immunity held by officers of Little Six, Incorporated.
Prescott v. Little Six, Inc., 1 Shak. A.C. 104 (Apr. 17, 1998).

bb. Absolute Immunity

Defense of absolute immunity is not available to officers of Little Six, Inc.
Prescott v. Little Six, Inc., 1 Shak. A.C. 104 (Apr. 17, 1998).

cc. Qualified Immunity

The Corporate Charter of Little Six, Incoporated waives the immunity of corporate officials for suits brought by the Community or individual Community members.
Little Six, Inc. v. Prescott, 3 Shak. T.C. 44 (Apr. 1, 1997), *rev'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 104 (Apr. 17, 1998).

An official performing a discretionary function within the scope of their duty will be shielded from liability for civil damages as long as their conduct does not violate a clearly established right of which a reasonable official would have been aware.
Prescott v. Little Six, Inc., 1 Shak. A.C. 104 (Apr. 17, 1998).
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).

Community official may be held liable for a violation of any clearly established right under Community law, whether that right is statutory, constitutional, or common law.
Prescott v. Little Six, Inc., 1 Shak. A.C. 104 (Apr. 17, 1998).
Little Six, Inc. v. Prescott, 3 Shak. T.C. 133 (Apr. 8, 1999), *rev'd on other grounds*, *Little Six, Inc. v. Prescott*, 1 Shak. A.C. 157 (Feb. 1, 2000).

Law of Community concerning qualified immunity for tribal officials does not precisely mimic federal law.
Prescott v. Little Six, Inc., 1 Shak. A.C. 104 (Apr. 17, 1998).
Little Six, Inc. v. Prescott, 3 Shak. T.C. 133 (Apr. 8, 1999), *rev'd in part and aff'd in part*, *Little Six, Inc. v. Prescott*, 1 Shak. A.C. 157 (Feb. 1, 2000).

Court's first step in analyzing claim for qualified immunity is to determine if the law was clearly established at the time the official acted. If it was not, the official could not be reasonably expected to anticipate subsequent legal developments and could not either actually or constructively "know" that his actions were illegal. If law was clearly established, then a reasonably competent official is presumed to know the law governing his conduct, and the court should deny any claim for qualified immunity.
Prescott v. Little Six, Inc., 1 Shak. A.C. 104 (Apr. 17, 1998).
Little Six, Inc. v. Prescott, 3 Shak. T.C. 133 (Apr. 8, 1999), *rev'd in part and aff'd in part*, *Little Six, Inc. v. Prescott*, 1 Shak. A.C. 157 (Feb. 1, 2000).

Qualified immunity is designed to protect more than only those who can prove they are blameless – it protects officials whose actions, although mistake, were reasonable.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).

In order to raise a claim of qualified immunity, official must have been acting within scope of his or her duty. To determine if an official's actions were within the scope of his or her duty, court will ask whether there is a reasonable connection between the alleged act and the type of duties that the official is normally responsible for.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).

Officials were entitled to summary judgment on defense of qualified immunity for claims stemming from actions involved in creation and maintenance of Executive Committee and for actions taken as officers of Little Six, Inc..
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).

Qualified immunity will not shield a Community official for failing to return money she allegedly owed. Failing to honor the specific terms of an alleged contract are actions that a reasonable official would have known violated the rights of the other contracting party.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 73 (Aug. 8, 2000), *aff'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 190 (Oct. 26, 2001).

3. Sovereign Immunity

The language of Section II of Ordinance 02-13-88-01 (establishing the Tribal Court) waives the sovereign immunity of the General Council, the Business Council, and the officers and committees of the SMSC as to those areas of jurisdiction set forth in that section.
Hove v. Stade, 1 Shak. T.C. 12 (July 13, 1988).

The Minnesota Dakota Indian Housing Authority, a joint housing authority established by the four federally recognized Sioux tribal governments in Minnesota, is not immune from suit because Article V, Section 2 of the MDIHA Ordinance contains an express waiver of immunity.
Barrientez v. SMSC, 1 Shak. T.C. 61 (June 17, 1991).

Absent privity of contract with a sovereign entity, there can be no express waiver of immunity.
Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994) (citing *Erickson Aircrane Co. v. United States*, 731 F.2d 810 (Fed. Cir. 1984); *Pan Arctic Corp. v. United States*, 8 Cl. Ct. 546 (1985); *APAC-Virginia v. Dep't of Hwys. & Transp.*, 388 S.E.2d 841 (Va. App. 1990)).

The Articles of Incorporation for Little Six, Incorporated provide that it must waive its immunity on a contract by contract basis -- a waiver of immunity in a contract with a general contractor is not sufficient to waive immunity for an agreement entered into with a subcontractor.
Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994) (distinguishing *McCarthy & Assoc. v. Jackpot Junction*, 490 N.W.2d 156 (Minn. Ct. App. 1992)).

The Court narrowly construes questions of waiver of sovereign immunity.
Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994).

Little Six, Incorporated, as a corporate arm of the tribal government, enjoys the same sovereign immunity as does the Community, and corporation must have expressly and unequivocally waived it immunity before it will be subject to suit. An oral waiver of corporation's immunity is not sufficient.
Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994).

An agency or corporate arm of the tribal government may possess the same immunity from suit that is enjoyed by the government, and an express waiver of immunity is also required before such an arm or agency will be subject to suit.
Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994) (citing *Barrientez v. SMSC*, 1 Shak. T.C. 83 (Mar. 31, 1992)).

The Community, its elected officials, and its employees acting in their official capacity, all possess sovereign immunity and, absent an express waiver of that immunity, are not subject to suit.
Culver Sec. Sys., Inc. v. Little Six, Inc., 1 Shak. T.C. 156 (June 14, 1994), (citing *Barrientez v. SMS(D)C*, 1 Shak. T.C. 83 (Mar. 31, 1992); *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978)).
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

Sovereign immunity protects a tribe and its enterprises, officials, officers, agents, and employees from suit unless the tribe has consented to suit in an express and unequivocal manner. Absent such consent, this Court lacks jurisdiction to consider a suit against a tribal entity.
Stopp v. Little Six, Inc., 2 Shak. T.C. 50 (July 3, 1995), *aff'd*, *Stopp v. Little Six, Inc.*, 1 Shak. A.C. 29 (Jan. 29, 1996).
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

When the General Council passed Ordinance No. 02-13-88-01 it intended to and did explicitly waive the immunity of the Community and its institutions with respect to "all controversies" arising out of the Community's Constitution and out of actions of the General Council.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 65 (July 31, 1995) (citing *Hove v. Stade*, 1 Shak. T.C. 12 (July 13, 1988)).

No "magic words" are required to work a waiver of sovereign immunity, but any waiver must be clear and unequivocal.
Stopp v. Little Six, Inc., 1 Shak. A.C. 29 (Jan. 29, 1996) (citing *Santa Clara Pueblo v. Martinez*, 436 U.S. 49 (1978); *Rosebud Sioux Tribe v. Valu-U Const. Co.*, 50 F.3d 560 (8th Cir. 1995)).

The Community's Tort Claims Ordinance contains a limited waiver of the Community's sovereign immunity. If a plaintiff cannot articulate a theory of liability that fits within the Community's Tort Claims Ordinance, the suit is barred by sovereign immunity.
Van Zeeland v. Little Six, Inc., 4 Shak. T.C. 161 (Feb. 12, 2003).

Section 14.5(D)(5) of the Community's Gaming Revenue Allocation Amendments to the Business Proceeds Distribution Ordinance waives the Community's immunity for actions taken under that section.
In re Conservatorship of Brooks, 4 Shak. T.C. 173 (Apr. 30, 2003).

A party, acting as a defendant, does not waive its sovereign immunity to suit, simply because it acted as a plaintiff against the same party in an earlier suit.
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

The Community, and its members, have not waived their immunity to suit because Little Six, Inc. has waived its immunity.
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

When tribal government, tribal-gaming enterprise, and enterprise directors filed litigation against party in 1994, in litigation that was resolved in 2000, they did not thereby waive their sovereign immunity from subsequent suit by former defendant.
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

When corporation chartered and owned by Shakopee Community waived its immunity, Community's immunity was not also thereby waived.
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

Although the Community may grant a limited waiver of sovereign immunity for actions commenced under the Community's Consolidated Land Management Ordinance, the Community has not waived its immunity in regard to the awarding interest on any judgments, therefore, the Court does not a grant of authority to award interest.
Estate of Feezor v. SMS(D)C, 7 Shak. T.C. 5 (Dec. 17, 2012).

4. Supermajority Requirement

Requiring a supermajority of all voting Community members to diminish the Court's jurisdiction is entirely appropriate since the Court and its jurisdiction are fundamental to the structure of the Community Government.
Barrientez v. SMS(D)C, 1 Shak. A.C. 35 (Oct. 14, 1996) (citing *Prescott v. SMS(D)C Bus. Council*, 2 Shak. T.C. 65 (July 31, 1995).

XVIII. LAND

Under the Shakopee Mdewakanton Sioux Community Consolidated Land Management Ordinance, only adult Community members may hold a land assignment. The Ordinance does not contemplate the devise of a land assignment to a minor Community member either directly or in trust.
In re Estate of Stade-Repasky, 6 Shak. T.C. 111 (June 28, 2012).

Under Section 4.14.1 of the Community's Consolidated Land Management Ordinance, a Community member may request to relinquish a land assignment to a nonmember biological child, and the Community's General Council may approve such requests "by a majority of the voting members present at a regular meeting where a quorum is present." Principles of statutory construction and *Robert's Rules of Order* support the Court's interpretation of the phrase "a majority of the voting members present" to mean a majority of all members who are eligible to vote and who are present, not a majority of members present and voting.
Muellenberg v. Anderson, 8 Shak. T.C. 104 (May 2, 2023).

XIX. PER-CAPITA DISTRIBUTIONS

Although Article VI of the SMSC Constitution establishes a right of all members to participate in the economic resources of the Community, this provision does not preclude the Community from establishing programs based on a member's need or other circumstances, or from establishing appropriate standards for the disposition of the Community resources.
Ross v. SMS(D)C, 1 Shak. T.C. 86 (July 17, 1992).

Article VI of the SMSC Constitution does not require the Community to simply pass along all its resources in equal shares to all Community members.
Ross v. SMS(D)C, 1 Shak. T.C. 86 (July 17, 1992).

The adoption of an ordinance imposing a residency requirement for the opportunity to receive per-capita distributions did not violate Article VI of the Community's Constitution.
Ross v. SMS(D)C, 1 Shak. T.C. 86 (July 17, 1992).

Community Ordinance 12-29-88-002 violated Article VI of the SMSC Constitution insofar as it eliminated the residency requirement for the receipt of per-capita distributions for most members, but retained the requirement for a few members.
Ross v. SMS(D)C, 1 Shak. T.C. 86 (July 17, 1992).

The Community can establish reasonable procedures and make reasonable distinctions with respect to eligibility for its programs, including the per-capita program.
Welch v. SMS(D)C, 1 Shak. T.C. 113 (June 3, 1993).

Absent direction from the General Council or an order from the SMSC Court, the officers of the Community are without independent authority to add or delete persons from the list of people eligible to receive per-capita payments.
Welch v. SMS(D)C, 1 Shak. T.C. 104 (June 3, 1993).

In making awards of per-capita distributions retroactive, the Court uses the date the plaintiff filed the action claiming the entitlement because before that time the Community was without warning that there may be a flaw in the manner in which per-capita payments were made.
Ross v. SMS(D)C, 1 Shak. T.C. 97 (June 3, 1993); *accord Welch v. SMS(D)C*, 1 Shak. T.C. 104 (June 3, 1993); *see also Ross v. SMS(D)C*, 1 Shak. T.C. 124 (July 19, 1993) (denying motion for reconsideration).

The Court has jurisdiction to consider an award of retroactive per-capita payments where the Community's amendments to the Business Proceeds Distribution Act were silent regarding their applicability to pending cases, where the Community made contemporaneous representations that the amendments would not affect the Court's jurisdiction, and where the Community had earlier stipulated to the Court's jurisdiction.
Thomas v. SMS(D)C, 1 Shak. T.C. 172 (Sept. 23, 1994).

One purpose, and perhaps the primary purpose, of subsequent amendments (i.e., Ordinance No. 10-27-93-002) to the Community Ordinance dealing with per-capita distributions was to create clear rules and standards so that the Community would treat all of its members fairly under the Community Constitution.
Thomas v. SMS(D)C, 1 Shak. T.C. 172 (Sept. 23, 1994).

Following the rules laid out in *Ross v. SMS(D)C*, and *Welch and Vig v. SMS(D)C*, plaintiffs were eligible for retroactive per-capita payments.
Thomas v. SMS(D)C, 1 Shak. T.C. 172 (Sept. 23, 1994).

The plaintiffs failed to state a claim that the defendants were wrongfully receiving per-capita payments where all of the non-Business Council defendants were either properly enrolled or properly receiving payments under the Non-Gaming Program Allowance Ordinance, Ord. No. 10-27-93-003.

Smith v. SMS(D)C Bus. Council, 2 Shak. T.C. 187 (Dec. 16, 1996), *aff'd*, *Smith v. SMS(D)C Bus. Council*, 1 Shak. A.C. 62 (Aug. 7, 1997).

The Business Council has no discretion in determining who receives payments under either the 1988 Business Proceeds Distribution Ordinance, No. 12-29-88-002, or the 1993 Amendments thereto, Ord. No. 10-27-93-002, and the Business Council officials may not be held liable for payments made as required by those laws.
Smith v. SMS(D)C Bus. Council, 2 Shak. T.C. 187 (Dec. 16, 1996), *aff'd*, *Smith v. SMS(D)C Bus. Council*, 1 Shak. A.C. 62 (Aug. 7, 1997).

The Business Proceeds Distribution Ordinance, Ord. No. 12-29-88-001, was adopted as a compromise to resolve nearly constant turmoil over membership rights.
Smith v. SMS(D)C Bus. Council, 1 Shak. A.C. 62 (Aug. 7, 1997) (citing *Ross v. SMS(D)C*, 1 Shak. T.C. 86 (July 17, 1992)).

During the effective life of the Business Proceeds Distribution Ordinance, the Business Council was mandated to make payments to persons whose names appeared on the ordinance's list and the members of the Business Council had no discretion to do otherwise.
Smith v. SMS(D)C Bus. Council, 1 Shak. A.C. 62 (Aug. 7, 1997) (citing *Welch v. SMS(D)C*, 1 Shak. T.C. 104 (June 3, 1993)).

Per-capita payments are at issue when parties, during their marriage, resided in tribal spouse's home on Shakopee Mdewakanton Sioux Community land, and this implication of Community assets and programs weigh heavily in favor of the Community Court's exercise of jurisdiction, in a proceeding to dissolve the marriage.
Stade-Lieske v. Lieske, 7 Shak. T.C. 7 (May 15, 2014), *aff'd in part, rev.'d in part*, *Stade-Lieske v. Lieske*, 3 Shak. A.C. 10 (June 8, 2015).

XX. PREEMPTION

Indian Gaming Regulatory Act and the National Indian Gaming Commission regulations do not preempt the effect of Community Resolution No. 8-12-88-001, which deals with how to amend the Community Gaming Ordinance. IGRA and the NIGC regulations only outline the legislative and administrative structure

and controls which the Community must place on itself if it chooses to engage in gaming operations. Neither Congress nor the NIGC may force a particular substantive law on the Community.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 65 (July 31, 1995).

XXI. PROBATE

A bequest by a testator to a minor of on-reservation land assignment and home was not authorized by Community Consolidated Land Management Ordinance. Ademption by extinction is meant to be avoided to the fullest extent possible. Finding that the testator did not intend the ademption of the devise of the land assignment and home, the Tribal Court awarded the minor beneficiary the net proceeds from the sale of the testator's land assignment and home, with the proceeds to be held in trust until beneficiary reaches age 18.
In re Estate of Stade-Repasky, 6 Shak. T.C. 111 (June 28, 2012).

General Council Resolution 05-12-98-002 authorized the Community Court to use the Uniform Probate Code to decide probate matters.
In re Estate of Enyart, 3 Shak. A.C. 39 (July 27, 2015).

Whether the non-ademption doctrine of the Uniform Probate Code applies is a question of law, which the Court of Appeals reviews *de novo*.
In re Estate of Enyart, 3 Shak. A.C. 39 (July 27, 2015).

Testators cannot create property rights over property they do not own by including devises to the property in their wills.
In re Estate of Enyart, 3 Shak. A.C. 39 (July 27, 2015).

XXII. RULES OF CIVIL PROCEDURE

a. Generally

Although the SMSC Rules of Civil Procedure mirror in most respects the Federal Rules of Civil Procedure, the SMSC Court is not bound to apply them in the same manner as they are applied in the federal system.
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 104 (Feb. 6, 1996).

Where a state court has ordered the foreclosure of a member's off-reservation property, the Court will give full faith and credit to the state-court order under Rule 34 of the Rules of Civil Procedure so long as there are no substantial questions with respect to either the jurisdiction of the state court or the regularity of the state court's proceeding.
Viking Sav. Bank v. Brooks, 6 Shak. T.C. 14 (Mar. 6, 2012).

Under Rule 34 of the Rules of Civil Procedure, the Court will enforce a default judgment from state court when the state-court judgment comports with the state's rules of procedure, no part of the decision was appealed, and the defendant repeatedly failed protect his own interests during the state-court proceedings.
Bunde v. Brewer, 6 Shak. T.C. 21 (Mar. 19, 2012).

b. Attorney Conduct

Rule 3 of the SMSC Rules of Civil Procedure gives the Court authority to establish and maintain standards of professional conduct for counsel practicing before the Court.
In re Prescott Appeal, 1 Shak. A.C. 11 (Nov. 7, 1995).

Motion for Rule 11 sanctions was denied where the defendant's counsel acted reasonably in light of the representations she had received that later turned out to be incorrect.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 168 (Sept. 16, 1996).

Under Community law, an attorney's license to practice before the Tribal Court may be suspended or revoked if they have engaged in conduct that would be subject to sanction in any other jurisdiction in which he or she is licensed to practice.
Nguyen v. Debele, 7 Shak. T.C. 181 (Dec. 31, 2018).

An attorney who learns that their client has obtained an opposing party's email correspondence with their attorney without consent and takes the reasonable remedial measure of counseling their client to stop taking that action has not

violated Minnesota Rule of Professional Conduct 3.3(b) and is not subject to licensure suspension or revocation under Community law.
Nguyen v. Debele, 7 Shak. T.C. 187 (Dec. 31, 2018).

c. Discovery

Discovery rules are to be interpreted liberally.
Gillette v. Anderson, 2 Shak. T.C. 180 (Sept. 25, 1996).

Rule 23 of the SMSC Court's rules incorporate Rule 34 of the Federal Rules of Civil Procedure.
Gillette v. Anderson, 2 Shak. T.C. 180 (Sept. 25, 1996).

If the Community is a named plaintiff, it and its General Council and Business Council are subject to the discovery requests of another party, even if the Community claims to only be participating in the action as the sole shareholder of Little Six, Inc. But the Community's Gaming Commission is not subject to such discovery requests.
Little Six, Inc. v. Prescott, 2 Shak. T.C. 138 (May 23, 1996).

Rule 27 of the Court's rules incorporates Rule 45 of the Federal Rules of Civil Procedure, which permits a court to quash or modify any subpoena that subject a person to an undue burden.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 169 (Apr. 7, 2003).

Rule 27 of the Court's rules incorporates Rule 45 of the Federal Rules of Civil Procedure, which requires that if a subpoena results in the disclosure of an unretained expert's opinion or information, the expert must be reasonably compensated for his or her time in preparing the materials subject to the subpoena.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 169 (Apr. 7, 2003).

The deposition of an attorney that does not call for legal opinions does not constitute expert testimony requiring reasonable compensation under Rule 27.
Little Six, Inc. v. Prescott, 4 Shak. T.C. 169 (Apr. 7, 2003).

Late filing of a discovery motion may warrant a sanction of having to pay deponent's hourly fee for the time taken by the deposition.

Little Six, Inc. v. Prescott, 5 Shak. T.C. 5 (July 13, 2004).

In a child-welfare proceeding where the parties request the discovery of confidential information, the Court will balance the need for orderly, efficient, and expeditious exchange of discoverable information with the goal of minimizing the potential for the unauthorized disclosure of confidential, proprietary, private, or secret documents.
In re Minor Child in File No. CC071-12, 6 Shak. T.C. 31 (June 17, 2013).

Any party or nonparty who produces or discloses information, documents, or things related to a child-welfare proceeding may designate such materials as "Confidential" or "Attorneys' Eyes Only," and the recipient of these materials shall use his or her best efforts to maintain the confidentiality of the information.
In re Minor Child in File No. CC071-12, 6 Shak. T.C. 31 (June 17, 2013).

In a child-welfare proceeding, a party may object to another party's designation of materials as "Confidential" or "Attorneys' Eyes Only," so long as the objection is written, states the reasons for such objection, and is served on counsel for all parties. If the parties cannot resolve the dispute informally, either party may bring a motion to compel discovery in compliance with the Rules of Civil Procedure.
In re Minor Child in File No. CC071-12, 6 Shak. T.C. 31 (June 17, 2013).

All reasonable discovery requests should be the subject of appropriate responses, and if any objections are made they should be specific and should be made to the Court.
Thomas v. Lightfoot, 7 Shak. T.C. 52 (Aug. 29, 2014).

Whether to allow discovery, and to what extent discovery should be allowed, is within the Trial Court's sound discretion.
In re Estate of Enyart, 3 Shak. A.C. 39 (July 27, 2015).

Reconvention of a deposition, award of attorney's fees, or other appropriate sanctions for noncompliance with a corporate-designee subpoena, or for proffering an improper corporate-designee deponent, were not warranted where a corporate-designee witness was prepared to answer and did answer all questions regarding all topics actually noticed in the corporate-designee subpoena.

Monte-Brewer v. Ratzlaff Homes, Inc., 7 Shak. T.C. 83 (Feb. 7, 2017).

d. Dismissal

In considering a motion to dismiss, the Court assumes all the facts alleged in the complaint are true and views the allegations in the light most favorable to the plaintiff.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 28 (Apr. 14, 1995) (citing *Robertson v. MFA Mut. Ins. Co.*, 629 F.2d 497 (8th Cir. 1980)).
Welch v. SMS(D)C, 2 Shak. T.C. 112 (Feb. 7, 1996), *aff'd*, *Welch v. SMS(D)C*, 1 Shak. A.C. 42 (Oct. 14, 1996).
Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996); *see also Prescott v. SMS(D)C Bus. Council*, 2 Shak. T.C. 104 (Feb. 6, 1996) (citing *Alright v. Oliver*, 114 S. Ct. 807 (1994); *Kohl v. Casson*, 5 F.3d 1141 (8th Cir. 1993)).
Crooks v. SMS(D)C, 4 Shak. T.C. 92 (Oct. 31, 2000).
Gustafson v. Nguyen, 7 Shak. T.C. 111 (Nov. 10, 2017).
Muellenberg v. Anderson, 8 Shak. T.C. 104 (May 2, 2023).

Dismissal for failure to state a claim is not favored.
Welch v. SMS(D)C, 2 Shak. T.C. 112 (Feb. 7, 1996), *aff'd*, *Welch v. SMS(D)C*, 1 Shak. A.C. 42 (Oct. 14, 1996)*; see also Prescott v. SMS(D)C Bus. Council*, 2 Shak. T.C. 104 (Feb. 6, 1996) (citing *Hall v. City of Santa Barbara*, 883 F.2d 1270 (9th Cir. 1986); *St. Marie & Son, Inc. v. Hartz Mtn. Corp*, 414 F. Supp. 71 (D. Minn. 1976)).
Crooks v. SMS(D)C, 4 Shak. T.C. 92 (Oct. 31, 2000).

A case may be dismissed under Rule 12(b)(6) if it appears beyond a reasonable doubt that the pleader can prove no set of facts in support of the claim that would entitle him to relief.
Amundsen v. SMS(D)C Enrollment Comm., 2 Shak. T.C. 28 (Apr. 14, 1995) (citing *Robertson v. MFA Mut. Ins. Co.*, 629 F.2d 497 (8th Cir. 1980)).
Welch v. SMS(D)C, 2 Shak. T.C. 112 (Feb. 7, 1996), *aff'd*, *Welch v. SMS(D)C*, 1 Shak. A.C. 42 (Oct. 14, 1996)*; see also Prescott v. SMS(D)C Bus. Council*, 2 Shak. T.C. 104 (Feb. 6, 1996) (citing *Conley v. Gibson*, 355 U.S. 41 (1957)).
Crooks v. SMS(D)C, 4 Shak. T.C. 92 (Oct. 31, 2000).
Gustafson v. Nguyen, 7 Shak. T.C. 111 (Nov. 10, 2017).
Muellenberg v. Anderson, 8 Shak. T.C. 104 (May 2, 2023).

Dismissal under Rule 12(b)(6) is appropriate only if there is no reasonable view of the alleged facts in the complaint that would support the Plaintiff's claims.
Smith v. SMS(D)C Bus. Council, 1 Shak. A.C. 62 (Aug. 7, 1997) (citing *Advanced Cardiovascular Sys., Inc. v. Scimed Life Sys., Inc.*, 988 F.2d 1157 (Fed. Cir. 1993)).

This Court's Rule 26 incorporates Rule 41 of the Federal Rule of Civil Procedure, under which a party may voluntarily dismiss its own complaint without an order from the court, so long as the defendant has not yet filed an answer or motion for summary judgment.
LaDoux v. Little Six, Inc., 4 Shak. T.C. 141 (Sept. 4, 2002).

For claim to be precluded, previous litigation must have (1) involved same parties, (2) been before a court of competent jurisdiction, (3)stated same cause of action as in present claim, and (4) resulted in a judgment on the merits. Not only issues that were raised but those that could have been raised are barred.
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

Where party, in earlier related litigation, filed answer claiming right to attorney's fees as a setoff against any liability he might have, and court, after trial, decided liability without explicit discussion of setoff issue, and party's subsequent appeal from liability ruling did not raise setoff claim, party was barred by doctrine of claim preclusion from seeking attorney's fees in any subsequently filed litigation.
Prescott v. Little Six, Inc., 5 Shak. T.C. 50 (Aug. 30, 2006).

Complaint alleging that contract exists, that the plaintiffs were third-party beneficiaries of contract, that contract was breached, and that plaintiffs were damaged, is properly pleaded and cannot be dismissed for failure to state a claim.
Bryant v. Anderson Air., Inc., 5 Shak. T.C. 92 (Nov. 6, 2007).

Complaint alleging that contractor owed plaintiffs a duty to construct home consistent with sound construction practices, and that contractor breached that duty, thereby causing damages to plaintiffs, states a negligence claim sufficient to withstand dismissal.
Bryant v. Anderson Air., Inc., 5 Shak. T.C. 92 (Nov. 6, 2007).

e. Interpleader

Trustees petitioning court for resolution of conflicting claims to trust assets by trust settler and trust beneficiaries must restyle their petition as a complaint in interpleader under Rule 18.
In re Trust under Little Six, Inc. Ret. Plans, 3 Shak. T.C. 120 (Jan. 19, 1999).

f. Intervention

Intervention may be permitted under Rule 19 when a party has shown he or she will be affected by the litigation, or where their claims present issues of fact and law common to those raised in the litigation.
In re Trust under Little Six, Inc. Ret. Plans, 3 Shak. T.C. 120 (Jan. 19, 1999).

g. Joinder

Where the Minnesota-Dakota Indian Housing Authority claimed a mortgage interest in property occupied by the plaintiff, the occupancy of which was challenged by the Community, the MDIHA is a necessary and indispensable party to the litigation because if the Community's interest was to prevail, the MDIHA's interest would be jeopardized.
Barrientez v. SMS(D)C, 1 Shak. T.C. 56 (Oct. 31, 1990).

Where the adjudication of a case will affect the validity of an interest in property, an entity claiming such an interest is a necessary party.
Barrientez v. SMS(D)C, 1 Shak. T.C. 56 (Oct. 31, 1990).

The mere fact that the United States holds lands, or is alleged to hold lands, in trust for an Indian tribe does not make the United States a necessary or indispensable party to an action by the tribe to establish rights in the land.
Barrientez v. SMS(D)C, 1 Shak. T.C. 61 (June 17, 1991) (citing *Red Lake Band of Chippewa v. City of Baudette*, 730 F. Supp. 972 (D. Minn. 1990)).

In a land dispute between the Community and a Community member, the United States is not a necessary or indispensable party where the connection between the United States and the action before the court is small and where the interest of the United States was not impaired by any conceivable outcome of the case.
Barrientez v. SMS(D)C, 1 Shak. T.C. 61 (June 17, 1991).

h. Pleadings

1. Generally

A pleading is a formal allegation by a party as to their claims, such as a complaint, an answer, a reply to a counterclaim, a response to a crossclaim, a third-party complaint, or a third-party answer. A motion, on the other hand, is simply an application to the court for an order.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

2. Amendment

Motions to amend a complaint are to be read liberally, but liberality ultimately must be balanced by a concern for all parties involved.
Welch v. SMS(D)C, 1 Shak. T.C. 133 (Feb. 4, 1994).

Rule 15(a) of the SMSC Rules of Civil Procedure allows a party to amend a pleading once as a matter of right before a responsive pleading is filed, but where plaintiff attempts to amend complaint only hours before a hearing on preliminary relief, the amendment will be disregarded for the purpose of that hearing.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

Although Rule 15(a) allows a party to amend a pleading once as a matter of right before a responsive pleading is filed, there is nothing in this Court's rules that allows a party to unilaterally amend a motion.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

The Court has authority to allow a complaint to be amended at any stage of the proceedings if amendment is justified.
Monte-Brewer v. Ratzlaff Homes, Inc., 7 Shak. T.C. 83 (Feb. 7, 2017).

i. Post-Judgment Relief

Rule 28 of the SMSC Court rules incorporates Rules 59 and 60 of the Federal Rules of Civil Procedure.
Amundsen v. SMS(D)C Enrollment Comm., 4 Shak. T.C. 1 (July 19, 1999).

Rule 28 of the Rules of Civil Procedure of this Court incorporates Fed. R. Civ. P. 54(b), which is appropriate when a case involves multiple claims or multiple parties and a court has resolved "at least one but fewer than all the claims or all the rights and liabilities of at least one party with finality and made direction for the entry of judgment."
Dedeker v. Stovern, 7 Shak. T.C. 55 (Sept. 12, 2014) (quoting 10 Fed. Prac. & Proc. § 2659 (3d ed.)).

SMSC Rule 28 of Civil Procedure incorporates Rules 52 and 59 of the Federal Rules of Civil Procedure, and under those rules, a motion to amend a judgment must be filed within ten days after the entry of judgment.
Famularo v. Little Six, Inc., 4 Shak. T.C. 97 (Nov. 28, 2000), *appeal dismissed on procedural grounds*, *Famularo v. Little Six, Inc.*, 1 Shak. A.C. 177 (Apr. 19, 2001).

Where purpose of indemnification agreement was to make indemnified party whole, award of interest, for 12-year period of litigation, on amount awarded to indemnified party was appropriate.
SMS(D)C Gaming Enter. v. Prescott, 2 Shak. A.C. 1 (Aug. 9, 2006).

Where parties were divorced in Colorado, but neither party continued to reside there after divorce, and one party became resident of SMSC Reservation and other party had ample opportunity to file motion in Colorado, or in state where she presently lives, or in SMSC Court, and she failed to do so, it is appropriate for SMSC Court to register Colorado divorce decree and to assume subject-matter jurisdiction over post-decree issues.
Gast v. Gast, 5 Shak. T.C. 72 (Mar. 8, 2007).

Where Colorado divorce decree terminated child support on child's 18th birthday unless child was "enrolled in school," and where parent receiving support failed to provide any evidence that child remained in school following child's 18th birthday, at which time child began receiving per-capita payments from Community, court found that child no longer was "enrolled in school" and terminated support obligation effective upon child's 18th birthday.
Gast v. Gast, 5 Shak. T.C. 72 (Mar. 8, 2007).

Where former spouse failed to respond to reasonable post-judgment discovery requests relating to her financial circumstances, and there were reasonable grounds to believe that her circumstances had significantly changed since she

was awarded permanent spousal maintenance, it was appropriate for SMSC Court to suspend maintenance-payment obligation pending her compliance with discovery requests.
Gast v. Gast, 5 Shak. T.C. 72 (Mar. 8, 2007).

Motions to reconsider are not contemplated by SMSC Rules of Civil Procedure. But Rule 28 of SMSC Rules incorporates Rules 59 and 60 of Federal Rules of Civil Procedure, and therefore a "motion to reconsider" filed within 10 days of entry of an order will be considered a motion to alter or amend a judgment.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 124 (Aug. 6, 2008).

A party seeking to alter or amend a judgment under Rule 28 of the SMSC Rules of Civil Procedure must establish that the court's decision involves a manifest error of law or fact or present newly discovered evidence.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 124 (Aug. 6, 2008).

A party is not entitled to pursue a new trial on appeal unless the party first makes an appropriate post-verdict motion in the trial court under Rule 28 of the SMSC Rules of Civil Procedure.
Parent of Child. in Need of Assistance v. Fam. & Child. Servs. Dep't, 4 Shak. A.C. 57 (Oct. 16, 2023).

Rule 30 of SMSC Rules of Civil Procedure incorporates Rule 69(a) of Federal Rules of Civil Procedure. Therefore, a money judgment is enforced by a writ of execution, unless the court directs otherwise.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 124 (Aug. 6, 2008).

Equitable relief in collecting a money judgment under Rule 30 of SMSC Rules of Civil Procedure is appropriate only if judgment debtor has engaged in culpable conduct or the circumstances before the court are exceptional.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 124 (Aug. 6, 2008).

Defendant's efforts in collection proceedings brought in Minnesota state courts to assert state-law defenses that he believed were available to judgment rendered in SMSC Court, did not constitute culpable or exceptional conduct sufficient to warrant contempt-of-court finding.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 124 (Aug. 6, 2008).

Contempt powers must be used very carefully and should not be used merely as a collection tool when other mechanisms are available.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 124 (Aug. 6, 2008).

j. Preliminary Relief

Normally, a motion for a temporary restraining order would be considered first, and motion for preliminary injunction would be entertained at a later date.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

Failure to properly serve all defendants is sufficient reason to prevent a preliminary injunction from issuing.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

Temporary restraining orders and preliminary injunctions are extraordinary remedies and are normally only used to preserve the status quo until an adjudication on the merits can be reached.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

Rule 29 incorporates Rule 65 of the Federal Rules of Civil Procedure and requires that a motion for a temporary restraining order be accompanied by an affidavit or verified complaint attesting to the truth of the allegations therein. Failure to provide such factual support is grounds to deny a party's request for preliminary relief.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

k. Recusal

Where no judge 1) has evinced a personal bias with respect to any party to a case, 2) has served as counsel for either party in the matter, 3) is a material witness in the case, and 4) where no judge or family member of a judge has any interest in the case financial or otherwise, there is clearly no requirement that the judge disqualify him or herself under Rule 32(b) of the SMSC Rules of Civil Procedure.
In re Prescott Appeal, 1 Shak. A.C. 11 (Nov. 7, 1995).

Judges of the SMSC Court have no power to appoint other judges to hear matters brought before the court, notwithstanding claims that all sitting judges of the court should recuse themselves.

SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 111 (May 5, 2008).

Where counsel to a party represents clients that the presiding judge once represented, but where the judge has no bias toward or against any party in the litigation and no financial interest in its outcome, and where the other two judges of the SMSC Court are similarly situated and the court has no power to appoint additional judges, and no other court has jurisdiction to hear the matter at bar, the rule of necessity requires the presiding judge to hear the matter.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 111 (May 5, 2008).

l. Service

Failure to properly serve all defendants is sufficient reason to prevent a preliminary injunction from issuing.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 97 (Aug. 24, 1998).

Affidavit of service attesting that petition was left at respondent's address with "John Doe, whose true and correct name is unknown," does not satisfy requirement of Rule 6(b) that service be made by leaving petition at respondent's "dwelling house of usual place of abode with some person of suitable age and discretion then residing therein . . . ."
Gatzke v. Campbell, 3 Shak. T.C. 94 (Aug. 7, 1998).

Under Rule 34 of the Rules of Civil Procedure of the SMSC Court, service of process is made under Rule 6(b), and is properly made by mail to a party's attorney.
Gast v. Gast, 5 Shak. T.C. 70 (Oct. 27, 2006).

m. Substitution of Parties

Rule 20 of the Court's rules largely incorporates Rule 25 of the Federal Rules of Civil Procedure, such that a new party may be substituted when that party is a transferee of the previous party's interest in the proceeding.
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 9 (Apr. 27, 2005).

n. Summary Judgment

When considering whether there is a genuine issue of material fact, it is the duty of the court to view the evidence in the light most favorable to the non-moving party and to give that party the benefit of all reasonable inferences drawn from that evidence.
Barrientez v. SMS(D)C, 1 Shak. T.C. 55 (Sept. 7, 1990).
Little Six, Inc. v. Prescott, 3 Shak. T.C. 44 (Apr. 1, 1997), *rev'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 104 (Apr. 17, 1998).
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).
Ho v. Little Six, Inc., 4 Shak. T.C. 117 (Nov. 21, 2001).
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).
Dedeker v. Stovern, 7 Shak. T.C. 39 (Aug. 15, 2014) *aff'd*, *Stovern v. Dedeker*, 3 Shak. A.C. 31 (July 27, 2015).
Monte-Brewer v. Ratzlaff Homes, Inc., 7 Shak. T.C. 83 (Feb. 7, 2017).

Rule 28 requires that summary judgment only be entered if there are no genuine issues of material fact in dispute and the moving party is entitled to judgment as a matter of law.
Welch v. SMS(D)C, 2 Shak. T.C. 79 (Nov. 27, 1995).
Gillette v. Anderson, 3 Shak. T.C. 9 (Feb. 10, 1997), *aff'd*, *Gillette v. Anderson*, 1 Shak. A.C. 71 (Sept. 2, 1997).
Little Six, Inc. v. Prescott, 3 Shak. T.C. 44 (Apr. 1, 1997), *rev'd*, *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 104 (Apr. 17, 1998).
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).
Ho v. Little Six, Inc., 4 Shak. T.C. 117 (Nov. 21, 2001).
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).
Dedeker v. Stovern, 7 Shak. T.C. 39 (Aug. 15, 2014), *aff'd*, *Stovern v. Dedeker*, 3 Shak. A.C. 31 (July 27, 2015).
Monte-Brewer v. Ratzlaff Homes, Inc., 7 Shak. T.C. 83 (Feb. 7, 2017).

Rule 28 requires that affidavits supporting a motion for summary judgment must be made on personal knowledge, set forth facts that would be admissible at trial, and show that the affiant was competent to testify on the matters stated therein.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

Genuine issue of material fact is not automatically created where non-moving party offers unsupported challenges to credibility of affiant supporting summary judgment. Non-moving party must produce specific facts or evidence in order to put credibility in issue so as to preclude summary judgment.
Feezor v. SMS(D)C Bus. Council, 3 Shak. T.C. 155 (May 19, 1999).

Review of a decision on summary judgment is a matter of law that is reviewed *de novo*.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).
Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015).

To survive a motion for summary judgment there must exist in the record enough evidence to raise a genuine issue of material fact. The non-moving party must do more than simply show there is some metaphysical doubt as to the material facts – the dispute of material fact must be sufficient for a reasonable trier of fact to find for the non-moving party.
Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 1, 2000).

XXIII. TORTS

a. Conversion

Conversion requires that the Plaintiff show the Defendant has wrongfully taken and withheld money or personal property that rightfully belongs to the Plaintiffs.
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).

b. Negligence

The mere fact of an accident is not alone sufficient to establish negligence.
Kostelnik v. Little Six, Inc., 3 Shak. T.C. 60 (Apr. 28, 1997), *aff'd*, *Kostelnik v. Little Six, Inc.*, 1 Shak. A.C. 92 (Mar. 17, 1998).

To establish a claim for negligence, a plaintiff must demonstrate that the defendant (1) owed her a duty, (2) breached that duty, (3) that the defendant's breach was the proximate cause of the plaintiff's injury, and (4) that she suffered actual injury.
Kostelnik v. Little Six, Inc., 1 Shak. A.C. 92 (Mar. 17, 1998).
Famularo v. Little Six, Inc., 4 Shak. T.C. 83 (Oct. 20, 2000), *appeal dismissed on other grounds*, *Famularo v. Little Six, Inc.*, 1 Shak. A.C. 177 (Apr. 19, 2001).
Florez v. Jordan Constr. Co., 4 Shak. T.C. 124 (Jan. 15, 2002).
Van Zeeland v. Little Six, Inc., 4 Shak. T.C. 161 (Nov. 25, 2002).

A business owner has a duty to keep the premises reasonably safe, but is not an insurer of a patron's safety.
Famularo v. Little Six, Inc., 4 Shak. T.C. 83 (Oct. 20, 2000), *appeal dismissed on other grounds*, *Famularo v. Little Six, Inc.*, 1 Shak. A.C. 177 (Apr. 19, 2001).

A business owner has no duty to ensure that all possible access routes are clear, but only must provide suitable access to avoid liability.
Famularo v. Little Six, Inc., 4 Shak. T.C. 83 (Oct. 20, 2000), *appeal dismissed on other grounds*, *Famularo v. Little Six, Inc.*, 1 Shak. A.C. 177 (Apr. 19, 2001).

Unless a dangerous condition that has allegedly caused plaintiff's injury is a result of the direct actions of the landowner or his or her employees, a negligence theory of recovery is appropriate only where the landowner had actual or constructive knowledge of the dangerous condition.
Famularo v. Little Six, Inc., 4 Shak. T.C. 83 (Oct. 20, 2000), *appeal dismissed on other grounds*, *Famularo v. Little Six, Inc.*, 1 Shak. A.C. 177 (Apr. 19, 2001).

Constructive notice of a hazardous condition may be established through evidence that the condition had existed for an amount of time sufficient to constitute constructive notice.
Famularo v. Little Six, Inc., 4 Shak. T.C. 83 (Oct. 20, 2000), *appeal dismissed on other grounds*, *Famularo v. Little Six, Inc.*, 1 Shak. A.C. 177 (Apr. 19, 2001).

To establish claim for negligence, plaintiff must demonstrate that defendant (1) owed her a duty, (2) breached that duty, (3) breach was proximate cause of plaintiff's injury, and (4) plaintiff suffered actual injury.
Bryant v. Anderson Air., Inc., 5 Shak. T.C. 92 (Nov. 6, 2007).

c. Res Ipsa Loquitur

The doctrine of *res ipsa loquitur* can create a rebuttable presumption that the defendant was negligent if the injury causing event (1) would not normally occur in the absence of negligence, (2) the instrumentality or agency that caused the accident was in the exclusive control of the defendant, and (3) the accident was not due to any voluntary action or contribution by the plaintiff.
Kostelnik v. Little Six, Inc., 1 Shak. A.C. 92 (Mar. 17, 1998).

When considering, for the purposes of *res ipsa loquitur*, whether an accident is one that would normally not occur in the absence of negligence, the court considers common knowledge, the testimony of expert witnesses, and the circumstances relating to a particular accident.
Kostelnik v. Little Six, Inc., 1 Shak. A.C. 92 (Mar. 17, 1998).

The mere fact that an accident occurred does not make a defendant liable under *res ipsa loquitur* for all subsequent injuries allegedly caused by the accident. The plaintiff must still demonstrate that the accident caused her injuries.
Kostelnik v. Little Six, Inc., 1 Shak. A.C. 92 (Mar. 17, 1998).

Where a vehicle accident occurs within the bounds of the Community's Reservation and involves a vehicle owned (but not driven) by a member Indian, *State v. Stone*, 572 N.W.2d 725 (Minn. 1996), does not preclude the application of state tort law.
Bunde v. Brewer, 6 Shak. T.C. 21 (Mar. 19, 2012).

Minnesota tort law, whether caselaw or statutory law, applies to Indians in Indian Country under Public Law 280.
Bunde v. Brewer, 6 Shak. T.C. 21 (Mar. 19, 2012).

d. Statutes of Limitation

The term "claim" under the statute of limitation in the Community's Torts Ordinance means filing a lawsuit.
Ho v. Little Six, Inc., 4 Shak. T.C. 117 (Nov. 21, 2001).

Claim brought more than two years from the date of the injury falls outside of the statute of limitations in Section 9 of the tort-claims ordinance, and therefore is barred by sovereign immunity.
Van Zeeland v. Little Six, Inc., 4 Shak. T.C. 161 (Nov. 25, 2002).

XXIV. TRUSTS

Under § 14.6.A of Community Ordinance 10-27-93-002, the court may order up to 100% of an eligible child's trust-fund payment to be made to the eligible parent with whom child resides, or in the case of the death of the eligible parent, to the surviving non-eligible spouse or legal guardian with whom child resides.
In re Petition of Sutton, 3 Shak. T.C. 116 (Nov. 5, 1998).

Trustee's petition requesting that Court approve accounting of the trust, approve trust administration, discharge trustees from liability, and decide competing claims to trust, would be entertained by court if restyled as an interpleader complaint under Rule 18 of SMSC Rules of Civil Procedure.
In re Trust under Little Six, Inc. Ret. Plans, 3 Shak. T.C. 120 (Jan. 19, 1999).

Under § 10.02 of Community Ordinance No. 3-37-90-003, court can fashion orders of the sort that Minnesota courts can under Minn. Stat. § 501B.16.
In re Trust under Little Six, Inc. Ret. Plans, 3 Shak. T.C. 120 (Jan. 19, 1999).

When trust document indicates that trust is to be interpreted under law of Minnesota, Minnesota law will be applied.
In re Trust under Little Six, Inc. Ret. Plans, 4 Shak. T.C. 57 (Mar. 29, 2000).

Under Minnesota law, an express trust is validly formed when there is a designated trustee subject to enforceable duties, a designated beneficiary with enforceable rights, and a definite trust res wherein the trustee's title and estate is separated from the vested beneficial interest of the beneficiary.
In re Trust under Little Six, Inc. Ret. Plans, 4 Shak. T.C. 57 (Mar. 29, 2000) (citing *Bush v. Crowther*, 81 N.W.2d 615 (Minn. 1942)).

In Court's discretion, trustee may be granted attorney's fees and other expenses that are reasonably and necessarily incurred in the course of litigation brought to resolve the meaning and legal effect of ambiguous language in the trust

instrument, if adjudication is necessary to the administration of the trust, and the litigation is conducted in good faith for the benefit of the trust as a whole.
In re Child.'s Trust Funds, 4 Shak. T.C. 41 (Feb. 7, 2000).

Where trustee employs an attorney for trustee's benefit, and not for the benefit of the beneficiaries, the trustee must pay the attorney without reimbursement from the trust.
In re Child.'s Trust Funds, 4 Shak. T.C. 41 (Feb. 7, 2000).

Court, in its discretion, may withhold all or part of compensation claimed by trustee from trust if trustee's actions exhibit any breach of conduct toward the trust.
In re Child.'s Trust Funds, 4 Shak. T.C. 41 (Feb. 7, 2000).

XXV. WORKER'S COMPENSATION

An employee's reliance on his supervisor's incorrect representation regarding the employee's health-insurance coverage was not reasonable, for purposes of estoppel, when the employee had received a written explanation of his coverage less than two months earlier.
Kukacka v. Little Six, Inc., 2 Shak. T.C. 76 (Oct. 24, 1995).

Under § F.8 of the Shakopee Community's 1995 Worker's Compensation Ordinance, the Court has no authority to overrule any findings of fact of the hearing examiner, but does have the authority to remand for further findings if warranted.
Wiedner v. SMS(D)C, 2 Shak. T.C. 43 (June 23, 1995).
Brossart v. SMS(D)C Gaming Enter., 6 Shak. T.C. 92 (Jan. 4, 2012).

That the State of Minnesota's plan for worker's compensation might award different or additional benefits is irrelevant to a claim before this Court. The Community has adopted its own plan for worker's compensation and as a federally recognized Indian tribe it has the power to do so.
Wiedner v. SMS(D)C, Shak. T.C. 43 (June 23, 1995) (citing *Bryan v. Itasca Cnty.*, 426 U.S. 373 (1976); *Tibbetts v. Leech Lake Reservation Bus. Comm.*, 397 N.W.2d 883 (Minn. 1988)).

The doctrine of estoppel could apply, in the appropriate circumstances, in interpreting the Community's worker's-compensation plan.
Kukacka v. Little Six, Inc., 2 Shak. T.C. 76 (Oct. 24, 1995) (citing *Kahn v. State*, 289 N.W.2d 737 (Minn. 1980)).

A claim for coverage and benefits for a pre-existing injury is not allowed under the Community's Worker's Compensation Ordinance.
Uglum v. SMS(D)C, 2 Shak. T.C. 102 (Jan. 26, 1996).

Thirty-day filing period for filing an appeal from a Worker's Compensation Hearing tolls from the date of the last order issued, even if the last order issued is a minor supplemental order.
Brass v. SMS(D)C, 3 Shak. T.C. 39 (Mar. 4, 1997).

Court cannot accept claimant's appeal from a worker's-compensation hearing where no legal issues are presented on appeal. Petitioner's request for an appeal was insufficient because it simply stated that she had a new attorney and wanted "an opportunity to present her claim."
Brass v. SMS(D)C, 3 Shak. T.C. 39 (Mar. 4, 1997).

Dismissal of a claim by a hearing examiner was clearly appropriate where petitioner had repeatedly failed to respond to the Hearing Examiner's reasonable requests for information.
Brass v. SMS(D)C, 3 Shak. T.C. 39 (Mar. 4, 1997).

In an appeal under the Community's Worker's Compensation Ordinance, the Court's review is constrained to a review of the medical record and the findings of the Hearing Examiner.
David v. SMS(D)C, 4 Shak. T.C. 17 (Nov. 1, 1999).

Remand from court to Workers' Compensation Hearing Examiner was appropriate where Hearing Examiner did not make sufficiently specific findings tying appellant's pre-existing condition to pain that appellant allegedly experienced after work-related injury.
Kochendorfer v. SMS(D)C, 5 Shak. T.C. 104 (Mar. 11, 2008).

Where employee had pre-existing degenerative spinal condition and dispute existed as to extent to which such condition caused pain experienced by

employee following work-related injury, proper course under Section C.4. of the Community's Workers' Compensation Ordinance was for Administrator of Workers' Compensation program to appoint neutral physician to determine whether pre-existing condition is "material or principal cause" of disability.
Kochendorfer v. SMS(D)C, 5 Shak. T.C. 104 (Mar. 11, 2008).

Under Section C.4. of Workers' Compensation Ordinance of SMSC, neutral physician's opinion on whether pre-existing condition is "material or principal cause" of disability is binding on employee and employer.
Kochendorfer v. SMS(D)C, 5 Shak. T.C. 104 (Mar. 11, 2008).

Where employee was given opportunity by Workers' Compensation Hearing Examiner to present written evidence regarding her pain and its source, and employee did not present any evidence, it was within Hearing Examiner's discretion to decide appeal on written record.
Moldenhauer v. SMS(D)C, 5 Shak. T.C. 108 (Mar.12, 2008).

Where employee failed to identify any legal issue in her appeal, and where employee was given opportunity to supplement written record before Hearing Examiner and did not do so, court is without authority to overturn Hearing Examiner's decision.
Moldenhauer v. SMS(D)C, 5 Shak. T.C. 108 (Mar. 12, 2008).

Community's Workers' Compensation Ordinance provisions regarding "neutral physician" do not debar any physician who at any time has worked for any client or any claims examiner of Workers' Compensation administrator. Rather, a rule of reason should be applied, under which neutral physician should not have had connection either with SMSC Workers' Compensation files or with Administrator for at least the previous five years.
Kochendorfer v. SMS(D)C, 5 Shak. T.C. 117 (June 9, 2008).

SMSC Court's review in workers'-compensation appeals is very narrow, limited only to appeals concerning "legal issues," so to prevail appellant must demonstrate that Hearing Examiner made an error of law.
Kloeppner v. SMS(D)C Gaming Enter., 5 Shak. T.C. 137 (May 18, 2009).
Brossart v. SMS(D)C Gaming Enter., 6 Shak. T.C. 92 (Jan. 4, 2012).

Where employee was given opportunity to submit written materials, and Hearing Examiner had warned parties that their written submissions should be thorough because Hearing Examiner was "inclined to decide this claim without a hearing," and employee also knew that primary issue to be decided would be whether she should have taken "light duty" job that employer offered, Hearing Examiner did not commit legal error by not allowing employee to offer written rebuttal to what employee alleged were "completely false" materials submitted by employer.
Kloeppner v. SMS(D)C Gaming Enter., 5 Shak. T.C. 137 (May 18, 2009).

Court did not have jurisdiction to review hearing examiner's factual finding that independent medical examiner was more credible than employee's physician.
Rose v. SMS(D)C Gaming Enter., 6 Shak. T.C. 88 (Feb. 11, 2011).

Post-injury evidence can, as a matter of Community law, establish the existence of a pre-existing condition that precludes coverage.
Brossart v. SMS(D)C Gaming Enter., 6 Shak. T.C. 92 (Jan. 4, 2012).

The Court can only remand matters to a hearing examiner if it determines that the factual record is inadequate. Where hearing examiner had made specific findings to support his conclusion that employee's injury was caused or aggravated by a pre-existing condition and had given employee ample opportunity to present evidence to support his claim that he did not have a pre-existing condition but employee did not provide the information he later presented on appeal, the Court declined to remand the matter to the hearing examiner.
Brossart v. SMS(D)C Gaming Enter., 6 Shak. T.C. 92 (Jan. 4, 2012).

TABLE OF CASES

CITATION FORMAT CORRELATIONS FROM FIRST REPORTER SYSTEM

From 1998 to 2003, the SMSC Court used a different reporter and citation system. Listed below are case citations from the old system and each corresponding citation to the new system. The citations from the old system are listed in chronological order based on the date the order or opinion was issued, not in order of the docket number. Please note that there may have been opinions or orders in the old system which were not retained in the new system.

a. *TRIAL COURT*

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TABLE OF CASES ON APPEAL

The following tables trace Trial Court cases on appeal. The first table lists the Trial Court order or opinion, and then describes the case on appeal. The second table lists each Appellate Court case, and then describes the corresponding case below in the Trial Court. Both tables list opinions and orders in alphabetical order based on the first name in the case title.

TRIAL COURT CASES

Barrientez v. SMS(D)C, 2 Shak. T.C. 84 (Dec. 5, 1995)
On appeal: *Barrientez v. SMS(D)C*, 1 Shak. A.C. 35 (Oct. 14, 1996)
Disposition: Affirmed

Brooks v. Corwin, 5 Shak. T.C. 83 (Oct. 15, 2007)
On appeal: *Brooks v. Corwin*, 2 Shak. A.C. 5 (Aug. 4, 2008).
Disposition: Affirmed

Brooks-Johnson v. Johnson, No. 877-18 (Mar. 10, 2023)
On appeal: *Johnson v. Brooks-Johnson*, 4 Shak. A.C. 62 (Oct. 17, 2023)
Disposition: Affirmed (Hogen, J., dissenting)

Crooks v. Crooks, No. 975-22 (June 9, 2023)
On appeal: *Crooks v. Crooks*, 4 Shak. A.C. 96 (Dec. 28, 2023)
Disposition: Affirmed in part, reversed in part, and remanded

Crooks v. SMS(D)C, 2 Shak. T.C. 58 (July 17, 1995)
On appeal: *Crooks v. SMS(D)C*, 1 Shak. A.C. 23 (Jan. 24, 1996)
Disposition: Reversed and remanded

Crooks v. SMS(D)C, 3 Shak. T.C. 1 (Feb. 10, 1997)
On appeal: *Crooks v. SMS(D)C*, 1 Shak. A.C. 84 (Jan. 30, 1998)
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998) (*nunc pro tunc*)
Disposition: Affirmed

Dedeker v. Stovern, 7 Shak. T.C. 39 (Aug. 15, 2014)
On appeal: *Stovern v. Dedeker*, 3 Shak. A.C. 31 (July 27, 2015)

Disposition: Affirmed

Estate of Feezor v. SMS(D)C, No. 645-09 (May 26, 2011)
On appeal: *SMS(D)C v. Estate of Feezor*, 2 Shak. A.C. 25 (Aug. 18, 2011)
Disposition: Motion denied

Estate of Feezor v. SMS(D)C, No. 645-09 (Dec. 20, 2011)
On appeal: *SMS(D)C v. Estate of Feezor*, 2 Shak. A.C. 31 (Apr. 5, 2012)
Disposition: Affirmed

Famularo v. Little Six, Inc., 4 Shak. T.C. 83 (Oct. 20, 2000)
Famularo v. Little Six, Inc., 4 Shak. T.C. 97 (Nov. 28, 2000)
On appeal: *Famularo v. Little Six, Inc.*, 1 Shak. A.C. 177 (Apr. 19, 2001)
Disposition: Appeal dismissed on procedural grounds

Gillette v. Anderson, 3 Shak. T.C. 9 (Feb. 10, 1997)
On appeal: *Gillette v. Anderson*, 1 Shak. A.C. 71 (Sept. 2, 1997)
Disposition: Affirmed

Gillette v. Anderson, 3 Shak. T.C. 9 (Feb. 10, 1997)
On appeal: *Gillette v. Anderson*, 1 Shak. A.C. 81 (Jan. 21, 1998)
Disposition: Request for rehearing denied

Gustafson v. Nguyen, No. 867-17 (May 3, 2019)
On appeal: *Nguyen v. Gustafson*, 4 Shak. A.C. 1 (Jan. 23, 2020)
Disposition: Affirmed in part, reversed in part, and remanded

Gustafson v. Nguyen, No. 867-17 (Dec. 30, 2019)
On appeal: *Nguyen v. Gustafson*, 4 Shak. A.C. 51 (Sept. 1, 2020)
Disposition: Appeal dismissed

Gustafson v. Nguyen, 8 Shak. T.C. 1 (Jan. 6, 2020)
On appeal: *Nguyen v. Gustafson*, 4 Shak. A.C. 27 (July 10, 2020)
Disposition: Affirmed in part, reversed in part

Gustafson v. Nguyen, No. 867-17 (Feb. 7, 2020)
On appeal: *Nguyen v. Gustafson*, 4 Shak. A.C. 18 (Feb. 10, 2020)
Disposition: Motion denied

Gustafson v. Nguyen, 8 Shak. T.C. 84 (Apr. 3, 2020)
On appeal: *Nguyen v. Gustafson*, 4 Shak. A.C. 42 (Aug. 10, 2020)
Disposition: Reversed and remanded

Hamilton v. Great Northern Ins. Co., 8 Shak. T.C. 36 (Mar. 31, 2020)
On appeal: *Great Northern Ins. Co. v. Hamilton*, 4 Shak. A.C. 21 (June 15, 2020)
Disposition: Appeal dismissed

In re Estate of Enyart, No. 772-13 (Dec. 19, 2014)
On appeal: *In re Estate of Enyart*, 3 Shak. A.C. 39 (July 27, 2015)
Disposition: Affirmed

In re Prescott Appeal, 1 Shak. T.C. 190 (Dec. 8, 1994)
On appeal: *In re Prescott Appeal*, 1 Shak. A.C. 11 (Nov. 7, 1995)
Disposition: Affirmed

In re Prescott Appeal, 3 Shak. T.C. 19 (Feb. 20, 1997)
On appeal: *In re Prescott Appeal*, 1 Shak. A.C. 120 (Apr. 30, 1998)
Disposition: Reversed

In re Prescott Appeal, 3 Shak. T.C. 19 (Feb. 20, 1997)
On appeal: *In re Prescott Appeal*, 1 Shak. A.C. 146 (July 30, 1999)
Disposition: Reversed

In re Trust under Little Six, Inc. Ret. Plans, 4 Shak. T.C. 57 (Mar. 29, 2000)
On appeal: *In re Trust under Little Six, Inc. Retirement Plan*, 1 Shak. A.C. 173 (Sept. 13, 2000)
Disposition: Appeal permitted

In re Trust under Little Six, Inc. Retirement Plan, 4 Shak. T.C. 57 (March 29, 2000)
On appeal: *In re Trust Under Little Six, Inc. Ret. Plans*, 1 Shak. A.C. 182 (Oct. 26, 2001)
Disposition: Reversed and remanded

In re Minor Child in File No. CC082-14, No. CC082-14 (Apr. 3, 2023)
In re Minor Child in File No. CC104-22, No. CC104-22 (Apr. 3, 2023)

On appeal: *Parent of Child. in Need of Assistance v. Fam. & Child. Servs. Dep't*, 4 Shak. A.C. 57 (Oct. 16, 2023)
Disposition: Affirmed

Jones v. Steinhoff, 8 Shak. T.C. 87 (May 4, 2020)
On appeal: *Jones v. Steinhoff*, 4 Shak. A.C. 19 (June 12, 2020)
Disposition: Appeal dismissed

Kostelnik v. Little Six, Inc., 3 Shak. T.C. 60 (Apr. 28, 1997)
On appeal: *Kostelnik v. Little Six, Inc.*, 1 Shak. A.C. 92 (Mar. 17, 1998)
Disposition: Affirmed

Little Six, Inc. v. Prescott, 2 Shak. T.C. 152 (July 1, 1996)
On appeal: *Little Six, Inc. v. Prescott*, 1 Shak. A.C. 48 (Dec. 31, 1996)
Disposition: Affirmed

Little Six, Inc. v. Prescott, 3 Shak. T.C. 44 (Apr. 1, 1997)
On appeal: *Little Six, Inc. v. Prescott*, 1 Shak. A.C. 77 (Sept. 9, 1997)
Disposition: Appeal granted

Little Six, Inc. v. Prescott, 3 Shak. T.C. 44 (Apr. 1, 1997)
On appeal: *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 104 (Apr. 17, 1998)
Disposition: Reversed and remanded

Little Six, Inc. v. Prescott, 3 Shak. T.C. 133 (Apr. 8, 1999)
On appeal: *Little Six, Inc. v. Prescott*, 1 Shak. A.C. 157 (Feb. 1, 2000)
Disposition: Reversed in part, affirmed in part

Little Six, Inc. v. Prescott, 4 Shak. T.C. 73 (Aug. 8, 2000)
On appeal: *Prescott v. Little Six, Inc.*, 1 Shak. A.C. 190 (Oct. 26, 2001)
Disposition: Affirmed

Prescott v. Bd. of Dirs. of Little Six, Inc., 2 Shak. T.C. 118 (May 1, 1996)
On appeal: *Little Six, Inc. Bd. of Dirs. v. Smith*, 1 Shak. A.C. 130 (May 28, 1998)
Disposition: Vacated and dismissed

Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 14 (Apr. 5, 1995)
On appeal: *In re Prescott Appeal*, 1 Shak. A.C. 11 (Nov. 7, 1995)

Disposition: Affirmed

Smith v. SMS(D)C Bus. Council, 1 Shak. T.C. 147 (March 15, 1994)
On appeal: *SMS(D)C v. Smith*, 1 Shak. A.C. 1 (June 19, 1995)
Disposition: Affirmed

Smith v. SMS(D)C Bus. Council, 2 Shak. T.C. 187 (Dec. 16, 1996)
On appeal: *Smith v. SMS(D)C Bus. Council*, 1 Shak. A.C. 62 (Aug. 7, 1997)
Disposition: Affirmed

SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 11 (May 11, 2005)
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 40 (Oct. 26, 2005)
On appeal: *SMS(D)C Gaming Enter. v. Prescott*, 2 Shak. A.C. 1 (Aug. 9, 2006)
Disposition: Affirmed

Stade-Lieske v. Lieske, No. 783-14 (Oct. 23, 2014)
On appeal: *Stade-Lieske v. Lieske*, 3 Shak. A.C. 10 (June 8, 2015)
Disposition: Reversed in part, affirmed in part

Stade-Lieske v. Lieske, No. 783-14 (Jan. 28, 2016)
On appeal: *Stade-Lieske v. Lieske*, 3 Shak. A.C. 53 (July 26, 2016)
Disposition: Reversed and remanded

Stopp v. Little Six, Inc., 2 Shak. T.C. 50 (July 3, 1995)
On appeal: *Stopp v. Little Six, Inc.*, 1 Shak. A.C. 29 (Jan. 29, 1996)
Disposition: Affirmed

Welch v. SMS(D)C, 2 Shak. T.C. 112 (Feb. 7, 1996)
On appeal: *Welch v. SMS(D)C*, 1 Shak. A.C. 42 (Oct. 14, 1996)
Disposition: Affirmed

Welch v. Welch, 5 Shak. T.C. 127 (Aug. 18, 2008)
On appeal: *Welch v. Welch*, 2 Shak. A.C. 11 (Apr. 15, 2009)
Disposition: Reversed in part, affirmed in part

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Barrientez v. SMS(D)C, 1 Shak. A.C. 35 (Oct. 14, 1996)

Case below: *Barrientez v. SMS(D)C*, 2 Shak. T.C. 84 (Dec. 5, 1995)
Disposition: Affirmed

Crooks v. Crooks, 4 Shak. A.C. 96 (Dec. 28, 2023)
Case below: *Crooks v. Crooks*, No. 975-22 (June 9, 2023)
Disposition: Affirmed in part, reversed in part, and remanded

Crooks v. SMS(D)C, 1 Shak. A.C. 23 (Jan. 24, 1996)
Case below: *Crooks v. SMS(D)C*, 2 Shak. T.C. 58 (July 17, 1995)
Disposition: Reversed and Remanded

Crooks v. SMS(D)C, 1 Shak. A.C. 84 (Jan. 30, 1998)
Crooks v. SMS(D)C, 1 Shak. A.C. 140 (Nov. 4, 1998) (*nunc pro tunc*)
Case below: *Crooks v. SMS(D)C*, 3 Shak. T.C. 1 (Feb. 10, 1997)
Disposition: Affirmed

Famularo v. Little Six, Inc., 1 Shak. A.C. 177 (April 19, 2001)
Case below: *Famularo v. Little Six, Inc.*, 4 Shak. T.C. 83 (Oct. 20, 2000)
Famularo v. Little Six, Inc., 4 Shak. T.C. 97 (Nov. 28, 2000)
Disposition: Appeal dismissed on procedural grounds

Gillette v. Anderson, 1 Shak. A.C. 71 (Sept. 2, 1997)
Case below: *Gillette v. Anderson*, 3 Shak. T.C. 9 (Feb. 10, 1997)
Disposition: Affirmed

Gillette v. Anderson, 1 Shak. A.C. 81 (Jan. 21, 1998)
Case below: *Gillette v. Anderson*, 3 Shak. T.C. 9 (Feb. 10, 1997)
Disposition: Request for rehearing denied

Great Northern Ins. Co. v. Hamilton, 4 Shak. A.C. 21 (June 15, 2020)
Case below: *Hamilton v. Great Northern Ins. Co.*, 8 Shak. T.C. 36 (Mar. 31, 2020)
Disposition: Appeal dismissed

In re Estate of Enyart, 3 Shak. A.C. 39 (July 27, 2015)
Case below: *In re Estate of Enyart*, No. 772-13 (Dec. 19, 2014)
Disposition: Affirmed

In re Prescott Appeal, 1 Shak. A.C. 11 (Nov. 7, 1995)

Case below: *In re Prescott Appeal*, 1 Shak. T.C. 190 (Dec. 8, 1994)
Prescott v. SMS(D)C Bus. Council, 2 Shak. T.C. 14 (Apr. 5, 1995)
Disposition: Affirmed

In re Prescott Appeal, 1 Shak. A.C. 120 (Apr. 30, 1998)
Case below: *In re Prescott Appeal*, 3 Shak. T.C. 19 (Feb. 20, 1997)
Disposition: Reversed

In re Prescott Appeal, 1 Shak. A.C. 146 (July 30, 1999)
Case below: *In re Prescott Appeal*, 3 Shak. T.C. 19 (Feb. 20, 1997)
Disposition: Reversed

In re Trust under Little Six, Inc. Ret. Plans, 1 Shak. A.C. 173 (Sept. 13, 2000)
Case below: *In re Trust under Little Six, Inc. Ret. Plans*, 4 Shak. T.C. 57 (March 29, 2000)
Disposition: Appeal permitted

In re Trust under Little Six, Inc. Ret. Plans, 1 Shak. A.C. 182 (Oct. 26, 2001)
Case below: *In re Trust under Little Six, Inc. Ret. Plans*, 4 Shak. T.C. 57 (March 29, 2000)
Disposition: Reversed and remanded

Johnson v. Brooks-Johnson, 4 Shak. A.C. 62 (Oct. 17, 2023)
Case below: *Brooks-Johnson v. Johnson*, No. 877-18 (Mar. 10, 2023)
Disposition: Affirmed (Hogen, J., dissenting)

Jones v. Steinhoff, 4 Shak. A.C. 19 (June 12, 2020)
Case below: *Jones v. Steinhoff*, 8 Shak. T.C. 87 (May 4, 2020)
Disposition: Appeal dismissed

Kostelnik v. Little Six, Inc., 1 Shak. A.C. 92 (Mar. 17, 1998)
Case below: *Kostelnik v. Little Six, Inc.*, 3 Shak. T.C. 60 (Apr. 28, 1997)
Disposition: Affirmed

Little Six, Inc. Bd. of Dirs. v. Smith, 1 Shak. A.C. 130 (May 28, 1998)
Case below: *Prescott v. Bd. of Dirs. of Little Six, Inc.*, 2 Shak. T.C. 118 (May 1, 1996)
Disposition: Vacated and dismissed

Little Six, Inc. v. Prescott, 1 Shak. A.C. 48 (Dec. 31, 1996)
Case below: *Little Six, Inc. v. Prescott*, 2 Shak. T.C. 152 (July 1, 1996)
Disposition: Affirmed

Little Six, Inc. v. Prescott, 1 Shak. A.C. 77 (Sept. 9, 1997)
Case below: *Little Six, Inc. v. Prescott*, 3 Shak. T.C. 44 (Apr. 1, 1997)
Disposition: Appeal granted

Little Six, Inc. v. Prescott, 1 Shak. A.C. 104 (Apr. 17, 1998)
Case below: *Little Six, Inc. v. Prescott*, 3 Shak. T.C. 44 (Apr. 1, 1997)
Disposition: Reversed and remanded

Little Six, Inc. v. Prescott, 1 Shak. A.C. 157 (Feb. 01, 2000)
Case below: *Little Six, Inc. v. Prescott*, 3 Shak. T.C. 133 (Apr. 8, 1999)
Disposition: Reversed in part, affirmed in part

Nguyen v. Gustafson, 4 Shak. A.C. 1 (Jan. 23, 2020)
Case below: *Gustafson v. Nguyen*, No. 867-17 (May 3, 2019)
Disposition: Affirmed in part, reversed in part, and remanded

Nguyen v. Gustafson, 4 Shak. A.C. 18 (Feb. 10, 2020)
Case below: *Gustafson v. Nguyen*, No. 867-17 (Feb. 7, 2020)
Disposition: Motion denied

Nguyen v. Gustafson, 4 Shak. A.C. 27 (July 10, 2020)
Case below: *Gustafson v. Nguyen*, 8 Shak. T.C. 1 (Jan. 6, 2020)
Disposition: Affirmed in part, reversed in part

Nguyen v. Gustafson, 4 Shak. A.C. 42 (Aug. 10, 2020)
Case below: *Gustafson v. Nguyen*, 8 Shak. T.C. 84 (Apr. 3, 2020)
Disposition: Reversed and remanded

Nguyen v. Gustafson, 4 Shak. A.C. 51 (Sept. 1, 2020)
Case below: *Gustafson v. Nguyen*, No. 867-17 (Dec. 30, 2019)
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Parent of Child. in Need of Assistance v. Fam. & Child. Servs. Dep't, 4 Shak. A.C. 91 (Oct. 16, 2023)

Case below: *In re Minor Child in File No. CC082-14*, No. CC082-14 (Apr. 3, 2023)
In re Minor Child in File No. CC104-22, No. CC104-22 (Apr. 3, 2023)
Disposition: Affirmed

Prescott v. Little Six, Inc., 1 Shak. A.C. 190 (Oct. 26, 2001)
Case below: *Little Six, Inc. v. Prescott*, 4 Shak. T.C. 73 (Aug. 8, 2000)
Disposition: Affirmed

Smith v. SMS(D)C, 1 Shak. A.C. 62 (Aug. 7, 1997)
Case below: *Smith v. SMS(D)C Bus. Council*, 2 Shak. T.C. 187 (Dec. 16, 1996)
Disposition: Affirmed

SMS(D)C v. Smith, 1 Shak. A.C. 1 (June 19, 1995)
Case below: *Smith v. SMS(D)C Bus. Council*, 1 Shak. T.C. 147 (March 15, 1994)
Disposition: Affirmed

SMS(D)C v. Estate of Feezor, 2 Shak. A.C. 25 (Aug. 18, 2011)
Case below: *Estate of Feezor v. SMS(D)C*, No. 645-09 (May 26, 2011)
Disposition: Motion Denied

SMS(D)C v. Estate of Feezor, 2 Shak. A.C. 31 (Apr. 5, 2012)
Case below: *Estate of Feezor v. SMS(D)C*, App. No. 645-09 (Dec. 20, 2011)
Disposition: Affirmed

SMS(D)C Gaming Enter. v. Prescott, 2 Shak. A.C. 1 (Aug. 9, 2006)
Case below: *SMS(D)C Gaming Enter. v. Prescott*, 5 Shak. T.C. 11 (May 11, 2005)
SMS(D)C Gaming Enter. v. Prescott, 5 Shak. T.C. 40 (Oct. 26, 2005)
Disposition: Affirmed

Stade-Lieske v. Lieske, 3 Shak. A.C. 10 (June 8, 2015)
Case below: *Stade-Lieske v. Lieske*, No. 783-14 (Oct. 23, 2014)
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Disposition: Reversed and remanded

Stopp v. Little Six, Inc., 1 Shak. A.C. 29 (Jan. 29, 1996)

Case below: *Stopp v. Little Six, Inc.*, 2 Shak. T.C. 50 (July 3, 1995)
Disposition: Affirmed

Stovern v. Dedeker, 3 Shak. A.C. 31 (July 27, 2015)
Case below: *Dedeker v. Stovern*, 7 Shak. T.C. 39 (Aug. 15, 2014)
Disposition: Affirmed

Welch v. SMS(D)C, 1 Shak. A.C. 42 (Oct. 14, 1996)
Case below: *Welch v. SMS(D)C*, 2 Shak. T.C. 112 (Feb. 7, 1996)
Disposition: Affirmed

Welch v. Welch, 2 Shak. A.C. 11 (Apr. 15, 2009)
Case below: *Welch v. Welch*, 5 Shak. T.C. 127 (Aug. 18, 2008)
Disposition: Reversed in part, affirmed in part