

1 STATE OF OKLAHOMA

2 2nd Session of the 55th Legislature (2016)

3 SENATE BILL 1533

By: Standridge

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5
6 AS INTRODUCED

7 An Act relating to pleadings; amending 12 O.S. 2011,
8 Section 2011, as last amended by Section 3, Chapter
9 4, O.S.L. 2013, 1st Ex. Sess. (12 O.S. Supp. 2015,
10 Section 2011), which relates to signing of pleadings;
11 modifying requirements for certain sanctions; and
12 providing an effective date.

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

14 SECTION 1. AMENDATORY 12 O.S. 2011, Section 2011, as
15 last amended by Section 3, Chapter 4, O.S.L. 2013, 1st Ex. Sess. (12
16 O.S. Supp. 2015, Section 2011), is amended to read as follows:

17 Section 2011.

18 SIGNING OF PLEADINGS

19 A. SIGNATURE. Every pleading, written motion, and other paper
20 shall be signed by at least one attorney of record in the individual
21 name of the attorney, whose Oklahoma Bar Association identification
22 number shall be stated, or, if the party is not represented by an
23 attorney, shall be signed by the party. Each paper shall state the
24 address of the signer and telephone number, if any. Except when
otherwise specifically provided by rule or statute, pleadings need

1 not be verified or accompanied by affidavit. An unsigned paper
2 shall be stricken unless the omission of the signature is corrected
3 promptly after being called to the attention of the attorney or
4 party.

5 B. REPRESENTATIONS TO COURT. By presenting to the court,
6 whether by signing, filing, submitting, or later advocating, a
7 pleading, written motion, or other paper, an attorney or
8 unrepresented party is certifying that to the best of the person's
9 knowledge, information, and belief, formed after an inquiry
10 reasonable under the circumstances:

11 1. It is not being presented for any improper or frivolous
12 purpose, such as to harass or to cause unnecessary delay or needless
13 increase in the cost of litigation;

14 2. The claims, defenses and other legal contentions therein are
15 warranted by existing law or by a nonfrivolous argument for the
16 extension, modification, or reversal of existing law or the
17 establishment of new law;

18 3. The allegations and other factual contentions have
19 evidentiary support or, if specifically so identified, are likely to
20 have evidentiary support after a reasonable opportunity for further
21 investigation or discovery; and

22 4. The denials of factual contentions are warranted on the
23 evidence or, if specifically so identified, are reasonably based on
24 a lack of information or belief.

1 C. SANCTIONS. If, after notice and a reasonable opportunity to
2 respond, the court determines that subsection B of this section has
3 been violated, the court shall, subject to the conditions stated
4 below, impose an appropriate sanction upon the attorneys, law firms,
5 or parties that have violated subsection B of this section or are
6 responsible for the violation.

7 1. HOW INITIATED.

8 a. By Motion. A motion for sanctions under this rule
9 shall be made separately from other motions or
10 requests and shall describe the specific conduct
11 alleged to violate subsection B of this section. It
12 shall be served as provided in Section 2005 of this
13 title, but shall not be filed with or presented to the
14 court unless, within twenty-one (21) days after
15 service of the motion or such other period as the
16 court may prescribe, the challenged paper, claim,
17 defense, contention, allegation, or denial is not
18 withdrawn or appropriately corrected. If warranted,
19 the court may award to the party prevailing on the
20 motion the reasonable expenses and attorneys fees
21 incurred in presenting or opposing the motion. Absent
22 exceptional circumstances, a law firm shall be held
23 jointly responsible for violations committed by its
24 partners, associates, and employees.

1 b. On Court's Initiative. On its own initiative, the
2 court may enter an order describing the specific
3 conduct that appears to violate subsection B of this
4 section and directing an attorney, law firm, or party
5 to show cause why it has not violated subsection B of
6 this section with respect thereto.

7 2. NATURE OF SANCTIONS; LIMITATIONS. A sanction imposed for
8 violation of this section shall be limited to what is sufficient to
9 deter repetition of such conduct or comparable conduct by others
10 similarly situated. ~~Subject to the limitations in subparagraphs a,~~
11 ~~b and c of this paragraph, the~~ The sanction may consist of, or
12 include, directives of a nonmonetary nature, an order to pay a
13 penalty into court, or, if imposed on motion and warranted for
14 effective deterrence, an order directing payment to the movant of
15 some or all of the reasonable attorneys fees and other expenses
16 incurred as a direct result of the violation.

17 a. Monetary sanctions ~~shall not~~ may be awarded against a
18 represented party for a violation of paragraph 2 of
19 subsection B of this section.

20 b. Monetary sanctions ~~shall not~~ may be awarded on the
21 court's initiative ~~unless~~ if the court issues its
22 order to show cause before a voluntary dismissal or
23 settlement of the claims made by or against the party
24 which is, or whose attorneys are, to be sanctioned.

1 c. Monetary sanctions shall be awarded for any violations
2 of paragraph 1 of subsection B of this section. The
3 sanctions shall consist of an order directing payment
4 of reasonable costs, including attorney fees, incurred
5 by the movant with respect to the conduct for which
6 the sanctions are imposed. In addition, the court may
7 impose any other sanctions authorized by this
8 paragraph.

9 3. ORDER. When imposing sanctions, the court shall describe
10 the conduct determined to constitute a violation of this section and
11 explain the basis for the sanction imposed.

12 D. INAPPLICABILITY TO DISCOVERY. This section does not apply
13 to disclosures and discovery requests, responses, objections, and
14 motions that are subject to the provisions of Sections 3226 through
15 3237 of this title.

16 E. DEFINITION. As used in this section, "frivolous" means the
17 action or pleading was knowingly asserted in bad faith or without
18 any rational argument based in law or facts to support the position
19 of the litigant or to change existing law.

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

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