

The Ordinary Proceeding under the New Code of Civil Procedure

The new Code of Civil Procedure, enacted by Law 402 of October 9, 2023, brings about a substantial transformation in the conduct of ordinary proceedings in Panama. Its implementation modernizes this procedural avenue by introducing a framework centered on orality, streamlining of procedures, and judicial efficiency. This enables civil disputes processed under this procedure to be resolved in a more expeditious, transparent, and accessible manner for both the parties and the court. The most significant innovations regarding ordinary proceedings are outlined in Articles 615 to 620.

Article 615 redefines the scope of ordinary proceedings, providing that any contentious matter not subject to a special procedure shall be governed by this process, thereby consolidating it as the general route for civil and commercial disputes. Furthermore, it introduces a classification based on the amount in controversy: claims of lesser value (from B/.1,000 to B/.10,000, under the jurisdiction of municipal judges) and claims of greater value (over B/.10,000, under the jurisdiction of circuit judges), to achieve a more efficient allocation of judicial workload.

Article 616 establishes the method for determining the amount in controversy, considering the liquidated sum and accrued interest at the time the statement of claim is filed, excluding future interest. This provision has sparked debate, as it may limit the court's ability to adjudicate subsequent amounts. Additionally, the article sets forth criteria for claims involving assets or rights not directly subject to economic valuation, thereby reinforcing legal certainty.

Article 617 governs the filing of the statement of claim, which must be submitted to the judge, who is required to verify compliance with statutory requirements. Upon admission, the statement of claim shall be served on the defendant, who is granted ten days to file a response.

Article 618 introduces a more flexible and functional evidentiary regime, permitting parties to submit their evidence up to ten days prior to the preliminary hearing, and counterevidence up to five days prior. This structure enhances trial preparation and incorporates the principle of dynamic burden of



proof, which considers which party is best positioned to substantiate a disputed fact. This approach avoids unnecessary rigidity and promotes more substantiated and balanced decisions, consistent with the new procedural reality established by the Code.

Article 619 reinforces the principle of orality by establishing two hearings: a preliminary hearing, designed to resolve procedural issues and encourage settlement, and a final hearing, where evidence is presented and closing arguments are made. The use of technological tools, such as videoconferencing and electronic notifications, is also authorized, further modernizing the judicial system.

In conclusion, the implementation of the new Code of Civil Procedure represents both a challenge and an opportunity for legal practice. It requires legal professionals and litigants to fully embrace orality, strategically manage evidence, and effectively integrate technological tools into their practice.



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