

1 STATE OF OKLAHOMA

2 1st Extraordinary Session of the 54th Legislature (2013)

3 SENATE BILL 5x

By: Bingman and Sykes of the
Senate

4 and

5 Shannon of the House

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8 AS INTRODUCED

9 An Act relating to summary judgment; repealing 12
10 O.S. 2011, Section 2056, as amended by Section 2,
Chapter 13, O.S.L. 2011 (12 O.S. Supp. 2012, Section
11 2056), which relates to motions for summary judgment;
12 establishing procedures for summary judgment;
providing for codification; and declaring an
emergency.

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

16 SECTION 1. REPEALER 12 O.S. 2011, Section 2056, as
17 amended by Section 2, Chapter 13, O.S.L. 2011 (12 O.S. Supp. 2012,
18 Section 2056), is hereby repealed.

19 SECTION 2. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 2056.1 of Title 12, unless there
21 is created a duplication in numbering, reads as follows:

22 A. BY A CLAIMING PARTY. A party claiming relief may move, with
23 or without supporting affidavits, for summary judgment on all or
24 part of the claim. The motion may be filed at any time after twenty

1 (20) days have passed from commencement of the action or the
2 opposing party serves a motion for summary judgment.

3 B. BY A DEFENDING PARTY. A party against whom relief is sought
4 may move at any time, with or without supporting affidavits, for
5 summary judgment on all or part of the claim.

6 C. PROCEEDINGS. The judgment sought should be rendered if the
7 pleadings, the discovery and disclosure materials on file, and any
8 affidavits show that there is no genuine issue as to any material
9 fact and that the movant is entitled to judgment as a matter of law.

10 D. CASE NOT FULLY ADJUDICATED ON THE MOTION. If summary
11 judgment is not rendered on the whole action, the court should, to
12 the extent practicable, determine what material facts are not
13 genuinely at issue. The court should so determine by examining the
14 pleadings and evidence before it and by interrogating the attorneys.
15 It should then issue an order specifying what facts, including items
16 of damages or other relief, are not genuinely at issue. The facts
17 so specified must be treated as established in the action. An
18 interlocutory summary judgment may be rendered on liability alone,
19 even if there is a genuine issue on the amount of damages.

20 E. AFFIDAVITS AND FURTHER TESTIMONY. A supporting or opposing
21 affidavit must be made on personal knowledge, set out facts that
22 would be admissible in evidence, and show that the affiant is
23 competent to testify on the matters stated. If a paper or part of a
24 paper is referred to in an affidavit, a sworn or certified copy must

1 be attached to or served with the affidavit. The court may permit
2 an affidavit to be supplemented or opposed by depositions, answers
3 to interrogatories, or additional affidavits. When a motion for
4 summary judgment is properly made and supported, an opposing party
5 may not rely merely on allegations or denials in its own pleading;
6 rather, its response must, by affidavits or as otherwise provided in
7 this rule, set out specific facts showing a genuine issue for trial.
8 If the opposing party does not so respond, summary judgment should,
9 if appropriate, be entered against that party.

10 F. WHEN AFFIDAVITS ARE UNAVAILABLE. If a party opposing the
11 motion shows by affidavit that, for specified reasons, it cannot
12 present facts essential to justify its opposition, the court may
13 deny the motion, order a continuance to enable affidavits to be
14 obtained, depositions to be taken, or other discovery to be
15 undertaken or issue any other just order.

16 G. AFFIDAVITS SUBMITTED IN BAD FAITH. If satisfied that an
17 affidavit under this rule is submitted in bad faith or solely for
18 delay, the court must order the submitting party to pay the other
19 party the reasonable expenses, including attorney fees, it incurred
20 as a result. An offending party or attorney may also be held in
21 contempt.

22 SECTION 3. It being immediately necessary for the preservation
23 of the public peace, health and safety, an emergency is hereby
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1 declared to exist, by reason whereof this act shall take effect and
2 be in full force from and after its passage and approval.

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