

Chapter 4. Civil Proceedings

Legislative History.

This revised chapter was enacted by the Tribal Council on September 13, 1988.

Sec. 1. Jurisdiction of the Court.

The Fort McDermitt Tribal Court shall have jurisdiction over such cases and controversies as shall occur between Indians within Fort McDermitt Indian Country or between Indians and non-Indians within Fort McDermitt Indian Country when such cases and controversies are brought before the court by stipulation of both parties and the payment of \$25.00 filing fee. The court shall retain jurisdiction over the case or controversy, where one or both parties attempt to voluntarily dismiss or withdraw the matter, until a \$25.00 withdrawal fee is paid.

Sec. 2. Law Applicable in Civil Actions.

In deciding civil cases and controversies the judges of the Tribal Court shall look first to tribal law and federal law and then to tribal custom and tradition, tribal common law, federal rules and regulations, including Solicitor's Opinions. The law of the states of Nevada or Oregon shall be applied as a last resort unless otherwise stated in this chapter or elsewhere in this Law & Order Code.

Sec. 3. Judgments Available.

The Tribal Court, in addressing the prayer of the moving party, may order in appropriate cases that the injured party be compensated by money damages, the surrender of certain property to the injured party or by the performance of some act of labor for the benefit of the injured party. The court may also assess punitive damages.

Where the injury was inflicted as the result of an accident, or where both parties were at fault, the judgment may compensate the injured for a reasonable part of the loss he has suffered.

Sec. 4. Costs.

The court may assess the accruing costs of the case against the party or parties against whom judgment is given. Such costs shall consist of the expense of witnesses and any other incidental expenses connected with the case or controversy as the court may direct.

Sec. 5. Judgments Against IIM Accounts and IGA Monies.

Money maintained by the Bureau of Indian Affairs in an Individual Indian Money (IIM) account and Indian General Assistance (IGA) money received by an Indian is a judgment proof.

Sec. 6. Appeals.

- (a) Court of Appeals. The Court of Appeals of the Fort McDermitt Tribe is hereby abolished. All appeals shall be made to the Court of Appeals for Western Nevada Agency established by the Bureau of Indian Affairs (BIA), Western Nevada Agency, Carson City, through the Court Clerk, Fort McDermitt Tribal Court. At such time as the State of

Oregon shall retrocede Public Law 280 criminal jurisdiction to the Fort McDermitt Tribe, appeals shall be made to either the Court of Appeals established by Warm Springs Agency or the Western Nevada Agency, whichever proclaims jurisdiction over the Oregon lands of the Fort McDermitt Tribe by its Rules of Court and/or Criminal Procedure.

- (b) Method of Appeal; Cash Bond; Time Limit. The party wishing to appeal from a judgment of the Fort McDermitt Tribal Court shall do so according to the Rules of Court of the Fort McDermitt Tribal Court until Rules of Court for the Court of Appeals, Bureau of Indian Affairs are codified.

Sec. 7. Severability.

Should any sections of this chapter be disapproved by the Secretary of Interior, in accordance with the Constitution, or be found unconstitutional or in violation of tribal or federal law by any court of competent jurisdiction, such declaration shall not affect the remaining terms or sentences of any section or the remaining sections of this chapter.