

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

PART 3
OBLIGATIONS IMPOSED BY LAW

CHAPTER 90
OBLIGATIONS IMPOSED BY LAW

- § 90101. Abstinence from Injury.
- § 90102. Fraudulent Deceit.
- § 90103. What is Deceit.
- § 90104. Public Deceit.
- § 90105. Restoration of Things Wrongfully Acquired.
- § 90106. When Demand is Necessary.
- § 90107. Responsibility for Negligence.
- § 90108. When Recovery Barred by Contributory Negligence.
- § 90109. Assumption of Risk by Operators of Mopeds.
- § 90110. Strict Liability [Firearms].
- § 90111. Concurrent Spousal Injury.
- § 90112. Other Obligations.
- § 90113. Parental Liability for Willful Acts of Minor Children.
- § 90114. Firearms.

§ 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:

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

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

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

(c) 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,

(d) A promise, made without any intention of performing it.

SOURCE: CC § 1710.

2016 NOTE: Subsection designations were altered pursuant to the authority of 1 GCA § 1606.

§ 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One who obtains a thing without the consent of its owner, or by a consent afterwards rescinded, or by an unlawful exaction which the owner could not at the time prudently refuse, must restore it to the person from whom it was thus obtained, unless he has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].

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.

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. Parental Liability for Willful Acts of Minor Children.

(a) (1) Any act of willful misconduct of a minor that results in injury or death to another person or in any injury to the property of another shall be imputed to the parent or guardian having custody and control of the minor for all purposes of civil damages, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct.

(2) Subject to the provisions of Subsection (c), the joint and several liability of the parent or guardian having custody and control of a minor under this Subsection shall not exceed Twenty-Five Thousand Dollars (\$25,000) for each tort of the minor, and in the case of injury to a person, imputed liability shall be further limited to medical, dental, and hospital expenses incurred by the injured person and attorney fees as allowed by Article 6 of Chapter 26 of 7 GCA, not to exceed Twenty-Five Thousand Dollars (\$25,000). The liability imposed by this Section is in addition to any liability now imposed by law.

(b) Any act of willful misconduct of a minor that results in the defacement of property of another with paint or a similar substance shall be

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

imputed to the parent or guardian having custody and control of the minor for all purposes of civil damages, including court costs and attorney fees, as allowed by Article 6 of Chapter 26 of 7 GCA to the prevailing party, and the parent or guardian having custody and control shall be jointly and severally liable with the minor for any damages resulting from the willful misconduct, not to exceed Twenty-Five Thousand Dollars (\$25,000), except as provided in Subsection (c), for each tort of the minor.

(c) The maximum liability imposed by this Section is the maximum liability authorized under this Section at the time that the act of willful misconduct by a minor was committed.

(d) (1) Nothing in this Section shall impose liability on an insurer for a loss caused by the willful act of the insured for purposes of § 18602 of Chapter 18 of 22 GCA.

(2) An insurer shall not be liable for the conduct imputed to a parent or guardian by this Section for any amount in excess of Ten Thousand Dollars (\$10,000).

(e) Parent or guardian liability, *supra*, shall not include “foster parent” unless there is negligence by said foster parent.

SOURCE: CC § 1716 added by P.L. 050-77 (Mar. 1, 1960); amended by P.L. 08-075 (Aug. 20, 1965). Repealed and reenacted by P.L. 33-126:1 (Mar. 4, 2016).

2016 NOTE: Subitem designations were added to adhere to the Compiler’s general codification and alpha-numeric schemes pursuant to authority granted by 1 GCA § 1606.

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.

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