

of compelling payment of contribution from his judgment codebtors, with right (as judicially construed) to proceed by execution to enforce his claim therefor, does not authorize the probate court to enforce payment of contribution by the representative to his judgment codebtors upon the mere filing of a judgment without any proceedings to determine as between the representative and his judgment codebtors whether there is any liability for contribution. *Schunk v Hotchkiss*, 231 M 219, 43 NW(2d) 104.

The statute relating to contribution and subrogation between joint debtors did not change the substantive law of contribution, but merely provided a summary method for enforcing the right. *Gustafson v Johnson*, 235 M 376, 51 NW(2d) 118.

There may be contribution between tortfeasors where one seeking a contribution was not guilty of intentional wrong and where the ground of the original common liability was simple negligence in a lawful undertaking. "Common liability" exists immediately after the acts of the tortfeasors which gives rise to a cause of action against them. The parties seeking contribution need not make payment pursuant to a judgment, but may settle by a fair and provident payment and then seek contribution from other joint tortfeasors for their fair share of the settlement price. *Employers Mutual Casualty Co. v Chicago, St. Paul & Omaha Ry.*, 238 M 304, 50 NW(2d) 689.

An unsuccessful defendant may challenge a verdict or ruling in favor of a codefendant, even though there is no cross-claim between them, because a judgment rendered on such a verdict or ruling conclusively and finally determines that such codefendant is not liable to claimant, thus precluding the unsuccessful defendant from ever recovering contribution from such codefendant. *Muggenburg v Leighton*, M, 60 NW(2d) 9.

CHAPTER 549

COSTS, DISBURSEMENTS

549.01 AGREEMENT AS TO FEES OF ATTORNEY

Under a trust agreement which provides that expenses incurred by the trustee be paid, an allowance of attorney's fees for services rendered to a trustee rests in the discretion of the court. Where the individual trustee served without compensation, payment for legal services can only be made when the services are beyond the duties the trustee should perform. *In re Conan's Will*, 231 M 164, 42 NW(2d) 400.

549.02 COSTS IN DISTRICT COURT

By intervention a third party becomes a party to a suit pending between others and an intervenor is liable for costs if he fails to sustain his claim and he may recover costs if he prevails. *State ex rel v Fitzsimmons*, 226 M 557, 33 NW(2d) 854.

Where the state acts in its sovereign capacity costs and disbursements cannot be taxed against it except as otherwise provided by law. *State v Bentley*, 231 M 531, 45 NW(2d) 185.

549.04 DISBURSEMENTS, TAXATION AND ALLOWANCE

An intervenor is liable for costs if he fails to sustain his claim. He may recover costs if he prevails. *Bergin v Fitzsimmons*, 226 M 557, 33 NW(2d) 854.

Costs and disbursements are taxable against the state where it was acting in its proprietary capacity in unsuccessfully claiming title to land under a pond in a registration proceeding. *Bingenheimer v Diamond Iron Mining Co.*, 237 M 332, 54 NW(2d) 912.

MINNESOTA STATUTES 1953 ANNOTATIONS

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EXECUTIONS; REDEMPTION; EXEMPTIONS 550.20

549.10 Superseded by Rules of Civil Procedure, Rule 54.04.

Annotations relating to superseded section 549.10.

Incomplete and modified judgments. 35 MLR 642.

Erroneous and unauthorized judgments. 35 MLR 643.

549.13 TO DEFENDENT AFTER TENDER

As a general rule the grounds of objection to a tender must be specified by the creditor, and objection on specified grounds constitutes a waiver of other grounds. *Sellwood v Equitable Life Insurance Co.*, 230 M 529, 42 NW(2d) 347.

CHAPTER 550

EXECUTIONS; REDEMPTION; EXEMPTIONS

550.01 ENFORCEMENT OF JUDGMENT

Execution; interest necessary to support an exemption claim. 34 MLR 350.

The clerk should not deliver an execution issued on a judgment requiring the payment of money except to the judgment creditor or the assignee of the judgment or the attorney for either of them. The clerk has no evidence of any rights of the assignee unless the assignee be of record, and he is justified in refusing an issue of execution until the assignee has been fined. When the sheriff receives an execution which is not endorsed by the judgment creditor or the assignee for either of them, he should return the execution to the person from whom he received it and call attention to the lack of endorsement. OAG Oct. 14, 1949 (144-B-3).

550.02 JUDGMENTS; METHOD OF ENFORCEMENT

Interest necessary to support an exemption claim. 34 MLR 350.

550.05 WHEN RETURNABLE, INVENTORY

When a purchaser of a motor car at an execution sale applies for registration and license, he may be required by the license official to furnish a certified copy of the writ of execution and the officer's return to that writ. If the return recites a sale of the vehicle to the applicant for registration, the title may be transferred. OAG Nov. 8, 1948 (632-E-27).

550.10 WHAT MAY BE LEVIED ON; LIEN

Levy of execution; non-negotiable clauses in action evidenced by a writing. 31 MLR 495.

550.142 PUBLIC EMPLOYEES; WAGES, EXECUTION LEVY

HISTORY. 1953 c 110 s 2.

When authorized by contract between a city and its employees the city may deduct part of the employee's salary as union dues and remit the same to the union pursuant to the provisions of section 571.66. OAG Oct. 9, 1952 (270-D).

550.20 SALE, WHEN AND HOW

It is an abuse of discretion for the bankruptcy court to fail to confirm a judicial sale where the only apparent reason for the court's action was its desire to obtain benefit of a higher offer made at the confirmation here. *Re Stanley Engineering Corp.*, 164 F(2d) 316.