

1 **SENATE FLOOR VERSION**

2 February 21, 2012

3 As Amended

4 SENATE BILL NO. 1314

5 By: Crain of the Senate

6 and

7 Jordan of the House

8 **[depositions - attorney to provide counsel -**
9 **effective date]**

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

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

13 Section 3228. A. DEPOSITIONS TAKEN WITHIN OKLAHOMA. Within
14 this state, depositions shall be taken before an officer authorized
15 to administer oaths by the laws of the place where the examination
16 is held, or before a person appointed by the court in which the
17 action is pending. A person so appointed has power to administer
18 oaths and take testimony.

19 The term officer as used in Sections 3230 through 3232 of this
20 title includes a person appointed by the court or designated by the
21 parties under Section 3229 of this title; except that on and after
22 January 1, 1990, depositions taken within this state shall only be
23 taken by an officer who is either a certified shorthand reporter
24 (CSR) or a licensed shorthand reporter (LSR); provided however, on

1 and after ~~the effective date of this act~~ March 10, 1992, any person
2 who was taking depositions by the steno-mask method of reporting
3 within this state prior to January 1, 1990, may continue to take
4 depositions within this state if the person provides to the State
5 Board of Examiners of Official Shorthand Reporters or successor
6 entity of the Board a certification, signed by a judge of the
7 district court and by an attorney licensed to practice law in this
8 state, declaring that the person has taken depositions that were
9 admitted into evidence in any court of this state. The
10 certification shall be submitted within thirty (30) days of ~~the~~
11 ~~effective date of this act~~ March 10, 1992, to the State Board of
12 Examiners of Official Shorthand Reporters or successor entity of the
13 Board who shall issue ~~said~~ the person a certificate as an acting
14 court reporter permitting the person to take depositions or other
15 sworn statements, subpoena witnesses for depositions, issue
16 affidavits in respect to the regular duties of the person, and
17 administer oaths and affirmations with authority equal to that of a
18 notary public.

19 B. DEPOSITIONS TAKEN OUTSIDE OF OKLAHOMA. Depositions may be
20 taken outside of Oklahoma:

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

24

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

4 3. Pursuant to a letter rogatory.

5 A commission or a letter rogatory shall be issued on application
6 and notice and on terms that are just and appropriate. It is not
7 requisite to the issuance of a commission or a letter rogatory that
8 the taking of the deposition in any other manner is impracticable or
9 inconvenient; and both a commission and a letter rogatory may be
10 issued in proper cases. A notice or commission may designate the
11 person before whom the deposition is to be taken either by name or
12 descriptive title. Evidence obtained in response to a letter
13 rogatory need not be excluded merely for the reason that it is not a
14 verbatim transcript or that the testimony was not taken under oath
15 or for any similar departure from the requirements for depositions
16 taken within this state.

17 C. DISQUALIFICATIONS FOR INTEREST. No deposition shall be
18 taken before a person who is a relative or employee ~~or attorney or~~
19 ~~counsel~~ of any of the parties, ~~or is a relative or employee of such~~
20 ~~attorney or counsel~~, or is financially interested in the action. A
21 **deponent** may have his or her attorney present to counsel and render
22 advice during the deposition; provided, however, opposing counsel
23 may object to excessive use of such counsel and advice. If the
24 **deponent's** attorney continues to abuse the authority to counsel

1 subsequent to the objection, the objecting attorney may seek
2 sanctions against the offending attorney.

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

4 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY, dated 2-14-12 - DO
5 PASS, As Amended and Coauthored.

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