

SUPREME COURT OF ARIZONA

In the Matter of) Arizona Supreme Court
) No. R-11-0010
PETITION TO AMEND RULES 13(f))
and RULE 15(a)(1), RULES OF)
CIVIL PROCEDURE)
)
) **FILED 09/01/2011**
)
)
_____)

ORDER

Rules 13(f) and 15(a)(1), Rules of Civil Procedure

A petition having been filed proposing to abrogate Rule 13(f) and amend Rule 15(a)(1), Rules of Civil Procedure, and no comments having been received, upon consideration,

IT IS ORDERED that Rule 13(f), Rules of Civil Procedure be abrogated and Rule 15(a)(1), Rules of Civil Procedure be amended, in accordance with the attachment hereto, effective January 1, 2012.

DATED this _____ day of September, 2011.

REBECCA WHITE BERCH
Chief Justice

TO:
Rule 28 Distribution
John A Furlong

ATTACHMENT*

Rule 13(f). ~~Omitted Counterclaim~~

~~When a pleader fails to set up a counterclaim through oversight, inadvertence, or excusable neglect, or when justice requires, the pleader may by leave of court set up the counterclaim by amendment [Abrogated]~~

Rule 15(a). Amendments

1. A party may amend the party's pleading once as a matter of course:

A. within twenty-one days after serving it if the pleading is one to which no responsive pleading is permitted; or

B. within twenty-one days after service of a responsive pleading if the pleading is one to which a responsive pleading is required or, if a motion under Rule 12(b), (e), or (f) is served, on or before the date on which a response to the motion is due, whichever is earlier.

~~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 on the trial calendar, the party may so amend it at any time within twenty days after it is served.~~ Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party. Leave to amend shall be freely given when justice requires. Amendment as a matter of course after service of a motion under Rule 12(b), (e), or (f) does not, by itself, moot the motion as to the adequacy of the allegations of

the pleading as revised in the amended pleading and does not relieve a party opposing the motion from filing a timely response to the motion.

2. A party who moves for leave to amend a pleading must attach a copy of the proposed amended pleading as an exhibit to the motion, which shall indicate in what respect it differed from the pleading that it amends, by bracketing or striking through the text to be deleted and underlining the text to be added. If a motion for leave to amend is granted, the moving party shall file and serve the amended pleading within ten days of the order granting the motion, unless the court otherwise orders.

3. A party shall plead in response to an amended pleading within the time remaining for response to the original pleading or within ten days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

*Additions to text are indicated by underscoring, deletions by ~~strikeouts~~.