

Bishop Paiute Tribe Bishop Paiute Reservation

Tribal Small Claims Ordinance

No.T2012-06

June 28,2012

This Ordinance shall be known as the Bishop Paiute Tribal Small Claims Ordinance and once adopted by the Bishop Paiute Tribal Council shall be within the jurisdiction of the Bishop Paiute Tribal Court.

TABLE OF CONTENTS

TITLE I - FINDINGS; DECLARATION OF POLICY	Page 1
100 - Tribal Council Findings	Page 1
101- Declarations of Policy	Page 1
TITLE II - ESTABLISHMENT OF TRIBAL SMALL CLAIMS COURT	Page 1
200 - Small Claims Court	Page 1
201 - Jurisdiction	Page 1
202 - Service of Claim	Page 2
203 - Counterclaims	Page 2
204 - Filing Fee – Waiver	Page 2
205 -Hearings	Page 3
206 - Evidence; Witnesses	Page 3
207 - Appearance by Attorneys	Page 3
208 - Judgment-Dismissal	Page 3
209 - Enforcement of Judgments	Page 3
210- Right of Appeal	Page 4
211 - Sovereign Immunity	Page 4
212 - Amendment	Page 4
Certification	Page 4

TRIBAL SMALL CLAIMS ORDINANCE NO. T2012-06

TITLE I

FINDINGS; DECLARATION OF POLICY

100. Tribal Council Findings. The Bishop Tribal Council (Tribal Council), the federally recognized governing body for the Bishop Paiute Tribe (Tribe), after careful review of the needs of Tribal government, individuals and businesses as it relates to access to the legal process to resolve claims for money, the Tribal Council finds and declares as follows:

(a) Individual civil money disputes are of special importance to Tribal Members and businesses and of significant social and economic consequence collectively.

(b) In order to resolve civil money disputes expeditiously, inexpensively, and fairly, it is essential to provide a judicial forum accessible to all parties directly involved in solving these disputes.

101. Declarations of Policy. The hearing and disposition of the Small Claims actions under this Ordinance shall be informal, the object being to dispense justice promptly, fairly, and inexpensively.

TITLE II

ESTABLISHMENT OF TRIBAL SMALL CLAIMS COURT

200. Small Claims Court. This Ordinance shall be a part of and be within the jurisdiction of the Bishop Paiute Tribal Court system (Tribal Court) and unless otherwise stated in this Ordinance shall be subject to the Tribal Court Rules presently in existence and hereafter amended.

The judge of the Tribal Court shall hear all claims under this Ordinance and render judgment according to the facts presented and the applicable law, custom or practice.

201. Jurisdiction. The jurisdiction of the Tribal Court is limited to civil disputes for the recovery of money only, not to exceed \$7,000.00.

Tribal members (or entities) may file claims against Tribal members (or entities). Tribal members may also file claims against nontribal member Indians (or entities) living on the Reservation. Nontribal member Indians living on the Reservation may sue Tribal members. Tribal members may file claims against non-Indians who are residing on the Reservation and who have consented to the Tribal Court's jurisdiction.

(a) The Small Claims Court jurisdiction does not extend to personal injury or property damage (except for Tribal government claims for property damage) actions, child support or alimony claims no matter what the amount of the claim.

(b) Money judgments must be of a commercial, business or tribal governmental nature.

The commercial and business claims could include, but not be limited to past due rent; services rendered and not paid for; loans of money made and not repaid; goods sold and not paid for.

Tribal governmental claims could include, but not be limited to past due rents and or property damage to Tribal housing units.

(c) All claims must be filed with the Tribal Court within three (3) years of the claim coming due.

202. Service of Claim and Response.

(1) Personal Service: Personal service of any court document is accomplished by delivery of a copy of the document to the named individual/person or entity subject to service at any place he/she/it may be found by any person age 18 or over who is not a party to the proceeding.

(2) Substituted Service: In the event that personal service is not completed, substituted service may be completed by leaving copies of the documents at the dwelling house, usual place of abode, or usual place of business of the person served in the presence of a competent member of the household or a person apparently in charge of the office or place of business, at least 18 years of age, who was informed of the general nature of the papers, and thereafter mailing by first class mail, postage prepaid, copies to the person served at the place where the copies were left.

203. Counterclaims.

(a) The defendant may file a claim against the plaintiff in the same action in an amount not to exceed the jurisdictional limits of this Ordinance (\$7,000.00). The claim need not relate to the same subject or event as the plaintiffs claim.

(b) The defendant's claim shall be filed and served in the same manner provided for filing and service of the claim of plaintiff

(c) The defendant shall cause a copy of the counterclaim and order for appearance to be served on the Plaintiff at least five (5) days before the hearing date.

(d) Notwithstanding any provision of this Ordinance, no counter claim may be filed against the Tribe or any of its officials or employees. Section 211 is incorporated herein and shall govern all counterclaim issues.

204. Filing Fee - Waiver. Any party, either plaintiff or defendant, who chooses to invoke the powers of the court or to defend any cause shall pay a filing fee unless the court waives the filing fee for good cause shown. The Court shall maintain a separate Filing Fee Schedule that shall be posted in the Court and that shall remain in effect until amended by the Tribal Council.

A person who can demonstrate indigency or other good cause may apply for a waiver of required filing fees. A waiver shall be granted by Order of the Court in writing and shall be filed in the case file.

205. Hearings. The hearing of all claims and counterclaims and the disposition thereof shall be informal, the object being to dispense justice promptly, fairly, and inexpensively.

206. Evidence; Witnesses.

(a) The parties have the right to offer evidence by witnesses at the hearing or, with the permission of the court, at another time.

(b) If the defendant fails to appear, the court shall still require the plaintiff to present evidence to prove his or her claim.

(c) The court may consult witnesses informally and otherwise investigate the controversy with or without notice to the parties.

207. Appearance by Attorneys.

(a) No attorney shall take part in the conduct or defense of a small claims action unless the attorney is a party to the action or the claim is against a partnership in which he or she is a general partner and in which all the partners are attorneys.

(b) Nothing in this section shall prevent an attorney from providing advice to a party to a small claims action, either before or after the commencement of the action; testifying to facts of which he or she has personal knowledge and about which he or she is competent to testify; or representing a party in an appeal of a small claims judgment; or representing a party in connection with the enforcement of a judgment.

(c) A non-attorney advocate or family member or friend may assist the party.

208. Judgment-Dismissal. After hearing on the claim/counterclaim the Tribal Court shall either dismiss the claim/counterclaim in writing or issue a judgment in writing setting out clearly its findings.

The dismissal/judgment shall be served on all parties by certified mail or personal service.

209. Enforcement of Judgments. The Tribal Court has, in addition to any other available remedies, a further grant of authority to order one or more of the following remedies

within its discretion in order to obtain compliance with its orders/judgments:

(a) Order the suspension of selective Tribal services identified and limited to DMV exemptions, enrollment card verification, and sales tax certification within the discretion of the Tribal Court.

(b) . Order the suspension of eligibility to receive Tribal per capita and State of California Special Distributions, or in the alternative, the use of such Tribal per capita and state distributions to satisfy any and all outstanding orders/judgments of the Tribal Court.

(c) Issue a wage/garnishment/withholding order.

210. Right of Appeal. The Bishop Paiute Tribal Appellate Court shall hear all appeals from the Tribal Court pursuant to adopted Appellate Court rules. All decisions of the Appellate Court shall be set forth in a written opinion, and the decision of the Appellate Court shall be final. A party may have an attorney representative for all appeals from the Tribal Court.

211. Sovereign Immunity. Nothing in this ordinance is a waiver of the sovereign immunity of the Tribe or the Tribal Councilor any official, agent or employee of the Tribe while acting in his or her official capacity. The employees and appointees of the Tribe, the members of the Tribal Council, and the personnel of the Tribal Court are cloaked with the sovereign immunity of the Tribe. No individual identified above shall be liable for his or her acts or failure to act under this Ordinance while acting in their official capacity.

212. Amendment. This Ordinance and the procedures promulgated hereunder may be amended or rescinded by the Tribal Council at a duly called regular or special meeting.

CERTIFICATION


The foregoing Ordinance was passed at a duly called meeting of the Bishop Tribal Council held on the 20th day of December, 2012 with a quorum present and voting 3 YES, 0 NO, 0 ABSTAINING, and 1 ABSENT and the Chairman not voting.

ATTEST:



Chairman TRIBAL

Date: 2/8/13


Secretary/Treasurer

Date: 02-08-13