

7 GCA CIVIL PROCEDURE
CH. 15 PLEADINGS

CHAPTER 15
PLEADINGS IN CIVIL ACTIONS

- Article 1. Pleadings In General.
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ARTICLE 1
PLEADINGS IN GENERAL

NOTE: Sections 420, 421, and 422, comprising Part II, Title XI, Chapter 1 of the Code of Civil Procedure, have been superseded by the Rule 7 of the GRCP.

ARTICLE 2
COMPLAINT

NOTE: Sections 425, 426 and 427, comprising Part II, Title VI, Chapter II of the Code of Civil Procedure, have been superseded by the Rules 8 and 18 of the GRCP.

§ 15201. Statement of facts in divorce complaint.

In an action for divorce, a complaint must set forth, for the statistics required to be collected by the Office of Vital Statistics, among other matters as near as can be ascertained the following facts:

1. The state or country in which the parties were married.
2. The date of marriage.
3. The date of separation.
4. The number of years from marriage to separation.
5. The number of children of the marriage, if any, and if none, a statement of that fact.
6. The ages of the minor children.

SOURCE: CC § 426a. *Director of Finance* changed to *Office of Vital Statistics* by Editor of 1970 Guam Codes to reflect reorganization of the former Department.

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**ARTICLE 3
DEMURRER TO COMPLAINT**

NOTE: Sections 430, 431, 432, 433 and 434, comprising Part II, Title VI, Chapter III of the Code of Civil Procedure, have been superseded by the Rule 7 of the GRCP. That Rule abolished demurrers and replaced them with Motions.

**ARTICLE 4
ANSWER**

NOTE: Sections 437, 438, 439, 440, 441 and 442 comprising all but one section of Part II, Title VI, Chapter IV of the Code of Civil Procedure, have been superseded by Rules 8 and 13 of the GRCP.

§ 15401. Action To Recover Insurance, What Defendant Claiming Exemption Must Set Up.

In an action to recover upon a contract of insurance wherein the defendant claims exemption from liability upon the ground that, although the proximate cause of the loss was a peril insured against, the loss was remotely caused by or would not have occurred but for a peril excepted in the contract of insurance, the defendant shall in his answer set forth and specify the peril which was the proximate cause of the loss, in what manner the peril excepted contributed to the loss or itself caused the peril insured against, and if he claims that the peril excepted caused the peril insured against, he shall in his answer set forth and specify upon what premises or at what place the peril excepted caused the peril insured against.

SOURCE: CCP § 437a.

**ARTICLE 5
DEMURRER TO ANSWER**

NOTE: Sections 443 and 444, comprising Part II, Title VI, Chapter V of the Code of Civil Procedure, have been superseded by Rule 7 of the GRCP.

ARTICLE 6

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VERIFICATION OF PLEADINGS

NOTE: CCP § 446, *Verification of Pleadings*, has been superseded by Rule 11 of the Guam Rules of Civil Procedure. Rule 11, itself, does not supersede specific laws requiring verification in specific instances. Thus, the following sections of this Article remain valid law.

- § 15601. Written Instrument: When Copy of Complaint Deemed Genuine.
- § 15602. Defense Founded Upon Written Instrument.
- § 15603. Execution of Instrument: When Not Admitted.

§ 15601. Written Instrument: When Copy of Complaint Deemed Genuine.

When an action is brought upon a written instrument, and the complaint contains a copy of such instrument, or a copy is annexed thereto, the genuineness and due execution of such instrument are deemed admitted, unless the answer denying the same be verified. (If the plaintiff relies upon a written instrument, in whole or in part, that fact shall be pleaded.)

SOURCE: CCP § 447. Parentheses in original.

§ 15602. Defense Founded upon Written Instrument.

When the defense to an action is founded upon a written instrument, and a copy thereof is contained in the answer, or is annexed thereto, the genuineness and due execution of such instrument are deemed admitted, unless the plaintiff files with the clerk, within ten (10) days after receiving a copy of the answer, an affidavit denying the same, and serves a copy thereof on the defendant. (If the defendant relies upon a written instrument, in whole or in part, that fact shall be pleaded.)

SOURCE: CCP § 448. Parentheses in original.

§ 15603. Execution of Instrument: When Not Admitted.

But the execution of the instrument mentioned in the two preceding sections is not deemed admitted by a failure to deny the same under oath, if the party desiring to controvert the same is, upon demand, refused an inspection of the original. Such demand must be in writing, served by copy, upon the adverse party or his attorney, and filed with the papers in the case.

SOURCE: CCP § 449.

**ARTICLE 7
GENERAL RULES OF PLEADING**

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NOTE: Sections 453, 454, 456, 457, 458, 459, 462, 463, 464 and 465 of Chapter VII of Part II, Title VI, of the Code of Civil Procedure, have been superseded by GRCP Rules 9 and 11.

- § 15701. Pleadings to be Liberally Construed.
- § 15702. Description of Real Property in a Pleading.
- § 15703. Libel and Slander: How Stated; No Special Damages.
- § 15704. Answer in such cases.

§ 15701. Pleadings to be Liberally Construed.

In the construction of a pleading, for the purpose of determining its effect, its allegations must be liberally construed, with a view to substantial justice between the parties.

SOURCE: CCP § 452.

§ 15702. Description of Real Property in a Pleading.

In an action for the recovery of real property it must be described in the complaint with such certainty as to enable an officer, upon execution, to identify it.

SOURCE: CCP § 455.

§ 15703. Libel and Slander: How Stated; No Special Damages.

In an action for libel or slander, it is not necessary to state in the complaint any extrinsic facts for the purpose of showing the application to the plaintiff of the defamatory matter out of which the cause of action arose; but it is sufficient to state generally that the same was published or spoken concerning the plaintiff; and if such allegation be controverted, the plaintiff must establish, on the trial, that it was so published or spoken.

SOURCE: CCP § 460.

§ 15704. Answer in Such Cases.

In the actions mentioned in the last section the defendant may, in his answer, allege both the truth of the matter charged as defamatory and any mitigating circumstances, to reduce the amount of damages, and whether he proves the justification or not, he may give in evidence the mitigating circumstances.

SOURCE: CCP § 461.

**ARTICLE 8
VARIANCE, MISTAKES IN PLEADINGS AND AMENDMENTS**

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NOTE: Sections 469, 470, 471, 472, 473 and 476 of Chapter VIII of Part II, Title VI, of the Code of Civil Procedure, have been superseded by the Guam Rules of Civil Procedure, Rules § 15. 16 and 7. Rule 61 has partially replaced Section 475, but because there is some doubt as to the full effect of the Rule on this section, this section will be regarded as at least partially valid.

§ 15801. Suing a Party by a Fictitious Name.

§ 15802. Errors and Defects and Reversal of Judgment.

§ 15801. Suing a Party by a Fictitious Name.

When the plaintiff is ignorant of the name of a defendant, he must state that fact in the complaint, and such defendant may be designated in any pleading or proceeding by any name, and when his true name is discovered, the pleading or proceeding must be amended accordingly.

SOURCE: CCP § 474.

§ 15802. Errors and Defects and Reversal of Judgment.

The court must, in every stage of an action, disregard any error, improper ruling, instruction, or defect, in the pleadings or proceedings which, in the opinion of said court, does not affect the substantial rights of the parties. No judgment, decision or decree shall be reversed or affected by reason of any error, ruling, instruction, or defect, unless it shall appear from the record that such error, ruling, instruction, or defect was prejudicial, and also that by reason of such error, ruling, instruction, or defect, the said party complaining or appealing sustained and suffered substantial injury, and that a different result would have been probable if such error, ruling, instruction, or defect had not occurred or existed. There shall be no presumption that error is prejudicial, or that injury was done if error is shown.

SOURCE: CCP § 475.
