

1 **SENATE FLOOR VERSION**

2 February 22, 2022

3 **AS AMENDED**

4 SENATE BILL NO. 327

5 By: Daniels

6 An Act relating to the Oklahoma Discovery Code;
7 amending 12 O.S. 2021, Section 3234, which relates to
8 production of documents; imposing limitation upon
9 requests to produce certain documents or other items;
10 establishing procedures for additional requests for
11 production; and providing an effective date.

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

13 SECTION 1. AMENDATORY 12 O.S. 2021, Section 3234, is
14 amended to read as follows:

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

17 1. To produce and permit the requesting party or its
18 representative to inspect, copy, test or sample the following items
19 in the possession, custody or control of the responding party:

- 20 a. any designated documents or electronically stored
21 information - including writings, drawings, graphs,
22 charts, photographs, sound recordings, images and
23 other data or data compilations - stored in any medium
24 from which information can be obtained either directly

1 or, if necessary, after translation by the responding
2 party into a reasonably usable form, or

3 b. any designated tangible things; or

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

8 B. PROCEDURE. 1. The request:

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

11 b. shall specify a reasonable time, place and manner for
12 the inspection and for performing the related acts,
13 and

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

16 2. The number of requests to produce or permit inspection or
17 copying shall not exceed thirty in number. If counsel for a party
18 believes that more than thirty requests to produce or permit
19 inspection or copying are necessary, counsel shall consult with
20 opposing counsel promptly and attempt to reach a written stipulation
21 as to a reasonable number of additional requests. Counsel are
22 expected to comply with this requirement in good faith. In the
23 event a written stipulation cannot be agreed upon, the party seeking
24

1 to submit such additional requests for production or inspection
2 shall file a motion with the court:

3 a. showing that counsel have conferred in good faith but
4 sincere attempts to resolve the issue have been
5 unavailing,

6 b. showing reasons establishing good cause for their use,
7 and

8 c. setting forth the proposed additional requests for
9 production or inspection.

10 3. a. The request may be served, without leave of court,
11 upon any party after the filing of a petition. The
12 party to whom the request is directed shall respond in
13 writing within thirty (30) days after being served.
14 The thirty-day response period shall not commence
15 until an answer to the petition is filed. However,
16 upon leave of court or otherwise agreed to in writing
17 by the parties subject to Section 3229 of this title,
18 the response to the request may be required prior to
19 the filing of an answer to the petition.

20 b. For each item or category, the response shall either
21 state that inspection and related activities will be
22 permitted as requested or state with specificity the
23 grounds for objecting to the request, including the
24 reasons. The responding party may state that it will

1 produce copies of documents or of electronically
2 stored information instead of permitting inspection.
3 The production shall be completed no later than the
4 time for inspection specified in the request, or
5 another reasonable time specified in the response.

6 c. An objection shall state whether any responsive
7 materials are being withheld on the basis of that
8 objection. An objection to part of a request shall
9 specify the part and permit inspection of the rest.

10 d. The response may state an objection to a requested
11 form for producing electronically stored information.
12 If the responding party objects to a requested form,
13 or if no form was specified in the request, the party
14 shall state the form or forms it intends to use.

15 e. Unless otherwise stipulated or ordered by the court,
16 these procedures apply to producing documents or
17 electronically stored information:

18 (1) a party shall produce documents as they are kept
19 in the usual course of business or shall organize
20 and label them to correspond to the categories in
21 the request,

22 (2) if a request does not specify a form for
23 producing electronically stored information, a
24 party shall produce it in a form or forms in

1 which it is ordinarily maintained or in a
2 reasonably usable form or forms, and

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

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

8 SECTION 2. This act shall become effective **November 1, 2022.**

9 COMMITTEE REPORT BY: COMMITTEE ON JUDICIARY
10 February 22, 2022 - DO PASS AS AMENDED

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