

Chapter 24. The Great Writs and Injunctive Relief

Legislative History.

While the question of the applicability of the Great Writs of England, i.e., Writ of Mandamus, etc., to this Tribe's court system has not been decided by the court, it is the purpose of this chapter to advise those seeking such relief that the Great Writs are not applicable in this court by reason that they are forms of relief from the English jurisprudence system and not available traditionally against any Tribal Council, which in this Tribe's case is the only branch of government currently authorized by the Constitution.

It is also the purpose of this chapter to provide for the use, application and enforcement of Temporary Restraining Orders, Preliminary Injunctions, and Permanent Injunctions subject to any limitations imposed by this Law & Order Code or this chapter.

Sec. 1. Jurisdiction of Court; Great Writs of England.

The Fort McDermitt Tribal Court may not entertain any plea or prayer for relief seeking the application, use or enforcement of one of the Great Writs of England, i.e., Writ of Mandamus, etc.

Sec. 2. Jurisdiction of Court; Injunctive Relief.

The Fort McDermitt Tribal Court has jurisdiction to entertain any form of injunctive relief, i.e., Temporary Restraining Order, Preliminary Injunction and Permanent Injunction, against a proper party.

Sec. 3. Application Fee; When Applicable; When Waived.

The general fee for filing civil cases, \$25.00, is hereby waived in civil cases seeking to obtain a Temporary Restraining Order where the clerk of the court can observe physical signs of abuse or injury about the petitioner. This section shall not be interpreted to prevent the issuance of a Temporary Restraining Order to a victim of spousal abuse or abuse against an elder member merely because the petitioner does not have the \$25.00 filing fee.

Sec. 4. Temporary Restraining Orders; Duration; Grounds for Issuance.

No Temporary Restraining Order shall be issued for a period greater than the first opportunity to have a full and complete hearing on the merits of any case before the court. Should a hearing be continued, for any reason, an additional Temporary Restraining Order may be issued upon a proper showing. Temporary Restraining Orders shall issue only upon a proper showing of continued irreparable injury prior to a full hearing on any case or controversy pending before this court.

Sec. 5. Preliminary and Permanent Injunction; Duration; Grounds for Issuance.

The Fort McDermitt Tribal Court shall apply the laws of the states of Nevada or Oregon, based on the location of the incident in which a preliminary and/or permanent injunction is sought, concerning duration and grounds for issuance.