

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1248

By: Jolley

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5
6 AS INTRODUCED

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

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

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

Section 2005.

16 SERVICE AND FILING OF PLEADINGS AND OTHER PAPERS

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

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

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

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

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

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

- 9 1. Handing it to the attorney or to the party; or
- 10 2. Leaving it at the office of the attorney or the party with
11 the attorney's or party's clerk or other person in charge thereof;
12 or
- 13 3. If there is no one in charge, leaving it in a conspicuous
14 place therein; or
- 15 4. If the office is closed or the person to be served has no
16 office, leaving it at his or her dwelling house or usual place of
17 abode with some person residing therein who is fifteen (15) years of
18 age or older.

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

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

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

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

1 E. FILING PROTECTED CONFIDENTIAL INFORMATION UNDER TEMPORARY
2 SEAL. If papers required to be filed under subsection D of this
3 section contain, attach or reference confidential information
4 protected by disclosure by a protective order entered under
5 subsection C of Section 3226 of this title, such papers shall be
6 filed temporarily under seal for the greater of forty-five (45) days
7 or until the court resolves a pending motion for an order
8 permanently sealing the papers or a portion of the papers under
9 Section 24A.25 or 24A.30 of Title 51 of the Oklahoma Statutes.
10 Filing of such papers under seal pursuant to this subsection shall
11 automatically satisfy the requirements of subsection A of Section
12 24A.29 and Section 24A.30 of Title 51 of the Oklahoma Statutes.

13 F. FILING WITH THE COURT DEFINED.

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

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

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

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

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

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

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