

## **RULE 41. AMENDED AND SUPPLEMENTAL PLEADINGS**

- (a) **Amendments:** A party may amend a pleading once as a matter of course at any time before a responsive pleading is served. If the pleading is one to which no responsive pleading is permitted and the case has not been placed on a trial calendar, a party may so amend it at any time within 30 days after it is served. Otherwise a party may amend a pleading only by leave of Court or by written consent of the adverse party, and leave will be given freely when justice so requires. A motion for leave to amend a pleading must state the reasons for the amendment and must be accompanied by the proposed amendment. The proposed amendment to the pleading must be separately set forth and must comply with the requirements of Rule 23 regarding form and style of papers filed with the Court. See Rules 36(a) and 37(a) for time for responding to amended pleadings.
- (b) **Amendments To Conform to the Evidence:**
- (1) *Issues Tried by Consent:* Issues not raised by the pleadings but tried by express or implied consent of the parties are treated in all respects as if raised in the pleadings. The Court, on motion of any party at any time, may allow any amendment of the pleadings as may be necessary to cause them to conform to the evidence and to raise these issues, but failure to amend does not affect the result of the trial of these issues.
  - (2) *Other Evidence:* If a party objects to evidence on the ground that it is not within the issues raised by the pleadings, the Court may receive the evidence and at any time allow the pleadings to be amended to conform to the proof. The Court will do so freely when justice so requires and the objecting party fails to satisfy the Court that the admission of the evidence will prejudice that party's position on the merits.
  - (3) *Filing:* The amendment or amended pleadings permitted under this paragraph (b) may be filed with the Court at the trial or as otherwise ordered by the Court.
- (c) **Supplemental Pleadings:** On motion, the Court may, on just terms, permit a party to file a supplemental pleading setting out any transaction, occurrences, or event that happened after the date of the pleading to be supplemented. The Court may permit supplementation even though the original pleading is defective in stating a claim or defense. The Court may order that the opposing party respond to the supplemental pleading within a specified time.

- (d) **Relation Back of Amendments:** An amendment to a pleading relates back to the date of the original pleading, unless the Court orders otherwise either on motion or on its own.

(As effective October 3, 2008, [130 T.C. 411–12](#); as amended, effective March 20, 2023, [160 T.C. 605–07](#); effective August 8, 2024, [163 T.C. 185–86](#). For prior history, see [60 T.C. 1089–90](#) (1973); [93 T.C. 871–73](#) (1989).)