

**A STATUS REPORT:  
ON-LINE IMAGES OF LAND DOCUMENTS  
IN OKLAHOMA COUNTY**

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*"Have Judgment Lien Creditors Become 'Bona Fide Purchasers'?"*, 68 Oklahoma Bar Journal 1071 (March 29, 1997)\*;  
*"Tax Resales: Invisible and Invincible Liens That May Be Surviving The Sale"*, 66 Oklahoma Bar Journal 2638 (September 9, 1995); and  
*"Federal Money Judgment Liens Under The Federal Debt Collection Procedure Act: A 40-Year Super-Lien"*, 47 Consumer Finance Law Quarterly Report 352 (Fall 1993)
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## **TABLE OF CONTENTS**

**AUTHOR'S RESUME**

**INTRODUCTION**

**I. HOW TO ACCESS ON-LINE IMAGES OF LAND DOCUMENTS**

**II. WHERE WE ARE GOING NEXT**

- A. COURT FILINGS BY ELECTRONIC MEANS
- B. E-FILING OF LAND DOCUMENTS IN OKLAHOMA

**APPENDICES:**

1. SCREENS: ON-LINE ACCESS TO IMAGES
2. SAMPLE SCREENS: ON-LINE ACCESS TO IMAGES
3. SUBCOMMITTEE GOALS: ELECTRONIC FILING OF LAND RECORDS
4. ENABLING LEGISLATION: HB2195 (EFFECTIVE NOV. 1, 2004)
5. SLIDES: ELECTRONIC RECORDING
6. SCREENS: UCC ON-LINE FILING

## **INTRODUCTION**

The purpose of this paper is to share with you information on several matters which will probably affect your real estate practice, including: (1) How can you access the real property information and images of documents available on-line from the Oklahoma County Clerk? and (2) What are the next related steps regarding e-imaging, and e-filing of land documents that we can expect in Oklahoma County?

There are other efforts underway across the State concerning these same issues. This author is eager to learn about other counties' experiences, so that such information can be shared statewide. You are encouraged to send e-mail to the author at [kqelaw@aol.com](mailto:kqelaw@aol.com) and to visit his website at [www.eppersonlaw.com](http://www.eppersonlaw.com).

### **I. HOW TO ACCESS ON-LINE IMAGES OF LAND DOCUMENTS**

From April 1991 through the current date all real property documents which have been filed in the office of the Oklahoma County Clerk (currently Carolyn Caudill) have been copied and stored in digital image form, rather than being photocopied and stored as hard copies in books. From May 1994 through the present time, the indexes (grantor/grantee and tract) for accessing the documents have also become computerized and are no longer kept – on a go-forward basis – in paper form.

Starting on April 1999, whenever an original real property document was handed to the county clerk's staff at the counter for filing, the document was not kept but was immediately scanned into digital form and the original was returned to the waiting customer. If the document was received by mail, it was scanned and the original was promptly mailed back.

These initial steps resulted in the reduction of those Clerk's expenses which

related (a) to the cost of space and supplies arising from preparing, storing and maintaining increasing numbers of hard copies of documents and paper indexes, and (b) to salaries and postage for processing and mailing original documents.

Both the indexes and the images of the documents had been available on the computers located in the County Clerk's office since May 1994, which is the date that the Clerk stopped adding paper copies of documents and indexes to the system. As of August 1998, the County Clerk made the indexes available on-line through the County-wide website. (see: [www.oklahomacounty.org](http://www.oklahomacounty.org) >>then select>> "Mortgages/Deeds") However, such on-line information did not include an image of any documents, which document images could only be accessed on the publicly-accessible computers located in the County Clerk's own office.

The newest step which has recently been taken by the Oklahoma County Clerk is the addition of the digital images of all documents (post-1991) to the indexing information already available on-line. These images became available on May 27, 2004. The pre-1991 images and indexing are being added to the system through a third-party vendor contract, and they should be available by June 30, 2005 (all the way back to "Book 1").

The process that an attorney or other interested party can use to review the on-line index and to look at the on-line document images is described below. It should be noted that, at this stage, while the images of the documents can be viewed and can be printed on your own computer, (according to Oklahoma County Clerk Carolyn Caudill) there are unanswered questions about the legality of providing "official" or "certified" copies without charging for them. Therefore, the copy that you can save or print on your own

computer will include the words “NOT AN OFFICIAL COPY” stamped across the face of each document page. While the copies are certainly adequate to review and to place in one’s file, one will still have to go to the County Clerk’s office and pay for a “certified copy”. The County Clerk’s office wants to develop a means whereby a certified copy can be provided electronically after HB 2195 goes into effect November 1, 2004.

These images are available on-line at [www.oklahomacounty.org/landrecords](http://www.oklahomacounty.org/landrecords). Because this system is new, there will certainly be software and data “glitches” to be identified and remedied. The Oklahoma City Real Property Lawyers Association and the OBA Real Property Law Section Title Examination Standards Committee were enlisted to be among the early testers of this new on-line imaging system to provide prompt professional feedback. In order to assist with the “identification” process, you are encouraged to note any problems and then contact Brett Maughan at (405) 713-2333 or e-mail him at [ccbremau@oklahomacounty.org](mailto:ccbremau@oklahomacounty.org). Thereafter, the County Clerk’s staff can work on the “remediation” process

**ACCESSING THE IMAGES ON-LINE IS SIMPLE AS 1, 2, 3, 4 AND 5:**

**STEP 1:** ACCESS YOUR ON-LINE SERVICE AND TYPE IN:

[WWW.OKLAHOMACOUNTY.ORG/LANDRECORDS](http://WWW.OKLAHOMACOUNTY.ORG/LANDRECORDS).

**STEP 2:** ON THE “LOG-IN” PAGE, ENTER YOUR USER NAME AND YOUR PASSWORD, IF YOU HAVE USED THIS SYSTEM BEFORE, OR ENTER YOUR USER NAME AND CREATE AND ENTER YOUR PASSWORD, AND, CLICK ON “CREATE A NEW ACCOUNT”, AND, ON THE NEXT SCREEN, ENTER THE REQUESTED INFORMATION TO CREATE YOUR ACCOUNT. THE ACCOUNT IS SELF-CREATING AND THERE IS NO CHARGE TO USE THE SYSTEM.

**STEP 3:** THEREAFTER, REVIEW AND CLICK THROUGH THE NEXT TWO SCREENS TO PICK THE DEPARTMENT (“REGISTRAR OF DEEDS PUBLIC ACCESS”), AND TO PICK THE SEARCH CRITERIA (“GRANTOR/GRANTEE OR SUBDIVISION”, OR “GRANTOR/GRANTEE OR UNPLATTED”, OR “SEARCH BY DOCUMENT NUMBER”, OR “SEARCH BY BOOK AND PAGE”).

**STEP 4:** ON THE NEXT SCREEN FILL IN THE REQUESTED SEARCH INFORMATION, AND, THEN, IF THE NEXT SCREEN PROVIDES MULTIPLE NAMES TO CHOOSE AMONG, CLICK ON THE APPROPRIATE NAMES, TO NARROW THE SEARCH.

**STEP 5:** REVIEW THE LISTED DOCUMENT(S) AND CLICK ON EITHER THE DOCUMENT NUMBER FOR A “FULL DOCUMENT DISPLAY” OF INFORMATION, OR ON THE IMAGE ICON NEXT TO THE DOCUMENT NUMBER FOR A VIEW OF THE DOCUMENT ITSELF.

**[SEE AN IMAGE OF EACH SCREEN, ATTACHED HERETO: APP. 1 & 2]**

## II. WHERE WE ARE GOING NEXT

### A. COURT FILINGS BY ELECTRONIC MEANS

The next step in this “r/evolutionary” process is the initiation of the on-line electronic filing of real property documents (e.g., deeds, mortgages, easements, restrictions, statements of judgment, decrees, etc.).

The usual preliminary step, which occurs before a system is implemented whereby electronic images of paper documents and electronic versions of non-paper documents are filed electronically, appears to be the on-line availability of indexes/dockets and images of the documents.

The Oklahoma Supreme Court is working with numerous District /County Court Clerks to put their dockets and eventually images of all the court documents themselves on-line to be available to the general public. (see: [www.oscn.net](http://www.oscn.net) >> then select >> “COURT DOCKETS”) Access to court dockets are currently available for 12 of the 77 counties. The County Court Clerk for Oklahoma County, Patricia Presley, has the dockets available on-line for Oklahoma County and is in the process of placing the images on-line, and currently has the probate division pleadings images available on-line. All of these dockets and images are only available on a go-forward basis at this time, with the starting dates varying from county to county.

Duplicates (i.e., photocopies and telecopies) of various court documents, such as signature pages of other counsel on motions and orders, are permitted by statute to be filed in district courts and this is regularly done (12 O.S.§2005(E)(2)):

*A duplicate of any paper shall be acceptable for filing with the court and shall have the same force and effect as an original. For purposes of this section a duplicate is a copy produced on unglazed white or eggshell paper by mechanical,*



*chemical or electronic means, or by other equivalent technique, which accurately reproduces the original. A duplicate that is acceptable for filing shall not be refused because any signatures thereon are duplicates. A carbon copy shall not be considered a duplicate for purposes of this section.*

While there is statutory authority for the electronic filing of documents in the Oklahoma Supreme Court and district courts, this has not been implemented (20 O.S. §3004):

*The Supreme Court is authorized to provide for electronic filing of documents in the Supreme Court and the district courts. The Administrative Office of the Courts shall promulgate rules for the filing of documents transmitted by electronic device. Rules for electronic filing must have the approval of the Supreme Court.*

And (12 O.S. §2005(E)(3)):

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

On and after May 1, 2004, all filings with the U.S. District Court for the Western District of Oklahoma must be done electronically, in “PDF” format. (see: [www.okwd.uscourts.gov/](http://www.okwd.uscourts.gov/))

## **B. E-FILING OF LAND DOCUMENTS IN OKLAHOMA**

Apparently acting in response to pressure at both the national and state levels from lenders, federal legislation mandating the acceptance of electronic documents (either paper copies transmitted electronically or electronic versions that never existed on paper) and the electronic transmittal and filing of such documents has been adopted and amended, and companion state legislation has been promulgated and amended as well.

On June 30, 2000, President Clinton signed the E-Sign Act (15 USCA § 7001 et

seq). At least one commentator concluded that the adoption of this federal act was intended (1) to force each State to adopt some version of the Uniform Electronic Transaction Act [“UETA (1999)”], to foster uniformity among the States concerning electronic commerce, and (2) to serve as interim legislation for every State until each and every State adopts the UETA (1999). [“Electronic Signatures...E-Sign of the Times”, p.8, Julie R. Caggiano (Texas attorney), May 17-18, 2001]

In order to effectively serve as interim “State legislation”, the E-Sign Act is operative in every State except where (1) a State has adopted the UETA (1999), or (2) a State has adopted statutes that “specify alternative procedures for using electronic signatures to establish the validity of the contracts, agreements or records.” (see: Caggiano, p.14) [also see: “E-Sign Acts – Impact of New Federal and State Laws on Commercial Real Property Practice”, Donald Lampe (North Carolina attorney), February 22, 2001]

The initial Oklahoma legislation dealing with e-commerce was adopted in 1998 as the “Electronic Records and Signature Act of 1998” (15 O.S. § 960 et seq – “OKERSA”), and it arguably excluded real property documents from its coverage. 15 O.S. § 963(B) provided: *“This act shall not apply to:...3. Rules of law relating to mortgages, conveyances, surface and mineral leases, rights-of-way, and easements of real property.”*

The current Oklahoma statute dealing with e-commerce was adopted in 2000, replacing the OKERSA, and is called the “Uniform Electronic Transactions Act” (12A O.S. § 1-101 et seq – “OKUETA”). Unlike the earlier OKERSA, the OKUETA does not expressly exclude real property “Transactions” from its coverage [12A O.S. § 15-

101(21)], although it does exclude any transaction covered by “a law governing the creation and execution of wills, codicils, or testamentary trusts.” [12A O.S. § 15-103(b)(1)] Also, while the newer OKUETA authorizes a state or local governmental agency or subdivision to use or permit the use of electronic records or electronic signatures, the act does not require it. (12A O.S. § 15-118)

There has been a “discussion version” of the “Uniform Real Property Electronic Recordation Act” drafted by the National Conference of Commissioners of Uniform Laws”, which was to be discussed by the National Conference on May 2-4, 2003.

In Oklahoma, in 2003-2004, the state legislature established an “Electronic Commerce Task Force” with a Sub-Committee assigned to consider the “Electronic Filing of Land Records”. The Oklahoma County Clerk,Carolynn Caudill, was appointed as the Sub-Committee chair. The Sub-Committee met several times in 2004, and addressed two goals, including one calling for the drafting and passage of legislation to facilitate the filing of land records by electronic means. Such state legislation has passed and is effective November 1, 2004 (HB2195) (“Enabling Legislation”). A copy of the Goals, and the state Enabling Legislation as enacted, are attached hereto, along with a set of “slides” discussing “Electronic Recording”. (App. 3, 4 & 5)

The state Enabling Legislation, which is effective November 1, 2004, (1) authorizes (but does not require) any county clerk to accept an electronic document, presented in compliance with the state’s Uniform Electronic Transaction Act, for filing (19 O.S.§298.1, as amended), while making it clear that the State agency that registers all of the entities who will be authorized to transmit such documents -- the Oklahoma Secretary of State -- nevertheless has no affirmative duty to ensure that such documents

have been transmitted by an authorized sender, and (2) expands the types of payment that the county clerks can accept to pay for recording fees and other charges as part of the process of accepting electronic documents for recording (28 O.S. §32.3, as amended).

The Oklahoma County Clerk has already implemented, as of July 2001, a system whereby the Clerk processes the on-line filing of Uniform Commercial Code (“UCC”) financing statements encumbering personal property. The Clerk is relying upon the OKUETA for statutory authority to allow this e-filing of notice of UCC encumbrances, in part due to the lack of a need for the UCC-1 to be signed by the debtor. A copy of the series of on-line screens used to make such an UCC filing is attached hereto. Apparently such electronic filings have grown to constitute about 30% of the total. (App. 6)

While the implementation of the UCC filing system has given the Oklahoma County Clerk significant experience in implementing an electronic filing system, the filing of real property documents presents a whole host of additional unique challenges not applicable to the UCC operation.

The Oklahoma County Clerk intends to focus on the easier and simpler version of electronic filings, involving the transmission of a facsimile copy (i.e., a telecopy) of a real property paper document which exists out there in a closing office, and which includes the grantor’s actual physical signature and the notary’s actual physical signature and seal. The next and more complicated major step would be to create and to file a document that does not exist in paper form anywhere, and therefore is not in writing and does not have the traditional grantor’s signature and notary’s signature and seal on it. Instead, the document would exist only in electronic form on someone’s computer/server with a series of unique code numbers (e.g., a grantor’s and notary’s name (or SSAN number)

and personal identification number--PIN) “associated with it” (whatever that means) for a signature and an acknowledgment.

The Oklahoma Statute of Frauds requires real property conveyancing documents to be in writing and subscribed (15 O.S. §136(4)):

*The following contracts are invalid, unless the same, or some note or memorandum thereof, be in writing and subscribed by the party to be charged, by an agent of the party or by a single-party broker of the party pursuant to Sections 858-351 through 858-363 of Title 59 of the Oklahoma Statutes:*

\*\*\*

*4. An agreement for the leasing for a longer period than one (1) year, or for the sale of real property, or of an interest therein; and such agreement, if made by an agent or a single-party broker of the party sought to be charged, is invalid, unless the authority of the agent or the single-party broker be in writing, subscribed by the party sought to be charged.*

(underlining added)

And (16 O.S. §4(A)):

*No deed, mortgage, or conveyance of real estate or any interest in real estate, other than a lease for a period not to exceed one (1) year, shall be valid unless in writing and subscribed by the grantors. No deed, mortgage, or contract affecting the homestead exempt by law, except a lease for a period not exceeding one (1) year, shall be valid unless in writing and subscribed by both husband and wife, if both are living and not divorced, or legally separated, except as otherwise provided for by law.*

(underlining added)

(Note: By the way, have you ever wondered why does this statute – 16 O.S. §4(A) -- use the word “conveyance” in the first sentence, and then uses “contract” in lieu thereof in the second sentence?)

The “long form” acknowledgment statute (16 O.S. §33) expressly provides:

*An acknowledgment by individuals of any instrument affecting real estate shall be in substantially a form as provided for in the Uniform Law on Notarial Acts or in substantially the following form:....*

See the newer alternative “short form” acknowledgment at 49 O.S. §119 (“Uniform Law

on Notarial Acts”). Some of you may recall the argument among attorneys who could not agree whether it was acceptable to use the new “general” “short form” acknowledgment form instead of using the older “special” “long form” version for real property transactions. Such disagreement is the reason that the long form statute (16 O.S § 33) was amended to include: “*in substantially a form as provided for in the Uniform Law on Notarial Acts*”.

To avoid arguments about the application of “special” versus “general” legislation, it may be necessary to adopt further state legislation designed to explain, or to authorize a state agency to pass regulations to explain, what can be accepted as an appropriate representation for such signatures and acknowledgments, especially in the context of creating acceptable abstracts of title, and designing title examination procedures and Standards for reviewing such records. If the SSAN and PIN numbers are expected to be private and secret to ensure the avoidance of abuse, such as identity theft, how can the public or the title professionals confirm that the right person signed the document? The impact on title plants, abstracts of title, and title insurance, arising from the use of electronic documents will also need to be explored as well.

While the tides of progress may lead to faster transactions and more convenience in avoiding traveling to distant sites to sign and record and examine real property documents, the right structure needs to be put in place to avoid both confusion in the daily implementation process, and to protect against transaction fraud and identity theft.

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## **APPENDICES**

1. SCREENS: ON-LINE ACCESS TO IMAGES
2. SAMPLE SCREENS: ON-LINE ACCESS TO IMAGES
3. SUBCOMMITTEE GOALS: ELECTRONIC FILING OF LAND RECORDS
4. ENABLING LEGISLATION: HB2195 (EFFECTIVE NOV. 1, 2004)
5. SLIDES: ELECTRONIC RECORDING
6. SCREENS: UCC ON-LINE FILING