

Class "C" Resolution  
No BIA Action Required.

RESOLUTION OF THE  
NAVAJO TRIBAL COUNCIL

Enacting the Judicial Reform Act of 1985,  
Amendments to Title 7, Navajo Tribal Code

WHEREAS:

1. The Navajo Tribal Council is the governing body of the Navajo Nation; and
2. By Resolution CO-69-58, the Navajo Tribal Council established the Courts of the Navajo Nation and abolished the Navajo Tribal Courts of Indian Offenses, thereby changing the courts from Courts of the U.S. Department of the Interior to Courts of the Navajo Nation; and
3. In the intervening years, the Courts of the Navajo Nation have developed into the preeminent judicial system in Indian America; and
4. Title 7, of the Navajo Tribal Code, entitled Courts and Procedure, has also developed over the past 27 years through a series of Tribal Council resolutions; and
5. As a result of the continual development of Title 7, some Code sections within Title 7 are inconsistent with other Code sections; in addition, there are some archaic references, to the Indian Service and the Code of Indian Offenses, which no longer apply; and
6. In recent years, substantial changes have been made in Title 7, in such areas as Territorial Jurisdiction; Civil Jurisdiction; Sovereign Immunity; Statutes of Limitations; Judicial Appointment Qualifications; and the Supreme Judicial Council; and
7. Substantial changes have been recommended by the various Committees of the Council for consideration by the Navajo Tribal Council, in the areas of Salary Increases for the Judges; Repeal of the Supreme Judicial Council and the Revamping of the Court of Appeals into a permanent Navajo Nation Supreme Court; and
8. Since its inception, the Supreme Judicial Council has heard only three (3) cases, yet its very existence has continuously given rise to serious questions and challenges to the competence of the Courts of the Navajo Nation in various legal actions now pending or completed in Federal courts; and
9. If the Navajo Nation is to continue as a sovereign Nation and to move forward toward the reality of a three branch form of government, the

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Supreme Judicial Council must cease to exist, as Tribal sovereignty requires strong and independent Tribal courts to enforce and apply the law; and

10. The Supreme Judicial Council is not functioning, since it has not been provided with a budget since Fiscal Year 1981; and

11. The Judiciary Committee of the Navajo Tribal Council, by Resolution appended hereto as Exhibit A, has recommended the rescission and repeal of Resolution CMY-39-78, which established the Supreme Judicial Council; and

12. The Advisory Committee of the Navajo Tribal Council has also recommended the rescission and repeal of the Supreme Judicial Council by Resolution ACN-188-83, appended hereto as Exhibit B; and

13. In furtherance of the goal of strengthening the Courts of the Navajo Nation, the Judicial Branch must have a court which will hear cases of appeal and render a final judgment based on law, equity, and tradition. The Supreme Court will be that court, a court which will have final appellate jurisdiction; and

14. Title 7 of the Navajo Tribal Code must be amended in order to carry out the intent of strengthening the Navajo Nation Courts by providing for the redesignation of the Navajo Tribal Court of Appeals as the Supreme Court of the Navajo Nation; and

15. The Retirement Program for the Judges and Justices, contained at 7 N.T.C. §353, no longer meets the needs of the expanded Judiciary, and needs reevaluation and further revamping; and

16. In CS-72-85, the Fiscal Year 1986 Budget Resolution, the Navajo Tribal Council directed the Judicial Branch to accept and utilize the Navajo Nation Personnel Policies and Procedures and Personnel Department; and

17. In order to preserve an independent judiciary, it is necessary for the Judicial Branch to be able to hire, discipline and fire employees without resort to the Navajo Nation Personnel Policies and Procedures and Personnel Department; and

18. By prior resolution of the Judiciary Conference, the Trial Court of the Navajo Tribe has been designated as the District Courts of the Navajo Nation, in order to allow for the various districts within the Trial Court; and

19. Such changes require further actions by the Navajo Tribal Council and amendments to Title 7; and

20. As a result of these many changes, as well as the daily use of Title 7 in the operations of the courts, by both judges and practitioners before the courts, a need has arisen for a comprehensive and coordinate revision of Title 7; and

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21. Such a revision has been prepared by the Navajo Nation Department of Justice; and

22. Said revision has been reviewed and approved by the Judges of the Courts of the Navajo Nation, and by the Judiciary Committee of the Navajo Tribal Council by Resolution appended hereto as Exhibit C; and

23. Said revision is appended hereto as Exhibit D, and is entitled the Judicial Report Act of 1985, Amendments to Title 7, Navajo Tribal Code.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Tribal Council hereby rescinds and repeals Resolution CMY-39-78, §II, codified as 7 N.T.C. §321 through §330, establishing the Supreme Judicial Council in its entirety, and declares the same null and void.

2. The Navajo Tribal Court of Appeals shall henceforth be designated as the Navajo Nation Supreme Court, and wherever the term "Navajo Tribal Court of Appeals" may appear in resolutions, laws or regulations heretofore in force and applicable to the Navajo Nation, the term "Navajo Nation Supreme Court" shall be understood.

3. The Trial Court of the Navajo Tribe shall henceforth be designated as the District Courts of the Navajo Nation, and wherever the term "Trial Court of the Navajo Tribe" may appear in resolution, laws or regulations heretofore in force and applicable to the Navajo Nation, the "District Courts of the Navajo Nation" shall be understood.

4. All cases presently pending before the Court of Appeals and the Supreme Judicial Council shall be transferred to the Supreme Court for final disposition.

5. All rules and procedures of the Courts of Appeals shall remain in effect and be used by the Supreme Court until new rules and procedures are enacted pursuant to applicable law.

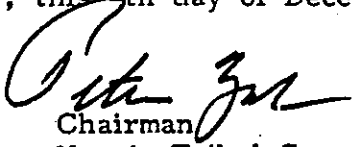
6. The Retirement Program for the Judges and Justices, contained at 7 N.T.C. §353, will be reevaluated by the Division of Administration and Finance, and alternatives prepared for consideration and approval by the Judges and Justices of the Courts of the Navajo Nation, by the Judiciary Committee and Budget and Finance Committee of the Navajo Tribal Council, and by the Navajo Tribal Council.

7. All employment in positions, other than Judicial appointments within the Judicial Branch, shall be in accordance with the established Judicial Branch Personnel Policies and Procedures.

8. The Judicial Reform Act of 1985, Amendments to Title 7, Navajo Tribal Code, appended hereto as Exhibit D, is hereby approved.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 68 in favor and 1 opposed, this 4th day of December, 1985.



Chairman  
Navajo Tribal Council

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JUDICIARY COMMITTEE  
OF THE NAVAJO TRIBAL COUNCIL

Recommendations to the Navajo Tribal Council regarding the  
Judicial Branch.

WHEREAS:

1. The Judiciary Committee as the Oversight Committee for the Judicial Branch has informed itself of the nature and needs of the Navajo Tribal Court system; and

2. The Navajo Tribal Court system has two duties: (1) To hear and decide cases justly, promptly, and economically; and (2) to maintain itself as an independent and respected branch of government; and

3. The recent course of events involving the Judicial Branch which have called into question the authority and independence of the Judicial Branch has emphasized the wisdom of a fully staffed independent Navajo Tribal Court system; and

4. The Judiciary Committee as the Oversight Committee for the Judicial Branch has been directed by the Navajo Tribal Council to study and recommend whether the Supreme Judicial Council should be retained; and

5. The Supreme Judicial Council improperly intrudes upon the powers and duties of the Judicial Branch and of the Navajo Tribal Council; and

6. The Navajo Tribal Courts have an inherent right to the financial support needed to carry out their duties; and

7. Fiscal controls are ways in which the legislative and executive branches of government exert influence over the courts; and

8. The Judicial Branch is a separate branch of government and in its duty to operate efficiently and economically must be able to make day to day decisions regarding operating costs and expenditures with a minimum of interference and delay.

NOW THEREFORE BE IT RESOLVED THAT

1. Title 7 N.T.C. Subchapter 6, Supreme Judicial Council be repealed.

2. The Court of Appeals be fully empaneled by the appointment of two associate justices as directed by the Navajo Tribal Council in 7 N.T.C. §301 (passed May 4, 1978).

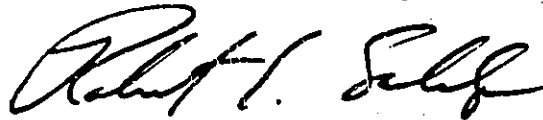
3. The current practice of the Judicial Branch submitting its proposed budget directly to the Budget and Finance Committee for review prior to submission to the Navajo Tribal Council be affirmed.

4. A working committee composed of representatives from the Judicial Branch, the Judiciary Committee, Budget and Finance Committee, Division of Administration and Finance, and the Bureau of Indian Affairs be appointed and directed to establish procedures for approval and processing of Judicial Branch expenditures which will reduce duplication and delay in P.L. 93-638 expenditures.

C E R T I F I C A T I O N

I hereby certify that the foregoing resolution was duly considered by the Judiciary Committee of the Navajo Tribal Council at a duly called meeting at Gallup, New Mexico, at which a quorum was present and that same was passed by a vote of 4 in favor and 1 opposed, this 16 day of April, 1985.

Chairman, Judiciary Committee



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Class "C" Resolution  
No BIA Action Required.

RESOLUTION OF THE  
ADVISORY COMMITTEE OF THE  
NAVAJO TRIBAL COUNCIL

Recommending the Rescission and Repeal of  
Resolution CMY-39-78, Which Established the  
Supreme Judicial Council, and Revocation  
of Any Inconsistent Authority

WHEREAS:

1. On May 4, 1978, by a vote of 35 in favor and 22 opposed, the Navajo Tribal Council adopted a resolution entitled, "Reorganizing the Navajo Judicial System". Reference attached Resolution CMY-39-78, marked Exhibit "A". Basically, the intent of Resolution CMY-39-78 was to provide for the establishment of the Supreme Judicial Council; and
2. The Supreme Judicial Council has brought politics directly into the judicial system and has undermined impartiality, fairness and equal protection; and
3. If the Navajo Nation is to continue as a sovereign nation, then the Supreme Judicial Council must cease to exist, as tribal sovereignty requires strong and independent tribal courts. The Navajo people express their will through the Navajo Tribal Council and the laws it passes. If the people are to be sovereign, then there must be courts to enforce and apply the laws as an expression of the people's will and not that of a Supreme Judicial Council; and
4. Since its inception, the Supreme Judicial Council has only heard three (3) cases, yet its very existence has continuously given rise to serious questions and challenges to the sovereignty of the Navajo Tribe in various legal actions now pending or completed in the federal courts; and
5. It is evident that the Supreme Judicial Council has been non-functioning in the eyes of the Navajo Tribal Council, as they have not provided the Supreme Judicial Council with a budget since the close of Fiscal Year 1981 to the present.

NOW THEREFORE BE IT RESOLVED THAT:

1. The existence of the Supreme Judicial Council is found and determined by the Advisory Committee of the Navajo Tribal Council to be incompatible with the Navajo Tribe's interest in the equal protection of the law; therefore, the Advisory Committee does hereby recommend to the

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Navajo Tribal Council the rescission and repeal of Resolution CMY-39-78, which is hereto attached as Exhibit "A", in its entirety, and to declare the same Resolution CMY-39-78, null and void.

2. Any decisions or orders of the Supreme Judicial Council are hereby declared void and are hereby vacated.

3. The Advisory Committee of the Navajo Tribal Council further recommends the revocation of any prior inconsistent authority.

#### CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Advisory Committee of the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 16 in favor and 0 opposed, this 9th day of November, 1983.



Vice Chairman  
Navajo Tribal Council



RESOLUTION OF THE  
JUDICIARY COMMITTEE OF THE NAVAJO TRIBAL COUNCIL

Recommending the Enactment of the Judicial Reform Act of 1985,  
Amendments to Title 7, Navajo Tribal Code.

WHEREAS:

1. By Resolution CO-69-58 the Navajo Tribal Council established the Courts of the Navajo Nation and abolished the Navajo Tribal Courts of Indian Offenses, thereby changing the courts from Courts of the U.S. Department of the Interior to Courts of the Navajo Nation;

2. In the intervening years, the Courts of the Navajo Nation have developed into the preeminent judicial system in Indian America; and

3. Title 7 of the Navajo Tribal Code, entitled Courts and Procedure, has also developed over the past 27 years, through a series of Tribal Council resolutions; and

4. As a result of the continual development of Title 7, some Code sections within Title 7 are inconsistent with other Code sections; in addition there are some archaic references, to the Indian Service and the Code of Indian Offenses, which no longer apply; and

5. In recent years, substantial changes have been made in Title 7, in such areas as Territorial Jurisdiction; Civil Jurisdiction; Sovereign Immunity; Statutes of Limitations; Judicial Appointment Qualifications; and the Supreme Judicial Council; and

6. Substantial changes have been recommended by the various Committees of the Council for consideration by the Navajo Tribal Council, in the areas of Salary Increases for the Judges; Repeal of the Supreme Judicial Council and Revamping of the Court of Appeals into a permanent Navajo Nation Supreme Court; and

7. In furtherance of the goal of strengthening the Courts of the Navajo Nation, the Judicial Branch must have a court which shall hear cases on appeal and render a final judgement based on law, equity, and tradition. The Supreme Court will be that court, a court which shall have final appellate jurisdiction; and

8. Title 7 of the Navajo Tribal Code must be amended in order to carry out the intent of strengthening the Navajo Nation Courts by providing for the redesignation of the Navajo Tribal Court of Appeals as the Supreme Court of the Navajo Nation; and

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9. The Retirement Program for the Judges and Justices, contained at 7 N.T.C. § 353, no longer meets the needs of the expanded Judiciary, and needs reevaluation and further revamping; and

10. In CS-72-85, the FY-86 Budget Resolution, the Navajo Tribal Council directed the Judicial Branch to accept and utilize the Navajo Nation Personnel Policies and Procedures and Personnel Department; and

11. In order to preserve an independent judiciary, it is necessary for the Judicial Branch to be able to hire, discipline and fire employees without resort to the Navajo Nation Personnel Policies and Procedures and Personnel Department; and

12. Such changes require further actions by the Navajo Tribal Council and amendments to Title 7; and

13. As result of these many changes, as well as the daily use of Title 7 in the operations of the courts, by both judges and practioners before the courts, a need has arisen for a comprehensive and coordinated revision of Title 7; and

14. Such a revision has been prepared by the Navajo Nation Department of Justice; and

15. Said revision is appended hereto as Exhibit A, the Judicial Reform Act of 1985, Amendments to Title 7, Navajo Tribal Code.

NOW THEREFORE BE RESOLVED THAT:

The Judiciary Committee of the Navajo Tribal Council recommends that:

1. The Judicial Reform Act of 1985, Amendments to Title 7, Navajo Tribal Code, appended here to as Exhibit A, be approved by the Navajo Tribal Council; and

2. The Navajo Tribal Court of Appeals should henceforth be designated as the Navajo Nation Supreme Court, and wherever the term "Navajo Tribal Court of Appeals" may appear in resolutions, laws or regulations heretofore in force and applicable to the Navajo Nation, the term "Navajo Nation Supreme Court" should be understood; and

3. The Trial Court of the Navajo Tribe shall henceforth be designated as the District Courts of the Navajo Nation, and wherever the term "Trial Court of the Navajo Tribe" may appear in resolutions, laws or regulations heretofore in force and applicable to the Navajo Nation, the "District Courts of the Navajo Nation" shall be understood; and

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4. All cases presently pending before the Court of Appeals and the Supreme Judicial Council should be transferred to the Supreme Court for decision; and

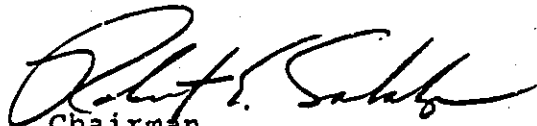
5. All rules and procedures of the Courts of Appeals should remain in effect and be used by the Supreme Court until new rules and procedures are enacted pursuant to applicable law; and

6. The Retirement Program for the Judges and Justices, contained at 7 N.T.C. § 353, should be reevaluated by the Division of Administration and Finance, and alternatives prepared for consideration and approval by the Judges and Justices of the Courts of the Navajo Nation, the Judiciary and Budget and Finance Committees of the Navajo Tribal Council, and by the Navajo Tribal Council; and

7. All employment in positions, other than Judicial appointments, within the Judicial Branch should be in accordance with the established Judicial Branch Personnel Policies and Procedures.

#### C E R T I F I C A T I O N

I hereby certify that the foregoing resolution was duly considered by the Judiciary Committee of the Navajo Tribal Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and that same was passed by a vote of 5 in favor and 0 opposed this 8th day of November, 1985.

  
Chairman  
Judiciary Committee

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The Judicial Reform Act of 1985

TITLE SEVEN

COURTS AND PROCEDURE

CHAPTER 1. Application of Code of Federal Regulations  
DEFINITIONS

SECTION

- 8/1/ Application and Purpose  
82/ 101. Signature defined  
83/ 102. Tribal Council defined  
103. District Courts defined

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202. Seals of Courts  
203. Copies of laws in/operation/as/to/meaning/of/law  
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205. Record of proceedings  
206. Cooperation of Federal employees  
207. Action against provider of beverage

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255. Writs or orders  
256. Temporary or preliminary injunctive relief  
257. Sovereign immunity of the Navajo Nation

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302. Jurisdiction-Generally  
303. Writs or orders

SUBCHAPTER 6. SUPREME/JUDICIAL COUNCIL

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322. Composition and selection  
323. Jurisdiction  
324. Powers  
325. Intervention by Chairman of the Navajo Tribal Council  
326. Advisory panels

327:///Expiration/of/terms  
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- 352. Removal from office
- 353. Retirement
- 354. Qualifications for Appointment
- 355. Appointment; Term of Office

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- 371. Administrative duties
- 372. Acting Chief Justice

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- 401. Clerks and Bailiffs-Appointment
- 402. Duties and authority
- 403. Salary and grade
- 404. Bailiffs/and/other/court/attendants/authority/to/create positions Application of Judicial Branch Personnel Policies and Procedures

CHAPTER 5. PROCEDURE  
SUBCHAPTER 1. GENERALLY

Section

- 601. Court rules; authority to adopt
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- 603. Action in name of Navajo Tribe Nation; authority to bring
- 604. Notice and opportunity to appear
- 605. Witnesses
- 606. Attorneys Legal Counsel; right of representation/appointment/of prosecutor
- 607. Repossession of personal property
- 608. Violations-Penalty
- 609. Civil liability
- 610:///Agencies/of/United/States
- 610. Severability

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- 651. Right to jury trial
- 652. Lists of jurors; preparation
- 653. Number of jurors
- 654. Eligibility of jurors
- 655. Challenges to jury
- 656. Instructions to jury
- 657. Verdict of jury
- 658. Jurors' fees

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- 701. Judgment-Form and contents
- 702. Rendition
- 703. Lawful debt in proceedings to distribute decedents' estates
- 704. Payment from individual Indian moneys
- 705. Writs of execution-Generally
- 706. Issuance; contents
- 707. Return
- 708. Appraisal of property seized
- 709. Notice and public sale of property seized; proceeds; bill of sale
- 710. Private sale of property seized; delivery of unsold property to plaintiff or return to defendant
- 711. Property subject to execution and property exempt from execution
- 712. Execution prior to judgment

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- 751. Security for costs
- 752. Assessment of costs
- 753. Fees and fines; collection and disposition//witness/fees

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- 801. Permission to Appeal from Final Judgment or Order
- 802. Stay of execution
- 803. New Trial Scope of Appeal
- 804. Proceedings on Appeal

SUBCHAPTER 11. SOVEREIGN/IMMUNITY RULES OF GENERAL CONSTRUCTION

- 851. Establishment Construction
- 852. Definitions Repeals
- 853. General/principles of sovereign/immunity Severability  
BA//Exceptions to the general/principles of sovereign/immunity

Chapter 1. Application of Code/Federal/Regulations Definitions

§ 11 // Application and purpose

(a) // The /regulations /any part /in /the /code /of /Federal /regulations /which /is /of /force /of /effect /shall /apply /to /any /Indian /reservation /or /which /is /of /force /of /effect /under /Federal /or /state /law

(b) // It /is /the /purpose /of /the /regulations /in /this /part /to /provide /adequate /machinery /of /law /enforcement /for /the /Indian /tribes /in /which /traditional /agencies /for /the /enforcement /of /law /is /not /adequate /or /has /been /provided /under /Federal /or /state /law

(c) // No /court /of /Indian /offenses /will /be /established /on /reservations /where /justice /is /effected /admitted /under /state /laws /and /by /state /law /enforcement /agencies

(d) // The /regulations /in /this /part /shall /be /in /accordance /with /the /tribes /organized /under /the /act /of /June /18 /1934 /48 /Stat. /984 /25 /U.S.C. /461-479 /and /the /law /and /order /of /the /BIA /which /is /in /accordance /with /the /act /of /June /18 /1934 /48 /Stat. /984 /25 /U.S.C. /461-479 /and /the /regulations /in /this /part /shall /be /in /accordance /with /the /act /of /June /18 /1934 /48 /Stat. /984 /25 /U.S.C. /461-479 /and /the /regulations /in /this /part /shall /be /in /accordance /with /the /act /of /June /18 /1934 /48 /Stat. /984 /25 /U.S.C. /461-479

(e) // Nothing /in /this /section /shall /prevent /the /approval /by /the /tribal /council /of /official /seals /or /other /written /signature /of /the /tribal /council /or /any /other /tribal /agency /or /the /tribal /council /or /any /other /tribal /agency /or /the /tribal /council /or /any /other /tribal /agency /or /the /tribal /council /or /any /other /tribal /agency

§ 2 / 101. Signature defined

The term "signature" as used in the regulations in this part, shall be defined as the written signature, official seal, or the witnessed thumb print or mark of any individual.

§ 3 / 102. Tribal Council defined

The term "Tribal Council," as used in the regulations in this part, shall be construed to refer to the Navajo Tribal Council, business committee or other organization recognized by the Department of the Interior as representing the tribe or any other body or its recognized, to the elected members of the tribe in assembly as defined in 2 N.T.C. § 101.

§ 103. District Courts defined

The term "District Courts" as used herein shall include the District Courts, the Children Courts of the Navajo Nation, and any divisions thereof established by Navajo Tribal Council.





of the court or jury, and the judgment, together with any other facts or circumstances deemed of importance to the case. A record of all proceedings shall be kept at the agency//office//as//required//by//25//U.S.C.//8//200. appropriate court and shall be available for public inspection unless prohibited by order of the court or by applicable laws.

§ 206. Cooperation of Federal employees

(a) No field employee of the Indian/Service Federal government shall obstruct, interfere with or control the functions of any Court of the Navajo Tribe Nation or influence such functions in any manner except as permitted by the federal laws or regulations in/Part/II/Title/25/of/the/Code/of/Federal Regulations or in response to a request for advice or information from the Court.

(b) Employees of the Bureau//of//Indian//Affairs, Federal government, particularly those who are engaged in social service, health and educational work, shall assist the court, upon its request, in the preparation and presentation of the facts in the case and in the proper treatment//of individual//offenders disposition of the case.

§ 207. Action against provider of an alcoholic beverage

(a) Any person who has been injured or damaged by an intoxicated person, or as a consequence of the intoxication of any person, may maintain an action in the courts of the Navajo Nation against any person, individual, partnership, association or corporation selling or furnishing liquor or intoxicating beverages for consumption within the Navajo Indian Country if such liquor or intoxicating beverage was a cause of the intoxication.

(b) Damages under this section shall include all damages to person or property, including, but not limited to, damages for wrongful death, personal injury and loss of income, and shall include loss of support, companionship, service and affection resulting from the death of a spouse, a minor child or the parent or guardian of a minor child.

(c) In addition to any remedy available through subsection (a) above, the prosecutor of the Navajo Tribe is authorized to maintain an action for the benefit of an injured party under this section at the request of or after notice to such injured party.

(d) Nothing in this section shall be construed to impose civil liability on any person as a consequence of:

(1) The bona fide sale or furnishing of liquor or intoxicating beverages for scientific, sacramental, medicinal or mechanical purposes;

(2) The sale//of//any//quantity//of//alcohol//to//any//individual//in  
Navajo/Indian/territories//prior//to//10/18/1864//1154//and//7//U.S.C.//1154.

(2) The transportation of liquor or intoxicating beverages in unopened containers and, where applicable, containers with unbroken federal tax stamps, through Navajo Indian Country on any highway, roadway or railway right-of-way in conformance with 18 U.S.C. § 1154.

SUBCHAPTER 3. TRIBAL DISTRICT COURTS

§ 251. Composition/Appointment

(a) The Tribal District Courts of the Navajo Tribal Nation shall consist of such seven judges/who as shall be appointed by the Chairman of the Tribal Council, with confirmation the/approval/of by the Tribal Council. for two-year/probationary/terms

(b) Recodified at 7 N.T.C. § 354 (a) and (b)

(c) Recodified at 7 N.T.C. § 355 (c)

(d) Recodified at 7 N.T.C. § 355(d)

§ 252. Term/Office (Reserved) Recodified at 7 N.T.C. § 355 (b).

§ 253. Jurisdiction-Generally

The Tribal District Courts of the Navajo Tribal Nation shall have original jurisdiction over:

(a) Crimes. All violations of the laws and/Order/Code of the Navajo Tribal Nation committed within its territorial jurisdiction.

(b) Civil Causes of Action. All/civil/actions/in/which/the defendant/is/an/Indian/and/is/located/within/its/territorial/jurisdiction. All civil actions in which the defendant is a resident of Navajo Indian Country, or has caused an action to occur within the territorial jurisdiction of the Navajo Indian/Country/ Nation.

(c) Decedents' Estates. All cases involving the descent and distribution of deceased Indians' unrestricted property found within the territorial jurisdiction of the court.

(d) Miscellaneous. All other matters over which jurisdiction has been heretofore vested in the Navajo Tribal Court of Indian Offenses, or which may hereafter be placed within the jurisdiction of the Tribal District Courts by resolution/of the Tribal Council.

§ 254. Territorial

The Territorial jurisdiction of the Navajo Nation shall extend to Navajo Indian Country, defined as all land within the exterior boundaries of the Navajo Indian Reservation or of the Eastern Navajo Agency, all land within the limits of dependent Navajo Indian communities, all Navajo Indian allotments, and all other land held in trust for, owned in fee by, or leased by the United States to the Navajo Tribe or any Band of Navajo Indians.

§ 255. Writs or orders

The Tribal District Courts shall have the power to issue any writs or orders necessary and proper to the complete exercise of their its jurisdiction.

§ 256. Temporary or preliminary injunctive relief

No District Court of the Navajo Nation shall enter an order for temporary or preliminary injunctive relief in any proceeding in which there is no appearance by the defendant, unless:

(a) The District Court judge certifies in writing as to the specific irreparable harm which would occur were the temporary relief not to be ordered; and

(b) The attorney or legal counsel for the plaintiff certifies by affidavit as to the efforts which have been made to locate the defendant or defendant's attorney legal counsel to notify him or her of the hearing on preliminary or temporary injunctive relief.

§ 257. Sovereign immunity of the Navajo Nation

Jurisdiction of the Tribe District Courts of the Navajo Tribe Nation shall not extend to any action against the Navajo Nation without its express consent.

SUBCHAPTER 5. SUPREME COURT OF APPEALS

§ 301. Composition, term of office

(a) The Navajo Supreme Tribal Court of Appeals the Navajo Nation shall consist of the Chief Justice of the Navajo Tribe Nation and two Associate Justices of the Supreme Court of Appeals.

(b) The Navajo Supreme Tribal Court of Appeals the Navajo Nation shall sit at Window Rock, Navajo Nation (Arizona).

It notwithstanding any other provision of the Navajo Tribal Code a retired Tribal Judge may be appointed by the Chairman of the Navajo Tribal Council to fill the position of Associate Justice of the Court of Appeals on a temporary basis until such time as funds are available and the Chairman of the Navajo Tribal Council appoints with the consent of the Navajo Tribal Council a regular Associate Justice of the Court of Appeals.

It Recodified at 7 N.T.C. § 355(b)

It Recodified at 7 N.T.C. § 355(a)

§ 302. Jurisdiction-Generally

The Supreme Court of Appeals shall have jurisdiction to hear appeals from final judgments and other final orders of the Tribe District Courts of the Navajo Tribe Nation and such other final administrative orders as provided by law. except in criminal cases where the defendant is sentenced to less than 15 days imprisonment or to pay a fine of less than \$25. In such cases there shall be no right of appeal. The Supreme Court shall be the court of final resort.

§ 303. Writs or orders

The Supreme Court of Appeals shall have the power to issue any writs or orders necessary and proper to the complete exercise of its jurisdiction, or to prevent or remedy any act of any the Tribal Court which is beyond such court's jurisdiction, or to cause a the Tribal Court to act where the Tribal such Court unlawfully fails or refuses to act within its jurisdiction.

§ 321 // Establishment

There is hereby established a Supreme Judicial Council of the Navajo Tribal Council

§ 322 // Composition and selection

The Supreme Judicial Council shall consist of eight members as follows:

(1) The Chief Justice of the Navajo Nation who shall preside but shall not vote except in the event of a tie;

(2) Two elected judges who shall serve during good behavior a term of 10 years and may be re-elected; and two appointed by the Tribal Council in any case where they participated in proceedings below provided that, if the term of any of the appointed judges is extended, the member of the Tribal Council who appointed them shall serve as acting member of the Tribal Council for the term of the appointed member; and two appointed by the Navajo Tribal Council, who shall be eligible for nomination by the Judiciary Council of the Navajo Tribal Council and appointment by the Navajo Tribal Council for a term of four years;

(3) Five Tribal Council members, one from each of the five agencies, who shall be made by each agency to the Judiciary Council of the Navajo Tribal Council. The Judiciary Council of the Navajo Tribal Council shall appoint one Tribal Council member from each agency from those nominations made or qualified, or by exception by the Navajo Tribal Council, except that the Navajo Tribal Council may request additional nominations from each agency where less than three of the agencies or nominations are found to be qualified or by exception by the Judiciary Council of the Navajo Tribal Council. The appointments shall expire if the Tribal Council member ceases to be a Tribal Council member or if the term of the member then being served Tribal Council members who are re-elected shall be eligible for reappointment to successive terms without limitation so long as they are members of the Navajo Tribal Council.

§ 323 // Jurisdiction

The Supreme Judicial Council of the Navajo Tribal Council shall have jurisdiction to review

BEST AVAILABLE



§/323//Interpretation/by/Chairman/of/the/Mayajó/Tribal/Council

In/all/proceedings/before/the/Supreme/Judicial/Council/and/at/all/stages prior/to/and/including/final/appeals/the/Chairman/of/the/Mayajó/Tribal/Council may/appear/in/person/or/by/representative/whom/he/chose/for/himself/the/Mayajó/Nation/is/a/party/to/the/litigation/in/order/to/represent/the/interests of/the/Mayajó/Nation/

§/326//Advisory/panels

(a)//The/Supreme/Judicial/Council/shall/establish/two/panels/of/advisors/one/panel/composed/of/licensed/attorneys/learned/in/federal/and/state/law/and one/panel/composed/of/persons/learned/in/Mayajó/laws/customs/usadivvot/and culture//including/medicine//men//women//judges//chapter//officers/anthropologists//advocates//professors//and/other/professionals/

(b)//The/Judiciary/Council/of/the/Mayajó/Tribal/Council/shall/be responsible/for/evaluation/homologation/for/membership/on/each/panel/and/shall rate/each/of/them/as/either/qualified/qualified/excepted/qualified/qualified/The/Council/shall/consist/of/the/Mayajó/Tribal/Council/shall/also/through/a decision/may/take/decision/of/such/experience/in/reputation/the/services/of members/of/the/advisory/panels//In/evaluation/the/qualification/of/attorneys submitted/for/homologation/on/the/panel/the/Judiciary/Council/shall/may/Tribal/Council/shall/secure/assistance/for/the/appropriate/professional organizations/

(c)//The/Supreme/Judicial/Council/shall/designate/on/qualified/or/excepted/qualified/member/of/each/panel/to/sit/on/each/case/which/comes before/it/and/provide/it/with/such/advice/and/assistance/as/the/members/of/the/Supreme/Judiciary/Council/require//Such/advisors/may/participate/in/the/proceedings/and/in/the/delegation/but/may/not/vote/

§/327//Expiration/of/terms

All/terms/holding/office/under/this/subchapter/shall/hold/office/for/the/terms/as/set/forth/in/this/and/other/chapters/and/or/ordinances/and/qualified/

§/328//Continuation

This/subchapter/shall/be/so/constructed/as/to/effective/and/general/purpose/

§/329//Repeals

Any/provision/of/the/Mayajó/Tribal/Code/previously/adopted/or/any advisory/Council/shall/the/Mayajó/Tribal/Council/or/Tribal/Council/resolution previously/adopted/which/is/inconsistent/with/this/and/subchapter//is/hereby repealed/

If/ahy/psovvsvor/of/nvts/svbcnagvuv/or/che/avpvvavvov/chevov/vd/ahv  
pétsónh//dovv/vh/ekctúhstáhcés//is/hevq/nvav/vd/by/á//vedevav/kbukt//thé  
nvavvavvov//shavv//hót//avfvct//bthet//povv/vshovs//ov//avpvvavvovs//ov//thís  
svbcnagvuv//whvch//dov/vd//gvvov//efvfvct//whvchovv//che//shavvavv//povvavvov//ov  
avpvvavvov/ahv/vp/thís/evd//thé/povvavvovs/ov/thís/svbcnagvuv/avé/sévétablé

SUBCHAPTER 7. JUDGES  
ARTICLE 1. GENERALLY

§ 351. Salaries

(a) Salaries for Judges of the Tribe's Courts of the Navajo Nation shall be established at the following base levels and negotiable thereon.

- |  |                   |
|--|-------------------|
| 1. Probationary <u>District Court</u> Judges | \$25,000 per year |
| 2. <u>District Court</u> Judges              | \$30,000 per year |
| 3. Probationary Associate Justice            | \$30,000 per year |
| 4. Associate Justices                        | \$35,000 per year |
| 5. Probationary Chief Justice                | \$45,000 per year |
| 6. Chief Justice                             | \$55,000 per year |

(b) The probationary period for the new Tribe's District Court Judges, and the new Chief Justice and Associate Justices shall be two years from the date of their appointment by the Chairman of the Tribal Council.

(c) Judges or Associate Justices who have completed the probationary period, if subsequently promoted to the Chief Justice or Associate Justice, need not be subject to the probationary provisions for the Chief Justice or Associate Justice as described in subsection (b) of this section.

§ 352. Removal from office

The Chief Justice of the Navajo Tribe's Nation or the Advisory Committee of the Tribal Council or the Judiciary Committee of the Tribal Council may recommend the removal of any justice or judge from office if, in the opinion of the Chief Justice, or the Advisory Committee or the Judiciary Committee, there is reasonable cause to believe the justice or judge to be guilty of malfeasance or misfeasance in office, neglect of duty, mental or physical incompetence to perform the duties of his office, or if the justice or judge has been convicted of a felony in a state or federal court since entering upon duty.

Such recommendation shall be presented promptly to the Tribal Council, and the justice or judge whom it is sought to remove from office shall be accorded an opportunity to appear before the Tribal Council and present evidence in his own defense. Thereafter such justice or judge may be removed from office by a two-thirds vote of all the members of the Tribal Council.

§ 353. Retirement

(a) The Chief Justice or any justice or judge of the Tribal Courts of the Navajo Tribal Nation shall retire upon attaining the age of 70 years, and the Chairman shall appoint, by and with the advice and consent of the Tribal Council, a successor to such Chief Justice, Justice, or Judge.

(b) The Chief Justice or any justice or judge of the Tribal Courts of the Navajo Tribal Nation serving under a permanent appointment who has served a total of eight years as permanent or probationary judge or justice, probationary judge or judge, or judge of the former Navajo Tribal Court in Indian offenses may retire if he is at least 55 years of age, or if he has become permanently disabled from performing his duties. and the Chairman, by and with the advice and consent of the Tribal Council, shall appoint a successor to such Chief Justice, Justice, or Judge.

(c) If a Chief Justice, Justice, or Tribal justice or judge serving under a permanent appointment, who has served a total of eight years as permanent Judge or probationary justice or judge, or Judge of the former Navajo Tribal Court in Indian offenses, is removed from office by the Tribal Council for inability to perform his duties, and the Tribal Council finds that this inability is not the result of the misconduct of such justices or judge, he shall, after such removal from office, have the status of retired judge.

(d) Retired justices or judges who have served 15 or more years as permanent Judge or probationary justice or judge, or Judge of the former Navajo Tribal Court in Indian offenses, shall receive the full salary of their office during the remainder of their lives.

(e) Retired justices or judges with eight years' service as permanent Judge or probationary justice or judge, or Judge of the former Navajo Tribal Court in Indian offenses shall receive one-half of the salary of their office.

(f) Retired justices or judges having more than eight and less than 15 years' service shall receive an amount of more than one-half and less than the full salary of their offices, proportionate to their years of service in excess of eight.

(g) Retired justices or judges with less than eight years' service shall receive no pension.

(h) No incremental increases of salary shall be given to retired justices or judges.

(i) Retired justices or judges shall be ineligible to hear any case in any Court of the Navajo Tribal Nation unless the Chief Justice shall, with the consent of the retired justice or judge involved, call him back for temporary duty to help relieve congestion in the docket of the Navajo Nation courts.

(j) Present justices or judges, upon leaving office, whether or not probationary or permanently appointed and approved, unless removed for misconduct, shall be considered as retired justices or judges and entitled to all the privileges provided under this section, including the provision to



serve for temporary duty to help relieve congestion in the docket of the Navajo Nation courts.

§ 354. Qualifications for Judicial Appointment

The following standards and qualifications shall apply to all judicial appointments to the Courts of the Navajo Nation:

(a) Member of Navajo Tribe and Age - An applicant shall be an enrolled member of the Navajo Tribe of Indians and shall be over thirty (30) years of age.

(b) Criminal Convictions - An applicant shall have never been convicted of a felony, or within the year just past, of a misdemeanor.

(c) Education/Training - Each applicant ~~must~~ shall be a high school graduate. Higher education or technical training with A.A., B.A., or B.S. degrees shall be preferred.

(d) Experience - Each applicant ~~must be able to demonstrate that he or she has had~~ shall have at least two (2) years work experience in law related area and has have a working knowledge of tribal, federal and state laws. In addition, those applicants who can show with tribal government experience in working with the Navajo Nation Courts or with state and federal courts will be preferred.

(e) Knowledge in Navajo Culture and Tradition - Each applicant must be able to speak both Navajo and English, and have some knowledge of Navajo culture and tradition. The applicant must be able to demonstrate.

1. an understanding of the clan system; and

2. an understanding of religious ceremonies; and

3. an appreciation of the traditional Navajo lifestyle.

(f) Health - Each applicant ~~must~~ shall produce a certificate of good health from a licensed physician.

~~(g) Statutory Requirements - 7/11/01/8/27/ requires that each applicant shall be an enrolled member of the Navajo Tribe, over thirty (30) years of age, who has never been convicted of a felony or within a year just past of a misdemeanor.~~ Recodified at 7 N.T.C. § 354 (a) and (b).

(g) Driver's License - Each applicant ~~must~~ shall possess a valid state driver's license.

(h) No Physical Addictions - In addition to the requirement of a medical examination pursuant to subsection (f) above, each applicant must attest that he or she has no physical addictions.

(i) Writing Sample - Upon initial screening of judicial applicants by the Judiciary Committee, those applicants selected will be required to shall

submit a writing sample that illustrates the applicant's ability to clearly show organization and communicative abilities.

(j) Ethics - Because the Courts of the Navajo Nation have adopted American Bar Association Code of Judicial Ethics, Each applicant will be required to shall show that he or she has neither present nor past conflicts of interests that would have the appearance of partiality or bias in cases brought in that the courts of the Navajo Nation. Each applicant must demonstrate an impartial background that will indicate neutrality and fairness for proper decision making.

(k) References - Each applicant must be of good moral character and shall submit under separate cover, letters of reference regarding his or her application. Such letters shall outline the applicant's motivation and employment performance, and the applicant's character and capacity for honesty and impartiality.

(l) Management Ability - Each application shall be required to show managerial skills shall necessary for the smooth operation of a District Court. Such information as the applicant's record of supervising staff, coordinating budget and personnel requirements, and verbal communication and writing abilities shall be carefully reviewed by the Judiciary Committee.

(m) Probationary Status Evaluations - If selected to be a A probationary judge the applicant must be shall submit to periodic evaluation of work performances as designated by the Judiciary Committee of the Navajo Tribal Council.

(n) Political Appointments - Each applicant shall be selected and evaluated without regard to political affiliation or association.

#### § 355. Appointment; Term of Office

(a) The Chairman of the Navajo Tribal Council shall appoint the Chief Justice, Associate Justices, and District Court Judges shall with the consent of confirmation by the Navajo Tribal Council from among those named recommended by the Judiciary Committee of the Navajo Tribal Council. as prescribed by 2/11/1971/8/8721

(b) shall The Chief Justice, and the Associate Justices of the Supreme Court of Appeals and the District Court Judges shall be appointed for a probationary period of two years and upon permanent appointment shall serve thereafter during good behavior or until they shall are 70 years of age.

(c) shall A probationary Chief Justice, Justice or Judge shall not be recommended for permanent appointment unless he or she has successfully completed of a course of training by shall accredited for judges and he or she has a satisfactory performance evaluation as determined by the Chief Justice and the Judiciary Committee of the Tribal Council.

(d) At any time during the probationary term of any Chief Justice, Justice or judge, regardless of the length of service of such judge, the Judiciary Committee may recommend to the Chairman of the Navajo Tribal Council that the probationary judge be removed from office. The Chairman of the Navajo Tribal Council, pursuant to such recommendation, may remove such probationary judge from office. Any judge so removed shall not be eligible for the status of retired judge and shall not be called to sit in any case pursuant to 7 N.T.C. § 353. At the conclusion of the two-year probationary term, the Judiciary Committee shall review the record and qualifications of each probationary judge and shall recommend to the Chairman whether or not each probationary judge has satisfactorily completed the probationary term and should be appointed to a permanent position. The Chairman shall not appoint to a permanent position any judge not recommended by the Judiciary Committee, but the Chairman, at his discretion, may appoint any judges approved recommended by the Judiciary Committee to permanent positions. The appointments shall be submitted to the Navajo Tribal Council for approval confirmation.

## ARTICLE 2. CHIEF JUSTICE

### § 371. Administrative duties

In addition to his judicial duties, the Chief Justice of the Navajo Tribe Nation shall have the duty of supervising the work of all justices and judges of the Navajo Tribe Nation and shall have the duty of administering the Judicial Branch. He shall advise the Chairman of the Tribal Council and the Judiciary Committee of the Tribal Council as to whether probationary justices and judges shall be offered permanent appointments. and shall recommend the removal from office for cause of judges

### § 372. Acting Chief Justice

The Chief Justice of the Navajo Tribe Nation shall designate one judge Associate Justice of the Tribe Supreme Court to act as Chief Justice whenever the Chief Justice is absent from the territorial jurisdiction of the Tribe Navajo Nation is on vacation, ill or otherwise unable to perform the duties of his office. or whenever the office of judge justice is vacant. An The Chief Justice shall delegate to the acting Chief Justice may exercise some or all or some of the powers of the office of Chief Justice. The duty appointed Chief Justice may at any time change his designation of the judge Associate Justice empowered to act as Chief Justice.

## SUBCHAPTER 9. CLERKS AND BAILIFFS

### § 401. Clerks and Bailiffs-Appointment

Each judge of the Tribe District Courts of the Navajo Nation may shall, with the approval of the Chief Justice, appoint one clerks and bailiffs to serve during his pleasure of the Court.



§ 602. Limitation of actions

(a) There shall be commenced and prosecuted within two years after the cause of action accrues, and not afterward, the following actions:

(1) For injuries done to the person of another. When death ensues from such injuries, such action for wrongful death shall be considered as accruing at the death of the party injured.

(2) For trespass or injury done to the property of another, or for detaining and converting the personal property of another to one's own use.

(3) For malicious prosecution, or for false imprisonment, or for injuries done to the character or reputation of another for libel or slander.

(b) There shall be commenced and prosecuted within three years after the cause of action accrues, and not afterward, the following actions:

(1) For debt where the indebtedness is not evidenced by a contract in writing.

(2) Upon stated or open accounts other than mutual and current accounts concerning the trade of merchandise between merchant and merchant, their factors or agents, but no item of a stated or open account shall be barred so long as any item thereof has been incurred within three years immediately prior to the bringing of an action thereon.

(3) For relief on the ground of fraud or mistake, which cause of action shall not be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake.

(c) There shall be commenced and prosecuted within four years after the cause of action accrues, and not afterward, actions by one partner against a co-partners for settlements of the partnership account, or upon mutual and current accounts concerning the trade of merchandise between merchant and merchant, their factors or agents, and the cause of action shall be considered as having accrued upon a cessation of the dealings in which they were interested together.

(d) Civil actions for which no limitation is otherwise prescribed shall be brought within five years after the cause of action accrues, and not afterward.

(e) If an action is not barred by pre-existing law, the time fixed in an amendment of such law shall govern the limitation of the action. If an amendment to pre-existing law so that an action would be barred when the amendment takes effect, such action may be brought within one year from the time the new law takes effect, and not afterward.

(f) If a person entitled to bring an action is at the time the cause of action accrues under disability of minority, mental incapacity or imprisonment, the period shall not be deemed a portion of the period limited for commencement of the action. Such person shall have the time after removal of the disability which is allowed to others. The period of limitation shall

§ 606. Attorneys Legal Counsel; right of representation/ appointment of prosecutor

Professional Attorneys Legal Counsel shall not be allowed to appear in any proceedings before the Courts of the Navajo Tribe unless rules of court have been adopted as set forth in 7 N.T.C. § 19031-19032 prescribes conditions governing the admission and practice before the Court Nation provided that the attorney legal counsel is a member in good standing of the Navajo Nation Bar Association. Every defendant in a criminal case shall have the right to have some member of the Tribe representation him by legal counsel and in the event he has no such representation, he may proceed without legal counsel or a representative legal counsel may be appointed by the judge. The judge may appoint a member of the Tribe as prosecutor.

§ 607. Repossession of personal property

The personal property of Navajo Indians shall not be taken from land subject to the territorial jurisdiction of the Navajo Tribe Nation under the procedures of repossession except in strict compliance with the following:

(1) Written consent to remove the property from land subject to the territorial jurisdiction of the Navajo Tribe Nation shall be secured from the purchaser at the time repossession is sought. The written consent shall be retained by the creditor and exhibited to the Navajo Tribe Nation police officer or official upon proper demand.

(2) Where the Navajo refuses to sign said written consent to permit removal of the property from land subject to the jurisdiction of the Navajo Tribe Nation, the property shall be removed only by order of a Tribe District Court of the Navajo Tribe Nation in an appropriate legal proceeding.

§ 608. Violations - Penalty

(a) Any nonmember of the Navajo Tribe, except persons authorized by Federal law to be present on Tribal land, found to be in willful violation of 7 N.T.C. § 607 may be excluded from land subject to the territorial jurisdiction of the Navajo Tribe Nation in accordance with procedure set forth in 17 N.T.C. §§ 19031-1906.

(b) Any business whose employees are found to be in willful violation of 7 N.T.C. § 607 may be denied the privilege of doing business on land subject to within the territorial jurisdiction of the Navajo Tribe Nation.

(c) Any Indian person who violates any provision of 7 N.T.C. § 607 shall be guilty of a crime, and upon conviction shall be punished by a fine of not more less than \$100.

§ 609. Civil liability

Any person who violates 7 N.T.C. § 607 and any business whose employee violates such section is deemed to have breached the peace of the Tribe of the Navajo Tribe Nation, and shall be civilly liable to the purchaser for any loss caused by the failure to comply with 7 N.T.C. §§ 607-609.

If the personal property repossessed is consumer goods (to wit: goods used or bought for use primarily for personal, family or household purposes), the purchaser has the right to recover in any event an amount not less than the credit service charge plus 10% of the principal amount of the debt or the time price differential plus 10% of the cash price.

Purchaser means the person who owes payment or other performance of an obligation secured by personal property, whether or not the purchaser owns or has rights in the personal property.

§ 6101. Agencies of United States

THE PROVISIONS OF 7 N.T.C. §§ 607-609 SHALL NOT APPLY TO THE FEDERAL AGENCIES OF THE UNITED STATES GOVERNMENT.

§ 6120. Severability

If any provision or clause of 7 N.T.C. §§ 607, 608 or 609, or application thereof to any person or any business or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this ~~provision~~ thereof which can be given effect without the invalid provision or application, and to this end, the provisions of this sections are declared to be severable.

### SUBCHAPTER 3. JURY

§ 651. Right to jury trial

(a) In any criminal or civil case, but not in any domestic relations, decedent's estate, equitable proceeding, or miscellaneous case, as set out in 7 N.T.C. § 253, any party shall, upon demand, be entitled to jury trial of any issue of fact.

(b) DUTIES SHALL BE VESTED IN THE COURT OF APPEALS.

§ 652. Lists of jurors; preparation

The Chief Justice of the Navajo Tribe Nation shall cause lists of eligible jurors to be prepared from time to time.

§ 653. Number of jurors

In any case, a jury shall consist of six residents of the Navajo Judicial District in which the trial is held, selected from the list of eligible jurors by the judge.

§ 654. Eligibility of jurors

Any Navajo/Indian person over the age of 21 18 years, of at least ordinary intelligence, and not under judicial restraint, shall be eligible to be a juror.

§ 655. Challenges to jury

Any party to the case may challenge exercise not more than three preemptory challenges of members of the jury panel chosen from the list of eligible jurors and shall have an unlimited number of challenges for cause.

§ 656. Instructions to jury

The judge shall instruct the jury in the law governing the case. Jury instructions may be selected by the judge from instructions prepared and presented by the parties.

§ 657. Verdict of jury

The jury shall bring a verdict for the complainant plaintiff or the defendant. If the jury is unable to reach a unanimous verdict, a verdict may be rendered by a majority vote of the jury. In civil cases, a verdict may be rendered by a majority vote of the jury. In criminal cases, a verdict shall be by a unanimous vote of the jury.

§ 658. Jurors' fees

Every person who is required to attend court for selection or service as a juror shall be entitled to a reasonable fee of \$1 for each hour of activity thereof not to exceed actual expenses incurred for his attendance is required in court and reasonable compensation for to mileage to and from his home to court at the rate of no more than not to exceed the rate established for tribal government employees for each separate day he is required to be present in court provided funds therefore are appropriated by the Tribal Council.

SUBCHAPTER 5. JUDGMENT AND EXECUTION

§ 701. Judgment - Form and contents

(a) In all civil cases, judgment shall consist of an order of the court awarding money damages to be paid to the injured party, or directing the surrender of certain property to the injured party, or the performance of some other act for the benefit of the injured party or a declaration of rights of the moving party.

(b) Where the injury inflicted was the result of carelessness of the defendant a party, the judgment shall fairly compensate the injured party for the loss he has suffered.

(c) Where the injury was deliberately inflicted, the judgment shall may impose an additional penalty upon the defendant, which additional penalties may be either in favor of the injured party or in favor of the Tribal Navajo Nation.

(d) Where the injury was inflicted as the result of accident, or where both the complainant plaintiff and the defendant were at fault, the judgment shall compensate the injured party for a reasonable part of the loss he has suffered.



§ 702. Rendition

The judge shall render judgment in accordance with the verdict of the jury and existing law.

§ 703. Lawful debt in proceedings to distribute decedents' estates

A judgment shall be considered a lawful debt in all proceedings held by the Department of the Interior or by ~~the~~ a Court of the Navajo ~~Tribe~~ Nation to distribute decedents' estate.

§ 704. Payment from individual Indian moneys

Whenever ~~the~~ a Court of the Navajo ~~Tribe~~ Nation shall have ordered payment of money damages to an injured party and the losing party refuses to make such payment within the time set for payment by the court, and when the losing party has sufficient funds to his credit at the agency office to pay all or part of such judgment, the superintendent shall certify to the Secretary of the Interior the record of the case and the amount of the available funds. If the Secretary shall so direct, the disbursing agent shall pay over to the injured party the amount of the judgment, or such lesser amount as may be specified by the Secretary, from the account of the delinquent party.

§ 705. Writs of execution - Generally

The party in whose favor a money judgment is given by the Courts of the Navajo ~~Tribe~~ Nation may at any time within five years after entry thereof have a writ of execution issued for its enforcement. No execution, however, shall issue after the death of the judgment debtor. A judgment creditor may have as many writs of execution as are necessary to effect collection of the entire amount of the judgment.

§ 706. Issuance; contents

A writ of execution shall be issued by the Clerk of Court and addressed to any regular commissioned Navajo Nation Police Officer ~~policeman~~ and shall direct him to seize and deliver to the Clerk of Court sufficient unrestricted and nonexempt personal property of the debtor to pay the judgment and costs of sale. ~~It may~~ The writ shall specify the particular property to be seized.

§ 707. Return

Within 90 days of his receipt of the writ of execution, the policeman shall return it to the Clerk of Court with the property he has seized, or with a written explanation of why he cannot deliver such property.

§ 708. Appraisal of property seized

Immediately upon receipt of the property seized under a writ of execution, the Clerk of Court shall cause it to be appraised item by item by three disinterested residents of the ~~Land/Management~~ Judicial District, one to be selected by the plaintiff, one by the defendant and one by the Clerk, and all to be admonished by the Clerk to make an impartial appraisal. If

either plaintiff or defendant or both fail to select an appraiser, the Clerk shall make the selection. If a majority of the appraisers cannot agree on an appraisal of any item of seized property within 48 hours of their appointment, the Clerk may appoint new appraisers.

§ 709. Notice and public sale of property seized; proceeds; bill of sale

(a) Within seven days after appraisal of property seized under a writ or execution, the Clerk of Court shall post in public places at least two notices of sale containing a full description of the property to be sold, together with the appraised value of each item and the time and place of sale.

(b) The sale shall be held within a reasonable time after posting, in the same ~~Vand/Management~~ Judicial District in which the Court rendering the judgment of foreclosure is located.

(c) The Clerk shall sell the property publicly, to the highest bidder for cash, but for not less than the appraised price. He may sell it by item or in bulk, in his discretion.

(d) The Clerk shall pay into court the expenses of sale and any unpaid court costs of either party from the proceeds of sale, and shall pay the balance up to the full amount of the judgment (less unpaid court costs of plaintiff) to the plaintiff. Any excess shall be paid to the defendant.

(e) The Clerk shall deliver a bill of sale to the buyer upon request.

§ 710. Private sale of property seized; delivery of unsold property to plaintiff or return to defendant

(a) If the Clerk is unable to sell the property seized under a writ of execution for its appraised value, he may hold it for 14 days after the date of the attempted sale, during which time he shall sell it to the first person offering him the appraised value in cash.

(b) The Clerk may at any time, however, after an unsuccessful attempted public sale and before an actual sale, upon request of the plaintiff and payment of all costs, deliver to property to him and credit the appraised value thereof against the judgment debt. If the appraised value is greater than the debt he shall not deliver the property to the plaintiff until the plaintiff pays the defendant in cash for such value.

(c) At the end of 14 days if the property remains unsold and unclaimed by the plaintiff the Clerk shall return it to the defendant.

§ 711. Property subject to execution and property exempt from execution

(a) Except as provided in subsection (b) of this section, the following property only shall be subject to execution and all other property shall be exempt from execution:

(1) Livestock in excess of 75 sheep units, the debtor to have the right to select which animals not in excess of 75 sheep units he wishes to keep, and any other personal property of the debtor in excess of the value of

\$5000, the debtor to have the right to select which property not in excess of the value of \$5000 he wishes to keep.

(2) Any chattel legal title to which is in the plaintiff or upon which the plaintiff holds a lawful lien, provided the writ of execution specifies the chattel.

(b) The property declared exempt by subsection (a) of this section is not exempt from execution or sale in an auction brought or judgment recovered for the purchase price of the property so long as the property remains in the possession of the original purchaser.

#### § 712. Execution prior to judgment

(a) Any chattel, legal title to which is in the plaintiff, or upon which the plaintiff holds a lawful lien may be taken into custody and delivered to the Clerk upon a writ of execution issued prior to judgment, upon motion of the plaintiff, for good cause shown and upon posting bond or making a cash deposit in an amount determined by the Court to be sufficient to compensate the defendant for any damages he may suffer as a result of wrongful execution. Plaintiff shall deposit such additional sum as the Court may fix to cover costs of the execution and of the maintenance of the property while in custody.

(b) Any chattel seized upon a writ of execution issued prior to judgment shall be appraised immediately after receipt by the Clerk, as provided in 7 N.T.C. § 708, but may not be sold prior to a judgment in favor of the plaintiff without consent of the defendant, unless it appears to the Court to be perishable item. All proceeds of a sale of perishable property shall be held by the Clerk until after the judgment is rendered or the case is dismissed.

(c) If judgment is for the defendant, the Clerk shall return the chattel to him, or, if it has been sold, the full proceeds of the sale.

### SUBCHAPTER 7. COSTS, FEES AND FINES

#### § 751. Security for costs

In all civil suits ~~the complainant~~ a party may be required to deposit with the clerk of the court a fee or other security in a reasonable amount to cover costs and other disbursements in the case, such amount to be determined by the Supreme Court.

#### § 752. Assessment of costs

The court may assess the ~~accruing~~ costs of the case against the party or parties against whom judgment is given. Such costs ~~shall~~ may consist of the expenses of voluntary witnesses and witnesses attending court under subpoenas, for which either party may be responsible under 7 N.T.C. § 818/819/820 and the fees of jurors in those cases where a jury trial is had, and any further incidental expenses connected with the procedure proceeding before the court as the court may ~~direct~~ order.

§ 753. Fees and fines; collection and disposition; WILINESS/FEES

(a) UNIL/DO/PROVIDED, the Fees and fines hereinafter collectible in the Navajo Tribal Courts of the Navajo Tribe shall be collected in by the Tribal Courts of the Navajo Tribe Nation, in amounts set by Court Rules.

(b) Fees and fines of the Tribal Courts and the Courts of Appeals shall be disposed of as follows: Court fees and fines of the Navajo Tribal Courts shall be regularly into the funds of the Navajo Nation.

(c) Recodified at 7 N.T.C. § 605(c).

SUBCHAPTER 9. APPEALS

§ 801. PERMISSION TO Appeal from Final Judgment or Order

(a) Every person aggrieved by any final judgment or other final order of the a Tribal District Court of the Navajo Tribe Nation, or such other final administrative orders as provided by law except in those criminal cases where no appeal is desired and desiring to appeal shall within 30 days after the day such judgment or order was is rendered request permission from the Chief Justice to appeal to the Supreme Court of Appeals, stating fully the reasons why he/she the grounds for appeal. Such requests and statements shall be made in writing and shall conform to the Navajo Nation Rules of Appellate Procedure. But the Chief Justice may permit no oral requests and statements to be made in his for appeal shall be accepted.

(b) If the Chief Justice thinks the reasons show probable cause for review of the decision of the Tribal Court, he The Supreme Court shall permit accept or deny the appeal and assign it for hearing before the Supreme Court of Appeals.

§ 802. Stay of execution

At any time after a request for permission to an appeal has been properly filed in the Supreme Court made to the Chief Justice, the trial judge or the Chief Justice himself may grant a stay of execution of any judgment or order of the Tribal District Court pending final decision in the case, conditioned upon posting of a bond by the appellant or his giving such other reasonable undertaking as the judge or Chief Justice may require.

§ 803. NEW TRIBAL Scope of the Appeal

The provisions of Appeals shall be limited to the issues of law raised in the record on appeal. Consistent with the new Tribal before the Chief Justice and the Navajo Tribal Courts, the Navajo Tribal Courts shall be heard in the Tribal Courts.

§ 804. Proceedings on Appeal

The Chief Justice of the Navajo Nation shall preside at all proceedings before the Supreme Court. If the Chief Justice is unable to preside for whatever reason, he shall designate a presiding Justice from the Associate Justices.

The Chief Justice of the Supreme Court may designate any District Court Judge of the Courts of the Navajo Nation to sit on an appeal panel, if the Chief Justice or an Associate Justice is unable to serve for whatever reason.

SUBCHAPTER 11. SOVEREIGN/IMMUNITY GENERAL RULES OF CONSTRUCTION

§ 851. Establishment (Repealed and Reenacted at 1 N.T.C. § 351 by Resolution CJY-55-85) Construction

This title shall be so construed as to effectuate its general purposes.

§ 852. Definitions (Repealed and Reenacted at 1 N.T.C. § 352 by Resolution CJY-55-85) Repeals

Any provision of the Navajo Tribal Code previously adopted, or any Advisory Committee of the Navajo Tribal Council or Tribal Council resolution previously adopted, which is inconsistent with this title, is hereby repealed.

§ 853. General Principles of Sovereignty/Immunity (Repealed and Reenacted at 1 N.T.C. § 353 by Resolution CJY-55-85) Severability

If any provision of this title or the application thereof to any person, court or circumstances is held invalid by a Navajo Nation or federal court, the invalidity shall not affect other provisions or applications of this title which can be given effect without the invalid provision or application and to this end, the provision of this title are severable.

§ 854. Exceptions to the General Principles of Sovereignty/Immunity (Repealed and Reenacted at 1 N.T.C. § 354 by Resolution CJY-55-85)

§ 855. Procedure with respect to Actions Authored by this Subchapter (Repealed and Reenacted at 1 N.T.C. § 355 by Resolution CJY-55-85)