TITLE 29 – CIVIL PROCEDURES
CHAPTER 1 - CIVIL PROCEDURES ACT

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

CIVIL PROCEDURE ACT

Arrangement of Sections

Section **Page**

PART I- GENERAL PROVISIONS **5**

§101. Short title. 5

PART II- PROCESS **6**

DIVISION 1- ISSUANCE, SERVICE AND RETURN 6

§102. Interpretation; issuance of process. 6
§103. Service and Execution of Process. 6
§104. Return of service or execution. 6

DIVISION 2-FEES AND COSTS 7

§105. Fees. 7
§106. Prepayment for service. 7
§107. Disposition of proceeds. 8

PART III- ABSENT DEFENDANTS **8**

§108. Order to appear or plead. 8
§109. Personal service of order. 8
§110. Procedures if absent defendant fails to appear or plead. 8
§111. Judgment may be set aside. 8

PART IV- SURVIVAL OF ACTIONS **9**

§112. Survival of claims after death of tortfeasor or other person liable. 9

PART V- ACTIONS FOR WRONGFUL DEATH **9**

§113. Liability in action for wrongful death; proceedings. 9

§114. Action to be brought in name of personal representative; beneficiaries of action. 10
§115. Damages; limitation period; action may be settled by personal representative. 10

PART VI- LIMITATION OF ACTION 11

§116. Presumption of satisfaction of judgment. 11
§117. Limitation of twenty years. 11
§118. Limitation of two years. 11
§119. Actions by or against the estate of a deceased person. 12
§120. Limitation of six years. 12
§121. Disabilities. 12
§122. Mutual account. 12
§123. Extension of time by absence from the Republic. 12
§124. Extension of time by fraudulent concealment. 13
§125. Effect upon causes existing on May 28, 1951. 13
§126. Limitation of time for commencing. 13
§127. Reckoning of Period. 13
§128. Contrary agreements. 14
§129. Existing rights of action. 14

PART VII - NEW TRIAL; APPEAL AND REVIEW 14

§130. Effect of irregularities. 14
§131. When appeals may be taken. 14
§132. Right of Government of the Marshall Islands to Appeal. 14

PART VIII- FEES AND COSTS; DISPOSITION OF FINES 15

DIVISION 1- FEES AND COSTS 15

§133. Witness fees for travel. 15
§134. Witness fees for subsistence. 16
§135. Effect of failure to tender sufficient witness fees. 16
§136. Proceedings when persons unable to pay fees. 16
§137. Reserved. 17
§138. Reserved. 17
§139. Allocation of costs. 17
§140. Additional Costs may be taxed. 18
§141. Apportionment of costs. 18

DIVISION 2-DISPOSITION OF FEES 18

§142. Civil fees. 18

PART IX- UNIFORM SINGLE PUBLICATIONS 19

§143. Single publication to give rise to one cause of action only. 19

§144. Judgment as bar to other actions. 19

PART X- CONTRIBUTION AND TORTFEASORS **19**

§145. Right of contribution. 19
§146. Pro rata shares. 20
§147. Enforcement. 20
§148. Release or covenant not to sue. 21
§149. Retroactivity. 22

PART XII - RULES OF PROCEDURE **22**

§150. Attorney fees in class actions. 22
§151. Punitive damages. 22

TITLE 29 – CIVIL PROCEDURES
CHAPTER 1 - CIVIL PROCEDURES ACT

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

CIVIL PROCEDURE ACT

AN ACT to establish rules of civil procedure in the Republic.

Commencement:	*Not Specified*
Source:	*TTC 1966*
Amended By:	*6TTC 1970, COM P.L. 4C-20 (1972), COM P1.4C-22 (1972), COM P1. 4C-36 (1972), COM P1. 4C-55 (1972), COM P.L. 5-54 (1974), COM P.L. 6-101 (1976), COM P1. 7-24 (1977), 6TTC 1980, P.L. 1996-26, P.L. 1997-45, P.L. 1998-66, P.L. 2000-12, P.L. 2003-102, P. L. 2013-22, P.L. 2023-76*

PART I- GENERAL PROVISIONS

§101. Short title.

The Chapter may be cited as the "Civil Procedure Act" **[Short title amended by Commissioner to conform to the format of the Revised Code.]**

PART II- PROCESS

DIVISION 1- ISSUANCE, SERVICE AND RETURN

§102. Interpretation; issuance of process.

(1) As used in the Revised Code, the term "process" shall include all forms of writs, warrants, summonses, citations, libels and orders used in judicial proceedings.

(2) The court issuing any process in any proceeding may specially appoint and name in the process any person it deems suitable to execute or serve the process, except that a witness summons may not be served by a party or by a person who is less than eighteen (18) years of age.

(3) A private person to whom a process is directed for service or execution shall, upon acceptance of the said process, be responsible for the proper execution or service of such process according to law. No private person shall be compelled by any court or official to accept a process directed to him for service execution. The special appointments authorized by this Section shall be used freely when this will effect a saving of time or expense. **[TTC 1966, §249(a) and (c); 6TTC 1970, §1; 6TTC 1980, §1; amended by P.L. 1997-45, §2, P.L. 1998-66, §2.][further modified by P.L. 2000-12, §2.]**

§103. Service and Execution of Process.

Every official who is made responsible by law for the service or execution of process and every private person who accepts the responsibility for the service or execution of process shall serve or execute such process as prescribed by law within a reasonable time after the receipt of such process unless prevented from doing so by conditions beyond his control. **[TTC 1966, §250; 6TTC 1970, §2; 6TTC 1980, §2.]**

§104. Return of service or execution.

The Chief of Police or policeman shall certify, and a private person shall report under oath, or affirm by endorsement on or attached to every process delivered to him for execution or service the manner and time of such execution or service or the reason for failure to make such execution or service. The process so endorsed, together with a statement of all fees and expenses charged, shall be returned without delay to the court or official by

which issued. In no event shall the process be returned later than the date specified by the issuing court or official. **[TTC 1966, §251; 6TTC 1970, §3; 6TTC 1980, §3.]**

DIVISION 2-FEES AND COSTS

§105. Fees.

A chief of police, police officer or person authorized to execute or serve process, other than a member of the Marshall Islands Police Force or Local Government Police Force executing or serving a process in a criminal or civil contempt proceedings, or in juvenile delinquency proceedings, shall be entitled to collect the following fees for duties performed by him or her:

(a) for serving any form of process, $5.00 plus 0.25 cents per mile for any travel actually performed and necessary in connection with the service. Any process delivered to a chief of police or any police officers shall be sent by him or her to a police officer who is located where the officer can serve it more quickly or with less travel;

(b) for levying a writ of execution and making a sale thereunder, the fees provided above for serving of any process, plus $25.00 for conducting the sale, and 0.05 cents for every dollar collected up to $50, and 0.02 cents for every dollar collected over $50; and

(c) in addition to the above, a chief of police shall be allowed actual, reasonable and necessary expenses for caring for any property seized under an attachment or levy of execution; provided, however, that no caretaker or watchman shall be allowed in excess of $24.00 for each twelve (12) hours of service. **[TTC 1966, §256 and 249(b); 6TTC 1970, §31; 6TTC 1980, §31.][Amended by P.L.2013-22].**

§106. Prepayment for service.

Except when the process is issued on behalf of the Republic or an officer or agency thereof, the Chief of Police, policeman, or other person authorized to serve or execute process may require the person requesting him to act to prepay his fees and estimated expenses or give reasonable security therefor before serving or executing any process. **[TTC 1966, §257; 6TTC 1970, §32; 6TTC1980, §32.]**

§107. Disposition of proceeds.

Any person authorized to serve or execute process, shall be entitled to retain for his or her own use of the fees authorized in this Division. Provided, however, all fees collected by a police officer for travel shall be remitted to the government agency providing the vehicle for service. **[TTC 1966, §258; 6TTC 1970, §33; 6TTC 1980, §33, modified.][Amended by P.L.2013-22].**

PART III- ABSENT DEFENDANTS

§108. Order to appear or plead.

In any action in the High Court for annulment, divorce or adoption or to enforce or remove any lien upon or claim to real or personal property within the Republic, or to adjudicate title to any interest in such property, where any defendant cannot be served within the Republic, or does not voluntarily appear, the Court may order the absent defendant to appear or plead by a certain day. **[TTC 1966, §338; 6TTC 1970, §51; 6TTC 1980, §51.]**

§109. Personal service of order.

Such orders may be served on the absent defendant personally, wherever found, or, in the case of property, upon the person or persons in possession or charge thereof, if any, or by mailing, postage prepaid, a copy of the order to the absent defendant at his last known address. Where personal service is not practicable, the order shall be posted in one or more conspicuous places as the Court may direct, for a period of not less than two (2) weeks. **[TTC 1966, §338; 6TTC 1970, §52; 6TTC 1980, §52.]**

§110. Procedures if absent defendant fails to appear or plead.

If an absent defendant does not appear or plead within the time allowed, the Court may proceed as if the absent defendant had been served with process within the Republic, but any adjudication shall, as regards the absent defendant without appearance, affect only the property or status which is the subject of the action. **[TTC 1966, §338; 6TTC 1970, §53; 6TTC 1980, §53.]**

§111. Judgment may be set aside.

Any defendant not so personally notified may at any time within one year after final judgment enter his appearance and thereupon the Court shall set

aside the judgment and permit such defendant to plead, on payment of such costs as the Court deems best; provided, however, that this right shall not extend to decrees of annulment, divorce or adoption. **[TTC 1966, §338; 6TTC 1970, §54 6TTC 1980, §54.]**

PART IV- SURVIVAL OF ACTIONS

§112. Survival of claims after death of tortfeasor or other person liable.

(1) A cause of action based on tort shall not be lost or abated because of the death of the tortfeasor or other person liable. An action thereon may be brought or continued against the personal representative of the deceased person, but punitive or exemplary damages may not be awarded nor penalties adjudged in the action.

(2) Where a cause of action arises simultaneously with or after the death of the tortfeasor or other person who would have been liable if his death had not occurred simultaneously with the act, omission, circumstance or event giving rise to the cause of action, or if his death had not intervened between the wrongful act, omission, circumstance or event and the coming into being of the cause of action, an action to enforce it may be maintained against the personal representative of the tortfeasor or other person. **[TTC 1966, §254; 6TTC 1970, §151; 6TTC 1980]**

PART V- ACTIONS FOR WRONGFUL DEATH

§113. Liability in action for wrongful death; proceedings.

(1) When the death of a person is caused by wrongful act, neglect or default such as would have entitled the party injured to maintain an action and recover damages in respect thereof if death had not ensued, the person or corporation which would have been liable if death had not ensued, or the administrator or executor of the estate of such person, as such administrator or executor, shall be liable to an action for damages notwithstanding the death of the person injured, and although the death was caused under circumstances which make it in law murder in the first or second degree, or manslaughter.

(2) When the action is against such administrator or executor the damages recovered shall be a valid claim against the estate of such deceased person.

(3) When death is caused by wrongful act, neglect or default in another territory or foreign country, for which a right to maintain an action and recover damages with respect thereto is given by a statute of that jurisdiction, such right of action may be enforced in the Republic. Every such action brought under this Section shall be commenced within the time prescribed for the commencement of such actions by the statute of such other territory or foreign country. **[TTC 1966, §25(a); 6TTC 1970, §201; 6TTC 1980, §201, modified .]**

§114. Action to be brought in name of personal representative; beneficiaries of action.

Every action for wrongful death must be brought in the name of the personal representative of the deceased, but shall be for the exclusive benefit of the surviving spouse, the children and other next of kin, if any, of the decedent as the Court may direct. **[TTC 1966, §25(b); 6TTC 1970, §202; 6TTC 1970, §202.]**

§115. Damages; limitation period; action may be settled by personal representative.

(1) Damages may be awarded for the losses resulting from such death, to the persons respectively, for whose benefit the action is brought. Such damages shall include pecuniary loss, mental pain, emotional suffering, and loss of society and companionship.

(2) Except as otherwise provided, every such action shall be commenced within two (2) years after the death of such person, or after the cause of death shall become clearly manifest, whichever is later.

(3) A personal representative at any time may settle with the defendant, except that any settlement by a representative of a minor under the age of eighteen (18) years may only be accomplished by obtaining approval of the court. **[TTC 1966, §25(c); 6TTC 1970, §203; COM P.L. 4C-36, §1 (1972); 6TTC 1980, §203; amended by P.L. 1997-45, §2.]**

PART VI- LIMITATION OF ACTION

§116. Presumption of satisfaction of judgment.

A judgment of any court shall be presumed to be paid and satisfied at the expiration of twenty (20) years after it is rendered. **[TTC 1966, §315; 6TTC 1970, §301; 6TTC 1980, §301.]**

§117. Limitation of twenty years.

(1) The following actions shall be commenced only within twenty (20) years after the cause of action accrues:

(a) actions upon a judgment;

(b) actions for the recovery of land or any interest therein, with the exception that the limitations of twenty years shall not apply to the inheritance of land by rightful heirs.

(2) If the cause of action first accrued to an ancestor or predecessor of the person who presents the action, or to any other person under whom he claims, the twenty (20) years shall be computed from the time when the cause of action first accrued. **[TTC 1966, §316; 6TTC 1970; 6TTC 1980, §302; amended by P.L. 1996-26, §2(2).]**

§118. Limitation of two years.

Except where it is prescribed in this Chapter, the following actions shall be commenced only within two (2) years after the cause of action accrues:

(a) actions for assault and battery, false imprisonment, or slander;

(b) actions against the Chief of Police, policeman or other person duly authorized to serve process, for any act or omission in connection with the performance of his official duties;

(c) actions for malpractice, error, or mistake against physicians, surgeons, dentists, medical or dental practitioners, and medical or dental assistants; or

(d) actions for injury to or death of one caused by the wrongful act or neglect of another, except as otherwise specifically provided herein and in subsections 112-115 of this Chapter, or a depositor against a bank for the payment of a forged or raised check, or a check which bears a forged or unauthorized

endorsement.**[TTC 1966, §317; 6TTC 1970, §303; 6TTC 1980, §303, modified; amended by P.L 1997-45, §2.]; [Amended by P.L2023-76]**

§119. Actions by or against the estate of a deceased person.

Any action by or against the executor, administrator or other representative of a deceased person for a cause of action in favor of, or against, the deceased shall be brought only within two (2) years after the executor, administrator or other representative is appointed or first takes possession of the assets of the deceased. **[TTC 1966, §318; 6TTC 1970, §304; 6TTC 1980, §304.]**

§120. Limitation of six years.

All actions other than those covered in the preceding sections of this Part shall be commenced within six (6) years after the cause of action accrues. **[TTC 1966, §319; 6TTC 1970, §305; 6TTC 1980, §305.]**

§121. Disabilities.

If the person entitled to a cause of action is a minor or is insane or is imprisoned when the cause of action first accrues, the action may be commenced within the times limited in this Part after the disability is removed. **[TTC 1966, §320; 6TTC 1970, §306; 6TTC 1980, §306.]**

§122. Mutual account.

In an action brought to recover the balance due upon a mutual and open account, or upon a cause of action upon which partial payments have been made, the cause of action shall be considered to have accrued at the time of the last item proved in the account. **[TTC 1966, §321; 6TTC 1970, §307; 6 TTC 1980, §307.]**

§123. Extension of time by absence from the Republic and Atolls other than Majuro or Kwajalein Atoll.

(a) If at the time a cause of action shall accrue against any person he shall be out of the Republic, such action may be commenced within the times limited in this Part after he comes into the Republic.

(b) If, after a cause of action shall have accrued against a person he shall depart from and reside out of the Republic, the time of his

absence shall be excluded in determining the time limited for commencement of the action.

(c) If, after a cause of action shall have accrued against a person he shall depart from and reside at a remote atoll or island other than Majuro Atoll or Kwajalein Atoll, the time of his or her absence shall be excluded in determining the time limited for commencement of the action. **[TTC 1966, §322; 6TTC 1970, §308; COM P.L. 4C-55, §1 (1972); 6TTC 1980, §308.]; [Amended by P.L2023-76]**

§124. Extension of time by fraudulent concealment.

If any person who is liable to any action shall fraudulently conceal the cause of action from the knowledge of the person entitled to bring it, the action may be commenced at any time within the times limited within this Part after the person who is entitled to bring the same shall discover or shall have had reasonable opportunity to discover that he has such cause of action, and not afterwards. **[TTC 1966, §323; 6TTC 1970, §309; COM P.L. 4C-55, §2 (1972); 6TTC 1980, §309.]**

§125. Effect upon causes existing on May 28, 1951.

For the purposes of computing the limitations of time provided in this Part, any cause of action existing on May 28, 1951, shall be considered to have accrued on that date. **[TTC 1966, §324; 6TTC 1970, §310; 6TTC 1980, §310.]**

§126. Limitation of time for commencing.

A civil action or proceedings to enforce a cause of action mentioned in this Part may be commenced within the period of limitation herein prescribed, and not thereafter, except as otherwise provided in this Part. **[COM P.L. 4C-5S, §3 (1972); 6TTC 1980, §311.]**

§127. Reckoning of Period.

Except as otherwise provided, periods herein prescribed shall be reckoned from the date when the cause of action accrued. **[COM P.L. 4C-55, §3 (1972); 6TTC 1980, §312.]**

§128. Contrary agreements.

No agreement made subsequent to the effective date of this Section for a period of limitation different from the period described in this Part shall be valid. **[COM P.L 4C-55, §3 (1972); 6TTC 1980, §313.]**

§129. Existing rights of action.

Revision of this Part shall not be construed to extinguish any rights or remedies which have accrued to any party prior to such revision, unless specifically provided otherwise. **[COM P.L. 4C-55, §3 (1972); 6TTC 1980, §314.]**

PART VII - NEW TRIAL; APPEAL AND REVIEW

§130. Effect of irregularities.

No error in either the admission or exclusion of evidence, and no error or defect in any ruling or order, or in anything done or omitted by the Court, or by any of the parties shall constitute a ground for granting a new trial, or for vacating, modifying, or otherwise disturbing a judgment or order, unless refusal to take such action appears to the Court inconsistent with substantial justice. **[TTC 1966, §337; 6TTC 1970, §351; 6TTC 1980, §351.]**

§131. When appeals may be taken.

Any appeal authorized by law may be taken by filing a notice of appeal with the presiding judge of the Court from which the appeal is taken, or with the Clerk of Court, within thirty (30) days after the imposition of sentence or entry of the judgment, order or decree appealed from, or within such longer time as may be prescribed by rules of procedure adopted by each Court pursuant to Article VI, Section 1(2) of the Constitution of the Republic of the Marshall Islands. **[TTC 1966, §198; 6TTC 1970, §352; 6TTC 1980, §352, modified.]**

§132. Right of Government of the Marshall Islands to Appeal.

(1) In a criminal case, the Government of the Marshall Islands shall have the right of appeal only when a written enactment intended to have the force and effect of law has been held invalid. Action on any such appeal shall be limited as provided in such court rules as may be promulgated pursuant to Article VI, Section 1(2) of the Constitution of the Republic of the Marshall Islands.

(2) In civil cases, the Government of the Marshall Islands shall have the same right of appeal as private parties. **[TTC 1966, §198, 6TTC 1970 §353; 6TTC 1980, §353, modified.]**

PART VIII- FEES AND COSTS; DISPOSITION OF FINES

DIVISION 1- FEES AND COSTS

§133. Witness fees for travel.

(1) Except as otherwise provided in this Part, every person attending as a witness in any judicial proceeding shall be entitled to receive 3¢ per mile for travel to and from his place of residence or usual place of business or employment, whichever is nearer, to the place where he is to appear as a witness, unless suitable transportation is provided without expense to him.

(2) If transportation is not provided without expense to him, the witness shall be entitled to receive the generally accepted prevailing charge for such transportation, in place of the 3¢ per mile, for the part of his travel for which such transportation is reasonably needed and this charge shall be considered as part of his mileage.

(3) If part, but not all, of his transportation is provided without expense to him, the witness shall only be entitled to receive mileage for the part of his travel for which transportation is not provided to him without expense to him. Except as otherwise provided by Section 136(4) of this Part, this mileage shall be paid by the party on whose behalf the witness is called or summoned, for each trip the witness is reasonably required to make.

(4) If the witness is summoned, the mileage for one round trip shall be tendered to him at the time the witness summons is served, and the mileage for any further trips required shall be tendered in advance of each trip, except when the witness summons is issued on behalf of the Government of the Marshall Islands or an officer or agency thereof or under Section 136 of this Part. **[TTC 1966 §259; 6TTC 1970, §401; 6TTC 1980, §401.]**

§134. Witness fees for subsistence.

In any case in which a witness has attended or been summoned to attend before any court and it is necessary for him to remain in attendance for more than one day at a point so far removed from his residence or usual place of business or employment as to prohibit return thereto from day to day, the Court before whom he has attended or been summoned may determine the amount reasonably needed to cover the witness' subsistence per day while in attendance, and this sum shall be tendered to the witness in advance by the party on whose behalf the witness was called or summoned, except when the summons is issued under Section 136 of this Part or where suitable subsistence is provided without expense to the witness. **[TTC 1966, §260; 6TTC 1970, §402; 6TTC 1980, §402.]**

§135. Effect of failure to tender sufficient witness fees.

The failure to tender the sums specified in Sections 133 and 134 of this Part for mileage or subsistence, or any part of either or both, however, shall not exempt the witness from complying with the summons if he has the means to comply. Any question as to the sufficiency of the amount tendered shall be brought promptly to the attention of the Court or official before whom appearance is required, and the same is hereby authorized to make such order as to payment of the witness fees as is just. **[TTC 1966, §261; 6TTC 1970, §403; 6TTC 1980, §403.]**

§136. Proceedings when persons unable to pay fees.

(1) Any court may authorize the commencement, prosecution or defense of any case, action or proceeding, civil or criminal, or any appeal therein, without prepayment of fees for serving of process, jury fees, witness fees or filing fees, or giving security therefor by a permanent resident of the Republic who makes a statement under oath that he is unable to pay such fees or give security therefor. This statement under oath shall state the nature of the case, action, or proceedings, defense, or appeal, and that the person making the statement believes that he is entitled to relief.

(2) The officers of the Court and the designated policeman shall issue and serve all process, and perform all duties in such cases without prepayment of fees or the giving of security therefor. Witnesses shall attend as in other cases.

(3) The Court may dismiss the case, action or proceeding if the statement that the person is unable to pay fees is untrue, or if the Court is satisfied that the case, action or proceeding is malicious or has no substantial basis.

(4) The court before whom any criminal case is pending or a judge thereof may order at any time that a witness summons be issued and served without prepayment of fees upon request of an accused who cannot pay witness fees. The request shall be supported by a statement under oath in which the accused shall state the name and address of each witness and the testimony which he is expected by the accused to give if summoned, and shall show that the evidence of the witness is material to the defense, that the accused cannot safely go to the trial without the witness, and that the accused is actually unable to pay the fees of the witness. If the Court or judge orders the witness summons to be issued and served without prepayment of fees the fees of the witness so summoned shall be paid in the same manner in which similar fees are paid in case of a witness summoned on behalf of the Government of the Marshall Islands.

(5) In the event that a court authorizes a party to proceed without payment of fees pursuant to this Section, the Clerk of Courts, shall pay all fees which would otherwise be due under Section 137(c) of this Part to the Court reporter or other person who prepares a transcript. Such payment shall be made from funds appropriated for the operation of the judiciary. **[TTC 1966, §262; 6TTC 1970, §404; COM P.L. 6-101, §2 (1976); 6TTC 1980, §404.]**

§137. Reserved.

§138. Reserved.

§139. Allocation of costs.

All fees and expenses paid or incurred under this Part or by court rule by any party prevailing in any matter, other than a criminal proceeding, shall be taxed as part of the costs against the losing party or parties unless the Court shall otherwise order; provided, that no fees paid to a witness who is a party-in-interest and is called and examined on his own behalf or on behalf of others jointly interested with him shall be allowed or taxed as costs; and provided further that no costs shall be taxed against the Republic

or any of its agencies or local governments. **[TTC 1966, §265; 6TTC 1970, §407; 6TTC 1980, §407, modified.][Sections 139 & 140 reversed by P.L. 2003-102, original §139 now codified as §140 and vice versa]**

§140. Additional Costs may be taxed.

The court may allow and tax any items of cost or actual disbursement in addition to those provided for in this Part or by court rule, other than fees of counsel, which it deems just and finds them to have been necessarily incurred for services which were actually and necessarily performed; provided, that no costs or actual disbursement shall be taxed against the Republic or any of its agencies or local governments. **[TTC 1966, §265; 6TTC 1970, §408; 6TTC 1980, §408, modified.][Sections 139 & 140 reversed by P.L. 2003-102, original §139 now codified as §140 and vice versa.]**

§141. Apportionment of costs.

Where there is more than one prevailing or losing party costs may be apportioned by the Court as it deems just. **[TTC 1966, §265; 6TTC 1970, §409; 6TTC 1980, §409.]**

DIVISION 2-DISPOSITION OF FEES

§142. Civil fees.

(1) Any fine imposed in accordance with law by anyone other than a court shall be paid into the General Fund of the Republic, unless the law under which it is imposed otherwise directs. Such fines shall be considered civil fines and no person shall be imprisoned solely for failure to pay them, but any such fine may be collected in the manner provided for collection of taxes, or as may be provided in the law under which the fine is imposed, provided, it is not inconsistent with this Section.

(2) In any civil suit to collect such a fine, the written statement of the person who assessed the fine shall have the same effect as that of the Secretary of Finance making assessments under the tax collection laws. **[TTC 1966, §175(c); 6TTC 1970, §452; 6TTC 1980, §452, modified.]**

PART IX- UNIFORM SINGLE PUBLICATIONS

§143. Single publication to give rise to one cause of action only.

No person shall have more than one cause of action for damages for libel or slander or invasion of privacy or any other tort founded upon any single publication or exhibition or utterance, such as any one edition of a newspaper or book or magazine or any one presentation to an audience or any one broadcast over radio or television or any one exhibition of a motion picture. Recovery in any action shall include all damages for any such tort suffered by the plaintiff. Nothing in this Section shall be construed as creating a cause of action which does not otherwise exist. **[COM P.L. 4C-20, §1 (1972); 6TTC 1980, §501, modified.]**

§144. Judgment as bar to other actions.

A judgment in any jurisdiction or against the plaintiff upon the substantive merits of any action for damages founded upon a single publication or exhibition or utterance as described in Section 143 of this Chapter shall bar any other action for damages by the same plaintiff against the same defendant founded upon the same publication or exhibition or utterance. **[COM P.L. 4C-20, §1 (1972); 6TTC 1980, §502.]**

PART X- CONTRIBUTION AND TORTFEASORS

§145. Right of contribution.

(1) Except as otherwise provided in this Part, where two (2) or more persons become jointly or severally liable in tort for the same injury to person or property or for the same wrongful death, there is a right of contribution among them even though judgment has not been recovered against all or any of them.

(2) The right of contribution exists only in favor of a tortfeasor who has paid more than his pro rata share of the common liability, and his total recovery is limited to the amount paid by him in excess of his pro rata share. No tortfeasor is compelled to make contribution beyond his own pro rata share of the entire liability.

(3) There is no right of contribution in favor of any tortfeasor who has intentionally, willfully, fraudulently, deceitfully or wantonly caused or contributed to the injury or wrongful death.

(4) A tortfeasor who enters into a settlement with a claimant is not entitled to recover contribution from another tortfeasor whose liability for the injury or wrongful death is not extinguished by the settlement nor is he entitled to recover with respect to any amount paid in a settlement which is in excess of what was reasonable.

(5) A liability insurer, who by payment has discharged in full or in part the liability of a tortfeasor and has thereby discharged in full its obligation as insurer, is subrogated to the tortfeasor's right of contribution to the extent of the amount it has paid in excess of the tortfeasors's pro rats share of the common liability. This provision does not limit or impair any right of subrogation arising from any other relationship.

(6) This part does not impair any right of indemnity under existing law. Where one tortfeasor is entitled to indemnity from another, the right of the indemnity obligee is for indemnity and not contribution, and the indemnity obligor is not entitled to contribution from the obligee for any portion of his indemnity obligation.

(7) This Part shall not apply to breaches of trust or of other fiduciary obligations. **[COM P.L. 4C-22, §1 (1972); 6TTC 1980, §552; amended by P.L. 1997-45, §2.]**

§146. Pro rata shares.

In determining the pro rata shares of tortfeasors in the entire liability:

(a) their relative degrees of fault shall not be considered;

(b) if equity requires, the collective liability of some as a group shall constitute a single share; and

(c) principles of equity applicable to contribution generally shall apply. **[COM P.L. 4C-22, §1 (1972); 6TTC 1980, §553.]**

§147. Enforcement.

(1) Whether or not judgment has been entered in an action against two (2) or more tortfeasors for the same injury or wrongful death, contribution may be enforced by separate action.

(2) Where a judgment has been entered in an action against two (2) or more tortfeasors for the same injury or wrongful death, contribution may be enforced in that action by judgment in favor of one against other judgment defendants by motion upon notice to all parties to the action.

(3) If there is a judgment for the injury or wrongful death against the tortfeasor contribution, any separate action by him to enforce contribution must be commenced within one year after the judgment has become final by lapse of time for appeal or after appellate review.

(4) If there is no judgment for the injury or wrongful death against the tortfeasor seeking contribution, his right of contribution is barred unless he has either

(a) discharged by payment the common liability within the statute of limitations period applicable to claimant's right of action against him and has commenced his action for contribution within one year after payment, or

(b) agreed while action is pending against him to discharge the common liability and has within one year after agreement paid the liability and commenced his action for contribution.

(5) The recovery of a judgment for an injury or wrongful death against one tortfeasor does not of itself discharge the other tortfeasors from liability for the injury or wrongful death unless the judgment is satisfied. The satisfaction of the judgment does not impair any right of contribution.

(6) The judgment of the Court in determining the liability of the several defendants to the claimant for an injury or wrongful death shall be binding as among such defendants in determining their right to contribution. **[COM P.L. 4C-22, §1; (1972); 6TTC 1980, §554.]**

§148. Release or covenant not to sue.

When a release or a covenant not to sue or not to enforce judgment is given in good faith to one of two (2) or more persons liable in tort for the same injury or the same wrongful death:

(a) it does not discharge any of the other tortfeasors from liability for the injury or wrongful death unless its terms so provide, but it reduces the claim against the other to the extent of any

amount stipulated by the release or the covenant, or in the amount of the consideration paid for it, whichever is greater: and, (b) it discharges the tortfeasor to whom it is given from all liability for contribution to any other tortfeasor. **[COM P.L. 4C-22, §1 (1972); 6TTC 1980, §555.]**

§149. Retroactivity.

This Chapter shall not be deemed to create any right or remedy to any joint tortfeasor in favor of whom the provisions of this Part would otherwise apply, where such joint tortfeasor's cause of action accrued prior to the effective date of this Part, and to this extent the provisions of this Part are not retroactive. **[COM P.L. 4C-22, §1 (1972): 6TTC 1980, §556.]**

PART XII - RULES OF PROCEDURE

[The Provisions of sections 150-154 on Special Appearances and section 160 on Depositions, were repealed by P.L. 2003-102) (§155-159, "Reserved" in the 98 version are hereby eliminated. The succeeding sections, are re-numbered to conform to the sequence (Rev.2003)]

§150. Attorney fees in class actions.

In class action cases, if the defendant is found liable, or if a settlement is approved by the Court, the Court may award, in addition to damages found or settlement proposed, reasonable attorney fees to be paid by the defendant. **[added by P.L. 1997-45, §2.]**

§151. Punitive damages.

In civil cases where the defendant has been found liable because of fraud, or deceit, or misrepresentation, the court shall add to the judgment, as punitive damages, an amount equal to three (3) times the actual amount of damages found by the trier of facts.**[added by P.L. 1997-45, §2.]**