

STATE OF OKLAHOMA

2nd Session of the 47th Legislature (2000)

SENATE BILL 1135

By: Pruitt

AS INTRODUCED

An Act relating to civil procedure; amending 12 O.S. 1991, Section 2008, which relates to the Oklahoma Pleading Code; increasing amount of damages in money which shall be specified in claim for relief; clarifying language; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 1991, Section 2008, is amended to read as follows:

Section 2008.

GENERAL RULES OF PLEADING

A. CLAIMS FOR RELIEF. A pleading which sets forth a claim for relief, whether an original claim, counterclaim, cross-claim, or third-party claim, shall contain:

1. A short and plain statement of the claim showing that the pleader is entitled to relief; and

2. A demand for judgment for the relief ~~to which he deems himself entitled~~ claimed. Every pleading demanding relief for damages in money in excess of ~~Ten Thousand Dollars (\$10,000.00)~~ Seventy-five Thousand Dollars (\$75,000.00) shall, without demanding any specific amount of money, set forth only that the amount sought as damages is in excess of ~~Ten Thousand Dollars (\$10,000.00)~~ Seventy-five Thousand Dollars (\$75,000.00), except in actions sounding in contract. Every pleading demanding relief for damages in money in an amount of ~~Ten Thousand Dollars (\$10,000.00)~~ Seventy-five Thousand Dollars (\$75,000.00) or less shall specify the amount of such damages sought to be recovered.

Relief in the alternative or of several different types may be demanded.

B. DEFENSES; FORM OF DENIALS. A party shall state in short and plain terms ~~his~~ any defenses to each claim asserted and shall admit or deny the averments upon which the adverse party relies. If ~~he~~ the party is without knowledge or information sufficient to form a belief as to the truth of an averment, ~~he~~ the party shall so state and this statement has the effect of a denial. Denials shall fairly meet the substance of the averments denied. When a pleader intends in good faith to deny only a part or a qualification of an averment, ~~he~~ the pleader shall specify so much of it as is true and material and shall deny only the remainder. Unless the pleader intends in good faith to controvert all the averments of the preceding pleading, ~~he~~ the pleader may make ~~his~~ denials as specific denials of designated averments or paragraphs or ~~he~~ may generally deny all the averments except ~~such~~ the designated averments or paragraphs as ~~he~~ the pleader expressly admits; but, when ~~he~~ the pleader does so intend to controvert all its averments, ~~he~~ the pleader may do so by general denial subject to the obligations set forth in Section 2011 of this title.

C. AFFIRMATIVE DEFENSES. In pleading to a preceding pleading, a party shall set forth affirmatively:

1. Accord and satisfaction;
2. Arbitration and award;
3. Assumption of risk;
4. Contributory negligence;
5. Discharge in bankruptcy;
6. Duress;
7. Estoppel;
8. Failure of consideration;
9. Fraud;
10. Illegality;

11. Injury by fellow servant;
12. Laches;
13. License;
14. Payment;
15. Release;
16. Res judicata;
17. Statute of frauds;
18. Statute of limitations;
19. Waiver; and
20. Any other matter constituting an avoidance or affirmative defense.

When a party has mistakenly designated a defense as a counterclaim or a counterclaim as a defense, the court on terms, if justice so requires, shall treat the pleading as if there had been a proper designation.

D. EFFECT OF FAILURE TO DENY. Averments in a pleading to which a responsive pleading is required, other than those as to the amount of damage, are admitted when not denied in the responsive pleading. Averments in a pleading to which no responsive pleading is required or permitted shall be taken as denied or avoided.

E. PLEADING TO BE CONCISE AND DIRECT; CONSISTENCY.

1. Each averment of a pleading shall be simple, concise, and direct. No technical forms of pleadings or motions are required.

2. A party may set forth, and at trial rely on, two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as ~~he~~ the party has regardless of consistency and whether based on legal or equitable grounds. All statements shall

be made subject to the obligations set forth in Section 2011 of this title.

F. CONSTRUCTION OF PLEADINGS. All pleadings shall be so construed as to do substantial justice.

SECTION 2. This act shall become effective November 1, 2000.

47-2-2782

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