STATE OF OKLAHOMA

2nd Session of the 55th Legislature (2016)

SENATE BILL 1248 By: Jolley

AS INTRODUCED

An Act relating to confidentiality of filings; amending 12 O.S. 2011, Section 2005, which relates to service and filing of pleadings and other papers; establishing requirements for maintaining confidentiality of certain filings; and providing an effective date.

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

SECTION 1. AMENDATORY 12 O.S. 2011, Section 2005, is amended to read as follows:

Section 2005.

SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

A. SERVICE: WHEN REQUIRED. Except as otherwise provided in this title, every order required by its terms to be served, every pleading subsequent to the original petition unless the court otherwise orders because of numerous defendants, every paper relating to discovery required to be served upon a party or any other person unless the court otherwise orders, every written motion other than one which may be heard ex parte, and every written notice, appearance, demand, offer of judgment, and similar paper

shall be served upon each of the parties. No service need be made on parties in default for failure to appear except that:

1. Pleadings asserting new or additional claims for relief against them shall be served upon them in the manner provided for service of summons in Section 2004 of this title; and

2. Service of judgments, decrees or appealable orders against them shall be made in accordance with subsection B of Section 696.2 of this title.

B. SERVICE: HOW MADE. Whenever pursuant to this act service is required or permitted to be made upon a party represented by an attorney the service shall be made upon the attorney unless service directly upon the party is ordered by the court or final judgment has been rendered and the time for appeal has expired. Service upon the attorney or upon a party shall be made by delivering a copy to the attorney or the party or by mailing it or sending it by third-party commercial carrier for delivery within three (3) calendar days to the attorney or the party at the last-known address of the attorney or the party or by electronic means if the attorney or party consents in writing to receiving service in a particular case by electronic means and the attorney or party provides instructions for making the electronic service consented to by the attorney or party. The required written consent and electronic service instructions may be made in the entry of appearance filed by the attorney or the party pursuant to subsection A of Section 2005.2 of

this title or may be made in another pleading filed by the attorney or party in the case. For purposes of this subsection, "electronic means" includes communications by facsimile or electronic mail through the internet, commonly known as e-mail. If no mailing address, physical address or electronic means address for the attorney or party is known, service is effected by leaving it with the clerk of the court. Delivery of a copy within this section means:

1. Handing it to the attorney or to the party; or

2. Leaving it at the office of the attorney or the party with the attorney's or party's clerk or other person in charge thereof; or

3. If there is no one in charge, leaving it in a conspicuous place therein; or

4. If the office is closed or the person to be served has no office, leaving it at his or her dwelling house or usual place of abode with some person residing therein who is fifteen (15) years of age or older.

Except for service of the summons and the original petition, service by mail is complete upon mailing, service by commercial carrier is complete upon delivery to the commercial carrier, and service by electronic means is complete upon transmission, unless the party making service is notified that the copy or paper served was not received by the party served. If the court clerk or a party is

required to serve a judgment or other paper by first-class mail, service in accordance with any method permitted by this section is sufficient to comply with such requirement.

C. SERVICE: NUMEROUS DEFENDANTS. In any action in which there are unusually large numbers of defendants, the court, upon motion or of its own initiative, may order that service of the pleadings of the defendants and replies thereto need not be made as between the defendants and that any cross-claim, counterclaim, or matter constituting an avoidance or affirmative defense contained therein shall be deemed to be denied or avoided by all other parties and that the filing of any such pleading and service thereof upon the plaintiff constitutes due notice of it to the parties. A copy of every such order shall be served upon the parties in such manner and form as the court directs.

D. FILING. All papers after the petition required to be served upon a party shall be filed with the court either before service or within a reasonable time thereafter, but the court may on motion of a party or on its own initiative order that depositions upon oral examination and interrogatories, requests for documents, requests for admission, and answers and responses thereto not be filed unless on order of the court or for use in the proceeding. All papers filed with the court shall include a statement setting forth the names of the persons served and the date, place, and method of service.

E. FILING PROTECTED CONFIDENTIAL INFORMATION UNDER TEMPORARY SEAL. If papers required to be filed under subsection D of this section contain, attach or reference confidential information protected by disclosure by a protective order entered under subsection C of Section 3226 of this title, such papers shall be filed temporarily under seal for the greater of forty-five (45) days or until the court resolves a pending motion for an order permanently sealing the papers or a portion of the papers under Section 24A.25 or 24A.30 of Title 51 of the Oklahoma Statutes. Filing of such papers under seal pursuant to this subsection shall automatically satisfy the requirements of subsection A of Section 24A.29 and Section 24A.30 of Title 51 of the Oklahoma Statutes.

F. FILING WITH THE COURT DEFINED.

1. The filing of papers with the court as required by this act shall be made by filing them with the clerk of the court, except that the judge may permit the papers to be filed with him or her, in which event he or she shall note thereon the filing date and forthwith transmit them to the office of the clerk.

2. A duplicate of any paper shall be acceptable for filing with the court and shall have the same force and effect as an original. For purposes of this section a duplicate is a copy produced on unglazed white or eggshell paper by mechanical, chemical or electronic means, or by other equivalent technique, which accurately reproduces the original. A duplicate that is acceptable for filing

shall not be refused because any signatures thereon are duplicates. A carbon copy shall not be considered a duplicate for purposes of this section.

3. Papers may be filed by facsimile or other electronic transmission directly to the court or the court clerk as permitted by a rule of court. The Administrative Office of the Courts shall promulgate rules for the district court for the filing of papers transmitted by facsimile or other electronic transmission device. Rules for facsimile or other electronic transmission filing must have the approval of the Supreme Court.

4. The clerk shall not refuse to accept for filing any paper solely because it is not presented in proper form as required by these rules or any local rules or practices.

SECTION 2. This act shall become effective November 1, 2016.

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