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March 29, 2022

ENGROSSED HOUSE
BILL NO. 3450

By: O'Donnell of the House

and

Daniels of the Senate

An Act relating to civil procedure; amending 12 O.S. 2021, Section 2015, which relates to amended pleadings; requiring certain procedure for amended pleadings; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2021, 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 the pleading only by leave of court by submitting the proposed amendment with the

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

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9 the order has superseded the pleadings, are tried by express or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

3 Where the pretrial conference order has superseded the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

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

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

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

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

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

21 b. knew or should have known that, but for a mistake
22 concerning the identity of the proper party, the
23 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 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, 2022.

22 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
23 March 29, 2022 - DO PASS
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