ENGROSSED SENATE
BILL NO. 692

By: Laster of the Senate

and

Morgan (Fred) of the House

An Act relating to civil procedure; establishing procedures for transfer of certain cases; specifying party responsible for certain fees; amending 12 O.S. 2001, Sections 696.2, 696.3, as amended by Section 1, Chapter 181, O.S.L. 2004, 990A, as amended by Section 6, Chapter 468, O.S.L. 2002, 1083, 2004.1, as last amended by Section 21, Chapter 468, O.S.L. 2002, 2005, 3234 and 3236 (12 O.S. Supp. 2004, Sections 696.3, 990A and 2004.1), which relate to judgments, decrees and appealable orders, appeal, dismissal, subpoena, service and filing, production of documents and requests for admission; modifying certain notice procedures; providing exception for certain signature requirement; requiring dismissal of certain action; modifying certain subpoena procedures; allowing certain methods of service under certain circumstances; modifying scope of requests for production of documents and requests for admission; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 140.1 of Title 12, unless there is created a duplication in numbering, reads as follows:

When the court orders the transfer of a case upon a showing by a party that the venue is or should be in another county, the clerk of the court shall prepare a transcript of all papers filed and orders entered and a bill of the costs accrued, shall collect a new filing fee which shall be due to the clerk of the court to which transfer is ordered, and shall forthwith transmit by certified mail the files and transcript of the cause and the fee due to the clerk of the court to which transfer is ordered. Unless otherwise ordered by the court, the plaintiff shall be responsible for paying appropriate filing fees when the transfer is one to transfer a case brought in

the wrong venue to a court having proper venue. In all other instances, the moving party shall be responsible for payment of fees. Fees for the transfer shall be paid within ten (10) days of the transfer order.

SECTION 2. AMENDATORY 12 O.S. 2001, Section 696.2, is amended to read as follows:

Section 696.2 A. After the granting of a judgment, decree or appealable order, it shall be reduced to writing in conformance with Section 696.3 of this title, signed by the court, and filed with the court clerk. The court may direct counsel for any party to the action to prepare a draft for the signature of the court, in which event, the court may prescribe procedures for the preparation and timely filing of the judgment, decree or appealable order, including, but not limited to, the time within which it is to be submitted to the court. If a written judgment, decree or appealable order is not submitted to the court by the party directed to do so within the time prescribed by the court, then any other party may reduce it to writing and submit it to the court.

B. ~~A~~ Except as provided in this subsection, a file-stamped copy of every judgment, decree, or appealable order shall be ~~mailed to~~ served upon all parties, including those parties who are ~~not~~ in default for failure to appear in the action, by the counsel for a party or party who prepared it, or by a person designated by the trial court, promptly and no later than three (3) days after it is filed. The ~~mailing~~ service shall be done in the manner provided in Section 2005 of Title 12 of the Oklahoma Statutes for the service of papers, and a certificate of service must be filed with the court clerk. If the judgment, decree or appealable order was prepared by the court, the court may direct a bailiff, court clerk or party to perform the ~~mailing~~ service and certificate of service required by this subsection. If a party has failed to appear in the action, it shall be sufficient to mail a file-stamped copy of the judgment,

decree, or appealable order by first-class mail to the party's last-known address, or if the service of process was on a registered agent, to the address of the registered agent. No mailing is required to a party who has failed to appear in the action if that party was served by publication.

C. In any probate, guardianship, or conservatorship proceeding commenced on or after October 1, 1996, where a party, heir, devisee, legatee, or other interested party or representative of a party has received notice of a hearing which resulted in the issuance of a judgment, decree, or appealable order and did not file an entry of appearance, no further ~~mailing~~ service of any judgment, decree, or appealable order shall be required to be sent to such party, heir, devisee, legatee, or other interested party or representative of a party, unless otherwise specifically required by law. No certificate of ~~mailing~~ service shall be required to be filed where no party, heir, devisee, legatee, or other interested party, or representative of a party has filed an entry of appearance.

D. The filing with the court clerk of a written judgment, decree or appealable order, prepared in conformance with Section 696.3 of this title and signed by the court, shall be a jurisdictional prerequisite to the commencement of an appeal. The following shall not constitute a judgment, decree or appealable order: A minute entry; verdict; informal statement of the proceedings and relief awarded, including, but not limited to, a letter to a party or parties indicating the ruling or instructions for preparing the judgment, decree or appealable order.

E. A judgment, decree or appealable order, whether interlocutory or final, shall not be enforceable in whole or in part unless or until it is signed by the court and filed; except that the adjudication of any issue shall be enforceable when pronounced by the court in the following actions: divorce; separate maintenance; annulment; post-decree matrimonial proceedings; paternity; custody;

adoption; termination of parental rights; mental health; guardianship; juvenile matters; habeas corpus proceedings; or proceedings for temporary restraining orders, temporary injunctions, permanent injunctions, conservatorship, probate proceedings, special executions in foreclosure actions, quiet title actions, partition proceedings or contempt citations. The time for appeal shall not begin to run until a written judgment, decree or appealable order, prepared in conformance with Section 696.3 of this title, is filed with the court clerk, regardless of whether the judgment, decree, or appealable order is effective when pronounced or when it is filed.

F. The preparation of orders, decisions and awards and the taking of appeals in workers' compensation cases shall be governed by the provisions of Title 85 of the Oklahoma Statutes.

SECTION 3. AMENDATORY 12 O.S. 2001, Section 696.3, as amended by Section 1, Chapter 181, O.S.L. 2004 (12 O.S. Supp. 2004, Section 696.3), is amended to read as follows:

Section 696.3 A. Judgments, decrees and appealable orders that are filed with the clerk of the court shall contain:

1. A caption setting forth the name of the court, the names and designation of the parties, the file number of the case and the title of the instrument;

2. A statement of the disposition of the action, proceeding or motion, including a statement of the relief awarded to a party or parties and the liabilities and obligations imposed on the other party or parties, including the amount of any prejudgment interest;

3. The signature and title of the court; and

4. Any other matter approved by the court.

B. Judgments, decrees and appealable orders that are filed with the clerk of the court may contain a statement of costs, attorney fees and interest other than prejudgment interest, or any of them, if they have been determined prior to the time the judgment, decree

or appealable order is signed by the court in accordance with this section.

C. The clerk shall endorse on the judgment, decree or appealable order the date it was filed and the name and title of the clerk.

D. A file-stamped copy of the judgment, decree, or appealable order shall be ~~mailed to~~ served upon all parties, including those parties who are ~~not~~ in default for failure to appear in the action, as provided in Section 696.2 of this title.

SECTION 4. AMENDATORY 12 O.S. 2001, Section 990A, as amended by Section 6, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2004, Section 990a), is amended to read as follows:

Section 990a. A. An appeal to the Supreme Court of Oklahoma, if taken, must be commenced by filing a petition in error with the Clerk of the Supreme Court of Oklahoma within thirty (30) days from the date a judgment, decree, or appealable order prepared in conformance with Section 696.3 of this title is filed with the clerk of the trial court. If the appellant did not prepare the judgment, decree, or appealable order, and Section 696.2 of this title required a copy of the judgment, decree, or appealable order to be mailed to the appellant, and the court records do not reflect the mailing of a copy of the judgment, decree, or appealable order to the appellant within three (3) days, exclusive of weekends and holidays, after the filing of the judgment, decree, or appealable order, the petition in error may be filed within thirty (30) days after the earliest date on which the court records show that a copy of the judgment, decree, or appealable order was mailed to the appellant.

B. The filing of the petition in error may be accomplished either by delivery or mailing by certified or first-class mail, postage prepaid, to the Clerk of the Supreme Court. The date of filing or the date of mailing, as shown by the postmark affixed by

the post office or other proof from the post office of the date of mailing, shall constitute the date of filing of the petition in error. If there is no proof from the post office of the date of mailing, the date of receipt by the Clerk of the Supreme Court shall constitute the date of filing of the petition in error.

C. The Supreme Court shall provide by rule, which shall have the force of statute, and be in furtherance of this method of appeal:

1. For the filing of cross-appeals;

2. The procedure to be followed by the trial courts or tribunals in the preparation and authentication of transcripts and records in cases appealed under this act; and

3. The procedure to be followed for the completion and submission of the appeal taken hereunder.

D. In all cases the record on appeal shall be complete and ready for filing in the Supreme Court within the time prescribed by rule.

E. Except for the filing of a petition in error as provided herein, all steps in perfecting an appeal are not jurisdictional.

F. 1. If a petition in error is filed before the time prescribed in this section, it shall be dismissed as premature; however, if the time to commence the appeal accrues before the appeal is dismissed, the appellant may file a supplemental petition in error, without the payment of any additional costs. Such supplemental petition in error shall state when the time for commencing the appeal began and shall set out all matters which have occurred since the filing of the original petition in error and which should be included in a timely petition in error. When a proper supplemental petition in error is filed, the appeal shall not be dismissed on the ground that it was premature.

2. If an appeal is dismissed on the ground that it was premature, the appellant may file a new petition in error within the

time prescribed in this section for filing petitions in error or within thirty (30) days after notice is mailed to the parties which states that the appeal was dismissed on the ground that it was premature, whichever date is later. A notice that an appeal was dismissed on the ground that it was premature shall include the date of mailing and the ground for dismissal.

G. 1. No designation of record shall be accepted by the district court clerk for filing unless it contains one of the following:

a. where a transcript is designated: A signed acknowledgment from the court reporter who reported evidence in the case indicating receipt of the request for transcript, the date received, and the amount of deposit received, if applicable, in substantially the following form: I, _____, court reporter for the above styled case, do hereby acknowledge this request for transcript on this ____ day of____, 20__, and have received a deposit in the sum of $____., or

b. where a transcript is not designated: A signed statement by the attorney preparing the designation of record stating that a transcript has not been ordered and a brief explanation why, in substantially the following form: I, _____, attorney for the appellant, hereby state that I have not ordered a transcript because:

(1) a transcript is not necessary for this appeal, or

(2) no stenographic reporting was made.

2. This section shall not apply to counter-designations of record filed by appellees.

3. A court reporter's signature shall not be required on the designation of record for those designated transcripts which have

earlier been transcribed and deposited with the district court clerk.

SECTION 5. AMENDATORY 12 O.S. 2001, Section 1083, is amended to read as follows:

Section 1083. Any action ~~which is not at issue and~~ in which no pleading has been filed or other action taken for a year and in which no motion or demurrer has been pending during any part of said year shall be dismissed without prejudice by the court on its own motion after notice to the parties or their attorneys of record; providing, the court may upon written application and for good cause shown, by order in writing allow the action to remain upon its docket.

SECTION 6. AMENDATORY 12 O.S. 2001, Section 2004.1, as last amended by Section 21, Chapter 468, O.S.L. 2002 (12 O.S. Supp. 2004, Section 2004.1), is amended to read as follows:

Section 2004.1

SUBPOENA

A. SUBPOENA; FORM; ISSUANCE.

1. Every subpoena shall:

a. state the name of the court from which it is issued and the title of the action~~;~~, and

b. command each person to whom it is directed to attend and give testimony or to produce and permit inspection and copying of designated books, documents or tangible things in the possession, custody or control of that person, or to permit inspection of premises, at a time and place therein specified.

2. A subpoena shall issue from the court where the action is pending, and it may be served at any place within the state.

Deposition in action pending outside of this state.

a. If the action is pending outside of this state, the district court for the county in which the deposition

is to be taken shall issue the subpoena and, upon application, any other order or process that may be appropriate in aid of discovery in that action. Proof of service of a notice to take deposition constitutes a sufficient authorization for the issuance ~~by the clerk~~ of subpoenas for the persons named or described therein~~; provided, any person aggrieved by the issuance or enforcement of the subpoena may obtain judicial review upon the filing of a civil action and payment of the required fees~~.

Subpoena for production or inspection in action pending outside of this state.

b. If the action is pending outside of this state, the district court for the county in which the production or inspection is to be made shall issue a subpoena for production or inspection as provided in subparagraph b of paragraph 1 of this subsection if separate from a subpoena commanding the attendance of a person, and, upon application, any other order or process that may be appropriate in aid of discovery in that action. Proof of service of a notice of request for production of documents without a deposition constitutes a sufficient authorization for the issuance of a subpoena for production or inspection.

Judicial assistance or review available.

c. Any person seeking an order or process in aid of discovery or any person aggrieved by the issuance or enforcement of a subpoena issued in aid of discovery for an action pending outside of this state may obtain judicial assistance or review upon the filing of a civil action and payment of the required fees.

3. A witness shall be obligated upon service of a subpoena to attend a trial or hearing at any place within the state and to attend a deposition or produce or allow inspection of documents at a location that is authorized by subsection B of Section 3230 of this title.

4. The clerk shall issue a subpoena, or a subpoena for the production of documentary evidence, signed and sealed but otherwise in blank, to a party requesting it, who shall fill it in before service. As an officer of the court, an attorney authorized to practice law in this state may also issue and sign a subpoena on behalf of a court of this state.

5. Leave of court for issuance of a subpoena for the production of documentary evidence shall be required if the plaintiff seeks to serve a subpoena for the production of documentary evidence on any person who is not a party prior to the expiration of thirty (30) days after service of the summons and petition upon any defendant.

6. Notwithstanding any other provision of law, a court clerk of this state shall not be subject to a subpoena in matters relating to court records unless the court makes a specific finding that the appearance and testimony of the court clerk are both material and necessary because of a written objection to the introduction of the court records made by a party prior to trial.

B. 1. SERVICE. Service of a subpoena upon a person named therein shall be made by delivering or mailing a copy thereof to such person and, if the person's attendance is demanded, by tendering to that person the fees for one (1) day's attendance and the mileage allowed by law. Service of a subpoena may be accomplished by any person who is eighteen (18) years of age or older. A copy of any subpoena that commands production of documents and things or inspection of premises before trial shall be served on each party in the manner prescribed by subsection B of Section 2005 of this title. If the subpoena commands production of documents and

things or inspection of premises from a nonparty before trial but does not require attendance of a witness, the subpoena shall specify a date for the production or inspection that is at least seven (7) days after the date that the subpoena and copies of the subpoena are served on the witness and all parties, and the subpoena shall include the following language: "In order to allow objections to the production of documents and things to be filed, you should not produce them until the date specified in this subpoena, and if an objection is filed, until the court rules on the objection."

2. Service of a subpoena by mail may be accomplished by mailing a copy thereof by certified mail with return receipt requested and delivery restricted to the person named in the subpoena. The person serving the subpoena shall make proof of service thereof to the court promptly and, in any event, before the witness is required to testify at the hearing or trial. If service is made by a person other than a sheriff or deputy sheriff, such person shall make affidavit thereof. If service is by mail, the person serving the subpoena shall show in the proof of service the date and place of mailing and attach a copy of the return receipt showing that the mailing was accepted. Failure to make proof of service does not affect the validity of the service, but service of a subpoena by mail shall not be effective if the mailing was not accepted by the person named in the subpoena. Costs of service shall be allowed whether service is made by the sheriff, the sheriff's deputy, or any other person. When the subpoena is issued on behalf of a state department, board, commission, or legislative committee, fees and mileage shall be paid to the witness at the conclusion of the testimony out of funds appropriated to the state department, board, commission, or legislative committee.

C. PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.

1. A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing

undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney, or both, in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and a reasonable attorney fee.

2. a. A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

b. Subject to paragraph 2 of subsection D of this section, a person commanded to produce and permit inspection and copying or any party may, within fourteen (14) days after service of the subpoena or before the time specified for compliance if such time is less than fourteen (14) days after service, serve written objection to inspection or copying of any or all of the designated materials or of the premises. An objection that all or a portion of the requested material will or should be withheld on a claim that it is privileged or subject to protection as trial preparation materials shall be made within this time period and in accordance with subsection D of this section. If the objection is made by the witness, the witness shall serve the objection on all parties; if objection is made by a party, the party shall serve the objection on the witness and all other parties. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order of the court by which the subpoena was

issued. For failure to object in a timely fashion, the court may assess reasonable costs and attorney fees or take any other action it deems proper; however, a privilege or the protection for trial preparation materials shall not be waived solely for a failure to timely object under this section. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any person who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

3. a. On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it:

(1) fails to allow reasonable time for compliance~~; or~~,

(2) requires a person to travel to a place beyond the limits allowed under paragraph 3 of subsection A of this section~~; or~~,

(3) requires disclosure of privileged or other protected matter and no exception or waiver applies~~; or~~,

(4) subjects a person to undue burden~~;~~, or

(5) requires production of books, papers, documents or tangible things that fall outside the scope of discovery permitted by Section 3226 of this title.

b. If a subpoena:

(1) requires disclosure of a trade secret or other confidential research, development, or commercial information~~;~~, or

(2) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party,

the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena. However, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

D. DUTIES IN RESPONDING TO SUBPOENA.

1. A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

2. When information subject to a subpoena is withheld on a claim that it is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.

E. CONTEMPT.

Failure by any person without adequate excuse to obey a subpoena served upon him or her may be deemed a contempt of the court from which the subpoena issued.

SECTION 7. AMENDATORY 12 O.S. 2001, Section 2005, is amended to read as follows:

Section 2005.

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

A. SERVICE: WHEN REQUIRED. Except as otherwise provided in this title, every order required by its terms to be served, every pleading subsequent to the original petition unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party or any other person unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, and similar paper shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Section 2004 of this title.

B. SERVICE: HOW MADE. Whenever pursuant to this act service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service upon the party himself is ordered by the court or final judgment has been rendered and the time for appeal has expired. Service upon the attorney or upon a party shall be made by delivering a copy to him or by mailing it to him at his last-known address or, if no address is known, by leaving it with the clerk of the court. Delivery of a copy within this section means:

1. Handing it to the attorney or to the party; ~~or~~

2. Leaving it at his office with his clerk or other person in charge thereof; ~~or~~

3. If there is no one in charge, leaving it in a conspicuous place therein; or

4. If the office is closed or the person to be served has no office, leaving it at his dwelling house or usual place of abode with some person residing therein who is fifteen (15) years of age or older.

Except for service of the summons and the original petition, service by mail is complete upon mailing. Whenever the court clerk or a party is required to serve a judgment or other paper by first-class mail, service in accordance with any method permitted by this section is sufficient to comply with the requirement.

C. SERVICE: NUMEROUS DEFENDANTS. In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

D. FILING. All papers after the petition required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter, but the court may on motion of a party or on its own initiative order that depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto not be filed unless on order of the court or for use in the proceeding. All papers filed with the court shall include a statement setting forth the names of the persons served and the date, place, and method of service.

E. FILING WITH THE COURT DEFINED.

1. The filing of papers with the court as required by this act shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him, in which event he shall note thereon the filing date and forthwith transmit them to the office of the clerk.

2. A duplicate of any paper shall be acceptable for filing with the court and shall have the same force and effect as an original. For purposes of this section a duplicate is a copy produced on unglazed white or eggshell paper by mechanical, chemical or electronic means, or by other equivalent technique, which accurately reproduces the original. A duplicate that is acceptable for filing shall not be refused because any signatures thereon are duplicates. A carbon copy shall not be considered a duplicate for purposes of this section.

3. Papers may be filed by facsimile or other electronic transmission directly to the court or the court clerk as permitted by a rule of court. The Administrative Office of the Courts shall promulgate rules for the district court for the filing of papers transmitted by facsimile or other electronic transmission device. Rules for facsimile or other electronic transmission filing must have the approval of the Supreme Court.

4. The clerk shall not refuse to accept for filing any paper solely because it is not presented in proper form as required by these rules or any local rules or practices.

SECTION 8. AMENDATORY 12 O.S. 2001, Section 3234, is amended to read as follows:

Section 3234. A. SCOPE. Any party may serve on any other party a request:

1. To produce and permit the party making the request, or someone acting on his behalf, to inspect and copy any designated documents including, but not limited to, writings, drawings, graphs, charts, photographs, motion picture films, phonograph records, tape and video recordings, records and other data compilations from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form, or to inspect and copy, test or sample any tangible things which constitute or contain matters within the scope of subsection B of

Section 3226 of this title and which are in the possession, custody or control of the party upon whom the request is served. In any case involving a claim for personal injury or death, the number of requests under this section, including subdivisions of one numbered request, shall not exceed thirty in number. No further requests will be served unless authorized by the Court. If counsel for a party believes that more than thirty requests are necessary, counsel shall consult with opposing counsel promptly and attempt to reach a written stipulation as to a reasonable number of additional requests. Counsel are expected to comply with this requirement in good faith. In the event a written stipulation cannot be agreed upon, the parties seeking to submit such additional requests shall file a motion with the court which provides the following:

a. that counsel have conferred in good faith but sincere attempts to resolve the issue have been unavailing,

b. reasons establishing good cause for their use, and

c. setting forth the proposed additional requests; or

2. To permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection and measuring, surveying, photographing, testing or sampling the property or any designated object or operation thereon, within the scope of subsection B of Section 3226 of this title.

B. PROCEDURE. The request to produce or permit inspection or copying may, without leave of court, be served upon the plaintiff after commencement of the action and upon any other party with the summons and petition or after service of the summons and petition upon that party. The request shall set forth and describe with reasonable particularity the items to be inspected either by individual item or by category. The request shall specify a reasonable time, place and manner of making the inspection and performing the related acts.

The party, upon whom the request is served, shall serve a written response within thirty (30) days after the service of the request, except that a defendant may serve a response within forty-five (45) days after service of the summons and petition upon that defendant. The court may allow a shorter or longer time. The response shall state, with respect to each item or category, that inspection and related activities shall be permitted as requested, unless the request is objected to, in which event the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified. The party submitting the request may move for an order under subsection A of Section 3237 of this title with respect to any objection to or other failure to respond to the request or any part thereof, or any failure to permit inspection as requested.

A party who produces documents for inspection shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the request.

C. PERSONS NOT PARTIES. A person not a party to the action may be compelled to produce documents and things or to submit to an inspection as provided in Section 2004.1 of this title.

SECTION 9. AMENDATORY 12 O.S. 2001, Section 3236, is amended to read as follows:

Section 3236. A. REQUEST FOR ADMISSION. A party may serve upon any other party a written request for the admission, for purposes of the pending action only, of the truth of any matters within the scope of Section 3226 of this title set forth in the request that relate to statements or opinions of fact or of the application of law to fact, including the genuineness of any documents described in the request. Copies of documents shall be served with the request for admission unless they have been or are otherwise furnished or made available for inspection and copying. The request may, without leave of court, be served upon the

plaintiff after commencement of the action and upon any other party with the summons and petition or after service of the summons and petition upon that party. ~~The number of requests for admissions for each party is limited to thirty. No further requests for admission will be served unless authorized by the court. If counsel for a party believes that more than thirty requests for admissions are necessary, he shall consult with opposing counsel promptly and attempt to reach a written stipulation as to a reasonable number of additional requests for admissions. Counsel are expected to comply with this requirement in good faith. In the event a written stipulation cannot be agreed upon, the party seeking to submit such additional requests for admissions shall file a motion with the court (1) showing that counsel have conferred in good faith but sincere attempts to resolve the issue have been unavailing, (2) showing reasons establishing good cause for their use, and (3) setting forth the proposed additional requests.~~

Each matter of which an admission is requested shall be separately set forth. The matter is admitted unless, within thirty (30) days after service of the request, or within such shorter or longer time as the court may allow, the party to whom the request is directed serves upon the party requesting the admission a written answer or objection addressed to the matter, signed by the party or by his attorney, but unless the court shortens the time, a defendant shall not be required to serve answers or objections before the expiration of forty-five (45) days after service of the summons and petition upon him.

If objection is made, the reasons therefor shall be stated. The answer shall specifically deny the matter or set forth in detail the reasons why the answering party cannot truthfully admit or deny the matter. A denial shall fairly meet the substance of the requested admission, and when good faith requires that a party qualify his answer or deny only a part of the matter of which an admission is

requested, he shall specify so much of it as is true and qualify or deny the remainder. An answering party may not give lack of information or knowledge as a reason for failure to admit or deny unless he states that he has made reasonable inquiry and that the information known or readily obtainable by him is insufficient to enable him to admit or deny. A party who considers that a matter of which an admission has been requested presents a genuine issue for trial may not, on that ground alone, object to the request; he may, subject to the provisions of subsection D of Section 3237 of this title, deny the matter or set forth reasons why he cannot admit or deny it.

The party who has requested the admission may move to determine the sufficiency of the answers or objections. Unless the court determines that an objection is justified, it shall order that an answer be served. If the court determines that an answer does not comply with the requirements of this section, it may order either that the matter is admitted or that an amended answer be served.

The court may, in lieu of these orders, determine that final disposition of the request be made at a pretrial conference or at a designated time prior to trial. The provisions of paragraph 4 of subsection A of Section 3237 of this title apply to the award of expenses incurred in relation to the motion.

B. EFFECT OF ADMISSION. Any matter admitted under this section is conclusively established unless the court on motion permits withdrawal or amendment of the admission. The court may permit withdrawal or amendment of an admission when the presentation of the merits of the action will be subserved thereby and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice him in maintaining his action or defense on the merits.

C. SCOPE OF ADMISSIONS. Any admission made by a party under this section is for the purpose of the pending action only and is

not an admission by him for any other purpose nor may it be used against him in any other proceeding.

SECTION 10. This act shall become effective November 1, 2005.

Passed the Senate the 8th day of March, 2005.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2005.

_____
Presiding Officer of the House
of Representatives