

STATE OF OKLAHOMA

1st Session of the 50th Legislature (2005)

SENATE BILL 914

By: Laster

AS INTRODUCED

An Act relating to civil procedure; amending 12 O.S. 2001, Sections 2009 and 2016, which relate to pleading special matters and pretrial procedure; increasing amount of certain damages; establishing procedures for scheduling orders; stating required content of scheduling orders; amending 20 O.S. 2001, Section 123, which relates to jurisdiction of special judges; increasing certain jurisdictional limits; and providing an effective date.

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

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

Section 2009.

PLEADING SPECIAL MATTERS

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

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

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

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

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

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

G. SPECIAL DAMAGE. When items of special damage are claimed, their nature shall be specifically stated. In actions where exemplary or punitive damages are sought, the petition shall not state a dollar amount for damages sought to be recovered but shall state whether the amount of damages sought to be recovered is in excess of or not in excess of ~~Ten Thousand Dollars (\$10,000.00)~~ Seventy-Five Thousand Dollars (\$75,000.00).

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

Section 2016.

PRETRIAL PROCEDURE; FORMULATING ISSUES

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

B. Within thirty (30) days after an entry of appearance has been filed by or on behalf of all defendants pursuant to Section

2005.2 of this title, the parties shall confer in good faith and attempt to agree to a proposed schedule for the case in a form prescribed by the Supreme Court. If the parties cannot agree, each party shall file a separate proposed schedule within the same period. Within thirty (30) days of the receipt of an agreed proposed schedule or separate proposed schedules, the court shall either enter its own scheduling order or set the matter for hearing. Within ten (10) days of the hearing, a scheduling order shall be entered by the court. Scheduling orders shall only be amended by the court upon an agreed motion by all parties or upon a motion of fewer than all parties if good cause is shown after an opportunity for objection by all parties opposing the amendment.

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

1. Joinder of additional parties;
2. Amendment of pleadings;
3. Discovery;
4. Dispositive motions; and
5. Other pretrial matters such as motions in limine, requested jury instructions, proposed findings of fact and conclusions of law, and trial briefs.

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

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

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

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

2. All uncontested matters, whether by default, agreement or otherwise, except that a nonlawyer special judge may not hear any uncontested matters, whether by default, agreement or otherwise, in actions for the recovery of money where judgment is sought for a greater sum than One Thousand Dollars (\$1,000.00);

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

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

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

6. Felonies involving a second and subsequent offense of driving, operating, or being in actual physical control of a motor vehicle while under the influence of alcohol or any other intoxicating substance, including any controlled dangerous substance as defined in the Uniform Controlled Dangerous Substances Act, to a degree that renders the defendant incapable of safely driving or operating a motor vehicle, except that nonlawyer special judges may not hear such matters;

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

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

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

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

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

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

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

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

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

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

50-1-1082

TEK

6/13/2015 8:57:42 AM