

(e) In any civil action to recover damages for the negligent or willful injury to property and any other incidental costs related to such action, the prevailing party shall be allowed reasonable attorney's fees, Court costs and interest to be set by the Court and to be taxes and collected as other costs of the action, except that a plaintiff who is required to pay costs pursuant to Section 903 of this Title may not recover his attorney's fees as provided by this subsection.

**Section 991. Costs Defined**

Costs include, in addition to items of expense specifically recoverable as costs pursuant to any statute of the Tribe, fees required to be paid by law for the filing costs of any paper in an action expense for service of process as provided by law, costs of transcripts, Tribal Police Fees for service of papers and mileage, costs of publication of any notice required to be published, printing of briefs or other documents required by the Court to be printed, and any other items made recoverable as costs by Court rule.

**Section 992. Authority of Court to Fix Costs Rates**

The Court by rule set the fees and costs of any service performed by the Court Clerk or Tribal Police Chief on behalf of the parties when such fees and costs are not provided for by Tribal statute. Such fees and costs shall be maintained at the minimum level possible considering the needs of the Court Fund.

**CHAPTER TEN**

**LIMITATION OF ACTIONS**

**Section 1001. Limitations Applicable**

Civil actions can only be commenced within the periods prescribed in this Chapter after the cause of action shall have accrued; but where, in special cases, a different limitation is prescribed by statute, the action shall be governed by such limitation. There shall be no statute of limitations applicable against civil actions brought by the tribe on its own behalf except to the extent that a statute of limitation is expressly stated to be applicable to the Tribe by this Code or some Tribal statute.

**Section 1002. Limitation of Real Actions**

For the recovery of real property or for the determination of any adverse right or interest therein, can only be brought within the periods hereinafter prescribed, after the claim shall have accrued, and at no other time thereafter.

(a) An action for the recovery of non-trust interest in real property sold on execution, or for the recovery of real estate partitioned by judgment in kind,

or sold, or conveyed pursuant to partition proceedings, or other judicial sale, or an action for the recovery of real estate distributed under decree of The Court, in administration or probate proceedings, when brought by or on behalf of the execution debtor or former owner, or his or their heirs, or any person claiming under him or them by title acquired after the date of the judgment or by any person claiming to be an heir or devise of the decedent in whose estate such decree was rendered, or claiming under, as successor in interest, any such heir or devise, within five (5) years after the date of the recording of the deed made in pursuance of the sale or proceeding, or within five (5) years after the date of the entry of the final judgment of partition on kind where no sale in had in the partition proceedings; or within five (5) years after the recording of the decree of distribution rendered by the Court in an administration or probate proceeding; provided, however, that where any such action pertains to real estate distributed under decree of the Court in administration or probate proceedings and would at the passage of this title be barred by the terms hereof, such action may be brought within five (5) years after the passage of this title.

(b) An action for the recovery of real property sold by executors, administrators, or guardians, upon an order or judgment of a Court directing such sale, brought by the heirs or devisees of the deceased person, or the ward of his guardian, or any person claiming under any or either of them, by the title acquired after the date of judgment or order, within five (5) years after the date of recording of the deed made in pursuance of the sale.

(c) An action for the recovery of real property sold for taxes, within five (5) years after the date of the recording of the tax deed.

(d) An action for the recovery of real property not hereinbefore provided for, within twenty (20) years.

(e) An action for the forcible entry and detention or forcible detention only of real property, within three (3) years.

(f) Paragraphs a, b, and c shall be fully operative regardless of whether the deed or judgment or the precedent action or proceeding upon which such deed or judgment is based is void or voidable in whole or in part, for any reason, jurisdictional or otherwise; provided that this paragraph shall not be applied so as to bar causes of action which have hereto accrued, until the expiration of five (5) years from after its effective date.

(g) Nothing in this section should be construed to impose any statute of limitation upon the enforcement of a right to possession of real property held by the United States in trust for any Indian or Indian Tribe under any law of the United States or restricted against alienation by any law of the United States in conformity to the laws of the United States relating to such real property.

**Section 1003. Persons Under Disability - In Real Property Actions**

Any person entitled to bring an action for the recovery of real property, who may be under any legal disability when the cause of action accrues, may bring his action within two years after the disability is removed.

**Section 1004. Limitation of Other Actions**

Civil actions other than for the recovery of real property can only be brought within the following periods, after the cause of action shall have accrued, and not afterwards:

(a) Within seven (7) years: An action upon any contract, agreement or promise in writing.

(b) Within five (5) years: An action upon a contract express or implied not in writing; an action upon a liability created by statute including a forfeiture or penalty except where the statute imposes a different limitation and an action on a foreign judgment.

(c) Within three (3) years: An action for trespass upon real property; an action for taking, detaining, or injuring personal property, including actions for the specific recovery of personal property; an action for injury to the rights of another, not arising on contract except as otherwise provided in building construction tort claims, and not hereinafter enumerated; an action for relief on the ground of fraud - the cause of action in such case shall not be deemed to have accrued until the discovery of the fraud.

(d) Within one (1) year: an action for libel, slander, assault, battery, malicious prosecution, or false imprisonment.

(e) An action upon the official bond or undertaking of an executor, administrator, guardian, Tribal Police officer, or any other officer, or upon the bond or undertaking given in attachment, injunction, arrest, or in any case whatever required by the statute, can only be brought within five (5) years after the cause of action shall have accrued.

(f) An action for relief, not hereinbefore provided for, can only be brought within five (5) years after the cause of action shall have accrued.

**Section 1005. Persons Under Disability in Actions Other Than Real Property Action**

If a person entitled to bring an action other than for the recovery of real property be, at the time the cause of action accrued, under any legal disability, every such person shall be entitled to bring such action within one year after such disability shall be removed.

**Section 1006. Absence or Flight of Defendant**

When a cause of action against a person and that person is out of the Tribal jurisdiction or has concealed himself, the period limited for the commencement of the action shall not begin to run until he comes into the Tribal jurisdiction, or while he is concealed. If, after a cause of action accrues against a person and that person leaves the Tribal jurisdiction or conceals himself, the time of his absence or concealment shall not be computed as any part of the period within such the action must be brought. Provided, however, that if any statute which extends the exercise of personal exercise of personal jurisdiction of the Court over a person or corporation based upon service outside the Tribal jurisdiction, state, or nation, or based upon service by publication permits the Court of this Tribe to acquire personal jurisdiction over the person, the period of his absence or concealment shall be computed as part of the period within which action must be brought.

**Section 1007. Limitation of New Action After Failure**

If any action is commenced with due time, and a judgment thereon for the plaintiff is reversed, or if the plaintiff fail in such action otherwise than upon the merits, the plaintiff, or, if he should die, and the cause of action survive, his representative may commence a new action within two years after the reversal or failure although the time for commencing the action shall have expired before the new action is filed. An appeal of any judgment or order against the plaintiff other than the merits as above stated shall toll the two year period during the pendency of the appeal.

**Section 1008. Extension of Limitation**

In any case founded on contract, when any part of the principal or interest shall have been paid, or an acknowledgment of an existing liability, debt or claim, or any promise to pay the same shall have been made, an action may be brought in such case which the period prescribed for the same, after such payment, acknowledgment or promise; buy such acknowledgment or promise must be in writing, signed by the party to be charged thereby.

**Section 1009. Statutory Bar Absolute**

When a right of action is barred by the provisions of any applicable statute, it shall be unavailable either as a cause of action or ground of defense, except as otherwise provided with reference to a counterclaim, setoff, or cross claim.

**Section 1010. Law Governing Foreign Claims**

The period of limitation applicable to a claim accruing outside of the Tribal jurisdiction shall be that prescribed either by the law of the place where the claim accrued or by the law of this Tribe whichever last bars the claim.

**Section 1011. Limitation of Building Construction Tort Claims**

No action in tort to recover damages:

- (a) For any deficiency in the design, planning, supervision or observation of construction or construction of an improvement to real property,
- (b) For injury to property, real or personal, arising out of any such deficiency,  
or
- (c) For injury to the person or for wrongful death arising out of any such deficiency,

shall be brought against any person owning, leasing, or in possession of such an improvement of performing or furnishing the design, planning, supervision or observation of construction or construction of such an improvement more than ten (10) years after substantial completion of such an improvement.

**CHAPTER THIRTEEN**

**HABEAS CORPUS**

**Section 1301. Persons Who may Prosecute Writ**

Every person restrained of his liberty, under any pretense whatever, may prosecute, a writ of habeas corpus to inquire into the cause of the restraint, and shall be delivered therefrom when the restraint is illegal.

**Section 1302. Application for Writ**

Application for the writ shall be made by petition, signed and verified either by the plaintiff or by some person in his behalf, and shall specify:

- (a) By whom the person in whose behalf the writ is requested, is restrained of his liberty, and the place where restrained, naming all the parties, if they are known, or describing them, if they are not known.
- (b) The cause or pretense of the restraint, according to the best of the knowledge and belief of the applicant.
- (c) If the restraint be alleged to be illegal, in what the illegality consists.

**Section 1303. Writ Granted**

Writs of habeas corpus may be granted by any judge or magistrate of the Tribal District Court, either in open Court, or in vacation; and upon application the writs shall be granted without delay.

**Section 1304. Direction and Command of Writ**

The writ shall be directed to the officer or party having the person under restraint, commanding him to have such person before the Court, or judge, at such time and place as the Court or judge shall direct, to show cause if any he has for the restraint imposed upon the person on whose behalf the writ is issued, to do and receive what shall be ordered concerning him and have then and there the writ in his possession.

**Section 1305. Delivery to Tribal Police Chief**

If the writ be directed to the chief of the Tribal Police, it shall be delivered by the Clerk to him without delay.

**Section 1306. Service on party Other Than Tribal Police Chief**

If the writ be directed to any other person, it shall be delivered to the Chief of the Tribal of the Tribal Police and shall be by him served by delivering the writ to such person without delay.

**Section 1307. Service When Person Not Found**

If the person to whom such writ is directed cannot be found, or shall refuse admittance to the Chief of the Tribal Police, the same may be served by leaving it at the residence of the person to whom it is directed, or by affixing the same on some conspicuous place, either of his dwelling house or where the party is confined under restraint.

**Section 1308. Return and Enforcement of Writ**

The Chief of the Tribal Police or other person to whom the writ is directed shall make immediate return thereof, and if he neglect or refuse, after due service, to make return, or shall refuse or neglect to obey the writ by producing the party named therein, and no sufficient excuse be shown for such neglect or refusal, the Court shall enforce obedience by attachment.

**Section 1309. Manner of Return**

The return much be signed and verified by the person making it, who shall state:

- (a) The authority or cause of restraint of the party in his custody.

(b) If the authority be in writing, he shall return a copy and produce the original on the hearing.

(c) If he has had the party in his custody or under his restraint, and has transferred him to another, he shall state to whom, the time, place and cause of the transfer.

He shall produce the party on the hearing, unless prevented by sickness or infirmity or other good cause, which must be shown in the return.

**Section 1310. Proceeding in Case of sickness or Infirmity**

The Court or judge, if satisfied with the truth of the allegation of sickness or infirmity or other good cause for not producing the body of the person, may proceed to decide on the return, or the hearing may be adjourned until the party can be produced. The plaintiff may except to the sufficiency of, or controvert the return or any part thereof, or allege any new matter in avoidance; the return and pleadings may be amended without causing any delay

**Section 1311. Hearing and discharge**

The Court or Judge shall thereupon proceed in a summary way to hear and determine the cause, and if no legal cause be shown for the restraint or for the continuance thereof, shall discharge the party.

**Section 1312. Limits on Inquiry**

No Judge shall inquire into the legality of any judgment or process, whereby the party is in custody, or discharge him when the term of commitment has not expired in either of the cases following:

(a) Upon process issued by any court or judge of the United States, or of any State or where such court or judge has exclusive jurisdiction; or,

(b) Upon any law process issued on any final judgment of a court of competent jurisdiction; or,

(c) For any contempt of any court, officer or body having authority to commit; but an order of commitment as for a contempt, upon proceedings to enforce the remedy of a party, is not included in any of the foregoing specifications;

(d) Upon a warrant or commitment issued from the Tribal District Court, or any other court of competent jurisdiction, upon indictment or information.

**Section 1313. Writ upon Temporary Commitment**

No person shall be discharged from an order of temporary commitment issued by any judicial or peace officer for want of bail, or in case not bailable, on account of any defect in the charge or process, or for alleged want of probable cause; but in all such cases, the court or judge shall summon the prosecuting witnesses, investigate the criminal charge, and discharge, let to bail or recommit the prisoner, as may be just and legal, and recognize witnesses when proper.

**Section 1314. Writ May Issue to Admit to Bail**

The writ may be had for the purpose of letting a prisoner to bail in civil and criminal actions.

**Section 1315. Notice to Interested Persons**

When any person has an interest in the detention, the prisoner shall not be discharged until the person having such interest is notified.

**Section 1316. Powers of Court**

The Court or judge shall have power to require and compel the attendance of witnesses and to do all other acts necessary to determine the case.

**Section 1317. Officers Not Liable for Obeying Orders**

No Tribal policeman or other officer shall be liable to a civil action for obeying any writ of habeas corpus or order of discharge or enforcement made thereon.

**Section 1318. Issuance of Warrant of Attachment**

Whenever it shall appear by affidavit that anyone is illegally held in custody or restraint, and that there is good reason to believe that such person will be carried out of the jurisdiction of the Court or judge, or will suffer some irreparable injury before compliance with the writ can be enforced, the Court or judge may cause a Warrant of Attachment to be issued, reciting the facts, and directed to the Chief of the Tribal Police, commanding him to take the person thus held in custody or restraint, and forthwith bring him before the Court or judge, to be dealt with according to law.

**Section 1319. Arrest of Party Causing Restraint**

The Court or judge may also, if the same be deemed necessary, insert in the warrant a command for the apprehension of the person charged with causing the illegal restraint.

**Section 1320. Execution of Warrant of Attachment**

The officer shall execute the Warrant of Attachment by bringing the person therein named before the Court or Judge; and like return and proceedings shall be required and had as in case of writs of habeas corpus.

**Section 1321. Temporary Orders**

The Court or Judge may make any temporary orders in the cause or disposition of the party during the progress of the proceedings, that justice may require. The custody of any party restrained may be changed from one person to another, by order of the Court or Judge.

**Section 1322. Issuance and Service on Sunday**

Any writ, warrant, or process authorized by this Chapter may be issued and served, in case of emergency on any day including Saturdays, Sundays, and holidays.

**Section 1323. Issue of Process**

All writs and other process, authorized by the provisions of this Chapter may be issued by the Clerk of the Court upon direction of a Judge, and except summons, sealed with the seal of such court and shall be served and returned forthwith, unless the Court or Judge shall specify a particular time for any such return. And no writ or other process shall be disregarded for any defect therein, if enough is shown to notify the officer or person of the purport of the process. Amendments may be allowed, and temporary commitments, when necessary.

**Section 1324. Protection of Infants and Insane Persons**

Writ of habits corpus shall be granted in favor of parents, guardians, masters, husbands and wives; and to enforce the rights and for the protection of infants and insane persons; and the proceedings shall, in all such cases, conform to the provisions of these Chapter.

**Section 1325. Security for Costs Not Required**

No deposit or security for costs shall be required of an applicant for a writ of habeas corpus.

**CHAPTER FOURTEEN**

**MANDAMUS**

**Section 1401. Functions of Mandamus**

The writ of mandamus may be issued by the Supreme Court or the District Court, or any justice or judge thereof to any inferior tribunal, corporation, board or person, to compel the performances of any act which the law specially enjoins as a duty, resulting from an office, trust or station; but though it may require an inferior tribunal or officer to exercise its judgment or proceed to the discharge of any of its functions, it cannot control judicial discretion, or discretion committed to a Tribal Agency by law unless exercised in violation of law.

**Section 1402. Writ Not Issued Where Remedy at Law**

This writ may not be issued in any case where there is a plain and adequate remedy in the ordinary course of the law. It may be issued in the information of the party beneficially interested.

**Section 1403 Forms and Contents of Writs**

The writ is either alternative or peremptory. The alternative writ must state, concisely, the fact showing the obligation of the defendant to perform the act, and his omission to perform it, and command him that immediately upon the receipt of the writ, or at some other specified time, he do the act required to be performed or show cause before the Court at a specified time and place, why he has not done so; and that he then and there return the writ with his certificate of having done as he is commanded. The peremptory writ must be in a similar form, except that the words requiring the defendant to show cause why he has not done as commanded, must be omitted.

**Section 1404. When Peremptory Writ to Issue**

When the right to require the performance of the act is clear, and it is apparent that no valid excuse can be given for not performing it, a peremptory mandamus may be allowed in the first instance; in all other cases, the alternative writ must be first issued. The peremptory writ should not be issued if there is any doubt that a valid excuse may exist.

**Section 1405. Petition Upon Affidavit**

The petition for the writ must be made upon affidavit, and the Court may require a notice of the application to be given to the adverse party, or may grant an order to show cause why it should not be allowed, or may grant the writ without notice.

**Section 1406. Allowance and Service of Writ**

The allowance of the writ must be endorsed thereon, signed by the Judge of the Court granting it, and the writ must be served personally upon the defendant; if the

defendant, duly served, neglect to return the same, he shall be proceeded against as for contempt.

**Section 1407. Answer**

On the return day of the alternative writ, or such further day as the Court may allow, the party on whom the writ shall have been served may show cause, by answer made in the same manner as an answer to a complaint in a civil action.

**Section 1408. Failure to Answer**

If no answer be made, a peremptory mandamus must be allowed against the defendant; if answer be made, containing new matter, the same shall not, in any respect, conclude the plaintiff, who may, on the trial or other proceeding, avail himself of any valid objections to its sufficiency, or may countervail it by proof, either in direct denial or by way of avoidance.

**Section 1409. Similarity to Civil Action**

No other pleading or written allegation than the writ and answer; these are the pleadings in the case, and have the same effect, and are to be construed and may be amended in the same manner, as pleadings in a civil action; and the issues thereby joined must be tried, and the further proceedings thereon had, in the same manner as in a civil action.

**Section 1410. Recovery by Plaintiff**

If judgment be given for the plaintiff, he shall recover the damages which he shall have sustained, to be ascertained by the court, or by referees, as in a civil action, and costs; and a peremptory mandamus shall also be granted to him without delay.

**Section 1411. Damages Bar Further Actions**

A recovery of damages, by virtue of this Chapter against a party who shall have made a return to a writ of mandamus, is a bar to any other action against the same party for the making of such return.

**Section 1412. Penalty for Refusal or Neglect to Perform**

(a) Whenever a peremptory mandamus is directed to any public officer, body or board, commanding the performance of any public duty special enjoined by law, if it appear to the Court that such officer, or any member of such body or board, has, without just excuse, refused or neglected to perform the duty so enjoined, the court may impose a fine, not exceeding Five Hundred Dollars (\$500.00), upon every such officer or members of such body or board. Such fine, when collected, shall be paid into the Tribal Treasury,

(b) Whenever the peremptory writ of mandamus is directed to any private person commanding the performance of any private duty specifically enjoined by law, if it appear to the Court that such person has, without just excuse, refused or neglected to perform the duty so enjoined, the Court may impose a civil fine, not exceeding Five Hundred Dollars (\$500.00) upon such person and may commit him to the custody of the Tribal Police for the term of sixty (60) days or until he shall perform or agree to perform such duty or otherwise purge his contempt. The Court may, in an appropriate case, order the Chief of the Tribal Police to perform the act required which performances shall have the same effect as if performed by the person to whom the peremptory writ was issued.

## CHAPTER FIFTEEN

### QUO WARRANTO

#### Section 1501. Quo Warranto - Relief Obtainable by Civil Action

The writ of quo warranto, and proceedings by information in the nature of quo warranto, are abolished and the remedies heretofore obtainable in those forms may be had in civil action; provided, that such cause of action may be instituted and maintained by the contestant for such office at any time after the issuance of the certificate of election by the Tribal election board, and before the expiration of thirty (30) days after such elections, shall not be dismissed because of the prematurity as to the time of their commencement, which shall be deemed valid and timely, if commenced after the issuance of the election certificate or after twenty (20) days after the result of said election having been declared by such election board; and provided further, that this chapter shall not apply to any primary election.

#### Section 1502. Grounds for Actions

Such action may be brought in the Supreme Court by its leave or in the District Court, in the following cases:

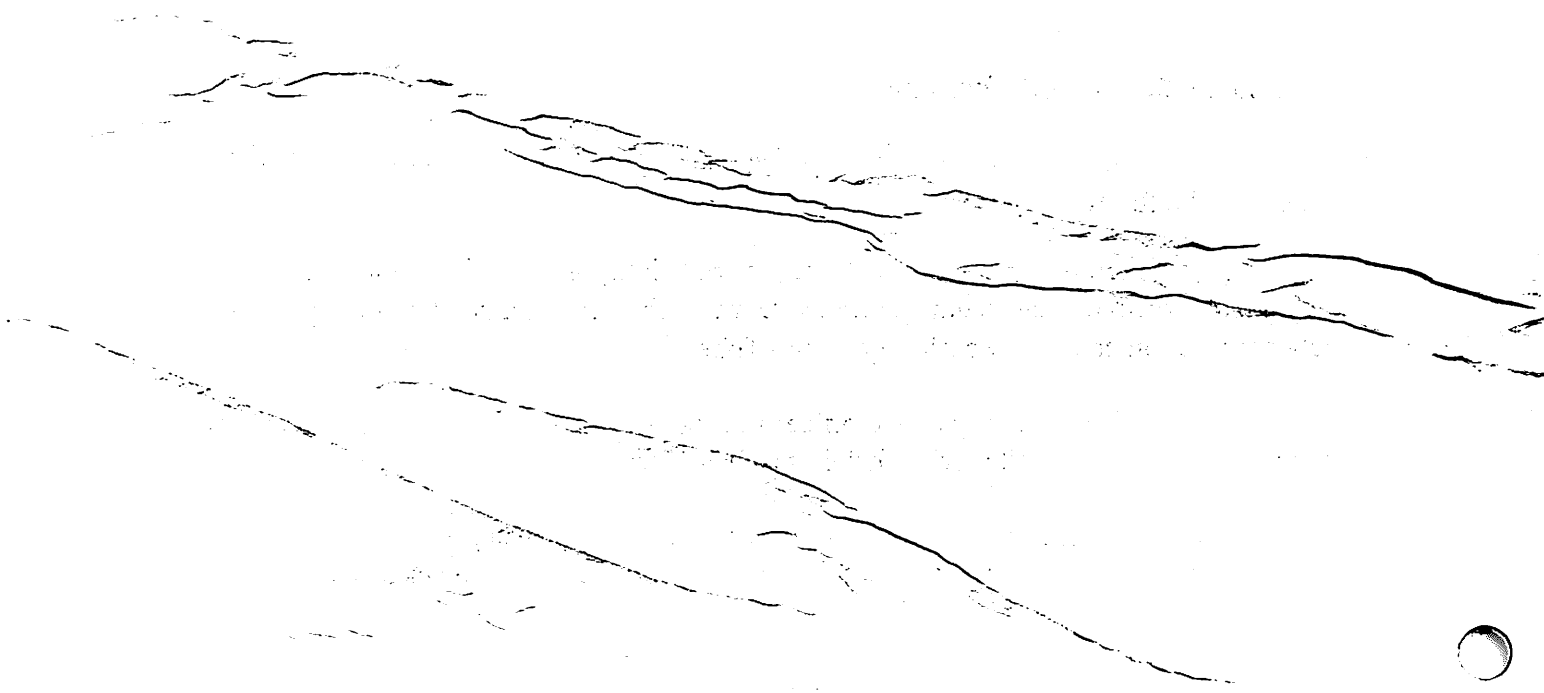
(a) ~~When any person shall usurp, intrude into, or unlawfully hold or exercise any public office, or shall claim any franchise within the Tribal jurisdiction or any office in any corporation created by authority on this Tribe;~~

(b) Whenever any public officer shall have done or suffered any act which, by the provision of law, shall work a forfeiture of his office;

(c) When any association or number of persons shall act within the Tribal jurisdiction as a corporation without being legally incorporated or domesticated;

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(d) When any corporation does or admits acts which amount to a surrender or a forfeiture of its rights and privileges as a corporation, or when any corporation abuses its power or intentionally exercises powers not conferred by law;

(e) For any other cause for which a remedy might have been heretofore obtained by writ of quo warrants, or information in the nature of quo warrants.

**Section 1503. Persons Who May Bring Action**

When the action is brought by the Attorney General when directed to do so by competent authority, it shall be prosecuted in the name of the Tribe, but where the action is brought by a person claiming an interest in the office, franchise or corporation, or claiming any interest adverse to the franchise, gift or grant, which is the subject of the action, it shall be prosecuted in the name and under the direction, and at the expense of such persons. Whenever the action is brought against a person for usurping an office by the Attorney General, he shall set forth in the petition the name of the person rightfully entitled to the office and his right or title thereto; when the action in such case is brought by the person claiming title, he may claim and recover any damage he may have sustained.

**Section 1504. Judgment in Contest for Office**

In every case contesting the right to an office, judgment shall be rendered according to the rights of the parties, and for the damages the plaintiff or person entitled may have sustained, if any, to the time of the judgment.

**Section 1505. Judgment for plaintiff**

If judgment by rendered in favor of the plaintiff or person entitled, he shall proceed to exercise the functions of the office, after he has been qualified as required by law; and the Court shall order the defendant to deliver over all the books and papers in his custody or within his power, belonging to the office from which he shall have been ousted.

**Section 1506. Enforcement of Judgment**

If the defendant shall refuse or neglect to deliver over the books and papers, pursuant to the order, the Court, or judge thereof, shall enforce the order by attachment or imprisonment, or both

**Section 1507. Separate Action for Damages**

When judgment of rendered in favor of the plaintiff, he may, if he has not claimed his damages in the action, have a separate action for the damages at any time within one year after the judgment. The Court may give judgment of ouster

against the defendant, and exclude him from the office, franchise or corporate rights; and in cases of corporations, may give judgment that the same shall be dissolved.

**Section 1508. Corporations**

If judgment be rendered against any corporation, or against any persons claiming to be a corporation, the Court may cause the costs to be collected by execution against the persons claiming to be a corporation, or by attachment against the directors or other officers of the corporation, and may restrain any disposition of the effects of the corporation, appoint a receiver of its property and effects, take an account, and make a distribution thereof among the creditors and persons entitled.

**CHAPTER SIXTEEN**

**SMALL CLAIMS PROCEDURE**

**Section 1601. Small Claims**

The following suits may be brought under the small claims procedure:

(a) Actions for the recovery of money based on contract or tort, including subrogation claims, but including libel or slander, where the amount sought to be recovered, exclusive of attorney's fees and other court costs, does not exceed Two Thousand Dollars (\$2,000.00). Libel or slander actions may not be brought in the small claims court.

(b) Actions to repelvy personal property where the value of personal property sought to be replevied does not exceed Two Thousand Dollars (\$2,000.00); where the claims for possession of personal property and to recover money are pleaded in the alternative, the joinder of claims is permissible if neither the value of the property nor the total amount of money sought to be recovered, exclusive of attorney's fees and other costs, does not exceed Two Thousand Dollars (\$2,000.00);

No action may be brought under small claims procedure by any collection agency, collection agent or any assignee of a claim. In those cases which are uncontested the amount of attorney's fees allowed shall not exceed ten percent (10%) of the judgment.

**Section 1602. Small Claims Affidavit**

Actions under the small claims procedure shall be initiated by plaintiff or his attorney filing in substantially the following form with the Clerk of the Court.

IN THE DISTRICT COURT  
[NAME OF TRIBE]