

18 GCA BUSINESS STRUCTURE & FUNCTION
CH. 90 OBLIGATIONS IMPOSED BY LAW

PART 3
OBLIGATIONS
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CHAPTER 90
OBLIGATIONS IMPOSED BY LAW

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§ 90101. Abstinence from Injury.

Every person is bound, without contract, to abstain from injuring the person or property of another, or infringing upon any of his rights.

SOURCE: CC § 1708.

§ 90102. Fraudulent Deceit.

One who willfully deceives another with intent to induce him to alter his position to his injury or risk, is liable for any damage which he thereby suffers.

SOURCE: CC § 1709.

§ 90103. What is Deceit.

A deceit, within the meaning of this section, is either:

1. The suggestion, as a fact, of that which is not true, by one who does not believe it to be true;

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2. The assertion, as a fact, of that which is not true, by one who has no reasonable ground for believing it to be true;

3. The suppression of a fact, by one who is bound to disclose it, or who gives information of other facts which are likely to mislead for want of communication of that fact; or,

4. A promise, made without any intention of performing it.

SOURCE: CC § 1710.

§ 90104. Public Deceit.

One who practices a deceit with intent to defraud the public, or a particular class of person, is deemed to have intended to defraud every individual in that class, who is actually misled by the deceit.

SOURCE: CC § 1711.

§ 90105. Restoration of Things Wrongfully Acquired.

One who obtains a thing without the consent of its owner, or by a consent afterwards rescinded, or by an unlawful exaction which the owner could not at the time prudently refuse, must restore it to the person from whom it was thus obtained, unless he has acquired a title thereto superior to that of such other person, or unless the transaction was corrupt and unlawful on both sides.

SOURCE: CC § 1712.

§ 90106. When Demand is Necessary.

The restoration required by the last section must be made without demand, except where a thing is obtained by mutual mistake, in which case the party obtaining the thing is not bound to return it until he has notice of the mistake.

SOURCE: CC § 1713.

§ 90107. Responsibility for Negligence.

Every one is responsible, not only for the result of his willful acts, but also for an injury occasioned to another by his want of ordinary care or skill in the management of his property or person, except so far as the latter has willfully brought the injury upon himself. The extent of liability in such cases is defined by § 90108 and the law on Compensatory Relief [Title 20 of this Code].

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SOURCE: CC § 1714 amended by P.L. 12-46:1 (10/16/73)

§ 90108. When Recovery Barred by Contributory Negligence.

Contributory negligence shall not bar recovery in an action by any person or his legal representative to recover damages for negligence resulting in death or in injury to person or property, if such negligence was not as great as the negligence of the person against whom recovery is sought, but any damages allowed under the law on Compensatory Relief shall be diminished in proportion to the amount of negligence attributable to the person recovering.

SOURCE: CC § 1714.1 added by P.L. 12-46:2 (10/19/73). P.L. 12-53:2 (11/16/73) makes these two sections applicable only to causes of action arising after October 19, 1973.

COMMENT: The purpose of the above two sections was to abolish the doctrine of *contributory negligence* whereby a person who is in any way negligent will not recover from another for his injuries, no matter how negligent was the other person.

The Compiler recalls that these two laws did not come from California, but from some other jurisdiction, perhaps Wisconsin.

§ 90109. Assumption of Risk by Operators of Mopeds.

The bicycle equipped with a motor is an inherently dangerous device which may be operated by an unlicensed person. Any operator riding a bicycle equipped with a motor does so at his own risk. The assumption of risk by such operator shall extend to an action by such operator or his legal representative to recover damages for such operator's injury or death or injury to property.

SOURCE: CC § 1714.2 added by P.L. 14-75:9 (11/2/77) as part of a law regulating the use and operation of *bicycles equipped with motors* or, as commonly known, *mopeds*.

COURT DECISIONS: “. . . the permanent irrebuttable presumption of assumption of the risk created by [18 GCA § 90109] violated the Due Process Clause of the Fourteenth Amendment. . . “ *Avellana v. Young Joo Oh et al.*, Civ. Case No. 2-85, Motion for Summary Judgment, Superior Court of Guam, Siguenza, J., 7/30/85). This case was never appealed.

§ 90110. Strict Liability [Firearms].

Every putative owner or lawful owner of a firearm is strictly liable in tort for the death or injury to the person resulting from the use or possession of said firearm by a minor.

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SOURCE: CC § 1714.2 as added by P.L. 20-223 (1/4/91) as a part of a law regulating the use of firearms by minors.

§ 90111. Concurrent Spousal Injury.

If a married person is injured by the negligent or wrongful act or omission of a person other than the spouse, the fact that the negligent or wrongful act or omission of the spouse of the injured person was a concurring cause of the injury is not a defense in any action brought by the injured person to recover damages for such injury except in cases where such concurring negligence or wrongful act or omission would be a defense if the marriage did not exist.

SOURCE: CC § 1714.3 added by P.L. 15-113:7 (3/20/80) as part of a law dealing with equal treatment of women.

§ 90112. Other Obligations.

Other obligations are prescribed by Titles 19, 20 and 21 of this Code.

SOURCE: CC § 1715.

COMMENT: The original reference was to "Divisions 1 and 2" of the Civil Code. These parts of the Code have been placed in the mentioned Titles of the Guam Code Annotated. Other parts of the Civil Code to which this section probably referred include portions which have been repealed and placed in Titles 13 (Uniform Commercial Code) and 14 (Uniform Consumer Credit Code) of the Guam Code Annotated.

§ 90113. Civil Liability of Parents.

The Government of Guam, the United States of America, its instrumentalities or agencies, any religious organization whether incorporated or unincorporated, any partnership, any association, or any person, shall be entitled to recover damages in a civil action in an amount not to exceed \$1,000.00 in the Superior Court of Guam from the parents or guardians of any minor under the age of 18 years, living with the parents or guardians, who shall steal or maliciously or willfully destroy or damage property, real, personal, or mixed, belonging to the Government of Guam, the United States of America, its instrumentalities or agencies, a religious organization, whether incorporated or unincorporated, partnership, association, or person. Any person shall be entitled to recover damages in a civil action in an amount not to exceed \$1,000.00 in the Superior Court of Guam from the parents or guardians of any minor under the age of 18 years, living with the parents or guardians, who shall maliciously or willfully commit any act resulting in personal injury to such person or any minor child of such person. The recovery shall be limited to the actual damages in an amount

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not to exceed \$1,000.00, plus taxable court costs; except, that the provisions of this section limiting the amount of damages recoverable shall not apply to 17 GCA §6110 [Damage to School Property] and 16 GCA §17101 [Imputed Negligence of Vehicle Owners].

SOURCE: CC § 1716 added by P.L. 5-77 (3/1/60); amended by P.L. 8-75 (8/20/65).

NOTE: No 1970 Civil Code §§ 1717-1720 existed.

Title 1 of Part IV of Division 3 of the Civil Code (Sales), §§1721-1800, was repealed by P.L. 13-150 and replaced by appropriate parts of Title 13 of the GCA (Uniform Commercial Code).

§ 90114. Firearms.

Any person shall be entitled to recover damages in a civil action in an amount not to exceed One Hundred Thousand Dollars (\$100,000) from the parents or guardians who are responsible for the death or injury to a person caused by said minor's use of said firearms in his possession, who causes the death or injury of a person as a result of the use of the firearm.

SOURCE: CC § 1716.1 added by P.L. 20-223 as a part of regulating firearms in the possession of minors.
