

7 GCA CIVIL PROCEDURE
CH. 32 SUMMARY PROCEEDINGS

CHAPTER 32
SUMMARY PROCEEDINGS

Article 1. Confessions of Judgment Without Action.

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Article 3. Discharge of Persons Imprisoned on Civil Process.

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in Certain Case.

NOTE: No CCP §§ 1111-1131 existed.

ARTICLE 1
CONFESSIONS OF JUDGMENT WITHOUT ACTION

§ 32101. When Judgment may be Confessed.

§ 32102. Statement in Writing and Form Thereof.

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§ 32101. When Judgment may be Confessed.

A judgment by confession may be entered without notice, either for money due or to secure any person against contingent liability on behalf of the defendant, or both, in the manner prescribed by this Article. Such judgment may be entered in any court having jurisdiction for like amounts.

SOURCE: CCP § 1132.

CROSS-REFERENCES: See Guam Rules of Civil Procedure 77(c)(8), 91(a)(3) and 92(n)(1)(C).

§ 32102. Statement in Writing and Form Thereof.

A statement in writing must be made, signed by the defendant, and verified by his oath, to the following effect:

1. It must authorize the entry of judgment for a specified sum;
2. If it be for money due, or to become due, it must state concisely the facts out of which it arose, and show that the sum confessed therefor is justly due, or to become due;

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3. If it be for the securing the plaintiff against a contingent liability, it must state concisely the facts constituting the liability, and show that the sum confessed therefor does not exceed the same.

SOURCE: CCP § 1133.

§ 32103. Filing Statement and Entering Judgment.

The statement must be filed with the clerk of the court, who must endorse upon it, and enter in the judgment book a judgment of such court for the amount confessed, with Five Dollars (\$5.00) costs. The statement and affidavit, with the judgment endorsed, thereupon becomes the judgment roll.

SOURCE: CCP § 1134.

ARTICLE 2
SUBMITTING A CONTROVERSY WITHOUT ACTION

§ 32201. How a Controversy is Submitted Without Action.

§ 32202. When Costs Unavailable.

§ 32203. Enforceability and Appealability of the Case.

§ 32201. How a Controversy is Submitted Without Action.

Parties to a question in difference, which might be the subject of a civil action, may, without action, agree upon a case containing the facts upon which the controversy depends, and present a submission of the same to any court which would have jurisdiction if an action had been brought; but it must appear, by affidavit, that the controversy is real and the proceedings in good faith, to determine the rights of the parties. The court must thereupon hear and determine the case, and render judgment thereon, as if an action were depending.

SOURCE: CCP § 1138.

§ 32202. When Costs Unavailable.

Judgment must be entered in the judgment book as in other cases, but without costs for any proceeding prior to trial. The case, the submission, and a copy of the judgment constitute the judgment roll.

SOURCE: CCP § 1139.

§ 32203. Enforceability and Appealability of the Case.

The judgment may be enforced in the same manner as if it had been rendered in an action, and is in the same manner subject to appeal.

SOURCE: CCP § 1140.

ARTICLE 3

DISCHARGE OF PERSONS IMPRISONED ON CIVIL PROCESS

§ 32301. Persons Confined may be Discharged.

§ 32302. Notice of Discharge Application.

§ 32303. Service of Notice.

§ 32304. Examination before Judge.

§ 32305. Interrogatories may be in writing.

§ 32306. Oath Required.

§ 32307. Order of Discharge.

§ 32308. Additional Application Permitted Prisoner.

§ 32309. Discharge Final.

§ 32310. Judgment Remains in Force.

§ 32311. Plaintiff may Order Discharge.

§ 32312. Plaintiff to Support Prisoner.

NOTE: The Organic Act of Guam, § 5(k), prohibits imprisonment for debt.

§ 32301. Persons Confined may be Discharged.

Any person confined in jail, on any proceedings in a civil action, must be discharged therefrom upon the conditions in this Article specified.

SOURCE: CCP § 1143.

§ 32302. Notice of Discharge Application.

Such person must cause a notice in writing to be given to the plaintiff, his agent, or attorney, that at a certain time and place he will apply to a judge of the court having jurisdiction for the purpose of obtaining a discharge from his imprisonment.

SOURCE: CCP § 1144.

§ 32303. Service of Notice.

Such service must be served upon the plaintiff, his agent, or attorney, at least one day before the hearing of the application.

SOURCE: CCP § 1145.

§ 32304. Examination before Judge.

At the time and place specified in the notice, such person must be taken before such judge, who must examine him under oath concerning his estate and property, and effects, and the disposal thereof, and his ability to pay the judgment for which he is committed, and such judge may also hear any other legal and pertinent evidence that may be produced by the debtor or the creditor.

SOURCE: CCP § 1146.

§ 32305. Interrogatories may be in Writing.

The plaintiff in the action may, upon such examination, propose to the prisoner any interrogatories pertinent to the inquiry, and they must, if requested by him, be proposed and answered in writing, and the answer must be signed and sworn to by the prisoner.

SOURCE: CCP § 1147.

§ 32306. Oath Required.

If, upon the examination, the judge is satisfied that the prisoner is entitled to his discharge, he must administer to him the following oath, to wit:

I, _____, do solemnly swear that I have not any estate, real or personal, to the amount of Fifty Dollars (\$50.00), except such as is by law exempt from being taken in execution; and that I have not any other estate now conveyed or concealed, or in any way disposed of, with design to secure the same to my use, or to hinder, delay, or defraud my creditors, so help me God.

SOURCE: CCP § 1148.

§ 32307. Order of Discharge.

After administering the oath, the judge must issue an order that the prisoner be discharged from custody, and the officer, upon the service of such order, must discharge the prisoner forthwith, if he be imprisoned for no other crime.

SOURCE: CCP § 1149.

§ 32308. Additional Application Permitted Prisoner.

If a judge does not discharge the prisoner, he may apply for his discharge at the end of every succeeding ten days, in the same manner as above provided, and the same proceedings must thereupon be had.

SOURCE: CCP § 1150.

§ 32309. Discharge Final.

The prisoner, after being so discharged, is forever exempted from arrest on civil process for the same debt, unless he be convicted of having willfully sworn falsely upon his examination before the judge, or in taking the oath before prescribed.

SOURCE: CCP § 1151.

§ 32310. Judgment Remains in Force.

The judgment against any prisoner who is discharged remains in full force against any estate which may then or at any time afterward belong to him, and the plaintiff may take out a new execution against the goods and estate of the prisoner, in like manner as if he had never been committed.

SOURCE: CCP § 1152.

§ 32311. Plaintiff may Order Discharge.

The plaintiff in the action may at any time order the prisoner to be discharged, and he is not thereafter liable to imprisonment for the same cause of action.

SOURCE: CCP § 1153.

§ 32312. Plaintiff to Support Prisoner.

Whenever a person is committed to jail on an execution issued on a judgment recovered in a civil action, the creditor, his agent, or attorney must advance to the jailer, on such commitment, sufficient money for the support of the prisoner for one week, and must make the like advance for every successive week of his imprisonment,; and in case of failure to do so, the jailer must forthwith discharge such prisoner from custody, and such discharge has the same effect as if made by order of the creditor.

SOURCE: CCP § 1154.

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**ARTICLE 4
SUMMARY PROVISIONS FOR OBTAINING POSSESSION
OF REAL PROPERTY IN CERTAIN CASES**

NOTE: This Article, comprising former CCP §§ 1159-1179a, is now found as 21 GCA Chapter 21, Art. 1.
