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February 13, 2018

By: Sparks

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

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

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

Section 2015.

AMENDED AND SUPPLEMENTAL PLEADINGS

A. AMENDMENTS. A party may amend his or her pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, he or she may so amend it at any time within twenty (20) days after it is served. Amendments to add omitted counterclaims or to add or drop parties may be made as a matter of course within the time specified above. Otherwise a party may amend ~~his~~ the pleading only by leave of court or by written consent of the adverse party;

1 and leave shall be freely given when justice so requires. A party
2 shall respond to an amended pleading within the time remaining for
3 response to the original pleading or within ~~ten (10)~~ twenty (20)
4 days after the service of the amended pleading, whichever period may
5 be longer, unless the court otherwise orders.

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8 the order has superseded the pleadings, are tried by express or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

1 Where the pretrial conference order has superseded the
2 pleadings, it is sufficient to amend the order and the pleadings
3 shall not be amended.

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

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

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

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

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

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

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

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

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

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

20 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
21 February 13, 2018 - DO PASS
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