

Amendments to Rule 15

Rule 15 is amended as follows:

Rule 15. Amended and Supplemental Pleadings

(a) Amendments **Before Trial**.

(1) Amending as a Matter of Course. A party may amend ~~[the party's]~~**its** pleading once as a matter of course~~[at any time before a responsive pleading is]:~~ **(A) before being** served ~~[or, if the pleading is one to which no responsive pleading is permitted and the action has not been noticed for trial, the party may so amend it at any time]~~**with a responsive pleading; or (B) within 20 days after [it is served]serving the pleading if a responsive pleading is not allowed and the action is not yet on the trial calendar.**

(2) Other Amendments~~[Otherwise]~~ **In all other cases,** a party may amend ~~[the party's]~~**its** pleading only ~~[by leave of court or by]~~**with the opposing party's** written consent ~~[of the adverse party, and leave shall be]~~**or the court's leave. The court should** freely ~~[given]~~**give leave** when justice so requires.

(3) Time to Respond. ~~[A party shall plead in]~~**Unless the court orders otherwise, any required** response to an amended pleading **will be made** within the time remaining ~~[for response]~~**to respond** to the original pleading or within 10 days after service of the amended pleading, whichever ~~[period may be longer, unless the court otherwise orders]~~**is later.**

(b) Amendments ~~[To Conform to the Evidence]~~**During and After Trial**.

(1) Based on an Objection at Trial. If, at trial, a party objects that **evidence is not within** the issues raised in the pleadings, the court may

permit the pleadings to be amended. The court should freely permit an amendment when doing so will aid in presenting the merits and the objecting party fails to satisfy the court that the evidence would prejudice that party's action or defense on the merits. The court may grant a continuance to enable the objecting party to meet the evidence.

(2) For Issues Tried by Consent. When ~~[issues]~~**an issue** not raised by the pleadings ~~[are]~~**is** tried by **the parties'** express or implied consent ~~[of the parties]~~, ~~[they shall]~~**it will** be treated in all respects as if ~~[they]~~**it** had been raised in the pleadings. ~~[Such amendment of]~~**A party may move – at any time – to amend** the pleadings ~~[as may be necessary to cause them]~~ to conform **them** to the evidence and to raise ~~[these issues may be made upon motion of any party at any time, even after judgment, but]~~**an unpleaded issue. But** failure ~~[so]~~ to amend does not affect the result of the trial of ~~[these issues]~~**that issue**. ~~[If evidence is objected to at the trial on the ground that it is not within the issues made by the pleadings, the court may allow the pleadings to be amended and shall do so freely when the presentation of the merits of the action will be subserved thereby and the objecting party fails to satisfy the court that the admission of such evidence would prejudice the party in maintaining the party's action or defense upon the merits. The court may grant a continuance to enable the objecting party to meet such evidence].~~

(c) Relation Back of Amendments.

(1) When an Amendment Relates Back. An amendment ~~[of]~~**to** a pleading relates back to the date of the original pleading when:

~~(1)A~~ ~~[relation back is permitted by]~~ the law that provides the **applicable** statute of limitations ~~[applicable to the action, or]~~ **allows relation back;**

~~(2)B~~ ~~[the]~~ **the amendment asserts a** claim or defense ~~[asserted in the amendment]~~ **that** arose out of the conduct, transaction, or occurrence set ~~[forth]~~ **out –** or attempted to be set ~~[forth]~~ **out –** in the original pleading;
or

~~(3)C~~ the amendment changes the party or the naming of the party against whom a claim is asserted, if ~~[the foregoing provision (2)]~~ **Rule 15(c)(1)(B)** is satisfied and **if**, within the period provided by Rule 4 for ~~[service of the pleadings commencing the action]~~ **serving the summons and complaint**, the party to be brought in by amendment: ~~(A)i~~ ~~[has]~~ received such notice of ~~[the institution of the]~~ action that ~~[the party]~~ **it** will not be prejudiced in ~~[maintaining a defense]~~ **defending** on the merits; and ~~(B)iii~~ knew or should have known that, ~~[but for a mistake concerning the identity of the proper party]~~, the action would have been brought against **it, but for a mistake concerning the proper** ~~[party]~~ **party's identity.**

(2) Notice to the United States. ~~[The delivery or mailing of the pleadings commencing the action]~~ **When the United States or a United States officer or agency is added as a defendant by amendment, the notice requirements of Rule 15(c)(1)(C)(i) and (ii) are satisfied if, during the stated period, process was mailed or delivered** to the Attorney-in-Charge, International Trade Field Office, Commercial Litigation Branch, Department of Justice, or ~~[an]~~ **to the**

agency or officer.~~[who would have been a proper defendant if named, satisfies the requirement of subparagraphs (A) and (B) of this paragraph (3) with respect to the United States or any agency or officer thereof to be brought into the action as a defendant.]~~

(d) Supplemental Pleadings. ~~[Upon]~~**On** motion ~~[of a party, the court may, upon]~~**and** reasonable notice~~[and upon such terms as are]~~, **the court may, on just terms**, permit ~~[the]~~**a** party to serve a supplemental pleading setting ~~[forth]~~**out any** ~~[transactions or occurrences or events which have]~~**transaction, occurrence, or event that** happened ~~[since]~~**after** the date of the pleading ~~[sought]~~ to be supplemented. ~~[Permission may be granted]~~**The court may permit supplementation** even though the original pleading is defective in ~~[its statements of]~~**stating** a claim ~~[for relief]~~ or defense. ~~[If the]~~**The** court ~~[deems it advisable that the adverse party plead to the supplemental pleading, it shall so]~~**may order that the opposing party plead to the supplemental pleading within a** ~~[specifying the]~~**specified** time ~~[therefor]~~.

(As amended, eff. Jan. 1, 1982; July 28, 1988, eff. Nov. 1, 1988; Sept. 25, 1992, eff. Jan. 1, 1993; **Nov. 25, 2008, eff. Jan. 1, 2009.**)