

DISSOLUTION OF PARTNERSHIP



The action for an accounting may be brought to compel the defendant to account to the plaintiff for money or property, (1) where a fiduciary relationship exists between the parties, or (2) where, though no fiduciary relationship exists, the accounts are so complicated that an ordinary legal action demanding a fixed sum is impracticable.

To state a cause of action, only the simplest pleading is required:

1. The fiduciary relationship or other circumstances appropriate to the remedy (infra, §777 et seq.).
2. A balance due from the defendant to the plaintiff that can only be ascertained by an accounting. Thus, a complaint does not state a cause of action for an accounting where it shows on its face that none is necessary; i.e., where the plaintiff alleges his right to recover a sum certain or a sum that can be made certain by calculation.

Pleading the Fiduciary Relationship

Trust. The relationship of trustee and beneficiary is a common basis for a demand for an accounting

Agency. The usual action in agency cases is by the principal against the agent.

Partnership or Joint Venture. An accounting is generally a part of an action for dissolution of a partnership.

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