



1 SECTION 1. REPEALER Section 5, Chapter 228, O.S.L. 2009,  
2 is hereby repealed.

3 SECTION 2. AMENDATORY 12 O.S. 2011, Section 683, is  
4 amended to read as follows:

5 Section 683. Except as provided in Section ~~684.1~~ 5 of this  
6 ~~title act~~, an action may be dismissed, without prejudice to a future  
7 action:

8 1. By the plaintiff, before the final submission of the case to  
9 the jury, or to the court, where the trial is by the court;

10 2. By the court, where the plaintiff fails to appear on the  
11 trial;

12 3. By the court, for the want of necessary parties;

13 4. By the court, on the application of some of the defendants,  
14 where there are others whom the plaintiff fails to prosecute with  
15 diligence;

16 5. By the court, for disobedience by the plaintiff of an order  
17 concerning the proceedings in the action; and

18 6. In all other cases, upon the trial of the action, the  
19 decision must be upon the merits.

20 SECTION 3. AMENDATORY 12 O.S. 2011, Section 683, as  
21 amended by Section 2 of this act, is amended to read as follows:

22 Section 683. Except as provided in Section ~~5~~ 684.1 of this ~~act~~  
23 title, an action may be dismissed, without prejudice to a future  
24 action:

1 1. By the plaintiff, before the final submission of the case to  
2 the jury, or to the court, where the trial is by the court;

3 2. By the court, where the plaintiff fails to appear on the  
4 trial;

5 3. By the court, for the want of necessary parties;

6 4. By the court, on the application of some of the defendants,  
7 where there are others whom the plaintiff fails to prosecute with  
8 diligence;

9 5. By the court, for disobedience by the plaintiff of an order  
10 concerning the proceedings in the action; and

11 6. In all other cases, upon the trial of the action, the  
12 decision must be upon the merits.

13 SECTION 4. REPEALER Section 6, Chapter 228, O.S.L. 2009,  
14 is hereby repealed.

15 SECTION 5. AMENDATORY 12 O.S. 2011, Section 684, is  
16 amended to read as follows:

17 Section 684. A. ~~An~~ Except as provided in Section 5 of this  
18 act, an action may be dismissed by the plaintiff on the payment of  
19 costs and without an order of court by ~~filing a notice of dismissal~~  
20 the plaintiff at any time before ~~pretrial. After the pretrial~~  
21 ~~hearing, an action may only be dismissed by agreement of the parties~~  
22 ~~or by the court. Unless otherwise stated in the notice of dismissal~~  
23 ~~or stipulation, the dismissal is without prejudice.~~

1 ~~B. Except as provided in subsection A of this section, an~~  
2 ~~action shall not be dismissed at the plaintiff's request except upon~~  
3 ~~order of the court and upon such terms and conditions as the court~~  
4 ~~deems proper. If a counterclaim has been pleaded by a defendant~~  
5 ~~prior to the service upon the defendant of the plaintiff's motion to~~  
6 ~~dismiss, the action shall not be dismissed against the defendant's~~  
7 ~~objection unless the counterclaims can remain pending for~~  
8 ~~independent adjudication by the court. Unless otherwise specified~~  
9 ~~in the order, a dismissal under this subsection is without~~  
10 ~~prejudice.~~

11 ~~C. For failure of the plaintiff to prosecute or to comply with~~  
12 ~~the provisions of this section or any order of court, a defendant~~  
13 ~~may move for dismissal of an action or of any claim against the~~  
14 ~~defendant.~~

15 ~~D. The provisions of this section apply to the dismissal of any~~  
16 ~~counterclaim, cross-claim, or third-party claim. A voluntary~~  
17 ~~dismissal by the claimant alone pursuant to subsection A of this~~  
18 ~~section shall be made before a responsive pleading is served or, if~~  
19 ~~there is none, before the introduction of evidence at the trial or~~  
20 ~~hearing.~~

21 ~~If a plaintiff who has once dismissed an action in any court~~  
22 ~~commences an action based upon or including the same claim against~~  
23 ~~the same defendant, the court may make such order for the payment of~~  
24 ~~costs of the action previously dismissed as it may deem proper and~~

1 ~~may stay the proceedings in the action until the plaintiff has~~  
2 ~~complied with the order~~ a petition of intervention or answer praying  
3 for affirmative relief against the plaintiff is filed in the action.

4 A plaintiff may, at any time before the trial is commenced, on  
5 payment of the costs and without any order of court, dismiss the  
6 action after the filing of a petition of intervention or answer  
7 praying for affirmative relief, but such dismissal shall not  
8 prejudice the right of the intervenor or defendant to proceed with  
9 the action. Any defendant or intervenor may, in like manner,  
10 dismiss an action against the plaintiff, without an order of court,  
11 at any time before the trial is begun, on payment of the costs made  
12 on the claim filed by the defendant or intervenor. All parties to a  
13 civil action may at any time before trial, without an order of  
14 court, and on payment of costs, by agreement, dismiss the action.

15 B. Such dismissal shall be in writing and signed by the party  
16 or the attorney for the party, and shall be filed with the clerk of  
17 the district court where the action is pending, who shall note the  
18 fact on the proper record: Provided, such dismissal shall be held to  
19 be without prejudice, unless the words "with prejudice" be expressed  
20 therein.

21 C. When an action is dismissed after a jury in the action is  
22 empanelled and the case is subsequently refiled, the court, at the  
23 conclusion of the subsequent action, may assess costs and attorney  
24

1 fees incurred in the previous action by the defendants subsequent to  
2 the jury being empanelled.

3 SECTION 6. AMENDATORY 12 O.S. 2011, Section 684, as  
4 amended by Section 5 of this act, is amended to read as follows:

5 Section 684. A. ~~Except as provided in Section 5 of this act,~~  
6 ~~an An action may be dismissed ~~on the payment of costs and by the~~~~  
7 ~~plaintiff without an order of court by ~~the plaintiff~~ filing a notice~~  
8 ~~of dismissal at any time before ~~a petition of intervention or answer~~~~  
9 ~~~~praying for affirmative relief against the plaintiff is filed in the~~~~  
10 ~~action. A plaintiff may, at any time before the trial is commenced,~~  
11 ~~on payment of the costs and without any order of court, dismiss the~~  
12 ~~action after the filing of a petition of intervention or answer~~  
13 ~~praying for affirmative relief, but such dismissal shall not~~  
14 ~~prejudice the right of the intervenor or defendant to proceed with~~  
15 ~~the action. Any defendant or intervenor may, in like manner,~~  
16 ~~dismiss an action against the plaintiff, without an order of court,~~  
17 ~~at any time before the trial is begun, on payment of the costs made~~  
18 ~~on the claim filed by the defendant or intervenor. All parties to a~~  
19 ~~civil action may at any time before trial, without an order of~~  
20 ~~court, and on payment of costs, by agreement, dismiss the action.~~

21 ~~B. Such dismissal shall be in writing and signed by the party~~  
22 ~~or the attorney for the party, and shall be filed with the clerk of~~  
23 ~~the district court where the action is pending, who shall note the~~  
24 ~~fact on the proper record: Provided, such dismissal shall be held to~~

1 ~~be without prejudice, unless the words "with prejudice" be expressed~~  
2 ~~therein.~~

3 ~~C. When an action is dismissed after a jury in the action is~~  
4 ~~empanelled and the case is subsequently refiled, the court, at the~~  
5 ~~conclusion of the subsequent action, may assess costs and attorney~~  
6 ~~fees incurred in the previous action by the defendants subsequent to~~  
7 ~~the jury being empanelled pretrial. After the pretrial hearing, an~~  
8 action may only be dismissed by agreement of the parties or by the  
9 court. Unless otherwise stated in the notice of dismissal or  
10 stipulation, the dismissal is without prejudice.

11 B. Except as provided in subsection A of this section, an  
12 action shall not be dismissed at the plaintiff's request except upon  
13 order of the court and upon such terms and conditions as the court  
14 deems proper. If a counterclaim has been pleaded by a defendant  
15 prior to the service upon the defendant of the plaintiff's motion to  
16 dismiss, the action shall not be dismissed against the defendant's  
17 objection unless the counterclaims can remain pending for  
18 independent adjudication by the court. Unless otherwise specified  
19 in the order, a dismissal under this subsection is without  
20 prejudice.

21 C. For failure of the plaintiff to prosecute or to comply with  
22 the provisions of this section or any order of court, a defendant  
23 may move for dismissal of an action or of any claim against the  
24 defendant.



1           1. The summons shall be signed by the clerk, be under the seal  
2 of the court, contain the name of the court and the names of the  
3 parties, be directed to the defendant, state the name and address of  
4 the plaintiff's attorney, if any, otherwise, the plaintiff's  
5 address, and the time within which these rules require the defendant  
6 to appear and defend, and shall notify the defendant that in case of  
7 failure to appear, judgment by default will be rendered against the  
8 defendant for the relief demanded in the petition.

9           2. A judgment by default shall not be different in kind from or  
10 exceed in amount that prayed for in either the demand for judgment  
11 or in cases not sounding in contract in a notice which has been  
12 given the party against whom default judgment is sought. Except as  
13 to a party against whom a judgment is entered by default, every  
14 final judgment shall grant the relief to which the party in whose  
15 favor it is rendered is entitled, even if the party has not demanded  
16 such relief in his or her pleadings.

17           C. BY WHOM SERVED: PERSON TO BE SERVED.

18           1. SERVICE BY PERSONAL DELIVERY.

19           a. At the election of the plaintiff, process, other than  
20 a subpoena, shall be served by a sheriff or deputy  
21 sheriff, a person licensed to make service of process  
22 in civil cases, or a person specially appointed for  
23 that purpose. The court shall freely make special  
24

1 appointments to serve all process, other than a  
2 subpoena, under this paragraph.

3 b. A summons to be served by the sheriff or deputy  
4 sheriff shall be delivered to the sheriff by the court  
5 clerk or an attorney of record for the plaintiff.  
6 When a summons, subpoena, or other process is to be  
7 served by the sheriff or deputy sheriff of another  
8 county, the court clerk shall mail it, together with  
9 ~~the~~ his voucher ~~of the court clerk~~ for the fees  
10 collected for the service, to the sheriff of that  
11 county. The sheriff shall deposit the voucher in the  
12 Sheriff's Service Fee Account created pursuant to  
13 Section 514.1 of Title 19 of the Oklahoma Statutes.  
14 The sheriff or deputy sheriff shall serve the process  
15 in the manner that other process issued out of the  
16 court of the sheriff's own county is served. A  
17 summons to be served by a person licensed to make  
18 service of process in civil cases or by a person  
19 specially appointed for that purpose shall be  
20 delivered by an attorney of record for the plaintiff  
21 to such person.

22 c. Service shall be made as follows:

23 (1) upon an individual other than an infant who is  
24 less than fifteen (15) years of age or an

1 incompetent person, by delivering a copy of the  
2 summons and of the petition personally or by  
3 leaving copies thereof at the person's dwelling  
4 house or usual place of abode with some person  
5 then residing therein who is fifteen (15) years  
6 of age or older or by delivering a copy of the  
7 summons and of the petition to an agent  
8 authorized by appointment or by law to receive  
9 service of process; τi

10 (2) upon an infant who is less than fifteen (15)  
11 years of age, by serving the summons and petition  
12 personally and upon either of the infant's  
13 parents or guardian, or if they cannot be found,  
14 then upon the person having the care or control  
15 of the infant or with whom the infant lives; and  
16 upon an incompetent person by serving the summons  
17 and petition personally and upon the incompetent  
18 person's guardian; τi

19 (3) upon a domestic or foreign corporation or upon a  
20 partnership or other unincorporated association  
21 which is subject to suit under a common name, by  
22 delivering a copy of the summons and of the  
23 petition to an officer, a managing or general  
24 agent, or to any other agent authorized by

1 appointment or by law to receive service of  
2 process and, if the agent is one authorized by  
3 statute to receive service and the statute so  
4 requires, by also mailing a copy to the  
5 defendant 7i

6 (4) upon the United States or an officer or agency  
7 thereof in the manner specified by Federal Rule  
8 of Civil Procedure 4 7i

9 (5) upon a state, county, school district, public  
10 trust or municipal corporation or other  
11 governmental organization thereof subject to  
12 suit, by delivering a copy of the summons and of  
13 the petition to the officer or individual  
14 designated by specific statute; however, if there  
15 is no statute, then upon the chief executive  
16 officer or a clerk, secretary, or other official  
17 whose duty it is to maintain the official records  
18 of the organization 7i and

19 (6) upon an inmate incarcerated in an institution  
20 under the jurisdiction and control of the  
21 Department of Corrections, by delivering a copy  
22 of the summons and of the petition to the warden  
23 or superintendent or the designee of the warden  
24 or superintendent of the institution where the

1 inmate is housed. It shall be the duty of the  
2 receiving warden or superintendent or a designee  
3 to promptly deliver the summons and petition to  
4 the inmate named therein. The warden or  
5 superintendent or his or her designee shall  
6 reject service of process for any inmate who is  
7 not actually present in said institution.

8 2. SERVICE BY MAIL.

9 a. At the election of the plaintiff, a summons and  
10 petition may be served by mail by the plaintiff's  
11 attorney, any person authorized to serve process  
12 pursuant to subparagraph a of paragraph 1 of this  
13 subsection, or by the court clerk upon a defendant of  
14 any class referred to in division (1), (3) or (5) of  
15 subparagraph c of paragraph 1 of this subsection.  
16 Service by mail shall be effective on the date of  
17 receipt or if refused, on the date of refusal of the  
18 summons and petition by the defendant.

19 b. Service by mail shall be accomplished by mailing a  
20 copy of the summons and petition by certified mail,  
21 return receipt requested and delivery restricted to  
22 the addressee. When there is more than one defendant,  
23 the summons and a copy of the petition or order shall  
24 be mailed in a separate envelope to each defendant.

1 If the summons is to be served by mail by the court  
2 clerk, the court clerk shall enclose the summons and a  
3 copy of the petition or order of the court to be  
4 served in an envelope, prepared by the plaintiff,  
5 addressed to the defendant, or to the resident service  
6 agent if one has been appointed. The court clerk  
7 shall prepay the postage and mail the envelope to the  
8 defendant, or service agent, by certified mail, return  
9 receipt requested and delivery restricted to the  
10 addressee. The return receipt shall be prepared by  
11 the plaintiff. Service by mail to a garnishee shall  
12 be accomplished by mailing a copy of the summons and  
13 notice by certified mail, return receipt requested,  
14 and at the election of the judgment creditor by  
15 restricted delivery, to the addressee.

16 c. Service by mail shall not be the basis for the entry  
17 of a default or a judgment by default unless the  
18 record contains a return receipt showing acceptance by  
19 the defendant or a returned envelope showing refusal  
20 of the process by the defendant. Acceptance or  
21 refusal of service by mail by a person who is fifteen  
22 (15) years of age or older who resides at the  
23 defendant's dwelling house or usual place of abode  
24 shall constitute acceptance or refusal by the party

1 addressed. In the case of an entity described in  
2 division (3) of subparagraph c of paragraph 1 of this  
3 subsection, acceptance or refusal by any officer or by  
4 any employee of the registered office or principal  
5 place of business who is authorized to or who  
6 regularly receives certified mail shall constitute  
7 acceptance or refusal by the party addressed. A  
8 return receipt signed at such registered office or  
9 principal place of business shall be presumed to have  
10 been signed by an employee authorized to receive  
11 certified mail. In the case of a state municipal  
12 corporation, or other governmental organization  
13 thereof subject to suit, acceptance or refusal by an  
14 employee of the office of the officials specified in  
15 division (5) of subparagraph c of paragraph 1 of this  
16 subsection who is authorized to or who regularly  
17 receives certified mail shall constitute acceptance or  
18 refusal by the party addressed. If delivery of the  
19 process is refused, upon the receipt of notice of such  
20 refusal and at least ten (10) days before applying for  
21 entry of default, the person elected by plaintiff  
22 pursuant to subparagraph a of this paragraph to serve  
23 the process shall mail to the defendant by first-class  
24 mail a copy of the summons and petition and a notice

1 prepared by the plaintiff that despite such refusal  
2 the case will proceed and that judgment by default  
3 will be rendered against him unless he appears to  
4 defend the suit. Any default or judgment by default  
5 shall be set aside upon motion of the defendant in the  
6 manner prescribed in Section 1031.1 of this title, or  
7 upon petition of the defendant in the manner  
8 prescribed in Section 1033 of this title if the  
9 defendant demonstrates to the court that the return  
10 receipt was signed or delivery was refused by an  
11 unauthorized person. A petition shall be filed within  
12 one (1) year after the defendant has notice of the  
13 default or judgment by default but in no event more  
14 than two (2) years after the filing of the judgment.

15 3. SERVICE BY PUBLICATION.

- 16 a. Service of summons upon a named defendant may be made  
17 by publication when it is stated in the petition,  
18 verified by the plaintiff or the plaintiff's attorney,  
19 or in a separate affidavit by the plaintiff or the  
20 plaintiff's attorney filed with the court, that with  
21 due diligence service cannot be made upon the  
22 defendant by any other method.
- 23 b. Service of summons upon the unknown successors of a  
24 named defendant, a named decedent, or a dissolved

1 partnership, corporation, or other association may be  
2 made by publication when it is stated in a petition,  
3 verified by the plaintiff or the plaintiff's attorney,  
4 or in a separate affidavit by the plaintiff or the  
5 plaintiff's attorney filed with the court, that the  
6 person who verified the petition or the affidavit does  
7 not know and with due diligence cannot ascertain the  
8 following:

- 9 (1) whether a person named as defendant is living or  
10 dead, and, if dead, the names or whereabouts of  
11 the person's successors, if any,
- 12 (2) the names or whereabouts of the unknown  
13 successors, if any, of a named decedent,
- 14 (3) whether a partnership, corporation, or other  
15 association named as a defendant continues to  
16 have legal existence or not; or the names or  
17 whereabouts of its officers or successors,
- 18 (4) whether any person designated in a record as a  
19 trustee continues to be the trustee; or the names  
20 or whereabouts of the successors of the trustee,  
21 or
- 22 (5) the names or whereabouts of the owners or holders  
23 of special assessment or improvement bonds, or  
24 any other bonds, sewer warrants or tax bills.

1 c. Service pursuant to this paragraph shall be made by  
2 publication of a notice, signed by the court clerk,  
3 one (1) day a week for three (3) consecutive weeks in  
4 a newspaper authorized by law to publish legal notices  
5 which is published in the county where the petition is  
6 filed. If no newspaper authorized by law to publish  
7 legal notices is published in such county, the notice  
8 shall be published in some such newspaper of general  
9 circulation which is published in an adjoining county.  
10 All named parties and their unknown successors who may  
11 be served by publication may be included in one  
12 notice. The notice shall state the court in which the  
13 petition is filed and the names of the plaintiff and  
14 the parties served by publication, and shall designate  
15 the parties whose unknown successors are being served.  
16 The notice shall also state that the named defendants  
17 and their unknown successors have been sued and must  
18 answer the petition on or before a time to be stated  
19 (which shall not be less than forty-one (41) days from  
20 the date of the first publication), or judgment, the  
21 nature of which shall be stated, will be rendered  
22 accordingly. If jurisdiction of the court is based on  
23 property, any real property subject to the  
24 jurisdiction of the court and any property or debts to

1 be attached or garnished must be described in the  
2 notice.

3 (1) When the recovery of money is sought, it is not  
4 necessary for the publication notice to state the  
5 separate items involved, but the total amount  
6 that is claimed must be stated. When interest is  
7 claimed, it is not necessary to state the rate of  
8 interest, the date from which interest is  
9 claimed, or that interest is claimed until the  
10 obligation is paid.

11 (2) It is not necessary for the publication notice to  
12 state that the judgment will include recovery of  
13 costs in order for a judgment following the  
14 publication notice to include costs of suit.

15 (3) In an action to quiet title to real property, it  
16 is not necessary for the publication notice to  
17 state the nature of the claim or interest of  
18 either party, and in describing the nature of the  
19 judgment that will be rendered should the  
20 defendant fail to answer, it is sufficient to  
21 state that a decree quieting plaintiff's title to  
22 the described property will be entered. It is  
23 not necessary to state that a decree forever  
24 barring the defendant from asserting any interest

1 in or to the property is sought or will be  
2 entered if the defendant does not answer.

3 (4) In an action to foreclose a mortgage, it is  
4 sufficient that the publication notice state that  
5 if the defendant does not answer, the defendant's  
6 interest in the property will be foreclosed. It  
7 is not necessary to state that a judgment forever  
8 barring the defendant from all right, title,  
9 interest, estate, property and equity of  
10 redemption in or to said property or any part  
11 thereof is requested or will be entered if the  
12 defendant does not answer.

13 d. Service by publication is complete when made in the  
14 manner and for the time prescribed in subparagraph c  
15 of this paragraph. Service by publication shall be  
16 proved by the affidavit of any person having knowledge  
17 of the publication. No default judgment may be  
18 entered on such service until proof of service by  
19 publication is filed with and approved by the court.

20 e. Before entry of a default judgment or order against a  
21 party who has been served solely by publication under  
22 this paragraph, the court shall conduct an inquiry to  
23 determine whether the plaintiff, or someone acting in  
24 his behalf ~~of the plaintiff~~, made a distinct and

1 meaningful search of all reasonably available sources  
2 to ascertain the whereabouts of any named parties who  
3 have been served solely by publication under this  
4 paragraph. Before entry of a default judgment or  
5 order against the unknown successors of a named  
6 defendant, a named decedent, or a dissolved  
7 partnership, corporation or association, the court  
8 shall conduct an inquiry to ascertain whether the  
9 requirements described in subparagraph b of this  
10 paragraph have been satisfied.

11 f. A party against whom a default judgment or order has  
12 been rendered, without other service than by  
13 publication in a newspaper, may, at any time within  
14 three (3) years after the filing of the judgment or  
15 order, have the judgment or order set aside in the  
16 manner prescribed in Sections 1031.1 and 1033 of this  
17 title. Before the judgment or order is set aside, the  
18 applicant shall notify the adverse party of the  
19 intention to make an application and shall file a full  
20 answer to the petition, pay all costs if the court  
21 requires them to be paid, and satisfy the court by  
22 affidavit or other evidence that during the pendency  
23 of the action the applicant had no actual notice  
24 thereof in time to appear in court and make a defense.

1 The title to any property which is the subject of and  
2 which passes to a purchaser in good faith by or in  
3 consequence of the judgment or order to be opened  
4 shall not be affected by any proceedings under this  
5 subparagraph. Nor shall proceedings under this  
6 subparagraph affect the title of any property sold  
7 before judgment under an attachment. The adverse  
8 party, on the hearing of an application to open a  
9 judgment or order as provided by this subparagraph,  
10 shall be allowed to present evidence to show that  
11 during the pendency of the action the applicant had  
12 notice thereof in time to appear in court and make a  
13 defense.

14 g. The term "successors" includes all heirs, executors,  
15 administrators, devisees, trustees, and assigns,  
16 immediate and remote, of a named individual,  
17 partnership, corporation, or association.

18 h. Service outside of the state does not give the court  
19 in personal jurisdiction over a defendant who is not  
20 subject to the jurisdiction of the courts of this  
21 state or who has not, either in person or through an  
22 agent, submitted to the jurisdiction of the courts of  
23 this state.

24 4. SERVICE ON THE SECRETARY OF STATE.

- 1 a. Service of process on a domestic or foreign  
2 corporation may be made by serving the Secretary of  
3 State as the corporation's agent, if:
- 4 (1) there is no registered agent for the corporation  
5 listed in the records of the Secretary of State;  
6 or  
7 (2) neither the registered agent nor an officer of  
8 the corporation could be found at the registered  
9 office of the corporation, when service of  
10 process was attempted.
- 11 b. Before resorting to service on the Secretary of State  
12 the plaintiff must have attempted service either in  
13 person or by mail on the corporation at:
- 14 (1) the corporation's last-known address shown on the  
15 records of the Franchise Tax Division of the  
16 Oklahoma Tax Commission, if any is listed there;  
17 and  
18 (2) the corporation's last-known address shown on the  
19 records of the Secretary of State, if any is  
20 listed there; and  
21 (3) the corporation's last address known to the  
22 plaintiff.

23 If any of these addresses are the same, the plaintiff is  
24 not required to attempt service more than once at any

1 address. The plaintiff shall furnish the Secretary of  
2 State with a certified copy of the return or returns  
3 showing the attempted service.

4 c. Service on the Secretary of State shall be made by  
5 filing two (2) copies of the summons and petition with  
6 the Secretary of State, notifying the Secretary of  
7 State that service is being made pursuant to the  
8 provisions of this paragraph, and paying the Secretary  
9 of State the fee prescribed in paragraph 7 of  
10 subsection A of Section 1142 of Title 18 of the  
11 Oklahoma Statutes, which fee shall be taxed as part of  
12 the costs of the action, suit or proceeding if the  
13 plaintiff shall prevail therein. If a registered  
14 agent for the corporation is listed in the records of  
15 the Secretary of State, the plaintiff must also  
16 furnish a certified copy of the return showing that  
17 service on the registered agent has been attempted  
18 either in person or by mail, and that neither the  
19 registered agent nor an officer of the corporation  
20 could be found at the registered office of the  
21 corporation.

22 d. Within three (3) working days after receiving the  
23 summons and petition, the Secretary of State shall  
24 send notice by letter, certified mail, return receipt

1 requested, directed to the corporation at its  
2 registered office or the last-known address found in  
3 the office of the Secretary of State, or if no address  
4 is found there, to the corporation's last-known  
5 address provided by the plaintiff. The notice shall  
6 enclose a copy of the summons and petition and any  
7 other papers served upon the Secretary of State. The  
8 corporation shall not be required to serve its answer  
9 until forty (40) days after service of the summons and  
10 petition on the Secretary of State.

- 11 e. Before entry of a default judgment or order against a  
12 corporation that has been served by serving the  
13 Secretary of State as its agent under this paragraph,  
14 the court shall determine whether the requirements of  
15 this paragraph have been satisfied. A default  
16 judgment or order against a corporation that has been  
17 served only by service on the Secretary of State may  
18 be set aside upon motion of the corporation in the  
19 manner prescribed in Section 1031.1 of this title, or  
20 upon petition of the corporation in the manner  
21 prescribed in Section 1033 of this title, if the  
22 corporation demonstrates to the court that it had no  
23 actual notice of the action in time to appear and make  
24 its defense. A petition shall be filed within one (1)

1 year after the corporation has notice of the default  
2 judgment or order but in no event more than two (2)  
3 years after the filing of the default judgment or  
4 order.

5 f. The Secretary of State shall maintain an alphabetical  
6 record of service setting forth the name of the  
7 plaintiff and defendant, the title, docket number, and  
8 nature of the proceeding in which the process has been  
9 served upon the defendant, the fact that service has  
10 been effected pursuant to the provisions of this  
11 paragraph, the return date thereof, and the date when  
12 the service was made. The Secretary of State shall  
13 not be required to retain this information for a  
14 period longer than five (5) years from receipt of the  
15 service of process.

16 g. The provisions of this paragraph shall not apply to a  
17 foreign insurance company doing business in this  
18 state.

19 5. SERVICE BY ACKNOWLEDGMENT. An acknowledgment on the back of  
20 the summons or the voluntary appearance of a defendant is equivalent  
21 to service.

22 6. SERVICE BY OTHER METHODS. If service cannot be made by  
23 personal delivery or by mail, a defendant of any class referred to  
24 in division (1) or (3) of subparagraph c of paragraph 1 of this

1 subsection may be served as provided by court order in any manner  
2 which is reasonably calculated to give the defendant actual notice  
3 of the proceedings and an opportunity to be heard.

4 7. NO SERVICE BY PRISONER. No prisoner in any jail, Department  
5 of Corrections facility, private prison, or parolee or probationer  
6 under supervision of the Department of Corrections shall be  
7 appointed by any court to serve process on any defendant, party or  
8 witness.

9 D. SUMMONS AND PETITION. The summons and petition shall be  
10 served together. The plaintiff shall furnish the person making  
11 service with such copies as are necessary. The failure to serve a  
12 copy of the petition with the summons is not a ground for dismissal  
13 for insufficiency of service of process, but on motion of the party  
14 served, the court may extend the time to answer or otherwise plead.  
15 If a summons and petition are served by personal delivery, the  
16 person serving the summons shall state on the copy that is left with  
17 the person served the date that service is made. This provision is  
18 not jurisdictional, but if the failure to comply with it prejudices  
19 the party served, the court, on motion of the party served, may  
20 extend the time to answer or otherwise plead.

21 E. SUMMONS: TERRITORIAL LIMITS OF EFFECTIVE SERVICE.

22 1. Service of the summons and petition may be made anywhere  
23 within this state in the manner provided by subsection C of this  
24 section.

1           2. When the exercise of jurisdiction is authorized by  
2 subsection F of this section, service of the summons and petition  
3 may be made outside this state:

4           a. by personal delivery in the manner prescribed for  
5 service within this state,

6           b. in the manner prescribed by the law of the place in  
7 which the service is made for service in that place in  
8 an action in any of its courts of general  
9 jurisdiction,

10          c. in the manner prescribed by paragraph 2 of subsection  
11 C of this section,

12          d. as directed by the foreign authority in response to a  
13 letter rogatory,

14          e. in the manner prescribed by paragraph 3 of subsection  
15 C of this section only when permitted by subparagraphs  
16 a and b of paragraph 3 of subsection C of this  
17 section, or

18          f. as directed by the court.

19           3. Proof of service outside this state may be made in the  
20 manner prescribed by subsection G of this section, the order  
21 pursuant to which the service is made, or the law of the place in  
22 which the service is made for proof of service in an action in any  
23 of its courts of general jurisdiction.

24

1           4. Service outside this state may be made by an individual  
2 permitted to make service of process under the law of this state or  
3 under the law of the place in which the service is made or who is  
4 designated to make service by a court of this state.

5           5. When subsection C of this section requires that in order to  
6 effect service one or more designated individuals be served, service  
7 outside this state under this section must be made upon the  
8 designated individual or individuals.

9           6.    a.    A court of this state may order service upon any  
10                    person who is domiciled or can be found within this  
11                    state of any document issued in connection with a  
12                    proceeding in a tribunal outside this state. The  
13                    order may be made upon application of any interested  
14                    person or in response to a letter rogatory issued by a  
15                    tribunal outside this state and shall direct the  
16                    manner of service.

17                   b.    Service in connection with a proceeding in a tribunal  
18                    outside this state may be made within this state  
19                    without an order of court.

20                   c.    Service under this paragraph does not, of itself,  
21                    require the recognition or enforcement of an order,  
22                    judgment, or decree rendered outside this state.

23  
24

1 F. ASSERTION OF JURISDICTION. A court of this state may  
2 exercise jurisdiction on any basis consistent with the Constitution  
3 of this state and the Constitution of the United States.

4 G. RETURN.

5 1. The person serving the process shall make proof of service  
6 thereof to the court promptly and in any event within the time  
7 during which the person served must respond to the process, but the  
8 failure to make proof of service does not affect the validity of the  
9 service.

10 2. When process has been served by a sheriff or deputy sheriff  
11 and return thereof is filed in the office of the court clerk, a copy  
12 of the return shall be sent by the court clerk to the plaintiff's  
13 attorney within three (3) days after the return is filed. If  
14 service is made by a person other than a sheriff or deputy sheriff,  
15 the licensed process server shall make affidavit thereof. The  
16 return shall set forth the county of issuance, the name of the  
17 person served and the date, place, and method of service.

18 3. If service was by mail, the person mailing the summons and  
19 petition shall endorse on the copy of the summons or order of the  
20 court that is filed in the action the date and place of mailing and  
21 the date when service was receipted or service was rejected, and  
22 shall attach to the copy of the summons or order a copy of the  
23 return receipt or returned envelope, if and when received, showing  
24 whether the mailing was accepted, refused, or otherwise returned.

1 If the mailing was refused, the return shall also show the date and  
2 place of any subsequent mailing pursuant to paragraph 2 of  
3 subsection C of this section. When the summons and petition are  
4 mailed by the court clerk, the court clerk shall notify the  
5 plaintiff's attorney within three (3) days after receipt of the  
6 returned card or envelope showing that the card or envelope has been  
7 received.

8 H. AMENDMENT. At any time in its discretion and upon such  
9 terms as it deems just, the court may allow any process or proof of  
10 service thereof to be amended, unless it clearly appears that  
11 material prejudice would result to the substantial rights of the  
12 party against whom the process issued.

13 I. SUMMONS: TIME LIMIT FOR SERVICE. If service of process is  
14 not made upon a defendant within one hundred eighty (180) days after  
15 the filing of the petition and the plaintiff cannot show good cause  
16 why such service was not made within that period, the action ~~shall~~  
17 may be deemed dismissed as to that defendant without prejudice upon  
18 the court's own initiative with notice to the plaintiff or upon  
19 motion. The action shall not be dismissed ~~if~~ where a summons was  
20 served on the defendant within one hundred eighty (180) days after  
21 the filing of the petition and a court later holds that the summons  
22 or its service was invalid. After a court quashes a summons or its  
23 service, a new summons may be served on the defendant within a time  
24 specified by the judge. If the new summons is not served within the

1 specified time, the action shall be deemed to have been dismissed  
2 without prejudice as to that defendant. This subsection shall not  
3 apply with respect to a defendant who has been outside of this state  
4 for one hundred eighty (180) days following the filing of the  
5 petition.

6 SECTION 9. AMENDATORY 12 O.S. 2011, Section 2004, as  
7 last amended by Section 8 of this act, is amended to read as  
8 follows:

9 Section 2004.

10 PROCESS

11 A. SUMMONS: ISSUANCE. Upon filing of the petition, the clerk  
12 shall forthwith issue a summons. Upon request of the plaintiff  
13 separate or additional summons shall issue against any defendants.

14 B. SUMMONS: FORM.

15 1. The summons shall be signed by the clerk, be under the seal  
16 of the court, contain the name of the court and the names of the  
17 parties, be directed to the defendant, state the name and address of  
18 the plaintiff's attorney, if any, otherwise, the plaintiff's  
19 address, and the time within which these rules require the defendant  
20 to appear and defend, and shall notify the defendant that in case of  
21 failure to appear, judgment by default will be rendered against the  
22 defendant for the relief demanded in the petition.

23 2. A judgment by default shall not be different in kind from or  
24 exceed in amount that prayed for in either the demand for judgment

1 or in cases not sounding in contract in a notice which has been  
2 given the party against whom default judgment is sought. Except as  
3 to a party against whom a judgment is entered by default, every  
4 final judgment shall grant the relief to which the party in whose  
5 favor it is rendered is entitled, even if the party has not demanded  
6 such relief in his or her pleadings.

7 C. BY WHOM SERVED: PERSON TO BE SERVED.

8 1. SERVICE BY PERSONAL DELIVERY.

9 a. At the election of the plaintiff, process, other than  
10 a subpoena, shall be served by a sheriff or deputy  
11 sheriff, a person licensed to make service of process  
12 in civil cases, or a person specially appointed for  
13 that purpose. The court shall freely make special  
14 appointments to serve all process, other than a  
15 subpoena, under this paragraph.

16 b. A summons to be served by the sheriff or deputy  
17 sheriff shall be delivered to the sheriff by the court  
18 clerk or an attorney of record for the plaintiff.  
19 When a summons, subpoena, or other process is to be  
20 served by the sheriff or deputy sheriff of another  
21 county, the court clerk shall mail it, together with  
22 ~~his~~ the voucher of the court clerk for the fees  
23 collected for the service, to the sheriff of that  
24 county. The sheriff shall deposit the voucher in the

1 Sheriff's Service Fee Account created pursuant to  
2 Section 514.1 of Title 19 of the Oklahoma Statutes.  
3 The sheriff or deputy sheriff shall serve the process  
4 in the manner that other process issued out of the  
5 court of the sheriff's own county is served. A  
6 summons to be served by a person licensed to make  
7 service of process in civil cases or by a person  
8 specially appointed for that purpose shall be  
9 delivered by an attorney of record for the plaintiff  
10 to such person.

11 c. Service shall be made as follows:

- 12 (1) upon an individual other than an infant who is  
13 less than fifteen (15) years of age or an  
14 incompetent person, by delivering a copy of the  
15 summons and of the petition personally or by  
16 leaving copies thereof at the person's dwelling  
17 house or usual place of abode with some person  
18 then residing therein who is fifteen (15) years  
19 of age or older or by delivering a copy of the  
20 summons and of the petition to an agent  
21 authorized by appointment or by law to receive  
22 service of process; 1
- 23 (2) upon an infant who is less than fifteen (15)  
24 years of age, by serving the summons and petition

1 personally and upon either of the infant's  
2 parents or guardian, or if they cannot be found,  
3 then upon the person having the care or control  
4 of the infant or with whom the infant lives; and  
5 upon an incompetent person by serving the summons  
6 and petition personally and upon the incompetent  
7 person's guardian~~;~~;

8 (3) upon a domestic or foreign corporation or upon a  
9 partnership or other unincorporated association  
10 which is subject to suit under a common name, by  
11 delivering a copy of the summons and of the  
12 petition to an officer, a managing or general  
13 agent, or to any other agent authorized by  
14 appointment or by law to receive service of  
15 process and, if the agent is one authorized by  
16 statute to receive service and the statute so  
17 requires, by also mailing a copy to the  
18 defendant~~;~~;

19 (4) upon the United States or an officer or agency  
20 thereof in the manner specified by Federal Rule  
21 of Civil Procedure 4~~;~~;

22 (5) upon a state, county, school district, public  
23 trust or municipal corporation or other  
24 governmental organization thereof subject to

1 suit, by delivering a copy of the summons and of  
2 the petition to the officer or individual  
3 designated by specific statute; however, if there  
4 is no statute, then upon the chief executive  
5 officer or a clerk, secretary, or other official  
6 whose duty it is to maintain the official records  
7 of the organization, ~~and~~ and

8 (6) upon an inmate incarcerated in an institution  
9 under the jurisdiction and control of the  
10 Department of Corrections, by delivering a copy  
11 of the summons and of the petition to the warden  
12 or superintendent or the designee of the warden  
13 or superintendent of the institution where the  
14 inmate is housed. It shall be the duty of the  
15 receiving warden or superintendent or a designee  
16 to promptly deliver the summons and petition to  
17 the inmate named therein. The warden or  
18 superintendent or his or her designee shall  
19 reject service of process for any inmate who is  
20 not actually present in said institution.

21 2. SERVICE BY MAIL.

22 a. At the election of the plaintiff, a summons and  
23 petition may be served by mail by the plaintiff's  
24 attorney, any person authorized to serve process

1 pursuant to subparagraph a of paragraph 1 of this  
2 subsection, or by the court clerk upon a defendant of  
3 any class referred to in division (1), (3) or (5) of  
4 subparagraph c of paragraph 1 of this subsection.

5 Service by mail shall be effective on the date of  
6 receipt or if refused, on the date of refusal of the  
7 summons and petition by the defendant.

8 b. Service by mail shall be accomplished by mailing a  
9 copy of the summons and petition by certified mail,  
10 return receipt requested and delivery restricted to  
11 the addressee. When there is more than one defendant,  
12 the summons and a copy of the petition or order shall  
13 be mailed in a separate envelope to each defendant.  
14 If the summons is to be served by mail by the court  
15 clerk, the court clerk shall enclose the summons and a  
16 copy of the petition or order of the court to be  
17 served in an envelope, prepared by the plaintiff,  
18 addressed to the defendant, or to the resident service  
19 agent if one has been appointed. The court clerk  
20 shall prepay the postage and mail the envelope to the  
21 defendant, or service agent, by certified mail, return  
22 receipt requested and delivery restricted to the  
23 addressee. The return receipt shall be prepared by  
24 the plaintiff. Service by mail to a garnishee shall

1 be accomplished by mailing a copy of the summons and  
2 notice by certified mail, return receipt requested,  
3 and at the election of the judgment creditor by  
4 restricted delivery, to the addressee.

5 c. Service by mail shall not be the basis for the entry  
6 of a default or a judgment by default unless the  
7 record contains a return receipt showing acceptance by  
8 the defendant or a returned envelope showing refusal  
9 of the process by the defendant. Acceptance or  
10 refusal of service by mail by a person who is fifteen  
11 (15) years of age or older who resides at the  
12 defendant's dwelling house or usual place of abode  
13 shall constitute acceptance or refusal by the party  
14 addressed. In the case of an entity described in  
15 division (3) of subparagraph c of paragraph 1 of this  
16 subsection, acceptance or refusal by any officer or by  
17 any employee of the registered office or principal  
18 place of business who is authorized to or who  
19 regularly receives certified mail shall constitute  
20 acceptance or refusal by the party addressed. A  
21 return receipt signed at such registered office or  
22 principal place of business shall be presumed to have  
23 been signed by an employee authorized to receive  
24 certified mail. In the case of a state municipal

1 corporation, or other governmental organization  
2 thereof subject to suit, acceptance or refusal by an  
3 employee of the office of the officials specified in  
4 division (5) of subparagraph c of paragraph 1 of this  
5 subsection who is authorized to or who regularly  
6 receives certified mail shall constitute acceptance or  
7 refusal by the party addressed. If delivery of the  
8 process is refused, upon the receipt of notice of such  
9 refusal and at least ten (10) days before applying for  
10 entry of default, the person elected by plaintiff  
11 pursuant to subparagraph a of this paragraph to serve  
12 the process shall mail to the defendant by first-class  
13 mail a copy of the summons and petition and a notice  
14 prepared by the plaintiff that despite such refusal  
15 the case will proceed and that judgment by default  
16 will be rendered against him unless he appears to  
17 defend the suit. Any default or judgment by default  
18 shall be set aside upon motion of the defendant in the  
19 manner prescribed in Section 1031.1 of this title, or  
20 upon petition of the defendant in the manner  
21 prescribed in Section 1033 of this title if the  
22 defendant demonstrates to the court that the return  
23 receipt was signed or delivery was refused by an  
24 unauthorized person. A petition shall be filed within

1 one (1) year after the defendant has notice of the  
2 default or judgment by default but in no event more  
3 than two (2) years after the filing of the judgment.

4 3. SERVICE BY PUBLICATION.

5 a. Service of summons upon a named defendant may be made  
6 by publication when it is stated in the petition,  
7 verified by the plaintiff or the plaintiff's attorney,  
8 or in a separate affidavit by the plaintiff or the  
9 plaintiff's attorney filed with the court, that with  
10 due diligence service cannot be made upon the  
11 defendant by any other method.

12 b. Service of summons upon the unknown successors of a  
13 named defendant, a named decedent, or a dissolved  
14 partnership, corporation, or other association may be  
15 made by publication when it is stated in a petition,  
16 verified by the plaintiff or the plaintiff's attorney,  
17 or in a separate affidavit by the plaintiff or the  
18 plaintiff's attorney filed with the court, that the  
19 person who verified the petition or the affidavit does  
20 not know and with due diligence cannot ascertain the  
21 following:

22 (1) whether a person named as defendant is living or  
23 dead, and, if dead, the names or whereabouts of  
24 the person's successors, if any,

- 1 (2) the names or whereabouts of the unknown  
2 successors, if any, of a named decedent,  
3 (3) whether a partnership, corporation, or other  
4 association named as a defendant continues to  
5 have legal existence or not; or the names or  
6 whereabouts of its officers or successors,  
7 (4) whether any person designated in a record as a  
8 trustee continues to be the trustee; or the names  
9 or whereabouts of the successors of the trustee,  
10 or  
11 (5) the names or whereabouts of the owners or holders  
12 of special assessment or improvement bonds, or  
13 any other bonds, sewer warrants or tax bills.

14 c. Service pursuant to this paragraph shall be made by  
15 publication of a notice, signed by the court clerk,  
16 one (1) day a week for three (3) consecutive weeks in  
17 a newspaper authorized by law to publish legal notices  
18 which is published in the county where the petition is  
19 filed. If no newspaper authorized by law to publish  
20 legal notices is published in such county, the notice  
21 shall be published in some such newspaper of general  
22 circulation which is published in an adjoining county.  
23 All named parties and their unknown successors who may  
24 be served by publication may be included in one

1 notice. The notice shall state the court in which the  
2 petition is filed and the names of the plaintiff and  
3 the parties served by publication, and shall designate  
4 the parties whose unknown successors are being served.  
5 The notice shall also state that the named defendants  
6 and their unknown successors have been sued and must  
7 answer the petition on or before a time to be stated  
8 (which shall not be less than forty-one (41) days from  
9 the date of the first publication), or judgment, the  
10 nature of which shall be stated, will be rendered  
11 accordingly. If jurisdiction of the court is based on  
12 property, any real property subject to the  
13 jurisdiction of the court and any property or debts to  
14 be attached or garnished must be described in the  
15 notice.

16 (1) When the recovery of money is sought, it is not  
17 necessary for the publication notice to state the  
18 separate items involved, but the total amount  
19 that is claimed must be stated. When interest is  
20 claimed, it is not necessary to state the rate of  
21 interest, the date from which interest is  
22 claimed, or that interest is claimed until the  
23 obligation is paid.

1 (2) It is not necessary for the publication notice to  
2 state that the judgment will include recovery of  
3 costs in order for a judgment following the  
4 publication notice to include costs of suit.

5 (3) In an action to quiet title to real property, it  
6 is not necessary for the publication notice to  
7 state the nature of the claim or interest of  
8 either party, and in describing the nature of the  
9 judgment that will be rendered should the  
10 defendant fail to answer, it is sufficient to  
11 state that a decree quieting plaintiff's title to  
12 the described property will be entered. It is  
13 not necessary to state that a decree forever  
14 barring the defendant from asserting any interest  
15 in or to the property is sought or will be  
16 entered if the defendant does not answer.

17 (4) In an action to foreclose a mortgage, it is  
18 sufficient that the publication notice state that  
19 if the defendant does not answer, the defendant's  
20 interest in the property will be foreclosed. It  
21 is not necessary to state that a judgment forever  
22 barring the defendant from all right, title,  
23 interest, estate, property and equity of  
24 redemption in or to said property or any part

1                   thereof is requested or will be entered if the  
2                   defendant does not answer.

3           d.   Service by publication is complete when made in the  
4           manner and for the time prescribed in subparagraph c  
5           of this paragraph. Service by publication shall be  
6           proved by the affidavit of any person having knowledge  
7           of the publication. No default judgment may be  
8           entered on such service until proof of service by  
9           publication is filed with and approved by the court.

10          e.   Before entry of a default judgment or order against a  
11          party who has been served solely by publication under  
12          this paragraph, the court shall conduct an inquiry to  
13          determine whether the plaintiff, or someone acting in  
14          ~~his~~ behalf of the plaintiff, made a distinct and  
15          meaningful search of all reasonably available sources  
16          to ascertain the whereabouts of any named parties who  
17          have been served solely by publication under this  
18          paragraph. Before entry of a default judgment or  
19          order against the unknown successors of a named  
20          defendant, a named decedent, or a dissolved  
21          partnership, corporation or association, the court  
22          shall conduct an inquiry to ascertain whether the  
23          requirements described in subparagraph b of this  
24          paragraph have been satisfied.

1 f. A party against whom a default judgment or order has  
2 been rendered, without other service than by  
3 publication in a newspaper, may, at any time within  
4 three (3) years after the filing of the judgment or  
5 order, have the judgment or order set aside in the  
6 manner prescribed in Sections 1031.1 and 1033 of this  
7 title. Before the judgment or order is set aside, the  
8 applicant shall notify the adverse party of the  
9 intention to make an application and shall file a full  
10 answer to the petition, pay all costs if the court  
11 requires them to be paid, and satisfy the court by  
12 affidavit or other evidence that during the pendency  
13 of the action the applicant had no actual notice  
14 thereof in time to appear in court and make a defense.  
15 The title to any property which is the subject of and  
16 which passes to a purchaser in good faith by or in  
17 consequence of the judgment or order to be opened  
18 shall not be affected by any proceedings under this  
19 subparagraph. Nor shall proceedings under this  
20 subparagraph affect the title of any property sold  
21 before judgment under an attachment. The adverse  
22 party, on the hearing of an application to open a  
23 judgment or order as provided by this subparagraph,  
24 shall be allowed to present evidence to show that

1 during the pendency of the action the applicant had  
2 notice thereof in time to appear in court and make a  
3 defense.

4 g. The term "successors" includes all heirs, executors,  
5 administrators, devisees, trustees, and assigns,  
6 immediate and remote, of a named individual,  
7 partnership, corporation, or association.

8 h. Service outside of the state does not give the court  
9 in personal jurisdiction over a defendant who is not  
10 subject to the jurisdiction of the courts of this  
11 state or who has not, either in person or through an  
12 agent, submitted to the jurisdiction of the courts of  
13 this state.

14 4. SERVICE ON THE SECRETARY OF STATE.

15 a. Service of process on a domestic or foreign  
16 corporation may be made by serving the Secretary of  
17 State as the corporation's agent, if:

18 (1) there is no registered agent for the corporation  
19 listed in the records of the Secretary of State;

20 or

21 (2) neither the registered agent nor an officer of  
22 the corporation could be found at the registered  
23 office of the corporation, when service of  
24 process was attempted.

1           b. Before resorting to service on the Secretary of State  
2           the plaintiff must have attempted service either in  
3           person or by mail on the corporation at:

4           (1) the corporation's last-known address shown on the  
5           records of the Franchise Tax Division of the  
6           Oklahoma Tax Commission, if any is listed there;  
7           and

8           (2) the corporation's last-known address shown on the  
9           records of the Secretary of State, if any is  
10          listed there; and

11          (3) the corporation's last address known to the  
12          plaintiff.

13          If any of these addresses are the same, the plaintiff is  
14          not required to attempt service more than once at any  
15          address. The plaintiff shall furnish the Secretary of  
16          State with a certified copy of the return or returns  
17          showing the attempted service.

18          c. Service on the Secretary of State shall be made by  
19          filing two (2) copies of the summons and petition with  
20          the Secretary of State, notifying the Secretary of  
21          State that service is being made pursuant to the  
22          provisions of this paragraph, and paying the Secretary  
23          of State the fee prescribed in paragraph 7 of  
24          subsection A of Section 1142 of Title 18 of the

1 Oklahoma Statutes, which fee shall be taxed as part of  
2 the costs of the action, suit or proceeding if the  
3 plaintiff shall prevail therein. If a registered  
4 agent for the corporation is listed in the records of  
5 the Secretary of State, the plaintiff must also  
6 furnish a certified copy of the return showing that  
7 service on the registered agent has been attempted  
8 either in person or by mail, and that neither the  
9 registered agent nor an officer of the corporation  
10 could be found at the registered office of the  
11 corporation.

12 d. Within three (3) working days after receiving the  
13 summons and petition, the Secretary of State shall  
14 send notice by letter, certified mail, return receipt  
15 requested, directed to the corporation at its  
16 registered office or the last-known address found in  
17 the office of the Secretary of State, or if no address  
18 is found there, to the corporation's last-known  
19 address provided by the plaintiff. The notice shall  
20 enclose a copy of the summons and petition and any  
21 other papers served upon the Secretary of State. The  
22 corporation shall not be required to serve its answer  
23 until forty (40) days after service of the summons and  
24 petition on the Secretary of State.

1 e. Before entry of a default judgment or order against a  
2 corporation that has been served by serving the  
3 Secretary of State as its agent under this paragraph,  
4 the court shall determine whether the requirements of  
5 this paragraph have been satisfied. A default  
6 judgment or order against a corporation that has been  
7 served only by service on the Secretary of State may  
8 be set aside upon motion of the corporation in the  
9 manner prescribed in Section 1031.1 of this title, or  
10 upon petition of the corporation in the manner  
11 prescribed in Section 1033 of this title, if the  
12 corporation demonstrates to the court that it had no  
13 actual notice of the action in time to appear and make  
14 its defense. A petition shall be filed within one (1)  
15 year after the corporation has notice of the default  
16 judgment or order but in no event more than two (2)  
17 years after the filing of the default judgment or  
18 order.

19 f. The Secretary of State shall maintain an alphabetical  
20 record of service setting forth the name of the  
21 plaintiff and defendant, the title, docket number, and  
22 nature of the proceeding in which the process has been  
23 served upon the defendant, the fact that service has  
24 been effected pursuant to the provisions of this

1 paragraph, the return date thereof, and the date when  
2 the service was made. The Secretary of State shall  
3 not be required to retain this information for a  
4 period longer than five (5) years from receipt of the  
5 service of process.

6 g. The provisions of this paragraph shall not apply to a  
7 foreign insurance company doing business in this  
8 state.

9 5. SERVICE BY ACKNOWLEDGMENT. An acknowledgment on the back of  
10 the summons or the voluntary appearance of a defendant is equivalent  
11 to service.

12 6. SERVICE BY OTHER METHODS. If service cannot be made by  
13 personal delivery or by mail, a defendant of any class referred to  
14 in division (1) or (3) of subparagraph c of paragraph 1 of this  
15 subsection may be served as provided by court order in any manner  
16 which is reasonably calculated to give the defendant actual notice  
17 of the proceedings and an opportunity to be heard.

18 7. NO SERVICE BY PRISONER. No prisoner in any jail, Department  
19 of Corrections facility, private prison, or parolee or probationer  
20 under supervision of the Department of Corrections shall be  
21 appointed by any court to serve process on any defendant, party or  
22 witness.

23 D. SUMMONS AND PETITION. The summons and petition shall be  
24 served together. The plaintiff shall furnish the person making

1 service with such copies as are necessary. The failure to serve a  
2 copy of the petition with the summons is not a ground for dismissal  
3 for insufficiency of service of process, but on motion of the party  
4 served, the court may extend the time to answer or otherwise plead.  
5 If a summons and petition are served by personal delivery, the  
6 person serving the summons shall state on the copy that is left with  
7 the person served the date that service is made. This provision is  
8 not jurisdictional, but if the failure to comply with it prejudices  
9 the party served, the court, on motion of the party served, may  
10 extend the time to answer or otherwise plead.

11 E. SUMMONS: TERRITORIAL LIMITS OF EFFECTIVE SERVICE.

12 1. Service of the summons and petition may be made anywhere  
13 within this state in the manner provided by subsection C of this  
14 section.

15 2. When the exercise of jurisdiction is authorized by  
16 subsection F of this section, service of the summons and petition  
17 may be made outside this state:

- 18 a. by personal delivery in the manner prescribed for  
19 service within this state,
- 20 b. in the manner prescribed by the law of the place in  
21 which the service is made for service in that place in  
22 an action in any of its courts of general  
23 jurisdiction,

24

1 c. in the manner prescribed by paragraph 2 of subsection  
2 C of this section,

3 d. as directed by the foreign authority in response to a  
4 letter rogatory,

5 e. in the manner prescribed by paragraph 3 of subsection  
6 C of this section only when permitted by subparagraphs  
7 a and b of paragraph 3 of subsection C of this  
8 section, or

9 f. as directed by the court.

10 3. Proof of service outside this state may be made in the  
11 manner prescribed by subsection G of this section, the order  
12 pursuant to which the service is made, or the law of the place in  
13 which the service is made for proof of service in an action in any  
14 of its courts of general jurisdiction.

15 4. Service outside this state may be made by an individual  
16 permitted to make service of process under the law of this state or  
17 under the law of the place in which the service is made or who is  
18 designated to make service by a court of this state.

19 5. When subsection C of this section requires that in order to  
20 effect service one or more designated individuals be served, service  
21 outside this state under this section must be made upon the  
22 designated individual or individuals.

23 6. a. A court of this state may order service upon any  
24 person who is domiciled or can be found within this

1 state of any document issued in connection with a  
2 proceeding in a tribunal outside this state. The  
3 order may be made upon application of any interested  
4 person or in response to a letter rogatory issued by a  
5 tribunal outside this state and shall direct the  
6 manner of service.

7 b. Service in connection with a proceeding in a tribunal  
8 outside this state may be made within this state  
9 without an order of court.

10 d. Service under this paragraph does not, of itself,  
11 require the recognition or enforcement of an order,  
12 judgment, or decree rendered outside this state.

13 F. ASSERTION OF JURISDICTION. A court of this state may  
14 exercise jurisdiction on any basis consistent with the Constitution  
15 of this state and the Constitution of the United States.

16 G. RETURN.

17 1. The person serving the process shall make proof of service  
18 thereof to the court promptly and in any event within the time  
19 during which the person served must respond to the process, but the  
20 failure to make proof of service does not affect the validity of the  
21 service.

22 2. When process has been served by a sheriff or deputy sheriff  
23 and return thereof is filed in the office of the court clerk, a copy  
24 of the return shall be sent by the court clerk to the plaintiff's

1 attorney within three (3) days after the return is filed. If  
2 service is made by a person other than a sheriff or deputy sheriff,  
3 the licensed process server shall make affidavit thereof. The  
4 return shall set forth the county of issuance, the name of the  
5 person served and the date, place, and method of service.

6 3. If service was by mail, the person mailing the summons and  
7 petition shall endorse on the copy of the summons or order of the  
8 court that is filed in the action the date and place of mailing and  
9 the date when service was receipted or service was rejected, and  
10 shall attach to the copy of the summons or order a copy of the  
11 return receipt or returned envelope, if and when received, showing  
12 whether the mailing was accepted, refused, or otherwise returned.  
13 If the mailing was refused, the return shall also show the date and  
14 place of any subsequent mailing pursuant to paragraph 2 of  
15 subsection C of this section. When the summons and petition are  
16 mailed by the court clerk, the court clerk shall notify the  
17 plaintiff's attorney within three (3) days after receipt of the  
18 returned card or envelope showing that the card or envelope has been  
19 received.

20 H. AMENDMENT. At any time in its discretion and upon such  
21 terms as it deems just, the court may allow any process or proof of  
22 service thereof to be amended, unless it clearly appears that  
23 material prejudice would result to the substantial rights of the  
24 party against whom the process issued.

1 I. SUMMONS: TIME LIMIT FOR SERVICE. If service of process is  
2 not made upon a defendant within one hundred eighty (180) days after  
3 the filing of the petition and the plaintiff cannot show good cause  
4 why such service was not made within that period, the action ~~may~~  
5 shall be deemed dismissed as to that defendant without prejudice  
6 ~~upon the court's own initiative with notice to the plaintiff or upon~~  
7 ~~motion.~~ The action shall not be dismissed ~~where~~ if a summons was  
8 served on the defendant within one hundred eighty (180) days after  
9 the filing of the petition and a court later holds that the summons  
10 or its service was invalid. After a court quashes a summons or its  
11 service, a new summons may be served on the defendant within a time  
12 specified by the judge. If the new summons is not served within the  
13 specified time, the action shall be deemed to have been dismissed  
14 without prejudice as to that defendant. This subsection shall not  
15 apply with respect to a defendant who has been outside of this state  
16 for one hundred eighty (180) days following the filing of the  
17 petition.

18 SECTION 10. It being immediately necessary for the preservation  
19 of the public peace, health and safety, an emergency is hereby  
20 declared to exist, by reason whereof this act shall take effect and  
21 be in full force from and after its passage and approval.

22  
23 DIRECT TO CALENDAR.  
24