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CHAPTER 37

Costs

**SECTION 15‑37‑10.** Costs generally.

 In every civil action commenced or prosecuted in the courts of record in this State, except cases in chancery, the attorneys for the plaintiff or defendant shall be entitled to recover costs and disbursements of the adverse party as prescribed in Sections 15‑37‑20, 15‑37‑60, 15‑37‑70, and 15‑37‑120 to 15‑37‑160, and Chapter 21 of Title 8, Article 3 of Chapter 11 of Title 14, Chapter 19 of Title 14, Article 7 of Chapter 23 of Title 14, Chapter 19 of Title 19, Chapter 7 of Title 22, Article 3 of Chapter 9 of Title 22, and Article 1 of Chapter 19 of Title 23, such costs to be allowed as of course to the attorneys for the plaintiff or defendant and all officers of the court thereto entitled accordingly as the action may terminate and to be inserted in the judgment against the losing party. In cases in chancery the same rule as to costs shall prevail unless otherwise ordered by the court.

HISTORY: 1962 Code Section 10‑1601; 1952 Code Section 10‑1601; 1942 Code Section 756; 1932 Code Section 756; Civ. C. ‘22 Section 5721; Civ. P. ‘22 Section 623; Civ. C. ‘12 Section 4204; Civ. P. ‘12 Section 361; Civ. C. ‘02 Section 3096; Civ. P. ‘02 Section 323; G. S. 2425; R. S. 2547; 1870 (14) 498 Section 335; 1883 (18) 449; 1892 (21) 30.

**SECTION 15‑37‑20.** Costs allowed only to successful party.

 No costs shall be allowed to any party unless he succeed, in whole or in part, in his claim or defense, unless otherwise directed by the judge hearing the cause.

HISTORY: 1962 Code Section 10‑1602; 1952 Code Section 10‑1602; 1942 Code Section 757; 1932 Code Section 757; Civ. C. ‘22 Section 5723; Civ. C. ‘12 Section 4206; Civ. C. ‘02 Section 3097; R. S. 2548; 1897(22) 429.

**SECTION 15‑37‑30.** Interest from time of verdict or report.

 When the judgment is for the recovery of money, interest from the time of the verdict or report until judgment be finally entered shall be computed by the clerk and added to the costs of the party entitled thereto.

HISTORY: 1962 Code Section 10‑1605; 1952 Code Section 10‑1605; 1942 Code Section 761; 1932 Code Section 761; Civ. P. ‘22 Section 626; Civ. P. ‘12 Section 364; Civ. P. ‘02 Section 325; 1870 (14) 498 Section 336.

**SECTION 15‑37‑40.** Clerk shall insert costs and disbursements in judgment.

 The clerk shall insert in the entry of judgment, on the application of the prevailing party upon five days’ notice to the other except when the attorneys reside in the same city, village or town and then upon two days’ notice, the sum of the allowances for costs and disbursements as provided by law and the necessary disbursements, including the fees of officers allowed by law, the fees of witnesses, the reasonable compensation of commissioners in taking depositions, the fees of referees and the expense of printing the papers for any hearing when required by a rule of the court. The disbursements shall be stated in detail and verified by affidavit. A copy of the items of the costs and disbursements shall be served with a notice of adjustment.

HISTORY: 1962 Code Section 10‑1606; 1952 Code Section 10‑1606; 1942 Code Section 762; 1932 Code Section 762; Civ. P. ‘22 Section 627; Civ. P. ‘12 Section 365; Civ. P. ‘02 Section 326; 1870 (14) 498 Section 337.

**SECTION 15‑37‑50.** Limitation on costs when tort judgment is less than one hundred dollars.

 When in an action for assault, battery, false imprisonment, libel, slander, malicious prosecution, alienation of affections, or seduction or in any other action for damages for a tort the amount recovered is less than one hundred dollars, the total amount of costs and disbursements may not exceed the amount so recovered in the action.

HISTORY: 1962 Code Section 10‑1607; 1952 Code Section 10‑1607; 1942 Code Section 756; 1932 Code Section 756; Civ. C. ‘22 Section 5721; Civ. P. ‘22 Section 623; Civ. C. ‘12 Section 4204; Civ. P. ‘12 Section 361; Civ. C. ‘02 Section 3096; Civ. P. ‘02 Section 323; G. S. 2425; R. S. 2547; 1870 (14) 498 Section 335; 1883 (18) 449; 1892 (21) 30; 1988 Act No. 391, Section 4.

**SECTION 15‑37‑60.** Costs in certain small partition and foreclosure cases.

 The costs allowed by law in all cases of partition in which the property sought to be partitioned does not exceed one thousand dollars in value and in actions for foreclosure of a mortgage when the amount claimed does not exceed five hundred dollars shall be one half of the costs allowed in cases when the value exceeds those sums, and this provision shall apply to all costs in the cause.

HISTORY: 1962 Code Section 10‑1608; 1952 Code Section 10‑1608; 1942 Code Section 757; 1932 Code Section 757; Civ. C. ‘22 Section 5723; Civ. C. ‘12 Section 4206; Civ. C. ‘02 Section 3097; R. S. 2548; 1897 (22) 429.

**SECTION 15‑37‑80.** Costs on postponement of trial.

 When an application shall be made to a court or referee to postpone a trial the payment to the adverse party of a sum not exceeding ten dollars, besides the fees of witnesses, may be imposed as the condition of granting the postponement.

HISTORY: 1962 Code Section 10‑1610; 1952 Code Section 10‑1610; 1942 Code Section 763; 1932 Code Section 763; Civ. P. ‘22 Section 628; Civ. P. ‘12 Section 366; Civ. P. ‘02 Section 327; 1870 (14) 499 Section 340.

**SECTION 15‑37‑90.** Costs on motion.

 Costs may be allowed on a motion, 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.

HISTORY: 1962 Code Section 10‑1611; 1952 Code Section 10‑1611; 1942 Code Section 764; 1932 Code Section 764; Civ. P. ‘22 Section 629; Civ. P. ‘12 Section 367; Civ. P. ‘02 Section 328; 1870 (14) 499 Section 341.

**SECTION 15‑37‑100.** Costs on review of decision of inferior court in special proceeding.

 When the decision of a court of inferior jurisdiction in a special proceeding, including appeals from probate courts, shall be brought before the circuit court for review such proceeding shall, for all purposes of costs, be deemed an action at issue on a question of law from the time the proceeding shall be brought into court, and costs thereon shall be awarded and collected as provided by law.

HISTORY: 1962 Code Section 10‑1612; 1952 Code Section 10‑1612; 1942 Code Section 767; 1932 Code Section 767; Civ. P. ‘22 Section 632; Civ. P. ‘12 Section 370; Civ. P. ‘02 Section 331; 1870 (14) 499 Section 344.

**SECTION 15‑37‑110.** Adjustment of costs in interlocutory and special proceedings.

 Whenever it shall be necessary to adjust costs in any interlocutory proceeding in an action or in any special proceedings, they shall be adjusted by the judge before whom the proceeding may be heard or the court before which the proceeding may be decided or pending or in such other manner as the judge or court may direct.

HISTORY: 1962 Code Section 10‑1613; 1952 Code Section 10‑1613; 1942 Code Section 762; 1932 Code Section 762; Civ. P. ‘22 Section 627; Civ. P. ‘12 Section 365; Civ. P. ‘02 Section 326; 1870 (14) 499 Section 337.

**SECTION 15‑37‑120.** Costs for mileage.

 No constructive mileage shall be allowed, but in all cases costs for mileage shall only be taxed for the number of miles actually traveled.

HISTORY: 1962 Code Section 10‑1614; 1952 Code Section 10‑1614; 1942 Code Section 757; 1932 Code Section 757; Civ. C. ‘22 Section 5723; Civ. C. ‘12 Section 4206; Civ. C. ‘02 Section 3097; R. S. 2548; 1897 (22) 429.

**SECTION 15‑37‑130.** Costs for references.

 Costs for references shall only be taxed for the number of days which the master shall certify to have been unavoidably necessary, and no costs shall be taxed for references in which no testimony has been taken or argument had.

HISTORY: 1962 Code Section 10‑1615; 1952 Code Section 10‑1615; 1942 Code Section 757; 1932 Code Section 757; Civ. C. ‘22 Section 5723; Civ. C. ‘12 Section 4206; Civ. C. ‘02 Section 3097; R. S. 2548; 1897 (22) 429.

**SECTION 15‑37‑140.** Costs to master, special master or referee.

 The master, special master or referee shall be entitled to not less than twenty‑five dollars for each reference, and the work of one day shall constitute a reference, without regard to the number of claims presented and passed upon.

HISTORY: 1962 Code Section 10‑1616; 1952 Code Section 10‑1616; 1942 Code Section 757; 1932 Code Section 757; Civ. C. ‘22 Section 5723; Civ. C. ‘12 Section 4206; Civ. C. ‘02 Section 3097; R. S. 2548; 1897 (22) 429; 1972 (57) 2355.

**SECTION 15‑37‑160.** Costs on uncontested claims.

 No costs shall be allowed for proving uncontested claims; except for the days in which the court, master or referee is occupied in taking proof for or against such claim.

HISTORY: 1962 Code Section 10‑1618; 1952 Code Section 10‑1618; 1942 Code Section 757; 1932 Code Section 757; Civ. C. ‘22 Section 5723; Civ. C. ‘12 Section 4206; Civ. C. ‘02 Section 3097; R. S. 2548; 1897 (22) 429; 1972 (57) 2534.

**SECTION 15‑37‑170.** Costs against infant plaintiff.

 When costs and disbursements are adjudged against an infant plaintiff the guardian by whom he appeared in the action shall be responsible therefor, and payment thereof may be enforced by attachment.

HISTORY: 1962 Code Section 10‑1619; 1952 Code Section 10‑1619; 1942 Code Section 765; 1932 Code Section 765; Civ. P. ‘22 Section 630; Civ. P. ‘12 Section 368; Civ. P. ‘02 Section 329; 1870 (14) 499 Section 342.

**SECTION 15‑37‑180.** Costs against fiduciaries.

 In an action prosecuted or defended by an executor, administrator, trustee of an express trust or a person expressly authorized by statute costs shall be recovered as in an action by and against a person prosecuting or defending in his own right. But such costs shall be chargeable only upon or collected of the estate, fund, or party represented unless the court shall direct the costs to be paid by the plaintiff or defendant personally for mismanagement or bad faith in such action or defense.

HISTORY: 1962 Code Section 10‑1620; 1952 Code Section 10‑1620; 1942 Code Section 766; 1932 Code Section 766; Civ. P. ‘22 Section 631; Civ. P. ‘12 Section 369; Civ. P. ‘02 Section 330; 1870 (14) 499 Section 343.

**SECTION 15‑37‑190.** Costs against assignee after action brought.

 In actions in which the cause of action shall, by assignment after the commencement of the action or in any other manner, become the property of a person not a party to the action such person shall be liable for the costs and disbursements in the same manner as if he were a party, and payment thereof may be enforced by attachment.

HISTORY: 1962 Code Section 10‑1621; 1952 Code Section 10‑1621; 1942 Code Section 770; 1932 Code Section 770; Civ. P. ‘22 Section 635; Civ. P. ‘12 Section 373; Civ. P. ‘02 334; 1870 (14) 500 Section 347.

**SECTION 15‑37‑200.** Costs in action prosecuted by the State.

 In all civil actions prosecuted in the name of the State by an officer duly authorized for that purpose the State shall be liable for costs in the same cases and to the same extent as private parties. If a private person be joined with the State as plaintiff he shall be liable in the first instance for the defendant’s costs, which shall not be recovered of the State until after execution issued therefor against such private party shall have been returned unsatisfied.

HISTORY: 1962 Code Section 10‑1622; 1952 Code Section 10‑1622; 1942 Code Section 768; 1932 Code Section 768; Civ. P. ‘22 Section 633; Civ. P. ‘12 Section 371; Civ. P. ‘02 Section 332; 1870 (14) 499 Section 345.

**SECTION 15‑37‑210.** Costs in action prosecuted in name of the State.

 In an action prosecuted in the name of the State for the recovery of money or property or to establish a right of claim for the benefit of any county, city, town, village, corporation or person costs awarded against the plaintiff shall be a charge against the party for whose benefit the action was prosecuted and not against the State.

HISTORY: 1962 Code Section 10‑1623; 1952 Code Section 10‑1623; 1942 Code Section 769; 1932 Code Section 769; Civ. P. ‘22 Section 634; Civ. P. ‘12 Section 372; Civ. P. ‘02 Section 333; 1870 (14) 499 Section 346.

**SECTION 15‑37‑220.** Officers may take out execution for costs.

 Whenever a case may be (a) settled or determined at the mutual costs of parties or (b) discontinued or settled by plaintiff, or whenever (a) the judgment shall be for defendant or (b) the execution against the defendant shall be returned nulla bona, any of the officers entitled to receive any portion of such costs may issue an execution for his costs, or the clerk may issue for the whole, directed to the sheriff who shall execute such process as in other cases of execution delivered to him.

HISTORY: 1962 Code Section 10‑1624; 1952 Code Section 10‑1624; 1942 Code Section 760; 1932 Code Section 760; Civ. P. ‘22 Section 625; Civ. P. ‘12 Section 363; Civ. P. ‘02 Section 324; 1878 (16) 631.