

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 734
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Short Title: Amend Pleadings Rule.

(Public)

Sponsors:

Referred to:

April 3, 1989

A BILL TO BE ENTITLED

AN ACT TO AMEND THE GENERAL RULES OF PLEADINGS TO ALLOW THE CLAIMANT THIRTY DAYS TO RESPOND TO A REQUEST FOR A STATEMENT OF THE MONETARY RELIEF SOUGHT AND TO MODIFY PROCEDURES OF THE JUDICIAL STANDARDS COMMISSION TO PROVIDE FOR WAIVER OF CONFIDENTIALITY UNDER CERTAIN CIRCUMSTANCES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 1A-1, Rule 8(a) reads as rewritten:

"(a) Claims for relief. – A pleading which sets forth a claim for relief, whether an original claim, counterclaim, crossclaim, or third-party claim shall contain

(1) A short and plain statement of the claim sufficiently particular to give the court and the parties notice of the transactions, occurrences, or series of transactions or occurrences, intended to be proved showing that the pleader is entitled to relief, and

(2) A demand for judgment for the relief to which he deems himself entitled. Relief in the alternative or of several different types may be demanded. In all negligence actions, and in all claims for punitive damages in any civil action, wherein the matter in controversy exceeds the sum or value of ten thousand dollars (\$10,000), the pleading shall not state the demand for monetary relief, but shall state that the relief

1 demanded is for damages incurred or to be incurred in excess of ten
2 thousand dollars (\$10,000). However, at any time after service of the
3 claim for relief, any party may request of the claimant a written
4 statement of the monetary relief sought, and the claimant shall, within
5 ~~10-30~~ days after such service, provide such statement, which shall not
6 be filed with the clerk until the action has been called for trial or entry
7 of default entered. Such statement may be amended in the manner and
8 at times as provided by Rule 15."

9 Sec. 2. G.S. 7A-377(a) reads as rewritten:

10 "(a) Any citizen of the State may file a written complaint with the Commission
11 concerning the qualifications or conduct of any justice or judge of the General Court of
12 Justice, and thereupon the Commission shall make such investigation as it deems
13 necessary. The Commission may also make an investigation on its own motion. The
14 Commission is authorized to issue process to compel the attendance of witnesses and
15 the production of evidence, to administer oaths, to punish for contempt, and to prescribe
16 its own rules of procedure. No justice or judge shall be recommended for censure or
17 removal unless he has been given a hearing affording due process of law. ~~All papers filed~~
18 ~~with and proceedings before the Commission are confidential, unless the judge involved shall~~
19 ~~otherwise request. The recommendations of the Commission to the Supreme Court, and the~~
20 ~~record filed in support of the recommendations are not confidential. Unless otherwise waived~~
21 by the justice or judge involved, all papers filed with and proceedings before the
22 Commission, including any preliminary investigation which the Commission may
23 make, are confidential, except as provided herein. After the preliminary investigation is
24 completed, and if the Commission concludes that formal proceedings should be
25 instituted, the notice and complaint filed by the Commission, along with the answer and
26 all other pleadings, are not confidential. Formal hearings ordered by the Commission
27 are not confidential, and recommendations of the Commission to the Supreme Court,
28 along with the record filed in support of such recommendations are not confidential.
29 Testimony and other evidence presented to the Commission is privileged in any action
30 for defamation. ~~No other publication of such testimony or evidence is privileged, except that~~
31 ~~the record filed with the Supreme Court continues to be privileged.~~ At least five members of
32 the Commission must concur in any recommendation to censure or remove any justice
33 or judge. A respondent who is recommended for censure or removal is entitled to a copy
34 of the proposed record to be filed with the Supreme Court, and if he has objections to it,
35 to have the record settled by the Commission. He is also entitled to present a brief and
36 to argue his case, in person and through counsel, to the Supreme Court. A majority of
37 the members of the Supreme Court voting must concur in any order of censure or
38 removal. The Supreme Court may approve the recommendation, remand for further
39 proceedings, or reject the recommendation. A justice of the Supreme Court or a member
40 of the Commission who is a judge is disqualified from acting in any case in which he is
41 a respondent."

42 Sec. 3. Section 1 of this act is effective October 1, 1990, and shall apply to
43 all requests made on or after that date. Section 2 is effective October 1, 1990, except

- 1 that prior law applies to papers filed with the Commission prior to October 1, 1990, and
- 2 proceedings before the Commission prior to October 1, 1990.