



## Strengthening Oklahoma's Pleadings Standard

Costs of litigation for businesses, and individuals alike, are on the rise. One way to reduce costs from the start is by ensuring the claim asserted by the plaintiff is credible. This can be accomplished through changing Oklahoma's pleadings standard.

### What are Pleadings?

Pleadings mark the beginning of a lawsuit and provide the opportunity for all parties involved to submit their claims and defenses to the court. It provides notice to the opposing party about what the litigation will be about.

### How are Pleadings Governed?

State Courts and Federal Courts have rules of civil procedure governing the beginning processes of litigation. Both the [Federal Rules of Civil Procedure Rule 8\(a\)\(2\)](#) and [Title 12 of Oklahoma Statute Section 2008\(A\)\(1\)](#) require the plaintiff to file a pleading including "a short and plain statement of the claim showing that the pleader is entitled to relief." But the U.S. Supreme Court ruled in addition to a claim for relief, a plaintiff must also include facts supporting that claim. That additional requirement is not reflected in Oklahoma's pleading standard. Instead, Oklahoma adopted a prior U.S. Supreme Court case that simply requires enough facts in the pleading to put the defendant on notice. This is called *notice pleading*.

The problem? In notice pleading, the facts included are not enough for the defendant to properly answer with relevant defenses. This leads to defendants pleading every defense available, even if it is not relevant.

The solution is to adjust expectations of factual allegations included in a pleading to allow the defendant not only notice, but also a reasonable understanding of what the litigation will be about and why the plaintiff is suing.

### What are Factual Allegations?

Notice Pleading (Current)	Factual Allegations (Proposed)
<i>Plaintiff files suit claiming the defendant was negligent when driving at 3:00 p.m. on January 1, 2021 near 101 W. Main Street and is seeking \$500,000.00 in relief.</i>	<i>Plaintiff files suit claiming the defendant was negligent while making a delivery at 3:00 p.m. on January 1, 2021 near 101 W. Main Street and drove into the plaintiff's storefront while doing so and is seeking \$500,000.00 in relief.</i>
This provides no context for the defendant or court as to why or what happened that caused the plaintiff to believe the defendant owes the plaintiff any relief.	With the factual allegations, the defendant is able to clearly understand the situation for which he is being sued and may raise the appropriate defenses.

## Why Adopt the Federal Pleading Standard?

- Helps weed out any unwarranted claims.
- Allows the parties to the lawsuit to keep the focus on meritorious claims saving time and money for both parties.
- Frees up the court dockets from frivolous claims allowing the meritorious claims more timely hearings.v

