



SQUAXIN ISLAND TRIBE

RESOLUTION NO. 19-58

of the

SQUAXIN ISLAND TRIBAL COUNCIL

WHEREAS, the Squaxin Island Tribal Council is the Governing Body of the Squaxin Island Tribe, its members, its lands, its enterprises and its agencies by the authority of the Constitution and Bylaws of the Squaxin Island Tribe, as approved and adopted by the General Body and the Secretary of the Interior on July 8, 1965;

WHEREAS, under the Constitution, Bylaws and inherent sovereignty of the Tribe, the Squaxin Island Tribal Council is charged with the duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources and rights of the Tribe;

WHEREAS, the Tribe is a federally-recognized Indian Tribe possessing reserved powers, including the powers of self-government;

WHEREAS, the Squaxin Island Tribal Council has been entrusted with the creation of ordinances and resolutions in order to fulfill their duty of protecting the health, security, education and general welfare of tribal members, and of protecting and managing the lands and treaty resources of the Tribe;

WHEREAS, access to justice is and remains a critical consideration while the cost of judicial services continues to rise;

WHEREAS, the Squaxin Island Tribal Council's nominal measures intended to limit requests for judicial services to specific errors at nominal cost to ensure the appellant is invested and the appeal is valid.

NOW THEREFORE BE IT RESOLVED, that the Squaxin Island Tribal Council hereby adopts the redline attached amendments to the Court System Code Chapter 24.32.

CERTIFICATION

The Squaxin Island Tribal Council hereby certifies that the foregoing Resolution was adopted at the regular meeting of the Squaxin Island Tribal Council, held on this 12th day of September, 2019, at which time a quorum was present and was passed by a vote of 5 for and 0 against, with 0 abstentions.



Arnold Cooper, Chairman

Attested by: 

Jeremie Walls, Secretary



Charlene Krise, Vice Chairman

Chapter 4.32 - RULES OF APPELLATE PROCEDURE

4.32.010 - Scope.

The Rules of Appellate Procedure apply to appeals from all judgment of the Squaxin Island Tribal Court, both civil judgments and criminal judgments.

(CPO (part))

4.32.020 - Right to appeal.

Any person who claims, in good faith, that the Squaxin Island Tribal Court made a mistake in interpreting the law, a mistake in assessing the facts, or a mistake in procedure, which affected the outcome of a case shall have the right to appeal from the final judgment. The Tribe, however, may not appeal a jury verdict of not guilty.

(CPO (part))

4.32.030 — Filing of Appeal, Notice of appeal.

A. Filing of Appeal.

Timing: Any person who wishes to appeal the judgment of the Tribal Court shall file a notice of appeal with ~~notify~~ the clerk within ~~ten~~twenty (20-10) days after the judgment is final. If a party first asks for a new trial, rehearing, or reconsideration and the motion is denied, the ~~ten~~twenty (~~10~~20) day time limit shall be counted from the day when the motion is denied.

1. Notice of Appeal, Content: The notice of appeal must identify the mistake(s) of law, fact, or procedure that the appealing party claims were made by the Tribal Court. The notice of appeal must provide a sufficient basis from which the appeals Court and the non-appealing party or parties can discern what aspect or aspects of the Tribal Court's ruling are at issue. The notice of appeal shall also contain name of the parties, the case docket number, and the date of the judgement.

~~1-2.~~ Cost of Appeal: The appealing party shall pay a fee to the clerk of \$100.00 to initiate the appeal. The fee shall not apply to cases where the Tribe was the prevailing party in the Tribal Court. The fee may be waived by the Court of Appeals for good cause if requested by the appealing party in writing.

3. Acknowledgement of Costs. The appealing party, in order to file an appeal, shall sign and file with the clerk an acknowledgement of costs. The acknowledgment shall state that the appealing party is aware that costs of appeal may be assessed to the losing party on appeal, pursuant to SITC 4.32.160.

C. Notice. Upon receipt of a notice of appeal, the clerk shall mail a copy to all parties to the Tribal Court matter, the trial Judge, and the Court of Appeals.

~~B. A party may notify the clerk that he/she appeals and the grounds for the appeal either orally or in writing. Within the next five days, the clerk shall prepare a written notice of appeal and send or give a copy of it to the trial judge and to all parties. The notice of appeal shall contain the name of the parties, the case docket number, the date and nature of the judgment appealed from, and the reasons why the party appealing thinks the court made a mistake.~~

(CPO (part))

4.32.040 - Stay of judgment pending appeal.

~~A. When a party appeals the judgment of the trial court, the judgment shall not be carried out until and unless the Appeals Court upholds the judgment. Injunctions, however, shall take effect unless the trial judge suspends them.~~

A. Within twenty (20) days of filing Upon receipt of a notice of appeal, a party may file a request to stay the judgment of the trial court, pending the outcome of the appeal. and After the trial judge gives the parties an opportunity to be heard, the judge may, for good cause, stay the judgment pending appeal, set terms and conditions governing the release of a person convicted of a crime, the disposition of property which has been used as evidence or is the subject of the judgment, and other matters necessary to preserve the Court's jurisdiction while the appeal is being considered.

(CPO (part))

4.32.050 - Bond.

The trial judge may require the party who appeals a judgment to deposit cash or other security with the Court while the appeal is being processed if there is a clear showing that some security is needed to guarantee that the Court's judgment will be enforceable later. The security required shall not be greater in value than the amount of the judgment or fine imposed by the trial court, plus costs.

(CPO (part))

4.32.060 - Record on appeal.

- A. The record on appeal shall be made up of all papers filed in a case plus the tape recordings and/or transcript made of all court hearings in the case.
- B. Upon receipt of a notice of appeal, the clerk shall make sure that the case record is complete and in order and shall make the record available to all parties for inspection and for copying at the parties' expense.

(CPO (part))

4.32.070 - Appeal judges.

- A. For each case which is appealed, a panel of three judges shall be designated to hear the appeal. However, at the election and request of the Tribe a one judge panel shall be allowed and provided for in all cases in which the Tribe is not the appealing party. None of the judges should have participated in the case at the trial level and none of them should have personal knowledge of or interest in the case. The clerk shall select the names of the appellate judges to hear an appeal by a system of rotation among available judges.
- B. Of the three judges on an appeal panel, the judge who has served longest as a tribal judge shall be designated senior judge.

(CPO (part)) (Res. No. 13-64, 8-22-13)

4.32.080 - Sending the record to appeal judges.

- A. At the same time as the clerk sends or gives a copy of the notice of appeal to the parties, the clerk shall also send a copy to each of the three judges chosen to sit on the appeal panel.
- B. No longer than ten (10) days after the notice of appeal is delivered to the appeal judges, the clerk shall deliver a copy of the case record to each of the three judges.

(CPO (part))

4.32.090 - Scheduling.

- A. After consulting with the two associate judges and the court clerk, the senior judge of the appeal panel shall schedule a hearing at which the parties' arguments on appeal will be considered. The hearing shall be scheduled no fewer than thirty (30) days and no more than ninety (90) days after the judges receive the notice of appeal.
- B. The clerk shall immediately notify all parties of the time and place of the hearing on appeal.

(CPO (part))

4.32.100 - Briefs.

The parties may, but shall not be required to, make their arguments on appeal in writing. If the party who appeals wishes to submit written arguments, he or she shall tell the clerk within ~~ten~~ twenty (20) days after appealing. The judge shall then notify all parties of a schedule for the filing of written arguments. The schedule shall require the party appealing to file written arguments first, giving both sides equal time to prepare their arguments and leaving at least ten (10) days between the deadline for submitting the last arguments and the scheduled court hearing.

(CPO (part))

4.32.110 - Additional evidence.

Cases appealed pursuant to these rules shall be decided on the basis of the trial court record and any written or oral arguments presented by the parties. The appeal judges may allow the parties to present additional evidence at or before the hearing if refusal to consider the evidence would result in a clear injustice.

(CPO (part))

4.32.120 - Motions.

- A. A party who wishes to raise a question of procedure or request court action during an appeal shall present the issue to the judges in a written motion which the party files with the clerk. The clerk may help any party put a motion in writing.
- B. The party who makes a motion pursuant to this rule shall give or send a copy of the motion to all other parties on the same day as the motion is filed with the clerk. Other parties may respond to the motion within five days after receiving a copy.
- C. The clerk shall immediately send a copy of a motion made pursuant to this rule to the chief appeals judge, who may rule on the motion alone or after consulting with the associate judges.

(CPO (part))

4.32.130 - Dismissal of an appeal.

- A. On the request of the appealing party, an appeal shall be dismissed at any time up to submission of respondent's written arguments or five days before the scheduled hearing, whichever is sooner. The Court shall order the appealing party to pay all costs of a dismissed appeal.
- B. If the appealing party requests that the appeal be dismissed after the deadline set in subsection A of this section, the judges may dismiss the appeal. Subject to the condition the appealing party pay costs, if the dismissal will not prejudice any other party.
- C. If the judges determine that an appeal was filed frivolously and without good faith, they shall dismiss the appeal and charge all costs to appellant.

(CPO (part))

4.32.140 - Hearing.

At the time set for hearing on appeal, the parties may present orally any arguments relevant to the issues raised by the appeal. The party who appealed shall speak first and shall have a chance later to respond briefly to any remarks made by the other parties. The judges may set limits on the time each party is allowed to speak.

(CPO (part))

4.32.150 - Judgment.

- A. The judges shall announce their decision on an appeal after discussing the case with each other. The decision on appeal may be made by a majority vote of the judges.
- B. The appeals judges shall put their decision in writing and provide a copy to all parties of an appeal after a copy of the decision delivered to all parties.
- C. The Appeals Court may dismiss an appeal, reverse the Trial Court decision in whole or in part, order a new trial, or make any other ruling which disposes of the issues raised by the appeal, provided that on matters on appeal from the Employment Court the Appeals Court may only order a new trial and may only do so if the Appeals Court determines that the lower court's decision was arbitrary or capricious or not supported by substantial evidence.

(Res. 97-53 (part): CPO (part))

4.32.160 - Costs.

The appeals judges shall order the party who loses the appeal to pay costs, unless it appears that such an order would result in a clear injustice.

Costs shall include:

- A. The preparation and transmission of the record;
- B. The reporter's transcript, if needed to determine the appeal;
- C. Premiums paid for a bond or other security to preserve rights pending appeal; and
- D. The fee for filing the notice of appeal.

(CPO (part))