

§ 1-440.11. Affidavit for attachment; amendment.

(a) To secure an order of attachment, the plaintiff, or his agent or attorney in his behalf, must state by affidavit

(1) In every case:

- a. The plaintiff has commenced or is about to commence an action, the purpose of which, in whole or in part, or in the alternative, is to secure a judgment for money, and the amount thereof,
- b. The nature of such action, and
- c. The ground or grounds for attachment (one or more of those stated in G.S. 1-440.3); and

(2) In those cases described below, the additional facts indicated:

- a. If the action is based on breach of contract, that the plaintiff is entitled to recover the amount for which judgment is sought over and above all counterclaims known to him;
- b. If it is alleged as a ground for attachment that the defendant has done, or is about to do, any act with intent to defraud his creditors, the facts and circumstances supporting such allegation.

(b) A verified complaint may be used as the affidavit required by this section.

(c) The court, in its discretion, at any time before judgment in the principal action, may allow any such affidavit to be amended even though the original affidavit is wholly insufficient.

(d) An amendment of an insufficient affidavit of attachment relates to the beginning of the attachment proceeding, and no rights based on such irregularity can be required by any third party by any subsequent attachment intervening between the original affidavit and the amendment. (1947, c. 693, s. 1.)