

**“TITLE 3 – COURTS AND RULES OF COURT
PART II – RULES OF COURT
CHAPTER 2-1 – RULES OF CIVIL PROCEDURE**

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**TITLE 3 – COURTS AND RULES OF COURT
PART II – RULES OF COURT
CHAPTER 2-1 – RULES OF CIVIL PROCEDURE**

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Section 10 Filing and Notice (3 PYTC 2-1-10 – Former 3 PYT R.Civ.P. Rule 1)

- (A) The original of every written complaint, answer, summons, motion, argument, agreement, order, or other document served upon a party during a case in Tribal Court shall be filed with the clerk.
- (B) A party who files any document with the court clerk in a lawsuit shall give a copy of the same document to every other party in the case.
 - (1) If a party is represented by counsel, all documents except the complaint and summons shall be given to counsel, instead of the party.
 - (2) Delivery of a copy as required by this rule may be made either by giving it to the party or counsel in person or by mailing it first class, postage prepaid, to the party’s or counsel’s correct address.
- (C) Every decision and order of the court shall be written down by the judge or clerk, and signed by the judge. The clerk shall file a copy and give or send a copy of each such ruling to each party and counsel in the case.

Section 20 Computation of Time (3 PYTC 2-1-20 – Former 3 PYT R.Civ.P. Rule 2)

- (A) Whenever a rule, tribal law, or an order of the court requires that an action be taken within a certain number of days, the day of the event from which the time limit runs shall not be counted; but the last day shall be counted unless it is a Saturday, Sunday, or tribal holiday.
 - (1) When the last day is a Saturday, Sunday, or tribal holiday, the deadline shall be the first work day following the day that is not counted.
 - (2) Where the time limit is less than seven days, Saturdays, Sundays, and tribal holidays shall not be counted at all.
- (B) When a time limit is counted from or to the time that notice is delivered to a person and the notice is delivered by mail rather than given directly to the person, it shall be presumed that delivery takes place three days after the notice is placed in a United States Postal Service mailbox.

- (C) On request of a party, and if good cause exists, the judge may allow an extension of any time limit prescribed by a Rule of Civil Procedure or Rule of Court.

Section 30 Civil Procedures (3 PYTC 2-1-30 – Former 3 PYT R.Civ.P. Rule 3)

- (A) Unless otherwise specified by these rules, or ordered by a judge pursuant to a Rule of Court, motions, arguments, discovery requests, and other actions taken by the parties, in order to be enforceable by the court, shall take place in open court in the presence of the judge and all parties.
- (B) Notice. All oral actions taken by the parties in open court shall be subject to the notice requirements of Section 140. The notice of motion form provided for by that rule may be used to satisfy the notice requirements for all oral actions.

Section 40 Form of Court Papers (3 PYTC 2-1-40 – Former 3 PYT R.Civ.P. Rule 4)

All written materials submitted to the court must be clear and legible and shall contain the name of the court, the names of all parties, the court file number for the case, the signature of the party filing it or the party's counsel, and any other information required by these rules. For convenience the court may develop standard forms for pleadings, motions, notices, and orders.

Section 50 Limitation of Actions (3 PYTC 2-1-50 – Former 3 PYT R.Civ.P. Rule 5)

- (A) A civil lawsuit in Tribal Court must be started:
 - (1) In the case of torts and oral contracts, and actions not otherwise specifically provided for herein, within two years;
 - (2) In the case of causes of action based upon statute, within one year;
 - (3) In the case of written contracts, five years.
- (B) The time within which a civil lawsuit must be filed shall be counted from the date on which the injury or breach was first known to the injured party or should have been known to a reasonably aware person in the position of the injured party.
- (C) For the purpose of meeting the deadline set in this rule, a civil suit is started when the complaint is filed with the clerk of the court.

Section 60 Commencement of a Lawsuit; Complaints; Summons; Filing Fee (3 PYTC 2-1-60 – Former 3 PYT R.Civ.P. Rule 6)

- (A) Actions shall be commenced in the Tribal Court by the filing of a claim or petition, in concise form and free of technicalities.
 - (1) When a claim or petition is filed, the Clerk of the Tribal Court shall write upon the original of it the day and hour on which it was filed and shall immediately issue a summons and deliver a copy of the summons and a copy of the complaint to the Tribal police for service upon the respondent.
 - (2) The summons shall be in the form prescribed by the Tribal Court and shall be signed by the Clerk and be under the seal of the Court.
- (B) The person who has filed the complaint shall be known as the plaintiff in the lawsuit.

- (C) The complaint shall describe the injury or breach the plaintiff is complaining of, name or describe the person responsible for such injury or breach, who shall be known as the defendant, and state the relief requested.
- (D) The plaintiff shall sign the complaint.
- (E) If a person is unable to prepare a written complaint, the clerk may help that person to complete a complaint form provided by Rule of Court.
- (F) The statement of claim and notice shall be in the following or equivalent form:

**IN THE PASCUA YAQUI TRIBAL COURT
PASCUA YAQUI RESERVATION
TUCSON, ARIZONA**

)	
Plaintiff)	No. _____
)	(NATURE OF CLAIM)
)	
Respondent)	
)	
)	

STATEMENT OF CLAIM

(Here the plaintiff will insert a concise statement of the facts which are the basis of plaintiff's claim.)

Plaintiff (or agent)

- (G) After the plaintiff has filed the complaint, the clerk shall issue a summons directing the defendant to answer the complaint within 30 days of the time defendant receives the complaint and summons. The summons shall be on the official form provided for that purpose by Rule of Court, and shall inform the defendant of the consequences of default.
- (H) The party filing a civil action shall pay a filing fee set by the Court, except that the Tribe shall not be required to pay such a fee.

Section 70 Service of Process; Return of Service (3 PYTC 2-1-70 – Former 3 PYT R.Civ.P. Rule 7)

- (A) Within 90 days after plaintiff files a civil complaint, plaintiff shall cause a copy of the complaint, together with the summons, to be served upon each defendant named in the complaint.
- (B) A copy of the summons and a copy of the complaint shall be served together.
- (C) Service shall be made as follows:
 - (1) Service upon any individual may be made by delivering a copy of the summons and of the complaint to him personally or by leaving it at defendant's resident or place of employment with a person at least 14 years old who lives or works there.
 - (2) Service upon the Tribe shall be made in accordance with this Chapter, provided that the Attorney General shall be the Tribe's statutory agent for purposes of accepting such service.

- (3) If service of the summons and complaint cannot be personally made within the jurisdiction of the Tribal Court, a copy of the summons and complaint shall be mailed by registered or certified mail, return receipt requested, to the respondent's last known post office address by the Clerk of the Tribal Court.
 - (4) Service of summons and complaint shall be attested to by an affidavit of the officer who personally served the summons and complaint or by affidavit of the Clerk of the Court who mailed the summons and complaint.
 - (5) Service shall be complete at the time personal service is made or upon receipt if mailing is the method of service, providing an affidavit of service or mailing is filed with the Clerk within ten days after service is made.
 - (6) Upon the issuance of a summons by the Clerk of the Court or an Order or Notice of Hearing by a Judge of the Court, the clerk of the Court shall deliver the Notice, Order or Summons and Complaint to the Tribal Court Process Server, Pascua Yaqui Police Department or other designated Officer of the Court for service.
 - (7) Service of the Notice of Hearing must be completed at least 48 hours prior to the scheduled hearing.
 - (8) When a respondent is a non-resident of the reservation, or is absent from the reservation, or is a corporation incorporated under the laws of another jurisdiction, service may be made in the same manner provided under sub-paragraph 3 of this Section, or by a person authorized to serve process under the law of the state where such service is made.
 - (9) When service cannot be made personally or by mail, service by publication shall be made by publication of the summons in a newspaper published in Pima County, once a week or four successive weeks and the service shall be complete 30 days after the first publication. The plaintiff shall file an affidavit showing the publication and circumstances warranting the procedure.
 - (10) When service is to be perfected in a foreign country, service may be made in the manner prescribed by the law of the foreign country for service in that country or by a person authorized to serve process in that country, or by mail requiring a signed receipt.
- (D) When the complaint and summons are served, the return shall be signed by the law enforcement officer or person completing service and returned to the Clerk of the Court.
 - (E) The person who serves the complaint shall sign and file a proof of service with the clerk.
 - (F) The proof of service shall indicate the type of document served, the date and place of service, and the name of the person served, and shall be on the form provided for that purpose of court.
 - (G) The return for service by publication may be made by the plaintiff as prescribed in Section 70 (C) (9) (3 PYTC 2-1-70 (C) (9)).
 - (H) A respondent may accept service of process or waive service.
 - (1) Waiver shall be in writing signed by the respondent or respondent's attorney.
 - (2) Such waiver shall have the same force and effect as if a summons had been served.

Section 80 Amendment, Withdrawal, Dismissal of the Complaint (3 PYTC 2-1-80 – Former 3 PYT R.Civ.P. Rule 8)

- (A) A plaintiff may change the complaint without court permission at any time before the defendant answers it, as long as a copy of the changed complaint is delivered to all parties according to the rules for complaints.
- (B) After the defendant has answered the complaint, the judge may still allow plaintiff to change the complaint as long as allowing the change would not be unfair to defendant.
- (C) The judge shall allow plaintiff to withdraw the complaint and shall dismiss the case at any time plaintiff requests unless the defendant has counter claimed against plaintiff or dismissal of the case would otherwise be unfair to the defendant.
- (D) The judge may order a plaintiff who withdraws a complaint to pay all costs of the suit to defendant.

Section 90 Defenses, Answers, Counterclaims (3 PYTC 2-1-90 – Former 3 PYT R.Civ.P. Rule 9)

- (A) Within 30 days after defendant receives a copy of a civil complaint and summons, he or she must answer the complaint in writing.
- (B) Defendant must sign the answer, file it with the clerk, and cause it to be served upon plaintiff, all within the 30 day answering period.
- (C) If defendant is not able to prepare a written answer, he or she shall explain to the clerk the nature of the defense which will be presented, and the clerk shall help the defendant to put the answer in writing, on the form provided for that purpose by the Rule of Court.
- (D) In addition to, or as a way of raising a defense to the complaint, defendant may file a complaint (counterclaim) against plaintiff, following the same rules which apply to complaints.

**Section 100 Preliminary Injunctions and Temporary Restraining Orders
(3 PYTC 2-1-100 – Former 3 PYT R.Civ.P. Rule 10)**

- (A) A party to a civil suit may ask the judge for a pretrial order (injunction) prohibiting or requiring particular action by another party to keep things as they are until the court has a chance to reach a final decision in the case. The order shall be granted if the person requesting it shows that there is a good chance that he or she will win the suit and that he or she will suffer irreparable loss or injury if the injunction is not issued.
- (B) Unless otherwise stated in the injunction, a pretrial injunction shall remain in effect until final judgment in the case.
- (C) Except as provided in Section (D) of this section, no pretrial injunction shall be issued unless the party to be enjoined first has notice and an opportunity to be heard in court.
- (D) A judge may issue a temporary restraining order prohibiting or requiring particular action by a party to keep things as they are pending the court's final decision in the case without prior notice to the party to be restrained, when the party who requests such an order shows by sworn statement or oral testimony that he or she will suffer permanent loss or injury if the order is not issued before the opposing party can be notified and heard, and that he or she made a reasonable attempt to notify the opposing party of the time when the request would be made.

- (E) A temporary restraining order shall be effective only for the time period specified in the order, and in no case for longer than ten days.
- (F) Subject to the requirements of Section 100 (D), a temporary restraining order may be renewed once for a good cause.
- (G) The judge may require a party who requests a restraining order or pretrial injunction to provide security for any loss or injury which may be suffered by a party who is wrongfully enjoined or restrained; provided, however, that the judge shall not require such security from the Tribe or any of its branches.

Section 110 Default (3 PYTC 2-1-110 – Former 3 PYT R.Civ.P. Rule 11)

- (A) Failure of a defendant to file and serve an answer upon the plaintiff within thirty (30) days after the summons and complaint were served shall be a default and shall provide grounds for judgment against the defendant, as asked for in the complaint. No judgment of default shall be made, however, unless:
 - (1) The plaintiff has filed with the clerk of the court a written motion for entry of default judgment; and
 - (2) The plaintiff has mailed to the defendant, by first class mail, a copy of the motion for entry of default judgment at the address where the defendant was served with the summons and complaint or, if the defendant is represented by counsel, the plaintiff has mailed a copy of the motion to the defendant’s counsel; or
 - (3) If the defendant was initially served by publication and the defendant’s address still unknown, then the plaintiff shall so state in the motion for entry of default judgments and need not mail to the defendant a copy of the motion for entry of default.
- (B) If the defendant files an answer to the complaint within fourteen (14) days after the motion for entry of default judgment is mailed to the defendant, no default judgment shall be granted, and the matter shall proceed as though answered on time. If a defendant who was served fails to file an answer to the complaint within fourteen (14) days after the motion for entry of default judgment is mailed to the defendant, a default may be entered either with or without a hearing. If the defendant was served with summons and complaint by publication and the defendant’s address is still unknown, a default may be entered with or without a hearing fourteen (14) days after the motion for entry of default judgment is filed with the court.

Legislative History: Amended Section on January 16, 2013 by Resolution No. C01-13-13 and Ord.No.01-13

Section 120 Discovery (3 PYTC 2-1-120 – Former 3 PYT R.Civ.P. Rule 12)

- (A) It is the policy of the Tribal Court that the truth will be revealed more readily if all parties in a civil case have access to all information and evidence related to the case. In preparation for trial, therefore the parties may ask each other for, and shall make available to each other, all information in each other’s possession or control which will be used as evidence in the case, or which can reasonably be expected to lead to evidence.
- (B) Methods of discovering and exchanging information may include but need not be limited to;
 - (1) Written questions,
 - (2) Oral examination,
 - (3) Requests for witnesses’ names,

- (4) Requests for admissions,
 - (5) Requests for physical inspection of property,
 - (6) Requests to perform scientific or physical tests, and requests for documents.
- (C) The party who makes a request under this rule shall be as clear and specific as possible in describing what he or she wants.
- (D) A party may refuse to make available the information requested pursuant to this rule if its release would cause the responding party or a third person undue hardship, annoyance, or embarrassment, or would violate a confidence which it is tribal custom or official tribal policy to protect.
- (1) If the parties disagree about whether the responding party is required to release the information, the judge shall decide the dispute.
 - (2) The judge may place conditions on the release of information in order to protect confidential material, prevent unreasonable burden or expense to one party, or otherwise ensure fairness to all parties.
- (E) A party who receives a request for information under this rule shall, within ten days of receiving the request, respond either with information, with an indication where and when the information will be available, or with an objection and refusal to comply with the request.
- (F) Failure to respond within ten days is grounds for a court order requiring a response.

Section 130 Pretrial Conference (3 PYTC 2-1-130 – Former 3 PYT R.Civ.P. Rule 13)

- (A) In the interest of saving time, simplifying issues and avoiding unnecessary litigation, the judge may, on his or her own motion, or on the motion of any party, schedule one or more pretrial conferences with all parties to a case.
- (B) In any case determined by the judge to be complex, at least one pretrial conference shall be held after the completion of discovery and early enough to aid parties in planning for trial.
- (C) The pretrial conference shall be held in an informal setting and shall be conducted without formal procedures. The parties and the judge shall discuss areas where the parties are in agreement and areas where they disagree. The purpose of the discussion shall include the following:
- (1) To identify and dispose of issues which may be resolved without trial;
 - (2) To narrow and focus issues of law which remain to be decided and to identify central facts which are still in dispute;
 - (3) To limit the number of witnesses and the evidence which will be presented so that testimony and other evidence is not repetitious or irrelevant; and
 - (4) To avoid surprise at trial.
- (D) To accomplish the above purposes, all parties to a lawsuit shall, at the pretrial conference after discovery, fully disclose:
- (1) The names and addresses of all witnesses they expect to present at trial, and the basic information to which they expect the witness to testify;

- (2) All documents they expect to introduce as evidence, and the basic information which they intend to prove with the documents; and
 - (3) All objects which they intend to introduce as evidence and the basic information which they intend to prove with those objects.
- (E) No party shall be permitted to use the testimony of any witness or introduce as evidence any document or object unless they disclosed the witness, document, or object at the pretrial conference as provided in (D) above, unless the party proves that at the time of the pretrial conference they were unaware of the existence or nature of the witness, document or object and could not, with reasonable effort, have discovered it in time to disclose it. Such evidence must, in any case, be disclosed to the judge and opposing party before it is offered in the trial.
- (F) No offer of settlement or other statement which is made by a party during a pretrial conference may be used as evidence against that party if settlement is not then achieved.
- (1) Agreements reached as a result of a pretrial conference shall be put in writing and signed by all parties.
 - (2) Such agreement shall be made part of the final judgment issued by the judge.

Section 140 Motions (3 PYTC 2-1-140 – Former 3 PYT R.Civ.P. Rule 14)

- (A) Any questions regarding procedure or the rights of the parties which arise during a lawsuit and which cannot be settled by agreement of the parties may be presented to the judge in a motion, which is a request for an order.
- (B) Motions may be made in writing or orally.
- (1) If the motion is not made during, and as a consequence of, events at a trial or other hearing the moving party shall notify other parties of the nature and basis of the motion and the hearing time at least five days before the motion is presented in court, so the responding party has a chance to plan a response.
 - (2) The notice required by this section shall be called a “Notice of Motion, shall be in writing, and shall be served upon the party, or, if the party is represented by counsel, upon the party’s counsel, according to Section 10 (B).
 - (3) Persons who are unable to prepare their own written notice of motion may be assisted by the clerk in the filling out of a notice of motion form, provided for that purpose by Rule of Court.
- (C) Motions to dismiss the lawsuit because the court lacks jurisdiction or because the plaintiff has not stated a basis for relief may be made at any time.
- (D) All pretrial motions not covered by subsection (C) above which would determine the procedures used at trial must be made at least five days before trial.
- (1) The judge may deny a motion which could and should have been made earlier in the case if it appears that the moving party knew or should have known earlier about the basis for the motion and has raised it late because of negligence or an intent to harass the other party.

Section 150 Compelling Witnesses to Appear; Subpoenas (3 PYTC 2-1-150 – Former 3 PYT R.Civ.P. Rule 15)

- (A) Any party to a lawsuit or other proceeding in Tribal Court shall have the right to compel witnesses to appear in court and testify concerning the matter.
- (B) Upon request of a party, the court shall issue a subpoena, an order which commands a named person to appear in court and/or to bring certain evidence or documents to court.
- (C) All subpoenas shall be signed by a judge, except as otherwise provided by a Rule of Court.
- (D) Every subpoena shall be in writing and shall include the name of the court, the court's seal, the names of all parties, the time and place that the witness must appear, and a clear and detailed description of any documents or evidence which the witness is required to bring.
- (E) Subpoenas shall be delivered to the witness by a person of the age of 18 or more years who has no stake in the case. The subpoena must be delivered by giving it to the witness directly.
- (F) A person who delivers a subpoena shall promptly file with the clerk a copy of the subpoena and a proof of service as defined in Rule 7(B).
- (G) Failure of a witness to obey a subpoena shall be grounds for holding the witness in contempt of court after a hearing.
- (H) A witness who responds to a civil subpoena shall be entitled to a fee of \$20.00 for each day or partial day that he or she must appear in court.
 - (1) The judge may, in addition, order that the witness be paid reasonable and necessary travel and living expenses incurred in responding to the subpoena.
 - (2) Witnesses shall be offered full payment of their fees for one day's service at the time they are served with the subpoena.
 - (3) The party requesting the issuance of a subpoena shall tender the fees to the witness upon service of the subpoena.

Section 160 Jury Trials; Jury Selection (3 PYTC 2-1-160 – Former 3 PYT R.Civ.P. Rule 16)

- (A) A jury trial shall be held if requested by either party to the case at least 30 days before the trial.
 - (1) The party who requests a jury trial shall pay to the court a jury fee established by Rule of Court.
 - (2) Payment of the jury fee may be waived by the chief judge upon the request of a party if payment of the fee would result in severe hardship to the party.
 - (3) The party who requests a jury trial or a visiting judge who fails to provide at least five days notice by a written motion to continue shall be liable for the payment of jury fees and fees payable to the visiting judge at the discretion of the judge presiding over the trial.
- (B) To be eligible to serve as a juror, a person must be a tribal member or a permanent resident of the Pascua Yaqui Reservation, be 18 years of age or older, never have been convicted in any court of a felony, and must not at the time the list is made, or at the time of trial, be holding the office of tribal judge, tribal police officer, or Tribal Council member, nor be a witness or a party in the matter before the court.

- (1) Permanent Resident: A permanent resident of the reservation is person who rents or owns a dwelling place on the reservation and who resides in that dwelling place other than seasonally or periodically, and who receives mail on the reservation at an on-reservation post office box or reservation street address, and who intends to make the reservation his or her permanent home for the indefinite future, and who does not claim residence in any other location for any purpose. Any non-member who claims to be a permanent resident of the reservation for the purposes of this section shall register for jury duty by supplying to the Tribal Council or a committee thereof, a statement of his or her qualifications for such status under this section.
 - (2) Tribal Member: Tribal members must meet the qualifications in section (B) above, and be residents of the State of Arizona, with preference given to residents of Pima, Pinal, Santa Cruz and Maricopa Counties. Tribal members residing outside those counties or outside Arizona may be qualified for jury duty. The tribal members who reside outside the geographic area described above may serve jury duty by filing a statement of juror eligibility.
- (C) Jurors for trial shall be selected from a list of eligible jurors prepared from the Pascua Yaqui Tribal Census Roll and the non-member statistics.
- (1) The list of eligible jurors will be provided by Tribal Council, or a designee thereof, and submitted to the Tribal Court no later than July 20th of each year.
 - (2) The clerk of the court shall eliminate those persons who do not meet the qualifications set forth above in subparagraphs (B) (1) and (B) (2).
- (D) Selections of panel; jury summons; failure to appear; excuse from jury duty.
- (1) Not less than 20 days before the date set for the beginning of a jury trial, the chief judge shall draw from the master jury list, at random, the number of names specified by Rule of Court for a civil jury trial of the type scheduled. The clerk of the court shall then issue and cause to be served upon each person who was selected a jury duty summons.
 - (2) The jury summons shall notify the person being summoned to appear in court on the date set for the beginning of the trial, one hour before the time set for the trial.
 - (3) Failure of a person served with a jury summons to appear shall constitute contempt of court and the summons shall contain a warning to that effect.
 - (4) Any person for whom jury service would be a severe hardship may be excused from service by the judge, but such excuse from jury duty shall be disfavored. Severe hardship may include, but is not limited to:
 - (a) Having to travel more than 150 miles one-way,
 - (b) Having to stay overnight in order to serve upon a jury, when such has not been ordered by the court or presiding judge as a condition of sequestering the jury,
 - (c) Interference with work which would cause severe financial hardship on the person, and
 - (d) Interference with other duties to another court of law.
- (E) On the day of the trial, the clerk shall deposit in a ballot box ballots containing the names of each of the summoned potential jurors who have appeared by the time set for their appearance. Those

persons whose names are in the ballot box shall be known as the jury panel. After the judge calls the court to order, the names of 14 members of the jury panel, shall be drawn from the ballot box, at random, who shall then be seated in the jury area. The clerk shall make a list of the names in the order in which they are called.

- (F) Removal for cause; examination by court, parties.
 - (1) After the first 14 members of the jury panel have been seated, the judge shall examine each of them as to their qualifications, and excuse any who appear to him or her to be biased, prejudiced, unable to fairly and effectively perform the duties of a juror or otherwise not qualified to serve as a juror. The judge shall permit the parties or their counsel to similarly examine and ask for the removal of jurors for cause, without any limit to the number of jurors so challenged or removed, except that all such challenges must be made in good faith. The judge shall excuse any juror he or she believes to be unqualified, directing him or her to leave the jury area. The names of such persons shall be crossed off the list by the clerk.
 - (2) After all disqualified jurors have been excused from the jury area; enough additional ballots shall be drawn by the clerk to replace the disqualified persons with members of the jury panel. The clerk shall add their names to the list in the order in which they were called. The procedure for challenge for cause shall continue until 14 qualified persons are seated in the jury area.
- (G) After the 14 qualified persons have been seated in the jury area, each party shall have the right to remove any three persons from the jury without stating any reason. The parties shall alternately remove jurors, or waive their turn to do so, until they have exhausted their peremptory challenges.
- (H) The clerk of the court shall then read aloud the first seven names on the list and those persons shall be jurors for the trial. The clerk shall also read aloud the eighth name on the list, and that person shall be an alternate juror for the trial. The alternate juror shall act in all respects as a juror, except that he or she shall not participate nor vote during jury deliberation unless one of the other jurors has been excused by the judge during the course of the trial.
- (I) The list of eligible jurors shall be provided to the Tribal Court by the Tribal Council or a designee thereof, and shall not be released to any other person.
- (J) The list of jurors called for jury duty at any particular time shall remain confidential and shall not be released to anyone except the parties or their counsel, but only on the day that trial is to begin, and only for the purposes of selecting a jury.
- (K) The clerk of the court shall secure the list of eligible jurors and the list of jurors summoned for jury duty in a safe or other secure place to which no one else has access.

Section 170 Order of Trial (3 PYTC 2-1-170 – Former 3 PYT R.Civ.P. Rule 17)

- (A) At the trial of a civil case, presentations shall be made in the following order unless otherwise agreed by the parties or determined at the pretrial conference:
 - (1) Motions by either party regarding procedure at trial, evidence to be presented, jurisdiction of the court, or the sufficiency of a claim;
 - (2) Evidence and statements presented by the party (the plaintiff) who filed the original complaint;
 - (3) Evidence, statements or motions presented by the person complained against (the defendant);

- (4) Motions of either party which are based on events at trial; and
 - (5) Final arguments by both parties.
- (B) The judge may announce a final decision at the close of trial or may take the matter under submission and issue a written decision at a later time.
- (1) All decisions shall be announced within 30 days after the end of the trial.

Section 180 Burden and Standard of Proof; Jury Verdicts (3 PYTC 2-1-180 – Former 3 PYT R.Civ.P. Rule 18)

- (A) Unless otherwise provided by tribal law, the burden of proving a civil claim shall be on the party who makes the claim.
- (B) Unless otherwise provided by tribal law, a party to a civil case shall be considered to have met the burden of proof if more than half of the evidence presented tends to prove that party's claim.
- (C) A civil jury verdict must be based upon the agreement of at least six of the seven jurors.

Section 190 Rules of Evidence Governing Trials (3 PYTC 2-1-190 – Former 3 PYT R.Civ.P. Rule 19)

Evidence in all civil trials shall be governed by the Pascua Yaqui Tribe Rules of Evidence.

Section 200 Judgments (3 PYTC 2-1-200 – Former 3 PYT R.Civ.P. Rule 20)

- (A) A judgment is a final order of the court which disposes of a claim in whole or in part.
 - (1) The judge may announce a judgment orally at a hearing in open court before the parties, or in writing, at the time of hearing or after the hearing, but in no case more than 30 days after the end of the trial.
- (B) A judgment becomes final when it has been recorded in the docket book by the court clerk.
 - (1) The court shall establish, by Rule of Court, the length of time after issuance of an order within which the clerk must enter the order in the docket book.

Section 210 Proceedings after Judgment (3 PYTC 2-1-210 – Former 3 PYT R.Civ.P. Rule 21)

- (A) No later than ten days after judgment is final, a party may ask the judge for a rehearing, reconsideration, correction, vacation, or modification of the judgment.
- (B) The judge may grant a new hearing or reconsider any change in the judgment if he or she finds at least one of the following to be true:
 - (1) The original judgment was based on or reached as a result of fraud or mistake of law;
 - (2) There is newly discovered evidence which probably would have affected the outcome of the case and which could not, with reasonable effort, have been discovered in time for the hearing of the case;
 - (3) The court did not have jurisdiction over a party or over the subject matter.

- (C) No later than 30 days after judgment is final or after a motion made pursuant to Section 210 (A) of this rule is denied, a party may appeal an adverse judgment as provided in the Rules of Appellate Procedure Section 80.

Section 220 Costs and Attorney Fees (3 PYTC 2-1-220- Former 3 PYT R.Civ.P. Rule 22)

- (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) Attorney's 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.

Legislative History: Amended Section on September 12, 2012 by Resolution No. C09-144-12 and Ord.No.16-12

Section 230 Interpretation (3 PYTC 2-1-230 – Former 3 PYT R.Civ.P. Rule 23)

The Tribal Court, in its discretion, may apply interpretation of like provisions in the Federal Rules of Civil Procedure and the Arizona Rules of Civil Procedure in construing these rules.

DISPOSTION TABLE

<u>Former Rule</u>	<u>New Rule</u>
Rule 1	Section 10
Rule 2	Section 20
Rule 3	Section 30
Rule 4	Section 40
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Rule 16	Section 160
Rule 17	Section 170
Rule 18	Section 180
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Rule 20	Section 200
Rule 21	Section 210
Rule 22	Section 220
Rule 23	Section 230