

# CIVIL PROCEDURE

## SUBCHAPTER D

### COSTS

#### Section 981. Affidavit in Forma Pauperis

Any person who cannot afford to pay costs of an action in order to vindicate his rights may be allowed by the Court to proceed without paying costs upon the filing of an affidavit in forma pauperis. The affidavit in forma pauperis shall be in the form following, and attached to the petition, viz.:

[Name of Tribe, Name of Reservation] in the District Court of [Name of Tribe]: I do solemnly swear that the cause of action set forth in the petition hereto prefixed is just, and I (or we) do further swear that by reason of my (or our) poverty, I (or we) am (are) unable to give security for costs.

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

#### Section 982. False Swearing in Such Case

Any person willfully swearing falsely in making the affidavit aforesaid, shall, on conviction, be adjudged guilty of perjury, and punished as the law prescribes.

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

#### Section 983. Costs Where Defendant Disclaims

Where defendants disclaim having any title or interest in land or other property, the subject matter of action, they shall recover their costs, unless for special reasons the Court decide otherwise.

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

#### Section 984. Certain Costs Taxes at Discretion of Court

Unless otherwise provided by statute, the costs of motions, continuances, amendments and the like, shall be taxed and paid as the Court, in its discretion, may direct.

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

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### Section 985. Costs to Successful Party as Matter of Course

Where it is not otherwise provided by this and other statutes, costs shall be allowed of course to the party, upon a judgment in his favor, in actions for the recovery of money only, or for the recovery of specific, real or personal property.

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

### Section 986. Costs in Other Cases

In other actions, the Court may award and tax costs, and apportion the same between the parties on the same or adverse sides, as in its discretion it may think right and equitable.

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

### Section 987. Several Actions on Joint Instrument

Where several actions are brought on one bill of exchange, promissory note or other obligation, or instrument in writing, against several parties who might have been joined as defendants in the same action, no costs shall be recovered by the plaintiff in more than one of such actions, if the parties proceeded against in the other actions were at the commencement of the previous action, openly within the Tribal jurisdiction or otherwise subject to suit and service of process in the Tribal District Court and the whereabouts of such persons were known or could have been ascertained with reasonable diligence.

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

### Section 988. Clerk to Tax Costs

The Clerks of the District Court shall tax the costs in each case, and insert the same in their respective judgments, subject to retaxation by the Court, on motion of any person interested.

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

### Section 989. Cost of Notice or Other Legal Publication

Whenever any notice, or other legal publication is required by law to be made in any action or proceeding pending in the Court, the cost of such publication shall be taxes as other costs in said action or proceeding.

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

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### Section 990. Attorney Fees Taxable as Costs

(a) In any civil action to recover on an open account, a statement of account, account stated, note, bill, negotiable instrument, or contract relating to the purchase or sale of goods, wares, or merchandise, or for labor or services, unless otherwise provided by law or the contract which is the subject of the action, the prevailing party shall be allowed a reasonable attorney fee to be set by the Court, to be taxes and collected as costs.

(b) In any civil action to enforce payment of or to collect upon a check, draft or similar bill of exchange drawn on a bank or otherwise payment upon which said instrument has been refused because of insufficient funds or no account, the party prevailing on such cause of action shall be awarded a reasonable attorney's fee, such fee to be assessed by the Court as costs against the losing party, provided, that said fee shall not be allowed unless the plaintiff offers proof during the trial of said action that prior to the filing of the petition in the action demand for payment of the check, draft or similar bill of exchange had been made upon the defendant by registered or certified mail not less than ten (10) days prior to the filing of such suit.

(c) In any civil action or proceeding to recover for the overpayment of any charge for water, sanitary sewer, garbage, electric or natural gas service from any person, firm or corporation or to determine the right of any person, firm or corporation to receive any such service, the prevailing party shall be allowed a reasonable attorney fee to be set by the Court, to be taxes and collected as costs.

(d) In any civil action brought to recover damages for breach of an express warranty or to enforce the terms of an express warranty against the seller, retailer, manufacturer, manufacturer's representative or distributor, the prevailing party shall be allowed a reasonable attorney fee to be set by the Court, which shall be taxes and collected as costs.

(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.

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

### 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 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

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of briefs or other documents required by the Court to be printed, and any other items made recoverable as costs by Court rule.

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

### Section 992. Authority of Court to Fix Cost Rates

The Court by rule may 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.

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