

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

CHAPTER 26
MISCELLANEOUS PROVISIONS

Article 1. Proceedings Against Joint Debtors.

Article 2. Offer to Compromise.

Article 3. Inspection of Writings.

Article 4. Motions and Orders.

Article 5. Notices, Filing & Service of Papers.

Article 6. Costs.

Article 7. General Provisions.

Article 8. Declaratory Relief.

ARTICLE 1
PROCEEDINGS AGAINST JOINT DEBTORS

§ 26101. When Parties Not Summoned in Action on Joint Contract may be Summoned After Judgment.

§ 26102. What Such Summons Must Contain.

§ 26103. Affidavit to Accompany Summons.

§ 26104. What Answer is to Contain.

§ 26105. What to Constitute Pleadings.

§ 26106. Issues, How Tried; Findings.

§ 26101. When Parties Not Summoned in Action on Joint Contract may be Summoned After Judgment.

When a judgment is recovered against one or more of several persons, jointly indebted upon an obligation, by proceeding as provided in § 14107 of this Title, those who were not originally served with the summons, and did not appear in the action, may be summoned to show cause why they should not be bound by the judgment, in the same manner as though they had been originally served with the summons.

SOURCE: CCP § 989.

§ 26102. What Such Summons Must Contain.

The summons, as provided in the last section, must describe the judgment, and require the person summoned to show cause why he should not be bound by it, and must be served in the same manner, and returnable within the same time, as the original summons. It is not necessary to file a new complaint.

SOURCE: CCP § 990.

§ 26103. Affidavit to Accompany Summons.

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

The summons must be accompanied by an affidavit of the plaintiff, his agent, representative, or attorney, that the judgment, or some part thereof, remains unsatisfied, and must specify the amount due thereon.

SOURCE: CCP § 991.

§ 26104. What Answer is to Contain.

Upon such summons, the defendant may answer within the time specified therein, denying the judgment, or setting up any defense which may have arisen subsequently; or he may deny his liability on the obligation upon which the judgment was recovered, by reason of any defense existing at the commencement of the action.

SOURCE: CCP § 992.

§ 26105. What to Constitute Pleadings.

If the defendant, in his answer, denies the judgment, or sets up any defense which may have arisen subsequently, the summons, with the affidavit annexed, and the answer, constitute the written allegations in the case; if he denies his liability on the obligation upon which the judgment was recovered, a copy of the original complaint and judgment, the summons, with the affidavit annexed, and the answer, constitute such written allegations, subject to the right of the parties to amend their pleadings as in other cases.

SOURCE: CCP § 993.

§ 26106. Issues, How Tried; Findings, What to be.

The issues formed may be tried as in other cases; but when the defendant denies, in his answer, any liability on the obligation upon which the judgment was rendered, if a finding be found against him, it must be for not exceeding the amount remaining unsatisfied on such original judgment, with interest thereon.

SOURCE: CCP § 994.

**ARTICLE 2
OFFER TO COMPROMISE**

§ 26201. Offer to Compromise.

The defendant may, at time before the trial or judgment, serve upon the plaintiff an offer to allow judgment to be taken against him for the sum

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

or property, or to the effect therein specified. If the plaintiff accepts the offer, and gives notice thereof within five (5) days, he may file the offer, with proof of notice of acceptance, and the clerk must thereupon enter judgment accordingly. If the notice of acceptance be not given, the offer is to be deemed withdrawn, and cannot be given in evidence upon the trial; and if the plaintiff fails to obtain a more favorable judgment, he cannot recover costs, but must pay the defendant's costs from the time of the offer.

SOURCE: CCP § 997.

NOTE: See Rule 26 of the GRCP relative to compromises in class actions. See also 6 GCA, *Evidence*, § 408.

**ARTICLE 3
INSPECTION OF WRITINGS**

NOTE: CCP § 1000, which is the entire Article, has been superseded by Rule 34, and the other rules on Discovery, contained in the Guam Rules of Civil Procedure.

**ARTICLE 4
MOTIONS AND ORDERS**

NOTE: CCP § 1003, *Order and Motion Defined*, has been superseded by GRCP Rule 7 and so is not printed in here.

CCP § 1005, *Notice of Motion, what to be given*, has been superseded by GRCP Rule 6, and so is not found here.

The Guam CCP contained no § 1004.

§ 26401. Order for Payment of Money, How Enforced.

Whenever an order for the payment of a sum of money is made by a court, pursuant to the provisions of this Title, it may be enforced by an execution in the same manner as if it were a judgment.

SOURCE: CCP § 1007.

**ARTICLE 5
NOTICES, FILING & SERVICE**

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

NOTE: CCP § 1010 through § 1013a have been superseded by Rules 5 and 6 of the Guam Rules of Civil Procedure, and, therefore, will not appear here. No § 1015 or § 1016 existed in the original CCP.

§ 26501. Appearance: Notices After Appearance.

§ 26502. Service by Telephone or Telegraph.

§ 26503. Service of Pleadings When Adultery is Charged.

§ 26501. Appearance: Notices After Appearance.

A defendant appears in an action when he answers, demurs, or gives the plaintiff written notice of his appearance, or when an attorney gives notice of appearance for him. After appearance, a defendant or his attorney is entitled to notice of all subsequent proceedings of which notice is required to be given. But where a defendant has not appeared, service of notice or papers need not be made upon him unless he is imprisoned for want of bail.

SOURCE: CCP § 1014.

COMMENT: The Superior Court has ruled that this section has not been repealed or changed and, therefore, the California interpretation relative to special appearances is still in effect. *Manley, et al. v. Fireman's Fund Ins. Co., et al.*, Decision and Order dated 1/30/90.

However, the federal courts have held that Rule 12(b) has, in effect, abolished special appearances because of its treatment of motions to dismiss for lack of jurisdiction, and for other reasons. *Republic International Corp. v. Amco Engineers, Inc.*, 516 F.2d 161, 165 (9th Cir. 1975) citing *Dragor Shipping Corp. v. Union Tank Car Co.*, 378 F.2d 241, 243 n.2 (9th Cir. 1967) and 2A, Moore, Federal Practice § 12.12. See also *Solo Cup Co. v. Paper Machinery Corp.*, 359 F.2d 754, 758-9 (7th Cir. 1966) for the basis of this ruling.

It is important to note that when the Legislature enacted § 2206 of this Title, permitting Rules of Procedure to supersede this Title, it copied 28 U.S.C. § 2072 in its material parts. Thus it appears to the Compiler that the federal, not California, intent was the Legislative intent when moving from the procedures of this Title to those of the Rules.

§ 26502. Service by Telephone or Telegraph.

Any summons, writ, or order in any civil suit or proceeding, and all other papers requiring service, may be transmitted by telephone or telegraph for service in any place, and the telephone or telegraphic copy of such writ, or order, or paper so transmitted, may be received or executed by the officer or person to whom it is sent for that purpose, and returned by him, if any return be requisite, in the same manner, and with the same force and effect in all respects as the original thereof might be if delivered by him, and the officer or person serving or executing the same has the same authority, and is subject to the same liabilities as if the copy were the original.

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

SOURCE: CCP § 1017.

NOTE: No § 1018 existed in the original CCP.

§ 26503. Service of Pleadings When Adultery is Charged.

When in an action for divorce, adultery is charged against either party, and the person with whom such adultery is alleged to have been committed by such party is named in any of the pleadings, a copy of such pleadings must be personally served on such named person; or in case such named person cannot be found, such notice of the action and of the connection of such person therewith shall be given as shall be ordered by the court; the said person so served shall have the right to appear and plead and be heard in such action in the same manner and to the same extent as the parties to the action.

SOURCE: CCP § 1019.

**ARTICLE 6
COSTS**

- § 26601. Compensation of Attorneys; Cost to Parties.
- § 26602. When Allowed of Course to the Plaintiff.
- § 26603. Costs and Attorneys Fees Allowed to Government Employees in Cases Against the Government of Guam.
- § 26603.1. Attorney's Fees.
- § 26604. Attorneys Fees in Support Cases.
- § 26605. Several Actions Have the Costs of One.
- § 26606. When Defendant's Costs to be Allowed.
- § 26607. When Costs may and may not be Apportioned.
- § 26608. When Costs may be Severed.
- § 26609. Costs on Appeal.
- § 26610. Referee's Fees.
- § 26611. Costs Imposed Upon Continuance.
- § 26612. Costs When Tender Made Before Suit.
- § 26613. Costs in Action by or Against an Administrator.
- § 26614. Costs on Review Other than by Appeal.
- § 26615. Affidavit Must be Filed with Costs.
- § 26616. Nonresident Plaintiff may be Required to Give Security for Costs.
- § 26617. Action may be Dismissed if Security is Not Given.

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

§ 26601. Compensation of Attorneys; Cost to Parties.

(a) In any action for damages for personal injury or death, whether based on tort or contract law, or otherwise, no attorney representing any party to such action shall contract for, or charge or collect on a contingent fee basis any fee for his services for such party in excess of the following limits:

(1) Fifty percent (50%) on the first One Thousand Dollars (\$1,000.00) recovered;

(2) Forty percent (40%) on the next Two Thousand Dollars (\$2,000.00) recovered;

(3) Thirty-three and one-third percent (33 1/3%) on the next Forty-seven Thousand Dollars (\$47,000.00) recovered;

(4) Twenty percent (20%) on the next Fifty Thousand Dollars (\$50,000.00) recovered;

(5) Ten percent (10%) on any amount recovered over One Hundred Thousand Dollars (\$100,000.00); and

(6) Where the amount recovered is for the benefit of an infant or incompetent and the action is settled without trial the foregoing limits shall apply, except that the fee on any amount recovered up to Fifty Thousand Dollars (\$50,000.00) shall not exceed twenty-five percent (25%).

(b) No attorney shall enter into such contingent fee arrangement with his client without first advising the client of this right and affording the client an opportunity to retain the attorney under an arrangement whereby the attorney would be compensated on the basis of the reasonable value of his services.

(c) Such contingent legal fee shall be computed on the net sum recovered by the client after deducting disbursements made in connection with the institution and prosecution of the client's claim and litigation.

(d) The contingent legal fee within the permissible maximum limits shall include legal services rendered on any appeal or review or on any retrial, but this shall not be deemed to require an attorney to take an appeal.

(e) If, at the conclusion of any such action for damages, an attorney considers that the contingent fee within such maximum limits to be insufficient, he may apply to the court, with written notice to the client, for an increase in the fee, which the court after a hearing may grant in such amount, if any, as is deemed reasonable in all of the circumstances.

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

(f) In all cases not included within the scope of subsection (a) of this section alone, the measure and mode of compensation of attorneys and counselors at law is left to the agreement, expressed or implied, of the parties.

(g) Parties to actions or proceedings are entitled to costs and disbursements, as hereinafter provided.

SOURCE: CCP § 1021 repealed and reenacted by P.L. 13-116:2 (12/13/75).

CROSS-REFERENCES: 7 GCA 9A, Article 2, as amended. This article contains the requirement for written retainers, in addition to other matters. See also Rule 1.5, Guam Rules of Professional Conduct [for Attorneys], 7 GCA Appendix.

§ 26602. When Allowed of Course to the Plaintiff.

Except as otherwise expressly provided in this Title costs are allowed of course to the plaintiff upon a judgment in his favor in the following cases:

1. In an action for the recovery of real property;
2. In an action to recover the possession of personal property;
3. In an action for the recovery of money or damages;
4. In a special proceedings;
5. In an action which involves the title or possession of real estate.

SOURCE: CCP § 1022. An item (6) was added to this section by P.L. 17-29:11 and later repealed by P.L. 18-9:27.

§ 26603. Costs and attorneys fees allowed to the Government of Guam employees in cases against the government of Guam.

Costs and reasonable attorneys fees shall be allowed of course to a government of Guam employee upon a judgment in the employee's favor in cases against the government of Guam in which the employee seeks to enforce plaintiff's employment rights as a government employee, whether or not plaintiff has ceased to be an employee at the time of the filing of the action, upon a judgment in plaintiff's favor, in which the court or jury finds that the employee has been deprived of his or her rights as an employee of the government of Guam. This Section shall be applicable to costs and attorneys fees incurred in any action filed on or after January 1, 1983.

SOURCE: CCP § 1022.1 added by P.L. 18-9:26 (7/23/85).

CROSS-REFERENCES: See 5 GCA § 32109, relative to granting Attorney Fees and Costs in consumer actions.

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

See 4 GCA § 4406.1, amended by P.L. 21-136:26 relative to costs for prevailing government employees in Civil Service actions and appeals therefrom.

§ 26603.1. Attorney's Fees.

In any action or proceeding to enforce a provision of the Every Child is Entitled to an Adequate Public Education Act, the court, in its discretion, may allow the prevailing party reasonable attorney's fee as part of the costs.

SOURCE: Added by P.L. 28-045:18, effective, October 1, 2007, per P.L. 28-045:23.

§ 26604. Attorneys Fees in Support Cases.

Attorneys fees may be awarded in all domestic cases against any person who is found by the Superior Court of Guam to have willfully withheld and failed to pay child support or who is found to have wrongfully refused visitation to a noncustodial parent.

SOURCE: CCP § 1022.2 added by P.L. 18-17:48 (10/5/85).

§ 26605. Several Actions Have the Costs of One.

When several actions are brought on one bond, undertaking, promissory note, bill of exchange, or other instrument in writing, or in any other case for the same cause of action, 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 party proceeded against in the other actions were, at the commencement of the previous action, openly within the Territory of Guam; but the disbursements of the plaintiff must be allowed to him in each action.

SOURCE: CCP § 1023.

§ 26606. When Defendant's Costs to be Allowed.

Costs must be allowed of course to the defendant upon a judgment in his favor in the actions mentioned in § 26602 and in special proceedings.

SOURCE: CCP § 1024.

§ 26607. When Costs May and May Not be Apportioned.

In other actions than those mentioned in § 26602, costs maybe allowed or not, and, if allowed, may be apportioned between the parties, on the same or adverse sides, in the discretion of the court; but no costs can be allowed the plaintiff when the judgment is one which could have been rendered by an inferior court.

SOURCE: CCP § 1025.

§ 26608. When Costs may be Severed.

When there are several defendants in the actions mentioned in § 26602, not united in interest, and making separate defenses by separate answers, and plaintiff fails to recover judgment against all, the court must award costs to such of the defendants as have judgment in their favor.

SOURCE: CCP § 1026.

§ 26609. Costs on Appeal.

The prevailing party on appeal shall be entitled to his costs excepting when judgment modified, and in that event the matter of costs is within the discretion of the appellate court.

SOURCE: CCP § 1027.

§ 26610. Referee's Fees.

The fees of referees are Two Dollars (\$2.00) to each for every day spent in the business of the reference; but the parties may agree in writing, upon any other rate of compensation, and thereupon such rates shall be allowed.

SOURCE: CCP § 1028.

§ 26611. Costs Imposed upon Continuance.

When an application is made to a court or referee to postpone a trial, the payment of costs occasioned by the postponement may be imposed, in the discretion of the court or referee, as a condition of granting the same.

SOURCE: CCP § 1029.

§ 26612. Costs When Tender Made Before Suit.

When, in an action for the recovery of money only, 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 plaintiff, the amount so tendered, and the allegation be found to be true, the plaintiff cannot recover costs, but must pay costs to the defendant.

SOURCE: CCP § 1030.

§ 26613. Costs in Action by or Against an Administrator.

In an action prosecuted or defended by an executor, administrator, trustee of express trust, or a person expressly authorized by law; costs may be recovered as in action by and against a person prosecuting or defending in his own right; but such costs must, by the judgment, be made chargeable

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

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 or defense.

SOURCE: CCP § 1031.

§ 26614. Costs on Review Other Than by Appeal.

When the decision of a court of inferior jurisdiction in a special proceeding is brought before a court of higher jurisdiction for a review, in any other way than by appeal, the same costs must be allowed as in cases on appeal, and may be collected by execution, or in such manner as the court may direct, according to the nature of the case.

SOURCE: CCP § 1032.

§ 26615. Affidavit Must be Filed with Costs.

The party in whose favor the judgment is ordered, and who claims his costs, must serve upon the adverse party, and file at any time after the decision of the court, and not later than five days after notice of the entry of the judgment, a memorandum of the items of his costs and necessary disbursements in the action or proceeding, which memorandum must be verified by the oath of the party, or his attorney or agent, stating that to the best of his knowledge and belief the items are correct, and that the disbursements have been necessarily incurred in the action or proceeding. A party dissatisfied with the costs claimed may, within five days after service of a copy of the bill of costs, file a motion to have the same taxed by the court in which the judgment was rendered, or by the judge thereof in chambers.

SOURCE: CCP § 1033.

CROSS-REFERENCES: For Rule on costs, see GRCP Rule 54.

For the law on oaths and signing "subject to the penalties for perjury", see 6 GCA § 4308.

§ 26616. Nonresident Plaintiff May be Required to Give Security for Costs.

When the plaintiff in an action or special proceeding resides out of the Territory of Guam, or is a foreign corporation, security for the costs and charges which may be awarded against such plaintiff may be required by the defendant. When required, all proceedings in the action or special proceeding must be stayed until an undertaking, executed by two or more persons, is filed with the clerk, to the effect that they will pay such costs and charges as may be awarded against the plaintiff by judgment, or in the progress of the action or special proceeding, not exceeding the sum of Three

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

Hundred Dollars (\$300.00). A new or additional undertaking may be ordered by the court or judge, upon proof that the original undertaking is insufficient security, and proceedings in the action or special proceeding stayed until such new or additional undertaking is executed and filed.

SOURCE: CCP § 1036.

§ 26617. Action may be Dismissed if Security is Not Given.

After the lapse of thirty (30) days from the service of notice that security is required, or of an order for new or additional security, upon proof thereof, and that no undertaking as required has been filed, the court or judge may order the action or special proceeding to be dismissed.

SOURCE: CCP § 1037.

NOTE: CCP § 1038, Costs allowed in various courts, was repealed by P.L. 12-85.

**ARTICLE 7
GENERAL PROVISIONS**

- § 26701. Trust Company May be Appointed as Executor, etc.
- § 26702. Lost papers, How Supplied.
- § 26703. Papers Without Caption May be Valid.
- § 26704. Filing of Certain Papers Nunc Pro Tunc.
- § 26705. Successive Actions on the Same Contract.
- § 26706. Severance and Consolidation of Actions.
- § 26707. When Actions Deemed Pending.
- § 26708. Actions to Determine Adverse Claims, and by Sureties.
- § 26709. When Testimony to be Taken by Clerk.
- § 26710. Clerk to Keep Register of Actions.
- § 26711. Number of Referees Which May Act.
- § 26712. Extension of Time.
- § 26713. Action Against Officers for Official Acts.
- § 26714. Corporations May Become Sureties.
- § 26715. Government of Guam Not Required to Give Bond.
- § 26716. Substitution of Surety.

§ 26701. Trust Company may be Appointed as Executor, Etc.

Any corporation authorized to conduct the business of a trust company in Guam may be appointed and act as an executor, administrator, guardian of an estate, assignee, receiver, depository, or trustees in like manner as an

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

individual. When so appointed the trust company shall not be required to give bond therefor.

SOURCE: CCP § 1043.

§ 26702. Lost Papers, How Supplied.

If an original pleading or paper is lost, the court may authorize a copy thereof to be filed and used instead of the original.

SOURCE: CCP § 1045.

§ 26703. Papers Without Title, etc., May Be Valid.

An affidavit, notice, or other paper without the title of the action or proceeding in which it is made, or with a defective title, is as valid and effectual for any purpose as if duly entitled, if it intelligibly refers to such action or proceeding.

SOURCE: CCP § 1046.

§ 26704. Filing of Certain Papers Nunc Pro Tunc.

In all cases brought under the provisions of any law providing for the establishment and quieting of title to real property in cases where the public records in the Department of Land Management have been, or shall hereafter be, lost or destroyed, in whole or in any material part, by flood, fire, or earthquake, all papers filed under order of court nunc pro tunc as of the date when they should have been filed, shall have the same force and effect as if filed on the date when they should have been filed.

SOURCE: CCP § 1046a.

§ 26705. Successive Actions on the Same Contract.

Successive actions may be maintained upon the same contract or transaction whenever, after the former action, a new cause of action arises therefrom.

SOURCE: CCP § 1047.

§ 26706. Severance and Consolidation of Actions.

An action may be severed and actions may be consolidated, in the discretion of the court, whenever it can be done without prejudice to a substantial right.

SOURCE: CCP § 1048.

§ 26707. When Actions Deemed Pending.

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

An action is deemed to be pending from the time of its commencement until its final determination upon appeal, or until the time for appeal has passed, unless the judgment is sooner satisfied.

SOURCE: CCP § 1049.

NOTE: See *Corn v. Guam Coral*, 318 F.2d 622 (1963).

§ 26708. Actions to Determine Adverse Claims, and by Sureties.

An action may be brought by one person against another for the purpose of determining an adverse claim, which the latter makes against the former for money or property upon an alleged obligation; and also against two or more persons, for the purpose of compelling one to satisfy a debt due to the other, for which plaintiff is bound as a surety.

SOURCE: CCP § 1050.

§ 26709. When Testimony to be Taken by Clerk.

On the trial of an action in a court of record, if there be no shorthand reporter or the court in attendance, either party may require the clerk to take down the testimony in writing.

SOURCE: CCP § 1051.

§ 26710. Clerk to Keep Register of Actions.

The clerk must keep among the records of the court a register of actions. He must enter therein the title of the action, with brief notes under it, from time to time, of all papers filed and proceedings had therein.

SOURCE: CCP § 1052.

CROSS-REFERENCES: See GRCP Rule 79(b).

§ 26711. Number of Referees Which May Act.

When there are three referees, or three arbitrators, all must meet, but two of them may do any act which might be done by all.

§ 26712. Extension of Time.

When an act to be done, as provided in this Title, relates to the pleadings in the action, or the undertaking to be filed, or the justification of sureties, or the preparation of bills of exceptions¹, or amendments thereto, or to service of notices other than of appeal, the time allowed by this Title, unless otherwise expressly provided, may be extended, upon good cause shown, by the judge of the court having jurisdiction or by the judge who presided at the trial of said action; but such extension shall not exceed thirty (30) days, without the consent of the adverse party.

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

SOURCE: CCP § 1054.

NOTE: Exceptions have been abolished in Guam. See Guam Rules of Civil Procedure and Appellate Rules for the District Court of Guam.

§ 26713. Action Against Officers for Official Acts.

If an action is brought against any officer or person for an act, for the doing of which he had theretofore received any valid bond or covenant of indemnity, and he gives seasonable notice thereof in writing to the persons who executed such bond or covenant, and permits them to conduct the defense of such action, the judgment recovered therein is conclusive evidence against the persons so notified; and the court may, on motion of the defendant, upon notice of five days, and upon proof of such bond or covenant, and of such notice and permission, enter judgment against them for the amount so recovered and costs.

SOURCE: CCP § 1055.

§ 26714. Corporations May Become Sureties.

In all cases where an undertaking or bond, with any number of sureties, is authorized or required by any provision of this Title, or of any law of Guam, any corporation incorporated under the laws of Guam or any state of the United States for the purpose of making, guaranteeing, or becoming a surety upon bonds or undertakings required or authorized by law, or which, by the laws of the state where it was originally incorporated has such power, and which shall have complied with all the requirements of the law of Guam regulating the formation, licensing, or admission of those corporations to transact such business in Guam, may become and may be accepted as sole and sufficient surety upon such undertaking or bond, and such corporate surety shall be subject to all the liabilities and entitled to all the rights of natural persons' sureties.

Any undertaking or bond furnished under this section must be approved by the judge of the court having jurisdiction before it shall be deemed to be in effect.

SOURCE: CCP § 1056 added by P.L. 4-91.

§ 26715. Government of Guam Not Required to Give Bond.

In any civil action or proceeding wherein the government of Guam is a party plaintiff or defendant, or any officer, in his official capacity or on behalf of the government of Guam, is a party plaintiff or defendant, no bond, written undertaking, or security can be required of the government of Guam or any officer thereof.

SOURCE: CCP § 1058.

§ 26716. Substitution of Surety.

Whenever any surety on an undertaking on appeal, executed to stay proceedings upon a money judgment, pays the judgment, either with or without action, after its affirmation by the appellate court, he is substituted to the rights of the judgment creditor, and is entitled to control, enforce, and satisfy such judgment in all respects as if he had recovered the same.

SOURCE: CCP § 1059.

**ARTICLE 8
DECLARATORY JUDGMENTS**

§ 26801. Declaratory Relief.

§ 26802. Remedy Cumulative.

§ 26801. Declaratory Relief.

Any person interested under a deed, will, or other written instrument, or under a contract, or who desires a declaration of his rights or duties with respect to another, or in respect to, in, over, or upon property, or with respect to the location of the natural channel of a water course, may, in cases of actual controversy relating to the legal rights and duties of the respective parties, bring an action in the court having jurisdiction for a declaration of his rights and duties in the premises, including a determination of any question of construction or validity arising under such instrument or contract. He may ask for a declaration of rights or duties, either alone or with other relief; and the court may make a binding declaration of such rights or duties, whether or not further relief is or could be claimed at the time. The declaration may be either affirmative or negative in form and effect, and such declaration shall have the force of a final judgment. Such declaration may be had before there has been any breach of the obligation in respect to which said declaration is sought.

SOURCE: CCP § 1060.

§ 26802. Remedy Cumulative.

The remedies provided in this Article are cumulative, and shall not be construed as restricting any remedy, provisional or otherwise, provided by law for the benefit of any party to such action, and no judgment under this Article shall preclude any party from obtaining additional relief based upon the same facts.

7 GCA CIVIL PROCEDURE
CH. 26 MISCELLANEOUS PROVISIONS

SOURCE: CCP § 1062.

NOTE: Sections 1061 and 1062a have been superseded by Rule 57 of the Guam Rules of Civil Procedure and, therefore, will not be inserted here.
