

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 COMMITTEE SUBSTITUTE
4 FOR

5 SENATE BILL NO. 1421

By: Garvin

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8 COMMITTEE SUBSTITUTE

9 An Act relating to the Oklahoma Pleading Code;
10 amending 12 O.S. 2021, Sections 2008 and 2009, which
11 relate to general rules and special matters;
12 modifying pleading requirements for certain claims
and averments; defining term; conforming language;
making language gender neutral; and providing an
effective date.

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

17 SECTION 1. AMENDATORY 12 O.S. 2021, Section 2008, is
18 amended to read as follows:

19 Section 2008.

20 GENERAL RULES OF PLEADING

21 A. CLAIMS FOR RELIEF. A pleading which sets forth a claim for
22 relief, whether an original claim, counterclaim, cross-claim or
23 third-party claim, shall contain:
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1 1. A short and plain statement, made with particularity of all
2 material facts known to the pleading party that support the claim
3 showing, that creates a reasonable inference that the pleader is
4 plausibly entitled to relief. For the purposes of this paragraph, a
5 material fact is a fact that is necessary to the claim and without
6 which the claim could not be supported. As to facts pleaded on
7 belief, the pleading party shall set forth with particularity the
8 factual information supporting the pleading party's belief; and

9 2. A demand for judgment for the relief to which ~~he~~ the pleader
10 deems himself or herself entitled. Every pleading demanding relief
11 for damages in money in excess of the amount required for diversity
12 jurisdiction pursuant to Section 1332 of Title 28 of the United
13 States Code shall, without demanding any specific amount of money,
14 set forth only that the amount sought as damages is in excess of the
15 amount required for diversity jurisdiction pursuant to Section 1332
16 of Title 28 of the United States Code, except in actions sounding in
17 contract. Every pleading demanding relief for damages in money in
18 an amount that is required for diversity jurisdiction pursuant to
19 Section 1332 of Title 28 of the United States Code or less shall
20 specify the amount of such damages sought to be recovered. Relief
21 in the alternative or of several different types may be demanded.

22 B. DEFENSES; FORM OF DENIALS. A party shall state in short and
23 plain terms ~~his~~ the party's defenses to each claim asserted and
24 shall admit or deny the averments upon which the adverse party

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

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

- 18 1. Accord and satisfaction;
- 19 2. Arbitration and award;
- 20 3. Assumption of risk;
- 21 4. Contributory negligence;
- 22 5. Discharge in bankruptcy;
- 23 6. Duress;
- 24 7. Estoppel;

1 8. Failure of consideration;

2 9. Fraud;

3 10. Illegality;

4 11. Injury by fellow servant;

5 12. Laches;

6 13. License;

7 14. Payment;

8 15. Release;

9 16. Res judicata;

10 17. Statute of frauds;

11 18. Statute of limitations;

12 19. Waiver; and

13 20. Any other matter constituting an avoidance or affirmative
14 defense.

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

19 D. EFFECT OF FAILURE TO DENY. Averments in a pleading to which
20 a responsive pleading is required, other than those as to the amount
21 of damage, are admitted when not denied in the responsive pleading.
22 Averments in a pleading to which no responsive pleading is required
23 or permitted shall be taken as denied or avoided.

1 E. ~~PLEADING TO BE CONCISE AND DIRECT~~ ALTERNATIVE STATEMENTS;
2 CONSISTENCY INCONSISTENCY.

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

5 ~~2.~~ A party may set forth, and at trial rely on, two or more
6 statements of a claim or defense alternately or hypothetically,
7 either in one count or defense or in separate counts or defenses.
8 When two or more statements are made in the alternative and one of
9 them if made independently would be sufficient, the pleading is not
10 made insufficient by the insufficiency of one or more of the
11 alternative statements. A party may also state as many separate
12 claims or defenses as ~~he~~ the party has regardless of consistency and
13 whether based on legal or equitable grounds. All statements shall
14 be made subject to the obligations set forth in Section 2011 of this
15 title.

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

18 SECTION 2. AMENDATORY 12 O.S. 2021, Section 2009, is
19 amended to read as follows:

20 Section 2009.

21 PLEADING SPECIAL MATTERS

22 A. CAPACITY. It is not necessary to aver the capacity of a
23 party to sue or be sued or the authority of a party to sue or be
24 sued in a representative capacity or the legal existence of an

1 organized association of persons that is made a party. When a party
2 desires to raise an issue as to the legal existence of any party or
3 the capacity of any party to sue or be sued or the authority of a
4 party to sue or be sued in a representative capacity, he or she
5 shall do so by negative averment, which shall include such
6 supporting particulars as are peculiarly within the pleader's
7 knowledge, and he or she shall have the burden of proof on that
8 issue.

9 B. FRAUD, MISTAKE, CONDITION OF THE MIND. In accordance with
10 paragraph 1 of subsection A of Section 2008 of this title, in all
11 averments of fraud or mistake, the circumstances constituting fraud
12 or mistake shall be stated with particularity. Malice, intent,
13 knowledge, and other condition of mind of a person may be averred
14 generally.

15 C. CONDITIONS PRECEDENT. In pleading the performance or
16 occurrence of conditions precedent, if the pleading otherwise
17 satisfies the requirements of paragraph 1 of subsection A of Section
18 2008 of this title, it is sufficient to aver generally that all
19 conditions precedent have been performed or have occurred. A denial
20 of performance or occurrence shall be made specifically and with
21 particularity.

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

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

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

8 G. SPECIAL DAMAGE. When items of special damage are claimed,
9 their nature shall be specifically stated. In actions where
10 exemplary or punitive damages are sought, the petition shall not
11 state a dollar amount for damages sought to be recovered but shall
12 state whether the amount of damages sought to be recovered is in
13 excess of or not in excess of the amount required for diversity
14 jurisdiction pursuant to Section 1332 of Title 28 of the United
15 States Code.

16 H. MOTION TO CLARIFY DAMAGES. If the amount of damages sought
17 to be recovered by the plaintiff is less than the amount required
18 for diversity jurisdiction pursuant to Section 1332 of Title 28 of
19 the United States Code, the defendant may file, for purposes of
20 establishing diversity jurisdiction only, a Motion to Clarify
21 Damages prior to the pretrial order to require the plaintiff to show
22 by a preponderance of the evidence that the amount of damages, if
23 awarded, will not exceed the amount required for diversity. If the
24 court finds that any damages awarded are more likely than not to

1 exceed the amount of damages required for diversity jurisdiction,
2 the plaintiff shall amend his or her pleadings in conformance with
3 paragraph 2 of subsection A of Section 2008 of this title.

4 SECTION 3. This act shall become effective November 1, 2022.

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