

WORDS AND PHRASES™

PERMANENT EDITION



Volume 36C

RELATION — REPAVING

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WORDS AND PHRASES

"A word is not crystal, transparent and unchanging, it is the skin of a living thought and may vary greatly in color and content according to the circumstances and the time in which it is used."

*Justice Holmes,
245 U.S. 418, 38 S.Ct.
158, 62 L.Ed.2d 372.*

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THE PUBLISHER

November, 2002

RELATION

C.C.A.8 (Minn.) 1942. The words "relative" and "relation," when used in contracts, statutes and wills, include only relations by blood and not by marriage.—Preferred Acc. Ins. Co. of New York v. Onali, 125 F.2d 580.—Contracts 159; Statut 199; Wills 466.

Cal. 1874. The word "relation," in the statute, providing that a devise to a relation shall not lapse by the death of the devisee during the lifetime of the testator, if the devisee leaves lineal descendants, includes only relations by blood, and not by affinity.—Matter of Estate of Pfuelb, 48 Cal. 643.—Wills 552(3).

Cal.App.1 Dist. 1923. The word "relation" is very general and comprehensive and may include, in its generic sense, every relation arising in social life, including relationship by affinity as well as blood; but in determining whether a wife is a "relative" under statutes, such as Civ.Code, § 1310 (repealed. See Prob.Code, § 92), preventing lapse of estates devised to children "or other relation" dying before testator, the term includes only relationship by blood.—In re Sowash's Estate, 217 P. 123, 62 Cal.App. 512.—Wills 502.

Iowa 1908. The words "relative" and "relation," when construed technically, refer to one connected by ties of blood, but, when employed in their generic sense, they include those connected by affinity, as well as consanguinity.—Wapello County v. Eikelberg, 117 N.W. 978, 140 Iowa 736.

La.App. 2 Cir. 1938. "Relation" without statute providing that natural children shall not be put into possession of parent's estate without calling in relations of deceased parent contemplates all persons connected with deceased parent by consanguinity or affinity who would have succeeded to parent's estate in default of natural children. Civ.Code, art. 926.—Wimberly v. King, 179 So. 515.—Child 85.

La.App. 2 Cir. 1938. Action for partition by litation on petition praying for recognition of defendant natural children as owners of undivided one-half interest by inheritance from mother in whose succession no proceedings had been had was not maintainable without joinder of mother's surviving husband, since children as irregular heirs under statute did not succeed to estate from mother's death but had only right of action to be recognized as owners, and since surviving husband was "relation" of mother within statute requiring relations of deceased to be called in before natural children are put in possession. Civ.Code, arts. 915, 918, 925, 926, 949 (LSA-C.C.)—Wimberly v. King, 179 So. 515.—Partit 48.

Mass. 1940. A cousin is a "relation" within statute relating to rights of issue of beneficiaries who are related to and predecease testator. G.L.(Ter.Ed.) c. 191, § 22 (M.G.L.A.)—State Street Trust Co. v. White, 26 N.E.2d 356, 305 Mass. 547.—Wills 552(3).

Mass. 1930. Where legatee, first cousin of testatrix, predeceased her, leaving children, such children took legatee's share, in absence of other disposition, since child of first cousin is "relation" within statute. G.L. c. 191, § 22 (M.G.L.A.)—Union Trust Co. of Springfield v. Bingham, 173 N.E. 435, 273 Mass. 287.—Wills 552(3).

Mass. 1894. A brother-in-law is not a "relation," within the meaning of Pub.St. c. 127, § 23, providing that, where a devise is made to a child or other relation, his issue shall take his share in case he dies before testator, provided no different disposition is required by the will.—Horton v. Earle, 38 N.E. 1135, 162 Mass. 448.

Mich. 1923. The word "relation" as used in Comp.Laws 1915, § 13793, providing that when a devise or legacy is made to a child or other relation of testator, and devisee or legatee dies before testator leaving issue surviving testator, such issue shall take the estate given by the will unless the will directs a different disposition, means kindred by blood only, and excludes husbands, wives and stepchildren.—In re Spier's Estate, 195 N.W. 430, 224 Mich. 658.—Wills 552(3).

Neb. 1938. The word "relation," as used in anti-lapse statute providing that when a devise is made to a child or other relation of testator, and devisee predeceases testator, devisee's issue should take, meant kindred of the blood only, and excluded a wife. Comp.St.1929, § 30-229.—In re Luckhardt's Estate, 277 N.W. 836, 134 Neb. 55, 115 A.L.R. 437.—Wills 552(4).

Okla. 1908. Webster's International Dictionary, 1907, defines the word "relation" to be "a person connected by consanguinity or affinity; a relative; a kinsman or kinswoman." Bouvier's Law Dictionary defines a "relation" as "one connected with another by blood or affinity; a relative; a kinsman or kinswoman."—De Graffenreid v. Iowa Land & Trust Co., 95 P. 624, 20 Okla. 687, 1908 OK 49.

Tex.Crim.App. 1912. Under the statute declaring that insulting conduct of decedent towards a "female relation" of accused is adequate cause to reduce the killing to manslaughter, and providing that any female under the temporary protection of accused at the time of the killing shall be included within the term "relation," accused, who had been raised by a husband and wife, and who lived at their house, could show adequate cause for the killing of decedent by proving his insulting conduct towards a cousin of the wife present at the house.—Williams v. State, 144 S.W. 620, 65 Tex.Crim. 437.

Wis. 1957. The word "relation", in anti-lapse statute, would not include stepchild of testator. W.S.A. 238.13.—In re Dodge's Estate, 84 N.W.2d 66, 1 Wis.2d 399, 63 A.L.R.2d 1192.—Wills 552(3).

RELATION BACK

C.A.5 (Fla.) 1959. The doctrine of "relation back" applies only to the title acquired by purchaser at foreclosure sale and means only that it relates

back to the giving of the mortgage, and that the purchaser takes the mortgagors' title to the property free from all claims to it which arose subsequent to the execution of the mortgage.—*Allstate Finance Corp. v. Zimmerman*, 272 F.2d 323.—Mtg 535(1).

C.A.1 (Mass.) 1991. Under doctrine of "relation back," amended complaint can be treated, for purposes of statute of limitations, as having been filed on date of original complaint.—*Pessotti v. Eagle Mfg. Co.*, 946 F.2d 974.—Lim of Act 127(1).

D.Mass. 2000. Concept of "relation back" is, generally speaking, a legal fiction that permits a security interest perfected late to be treated for purposes of the "first in time, first in right" rule which governs priority among security creditors, as if it were perfected earlier.—229 Main Street Ltd. Partnership v. Com. of Massachusetts, Dept. of Environmental Protection, 251 B.R. 186, affirmed *In re 229 Main Street Ltd. Partnership*, 262 F.3d 1.—Sec Tran 134.

W.D.N.Y. 1998. For the "relation back" doctrine to apply to an amended pleading, under New York law: (1) both claims must arise out of the same conduct, transaction or occurrence; (2) the new party must be united in interest with the original party such that, by reason of that relationship, the defendant can be charged with such notice of the institution of the action that it will not be prejudiced in maintaining its defense on the merits; and (3) defendant knew or should have known that, but for a mistake by the plaintiff as to the identity of the proper party, the action would have been properly brought. *N.Y. McKinney's CPLR 203*.—*Dow Corning Corp. v. Chemical Design, Inc.*, 3 F.Supp.2d 361.—Lim of Act 124.

D.Puerto Rico 1972. General rule of "relation back" is that a pleading may not be amended to allege a new or different claim or defense unless it arose out of, or is based on or related to, claim, transaction or occurrence originally set forth or attempted to be set forth. *Fed. Rules Civ. Proc. rule 15(c)*, 28 U.S.C.A.—*Harastej v. Reliable Car Rental, Inc.*, 58 F.R.D. 197.—Lim of Act 127(11.1).

E.D.Va. 1994. "Relation back" doctrine, whether at common law or under statute, does not vest title in United States automatically and without judicial decree following forfeiture; instead, at time court orders forfeiture, relation back doctrine operates to vest title in United States effective from date of criminal conduct. *Comprehensive Drug Abuse Prevention and Control Act of 1970*, § 413, as amended, 21 U.S.C.A. § 853.—*In re Moffitt, Zwerling & Kemler, P.C.*, 864 F.Supp. 527, affirmed in part, reversed in part *U.S. v. Moffitt, Zwerling & Kemler, P.C.*, 83 F.3d 660, certiorari denied 117 S.Ct. 788, 519 U.S. 1101, 136 L.Ed.2d 730.—Forfeit 7.

E.D.Va. 1994. "Relation back" provides that title to forfeitable property vests in government at time of commission of offense warranting forfeiture.—*In re Moffitt, Zwerling & Kemler, P.C.*, 846 F.Supp. 463, affirmed *U.S. v. Moffitt, Zwerling & Kemler, P.C.*, 83 F.3d 660, certiorari denied 117

S.Ct. 788, 519 U.S. 1101, 136 L.Ed.2d 730.—Forfeit 7.

Bkrty.C.D.Cal. 1996. "Relation back" doctrine provides that pleading may not be amended to allege new or different claim or defense unless it arose out of, or is based on or related to, claim, transaction or occurrence originally set forth or attempted to be set forth.—*In re Twersky*, 190 B.R. 903.—Lim of Act 127(1).

Fed.Cl. 1997. For limitations purposes, "relation back" occurs when amended complaint adds claim related to claim, notice of which was provided in original complaint. *RCFC, Rule 15(c)*, 28 U.S.C.A.—*Stephenson v. U.S.*, 37 Fed.Cl. 396.—*Fed Cts 1106*.

Cl.Ct. 1992. Where a Contract Disputes Act claim asserted in an amendment to a complaint arose out of a transaction or occurrence set forth in the original complaint, the amendment was given retroactive effect to the date of the original complaint, such that claim that otherwise might be time barred could be considered timely where "relation back" was applicable. *Fed. Rules Civ. Proc. Rule 15*, 28 U.S.C.A.; *U.S. Cl. Ct. Rule 15*, 28 U.S.C.A.; *Contract Disputes Act of 1978*, §§ 2–15, 41 U.S.C.A. §§ 601–613.—*Case, Inc. v. U.S.*, 25 Cl.Ct. 379.—*Fed Cts 1106*.

Alaska 1993. Under legal fiction of "relation back," owner's property rights are divested immediately at point at which property is used in manner or context prescribed in forfeiture statute for goods used in connection with controlled substance offenses so that owner loses title and interest in money as of moment of its illegal use. *Comprehensive Drug Abuse Prevention and Control Act of 1970*, § 511(e)(1)(A), (h), 21 U.S.C.A. § 881(e)(1)(A), (h); *AS 12.36.020*.—*Johnson v. Johnson*, 849 P.2d 1361.—*Controlled Subs 188*.

Cal. 1955. The doctrine of "relation back" with respect to annulments of marriages has exceptions and was fashioned by the courts to do substantial justice as between the parties to a voidable marriage, but it is a mere legal fiction, and the test for determining the applicability of the doctrine as applied to voidable marriages is whether it effects a result which conforms to sanctions of sound policy as between immediate parties thereto, property rights, and the rights of their offspring.—*Sefton v. Sefton*, 291 P.2d 439, 45 Cal.2d 872.—*Marriage 67*.

Ind. 1991. In determining whether amendment relates back to earlier filed pleading, for limitations purposes, factual circumstances that gave rise to original claims, general injuries sustained, and general conduct causing those injuries constitute conduct, transaction, or occurrence set forth in original pleading that will support "relation back" of amendment. *Trial Procedure Rule 15(C)*.—*McCarty v. Hospital Corp. of America*, 580 N.E.2d 228.—Lim of Act 127(1).

Iowa 1992. While "relation back" is generally applied only with reference to statute of limitations, concept may also find application in other con-

texts.—*Erickson* 485 N.W.2d 82,

Kan. 1962. T der which decre render marital pertains to a voi mous marriage County Nat. Ba 231, 189 Kan. 29

Minn. 1950. simply a fiction (a right arising is have accrued at preserve the righ wise to avoid Farmers Mut. In 279.

Mont. 1908. tion of irrigation the statute regu One of them cc tember 1, 1882, ly, and prosecut gence to comple The other persc than October 1, with reasonable through it. His d the other ditche work on the two right, though his since under the obtained before between two pe. time and prosecu diligence, to cor work had the pri ed his ditch first Mont. 177.—Wal

N.J.Ch. 1946. tate's estate were a plan to satisfy ment compensat property and wa tratrix, condition in her individual her representati the doctrine kno Kleiner, 49 A.2c 29(1).

N.Y. 1995. claim asserted ag to relate back to codefendant for where two def McKinney's CPL N.Y.S.2d 405, 8 Lim of Act 124.

RELATION BAC

N.D.Cal. 1956 an annulment rel doctrine" and er

texts.—*Erickson v. Wright Welding Supply, Inc.*, 485 N.W.2d 82, rehearing denied.—Plead 252(1).

Kan. 1962. The doctrine of “relation back”, under which decree of nullity relates back so as to render marital relation void from its inception, pertains to a voidable marriage and not to a bigamous marriage which is void ab initio.—*Johnson County Nat. Bank & Trust Co. v. Bach*, 369 P.2d 231, 189 Kan. 291.—Marriage 67.

Minn. 1950. The doctrine of “relation back” is simply a fiction of the law by which an act done or a right arising is deemed to have been done or to have accrued at an antecedent time in order to preserve the rights as of the earlier date or otherwise to avoid injustice.—*Windey v. North Star Farmers Mut. Ins. Co.*, 43 N.W.2d 99, 231 Minn. 279.

Mont. 1908. Two persons began the construction of irrigation ditches before the enactment of the statute regulating the appropriating of water. One of them commenced two ditches about September 1, 1882, and September 5, 1882, respectively, and prosecuted the work with reasonable diligence to completion and the actual using of water. The other person commenced his ditch not later than October 1, 1882, and also prosecuted the work with reasonable diligence until water was brought through it. His ditch was completed before either of the other ditches. *Held*, that the one who began work on the two ditches in September had the prior right, though his ditches were not first completed, since under the doctrine of “relation back” which obtained before the enactment of the statute, as between two persons digging ditches at the same time and prosecuting work thereon, with reasonable diligence, to completion, the one who first began work had the prior right though the other completed his ditch first.—*Wright v. Cruse*, 95 P. 370, 37 Mont. 177.—Waters 140.

N.J.Ch. 1946. Where corporate assets of intestate's estate were sold at a sheriff's sale pursuant to a plan to satisfy the lien of the state for unemployment compensation taxes, and widow purchased property and was subsequently appointed administratrix, conditions in terms of sale made by widow in her individual capacity were binding upon her, in her representative capacity as administratrix under the doctrine known as “relation back”.—*Kleiner v. Kleiner*, 49 A.2d 582, 139 N.J.Eq. 26.—Ex & Ad 29(1).

N.Y. 1995. “Relation back” doctrine allows claim asserted against defendant in amended filing to relate back to claims previously asserted against codefendant for statute of limitations purposes where two defendants are united in interest. *McKinney's CPLR 203(b)*.—*Buran v. Coupal*, 638 N.Y.S.2d 405, 87 N.Y.2d 173, 661 N.E.2d 978.—Lim of Act 124.

RELATION BACK DOCTRINE

N.D.Cal. 1956. Generally, under California law, an annulment relates back under the “relation back doctrine” and erases a marriage and all its implica-

tions from the outset.—*Pearsall v. Folsom*, 138 F.Supp. 939, affirmed 245 F.2d 562.—Marriage 67.

S.D.Fla. 1991. Under “relation back doctrine,” title to Racketeer Influenced and Corrupt Organizations Act (RICO) defendants' interest in casino card club vested in government at time of commission of acts giving rise to forfeitable nature of assets. 18 U.S.C.A. § 1963(f)(6)(A).—*U.S. v. Kramer*, 807 F.Supp. 707, affirmed in part, reversed in part 73 F.3d 1067, certiorari denied 117 S.Ct. 516, 519 U.S. 1011, 136 L.Ed.2d 405.—Forfeit 3.

N.D.Ill. 1996. Under “relation back doctrine” of Racketeer Influenced and Corrupt Organizations Act (RICO) forfeiture provisions, government's interest in convicted RICO defendant's property vests at the time of acts that give rise to forfeiture; if RICO defendant transfers property after commission of acts, government's interest in property remains paramount unless transferee can show, by preponderance of the evidence, either that his interest and rights in property were superior to defendant's at time of commission of acts or that he is bona fide purchaser for value who was reasonably without cause to believe that property was subject to forfeiture. 18 U.S.C.A. § 1963(c), (f)(6).—*U.S. v. Infelise*, 938 F.Supp. 1352, affirmed in part, reversed in part 159 F.3d 300, rehearing and suggestion for rehearing denied.—Forfeit 7, 8.

E.D.N.Y. 1999. Under “relation-back doctrine,” taxpayers may obtain favorable gift or estate tax treatment because the payment of checks is deemed to have occurred on the date the checks were presented for deposit at the recipient's bank.—*Rosano v. U.S.*, 67 F.Supp.2d 113, affirmed 245 F.3d 212, certiorari denied 122 S.Ct. 1080, 151 L.Ed.2d 981, rehearing denied 122 S.Ct. 1598, 152 L.Ed.2d 513.—Int Rev 4159(1), 4203.20.

W.D.Tenn. 1987. For purposes of determining whether civil rights action brought under § 1981 is time barred, test of “relation back doctrine” is whether there is factual nexus between amended complaint and original complaint, and whether defendant had notice of claim and would not be prejudiced by amendment. 42 U.S.C.A. § 1981.—*Lowery v. WMC-TV*, 658 F.Supp. 1240, vacated 661 F.Supp. 65.—Lim of Act 127(3).

W.D.Tex. 1990. While forfeiture statute codifies “relation back doctrine,” under which United States interest in forfeitable property vests upon commission of act giving rise to forfeiture, a claimant under forfeiture statute is permitted to establish that he was without actual knowledge of the act giving rise to the forfeiture, and thereby avoid forfeiture under the “innocent owner” exception. Comprehensive Drug Abuse Prevention and Control Act of 1970, § 511, 21 U.S.C.A. § 881.—*U.S. v. 1977 Porsche Carrera 911 VIN 9117201924 License No. 459 DWR*, 748 F.Supp. 1180, affirmed 946 F.2d 30.—Controlled Subs 174, 188.

Cal.App. 3 Dist. 2001. The “relation back doctrine” focuses on factual similarity rather than rights or obligations arising from the facts, and permits added causes of action to relate back to the initial complaint so long as they arise factually from

RELATION BACK DOCTRINE

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the same injury.—*Dudley v. Department of Transp.*, 108 Cal.Rptr.2d 739, 90 Cal.App.4th 255.—Plead 252(1).

Conn. 2001. "Relation back doctrine" provides that an amendment relates back when the original complaint has given the party fair notice that a claim is being asserted stemming from a particular transaction or occurrence, thereby serving the objectives of the statute of limitations, namely, to protect parties from having to defend against stale claims.—*Alswanger v. Smego*, 776 A.2d 444, 257 Conn. 58.—Lim of Act 127(1).

Conn.App. 2002. "Relation back doctrine" provides that an amendment relates back when the original complaint has given the party fair notice that a claim is being asserted stemming from a particular transaction or occurrence, thereby serving the objectives of statute of limitations, namely, to protect parties from having to defend against stale claims.—*Sandvig v. A. Dubreuil and Sons, Inc.*, 789 A.2d 1012, 68 Conn.App. 79, certification granted in part 799 A.2d 296, 260 Conn. 931.—Lim of Act 127(2.1).

Ill.App. 2 Dist. 2002. The "relation back doctrine," which allows the original pleading to be amended any time before final judgment as long as it relates back to the original timely filed complaint, is remedial in nature and should be applied liberally to favor hearing a plaintiff's claim; thus, plaintiffs are not to be barred from having the merits heard because of technical rules of pleading, and courts are to elevate issues of substance over form. S.H.A. 735 ILCS 5/2-616.—*Avakian v. Chulengarian*, 262 Ill.Dec. 663, 766 N.E.2d 283, 328 Ill.App.3d 147.—Lim of Act 127(1).

Mont. 1995. Under "relation-back doctrine," crime of growing marijuana on property was committed on date of discovery and on that date state had right to seize real property which had been directly used to facilitate offense, so that owner's deeding property to interest holder by quit claim deed did not preclude forfeiture. MCA 44-12-102.—*Johnson v. Equipment Used to Cultivate Marijuana*, 898 P.2d 1200, 271 Mont. 500.—Controlled Subs 188.

N.M.App. 1994. For application of *Templeton* "relation back doctrine," priority of surface right may attach to supplemental well only so long as well captures water that constitutes part of base flow of stream in which surface rights obtain.—*State ex rel. Martinez v. Lewis*, 882 P.2d 37, 118 N.M. 446.—*Waters* 139.

N.Y.A.D. 1 Dept. 1998. "Relation back doctrine" enables a plaintiff to correct a pleading error by allowing a claim asserted against a defendant in an amended filing to relate back to claims previously asserted against a codefendant for statute of limitations purposes, so long as the two defendants are united in interest. McKinney's CPLR 203(b).—*Nardi v. Hirsh*, 672 N.Y.S.2d 334, 250 A.D.2d 361.—Lim of Act 124.

N.Y.A.D. 2 Dept. 2002. The "relation back doctrine" allows a claim asserted against a defendant in

an amended filing to relate back to claims previously asserted against a codefendant for statute of limitations purposes where the two defendants are united in interest.—*Schiavone v. Victory Memorial Hosp.*, 738 N.Y.S.2d 87, 292 A.D.2d 365.—Lim of Act 124.

N.Y.A.D. 3 Dept. 1997. In cases involving "relation back doctrine," it is required that intended defendant have notice of claim within applicable statute of limitations period, and it must be shown that proper service was made within limitations period before amendment is allowed.—*Maldonado v. Maryland Rail Commuter Service Admin.*, 657 N.Y.S.2d 510, 239 A.D.2d 740, leave to appeal granted 665 N.Y.S.2d 401, 90 N.Y.2d 810, 688 N.E.2d 257, affirmed 672 N.Y.S.2d 831, 91 N.Y.2d 467, 695 N.E.2d 700.—Lim of Act 124.

N.Y.A.D. 4 Dept. 1984. In action brought by seller against buyer for payments allegedly due on rental and repair of compressor, buyer's negligence claims against third-party defendants would be deemed to have been interposed as of date seller sought indemnification and contribution as to buyer's counterclaim from third-party defendants based on negligence, and thus, claims were timely under "relation back doctrine." McKinney's CPLR 203(e), 214, subd. 4.—*Fargo Equipment Co., Inc. v. Carborundum Co.*, 478 N.Y.S.2d 382, 103 A.D.2d 1002, appeal dismissed *Fargo Equip. Co., Inc. v. Carborundum Co.*, 64 N.Y.2d 646.—Lim of Act 124.

N.Y.Sup. 1996. "Relation back doctrine," which allows claim asserted against defendant in amended pleading to relate back to claims previously asserted against codefendant for statute of limitations purposes, is aimed at liberalizing strict, formalistic requirements while respecting important policies inherent in statute of limitations, and enables plaintiff to correct pleading error by adding either new party or new claim after statute of limitations has expired.—*Hemmings v. St. Marks Housing Ass'n, L.P.*, 642 N.Y.S.2d 1018, 169 Misc.2d 155, appeal dismissed 661 N.Y.S.2d 964, 242 A.D.2d 284.—Lim of Act 124, 127(1).

Tex.App.—Fort Worth 1989. Although general rule is that personal stake party must have in outcome of controversy to have standing must exist at commencement of litigation and continue throughout lawsuit's existence, "relation back doctrine" exception allows plaintiff to continue litigation once it is commenced despite loss of personal stake in outcome of controversy if it is demonstrated that claim will likely rise again and otherwise evade review.—*Tarrant County, Tex., Com'rs Court v. Markham*, 779 S.W.2d 872, writ denied.—Action 6.

Tex.App.—Austin 1994. Under statute providing for liability of corporate directors and officers if corporate privileges are forfeited for failure to file report or pay tax or penalty, stating that each director or officer is liable for each corporate debt created or incurred after date on which report, tax, or penalty is due, "relation back doctrine," providing that contractual obligations entered into before

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forfeiture of corporate liability on officer after forfeiture, (gations. V.T.C.A. v. State, 877 S.W. writ denied.—Cor

Tex.App.—San / doctrine" allows back to the original purposes of the statute of action asserted based upon same formed the basis pleading. V.T.C. Code § 16.068.—Lim of Act 127(2)

Tex.App.—Beaue litigation once of his or her per litigation if it is likely arise again exception is the ble vision of Dal petition for revision.—Action 1

Tex.Civ.App.—"relation back c ble foundation of testator did tance taxes. v seq., 7122.—G. 281 S.W.2d 178

RELATION-BACK

M.D.Fla. 199 title to forfeital giving rise to fo ed until orde U.S.C.A. §§ 98 Abuse Prever § 511(a)(6), (U.S. v. Real P tenances, and 4446 East Bro 204.—Forfeit

RELATION-BACK

D.N.J. 1973 eral rule were sought to ame to include ir where failure of a misnom where there between such charges had l was no indica international neglect. Civ amended 42 Civ.Proc. rule can Can Co. Cas. (BNA) ;

RELATION OF CONFIDENCE

forfeiture of corporate privileges do not impose liability on officers or directors for payments due after forfeiture, only applies to contractual obligations. V.T.C.A., Tax Code § 171.255(a).—Serna v. State, 877 S.W.2d 516, rehearing overruled, and writ denied.—Corp 349.

Tex.App.—San Antonio 2000. “Relation-back doctrine” allows an amended pleading to relate back to the original pleading and its file date for purposes of the statute of limitations, if the causes of action asserted in the amended pleading are based upon same transaction or occurrence that formed the basis of the claims made in the original pleading. V.T.C.A., Civil Practice & Remedies Code § 16.068.—Roberts v. Lain, 32 S.W.3d 264.—Lim of Act 127(2.1).

Tex.App.—Beaumont 2000. Plaintiff may continue litigation once it is commenced despite the loss of his or her personal stake in the outcome of the litigation if it is demonstrated that the claim will likely arise again and otherwise evade review; this exception is the “relation back doctrine.”—TCI Cablevision of Dallas, Inc. v. Owens, 8 S.W.3d 837, petition for review abated, and dismissed by agreement.—Action 13.

Tex.Civ.App.—San Antonio 1955. Under the “relation back doctrine”, circumstance that charitable foundation was not chartered until after death of testator did not affect exemption from inheritance taxes. Vernon’s Ann.Civ.St. arts. 7117 et seq., 7122.—G. A. C. Halff Foundation v. Calvert, 281 S.W.2d 178, ref. n.r.e.—Tax 876(2).

RELATION-BACK PRINCIPLE

M.D.Fla. 1993. Under “relation-back principle”, title to forfeitable property arises on date of offense giving rise to forfeiture although title is not perfected until order for forfeiture is entered. 18 U.S.C.A. §§ 981, 1956, 1957; Comprehensive Drug Abuse Prevention and Control Act of 1970, § 511(a)(6), (h), 21 U.S.C.A. § 881(a)(6), (h).—U.S. v. Real Property Including Any Bldgs., Appurtenances, and Improvements Thereon, Located at 4446 East Broadway Ave., Tampa, Fla., 824 F.Supp. 204.—Forfeit 7.

RELATION-BACK PROVISIONS

D.N.J. 1973. “Relation-back provisions” of federal rule were not applicable to plaintiffs, who had sought to amend charges filed before EEOC so as to include international union as a defendant, where failure to sue such union was not of nature of a misnomer or misdescription of a defendant, where there was no claim of identity of interest between such union and local union, against which charges had been originally filed, and where there was no indication that delay in filing charges against international union was not due to inexcusable neglect. Civil Rights Act of 1964, § 706(d, e), as amended 42 U.S.C.A. § 2000e-5(d, e); Fed.Rules Civ.Proc. rule 15(c), 28 U.S.C.A.—Tuma v. American Can Co., 367 F.Supp. 1178, 21 Wage & Hour Cas. (BNA) 287.—Civil R 342.

RELATION BACK RULE

U.S.N.J. 1993. If Government wins judgment of forfeiture under common-law “relation back rule,” which applied to common-law forfeitures and to forfeitures under statutes without specific relation back provisions, vesting of its title in property relates back to moment when property became forfeitable. (Per Opinion of Justice Stevens, with three Justices concurring and two Justices concurring in judgment.) Comprehensive Drug Abuse Prevention and Control Act of 1970, § 511(a)(6), (h), as amended, 21 U.S.C.A. § 881(a)(6), (h).—U.S. v. Parcel of Land, Bldgs., Appurtenances and Improvements, Known as 92 Buena Vista Ave., Rumson, N.J., 113 S.Ct. 1126, 507 U.S. 111, 122 L.Ed.2d 469.—Forfeit 7.

Ind.App. 4 Dist. 1989. “Relation-back rule” should have been applied to permit negligence plaintiffs to amend complaint to correct mistake in naming driver’s father rather than driver as defendant; although neither father nor driver had duty to inform plaintiffs of their mistake, they were aware of accident that was subject of complaint and that driver was proper party, and driver had notice of action within statute of limitations. Trial Procedure Rule 15(C).—Smith v. McFerron, 540 N.E.2d 1273.—Lim of Act 127(1).

Ky. 1987. “Relation back rule” mandates that party to be named in amended pleading knew or should have known about action brought against him; actual, formal notice may not be necessary. Rules Civ.Proc., Rule 15.03(2).—Nolph v. Scott, 725 S.W.2d 860.—Lim of Act 121(2).

RELATION BACK TO THE FIRST DELIVERY

N.M. 1941. The doctrine of “relation back to the first delivery” of an escrow applies where, by reason of incidents happening between first and second deliveries of a deed, such fiction is necessary to give deed effect to prevent injuries that would result from legal impediments or the like, and thereby effectuate intention of the parties, and has no application where a grantee wrongfully obtains possession of instrument from escrow holder, even though thereafter the transaction is ratified, and in such a case title passes as of the date of the ratification.—Mosley v. Magnolia Petroleum Co., 114 P.2d 740, 45 N.M. 230.—Dep & Escr 23.

N.M. 1941. Where a deed conveying mineral rights was fraudulently obtained from escrow holder without complying with escrow agreement, the deed was void and passed no title, under theory of “relation back to the first delivery”, to purchaser from grantee who paid value, without knowledge of deed’s invalidity.—Mosley v. Magnolia Petroleum Co., 114 P.2d 740, 45 N.M. 230.—Dep & Escr 24.1.

RELATION OF CONFIDENCE

La.App. 4 Cir. 1994. Plastic surgeon who claimed that he was induced to purchase stock in surgical facility by fraud and deceit of associate failed to establish fraud as ground for rescission; fact that surgeon considered associate his mentor did not create “relation of confidence” within in-

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RELATION

Ga.App. 2005. For purposes of rule on successive representation, which requires attorney to decline representation of party in matter adverse to former client when second matter is "substantially related" to lawyer's representation of former client, "relation" means logical or natural association between two or more things, that is, connection. State Bar Rules and Regulations, Rule 4-102(d), Rule 1.9.—Duyvall v. Bledsoe, 617 S.E.2d 601, 274 Ga.App. 256, certiorari denied.—Atty & C 21.

RELATION BACK

C.A.11 (Fla.) 2005. The "relation-back" rule in federal criminal forfeiture provisions operates retroactively to vest title in government effective as of time of act giving rise to forfeiture; that is, it does not secretly vest title at very moment of act, but rather title vests at time of court-ordered forfeiture and then relates back to act. Comprehensive Drug Abuse Prevention and Control Act of 1970, §§ 413(c), 511(h), as amended, 21 U.S.C.A. §§ 853(c), 881(h).—U.S. v. Bailey, 419 F.3d 1208.—Controlled Subs 188; Forfeit 34.

N.D. Ohio 2013. The government's interest in forfeited property vests when the defendant commits the act giving rise to forfeiture; this timing provision is often called "relation back." Comprehensive Crime Control Act of 1984, § 303(a), 21 U.S.C.A. § 853(a).—U.S. v. Zai, 932 F.Supp.2d 824.—Forfeit 34.

S.D. Tex. 2013. Under the doctrine of "relation back," a complaint amended to add a new party, claim, or defense that arises out of the conduct, occurrence, or transaction alleged in a timely original pleading and that would otherwise be time-barred, may be treated, for purposes of the statute of limitations, as having been filed on the date of the original complaint. Fed. Rules Civ. Proc. Rule 15(c), 28 U.S.C.A.—Ultraflo Corp. v. Pelican Tank Parts, Inc., 926 F.Supp.2d 935.—Lim of Act 124, 127(2.1).

Bkrtcy. E.D. Mo. 2010. Pursuant to doctrine of "relation back," after the expiration of the statute of limitations, a claim may still be included in an amended pleading if it arises from the same conduct, transaction, or occurrence as the original cause of action. Fed. Rules Bankr. Proc. Rule 7015, 11 U.S.C.A.; Fed. Rules Civ. Proc. Rule 15(c), 28 U.S.C.A.—In re Throneberry, 423 B.R. 765.—Bankr 2157.

Conn.App. 2005. The "relation back" doctrine provides that an amendment to a complaint relates back to the original complaint, for limitations purposes, when the original complaint has given the party fair notice that a claim is being asserted stemming from a particular transaction or occurrence, and thereby serving the objectives

of the statute of limitations, namely, to protect parties from having to defend against stale claims.—Palazzo v. Delrose, 880 A.2d 169, 91 Conn.App. 222, certification denied 886 A.2d 426, 276 Conn. 912.—Lim of Act 127(1).

Mo.App. E.D. 2008. Under the "relation-back" doctrine, if a claim asserted in the amended pleading arose out of the conduct, transaction, or occurrence set forth or attempted to be set forth in the original pleading, the amendment relates back to the date of the original pleading. V.A.M.R. 55.33(c).—Ulrich v. CADCO, Inc., 244 S.W.3d 772.—Lim of Act 127(2.1).

N.Y.A.D. 2 Dept. 2013. "Relation back" doctrine allows claim asserted against defendant in amended filing to relate back to claims previously asserted against codefendant for statute of limitations purposes where two defendants are "united in interest." McKinney's CPLR 203(c).—Sally v. Keyspan Energy Corp., 966 N.Y.S.2d 133, 106 A.D.3d 894, leave to appeal denied 981 N.Y.S.2d 670, 22 N.Y.3d 860, 4 N.E.3d 972.—Lim of Act 124.

N.Y.A.D. 2 Dept. 2004. "Relation back" doctrine allows a claim asserted against a defendant in an amended filing to relate back to claims previously asserted against a codefendant for statute of limitations purposes where the two defendants are united in interest.—Pappas v. 31-08 Cafe Concerto, Inc., 773 N.Y.S.2d 108, 5 A.D.3d 452.—Lim of Act 124.

RELATION BACK DOCTRINE

N.D. Ill. 2002. Under the "relation-back doctrine," an amended complaint is deemed filed on the date the original complaint was filed for the purpose of tolling the statute of limitations. Fed. Rules Civ. Proc. Rule 15(c), 28 U.S.C.A.—Hawkins v. Groot Industries, Inc., 210 F.R.D. 226.—Lim of Act 127(1).

S.D. Tex. 2011. "Relation back doctrine" allows some untimely amended pleadings to be considered as timely as a preceding pleading. Fed. Rules Civ. Proc. Rule 15(c), 28 U.S.C.A.—Painter Family Investments, LTD., L.L.P. v. Underwriters at Lloyds, Syndicate 4242 Subscribing to Policy No. 42-7560009948-L-00, 836 F.Supp.2d 484.—Lim of Act 127(1).

Bkrtcy. N.D. Tex. 2003. Under Texas law, the "relation-back doctrine" holds that an act done at one time is considered to have been done at an earlier time for the purposes of the case before the court, thus enabling the court to arrive at conclusions that will effectuate justice while maintaining simultaneously the appearance of logical consistency.—In re Jay, 308 B.R. 251, subsequently reversed 432 F.3d 323, on remand 2006 WL 6508188.—Lim of Act 127(1).

Fed.Ci. 2004. The "relation back doctrine" enables parties to amend pleadings with new claims or defenses in certain circumstances after and despite the expiration of the applicable statute of limitations. RCFC, Rule 15(c), 28 U.S.C.A.—Stockton East Water Dist. v. U.S., 62 Fed.Ci. 379, corrected.—U S 113.11(5).

Ala. 2012. In order for the "relation-back doctrine" to apply and justify the substitution of a defendant for a fictitiously named party after the limitations period has run, the plaintiff seeking such substitution must establish: (1) that it stated a cause of action against the defendant in the body of the original complaint, albeit identifying the party only as a fictitiously named party; (2) that it was ignorant of the defendant's identity at the time the original complaint was filed; (3) that it exercised due diligence to identify the fictitiously named party; and (4) that it promptly amended its complaint once it knew the identity of the fictitiously named party. Rules Civ.Proc., Rules 9(h), 15(c).—Patterson v. Consolidated Aluminum Corp., 101 So.3d 743.—Lim of Act 121(2).

Ala. 2012. Alleged victim of secondary asbestos exposure did not move promptly to amend complaint to substitute defendants for fictitiously named parties after alleged victim knew or should have known the identities of parties described in complaint, and therefore "relation-back doctrine" did not apply to justify substitution of defendants for fictitiously named parties after the limitations period had run in alleged victim's action against employers of her father and grandfather; alleged victim did not move to amend complaint at time she received father's Social Security records that listed correct employers, instead waiting until nearly 15 months later to amend the complaint. Rules Civ.Proc., Rules 9(h), 15(c).—Patterson v. Consolidated Aluminum Corp., 101 So.3d 743.—Lim of Act 121(2).

Ala. 2005. The "relation-back doctrine," limiting review of untimely raised issues only to those that relate back to original post-judgment petitions and appeals, was a civil law derivative misapplied to defendant's criminal case as to impede his ability to raise claim of juror misconduct for first time in his amended petition for postconviction relief from capital murder conviction and death sentence; despite civil nature of postconviction proceedings, criminal procedural rule governing amendment of postconviction pleadings permitted amendment of petition without incorporating limitations of doctrine, stating, "Amendments to pleadings may be permitted at any stage of the proceedings prior to the entry of judgment," and adding, "Leave to amend shall be freely granted"; overruling *Harris v. State*, 947 So.2d 1079; *McWilliams v. State*, 897 So.2d 437; *Giles v. State*, 906 So.2d 963; *Ex parte Mack*, 894 So.2d 764; *DeBruce v. State*, 890 So.2d 1068; *Charest v. State*, 854 So.2d 1102; and *Garrett v. State*, 644 So.2d 977. Fed.Rules Civ.Proc., Rule 15(c), 28 U.S.C.A.; Rules Crim.Proc., Rule 32.7.

—Ex parte Jenkins, 972 So.2d 159, on remand *Jenkins v. State*, 972 So.2d 165, rehearing denied, and certiorari denied, certiorari denied 128 S.Ct. 1122, 552 U.S. 1167, 169 L.Ed.2d 951.—Crim Law 1586.

Cal.App. 1 Dist. 2007. "Relation back doctrine" may apply to save claims that have been amended to original complaint, even though five-year period for bringing original action to trial has expired, where amended claims are sufficiently distinct from original claims. West's Ann.Cal. C.C.P. §§ 583.310, 583.360.—*Brumley v. FDCC California, Inc.*, 67 Cal.Rptr.3d 292, 156 Cal.App.4th 312, as modified on denial of rehearing, and review denied.—Lim of Act 127(2.1).

Cal.App. 1 Dist. 2007. "Relation back doctrine" requires that the amended complaint (1) rest on the same general set of facts, (2) involve the same injury, and (3) refer to the same instrumentality as the original one.—*Brumley v. FDCC California, Inc.*, 67 Cal.Rptr.3d 292, 156 Cal.App.4th 312, as modified on denial of rehearing, and review denied.—Lim of Act 127(2.1).

Cal.App. 1 Dist. 2007. "Relation back doctrine" applied to save widow's claim of loss of consortium after five-year period for bringing action to trial had expired; loss of consortium claim, which was filed after decedent, who had originally filed personal injury action stemming from asbestos-related lung illness against various defendants, died as result of asbestos-related cancer, was new cause of action that sought to enforce independent right of different plaintiff who sought different damages, and therefore did not relate back to original claims. West's Ann.Cal.C.C.P. §§ 583.310, 583.360.—*Brumley v. FDCC California, Inc.*, 67 Cal.Rptr.3d 292, 156 Cal.App.4th 312, as modified on denial of rehearing, and review denied.—Death 39.

Cal.App. 1 Dist. 2007. "Relation back doctrine" applied to save wrongful death and survivorship claims of decedent's widow and surviving children after five-year period for bringing action to trial had expired; these claims, which were filed after decedent who had originally filed personal injury action stemming from asbestos-related lung illness against various defendants died as result of asbestos-related cancer, were new causes of action that sought to enforce independent right of different plaintiffs who sought different damages, and therefore did not relate back to original claims. West's Ann.Cal.C.C.P. §§ 583.310, 583.360.—*Brumley v. FDCC California, Inc.*, 67 Cal.Rptr.3d 292, 156 Cal.App.4th 312, as modified on denial of rehearing, and review denied.—Death 39.

Cal.App. 6 Dist. 2006. For application of the "relation-back doctrine," which deems a later-filed pleading to have been filed at the time of an earlier complaint which met the applicable limitations period, thus avoiding the limitations bar, the amended complaint must (1) rest on the same general set of facts, (2) involve the same injury,

and (3) refer to the same original one.—*Quiroz v. Sev* Cal.Rptr.3d 222, 140 Cal.App. Act 127(2.1).

Conn. 2013. "Relation back doctrine" provides that an amendment to original complaint has given that a claim is being asserted against particular transaction or occurrence, namely, to protect parties against stale claims.—*Aus* Ins. Co. of America, 81 A.3d 127(2.1).

Conn. 2012. The "relation back doctrine" provides that an amendment to original complaint has given that a claim is being asserted against particular transaction or occurrence, namely, to protect parties against stale claims.—*Gre* Transportation, 51 A.3d 127(2.1).

Conn. 2009. "Relation back doctrine" provides that an amendment to original complaint has given that a claim is being asserted against particular transaction or occurrence, namely, to protect parties against stale claims.—*New Hartford v. Connect* Authority, 970 A.2d 592, Act 127(2.1).

Conn. 2006. The "relation back doctrine" provides that an amendment to original complaint has given that a claim is being asserted against particular transaction or occurrence, namely, to protect parties against stale claims.—*745*.—Lim of Act 127(2.1).

Conn.App. 2014. "Relation back doctrine," a party proper what has already been cause of action, provide of action remains substituted cause of action is allowed, it will speak as filed.—*Discover Bank* Conn.App. 164, certiorari denied, 94 A.3d 127(2.1), 127(11).

Conn.App. 2007. "Relation back doctrine" provides that an amendment to original complaint has given that a claim is being

Jenkins, 972 So.2d 159, on remand, 972 So.2d 165, rehearing denied, certiorari denied 128 S.Ct. 1167, 169 L.Ed.2d 951.—Crim

Dist. 2007. "Relation back doctrine" provides that an amendment to the original complaint, even though five years after bringing original action to trial has been amended, relates back to the original claims. West's Ann. Cal. § 583.310, 583.360.—Brumley v. FDCC, 67 Cal.Rptr.3d 292, 156 Cal.App.4th 312, as modified on denial of rehearing, certiorari denied.—Lim of Act 127(2.1).

Dist. 2007. "Relation back doctrine" provides that the amended complaint (1) involves the same general set of facts, (2) involves the same injury, and (3) refer to the same instrumentality as the original one.—Brumley v. FDCC, 67 Cal.Rptr.3d 292, 156 Cal.App.4th 312, as modified on denial of rehearing, certiorari denied.—Lim of Act 127(2.1).

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Dist. 2007. "Relation back doctrine" provides that an amendment to a complaint relates back when the original complaint has given the party fair notice that a claim is being asserted stemming from a particular transaction or occurrence, thereby serving the objectives of statute of limitations, namely, to protect parties from having to defend against stale claims.—Deming v. Nationwide Mut. Ins. Co., 905 A.2d 623, 279 Conn. 745.—Lim of Act 127(2.1).

Conn.App. 2014. Under the "relation back doctrine," a party properly may amplify or expand what has already been alleged in support of a cause of action, provided the identity of the cause of action remains substantially the same; if a new cause of action is alleged in an amended complaint, it will speak as of the date when it was filed.—Discover Bank v. Hill, 93 A.3d 159, 150 Conn.App. 164, certification denied.—Discover Card v. Hill, 94 A.3d 1203, 312 Conn. 924.—Lim of Act 127(2.1), 127(11.1).

Conn.App. 2007. "Relation back doctrine" provides that an amendment relates back to original complaint, for limitations purposes, when the original complaint has given the party fair notice that a claim is being asserted stemming from a

particular transaction or occurrence, thereby serving the objectives of the statute of limitations, namely, to protect parties from having to defend against stale claims.—Bosco v. Regan, 927 A.2d 325, 102 Conn.App. 686, certification denied 931 A.2d 931, 284 Conn. 914.—Lim of Act 127(1).

Conn. 2013. "Relation back doctrine" provides that an amendment relates back when the original complaint has given the party fair notice that a claim is being asserted stemming from a particular transaction or occurrence, thereby serving the objectives of the statute of limitations, namely, to protect parties from having to defend against stale claims.—Austin-Casares v. Safeco Ins. Co. of America, 81 A.3d 200, 310 Conn. 640.—Lim of Act 127(2.1).

Conn. 2012. The "relation back doctrine" provides that an amendment relates back when the original complaint has given the party fair notice that a claim is being asserted stemming from a particular transaction or occurrence, thereby serving the objectives of the statute of limitations, namely, to protect parties from having to defend against stale claims.—Jacob v. Dometic Origo AB, 916 A.2d 872, 100 Conn.App. 107, certification granted in part 925 A.2d 1103, 282 Conn. 922.—Lim of Act 127(2.1).

Conn. 2009. "Relation back doctrine" provides that an amendment of a complaint relates back when the original complaint has given the party fair notice that a claim is being asserted stemming from a particular transaction or occurrence, thereby serving the objectives of the statute of limitations, namely, to protect parties from having to defend against stale claims.—Town of New Hartford v. Connecticut Resources Recovery Authority, 970 A.2d 592, 291 Conn. 433.—Lim of Act 127(2.1).

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particular transaction or occurrence, thereby serving the objectives of the statute of limitations, namely, to protect parties from having to defend against stale claims.—Bosco v. Regan, 927 A.2d 325, 102 Conn.App. 686, certification denied 931 A.2d 931, 284 Conn. 914.—Lim of Act 127(1).

Conn.App. 2007. The "relation back doctrine" provides that an amendment to the complaint relates back to the filing of the original complaint, for limitations purposes, when the original complaint has given the party fair notice that a claim is being asserted stemming from a particular transaction or occurrence, thereby serving the objectives of the statute of limitations, namely, to protect parties from having to defend against stale claims.—Jacob v. Dometic Origo AB, 916 A.2d 872, 100 Conn.App. 107, certification granted in part 925 A.2d 1103, 282 Conn. 922.—Lim of Act 127(2.1).

Conn.App. 2002. The "relation back doctrine" provides that an amendment to the complaint relates back to the original complaint, for limitations purposes, when the original complaint has given the party fair notice that a claim is being asserted stemming from a particular transaction or occurrence, thereby serving the objectives of the statute of limitations, namely, to protect parties from having to defend against stale claims.—Franc v. Bethel Holding Co., 807 A.2d 519, 73 Conn.App. 114, certification granted in part 812 A.2d 864, 262 Conn. 923.—Lim of Act 127(2.1).

Fla.App. 1 Dist. 2014. The "relation-back doctrine," which permits an amended pleading to relate back to the original pleading for limitations purposes, is to be liberally construed and applied.—Smith v. Bruster, 151 So.3d 511, rehearing denied.—Lim of Act 127(1).

Fla.App. 4 Dist. 2013. Franchisee's negligent supervision and retention claim in amended complaint against franchisor alleging that franchisor's employee made misrepresentations that induced franchisor related back to timely filed original complaint pursuant to "relation back doctrine," and therefore claim was not barred by the statute of limitations, where claim for negligent supervision and retention was sufficiently covered and referenced in original complaint as original complaint alleged that neither franchisor nor employee's supervisor did anything to remedy the wrongdoing caused by unauthorized misrepresentations of employee, and complaint alleged that franchisor knew or should have known about each and every false promise, projection, and representation made by employee, but that franchisor failed to use reasonable care to correct or mitigate the mistakes of employee. West's F.S.A. RCP Rule 1.190(c).—Kalmanowitz v. Amerada Hess Corp., 125 So.3d 836.—Lim of Act 127(3).

Fla.App. 4 Dist. 2013. The "relation back doctrine" allows for an amendment which merely makes more specific what has already been alleged generally, or which changes the legal theory

of the action, to relate back even though the statute of limitations has run in the interim. West's F.S.A. RCP Rule 1.190(c).—Kalmanowitz v. Amerada Hess Corp., 125 So.3d 836.—Lim of Act 127(2.1).

Fla.App. 4 Dist. 2013. The "relation back doctrine" should be construed liberally in favor of the relation back effect. West's F.S.A. RCP Rule 1.190(c).—Kalmanowitz v. Amerada Hess Corp., 125 So.3d 836.—Lim of Act 127(1).

Fla.App. 4 Dist. 2013. When determining whether the "relation back doctrine" applies, the test is whether the original pleading gives fair notice of the general fact situation out of which the claim or defense arises. West's F.S.A. RCP Rule 1.190(c).—Kalmanowitz v. Amerada Hess Corp., 125 So.3d 836.—Lim of Act 127(1).

Ill.App. 2 Dist. 2005. "Relation-back doctrine" states that an amended pleading must state facts that arise out of the same occurrence or transaction as that pleaded in the original pleading. S.H.A. 735 ILCS 5/2-616(b).—In re Marriage of Wolff, 290 Ill.Dec. 1011, 822 N.E.2d 596, 355 Ill.App.3d 403, appeal pending, appeal denied Wolff v. Wolff, 295 Ill.Dec. 527, 833 N.E.2d 9, 215 Ill.2d 621.—Lim of Act 127(1).

Ill.App. 2 Dist. 2005. "Relation-back doctrine" provides that a cause of action, cross-claim, or defense set up in an amended pleading is not barred by lapse of time under any statute or contract prescribing or limiting the time within which an action may be brought or right asserted, if the time prescribed or limited had not expired when the original pleading was filed, and if it appears from the original and amended pleadings that the cause of action asserted, or the defense or cross-claim interposed, in the amended pleading grew out of the same transaction or occurrence set up in the original pleading. S.H.A. 735 ILCS 5/2-616(b).—In re Marriage of Wolff, 290 Ill.Dec. 1011, 822 N.E.2d 596, 355 Ill.App.3d 403, appeal pending, appeal denied Wolff v. Wolff, 295 Ill.Dec. 527, 833 N.E.2d 9, 215 Ill.2d 621.—Lim of Act 127(2.1), 128, 129.

Mo.App. E.D. 2009. The statute of limitations can be extended through the "relation-back doctrine," which allows for an amended pleading which adds a party not originally named in the initial pleadings. V.A.M.R. 55.33(c).—State ex rel. Rainworks Irrigation Co. v. Bresnahan, 282 S.W.3d 387.—Lim of Act 124.

N.Y.A.D. 2 Dept. 2011. "Relation-back doctrine" allows the addition of a party after the expiration of the statute of limitations if: (1) both claims arose out of the same conduct, transaction, or occurrence; (2) the additional party is united in interest with the original party, and by reason of that relationship can be charged with notice of the institution of the action such that he or she will not be prejudiced in maintaining a defense on the merits; and (3) the additional party knew or

should have known that, but for a mistake by the plaintiff as to the identity of the proper parties, the action would have been brought against the additional party as well. McKinney's CPLR 203(b).—Adler v. Hooper, 928 N.Y.S.2d 731, 87 A.D.3d 633, leave to appeal denied 957 N.Y.S.2d 285, 19 N.Y.3d 801, 980 N.E.2d 950.—Lim of Act 124.

N.Y.A.D. 2 Dept. 2009. The "relation-back doctrine" allows a party to be added to an action after the expiration of the statute of limitations, and the claim is deemed timely interposed, if (1) the claim arises out of the same conduct, transaction, or occurrence, (2) the additional party is united in interest with the original party, and (3) the additional party knew or should have known that but for a mistake by the plaintiff as to the identity of the proper parties, the action would have been brought against the additional party as well.—Bumpus v. New York City Transit Authority, 883 N.Y.S.2d 99, 66 A.D.3d 26.—Lim of Act 124.

N.Y.A.D. 2 Dept. 2008. The "relation-back doctrine" enables a plaintiff to correct a pleading error by adding either a new claim or a new party after the statutory limitations period has expired.—Rivera v. Fishkin, 852 N.Y.S.2d 284, 48 A.D.3d 663.—Lim of Act 124, 127(1).

N.Y.A.D. 2 Dept. 2007. The "relation-back doctrine" permits a plaintiff to interpose a claim or cause of action which would ordinarily be time barred, where the allegations of the original complaint gave notice of the transactions or occurrences to be proven and the cause of action would have been timely interposed if asserted in the original complaint. McKinney's CPLR 203(f).—Pendleton v. City of New York, 843 N.Y.S.2d 648, 44 A.D.3d 733.—Lim of Act 127(2.1).

N.Y.A.D. 4 Dept. 2012. Under the "relation back doctrine," proposed new causes of action in an amended pleading are not time-barred if those causes of action merely add new theories of recovery arising out of transactions already at issue in the litigation, but the doctrine is inapplicable where the causes of action are based upon events that occurred after the filing of the initial pleading. McKinney's CPLR 203(f).—Clairol Development, LLC v. Village of Spencerport, 954 N.Y.S.2d 389, 100 A.D.3d 1546.—Lim of Act 127(2.1), 127(11.1).

N.Y.A.D. 4 Dept. 2011. Pursuant to the "relation back doctrine," a claim may be asserted against a new defendant after the expiration of the statute of limitations when the new defendant is united in interest with the original defendant and by reason of that relationship can be charged with such notice of the institution of the action that the new defendant will not be prejudiced in maintaining its defense on the merits by the delayed, otherwise stale, commencement.—Verizon New York, Inc. v. Labarge Bros. Co., Inc., 916 N.Y.S.2d 377, 81 A.D.3d 1294.—Lim of Act 124.

Tex.App.—San Antonio 2013. Under the "relation-back doctrine," the inception of a subsequently perfected mechanic's liens will relate back to the date of a general contract for other improvement between the owner of the land and a contractor for the contract which the mechanic contributed.—Schroock, 406 S.W.3d 307.—Mech Li

Tex.App.—San Antonio 2011. The "relation-back doctrine" provides that an amended pleading relates back to the filing of the original pleading.—RDG Partnership v. Long, 351 S.W.3d 100, rehearing overruled.—Plead 252(1).

Tex.App.—San Antonio 2008. The "relation-back doctrine" allows an amendment to pleadings, which would otherwise be barred by limitations, as long as the amendment is not based on new, distinct, or different facts or actions, and corollary to the relation-back doctrine is misnomer in which the correct party is sued but the pleading misnames the party. An amended pleading that correctly names a party relates back to the date of the original pleading. V.T.C.A., Civil Practice Code § 16.068.—Bailey v. Univer Health Science Center at San Antonio, 385 S.W.3d 147, review granted, affirmed 395 S.W.3d 147.—Lim of Act 121(2), 127(2.1).

Tex.App.—Corpus Christi 2010. The "relation-back doctrine" allows for a party to supplement a pleading changing the nature of liability or even correct capacity as the original claims were time barred. Amendments or supplementation of a new, distinct, or different cause of action. V.T.C.A., Civil Practice Code § 16.068.—SJW Property v. Southwest Pinnacle Properties, 121, review denied, and rehearing review denied.—Lim of Act 1

RELATION BACK RULE

C.A.11 (Fla.) 2005. The "relation-back doctrine" is found in federal criminal forfeiture statute which gives government the "immediate effect" of conversion, the moment criminal property is converted. Money that was ever up their legal trust fund. Civil Abuse Prevention and Control Act § 413(c), 21 U.S.C.A. § 853(c) 419 F.3d 1208.—Conv & Civ Tr

RELATION-BACK STATUTE

Wash.App. Div. 2 2013. Statute of limitations for a mechanics' lien relates back to the date of the "relation-back statute." 60.04.061.—Scott's Excavating Winlock Properties, LLC, 3 Wash.App. 335, review denied and Trust Co. v. Gibbs and O 494, 179 Wash.2d 1011.—Me

known that, but for a mistake by the identity of the proper parties, would have been brought against the party as well. McKinney's CPLR v. Hooper, 928 N.Y.S.2d 731, 87 N.Y.S.2d 950, 801 N.E.2d 950.—Lim of Act

Dept. 2009. The "relation-back" doctrine provides that an amended pleading is deemed timely interposed, if (1) it is out of the same conduct, transaction, (2) the additional party is known to the original party, and (3) the party knew or should have known of the mistake by the plaintiff as to the proper parties, the action would have been brought against the additional party as well. New York City Transit Authority v. New York City Transit Authority, 99 A.D.3d 26.—Lim of Act

Dept. 2008. The "relation-back" doctrine allows a plaintiff to correct a pleading to add either a new claim or a new party if the limitations period has expired. Kin, 852 N.Y.S.2d 284, 48 A.D.3d 124, 127(1).

Dept. 2007. The "relation-back" doctrine allows a plaintiff to interpose a claim in which would ordinarily be time barred if the allegations of the original complaint and the cause of action would have been interposed if asserted in the original pleading. McKinney's CPLR 203(f).—Lim of Act 127(2.1).

Dept. 2012. Under the "relation-back" doctrine, proposed new causes of action in a pleading are not time-barred if those causes of action merely add new theories of recovery to causes of action already at issue in the pleading, but the doctrine is inapplicable if the causes of action are based upon events that occurred after the filing of the initial pleading. CPLR 203(f).—Clair Development Corp. v. Village of Spencerport, 954 N.Y.S.2d 1546.—Lim of Act

Dept. 2011. Pursuant to the "relation-back" doctrine, a claim may be asserted against a defendant after the expiration of the limitations period when the new defendant is known to the original defendant at the time that relationship can be charged against the institution of the action and the defendant will not be prejudiced in its defense on the merits by the delay in asserting the claim, commencement.—Verizon Wireless v. Labarge Bros. Co., Inc., 916 N.Y.S.2d 1294.—Lim of Act 124.

Tex.App.—San Antonio 2013. Under the "relation-back doctrine," the inception date of subsequently perfected mechanic's liens will relate back to the date of a general contract for a building or other improvement between the owner of the land and a contractor for the construction of which the mechanic contributed.—Sanchez v. Schroeck, 406 S.W.3d 307.—Mech Liens 173.

Tex.App.—San Antonio 2011. The "relation-back doctrine" provides that an amended pleading relates back to the filing of the original pleading.—RDG Partnership v. Long, 350 S.W.3d 262, rehearing overruled.—Plead 252(1).

Tex.App.—San Antonio 2008. The "relation-back doctrine" allows an amendment or supplement to pleadings, which would otherwise be barred by limitations, as long as the amendments are not based on new, distinct, or different transactions, and corollary to the relation-back doctrine is misnomer in which the correct defendant is sued but the pleading misnames him; the amended pleading that correctly names the defendant relates back to the date of the misnomer pleading. V.T.C.A., Civil Practice & Remedies Code § 16.068.—Bailey v. University of Texas Health Science Center at San Antonio, 261 S.W.3d 147, review granted, affirmed 332 S.W.3d 395.—Lim of Act 121(2), 127(2.1).

Tex.App.—Corpus Christi 2010. The "relation-back doctrine" allows for a party to amend or supplement a pleading changing facts or grounds of liability or even correct capacity issues as long as the original claims were timely filed and the amendments or supplementation do not constitute a new, distinct, or different transaction or occurrence. V.T.C.A., Civil Practice & Remedies Code § 16.068.—SIW Property Commerce, Inc. v. Southwest Pinnacle Properties, Inc., 328 S.W.3d 121, review denied, and rehearing of petition for review denied.—Lim of Act 127(1), 127(11.1).

RELATION BACK RULE

C.A.11 (Fla.) 2005. The "relation back rule" found in federal criminal forfeiture statute did not give government the "immediate right to possession," as that phrase was defined by Florida law of conversion, the moment criminal defendants laundered money that was eventually used to set up their legal trust fund. Comprehensive Drug Abuse Prevention and Control Act of 1970, § 413(c), 21 U.S.C.A. § 853(c).—U.S. v. Bailey, 419 F.3d 1208.—Conv & Civ Theft 124.

RELATION-BACK STATUTE

Wash.App. Div. 2 2013. Statute governing the priority of a mechanic's lien is known as the "relation-back statute." West's RCWA 60.04.061.—Scott's Excavating Vancouver, LLC v. Winlock Properties, LLC, 308 P.3d 791, 176 Wash.App. 335, review denied First-Citizens Bank and Trust Co. v. Gibbs and Olson, Inc., 316 P.3d 494, 179 Wash.2d 1011.—Mech Liens 173, 198.

RELATIONSHIP

C.A.9 (Hawaii) 2008. For purposes of determining whether an applicant to intervene as of right has a "significant protectable interest" in the action, the requirement of a "relationship" between the applicant's legally protected interest and the plaintiff's claims is met if the resolution of the plaintiff's claims actually will affect the applicant. Fed.Rules Civ.Proc.Rule 24(a), 28 U.S.C.A.—In re Estate of Ferdinand E. Marcos Human Rights Litigation, 536 F.3d 980, certiorari denied Hilao v. Revelstoke Inv. Corp., Inc., 129 S.Ct. 1993, 556 U.S. 1182, 173 L.Ed.2d 1085.—Fed Civ Proc 315.

N.D.Ind. 2013. "Relationship" element, required to find that a group is an association-in-fact enterprise under Racketeer Influenced and Corrupt Organizations Act (RICO), may not simply be any hypothetical relationships between one associate and other, but must be sufficient to demonstrate that the various associates are capable of functioning in a coordinated manner, as a continuing unit, to achieve the common purpose. 18 U.S.C.A. § 1961(4).—Browning v. Flexsteel Industries, Inc., 955 F.Supp.2d 900.—RICO 36.

D.Puerto Rico 2007. ADA's "association provision" protects qualified individuals from employment discrimination based on known disability of an individual with whom qualified individual is known to have a relationship or association; relationship between employee and the disabled associate need not be a familial relationship, but can extend to business, social or other relationships or associations, although family relationship is paradigmatic example of "relationship" under ADA association provision. Americans with Disabilities Act of 1990, § 102(b)(4), 42 U.S.C.A. § 12112(b)(4).—Torres-Alman v. Verizon Wireless Puerto Rico, Inc., 522 F.Supp.2d 367.—Civil R 1230.

E.D.Va. 2008. "Relationship" requirement of Racketeer Influenced and Corrupt Organizations Act (RICO) pattern of activity is satisfied when criminal acts have same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events. 18 U.S.C.A. §§ 1961(5), 1962(a).—Smithfield Foods, Inc. v. United Food and Commercial Workers Intern. Union, 633 F.Supp.2d 214.—RICO 28.

E.D.Va. 2008. Racketeer Influenced and Corrupt Organizations Act (RICO) "relationship" requirement for pattern of racketeering activity is satisfied when criminal acts have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics and are not isolated events. 18 U.S.C.A. § 1961(5).—Smithfield Foods, Inc. v. United Food and Commercial Workers Intern. Union, 585 F.Supp.2d 789.—RICO 28.