

1                   **HOUSE OF REPRESENTATIVES - FLOOR VERSION**

2                               STATE OF OKLAHOMA

3                               2nd Session of the 58th Legislature (2022)

4   HOUSE BILL 3384

                              By: Moore

7                               AS INTRODUCED

8           An Act relating to civil procedure; amending 12 O.S.  
9           2021, Sections 3233, 3234 and 3236, which relate to  
10          discovery; removing response delay; and providing an  
11          effective date.

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

13           SECTION 1.       AMENDATORY       12 O.S. 2021, Section 3233, is  
14   amended to read as follows:

15           Section 3233.   A.   AVAILABILITY; PROCEDURES FOR USE.   Any party  
16   may serve upon any other party written interrogatories to be  
17   answered by the party served or, if the party served is a public or  
18   private corporation or a partnership or association or governmental  
19   agency, by any officer or agent, who shall furnish such information  
20   as is available to that party.

21           Each interrogatory shall be answered separately and fully in  
22   writing under oath, unless it is objected to, in which event the  
23   objecting party shall state the reasons for objection and shall  
24   answer to the extent the interrogatory is not objectionable.   When

1 answering each interrogatory, the party shall restate the  
2 interrogatory, then provide the answer. The number of  
3 interrogatories to a party shall not exceed thirty in number.  
4 Interrogatories inquiring as to the names and locations of  
5 witnesses, or the existence, location and custodian of documents or  
6 physical evidence shall be construed as one interrogatory. All  
7 other interrogatories, including subdivisions of one numbered  
8 interrogatory, shall be construed as separate interrogatories. No  
9 further interrogatories will be served unless authorized by the  
10 court. If counsel for a party believes that more than thirty  
11 interrogatories are necessary, counsel shall consult with opposing  
12 counsel promptly and attempt to reach a written stipulation as to a  
13 reasonable number of additional interrogatories. Counsel are  
14 expected to comply with this requirement in good faith. In the  
15 event a written stipulation cannot be agreed upon, the party seeking  
16 to submit such additional interrogatories shall file a motion with  
17 the court (1) showing that counsel have conferred in good faith but  
18 sincere attempts to resolve the issue have been unavailing, (2)  
19 showing reasons establishing good cause for their use, and (3)  
20 setting forth the proposed additional interrogatories. The answers  
21 are to be signed by the person making them, and the objections  
22 signed by the attorney making them. Interrogatories may, without  
23 leave of court, be served upon any party after the filing of a  
24 petition. The party upon whom the interrogatories have been served

1 shall serve a copy of the answers, and objections if any, within  
2 thirty (30) days after the service of the interrogatories. ~~The 30-~~  
3 ~~day response period shall not commence until an answer to the~~  
4 ~~petition is filed. However, upon leave of court or otherwise agreed~~  
5 ~~to in writing by the parties subject to Section 3229 of this title,~~  
6 ~~answers to interrogatories may be required prior to the filing of an~~  
7 ~~answer to the petition.~~ All grounds for an objection to an  
8 interrogatory shall be stated with specificity. Any ground not  
9 stated in a timely objection is waived unless the party's failure to  
10 object is excused by the court for good cause shown. The party  
11 submitting the interrogatories may move for an order under  
12 subsection A of Section 3237 of this title with respect to any  
13 objection to or other failure to answer an interrogatory.

14 B. SCOPE; USE AT TRIAL. Interrogatories may relate to any  
15 matters which can be inquired into under subsection B of Section  
16 3226 of this title, and the answers may be used to the extent  
17 permitted by the Oklahoma Evidence Code as set forth in Sections  
18 2101 et seq. of this title.

19 An interrogatory otherwise proper is not necessarily  
20 objectionable because an answer to the interrogatory involves an  
21 opinion or contention that relates to fact or the application of law  
22 to fact. The court may order that such an interrogatory need not be  
23 answered until after designated discovery has been completed or  
24 until a pretrial conference or other later time.

1 C. OPTION TO PRODUCE BUSINESS RECORDS. Where the answer to an  
2 interrogatory may be derived or ascertained from the business  
3 records, including electronically stored information, of the party  
4 upon whom the interrogatory has been served or from an examination,  
5 audit or inspection of such business records, including a  
6 compilation, abstract or summary thereof, and the burden of deriving  
7 or ascertaining the answer is substantially the same for the party  
8 serving the interrogatory as for the party served, it is a  
9 sufficient answer to such interrogatory to specify the records from  
10 which the answer may be derived or ascertained and to afford to the  
11 party serving the interrogatory reasonable opportunity to examine,  
12 audit or inspect such records and to make copies, compilations,  
13 abstracts or summaries thereof. A specification shall be in  
14 sufficient detail to permit the party submitting the interrogatory  
15 to locate and to identify, as readily as can the party served, the  
16 records from which the answer may be ascertained.

17 SECTION 2. AMENDATORY 12 O.S. 2021, Section 3234, is  
18 amended to read as follows:

19 Section 3234. A. IN GENERAL. A party may serve on any other  
20 party a request within the scope of Section 3226 of this title:

21 1. To produce and permit the requesting party or its  
22 representative to inspect, copy, test or sample the following items  
23 in the possession, custody or control of the responding party:  
24

1           a.    any designated documents or electronically stored  
2                   information - including writings, drawings, graphs,  
3                   charts, photographs, sound recordings, images and  
4                   other data or data compilations - stored in any medium  
5                   from which information can be obtained either directly  
6                   or, if necessary, after translation by the responding  
7                   party into a reasonably usable form, or

8           b.    any designated tangible things; or

9           2.    To permit entry onto designated land or other property  
10                possessed or controlled by the responding party so that the  
11                requesting party may inspect, measure, survey, photograph, test or  
12                sample the property or any designated object or operation on it.

13           B.   PROCEDURE.   1.   The request:

14               a.   shall describe with reasonable particularity each item  
15                   or category of items to be inspected,

16               b.   shall specify a reasonable time, place and manner for  
17                   the inspection and for performing the related acts,  
18                   and

19               c.   may specify the form or forms in which electronically  
20                   stored information is to be produced.

21           2.    a.   The request may be served, without leave of court,  
22                   upon any party after the filing of a petition.   The  
23                   party to whom the request is directed shall respond in  
24                   writing within thirty (30) days after being served.

1       ~~The thirty-day response period shall not commence~~  
2       ~~until an answer to the petition is filed. However,~~  
3       ~~upon leave of court or otherwise agreed to in writing~~  
4       ~~by the parties subject to Section 3229 of this title,~~  
5       ~~the response to the request may be required prior to~~  
6       ~~the filing of an answer to the petition.~~

7       b. For each item or category, the response shall either  
8       state that inspection and related activities will be  
9       permitted as requested or state with specificity the  
10      grounds for objecting to the request, including the  
11      reasons. The responding party may state that it will  
12      produce copies of documents or of electronically  
13      stored information instead of permitting inspection.  
14      The production shall be completed no later than the  
15      time for inspection specified in the request, or  
16      another reasonable time specified in the response.

17      c. An objection shall state whether any responsive  
18      materials are being withheld on the basis of that  
19      objection. An objection to part of a request shall  
20      specify the part and permit inspection of the rest.

21      d. The response may state an objection to a requested  
22      form for producing electronically stored information.  
23      If the responding party objects to a requested form,

1 or if no form was specified in the request, the party  
2 shall state the form or forms it intends to use.

3 e. Unless otherwise stipulated or ordered by the court,  
4 these procedures apply to producing documents or  
5 electronically stored information:

6 (1) a party shall produce documents as they are kept  
7 in the usual course of business or shall organize  
8 and label them to correspond to the categories in  
9 the request,

10 (2) if a request does not specify a form for  
11 producing electronically stored information, a  
12 party shall produce it in a form or forms in  
13 which it is ordinarily maintained or in a  
14 reasonably usable form or forms, and

15 (3) a party need not produce the same electronically  
16 stored information in more than one form.

17 C. NONPARTIES. A nonparty may be compelled to produce  
18 documents and tangible things or to permit an inspection as provided  
19 in Section 2004.1 of this title.

20 SECTION 3. AMENDATORY 12 O.S. 2021, Section 3236, is  
21 amended to read as follows:

22 Section 3236. A. REQUEST FOR ADMISSION. A party may serve  
23 upon any other party a written request for the admission, for  
24 purposes of the pending action only, of the truth of any matters

1 within the scope of Section 3226 of this title set forth in the  
2 request that relate to statements or opinions of fact or of the  
3 application of law to fact, including the genuineness of any  
4 documents described in the request. Copies of documents shall be  
5 served with the request for admission unless they have been or are  
6 otherwise furnished or made available for inspection and copying.  
7 The number of requests for admissions for each party is limited to  
8 thirty. No further requests for admission will be served unless  
9 authorized by the court. If counsel for a party believes that more  
10 than thirty requests for admissions are necessary, counsel shall  
11 consult with opposing counsel promptly and attempt to reach a  
12 written stipulation as to a reasonable number of additional requests  
13 for admissions. Counsel are expected to comply with this  
14 requirement in good faith. In the event a written stipulation  
15 cannot be agreed upon, the party seeking to submit such additional  
16 requests for admissions shall file a motion with the court (1)  
17 showing that counsel have conferred in good faith but sincere  
18 attempts to resolve the issue have been unavailing, (2) showing  
19 reasons establishing good cause for their use, and (3) setting forth  
20 the proposed additional requests.

21 The request may, without leave of court, be served upon any  
22 party after the filing of a petition. Each matter of which an  
23 admission is requested shall be separately set forth. The matter is  
24 admitted unless, within thirty (30) days after service of the



1 request, or within such shorter or longer time as the court may  
2 allow, the party to whom the request is directed serves upon the  
3 party requesting the admission a written answer or objection  
4 addressed to the matter, signed by the party or by the party's  
5 attorney. ~~The thirty-day response period shall not commence until~~  
6 ~~an answer to the petition is filed. However, upon leave of court or~~  
7 ~~otherwise agreed to in writing by the parties subject to Section~~  
8 ~~3229 of this title, the response to the request may be required~~  
9 ~~prior to the filing of an answer to the petition.~~

10 If objection is made, the reasons therefor shall be stated. The  
11 answer shall specifically deny the matter or set forth in detail the  
12 reasons why the answering party cannot truthfully admit or deny the  
13 matter. A denial shall fairly meet the substance of the requested  
14 admission, and when good faith requires that a party qualify his or  
15 her answer or deny only a part of the matter of which an admission  
16 is requested, he or she shall specify so much of it as is true and  
17 qualify or deny the remainder. An answering party may not give lack  
18 of information or knowledge as a reason for failure to admit or deny  
19 unless the party states that he or she has made reasonable inquiry  
20 and that the information known or readily obtainable by the party is  
21 insufficient to enable him or her to admit or deny. A party who  
22 considers that a matter of which an admission has been requested  
23 presents a genuine issue for trial may not, on that ground alone,  
24 object to the request; he or she may, subject to the provisions of

1 subsection D of Section 3237 of this title, deny the matter or set  
2 forth reasons why he or she cannot admit or deny it.

3 The party who has requested the admission may move to determine  
4 the sufficiency of the answers or objections. Unless the court  
5 determines that an objection is justified, it shall order that an  
6 answer be served. If the court determines that an answer does not  
7 comply with the requirements of this section, it may order either  
8 that the matter is admitted or that an amended answer be served.

9 The court may, in lieu of these orders, determine that final  
10 disposition of the request be made at a pretrial conference or at a  
11 designated time prior to trial. The provisions of paragraph 4 of  
12 subsection A of Section 3237 of this title apply to the award of  
13 expenses incurred in relation to the motion.

14 B. EFFECT OF ADMISSION. Any matter admitted under this section  
15 is conclusively established unless the court on motion permits  
16 withdrawal or amendment of the admission. The court may permit  
17 withdrawal or amendment of an admission when the presentation of the  
18 merits of the action will be subserved thereby and the party who  
19 obtained the admission fails to satisfy the court that withdrawal or  
20 amendment will prejudice him or her in maintaining his or her action  
21 or defense on the merits.

22 C. SCOPE OF ADMISSIONS. Any admission made by a party under  
23 this section is for the purpose of the pending action only and is  
24

1 not an admission for any other purpose nor may it be used against  
2 him or her in any other proceeding.

3 SECTION 4. This act shall become effective November 1, 2022.

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5 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY - CIVIL, dated  
6 03/01/2022 - DO PASS.

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