

BISHOP PAIUTE TRIBE
TITLE 13 – BUSINESS
CHAPTER 13.1 – SMALL CLAIMS CODE
ENACTED BY TRIBAL COUNCIL: DECEMBER 20,
2012 Amended by Tribal Council October 22, 2021

TABLE OF CONTENTS

Section 1.	Findings.....	1
Section 2.	Declarations of Policy.....	1
Section 3.	Authority and Jurisdiction.....	1
Section 4.	Filing Complaints and Time Limitation.....	2
Section 5.	Service of Small Claim Complaint, Answer, and Counterclaim	2
Section 6.	Counterclaims.....	2
Section 7.	Filing Fee – Waiver.....	3
Section 8.	Hearings.....	3
Section 9.	Evidence; Witnesses.....	3
Section 10.	Appearance by Attorneys.....	3
Section 11.	Judgment-Dismissal.....	4
Section 12.	Enforcement of Judgements.....	4
Section 13.	Right of Appeal.....	4
Section 14.	General Provisions.....	4
Section 15.	Sovereign Immunity.....	5

Section 1. 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; and

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.

Section 2. Declarations of Policy

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

Section 3. Authority and Jurisdiction

Once this Code is adopted by the Bishop Paiute Tribal Council, it shall be within the jurisdiction of the Bishop Paiute Tribal Court system (Tribal Court) and unless otherwise stated in this Code shall be subject to the Tribal Court Rules presently in existence and hereafter amended. The judge of the Tribal Court shall hear all complaints under this Code and render judgment according to the facts presented and the applicable law, custom or practice.

A. The jurisdiction of the Tribal Court under this Code is limited to civil disputes for the recovery of money only, not to exceed \$7,000.00.

B. The jurisdiction of the Tribal Court under this Code extends to personal injury, property damage, commercial and business claims.

C. The jurisdiction of the Tribal Court under this Code does not extend to child support or alimony (spousal support).

Section 4. Filing Complaints and Time Limitation

Tribal members, tribal member businesses/entities, nontribal member Indians living on the Reservation, and nontribal member Indian businesses/entities doing business on the Reservation may file complaints against other tribal members, tribal member businesses/entities, nontribal member Indians living on the Reservation, and nontribal member Indian businesses/entities doing business on the Reservation.

Tribal members, tribal member businesses/entities, nontribal member Indians living on the Reservation, and nontribal member businesses/entities doing business on the Reservation may file complaints against non-Indians who are residing on the Reservation.

The Tribe, any tribal entities or departments may file complaints against any of the categories above, but may not have complaints or counterclaims filed against them due to sovereign immunity as stated in Section 15 below.

All complaints for personal injury and/or property damage must be filed with the Tribal Court within one (1) year from the date of the incident giving rise to the complaint. All commercial and business complaints must be filed with the Tribal Court within three (3) years of the claim coming due.

Section 5. Service of Small Claims Complaint, Answer, and Counterclaim

A. Service of the complaint shall be by personal service, as described in the Bishop Paiute Tribe Rules of Court. If the plaintiff is unable to personally serve the defendant(s), upon filing a declaration of due diligence and approval by the Tribal Court, the plaintiff may serve the defendant(s) by substituted or alternative service as directed by the Tribal Court, in accordance with the Bishop Paiute Tribe Rules of Court. In either case, proof of service must be filed with the Court.

B. Except as provided in subsection (C) below, the defendant's answer may be served by personal service, or by mailing (first class mail, postage prepaid) to the plaintiff at his/her address as shown on the complaint.

C. If the defendant's answer includes a "counterclaim," service of the answer and counterclaim shall be by personal service. If the defendant(s) is/are unable to personally serve the plaintiff, upon filing a declaration of due diligence and approval by the Tribal Court, the defendant(s) may serve the plaintiff by substituted or alternative service as directed by the Tribal Court.

Section 6. Counterclaims

A. The defendant may file a counterclaim against the plaintiff in the same action in an amount not to exceed the jurisdictional limits of this Code (\$7,000.00). The counterclaim need not relate to the same subject or event as the plaintiff's complaint.

B. The defendant's counterclaim shall be filed and served in the same manner provided for filing and service of the complaint 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 Code, no counterclaim may be filed against the Tribe or any of its officials or employees. Section 15 is incorporated herein and shall govern all counterclaim issues.

Section 7. 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.

Section 8. Hearings

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

Section 9. 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 complaint.

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

Section 10. 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 complaint 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.

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Section 11. Judgment-Dismissal

After hearing on the complaint/counterclaim the Tribal Court shall either dismiss the complaint/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.

Section 12. 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.

Section 13. Right of Appeal

The Bishop Paiute Tribal Appellate Court shall hear all appeals from the Tribal Court related to this Code 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.

Section 14. General Provisions

A. Severability

If any provision of this Code or the application thereof to any person, entity or circumstance is held to be invalid, the remainder of the Code shall remain in effect.

B. Rules, Procedures and Regulations

Unless otherwise stated in this Code, the Bishop Paiute Tribe Rules of Court and procedures are applicable to this Code as established and amended by the Bishop Paiute Tribal Court under the authority given in the Bishop Paiute Tribal Court Ordinance No. 2003-03.

The Tribal Council may establish other regulations as are consistent with this Code and necessary for effective administration and enforcement of this Code.

C. Amendments

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

D. Effective Date

This Code shall be effective from the date of its approval by the Tribal Council.

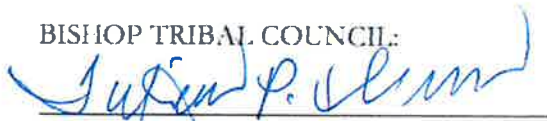
Section 15. Sovereign Immunity

Nothing in this Code is or shall be construed as a waiver of the sovereign immunity of the Tribe, the Tribal Council, the Tribal Court, the Tribal Police or any tribal officer, official, representative, agent, or employee of the same, regardless if the suit is for monetary damages, or injunctive or declaratory relief or any other type of relief. No individual named above shall be liable for his or her acts or failure to act under this Code. The sovereign immunity of the Bishop Paiute Tribe is hereby expressly confirmed.

CERTIFICATION


The foregoing Code was passed at a duly called meeting of the Bishop Paiute Tribal Council held on the 22th day of October, 2021 with a quorum present and voting 3 AYES, 0 NAYS, 0 ABSTAINING, and 1 ABSENT and the Tribal Council Chairman not voting/voting.

BISHOP TRIBAL COUNCIL:


Tilford P. Denver,
Tribal Council Chairman

Date: 10/22/21

ATTEST:


Steven Orihuela,
Tribal Secretary

Date: 10/22/2021

Legislative History:

6/27/2012	Ordinance Drafted
12/20/2012	Enacted as Small Claims Ordinance.
2/08/2013	Ordinance signed by Tribal Council.
6/9/2021	Public Hearing on Amendments
6/10/2021	Public Hearing on Amendments
10/22/2021	Enacted as the Small Claims Code
10/22/2021	Enforcement date.