

STATE OF OKLAHOMA

1st Session of the 44th Legislature (1993)

HOUSE BILL NO. 1591

By: Smith (Bill)

AS INTRODUCED

An Act relating to damages; amending 23 O.S. 1991, Section 9, which relates to damages; providing that exemplary or punitive damages shall be awarded to the state; amending 12 O.S. 1991, Section 1447.3, 1448 and 1449, which relate to libel, slander and unauthorized use of a person's right of publicity; providing that punitive damages shall be awarded to the state; amending 12 O.S. 1991, Section 2027, which relates to forms for use in the district court; modifying a form; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 23 O.S. 1991, Section 9, is amended to read as follows:

Section 9. A. In any action for the breach of an obligation not arising from contract, where the defendant has been guilty of conduct evincing a wanton or reckless disregard for the rights of another, oppression, fraud or malice, actual or presumed, the jury, in addition to the actual damages, may ~~give~~ assess damages for the sake of example, and by way of punishing the defendant, in an amount not exceeding the amount of actual damages awarded. Provided,

however, if at the conclusion of the evidence and prior to the submission of the case to the jury, the court shall find, on the record and out of the presence of the jury, that there is clear and convincing evidence that the defendant is guilty of conduct evincing a wanton or reckless disregard for the rights of another, oppression, fraud or malice, actual or presumed, then the jury may ~~give~~ assess damages for the sake of example, and by way of punishing the defendant, and the percentage limitation on such damages set forth in this section shall not apply.

B. Any assessment of exemplary or punitive damages shall be awarded to the state.

C. The provisions of this section shall be strictly construed.

SECTION 2. AMENDATORY 12 O.S. 1991, Section 1447.3, is amended to read as follows:

Section 1447.3 In any action for damages for any defamatory statement published in or uttered as a part of a television and/or radio broadcast, the complaining party shall be allowed such actual ~~and/or punitive~~ damages as he has alleged and proved. Any punitive damages that are recovered shall be awarded to the state.

SECTION 3. AMENDATORY 12 O.S. 1991, Section 1448, is amended to read as follows:

Section 1448. A. Any person who uses a deceased personality's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without prior consent from the person or persons specified in subsection C of this section, shall be liable for any damages sustained by the person or persons injured as a result thereof, and any profits from the unauthorized use that are attributable to the use shall be taken into account in computing the actual damages. In establishing these profits, the injured party or parties shall be required to present proof only of the

gross revenue attributable to the use and the person who violated this section is required to prove his or her deductible expenses. ~~Punitive damages may also be awarded to the injured party or parties.~~ The prevailing party or parties in any action under this section shall also be entitled to attorney's fees and costs.

B. The rights recognized under this section are property rights, freely transferable, in whole or in part, by contract or by means of trust or testamentary documents, whether the transfer occurs before the death of the deceased personality, by the deceased personality or his or her transferees, or, after the death of the deceased personality, by the person or persons in whom such rights vest under this section or the transferees of that person or persons.

C. The consent required by this section shall be exercisable by the person or persons to whom such right of consent (or portion thereof) has been transferred in accordance with subsection B of this section, or if no such transfer has occurred, then by the person or persons to whom such right of consent (or portion thereof) has passed in accordance with subsection D of this section.

D. Subject to subsections B and C of this section, after the death of any person, the rights under this section shall belong to the decedents' spouse, issue, or parents in accordance with Section 213 of Title 84 of the Oklahoma Statutes. Said rights shall be exercised on behalf of and for the benefit of all those persons, by those persons who, in the aggregate, are entitled to more than a one-half (1/2) interest in such rights.

E. If any deceased personality does not transfer his or her rights under this section by contract, or by means of a trust or testamentary document, and there are no surviving persons as described in subsection D of this section, then the rights set forth in subsection A of this section shall terminate.

F. 1. A successor-in-interest to the rights of a deceased personality under this section or a licensee thereof may not recover damages for a use prohibited by this section that occurs before the successor-in-interest or licensee registers a claim of the rights under paragraph 2 of this subsection.

2. Any person claiming to be a successor-in-interest to the rights of a deceased personality under this section or a licensee thereof may register that claim with the Secretary of State on a form prescribed by the Secretary of State and upon payment of a fee of Ten Dollars (\$10.00). The form shall be verified and shall include the name and date of death of the deceased personality, the name and address of the claimant, the basis of the claim, and the rights claimed.

3. Upon receipt and after filing of any document under this section, the Secretary of State may microfilm or reproduce by other techniques any of the filings or documents and destroy the original filing or document. The microfilm or other reproduction of any document under the provision of this section shall be admissible in any court of law. The microfilm or other reproduction of any document may be destroyed by the Secretary of State fifty (50) years after the death of the personality named therein.

4. Claims registered under this subdivision shall be public records.

G. No action shall be brought under this section by reason of any use of a deceased personality's name, voice, signature, photograph, or likeness occurring after the expiration of one hundred (100) years from the death of the deceased personality.

H. As used in this section, "deceased personality" means any natural person whose name, voice, signature, photograph, or likeness has commercial value at the time of his or her death, whether or not during the lifetime of that natural person the person used his or her name, voice, signature, photograph, or likeness on or in

products, merchandise or goods, or for purposes of advertising or selling, or solicitation of purchase of, products, merchandise, goods, or services. A "deceased personality" shall include, without limitation, any such natural person who has died within fifty (50) years prior to January 1, 1986.

I. As used in this section, "photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission, of any person, such that the deceased personality is readily identifiable. A deceased personality shall be deemed to be readily identifiable from a photograph when one who views the photograph with the naked eye can reasonably determine who the person depicted in the photograph is.

J. For purposes of this section, a use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign, shall not constitute a use for which consent is required under subsection A of this section.

K. The use of a name, voice, signature, photograph, or likeness in a commercial medium shall not constitute a use for which consent is required under subsection A of this section solely because the material containing such use is commercially sponsored or contains paid advertising. Rather it shall be a question of fact whether or not the use of the deceased personality's name, voice, signature, photograph, or likeness was so directly connected with the commercial sponsorship or with the paid advertising as to constitute a use for which consent is required under subsection A of this section.

L. Nothing in this section shall apply to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television networks and stations, cable television systems, billboards, and transit ads, by whom any advertisement or solicitation in violation of this section

is published or disseminated, unless it is established that such owners or employees had knowledge of the unauthorized use of the deceased personality's name, voice, signature, photograph, or likeness as prohibited by this section.

M. The remedies provided for in this section are cumulative and shall be in addition to any others provided for by law.

N. This section shall not apply to the use of a deceased personality's name, voice, signature, photograph, or likeness, in any of the following instances:

1. A play, book, magazine, newspaper, musical composition, exhibit, display, film, radio or television program, other than an advertisement or commercial announcement not exempt under paragraph 4 of this subsection;

2. Material that is of political or newsworthy value;

3. Single and original works of fine art; and

4. An advertisement or commercial announcement for a use permitted by paragraph 1, 2 or 3 of this subsection.

O. Punitive damages also may be recovered against the person proximately causing the injury. Such damages, if recovered, shall be distributed to the state.

SECTION 4. AMENDATORY 12 O.S. 1991, Section 1449, is amended to read as follows:

Section 1449. A. Any person who knowingly uses another's name, voice, signature, photograph, or likeness, in any manner, on or in products, merchandise, or goods, or for purposes of advertising or selling, or soliciting purchases of, products, merchandise, goods, or services, without such person's prior consent, or, in the case of a minor, the prior consent of his parent or legal guardian, shall be liable for any damages sustained by the person or persons injured as a result thereof, and any profits from the unauthorized use that are attributable to the use shall be taken into account in computing the actual damages. In establishing such profits, the injured party or

parties are required to present proof only of the gross revenue attributable to such use, and the person who violated this section is required to prove his or her deductible expenses. ~~Punitive damages may also be awarded to the injured party or parties.~~ The prevailing party in any action under this section shall also be entitled to attorney's fees and costs.

B. As used in this section, "photograph" means any photograph or photographic reproduction, still or moving, or any videotape or live television transmission, of any person, such that the person is readily identifiable.

1. A person shall be deemed to be readily identifiable from a photograph when one who views the photograph with the naked eye can reasonably determine that the person depicted in the photograph is the same person who is complaining of its unauthorized use.

2. If the photograph includes more than one person so identifiable, then the person or persons complaining of the use shall be represented as individuals rather than solely as members of a definable group represented in the photograph. A definable group includes, but is not limited to, the following examples: A crowd at any sporting event, a crowd in any street or public building, the audience at any theatrical or stage production, a glee club, or a baseball team.

3. A person or persons shall be considered to be represented as members of a definable group if they are represented in the photograph solely as a result of being present at the time the photograph was taken and have not been singled out as individuals in any manner.

C. Where a photograph or likeness of an employee of the person using the photograph or likeness appearing in the advertisement or other publication prepared by or in behalf of the user is only incidental, and not essential, to the purpose of the publication in which it appears, there shall arise a rebuttable presumption

affecting the burden of producing evidence that the failure to obtain the consent of the employee was not a knowing use of the employee's photograph or likeness.

D. For purposes of this section, a use of a name, voice, signature, photograph, or likeness in connection with any news, public affairs, or sports broadcast or account, or any political campaign, shall not constitute a use for which consent is required under subsection A of this section.

E. The use of a name, voice, signature, photograph, or likeness in a commercial medium shall not constitute a use for which consent is required under subsection A of this section solely because the material containing such use is commercially sponsored or contains paid advertising. Rather it shall be a question of fact whether or not the use of the person's name, voice, signature, photograph, or likeness was so directly connected with the commercial sponsorship or with the paid advertising as to constitute a use for which consent is required under subsection A of this section.

F. Nothing in this section shall apply to the owners or employees of any medium used for advertising, including, but not limited to, newspapers, magazines, radio and television networks and stations, cable television systems, billboards, and transit ads, by whom any advertisement or solicitation in violation of this section is published or disseminated, unless it is established that such owners or employees had knowledge of the unauthorized use of the person's name, voice, signature, photograph, or likeness as prohibited by this section.

G. Punitive damages also may be recovered against the person proximately causing the injury. Such damages, if recovered, shall be distributed to the state.

H. The remedies provided for in this section are cumulative and shall be in addition to any others provided for by law.

SECTION 5. AMENDATORY 12 O.S. 1991, Section 2027, is amended to read as follows:

Section 2027.

APPENDIX OF FORMS

Form 1.

SUMMONS

IN THE DISTRICT COURT

OF _____ COUNTY, STATE OF OKLAHOMA

A.B., Plaintiff)

v.)

No. _____

C.D., Defendant)

Summons

To the above-named Defendant:

You have been sued by the above-named plaintiff, and you are directed to file a written answer to the attached petition in the court at the above address within twenty (20) days after service of this summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the plaintiff.

Unless you answer the petition within the time stated, judgment will be rendered against you with costs of the action.

_____, Court Clerk

by _____, Deputy Court Clerk

(Seal)

Attorney(s) for Plaintiff(s):

Name _____

Address _____

Telephone Number _____

This summons was served on _____

(date of service)

(Signature of person serving summons)

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.

Form 2.

PETITION ON A PROMISSORY NOTE

1. Defendant on or about June 1, 19__, executed and delivered to plaintiff a promissory note (in the following words and figures: (here set out the note verbatim)); (a copy of which is hereto annexed as Exhibit A); (whereby defendant promised to pay to plaintiff or order on June 1, 19__, the sum of _____ dollars with interest thereon at the rate of ____ percent per annum).

2. Defendant owes to plaintiff the amount of said note and interest.

Wherefore plaintiff demands judgment against defendant for the sum of _____ dollars, interest, and costs including reasonable attorney fees.

Signed: _____

Attorney for Plaintiff

Address: _____

Form 3.

PETITION ON AN ACCOUNT

Defendant owes plaintiff _____ dollars according to the account hereto annexed as Exhibit A.

Wherefore (etc. as in Form 2.)

Form 4.

PETITION FOR GOODS SOLD AND DELIVERED

Defendant owes plaintiff _____ dollars for goods sold and delivered by plaintiff to defendant between June 1, 19__, and December 1, 19__.

Wherefore (etc. as in Form 2.)

Form 5.

PETITION FOR MONEY LENT

Defendant owes plaintiff _____ dollars for money lent by plaintiff to defendant on June 1, 19__.

Wherefore (etc. as in Form 2.)

Form 6.

PETITION FOR MONEY PAID BY MISTAKE

Defendant owes plaintiff _____ dollars for money paid by plaintiff to defendant by mistake on June 1, 19__, under the following circumstances: (here state the circumstances with particularity--see subsection B of Section 2009 of this title)

Wherefore plaintiff demands judgment against defendant for the sum of _____ dollars, interest, and costs.

Form 7.

PETITION FOR MONEY HAD AND RECEIVED

Defendant owes plaintiff _____ dollars for money had and received from one G.H. on June 1, 19__, to be paid by defendant to plaintiff.

Wherefore (etc. as in Form 6.)

Form 8.

PETITION FOR NEGLIGENCE

1. On June 1, 19__, on a public roadway called Utica Avenue in Tulsa, Oklahoma, defendant negligently drove a motor vehicle against plaintiff who was then crossing said roadway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization.

Wherefore plaintiff demands judgment against defendant in the sum of _____ dollars, interest, and costs.

Form 9.

PETITION FOR NEGLIGENCE WHERE PLAINTIFF

IS UNABLE TO DETERMINE DEFINITELY WHETHER
THE PERSON RESPONSIBLE IS C.D. OR E.F. OR
WHETHER BOTH ARE RESPONSIBLE AND WHERE HIS
EVIDENCE MAY JUSTIFY A FINDING OF
WILLFULNESS OR OF RECKLESSNESS OR OF NEGLIGENCE
AND A PRAYER FOR PUNITIVE DAMAGES

A.B., Plaintiff)
v.) No. _____
C.D. and E.F., Defendants)

Petition

1. On June 1, 19__, on a public roadway called Utica Avenue in Tulsa, Oklahoma, defendant C.D. or defendant E.F., or both defendants C.D. and E.F. willfully or recklessly or negligently drove or caused to be driven a motor vehicle against plaintiff who was then crossing said roadway.

2. As a result plaintiff was thrown down and had his leg broken and was otherwise injured, was prevented from transacting his business, suffered great pain of body and mind, and incurred expenses for medical attention and hospitalization.

Wherefore plaintiff demands judgment against C.D. or against E.F. or against both for actual ~~and punitive~~ damages in the sum of _____ dollars, interest, and costs.

Form 10.

PETITION FOR CONVERSION

On or about December 1, 19__, defendant converted to his own use ten bonds of the _____ Company (here insert brief identification as by number and issue) of the value of _____ dollars, the property of plaintiff.

Wherefore plaintiff demands judgment against defendant in the sum of _____ dollars, interest and costs.

Form 11.

PETITION FOR SPECIFIC PERFORMANCE

OF CONTRACT TO CONVEY LAND

1. On or about December 1, 19__, plaintiff and defendant entered into an agreement in writing, a copy of which is hereto annexed as Exhibit A.

2. In accord with the provisions of said agreement plaintiff tendered to defendant the purchase price and requested a conveyance of the land, but defendant refused to accept the tender and refused to make the conveyance.

3. Plaintiff now offers to pay the purchase price.

Wherefore plaintiff demands:

(1) that defendant be required specifically to perform said agreement;

(2) damages in the sum of One Thousand Dollars (\$1,000.00); and (3) that

Form 12.

PETITION ON CLAIM FOR DEBT AND TO SET ASIDE

FRAUDULENT CONVEYANCE UNDER SUBSECTION B OF SECTION 2018 OF THIS

TITLE

A.B., Plaintiff)

v.)

No. _____

C.D. and E.F., Defendants)

Petition

1. Defendant C.D. on or about _____ executed and delivered to plaintiff a promissory note (in the following words and figures: (here set out the note verbatim)); (a copy of which is hereto annexed as Exhibit A); (whereby defendant C.D. promised to pay to plaintiff or order on _____ the sum of Five Thousand Dollars (\$5,000.00) with interest thereon at the rate of __% per annum).

2. Defendant C.D. owes to plaintiff the amount of said note and interest.

3. Defendant C.D. on or about _____ conveyed all his property, real and personal (or specify and describe) to defendant

E.F. for the purpose of defrauding plaintiff and hindering and delaying the collection of the indebtedness evidenced by the note above referred to.

Wherefore plaintiff demands:

(1) That plaintiff have judgment against defendant C.D. for _____ dollars and interest;

(2) That the aforesaid conveyance to defendant E.F. be declared void and the judgment herein be declared a lien on said property; and

(3) That plaintiff have judgment against the defendants for costs, including reasonable attorney fees.

Form 13.

PETITION FOR NEGLIGENCE UNDER
FEDERAL EMPLOYERS' LIABILITY ACT

1. During all the times herein mentioned defendant owned and operated in interstate commerce a railroad which passed through a tunnel located at _____ and known as Tunnel No. _____.

2. On or about June 1, 19___, defendant was repairing and enlarging the tunnel in order to protect interstate trains, passengers and freight from injury and in order to make the tunnel more conveniently usable for interstate commerce.

3. In the course of thus repairing and enlarging the tunnel on said day defendant employed plaintiff as one of its workmen, and negligently put plaintiff to work in a portion of the tunnel which defendant had left unprotected and unsupported.

4. By reason of defendant's negligence in thus putting plaintiff to work in that portion of the tunnel, plaintiff was, while so working pursuant to defendant's orders, struck and crushed by a rock, which fell from the unsupported portion of the tunnel, and was (here describe plaintiff's injuries).

5. Prior to these injuries, plaintiff was a strong, able-bodied man (or woman), capable of earning and actually earning _____

dollars per day. By these injuries he (or she) has been made incapable of any gainful activity, has suffered great physical and mental pain, and has incurred expense for medicine, medical attendance, and hospitalization.

Wherefore plaintiff demands judgment against defendant in the sum of _____ dollars and costs.

Form 14.

MOTION TO DISMISS, PRESENTING DEFENSES OF FAILURE
TO STATE A CLAIM, OF LACK OF SERVICE OF PROCESS
AND OF IMPROPER VENUE UNDER SUBSECTION B OF SECTION 2012 OF THIS
TITLE

The defendant moves the court as follows:

1. To dismiss the action because the petition fails to state a claim against defendant upon which relief can be granted, because plaintiff's claim is barred by the statute of limitations in Section 95 of Title 12 of the Oklahoma Statutes.

2. To dismiss the action or, in lieu thereof, to quash the return of service of summons on the grounds:

- (a) That the defendant is a corporation organized under the laws of Delaware and was not and is not subject to service of process within the State of Oklahoma, and
- (b) That the defendant has not been properly served with process in this action, all of which more clearly appears in the affidavits of M.N. and X.Y., hereto annexed as Exhibit A and Exhibit B respectively.

3. To dismiss the action on the ground that it is in the wrong county, because this is an action for damages to land located in Cherokee County, and under Section 131 of Title 12 of the Oklahoma Statutes, this action must be brought in Cherokee County, all of which more clearly appears in the affidavits of K.L. and V.W., hereto annexed as Exhibits C and D respectively.

Signed: _____

Attorney for Defendant

Address: _____

Notice of Motion

To: _____

Attorney for Plaintiff

Please take notice, that the undersigned will bring the above motion on for hearing before this Court at Room _____, Tulsa County Courthouse, City of Tulsa on the _____ day of _____, 19____, at 10:00 o'clock a.m. of that day or as soon thereafter as counsel can be heard.

Signed: _____

Attorney for Defendant

Address: _____

Form 15.

ANSWER PRESENTING DEFENSES UNDER SUBSECTION B

OF SECTION 2012 OF THIS TITLE

First Defense

The petition fails to state a claim against defendant upon which relief can be granted, because plaintiff is suing on a contract for the sale of goods for a price of more than Five Hundred Dollars (\$500.00), which is not enforceable under Section 2-201 of Title 12A of the Oklahoma Statutes.

Second Defense

If defendant is indebted to plaintiffs for the goods mentioned in the petition, he is indebted to them jointly with G.H., G.H. is alive; is a citizen of the State of Oklahoma and a resident of this state, is subject to the jurisdiction of this court, as to both service of process and venue; can be made a party without depriving this court of jurisdiction of the present parties, and has not been made a party.

Third Defense

Defendant admits the allegation contained in paragraphs 1 and 4 of the petition; alleges that he is without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 2 of the petition; and denies each and every other allegation contained in the petition.

Fourth Defense

The right of action set forth in the petition did not accrue within five (5) years next before the commencement of this action.

Counterclaim

(Here set forth any claim as a counterclaim in the manner in which a claim is pleaded in a petition.)

Cross-claim Against Defendant M.N.

(Here set forth the claim constituting a cross-claim against defendant M.N. in the manner in which a claim is pleaded in a petition.)

Form 16.

ANSWER TO PETITION SET FORTH IN FORM 7, WITH COUNTERCLAIM
FOR INTERPLEADER

Defense

Defendant denies the allegations stated in paragraph 2 of the petition to the extent set forth in the counterclaim herein.

Counterclaim for Interpleader

1. Defendant received the sum of _____ dollars as a deposit from E.F. and defendant claims no interest in the money.
2. Plaintiff has demanded the payment of such deposit to him by virtue of an assignment of it which he claims to have received from E.F.
3. E.F. has notified the defendant that he claims such deposit, that the purported assignment is not valid, and that he holds the defendant responsible for the deposit.

Wherefore defendant demands:

(1) That the court order E.F. to be made a party defendant to respond to the petition and to this counterclaim.

(2) That the court order the plaintiff and E.F. to interplead their respective claims.

(3) That the court adjudge whether the plaintiff or E.F. is entitled to the sum of money.

(4) That the court order the defendant to deposit the money claimed by the plaintiff and E.F. with the clerk of the court and discharge the defendant from the action and from all liability in the premises.

(5) That the court award to the defendant its costs and attorney's fees.

Form 17.

SUMMONS AND PETITION AGAINST THIRD-PARTY DEFENDANT

IN THE DISTRICT COURT OF

_____ COUNTY, STATE OF OKLAHOMA

A.B., Plaintiff)

v.)

C.D., Defendant and)

No. _____

Third-Party Plaintiff)

v.)

E.F., Third-Party)

Defendant)

Summons

To the above-named Third-Party Defendant:

You have been sued by the above-named defendant and third-party plaintiff, and you are directed to file a written answer to the attached third-party petition in the court at the above address within twenty (20) days after the service of this summons upon you, exclusive of the day of service. Within the same time, a copy of your answer must be delivered or mailed to the attorney for the

third-party plaintiff and to the attorney for the original plaintiff.

Unless you answer the third-party petition within the time stated, judgment will be rendered against you with costs of the action.

_____, Court Clerk

by _____, Deputy Court Clerk

(Seal)

Attorney(s) for Original Plaintiff(s):

Name _____

Address _____

Telephone Number _____

Attorney(s) for Third-Party Plaintiff(s):

Name _____

Address _____

Telephone Number _____

This summons was served on _____ (date of service)

(Signature of person serving summons)

YOU MAY SEEK THE ADVICE OF AN ATTORNEY ON ANY MATTER CONNECTED WITH THIS SUIT OR YOUR ANSWER. SUCH ATTORNEY SHOULD BE CONSULTED IMMEDIATELY SO THAT AN ANSWER MAY BE FILED WITHIN THE TIME LIMIT STATED IN THE SUMMONS.

IN THE DISTRICT COURT OF _____ COUNTY,

STATE OF OKLAHOMA

A.B., Plaintiff)

v.)

C.D., Defendant and)

No. _____

Third-Party Plaintiff)

v.)

E.F., Third-Party)
Defendant)

Third-Party Petition

1. Plaintiff A.B. has filed against defendant C.D. a petition, a copy of which is hereto attached as "Exhibit A".

2. (Here state the grounds upon which C.D. is entitled to recover from E.F. all or part of what A.B. may recover from C.D. The statement should be framed as in an original petition.)

Wherefore C.D. demands judgment against third-party defendant E.F. for all sums that may be adjudged against defendant C.D. in favor of plaintiff A.B.

Signed: _____

Attorney for C.D.,

Third-Party Plaintiff

Address: _____

Form 18.

MOTION TO BRING IN THIRD-PARTY DEFENDANT

Defendant moves for leave, as third-party plaintiff, to cause to be served upon E.F. a summons and third-party petition, copies of which are hereto attached as "Exhibit X".

Signed: _____

Attorney for Defendant C.D.

Address: _____

Notice of Motion

(Contents the same as in Form 14. The notice should be addressed to all parties to the action.)

Exhibit X

(Contents the same as in Form 17)

Form 19.

NOTICE OF MOTION AND MOTION FOR LEAVE TO INTERVENE AS PLAINTIFF

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF OKLAHOMA

A.B., Plaintiff,)

v.)
C.D., Defendant,) No. _____
E.F., Applicant for)
intervention)

Notice of Motion and Motion

TO: _____ (Plaintiff) and _____ (Defendant) and to _____ and
_____, their respective attorneys

Please be advised that in Room _____, Tulsa County Courthouse,
_____ (address), on _____, 19____, or as soon thereafter as counsel
can be heard, _____ (proposed intervenor) will move for leave to
intervene as plaintiff in the above-styled action on the ground that
he has a claim against the above-named defendant that involves
questions of law and fact in common with those that are involved in
the original action, and that his intervention to assert the claim
will not unduly delay or prejudice the adjudication of the rights of
the original parties. The claim of _____ (proposed intervenor) is
set out in his attached proposed petition in intervention.

The motion will be based on this notice, (the attached affidavit
of _____), and on all the pleadings and records heretofore filed in
this action.

Signed: _____

Attorney for E.F.

Applicant for Intervention

Address: _____

(Attach Affidavit, if any)

Form 20.

MOTION TO INTERVENE AS A DEFENDANT UNDER SECTION 2024 OF THIS
TITLE

(Based upon the petition, Form 8)

IN THE DISTRICT COURT OF _____ COUNTY,

STATE OF OKLAHOMA

A.B., Plaintiff)

v.)
C.D., Defendant) No. _____
E.F., Applicant for)
intervention)

Motion to Intervene as a Defendant

E.F. moves for leave to intervene as a defendant in this action, in order to assert the defenses set forth in his proposed answer, of which a copy is hereto attached, on the ground that he is the employer of defendant C.D., who was operating a motor vehicle in the course of his employment at the time of the accident alleged in the petition, and as such has a defense to plaintiff's claim presenting both questions of law and of fact which are common to the main action.

Signed: _____

Attorney for E.F.,

Applicant for Intervention

Address: _____

Notice of Motion

(Contents the same as in Form 14)

IN THE DISTRICT COURT OF _____ COUNTY, STATE OF OKLAHOMA
A.B., Plaintiff)
v.)
C.D., Defendant) No. _____
E.F., Intervenor)

Intervenor's Answer

First Defense

Intervenor denies the allegations stated in paragraphs 1 and 2 of the petition insofar as they assert the negligence of defendant.

Second Defense

Plaintiff was not injured as a result of the negligence of defendant, since plaintiff was crossing the public street against a red stoplight and defendant had the right of way.

Signed: _____

Attorney for E.F.,

Intervenor

Address: _____

Form 21.

ALLEGATION OF REASON FOR OMITTING PARTY

When it is necessary, under subsection C of Section 2019 of this title, for the pleader to set forth in his pleading the names of persons who ought to be made parties, but who are not so made, there should be an allegation such as the one set out below:

John Doe, named in this petition, is not made a party to this action (because he is not subject to the jurisdiction of this court); (because he cannot be made a party to this action without depriving this court of jurisdiction).

Form 22.

SUGGESTION OF DEATH UPON THE RECORD UNDER PARAGRAPH 1 OF SUBSECTION A OF SECTION 2025 OF THIS TITLE

A.B. (describe as a party, or as executor, administrator, or other representative or successor of C.D., the deceased party) suggests upon the record, pursuant to paragraph 1 of subsection A of Section 2025 of this title, the death of C.D. (describe as party) during the pendency of this action.

SECTION 6. This act shall become effective September 1, 1993.

44-1-5404

SD