

Ordinance No. 16-12

BE IT ENACTED BY THE PASCUA YAQUI TRIBAL COUNCIL AN ORDINANCE AMENDING TITLE 3, PART II, CHAPTER 2-1 OF THE PASCUA YAQUI TRIBAL COURTS AND RULES OF COURTS ORDINANCE (RULES OF CIVIL PROCEDURE).

Section 1. That Title 3, Part II, Chapter 2-1, Section 220 of the Pascua Yaqui Tribe Rules of Civil Procedure, is hereby amended to read as follows:

“Section 220 Costs and Attorneys’ Fees (3 PYTC 2-1-220)

(A) Costs. The Court may assess costs, including juror fees, against the party or parties against whom judgment is entered.

(1) Upon judgment, the judge shall order the losing party to pay to the winning party the costs of the lawsuit, unless the applicable law provides otherwise or the judge determines that such an order would be unjust.

(a) Costs shall not be imposed on the Tribe or any branch of the Tribe unless specifically permitted by an applicable tribal law or agreement.

(2) Costs shall include civil filing fees, any costs for delivering documents required by these rules to be delivered, postage for court notice sent to the parties, and fees and expenses paid to witnesses and jurors, but shall not include counsel fees unless tribal law so provides in a particular type of case or unless as agreed by the parties.

(3) No person shall be jailed because he or she is unable to pay costs.

(B) Attorneys’ Fees.

(1) In any contested action arising out of a contract, express or implied (including without limitation any action involving a dispute relating to goods and/or services provided to the Pascua Yaqui Tribe), the court may award the successful party reasonable attorneys’ fees.

(2) The court and not a jury shall award reasonable attorneys’ fees under this section.

(3) This section shall apply to all actions filed in Pascua Yaqui Tribal Court subsequent to the adoption of this amendment by Ordinance.”