

STATE OF OKLAHOMA

2nd Session of the 58th Legislature (2022)

HOUSE BILL 3384

By: Moore

AS INTRODUCED

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

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

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

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

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

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

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

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

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

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

- b. For each item or category, the response shall either state that inspection and related activities will be permitted as requested or state with specificity the grounds for objecting to the request, including the reasons. The responding party may state that it will produce copies of documents or of electronically stored information instead of permitting inspection. The production shall be completed no later than the time for inspection specified in the request, or another reasonable time specified in the response.
- c. An objection shall state whether any responsive materials are being withheld on the basis of that objection. An objection to part of a request shall specify the part and permit inspection of the rest.
- d. The response may state an objection to a requested form for producing electronically stored information. 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
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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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