

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 HOUSE BILL 1596

By: Lepak

4
5 AS INTRODUCED

6 An Act relating to civil procedure; amending 12 O.S.
7 2021, Sections 2008 and 2009, which relate to general
8 rules and special matters; modifying requirements for
9 certain claims and averments; defining term;
10 conforming language; making language gender neutral;
and providing an effective date.

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

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

14 Section 2008.

15 GENERAL RULES OF PLEADING

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

19 1. A short and plain statement, made with particularity of all
20 material facts known to the pleading party that support the claim
21 showing, that creates a reasonable inference that the pleader is
22 plausibly entitled to relief. For the purposes of this paragraph, a
23 material fact is a fact that is necessary to the claim and without
24 which the claim could not be supported. As to facts pleaded on

1 belief, the pleading party shall set forth with particularity the
2 factual information supporting the pleading party's belief; and

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

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

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

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

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

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

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

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

17 E. ~~PLEADING TO BE CONCISE AND DIRECT; CONSISTENCY~~ ALTERNATIVE
18 STATEMENTS; INCONSISTENCY.

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 or she has regardless of consistency and
5 whether based on legal or equitable grounds. All statements shall
6 be made subject to the obligations set forth in Section 2011 of this
7 title.

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

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

12 Section 2009.

13 PLEADING SPECIAL MATTERS

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

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

7 C. CONDITIONS PRECEDENT. In pleading the performance or
8 occurrence of conditions precedent, if the pleading otherwise
9 satisfies the requirements of paragraph 1 of subsection A of Section
10 2008 of this title, it is sufficient to aver generally that all
11 conditions precedent have been performed or have occurred. A denial
12 of performance or occurrence shall be made specifically and with
13 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.

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 the amount required for diversity
7 jurisdiction pursuant to Section 1332 of Title 28 of the United
8 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 3. This act shall become effective November 1, 2025.

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23 60-1-10587 AQH 12/29/24

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