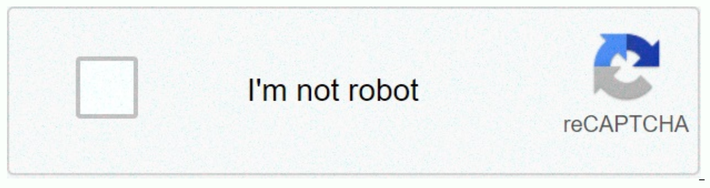

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Answer amended complaint georgia

Harry W. Krumenauer, Daniel L. Britt Jr., Marietta, appellant. Angelo Todd Merolla, Atlanta, on appellee. This appeal relates principally to whether the defendant may be bound by it, since he has not responded to an amended complaint. This follows from a requirement which was the case in a statutory division action in which Gish claimed that she and Shields had an undivided party interest in certain property. Gish amended his complaint to add claims for fair division, appointment to receiver, monetary damages, punitive damages, and attorney's fees. The return of the service showed that these pleadings and the subpoena for Shields. Gish later moved to a default judgment, and the court hearing the case granted the motion, ordering the sale of the property and awarding damages. At that hearing, the court judgment in favor of Gish on monetary damages, litigation costs, and punitive damages. Shields filed a motion denominated in Motion to Vacate (in fact a motion to repeal under OCGA § 9-11-60 (d)(3)), claiming he had never been properly served, and that the default judgment was incorrect because he did not have to respond to the amended complaint not a court order to do so, and allegations of an amended complaint were deemed to have been denied by law. After the court hearing the case denied the motion for resignation, Shields lodged a timely application for a discretionary appeal, which that court granted when the question was raised: Did the court which accepted the attribution by stating that Shields had not responded to the applicant's amended complaint. 1. The court's ruling that Shields had to respond to the amended complaint in order to avoid default was based on Teamsters Local 515 v. Roadbuilders, Inc. of Tennessee, 249 Ga. 418, 420, 291 S.E.2d 698 (1982), in which it was claimed that the defendant who had not already lodged the original complaint had not lodged an amended complaint if the defendant did not reply to the amended complaint within 30 days of its submission. However, the holding teamsters are contrary to the rules of the OCGA § 9-11-8(d) (Averments with pleading, which is not responsive to the procedural is necessary or permitted, deemed to be denied or avoided.) and § 9-11-15 (a) (A) (A) (A party may invoke or move in response to the amended pleading and, if required by a court order, within 15 days of the amended pleading, unless the court has ordered the order.) and previous appeal court rulings. No requests for a response are needed for the amendment. [Cit.] [Cit.] Averments with procedural which do not require responsive procedural articles are considered denied. [Cit.] Grand Lodge Ga., etc. Thomasville, 226 Ga. 4, 9(4), 172 S.E.2d 612 (1970). See also Building Asso. V. Crider, 141 Ga.App. 234 S.E.2d 666 (1977): [OCGA § 9-11-15(a)] allows a reply to an amended pleading, but does not require such a reply. The non-response, since no reply was requested, had the effect of rejecting or avoiding the allegations in the amended pleadings. [OCGA § 9-11-8(d)]. In holding Division 1 Teamsters Local 515 v. Roadbuilders, Inc. of Tennessee, supra, contrary to the provisions of the Civil Practice Act and this Court holding the Grand Lodge, supra, we reject it and its descendants such as Wilson Welding Service v. Partee, 234 Ga.App. 619, 620, 507 S.E.2d 168 (1998). 2. Gish claims Shields had to be raised with the amended complaint because the court hearing the case ordered him to do so. See OCGA § 9-11-15 (a): A party may request or move in response to the amended pleading and, if requested by an order of the courts, will be sent within 15 days of the service of the amended pleading. (emphasis given); and Evans against. Marshall, 253 Ga.App. 439, 559 S.E.2d 165 (2002) (the defendant is not required to respond to the amended complaint unless the court hearing the case has broken it). Gish claims that the hearing hearing's ordinance was issued shields with the amended complaint was an order to respond. However, the summons issued by the clerk of the court under OCGA § 9-11-4 is not a court order to request a response to an amended complaint and the defendant is not required to respond to an amended complaint unless the court itself has ordered such a reply in the affirmative. Chan v. W-East Trading Corp., 199 Ga.App. Article 76(5), 403 S.E.2d 840 (1991). Since the court hearing the case did not order the judgment to respond to the amended complaint, Shields did not need it and the rejection of that pleading was considered rejected. Consequently, the court hearing the case has given an imputing judgment against Shields. Gish submits on appeal that, even if an error was found in the event of a failure to fulfil obligations, it does not form the basis for settling the judgment, since the court hearing the case found that the entry into force of the judgment was partly based on Shields' negligence. However, that conclusion referred to OCGA § 9-11-60 (d)(2), which allows the set aside of the judgment on the basis of [f]crying, accident, or error or action of the unfavorable parties unmable by negligence or fault movant. In this case, the proposal to set aside was based on another plea laid down in OCGA § 9-11-60 (d)(3) which allows the annulment of the judgment on the basis of a named defect appearing on the record or pleading. If, as in this case, the record shows on the face that the default was entered incorrectly, there is a nonamendable defect on the face of the entry. Fulton v. Fulton v. Georgian State, 183 Ga.App. 570, 573, 359 726 (1987); Georgia Highway Exp., v. Whaley, 166 Ga.App. 662, 305 S.E.2d 411 (1983). Since Shields found that the party had not rejected the defect on the party, the court which, before the court, made an attributable motion for the annulment of the default judgment and was directed to return the remittitur in order to release the default judgment and, as far as liability is concerned, to return the case to the status quo ante. 3. Our judgment above did not address the remaining Shields's enumeration error, except for one. He argues that the court did not have the power to appoint the person responsible for the proceedings and to order the sale of the property because the court did not have the personal jurisdiction of the shields. The allegation of lack of personal jurisdiction is based on Shields' claim, which was never personally served on him. However, in accordance with the statutes governing the division of laws, OCGA § 44-6-160 et seq., a declaration of intent to seek division is the only procedure necessary for the defendant's court to satisfy an application for division (Clay v. Clay, 269 Ga. 902(1), 506 S.E.2d 866 (1998)) and OCGA § 44-6-166.1(b) specifically provide for the sale of property in a statutory division operation where a fair and fair distribution of property cannot be carried out using from the mete and border. Thus, ordering the sale of property was a court of justice without the need to ensure personal jurisdiction over Shields. As for the appointment of a judge, the court found that the amended procedural, in which Gish asked for an appointment to be a receiver, was personally served shields. The return service record supports this finding. If the evidence conflicts with the correct receipt of the service, as it is here, it becomes a matter of fact to be resolved by the trial judge. Whether the evidence is sufficient to overcome the facts reflected in the return of the service is a matter which the court must resolve as a fact-findinger. These findings will not be impeded in the review of the appeal if supported by evidence. [Cit.] [Cit.] Campbell v. Campbell v. Coats, 254 Ga.App. 57, 58(1), 561 S.E.2d 195 (2002). By weighing the defendant's evidence against the return of the goods in the present case, the court hearing the action has the power to find that the evidence is not sufficient to overcome the presumption of correctness of the return of the service. Coe v. Peterson, 172 Ga.App. 531, 532-533, 323 S.E.2d 715 (1984). Thus, the court, which had personal jurisdiction before the court when the recipient was appointed, made his argument based on the lack of jurisdiction without merit. Against this background, the part of the court order rejecting Shields' proposal to cancel the sale of the property and the appointment of the beneficiary is confirmed. The judgment was partially confirmed, partially and in case remanded in direction. Benham, justice. All judges agree. O.C.G.A. 9-11-15 (2010) 9-11-15. Amended and supplementary pleadings: (a) Amendments. A party may amend his pleadings, of course, and without leaving the court at any time before the pre-trial order. The party may then amend its pleadings only with the permission of the court or with the written consent of the party concerned. Leave shall be granted freely when justice so requires. A party may request or move to the amended pleading and, if the court order so requests, shall invoke within 15 days of the dissuasion of the amended pleading, unless the court requests otherwise. (b) amendments corresponding to the evidence. Where questions not raised in pleadings are tried with the express or implicit consent of the parties, they shall be treated in all respects as if they were raised in the pleadings. Amendments to pleadings which may be necessary to conform to and raise questions may be made at any time, even after a judgment, on a proposal from either party; but it does not have a amend effect on the results of the study of these issues. If the evidence is objected to before a court on the grounds that it does not correspond to the questions of the pleadings, the court may allow the pleadings to be amended and done freely if it is subject to substantiation of the merits of the claim and the opposing party does not satisfy the court that the taking of evidence would harm him as to the substance of his conduct or defence. The court may allow a follow-up so that the party hearing the opposition may comply with the evidence. (c) Relationship with amending. Whenever the claim or defence, as set out in the amended pleading, results from an action, transaction or event set out or attempted to present in the original procedural proposal, the amendment refers back to the date of the original pleading. The amendment seised of an action claiming to refer back to the date of the original pleadings if the above mentioned provisions are met and if, within the time limit laid down by law, the party to be referred with the amendment (1) has received such notification of the authority of the claim that it will not be prejudiced in maintaining its defence on the merits and (2) knew or should have known that, but for an error in terms of identity, a claim would be brought against him. (d) Additional pleadings. At the suggestion of a party, the court may, on reasonable terms and on terms other than those laid down, allow it to serve additional pleadings setting out transactions or events or events which have taken place since the date on which the pleading was lodged, the purpose of which is to be supplemented. Permission can be granted even if the original procedural article assistance or defence. If the court considers it advisable for the unfavourable party to refer to an additional pleading, it will order it to specify a time limit. Disclaimer: These codes may not be the latest version. Georgia may have more or more precise information. We do not warrant any warranty or warranty as to the accuracy, completeness or relevance of the information or information related to the national website contained on this site. Please check the official sources. Sources.