

1 **SENATE FLOOR VERSION**

2 February 12, 2013

3 SENATE BILL NO. 440

By: Johnson (Rob) of the Senate

4 and

5 Grau of the House

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8 An Act relating to judgments; amending 12 O.S. 2011,
9 Section 1031.1, which relates to authorization to
10 correct, open, modify or vacate judgments; requiring
11 certain approval; clarifying party eligible for award
12 of certain costs and fees; clarifying language; and
13 providing an effective date.

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

15 SECTION 1. AMENDATORY 12 O.S. 2011, Section 1031.1, is
16 amended to read as follows:

17 Section 1031.1. A. A court may correct, open, modify or vacate
18 a judgment, decree, or appealable order on its own initiative not
19 later than thirty (30) days after the judgment, decree, or
20 appealable order prepared in conformance with Section 696.3 of this
21 title has been filed with the court clerk. Notice of the court's
22 action shall be given as directed by the court to all affected
23 parties.

24 B. On motion of a party made not later than thirty (30) days
after a judgment, decree, or appealable order prepared in

1 conformance with Section 696.3 of this title has been filed with the
2 court clerk, the court may correct, open, modify, or vacate the
3 judgment, decree, or appealable order. If the moving party did not
4 prepare the judgment, decree, or appealable order, and Section 696.2
5 of this title required a copy of the judgment, decree, or appealable
6 order to be mailed to the moving party, and the court records do not
7 reflect the mailing of a copy of the judgment, decree, or appealable
8 order to the moving party within three (3) days, exclusive of
9 weekends and holidays, after the filing of the judgment, decree, or
10 appealable order, the motion to correct, open, modify, or vacate the
11 judgment, decree, or appealable order may be filed no later than
12 thirty (30) days after the earliest date on which the court records
13 show that a copy of the judgment, decree, or appealable order was
14 mailed to the moving party. The moving party shall give notice to
15 all affected parties. A motion to correct, open, modify, or vacate
16 a judgment or decree filed after the announcement of the decision on
17 all issues in the case but before the filing of the judgment or
18 decree shall be deemed filed immediately after the filing of the
19 judgment or decree.

20 C. ~~After~~ If more than thirty (30) days after have passed since
21 the filing of a judgment, decree, or appealable order has been
22 ~~filed~~, proceedings to vacate or modify the judgment, decree, or
23 appealable order shall be by petition in conformance with Section
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1 1033 of this title unless approved by all parties who have entered
2 an appearance in the lawsuit.

3 D. The party that prevails in an action to vacate any judgment,
4 decree or appealable order shall only be considered the prevailing
5 party for the purpose of the award of costs, to include a reasonable
6 attorney fee, if such party prevails on the merits in the underlying
7 action.

8 SECTION 2. This act shall become effective November 1, 2013.

9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
10 February 12, 2013 - DO PASS

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