

Statutes
1878

THE
GENERAL STATUTES
OF THE
STATE OF MINNESOTA,

As Amended by Subsequent Legislation.

PREPARED BY
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WITH SUPPLEMENTS,
CONTAINING ALL THE GENERAL LAWS IN FORCE UP TO THE END OF
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CHAPTER LXVII.

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§ 1. **Compensation of attorneys—"costs" defined.** The right of a party to agree with an attorney or counsel for his compensation, is unrestricted, and the measure and mode of such compensation is left to the agreement, express or implied, of the parties; but there may be allowed, to the prevailing party, certain sums by way of indemnity for his expenses in the action, which allowances are termed costs.

8 M. 267 (303).

§ 2. **Costs allowed prevailing party in district court.** Costs are allowed to the prevailing party, in actions commenced in the district court, as follows:

First. To the plaintiff, upon a judgment in his favor of one hundred dollars or more, in an action for the recovery of money only, when no issue of fact or law is joined, five dollars. When an issue is joined, ten dollars;

Second. In all other actions, except as hereinafter otherwise provided, ten dollars;

Third. To the defendant, upon discontinuance or dismissal, five dollars;

Fourth. When judgment is rendered in his favor on the merits, ten dollars.

14 M. 236.

§ 3. **Disbursements—taxation and allowance.** In every action commenced in the district courts of this state, or the court of common pleas for the county of Ramsey, the prevailing party shall be allowed his disbursements necessarily paid or incurred: *provided*, that in all actions for the recovery of money only, of which a justice of the peace has jurisdiction, the plaintiff, if he recover no more than fifty dollars, shall recover no disbursements; and if he recover less than fifty dollars, he shall pay the defendant's costs and disbursements, as allowed by law when judgment is rendered in favor of the defendant on the merits; which said costs and disbursements shall be taxed and allowed by the clerk, upon notice, the same as in other cases, and shall be deducted by the clerk from the amount recovered by the plaintiff; and in case the amount of such costs and disbursements exceed the amount recovered by the plaintiff, the clerk shall enter judgment against the plaintiff, and in favor of the defendant, for the amount of such excess, and the defendant may have execution thereon. (*As amended 1868, c. 89, § 1.*)

8 M. 401 (451); 20 M. 418.

§ 4. **Several actions—costs allowed in one only, when.** When several actions are brought on any instrument in writing, or in any other case, for the same cause of ac

tion, against several parties who might have been joined as defendants in the same action, no costs can be allowed to the plaintiff in more than one of such actions, which may be at his election, if the parties proceeded against in the other actions were, at the commencement of the previous action, openly within this state; but the disbursements of the plaintiff may be allowed to him as provided in the preceding section.

§ 5. **Costs in equitable actions—several defendants.** In equitable actions, costs may be allowed, or not; and, if allowed, may be apportioned between the parties on the same or adverse sides, in the discretion of the court. When there are several defendants, not united in interest, and making separate defences by separate answers, and the plaintiff fails to recover judgment against all, the court may award costs to such of the defendants as have judgment in their favor, or any of them.

8 M. 401 (451.)

§ 6. **Costs in action on judgment.** Costs cannot be allowed to the plaintiff in an action upon a judgment of a court of this state, between the same parties, unless such action was brought with previous leave of the court, for cause shown; but this prohibition does not apply to an action upon the judgment of a justice, brought in another county, or brought in the same county, in case of the summons not having been served on all the defendants, or the death of a party, or the death, resignation, incapacity to act, or removal from the county, of the justice, or the loss of his docket.

§ 7. **Interest on verdict, etc.** When the judgment is for the recovery of money, interest, from the time of the verdict or report, until the judgment is finally entered, shall be computed by the clerk, and added thereto.

§ 8. **Costs and disbursements, how taxed—objections—appeal.** Costs and disbursements shall be taxed and allowed, in the first instance, by the clerk, upon two days' notice by either party, and inserted in the entry of judgment; the disbursements shall be stated in detail, and verified by affidavit, which shall be filed; the party objecting to any item shall specify in writing the grounds of objection, and the same, in case of appeal, shall be certified to the court by the clerk, and the appeal shall be heard and determined upon the objections so certified, and none other.

2 M. 55 (67); 3 M. 246 (347); 4 M. 434 (552); 5 M. 416 (522); 8 M. 267 (303); 10 M. 310 (423); 17 M. 32

§ 9. **Costs on motions and demurrers.** Costs may be allowed on a motion or demurrer, in the discretion of the court or judge, not exceeding ten dollars, and may be absolute, or directed to abide the event of the action. (*As amended 1867, c. 82, § 1.*)

§ 10. **Guardian of infant plaintiff responsible for costs.** When costs are adjudged against an infant plaintiff, the guardian by whom he appears in the action is responsible for them, and judgment therefor may be entered against both the guardian and the infant.

§ 11. **Defendant entitled to costs after tender, when.** When, in an action on contract, express or implied, the defendant alleges in his answer, that, before the commencement of the action, he tendered to the plaintiff the full amount to which he was entitled, and thereupon deposits in court, for the plaintiff, the amount so tendered, and the allegation is found true, the defendant is entitled to costs and disbursements.

§ 12. **Costs chargeable on estate or fund, when.** In an action prosecuted or defended by an executor, administrator, trustee of an express trust, or a person expressly authorized by statute, costs and disbursements may be recovered, as in an action by and against a person prosecuting or defending in his own right; but the same shall, by the judgment, be made chargeable only upon the estate, fund, or party represented, unless the court directs the same to be paid by the plaintiff or defendant personally, for mismanagement or bad faith in the action; but no costs or disbursements are recoverable in such action, unless it appears that the demand was first presented to the executor or administrator, verified by oath, and payment demanded.

§ 13. **Relator entitled to, and liable for costs.** When an action or proceeding is instituted in the name of the state, on the relation of any citizen, such relator is entitled to and liable for costs and disbursements, in the same cases, and to the same extent, as if such action or proceeding had been instituted in his own name.

§ 14. **Costs on appeal from justice of the peace.** In civil actions tried before a justice of the peace, if the plaintiff appeals from a judgment in his favor, and does not recover, in the district court, a greater sum as damages than he recovered by the first judgment, the defendant is entitled to costs and disbursements; if the defendant appeals, and the amount of the plaintiff's recovery before the justice is reduced one-half or more in the district court, the defendant is entitled to costs and disbursements; in all other cases of appeal from the judgment of a justice of the peace in such actions, the successful party is entitled to costs and disbursements.

§ 15. **Same—interest not to be considered.** In comparing the sums recovered by the two judgments, for the purposes specified in the preceding section, the interest accrued on the plaintiff's demand, after the first judgment, shall not be considered.

COSTS IN THE SUPREME COURT.

§ 16. **Allowance discretionary—amounts.** Costs in the supreme court may be allowed, in the discretion of said court, as follows:

First. To the prevailing party, upon a judgment in his favor on the merits, not exceeding twenty-five dollars;

Second. Upon dismissal, not exceeding ten dollars.

4 M. 435 (553); 6 M. 353 (508).

§ 17. **Disbursements allowed in all cases.** In all cases the prevailing party shall be allowed his disbursements necessarily paid or incurred.

§ 18. **Court may allow percentage, when.** In an action for the recovery of money only, said court may, if of opinion that the appeal was taken for delay, merely, allow the plaintiff, in addition to costs and disbursements, a sum not exceeding three per cent. on the amount of the judgment recovered in the district court.

SECURITY FOR COSTS.

§ 19. **Security for costs required, when—additional security.** When an action is commenced in the district court in the name of any plaintiff who is committed and in execution for a crime, or wherein the plaintiff is a non-resident of this state, or wherein all of several plaintiffs are non-residents of this state, or in the name and behalf of any foreign corporation, such plaintiff shall file with the clerk of the court wherein such action is brought, before the service of the summons therein, a bond in the penal sum of seventy-five dollars, executed by one or more sureties, payable to the clerk of such court, for the benefit of parties who may become entitled to disbursements or costs in such action, and conditioned for the payment of all disbursements and costs that may be adjudged against the plaintiff in the action. If, after the commencement of the action, all the parties plaintiff therein become non-residents of this state, or the sureties in the bond above provided for remove from this state, or become insolvent, the defendant may, on motion, by order of the court, require an additional bond to be filed, payable and conditioned as herein provided.

§ 20. **Neglect to file security—stay of proceedings.** If any party commences an action without filing a bond, or fails to provide an additional one, as above required, the court, on motion of the defendant, may order a stay of all proceedings in such action, or a dismissal of such action at the cost of the attorney commencing the same.

§ 21. **Bond may be put in suit, when.** When judgment is entered against any party who has given security as above provided, and the disbursements and costs so adjudged against such party remain in whole or in part unpaid, for ten days after the entry of judgment, such bond may be put in suit, and prosecuted to final judgment and execution.