AMENDMENTS

1) Plaintiff sues in federal court, seeking damages on a theory of negligence. Two days after filing the complaint, the plaintiff wishes to amend her complaint and switch from negligence to breach of warranty. (The defendant has not yet responded to the action; the statute of limitations is not a problem). May she amend? How?

2) Plaintiff sues in federal court, seeking damages on a theory of fraud. Defendant files a 12(b)(6) motion, arguing that the element of reliance has not been alleged. Plaintiff wishes to amend. May she amend? How?

3) Plaintiff sues in federal court, seeking damages for slander. Defendant files an answer, denying the basic allegations. Plaintiff now wishes to amend to add a claim for intentional infliction of emotional distress (or the tort of outrage). May she amend? How?

4) Plaintiff brings a negligence action, seeking recovery for medical expenses and pain and suffering. A day before trial, plaintiff wishes to amend to add lost wages as a type of special damages under FRCP 9(g).

5) Plaintiff sues defendant alleging negligent design and manufacture of a water slide. Defendant files an answer admitting manufacture. After the running of the statute of limitations, the defendant now moves to amend its answer and deny that it manufactured the water slide. If you were the judge, how would you rule? See Beeck, page 623.

6) During the trial of a negligence case, the plaintiff moves to amend to add lost wages as a type of special damages. How should the court rule?

7) The plaintiff sues on a breach of contract claim and presents the case to the judge sitting as the fact finder. After the trial, the plaintiff moves to amend the complaint to include a quantum meruit claim. See Moore, page 627.

8) Plaintiff sues for breach of contract. One year later, she wishes to add a count based on fraud in the execution of the contract, but the statute of limitations on fraud has run. Should the amendment be permitted?

9) Plaintiff sues for breach of contract. One year later, she wishes to add a count based on

assault and battery, but the statute of limitations on assault and battery has run. Should the amendment be permitted?

10) Plaintiff sues "Liberty Savings and Loan." Two days after the statute expires, plaintiff discovers the correct name is "Liberty Savings & Loan, Inc."

11) Plaintiff sues James A. Smith on February 1st. The defendant does not answer the lawsuit. The statute of limitations expires on March 1st. Ten days later plaintiff discovers he wanted to sue James 0. Smith, a completely different person. What can the plaintiff do? See FRCP 15(c)(3).

12) Same as (11), but plaintiff discovers the mistake on November 1st. What is the crucial, missing fact?

13) Plaintiff is injured on March 3, 1993. She sues Robert L. Wright on March 3, 1996. The defendant answers the complaint. On July 6, 1996, the defendant moves for summary judgment, saying that he was not the driver and his son Robert A. Wright was the driver. Any relief for the plaintiff? See 904 F. Supp. 932 (E.D. Ark. 1995).

14) The plaintiff is struck by a mysterious hit and run driver. The driver is not located or identified. The three year statute of limitations is about to expire. What should the plaintiff do? See Worthington, page 630.

15) Plaintiff sues for breach of contract in March. Defendant answers in April. In the next months Defendant speaks to various people in the business community describing plaintiff in exceptionally derogatory terms. Now the plaintiff wishes to amend and add an additional count for slander.

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