

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1314

By: Crain

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6 AS INTRODUCED

7 An Act relating to depositions; amending 12 O.S.
8 2011, Section 3228, which relates to persons before
9 whom depositions may be taken; removing certain
10 restriction; allowing attorney to provide counsel
under certain circumstances; authorizing certain
objection; authorizing certain sanctions; and
providing an effective date.

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

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

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

22 The term officer as used in Sections 3230 through 3232 of this
23 title includes a person appointed by the court or designated by the
24 parties under Section 3229 of this title; except that on and after

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

22 B. DEPOSITIONS TAKEN OUTSIDE OF OKLAHOMA. Depositions may be
23 taken outside of Oklahoma:
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1 1. On notice before a person authorized to administer oaths in
2 the place in which the examination is held, either by the law
3 thereof or by the law of this state; or

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

7 3. Pursuant to a letter rogatory.

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

20 C. DISQUALIFICATIONS FOR INTEREST. No deposition shall be
21 taken before a person who is a relative or employee ~~or attorney or~~
22 ~~counsel~~ of any of the parties, ~~or is a relative or employee of such~~
23 ~~attorney or counsel,~~ or is financially interested in the action. A
24 party may have his or her attorney present to counsel and render

1 advice during the deposition; provided, however, opposing counsel
2 may object to excessive use of such counsel and advice. If the
3 party's attorney continues to abuse the authority to counsel
4 subsequent to the objection, the objecting attorney may seek
5 sanctions against the offending attorney.

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

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