

**RESOLUTION OF THE
WHITE MOUNTAIN APACHE TRIBE OF THE
FORT APACHE INDIAN RESERVATION**

WHEREAS, Section 1.5 of the Judicial Code of the White Mountain Apache Tribe provides that all resolutions or enactments of the Tribal Council which conflict with the provisions of the Tribal Code are repealed to the extent of such conflict; and

WHEREAS, Rule I-5A of the Informal Rules of Civil Procedure provides that a civil tort lawsuit in Tribal Court must be filed within (2) two years of the claim event; and

WHEREAS, Section 3.7 of the Tort Claims Act and Section 4.5 of the General Law of Torts Act of the Judicial Code provide that a civil tort lawsuit in Tribal Court must be commenced within one (1) year of the claim event; and

WHEREAS, pursuant to the statutory provisions of the Judicial Code, the one year limitation of actions clause in the Tort Claims Act and the General Law of Torts Act repealed the two year limitation of actions in the Rules of Procedure; and

WHEREAS, Rule I-5A(2) also states that claims based upon a statute must be filed within one year and the Tribal Tort Claims Act and General Law of Torts Act are statutes; and

WHEREAS, the Chief Judge of the Tribal Court advises the Tribal Council that the Rules of Civil Procedure should be amended to avoid any potential confusion regarding the limitation of actions in tort cases; and

WHEREAS, the Chief Judge of the Tribal Court further recommends to the Tribal Council that any civil suits against the Tribe be governed by the Rules of Formal Procedure to avoid any misunderstanding that the Formal Rules of Procedure are the only procedures governing such claims; and

WHEREAS, the Tribal Council concurs with the Chief Judge's recommendations and agrees that the Rules of Civil Procedure should be amended to clarify any misunderstanding and be consistent with the statutory provisions of the tribal code.

BE IT RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the following amendment to Rule .2A of the Informal Rules of Civil Procedure:

Resolution No. 07-97-195

.2A Except as otherwise provided by these Rules or other tribal law, procedure in civil matters in the Tribal Court shall be governed by the Informal Rules of Civil Procedure. Notwithstanding any other provision in these rules, all claims filed pursuant to the Tribal Tort Claims Act and the General Law of Torts Act shall be governed by the Formal Rules of Civil Procedure and none other.

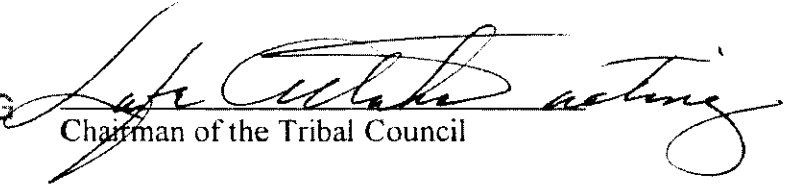
BE IT FURTHER RESOLVED by the Tribal Council of the White Mountain Apache Tribe that it hereby approves the following amendment to Rule I-5A(1):

I-5A. A civil lawsuit in Tribal Court must be started:

(1) in the case of ~~torts and~~ oral contracts, and actions not otherwise provided for herein, within two years;

The foregoing resolution was on July 10, 1997 duly adopted by a vote of five for and four against by the Tribal Council of the White Mountain Apache Tribe, pursuant to authority vested in it by Article IV, Section 1 (a), (i), (q), (s), (t) and (u) of the Constitution of the Tribe, ratified by the Tribe September 30, 1993, and approved by the Secretary of the Interior on November 12, 1993, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

ACTING


Chairman of the Tribal Council


Secretary of the Tribal Council