

**TITLE 3 – COURTS AND RULES OF COURT**  
**PART III – JUDGMENTS**  
**CHAPTER 3-1 – DECLARATORY JUDGMENTS; EQUITABLE AND INJUNCTIVE RELIEF**

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*Legislative History: Originally established on July 26, 1982 as part of Law & Order Code, by Resolution No. C-31-82 and Ordinance No. 5*  
*Recodified Pascua Yaqui Tribal Code on Aug. 9, 2006 by Res. No. C08-313-06.*

**Section 10 Scope (3 PYTC § 3-1-10)**

- (A) The Tribal Court shall have power to declare rights, status, and other legal relations, whether or not further relief is or could be claimed, provided that the court shall not award damages or any other form of monetary relief in a declaratory judgment action.
- (B) No action or proceeding shall be open to objection on the ground that a declaratory judgment or decree is prayed for. The court will not render a judgment that is solely advisory or answer moot or abstract questions; a justifiable controversy between the parties must exist for declaratory judgment to be entered.
- (C) The declaration may be either affirmative or negative in form and effect, and such declarations shall have the force and effect of a final judgment or decree.
- (D) Relief shall be based upon an existing set of facts, not those that may or may not arise in the future.
- (E) A declaratory judgment award shall not limit any equitable relief to which a litigant is otherwise entitled.

**Section 20 Power to construe (3 PYTC § 3-1-20)**

Any person interested under a deed, will, written contract or other writing constituting a contract, or whose rights, status or other legal relations are affected by a law, ordinance, resolution or contract, may have determined any question of construction or validity arising under the instrument, law, ordinance, resolution or contract and obtain a declaration of rights, status or other legal relations thereunder.

**Section 30 Before breach (3 PYTC § 3-1-30)**

A contract may be construed either before or after there has been a breach thereof. It is not necessary there be any breach committed, right violated, or wrong done before declaratory relief is available.

**Section 40 Enumeration not exclusive (3 PYTC § 3-1-40)**

The enumeration in Sections 20 and 30 does not limit or restrict the exercise of the general powers conferred in Section 10 in any proceeding where declaratory relief is sought, in which a judgment or decree will terminate the controversy or remove an uncertainty.

**Section 50 Court's discretion (3 PYTC § 3-1-50)**

The court may refuse to render or enter a declaratory judgment or decree where such judgment or decree, if rendered or entered, would not terminate the uncertainty or controversy giving rise to the proceeding, exclusive of any additional judicial relief.

**Section 60      Review (3 PYTC § 3-1-60)**

All orders, judgments and decrees under this Chapter may be reviewed as other orders, judgments and decrees, including, when otherwise available, by appeal to the Pascua Yaqui Court of Appeals.

**Section 70      Supplemental relief (3 PYTC § 3-1-70)**

Further relief based on a declaratory judgment or decree may be granted whenever necessary or proper. The application therefore shall be by complaint or appropriate pleading to the court. If the application is deemed sufficient, the court shall, on reasonable notice, require any adverse party whose rights have been adjudicated by the declaratory judgment or decree, to show cause why further relief should not be granted forthwith.

**Section 80      Jury trial (3 PYTC § 3-1-80)**

When a proceeding under this chapter involves the determination of an issue of fact, such issue may be tried and determined in the same manner as issues of fact are tried and determined in other civil actions in this court.

**Section 90      Costs (3 PYTC § 3-1-90)**

In any proceeding under this chapter the court may make such award of costs as may seem equitable and just.

**Section 100      Parties; Notice of Claim of Unconstitutionality (3 PYTC § 3-1-100)**

- (A) When declaratory relief is sought, all persons shall be made parties who have or claim any interest which would be affected by the declaration and no declaration shall prejudice the rights of persons not parties to the proceeding. In any proceeding which involves the validity of a law, ordinance or resolution, the Pascua Yaqui Tribe shall be made a party and shall be entitled to be heard, provided that nothing in this Chapter shall be construed as a waiver of sovereign immunity. In any proceeding in which a law, ordinance, resolution or rule is alleged to be unconstitutional, the attorney general shall be served with a copy of the pleading, motion or document containing the allegation at the same time the other parties in the action are served and shall be entitled to be heard.
- (B) If a pleading, motion or document containing the allegation is served on the attorney general pursuant to subsection (A), a notice of claim of unconstitutionality shall be attached to the pleading, motion or document as the cover page and shall state the following information:
  - (1) The name, address and telephone number of the attorney for the party alleging that a tribal law is unconstitutional or the name, address and telephone number of the party if the party is not represented by an attorney.
  - (2) The case name, court name, caption and case number of the proceeding.
  - (3) A brief statement of the basis for the claim of unconstitutionality.
  - (4) A brief description of the proceeding, and attaching copies of any court orders in the proceeding if the claim of unconstitutionality is asserted in a pleading, motion or document other than the pleading, motion or document that initiated the proceeding.
  - (5) The date, time, location, judge and subject of the next hearing in the proceeding, if any.

- (C) If the attorney general is not served in a timely manner with notice pursuant to subsection (A), on motion by the attorney general the court shall vacate any finding of unconstitutionality or invalidity and shall give the attorney general a reasonable opportunity to prepare and be heard.

**Section 110 Construction (3 PYTC § 3-1-110)**

This Chapter is declared to be remedial; its purpose is to settle and to afford relief from uncertainty and insecurity with respect to rights, status and other legal relations; and is to be liberally construed and administered.

**Section 120 Words construed (3 PYTC § 3-1-120)**

The word "person" wherever used in this chapter shall be construed to mean any person, partnership, company, corporation or entity of any character whatsoever.

**Section 130 Severability (3 PYTC § 3-1-130)**

Each section and provision of this chapter, except Sections 10 and 20, are hereby declared independent and severable, and, if any section or any provision, clause, phrase, term, or other part of this chapter or the application thereof to any party, person, or entity or to any circumstances, shall be held invalid for any reason whatsoever by a court of competent jurisdiction, the remainder of the chapter shall not be affected thereby and shall remain in full force and effect as though no part thereof has been declared to be invalid.

**DISPOSITION TABLE**

<b>Former Section</b>	<b>New Section</b>
<b>Title 20, Chapter Two</b>	<b>Title 3, Part III, Ch. 3-1</b>
Section 201	Section 10
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