

1 **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2 STATE OF OKLAHOMA

3 2nd Session of the 56th Legislature (2018)

4 ENGROSSED SENATE
5 BILL NO. 1503

By: Sparks of the Senate

and

Kannady of the House

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9 An Act relating to the Oklahoma Pleading Code;
10 amending 12 O.S. 2011, Section 2015, which relates to
11 amended and supplemental pleadings; increasing time
12 period permissible for certain response; making
13 language gender neutral; and providing an effective
14 date.

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

16 SECTION 1. AMENDATORY 12 O.S. 2011, Section 2015, is
17 amended to read as follows:

Section 2015.

18 AMENDED AND SUPPLEMENTAL PLEADINGS

19 A. AMENDMENTS. A party may amend his or her pleading once as a
20 matter of course at any time before a responsive pleading is served
21 or, if the pleading is one to which no responsive pleading is
22 permitted and the action has not been placed upon the trial
23 calendar, he or she may so amend it at any time within twenty (20)
24 days after it is served. Amendments to add omitted counterclaims or

1 to add or drop parties may be made as a matter of course within the
2 time specified above. Otherwise a party may amend ~~his~~ the pleading
3 only by leave of court or by written consent of the adverse party;
4 and leave shall be freely given when justice so requires. A party
5 shall respond to an amended pleading within the time remaining for
6 response to the original pleading or within ~~ten (10)~~ twenty (20)
7 days after the service of the amended pleading, whichever period may
8 be longer, unless the court otherwise orders.

9 B. AMENDMENTS TO CONFORM TO THE EVIDENCE. When issues not
10 raised by the pleadings or by the pretrial conference order, where
11 the order has superseded the pleadings, are tried by express or
12 implied consent of the parties, they shall be treated in all
13 respects as if they had been raised in the pleadings or the pretrial
14 conference order. Such amendment as may be necessary to cause the
15 pleadings or the pretrial conference order to conform to the
16 evidence and to raise these issues may be made upon motion of any
17 party at any time, even after judgment; but failure so to amend does
18 not affect the result of the trial of these issues. If evidence is
19 objected to at the trial on the ground that it is not within the
20 issues made by the pleadings or the pretrial conference order, the
21 court may allow the pleadings or the pretrial conference order to be
22 amended and shall do so freely when the presentation of the merits
23 of the action will be served thereby and the objecting party fails
24 to satisfy the court that the admission of such evidence would

1 prejudice him or her in maintaining ~~his~~ the action or defense upon
2 the merits. The court may grant a continuance to enable the
3 objecting party to meet such evidence.

4 Where the pretrial conference order has superseded the
5 pleadings, it is sufficient to amend the order and the pleadings
6 shall not be amended.

7 C. RELATION BACK OF AMENDMENTS. An amendment of a pleading
8 relates back to the date of the original pleading when:

9 1. Relation back is permitted by the law that provides the
10 statute of limitations applicable to the action; or

11 2. The claim or defense asserted in the amended pleading arose
12 out of the conduct, transaction, or occurrence set forth or
13 attempted to be set forth in the original pleading; or

14 3. The amendment changes the party or the naming of the party
15 against whom a claim is asserted if paragraph 2 of this subsection
16 is satisfied and, within the period provided by subsection I of
17 Section 2004 of this title for service of the summons and petition,
18 the party to be brought in by amendment:

19 a. has received such notice of the institution of the
20 action that he or she will not be prejudiced in
21 maintaining ~~his~~ a defense on the merits; and

22 b. knew or should have known that, but for a mistake
23 concerning the identity of the proper party, the
24 action would have been brought against him or her.

1 An amendment to add an omitted counterclaim does not relate back to
2 the date of the original answer.

3 The delivery or mailing of process to the Attorney General of
4 Oklahoma, or an agency or officer who would have been a proper
5 defendant if named, satisfies the requirements of subparagraphs a
6 and b of this paragraph with respect to the State of Oklahoma or any
7 agency or officer thereof to be brought into the action as a
8 defendant.

9 D. SUPPLEMENTAL PLEADINGS. Upon motion of a party the court
10 may, upon reasonable notice and upon such terms as are just, permit
11 ~~him~~ the party to serve a supplemental pleading setting forth
12 transactions or occurrences or events which have happened since the
13 date of the pleading sought to be supplemented. Permission may be
14 granted even though the original pleading is defective in its
15 statement of a claim for relief or defense. If the court deems it
16 advisable that the adverse party plead to the supplemental pleading,
17 it shall so order, specifying the time therefor. A supplemental
18 pleading relates back to the date of the original pleading if it
19 arises out of the conduct, transaction, or occurrence set forth in
20 the original pleading.

21 SECTION 2. This act shall become effective November 1, 2018.

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23 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/28/2018 - DO
24 PASS.