



1 SECTION 1. REPEALER Sections 12 and 13, Chapter 228,  
2 O.S.L. 2009, are hereby repealed.

3 SECTION 2. AMENDATORY 12 O.S. 2011, Section 2008, is  
4 amended to read as follows:

5 Section 2008.

6 GENERAL RULES OF PLEADING

7 A. CLAIMS FOR RELIEF. A pleading which sets forth a claim for  
8 relief, whether an original claim, counterclaim, cross-claim or  
9 third-party claim, shall contain:

10 1. A short and plain statement of the claim showing that the  
11 pleader is entitled to relief; and

12 2. A demand for judgment for the relief to which he deems  
13 himself entitled. Every pleading demanding relief for damages in  
14 money in excess of ~~the amount required for diversity jurisdiction~~  
15 ~~pursuant to Section 1332 of Title 28 of the United States Code~~ Ten  
16 Thousand Dollars (\$10,000.00) shall, without demanding any specific  
17 amount of money, set forth only that the amount sought as damages is  
18 in excess of ~~the amount required for diversity jurisdiction pursuant~~  
19 ~~to Section 1332 of Title 28 of the United States Code~~ Ten Thousand  
20 Dollars (\$10,000.00), except in actions sounding in contract. Every  
21 pleading demanding relief for damages in money in an amount ~~that is~~  
22 ~~required for diversity jurisdiction pursuant to Section 1332 of~~  
23 ~~Title 28 of the United States Code~~ of Ten Thousand Dollars  
24 (\$10,000.00) or less shall specify the amount of such damages sought

1 to be recovered. Relief in the alternative or of several different  
2 types may be demanded.

3 B. DEFENSES; FORM OF DENIALS. A party shall state in short and  
4 plain terms his defenses to each claim asserted and shall admit or  
5 deny the averments upon which the adverse party relies. If he is  
6 without knowledge or information sufficient to form a belief as to  
7 the truth of an averment, he shall so state and this statement has  
8 the effect of a denial. Denials shall fairly meet the substance of  
9 the averments denied. When a pleader intends in good faith to deny  
10 only a part or a qualification of an averment, he shall specify so  
11 much of it as is true and material and shall deny only the  
12 remainder. Unless the pleader intends in good faith to controvert  
13 all the averments of the preceding pleading, he may make his denials  
14 as specific denials of designated averments or paragraphs or he may  
15 generally deny all the averments except such designated averments or  
16 paragraphs as he expressly admits; but, when he does so intend to  
17 controvert all its averments, he may do so by general denial subject  
18 to the obligations set forth in Section 2011 of this title.

19 C. AFFIRMATIVE DEFENSES. In pleading to a preceding pleading,  
20 a party shall set forth affirmatively:

- 21 1. Accord and satisfaction;
- 22 2. Arbitration and award;
- 23 3. Assumption of risk;
- 24 4. Contributory negligence;

- 1 5. Discharge in bankruptcy;
- 2 6. Duress;
- 3 7. Estoppel;
- 4 8. Failure of consideration;
- 5 9. Fraud;
- 6 10. Illegality;
- 7 11. Injury by fellow servant;
- 8 12. Laches;
- 9 13. License;
- 10 14. Payment;
- 11 15. Release;
- 12 16. Res judicata;
- 13 17. Statute of frauds;
- 14 18. Statute of limitations;
- 15 19. Waiver; and
- 16 20. Any other matter constituting an avoidance or affirmative  
17 defense.

18 When a party has mistakenly designated a defense as a  
19 counterclaim or a counterclaim as a defense, the court on terms, if  
20 justice so requires, shall treat the pleading as if there had been a  
21 proper designation.

22 D. EFFECT OF FAILURE TO DENY. Averments in a pleading to which  
23 a responsive pleading is required, other than those as to the amount  
24 of damage, are admitted when not denied in the responsive pleading.

1 Averments in a pleading to which no responsive pleading is required  
2 or permitted shall be taken as denied or avoided.

3 E. PLEADING TO BE CONCISE AND DIRECT; CONSISTENCY.

4 1. Each averment of a pleading shall be simple, concise, and  
5 direct. No technical forms of pleadings or motions are required.

6 2. A party may set forth, and at trial rely on, two or more  
7 statements of a claim or defense alternately or hypothetically,  
8 either in one count or defense or in separate counts or defenses.

9 When two or more statements are made in the alternative and one of  
10 them if made independently would be sufficient, the pleading is not  
11 made insufficient by the insufficiency of one or more of the  
12 alternative statements. A party may also state as many separate  
13 claims or defenses as he has regardless of consistency and whether  
14 based on legal or equitable grounds. All statements shall be made  
15 subject to the obligations set forth in Section 2011 of this title.

16 F. CONSTRUCTION OF PLEADINGS. All pleadings shall be so  
17 construed as to do substantial justice.

18 SECTION 3. AMENDATORY 12 O.S. 2011, Section 2008, as  
19 amended by Section 2 of this act, is amended to read as follows:

20 Section 2008.

21 GENERAL RULES OF PLEADING

22 A. CLAIMS FOR RELIEF. A pleading which sets forth a claim for  
23 relief, whether an original claim, counterclaim, cross-claim or  
24 third-party claim, shall contain:

1 1. A short and plain statement of the claim showing that the  
2 pleader is entitled to relief; and

3 2. A demand for judgment for the relief to which he deems  
4 himself entitled. Every pleading demanding relief for damages in  
5 money in excess of ~~Ten Thousand Dollars (\$10,000.00)~~ the amount  
6 required for diversity jurisdiction pursuant to Section 1332 of  
7 Title 28 of the United States Code shall, without demanding any  
8 specific amount of money, set forth only that the amount sought as  
9 damages is in excess of ~~Ten Thousand Dollars (\$10,000.00)~~ the amount  
10 required for diversity jurisdiction pursuant to Section 1332 of  
11 Title 28 of the United States Code, except in actions sounding in  
12 contract. Every pleading demanding relief for damages in money in  
13 an amount of ~~Ten Thousand Dollars (\$10,000.00)~~ that is required for  
14 diversity jurisdiction pursuant to Section 1332 of Title 28 of the  
15 United States Code or less shall specify the amount of such damages  
16 sought to be recovered. Relief in the alternative or of several  
17 different types may be demanded.

18 B. DEFENSES; FORM OF DENIALS. A party shall state in short and  
19 plain terms his defenses to each claim asserted and shall admit or  
20 deny the averments upon which the adverse party relies. If he is  
21 without knowledge or information sufficient to form a belief as to  
22 the truth of an averment, he shall so state and this statement has  
23 the effect of a denial. Denials shall fairly meet the substance of  
24 the averments denied. When a pleader intends in good faith to deny

1 only a part or a qualification of an averment, he shall specify so  
2 much of it as is true and material and shall deny only the  
3 remainder. Unless the pleader intends in good faith to controvert  
4 all the averments of the preceding pleading, he may make his denials  
5 as specific denials of designated averments or paragraphs or he may  
6 generally deny all the averments except such designated averments or  
7 paragraphs as he expressly admits; but, when he does so intend to  
8 controvert all its averments, he may do so by general denial subject  
9 to the obligations set forth in Section 2011 of this title.

10 C. AFFIRMATIVE DEFENSES. In pleading to a preceding pleading,  
11 a party shall set forth affirmatively:

- 12 1. Accord and satisfaction;
- 13 2. Arbitration and award;
- 14 3. Assumption of risk;
- 15 4. Contributory negligence;
- 16 5. Discharge in bankruptcy;
- 17 6. Duress;
- 18 7. Estoppel;
- 19 8. Failure of consideration;
- 20 9. Fraud;
- 21 10. Illegality;
- 22 11. Injury by fellow servant;
- 23 12. Laches;
- 24 13. License;

- 1 14. Payment;
- 2 15. Release;
- 3 16. Res judicata;
- 4 17. Statute of frauds;
- 5 18. Statute of limitations;
- 6 19. Waiver; and
- 7 20. Any other matter constituting an avoidance or affirmative
- 8 defense.

9 When a party has mistakenly designated a defense as a  
10 counterclaim or a counterclaim as a defense, the court on terms, if  
11 justice so requires, shall treat the pleading as if there had been a  
12 proper designation.

13 D. EFFECT OF FAILURE TO DENY. Averments in a pleading to which  
14 a responsive pleading is required, other than those as to the amount  
15 of damage, are admitted when not denied in the responsive pleading.  
16 Averments in a pleading to which no responsive pleading is required  
17 or permitted shall be taken as denied or avoided.

18 E. PLEADING TO BE CONCISE AND DIRECT; CONSISTENCY.

19 1. Each averment of a pleading shall be simple, concise, and  
20 direct. No technical forms of pleadings or motions are required.

21 2. A party may set forth, and at trial rely on, two or more  
22 statements of a claim or defense alternately or hypothetically,  
23 either in one count or defense or in separate counts or defenses.

24 When two or more statements are made in the alternative and one of

1 them if made independently would be sufficient, the pleading is not  
2 made insufficient by the insufficiency of one or more of the  
3 alternative statements. A party may also state as many separate  
4 claims or defenses as he has regardless of consistency and whether  
5 based on legal or equitable grounds. All statements shall be made  
6 subject to the obligations set forth in Section 2011 of this title.

7 F. CONSTRUCTION OF PLEADINGS. All pleadings shall be so  
8 construed as to do substantial justice.

9 SECTION 4. AMENDATORY 12 O.S. 2011, Section 2009, is  
10 amended to read as follows:

11 Section 2009.

12 PLEADING SPECIAL MATTERS

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

23 B. FRAUD, MISTAKE, CONDITION OF THE MIND. In all averments of  
24 fraud or mistake, the circumstances constituting fraud or mistake

1 shall be stated with particularity. Malice, intent, knowledge, and  
2 other condition of mind of a person may be averred generally.

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

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

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

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

18 G. SPECIAL DAMAGE. When items of special damage are claimed,  
19 their nature shall be specifically stated. In actions where  
20 exemplary or punitive damages are sought, the petition shall not  
21 state a dollar amount for damages sought to be recovered but shall  
22 state whether the amount of damages sought to be recovered is in  
23 excess of or not in excess of ~~the amount required for diversity~~  
24

1 ~~jurisdiction pursuant to Section 1332 of Title 28 of the United~~  
2 ~~States Code Ten Thousand Dollars (\$10,000.00).~~

3 ~~H. MOTION TO CLARIFY DAMAGES. If the amount of damages sought~~  
4 ~~to be recovered by the plaintiff is less than the amount required~~  
5 ~~for diversity jurisdiction pursuant to Section 1332 of Title 28 of~~  
6 ~~the United States Code, the defendant may file, for purposes of~~  
7 ~~establishing diversity jurisdiction only, a Motion to Clarify~~  
8 ~~Damages prior to the pretrial order to require the plaintiff to show~~  
9 ~~by a preponderance of the evidence that the amount of damages, if~~  
10 ~~awarded, will not exceed the amount required for diversity. If the~~  
11 ~~court finds that any damages awarded are more likely than not to~~  
12 ~~exceed the amount of damages required for diversity jurisdiction,~~  
13 ~~the plaintiff shall amend his or her pleadings in conformance with~~  
14 ~~paragraph 2 of subsection A of Section 2008 of this title.~~

15 SECTION 5. AMENDATORY 12 O.S. 2011, Section 2009, as  
16 amended by Section 4 of this act, is amended to read as follows:

17 Section 2009.

18 PLEADING SPECIAL MATTERS

19 A. CAPACITY. It is not necessary to aver the capacity of a  
20 party to sue or be sued or the authority of a party to sue or be  
21 sued in a representative capacity or the legal existence of an  
22 organized association of persons that is made a party. When a party  
23 desires to raise an issue as to the legal existence of any party or  
24 the capacity of any party to sue or be sued or the authority of a

1 party to sue or be sued in a representative capacity, he shall do so  
2 by negative averment, which shall include such supporting  
3 particulars as are peculiarly within the pleader's knowledge, and he  
4 shall have the burden of proof on that issue.

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

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

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

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

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

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1 G. SPECIAL DAMAGE. When items of special damage are claimed,  
2 their nature shall be specifically stated. In actions where  
3 exemplary or punitive damages are sought, the petition shall not  
4 state a dollar amount for damages sought to be recovered but shall  
5 state whether the amount of damages sought to be recovered is in  
6 excess of or not in excess of ~~Ten Thousand Dollars (\$10,000.00)~~ the  
7 amount required for diversity jurisdiction pursuant to Section 1332  
8 of Title 28 of the United States Code.

9 H. MOTION TO CLARIFY DAMAGES. If the amount of damages sought  
10 to be recovered by the plaintiff is less than the amount required  
11 for diversity jurisdiction pursuant to Section 1332 of Title 28 of  
12 the United States Code, the defendant may file, for purposes of  
13 establishing diversity jurisdiction only, a Motion to Clarify  
14 Damages prior to the pretrial order to require the plaintiff to show  
15 by a preponderance of the evidence that the amount of damages, if  
16 awarded, will not exceed the amount required for diversity. If the  
17 court finds that any damages awarded are more likely than not to  
18 exceed the amount of damages required for diversity jurisdiction,  
19 the plaintiff shall amend his or her pleadings in conformance with  
20 paragraph 2 of subsection A of Section 2008 of this title.

21 SECTION 6. NEW LAW A new section of law not to be  
22 codified in the Oklahoma Statutes reads as follows:

23 The amendatory provisions contained in Sections 2 and 4 of this  
24 act conform the statute to the holding in *Douglas v. Cox Retirement*

1 *Properties, Inc.*, 2013 OK 37, 302 P.2d 789 (Okla. 2013). The  
2 amendatory provisions contained in Sections 3 and 5 of this act  
3 conform the statute to the amendatory provisions of Enrolled House  
4 Bill No. 1603 of the 1st Session of the 52nd Oklahoma Legislature,  
5 c. 228, O.S.L. 2009.

6 SECTION 7. It being immediately necessary for the preservation  
7 of the public peace, health and safety, an emergency is hereby  
8 declared to exist, by reason whereof this act shall take effect and  
9 be in full force from and after its passage and approval.

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11 DIRECT TO CALENDAR.

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