

STATE OF OKLAHOMA

1st Session of the 53rd Legislature (2011)

COMMITTEE SUBSTITUTE
FOR ENGROSSED
SENATE BILL NO. 942

By: Anderson of the
Senate

and

Grau of the House

COMMITTEE SUBSTITUTE

An Act relating to dismissal of actions; amending 12 O.S. 2001, Sections 683, as last amended by Section 5, Chapter 228, O.S.L. 2009 and 684, as last amended by Section 6, Chapter 228, O.S.L. 2009 (12 O.S. 2001, Sections 683 and 684), which relate to grounds for dismissal and court orders; expanding certain exception; modifying procedures for certain dismissal; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2001, Section 683, as last amended by Section 5, Chapter 228, O.S.L. 2009 (12 O.S. Supp. 2010, Section 683), is amended to read as follows:

Section 683. Except as provided in Section 684 and Section 684.1 of this title, an action may be dismissed, without prejudice to a future action:

1. By the plaintiff, before the final submission of the case to the jury, or to the court, where the trial is by the court;

2. By the court, where the plaintiff fails to appear on the trial;

3. By the court, for the want of necessary parties;

4. By the court, on the application of some of the defendants, where there are others whom the plaintiff fails to prosecute with diligence;

5. By the court, for disobedience by the plaintiff of an order concerning the proceedings in the action; and

6. In all other cases, upon the trial of the action, the decision must be upon the merits.

SECTION 2. AMENDATORY 12 O.S. 2001, Section 684, as last amended by Section 6, Chapter 228, O.S.L. 2009 (12 O.S. Supp. 2010, Section 684), is amended to read as follows:

Section 684. A. An action may be dismissed by the plaintiff without an order of court by filing a notice of dismissal at any time before the first pretrial conference. After the first pretrial hearing conference, an action may

only be dismissed by agreement of the parties or by the court. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice.

B. Except as provided in subsection A of this section, an action shall not be dismissed at the plaintiff's request except upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaims can remain pending for independent adjudication by the court. Unless otherwise specified in the order, a dismissal under this subsection is without prejudice.

C. For failure of the plaintiff to prosecute or to comply with the provisions of this section or any order of court, a defendant may move for dismissal of an action or of any claim against the defendant.

D. The provisions of this section apply to the dismissal of any counterclaim, cross-claim, or third-party claim. ~~A voluntary dismissal by the claimant alone pursuant to subsection A of this section shall be made before a responsive pleading is served or, if there is~~

~~none, before the introduction of evidence at the trial or hearing.~~

E. If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

SECTION 3. This act shall become effective November 1,
2011.

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