

1 STATE OF OKLAHOMA

2 1st Session of the 53rd Legislature (2011)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL 942

6 By: Anderson

7 COMMITTEE SUBSTITUTE

8 An Act relating to dismissal of actions; amending 12
9 O.S. 2001, Sections 683, as last amended by Section
10 5, Chapter 228, O.S.L. 2009, and 684, as last amended
11 by Section 6, Chapter 228, O.S.L. 2009 (12 O.S. 2001,
12 Sections 683 and 684), which relate to grounds for
13 dismissal and court orders; expanding certain
14 exception; modifying procedures for certain
15 dismissal; and providing an effective date.

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

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

20 Section 683. Except as provided in Section 684 and Section
21 684.1 of this title, an action may be dismissed, without prejudice
22 to a future action:

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

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

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

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

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

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

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

14 Section 684. A. An action may be dismissed by the plaintiff
15 without an order of court by filing a notice of dismissal at any
16 time before the final pretrial conference. After the final pretrial
17 ~~hearing~~ conference, an action may only be dismissed by agreement of
18 the parties or by the court. Unless otherwise stated in the notice
19 of dismissal or stipulation, the dismissal is without prejudice.

20 B. Except as provided in subsection A of this section, an
21 action shall not be dismissed at the plaintiff's request except upon
22 order of the court and upon such terms and conditions as the court
23 deems proper. If a counterclaim has been pleaded by a defendant
24 prior to the service upon the defendant of the plaintiff's motion to

1 dismiss, the action shall not be dismissed against the defendant's
2 objection unless the counterclaims can remain pending for
3 independent adjudication by the court. Unless otherwise specified
4 in the order, a dismissal under this subsection is without
5 prejudice.

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

10 D. The provisions of this section apply to the dismissal of any
11 counterclaim, cross-claim, or third-party claim. ~~A voluntary~~
12 ~~dismissal by the claimant alone pursuant to subsection A of this~~
13 ~~section shall be made before a responsive pleading is served or, if~~
14 ~~there is none, before the introduction of evidence at the trial or~~
15 ~~hearing.~~

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

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

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