

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                                   STATE OF OKLAHOMA

3                                   2nd Session of the 53rd Legislature (2012)

4 COMMITTEE SUBSTITUTE  
5 FOR ENGROSSED  
6 SENATE BILL NO. 1314

By: Crain and Shortey of the  
Senate

and

Jordan of the House

7  
8  
9  
10                                   COMMITTEE SUBSTITUTE

11                   An Act relating to depositions; amending 12 O.S.  
12                   2011, Section 3228, which relates to persons before  
13                   whom depositions may be taken; removing certain  
14                   restriction; allowing attorney to provide counsel  
15                   under certain circumstances; authorizing certain  
16                   objection; authorizing certain sanctions; and  
17                   providing an effective date.

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

19                   SECTION 1.            AMENDATORY            12 O.S. 2011, Section 3228, is  
20 amended to read as follows:

21                   Section 3228.   A.   DEPOSITIONS TAKEN WITHIN OKLAHOMA.   Within  
22 this state, depositions shall be taken before an officer authorized  
23 to administer oaths by the laws of the place where the examination  
24 is held, or before a person appointed by the court in which the

1 action is pending. A person so appointed has power to administer  
2 oaths and take testimony.

3 The term officer as used in Sections 3230 through 3232 of this  
4 title includes a person appointed by the court or designated by the  
5 parties under Section 3229 of this title; except that on and after  
6 January 1, 1990, depositions taken within this state shall only be  
7 taken by an officer who is either a certified shorthand reporter  
8 (CSR) or a licensed shorthand reporter (LSR); provided however, on  
9 and after ~~the effective date of this act~~ March 10, 1992, any person  
10 who was taking depositions by the steno-mask method of reporting  
11 within this state prior to January 1, 1990, may continue to take  
12 depositions within this state if the person provides to the State  
13 Board of Examiners of ~~Official~~ Certified Shorthand Reporters or  
14 successor entity of the Board a certification, signed by a judge of  
15 the district court and by an attorney licensed to practice law in  
16 this state, declaring that the person has taken depositions that  
17 were admitted into evidence in any court of this state. The  
18 certification shall be submitted within thirty (30) days of ~~the~~  
19 ~~effective date of this act~~ March 10, 1992, to the State Board of  
20 Examiners of ~~Official~~ Certified Shorthand Reporters or successor  
21 entity of the Board who shall issue ~~said~~ the person a certificate as  
22 an acting court reporter permitting the person to take depositions  
23 or other sworn statements, subpoena witnesses for depositions, issue

24

1 affidavits in respect to the regular duties of the person, and  
2 administer oaths and affirmations with authority equal to that of a  
3 notary public.

4 B. DEPOSITIONS TAKEN OUTSIDE OF OKLAHOMA. Depositions may be  
5 taken outside of Oklahoma:

6 1. On notice before a person authorized to administer oaths in  
7 the place in which the examination is held, either by the law  
8 thereof or by the law of this state; or

9 2. Before a person commissioned by the court, and a person so  
10 commissioned shall have the power by virtue of ~~his~~ that commission  
11 to administer any necessary oath and take testimony; or

12 3. Pursuant to a letter rogatory.

13 A commission or a letter rogatory shall be issued on application  
14 and notice and on terms that are just and appropriate. It is not  
15 requisite to the issuance of a commission or a letter rogatory that  
16 the taking of the deposition in any other manner is impracticable or  
17 inconvenient; and both a commission and a letter rogatory may be  
18 issued in proper cases. A notice or commission may designate the  
19 person before whom the deposition is to be taken either by name or  
20 descriptive title. Evidence obtained in response to a letter  
21 rogatory need not be excluded merely for the reason that it is not a  
22 verbatim transcript or that the testimony was not taken under oath

23

24

1 or for any similar departure from the requirements for depositions  
2 taken within this state.

3 C. DISQUALIFICATIONS FOR INTEREST. No deposition shall be  
4 taken before a person who is a relative or employee ~~or attorney or~~  
5 ~~counsel~~ of any of the parties, ~~or is a relative or employee of such~~  
6 ~~attorney or counsel,~~ or is financially interested in the action. A  
7 deponent may have his or her attorney present to counsel and render  
8 advice during the deposition; provided, however, opposing counsel  
9 may object to excessive use of such counsel and advice. If the  
10 deponent's attorney continues to abuse the authority to counsel  
11 subsequent to the objection, the objecting attorney may seek  
12 sanctions against the offending attorney.

13 SECTION 2. This act shall become effective November 1, 2012.

14  
15 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 03/28/2012 - DO  
16 PASS, As Amended.

17  
18  
19  
20  
21  
22  
23  
24