



either Landlord or Tenant. *Id.* PMESS's version has a box checked, assigning those duties to Landlord; Thirty-Nine's version has no box checked, assigning them to Tenant. *Id.*

PMESS' Complaint asserts five causes of action. Compl. (Oct. 31, 2025). First, PMESS alleges breach of contract, claiming Thirty-Nine failed to timely perform its obligations under the Lease. *Id.* Second, PMESS alleges breach of the covenant of good faith and fair dealing, claiming Thirty-Nine interfered with PMESS's ability to timely renovate. *Id.* Third, PMESS alleges rescission, claiming Thirty-Nine misrepresented the condition of the power and water systems and failed to disclose hazardous waste in the air conditioning ducts. *Id.* Fourth, PMESS alleges unjust enrichment/quantum meruit, claiming Thirty-Nine was unjustly enriched by PMESS's renovation and repair efforts. *Id.* Fifth, PMESS alleges reformation of lease, claiming Thirty-Nine altered the checkmark in paragraph 17(A) to shift maintenance responsibilities to PMESS. *Id.* PMESS seeks damages in excess of \$323,000 and demands a jury trial. *Id.*

Thirty-Nine moves to dismiss all five claims under Guam Rule of Civil Procedure 12(b)(6), to partially strike the jury trial demand as to the third, fourth, and fifth causes of action, and to strike the request for punitive damages. Def.'s Mot. Dismiss (Dec. 29, 2025). PMESS opposes, invoking GRCP 8(e)(2)'s authorization of alternative and inconsistent pleading. Pl.'s Opp'n (Jan. 26, 2026). Thirty-Nine's Reply additionally argues that amendment of any deficient claims would be futile. Def.'s Reply (Feb. 9, 2026). The Court heard oral argument and now renders its decision.

## II. ANALYSIS

Dismissal under Rule 12(b)(6) is appropriate only if "it appears beyond doubt that the non-moving party can prove no set of facts in support of his claim which would entitle him to relief." *Taitano v. Calvo Finance Corp.*, 2008 Guam 12 ¶ 9 (quoting *Vasques v. Los Angeles*

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*County*, 487 F.3d 1246, 1249 (9th Cir. 1996)). The Court accepts all factual allegations as true and resolves all doubts in the non-moving party's favor. *Id.* In ruling on a 12(b)(6) motion, the Court's consideration is limited to the complaint and documents incorporated into it by reference or on which the complaint heavily relies. *Newby v. Gov't of Guam*, 2010 Guam 4 ¶ 14.

GRCP 8(e)(2) permits a party to plead two or more claims alternatively or hypothetically, and to state claims regardless of consistency, whether based on legal or equitable grounds. A court may also strike from any pleading redundant, immaterial, impertinent, or scandalous matter. GRCP 12(f). These standards govern each part of the Thirty-Nine's Motion.

#### **A. Lease Dispute**

Both versions of the Lease are properly before the Court, as PMESS heavily relied on the Lease in its Complaint. However, the two versions conflict on a material term—paragraph 17(A) and the allocation of maintenance obligations. The Court cannot determine which version controls at the pleading stage. That factual dispute must await further proceedings.

#### **B. Claims 1 & 2 — Breach of Contract and Breach of Covenant of Good Faith and Fair Dealing**

Thirty-Nine argues that PMESS's pre-litigation rescission notice extinguished the Lease, leaving no contract to enforce. The Court disagrees. Whether PMESS effected a rescission *in pais* under 18 GCA § 89204 or instead seeks judicial rescission under 20 GCA § 3242 is a factual question not resolvable at the pleadings stage. *Abalos v. Cyfred, Ltd.*, 2006 Guam 7 ¶¶ 27–28, does not change this result. Under GRCP 8(e)(2), PMESS may plead breach of contract and rescission simultaneously as inconsistent alternative theories. Prior to the issuance of any judgment, PMESS will be required to elect a remedy. The motions to dismiss Claims 1 and 2 are DENIED.

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**C. Claim 3 — Rescission**

PMESS may plead rescission as an inconsistent alternative theory under GRCP 8(e)(2). However, because the claim is grounded in misrepresentation, it must be pled with particularity. GRCP 9(b); *Goodwind Dev. Corp. v. W. Bay Corp.*, 2025 Guam 14 ¶ 51. The current allegation is a single conclusory paragraph and does not satisfy this standard. Because rescission is otherwise permissible as an alternative pleading, the motion to dismiss Claim 3 is DENIED, but PMESS is granted leave to amend within 15 days to plead the misrepresentation with the particularity required by GRCP 9(b).

**D. Claim 4 — Unjust Enrichment/Quantum Meruit**

Until the breach of contract claim is disposed of, PMESS may maintain unjust enrichment as an inconsistent alternative cause of action under GRCP 8(e)(2). *Goodwind*, 2025 Guam 14 ¶ 93; *Sun and Lee Constr. Co. v. Alvarez*, CV0643-21 (Dec. & Order at 8–9 (Super. Ct. May 10, 2022)). The motion to dismiss Claim 4 is DENIED.

**E. Claim 5 — Reformation**

PMESS alleges Thirty-Nine altered paragraph 17(A) of the Lease. This presents a factual dispute not resolvable on a motion to dismiss. The motion to dismiss Claim 5 is DENIED.

**F. Jury Trial Demand**

PMESS's jury demand requested a trial "of all such issues as triable by a jury." Compl. at 7 (Oct. 31, 2025). Because PMESS did not demand a jury trial on its equitable claims, there is nothing to strike. The motion to partially strike the jury trial demand is DENIED as moot. The Court notes, however, that Claims 3 (rescission), 4 (quantum meruit), and 5 (reformation) are equitable in nature and carry no right to a jury trial. Whether a jury trial is appropriate on the remaining claims depends on the theories PMESS ultimately pursues, which the Court expects

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PMESS to identify before trial.

### **G. Punitive Damages**

Because PMESS's claims arise from contractual obligations rather than an independent tort, punitive damages are not available as a matter of law at this stage. *See* 20 GCA § 2120; *Park v. Mobil Oil Guam, Inc.*, 2004 Guam 20 ¶ 22. The motion to strike the request for punitive damages is DENIED as moot.

### **III. CONCLUSION AND ORDER**

For the foregoing reasons, the Court finds that the disputed versions of the Lease present factual issues not resolvable on a motion to dismiss, and that PMESS may plead its claims as inconsistent alternatives under GRCP 8(e)(2). The rescission claim, however, requires particularity. Accordingly, the Court ORDERS as follows:

1. The Motion to Dismiss Claims 1, 2, 4, and 5 is DENIED.
2. The Motion to Dismiss Claim 3 is DENIED; PMESS is granted leave to amend the rescission claim within 15 days of this Order to plead misrepresentation with the particularity required by GRCP 9(b).
3. The Motion to Partially Strike the jury trial demand is DENIED as moot.
4. The Motion to Strike the request for punitive damages is DENIED as moot.

**SO ORDERED, 25 March 2026.**

  
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HON. ELYZE M. IRIARTE  
Judge, Superior Court of Guam

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