

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 1st Session of the 53rd Legislature (2011)

4 COMMITTEE SUBSTITUTE
5 FOR ENGROSSED
6 SENATE BILL NO. 942

By: Anderson of the Senate

and

Grau of the House

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10 COMMITTEE SUBSTITUTE

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

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

20 SECTION 1. AMENDATORY 12 O.S. 2001, Section 683, as last
21 amended by Section 5, Chapter 228, O.S.L. 2009 (12 O.S. Supp. 2010,
22 Section 683), is amended to read as follows:
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1 Section 683. Except as provided in Section 684 and Section
2 684.1 of this title, an action may be dismissed, without prejudice
3 to a future action:

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

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

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

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

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

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

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

19 Section 684. A. An action may be dismissed by the plaintiff
20 without an order of court by filing a notice of dismissal at any
21 time before the first pretrial conference. After the first pretrial
22 ~~hearing~~ conference, an action may only be dismissed by agreement of
23 the parties or by the court. Unless otherwise stated in the notice
24 of dismissal or stipulation, the dismissal is without prejudice.

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

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

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

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

1 may stay the proceedings in the action until the plaintiff has
2 complied with the order.

3 SECTION 3. This act shall become effective November 1, 2011.
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5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03-22-2011 - DO
6 PASS, As Amended.
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