

3 Senate Bill No. 914  
4 As Amended

5 SENATE BILL NO. 914 - By: HOBSON and LASTER of the Senate and ASKINS  
6 of the House.

7 [ civil procedure - pleading special matters and pretrial  
8 procedure - damages - scheduling orders - special judges -  
9 jurisdiction - effective date ]

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

11 SECTION 1. AMENDATORY 12 O.S. 2001, Section 2009, is  
12 amended to read as follows:

13 Section 2009.

14 PLEADING SPECIAL MATTERS

15 A. CAPACITY. It is not necessary to aver the capacity of a  
16 party to sue or be sued or the authority of a party to sue or be  
17 sued in a representative capacity or the legal existence of an  
18 organized association of persons that is made a party. When a party  
19 desires to raise an issue as to the legal existence of any party or  
20 the capacity of any party to sue or be sued or the authority of a  
21 party to sue or be sued in a representative capacity, he shall do so  
22 by negative averment, which shall include such supporting  
23 particulars as are peculiarly within the pleader's knowledge, and he  
24 shall have the burden of proof on that issue.

1           B. FRAUD, MISTAKE, CONDITION OF THE MIND. In all averments of  
2 fraud or mistake, the circumstances constituting fraud or mistake  
3 shall be stated with particularity. Malice, intent, knowledge, and  
4 other condition of mind of a person may be averred generally.

5           C. CONDITIONS PRECEDENT. In pleading the performance or  
6 occurrence of conditions precedent, it is sufficient to aver  
7 generally that all conditions precedent have been performed or have  
8 occurred. A denial of performance or occurrence shall be made  
9 specifically and with particularity.

10          D. OFFICIAL DOCUMENT OR ACT. In pleading an official document  
11 or official act it is sufficient to aver that the document was  
12 issued or the act done in compliance with law.

13          E. JUDGMENT. In pleading a judgment or decision of a domestic  
14 or foreign court, judicial or quasi-judicial tribunal, or of a board  
15 or officer, it is sufficient to aver the judgment or decision  
16 without setting forth matter showing jurisdiction to render it.

17          F. TIME AND PLACE. For the purpose of testing the sufficiency  
18 of a pleading, averments of time and place are material and shall be  
19 considered like all other averments of material matter.

20          G. SPECIAL DAMAGE. When items of special damage are claimed,  
21 their nature shall be specifically stated. In actions where  
22 exemplary or punitive damages are sought, the petition shall not  
23 state a dollar amount for damages sought to be recovered but shall

1 state whether the amount of damages sought to be recovered is in  
2 excess of or not in excess of ~~Ten Thousand Dollars (\$10,000.00)~~  
3 Seventy-Five Thousand Dollars (\$75,000.00).

4 SECTION 2. AMENDATORY 12 O.S. 2001, Section 2016, is  
5 amended to read as follows:

6 Section 2016.

7 PRETRIAL PROCEDURE; FORMULATING ISSUES

8 A. In the absence of specific superseding legislation, ~~the~~  
9 ~~procedures for conducting pretrial conferences~~ procedures shall be  
10 governed by the provisions of this section and rules promulgated by  
11 the Supreme Court of Oklahoma.

12 B. Within thirty (30) days after an entry of appearance has  
13 been filed by or on behalf of all defendants pursuant to Section  
14 2005.2 of this title, the parties shall confer in good faith and  
15 attempt to agree to a proposed schedule for the case in a form  
16 prescribed by the Supreme Court. If the parties cannot agree, each  
17 party shall file a separate proposed schedule within the same  
18 period. Within thirty (30) days of the receipt of an agreed  
19 proposed schedule or separate proposed schedules, the court shall  
20 either enter its own scheduling order or set the matter for hearing.  
21 Within ten (10) days of the hearing, a scheduling order shall be  
22 entered by the court. Scheduling orders shall only be amended by  
23 the court upon an agreed motion by all parties or upon a motion of

1 fewer than all parties if good cause is shown after an opportunity  
2 for objection by all parties opposing the amendment.

3 C. All scheduling orders shall include specific deadlines  
4 including the following:

5 1. Joinder of additional parties;

6 2. Amendment of pleadings;

7 3. Discovery;

8 4. Dispositive motions; and

9 5. Other pretrial matters such as motions in limine, requested  
10 jury instructions, proposed findings of fact and conclusions of law,  
11 and trial briefs.

12 D. All scheduling orders shall include specific dates and times  
13 for pretrial conference and trial.

14 SECTION 3. AMENDATORY 20 O.S. 2001, Section 123, is  
15 amended to read as follows:

16 Section 123. A. Special judges may hear and decide the  
17 following:

18 1. Actions for the recovery of money where the amount claimed  
19 does not exceed ~~Ten Thousand Dollars (\$10,000.00)~~ Fifty Thousand  
20 Dollars (\$50,000) and counterclaim or setoff does not exceed ~~Ten~~  
21 ~~Thousand Dollars (\$10,000.00)~~ Fifty Thousand Dollars (\$50,000);

22 2. All uncontested matters, whether by default, agreement or  
23 otherwise, except that a nonlawyer special judge may not hear any

1 uncontested matters, whether by default, agreement or otherwise, in  
2 actions for the recovery of money where judgment is sought for a  
3 greater sum than One Thousand Dollars (\$1,000.00);

4 3. Actions for forcible entry and detainer except a nonlawyer  
5 special judge may not hear such actions if title to land or a  
6 boundary dispute is involved;

7 4. Actions for replevin where the amount in controversy does  
8 not exceed ~~Ten Thousand Dollars (\$10,000.00)~~ Fifty Thousand Dollars  
9 (\$50,000.00), except that nonlawyer special judges may not hear such  
10 actions where the amount in controversy exceeds One Thousand Dollars  
11 (\$1,000.00);

12 5. Misdemeanors, except that special judges who are not lawyers  
13 may not hear criminal actions where the punishment prescribed by law  
14 exceeds a fine of Two Hundred Dollars (\$200.00), or imprisonment in  
15 a county jail for thirty (30) days, or both such fine and  
16 imprisonment except by written consent of all parties;

17 6. Felonies involving a second and subsequent offense of  
18 driving, operating, or being in actual physical control of a motor  
19 vehicle while under the influence of alcohol or any other  
20 intoxicating substance, including any controlled dangerous substance  
21 as defined in the Uniform Controlled Dangerous Substances Act, to a  
22 degree that renders the defendant incapable of safely driving or

1 operating a motor vehicle, except that nonlawyer special judges may  
2 not hear such matters;

3 7. When there is no district or associate district judge  
4 present in the county or when they are disqualified, the issuance of  
5 a temporary injunction or restraining order, but this paragraph  
6 shall not embrace nonlawyer special judges;

7 8. Issuance of writs of habeas corpus, but this paragraph shall  
8 not embrace nonlawyer special judges;

9 9. Any matter, regardless of value, at any stage, whether  
10 intermediate or final, and whether or not title to property, real,  
11 personal, tangible, intangible, or any combination thereof, is to be  
12 determined, in a probate, divorce, domestic relations, custody,  
13 support, guardianship, conservatorship, mental health, juvenile,  
14 adoption, or determination of death proceeding, except that  
15 nonlawyer special judges may not hear such matters;

16 10. An appeal from an order of the Department of Public Safety  
17 revoking a person's license to drive, except that nonlawyer special  
18 judges may not hear such matters;

19 11. Other actions and proceedings, regardless of court rules,  
20 where the parties agree in writing, at any time before trial, to the  
21 action being heard by a special judge;

22 12. Any postjudgment collection matter regardless of the amount  
23 of the judgment; and

1           13. Youthful offender cases pursuant to the Youthful Offender  
2 Act.

3           B. Special judges shall be authorized to serve as referee in  
4 any matter before the district court.

5           C. A special judge may perform the duties of a magistrate in  
6 criminal cases.

7           SECTION 4. This act shall become effective November 1, 2005.

8 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-22-05 - DO  
9 PASS, As Amended and Coauthored.