

CIVIL PROCEDURE

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 by 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 official is inducted into office; provided further, that all suits now pending, contesting such elections, shall not be dismissed because of the prematurity as to 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.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

Section 1502. Grounds for Action

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 provisions 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;
- (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 warranto, or information in the nature of quo warranto.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

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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.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

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.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

Section 1505. Judgment for Plaintiff

If judgment be 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.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

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.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

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Section 1507. Separate Action for Damages

When judgment is 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 one time within one year after the judgment. The Court may give judgment of ouster against the defendant, and exclude him from his office, franchise or corporate rights; and in cases of corporations, may give judgment that the same shall be dissolved.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]

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.

[History: PUBLIC LAW #SF-85-58, June 21, 1985.]