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2007 POLICY DIVIDEND

OAMIC policyholders will receive a sizeable dividend for 2007. Total dividends paid will equal 75% of the Company's net income generated in 2007. The exact payment amount will be determined in January as Annual Financial Statements are prepared, with payments mailed in February.

The 2007 dividend will be the 14th consecutive policy dividend and will exceed the average of the previous 13. Dividends paid for the past 13 years have averaged \$1.4 million, representing 25% of earned premium on limits up to \$1Million/\$1Million.

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THEME:
MEET YOUR BAR ASSOCIATION

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COVER PHOTO:
Brandon Haynie, Photographer. Published with permission from the Oklahoma Bar Foundation, which holds the copyright to the Oklahoma Bar Center Lady of Justice statue.

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New Events Planned for Year Ahead

By Bill Conger

As I begin my year as president of the Oklahoma Bar Association, I want to express the distinct honor and privilege it is for me to serve as president. We have just completed a very successful year under the leadership of past President Stephen Beam. The Annual Meeting had the second largest attendance in the history of our association, and the programs and other events could not have been better. The financial health of the association is excellent. This past year the Oklahoma Bar Foundation awarded more than \$800,000 in grants, a historic high, and the winners were the poor, women and children. Our bar foundation does so much for the citizens of our state. If you are not a Fellow, join now. You will be better off for it.

We have much to be excited about for the coming year. Last year Stephen Beam's first letter started us out on a somber note discussing the alarming number of lawyer suicides in Oklahoma. His concern was well founded, and I continue to share that same concern. That is why I intend to emphasize work/life balance during the coming year. Melanie Jester ably chairs our Work/Life Balance Committee, and over the past two years that committee has done much to develop a culture of work/life balance. They have conducted numerous seminars, and the Web site at www.okbar.org/members/worklife/Default.htm is excellent. In addition to the work/life balance, we have an award-winning mental health program associated with our Lawyers Helping Lawyers Committee.

Many of you attended the outstanding session at our Annual Meeting covering the wrongful convictions of Ron Williamson and Dennis Fritz for the murder of Ada cocktail waitress Debra Sue Carter. The panel, moderated by Judge Ed Cunningham, was superb. I, and many others, came away from that session believing that our profession should be in the forefront of creating improvements to our system of justice to minimize the possibility of a wrongful conviction. To that end, I intend to create a task force to study the issue and to make recommendations how we, as an association, can better address the problem.

We must continue to educate our citizens about the importance of an independent judiciary and the rule of law. I intend to speak and write on these

topics throughout the year. Jack Brown is putting together a Rule of Law Conference to be held at Oklahoma City University in the spring. Distinguished speakers from all segments of the community are expected to attend.

We have much to be excited about for the coming year.

We need to plan for the future of our bar association and to identify and develop future bar leaders. I have asked Linda Thomas of Bartlesville and Laura McConnell of Oklahoma City to chair a task force to develop a curriculum for a Leadership Academy to begin in the fall of 2008. The purpose of the academy is to teach young lawyers about our profession, its governance and how our system of justice affects so many aspects of our society.

As most of you know, we are in the middle of a long overdue renovation of the bar center. The anticipated cost is approximately \$2 million, which will be paid from existing dues and reserve funds. The project began last fall with asbestos abatement, and we are on schedule for completion in May 2008.

As we begin this new year, we are excited about the coming events. I close, however, on a sad note. Our hearts go out to the family of Jim Lang and Sharon Corbitt and the partners and employees of Sneed Lang. Jim and Sharon's tragic deaths in December were a blow to all of us. They were wonderful lawyers and faithful contributors to our profession. Both will be sorely missed.



Bill Conger

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is general counsel
at Oklahoma City
University.
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(405) 208-5845

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EVENTS CALENDAR

JANUARY

- 14 **Law Day Committee Meeting**; 3:30 p.m.; Oklahoma Bar Center,
Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Giovanni Perry
(405) 601-2222
- Mock Trial Committee Meeting**; 5:45 p.m.; Oklahoma Bar Center,
Oklahoma City; Contact: Judy Spencer (405) 755-1066
- 15 **Civil Procedure Committee Meeting**; 3 p.m.; Oklahoma Bar Center,
Oklahoma City and OSU Tulsa; Contact: James Milton (918) 591-5229
- 17 **OBA Bench and Bar Committee Meeting**; 12 p.m.; Oklahoma Bar
Center, Oklahoma City and OSU Tulsa, Tulsa; Contact: Jack Brown
(918) 581-8211
- 18 **OBA Board of Governors Swearing In**; 10 a.m.; Supreme Court
Courtroom, State Capitol; Contact: John Morris Williams (405) 416-7000
- OBA Board of Governors Meeting**; Oklahoma Bar Center, Oklahoma
City; Contact: John Morris Williams (405) 416-7000
- 21 **Martin Luther King Jr. Day** (State Holiday)
- 24 **Paralegal Committee Meeting**; 3 p.m.; Oklahoma Bar Center,
Oklahoma City; Contact: Joseph H. Bocock (405) 235-9621
- 28 **OBA Alternative Dispute Resolution Section Meeting**; 4 p.m.;
Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa;
Contact: Larry Yadon (918) 595-6607
- 29 **OBA Bar Center Facilities Committee Meeting**; 9:30 a.m.;
Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa;
Contact: John Morris Williams (405) 416-7000
- 31 **OBA Legal Intern Committee Meeting**; 3:30 p.m.; Oklahoma Bar
Center, Oklahoma City; Contact: H. Terrell Monks (405) 733-8686

FEBRUARY

- 7 **OBA Board of Editors Meeting**; 3 p.m.; Oklahoma Bar Center,
Oklahoma City and Tulsa County Bar Center, Tulsa; Contact:
Carol Manning (405) 416-7016
- 8 **OBA Family Law Section Meeting**; 3 p.m.; Oklahoma Bar Center,
Oklahoma City and OSU Tulsa; Contact: Donelle Ratheal (405) 842-6342
- 18 **President's Day** (State Holiday)

For more events go to www.okbar.org/news/calendar.htm

The Oklahoma Bar Association's official Web site: www.okbar.org

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THE OKLAHOMA BAR JOURNAL (ISSN 0030-1655) IS PUBLISHED THREE TIMES A MONTH IN JANUARY, FEBRUARY, MARCH, APRIL, MAY, AUGUST, SEPTEMBER, OCTOBER, NOVEMBER AND DECEMBER AND BIMONTHLY IN JUNE AND JULY. BY THE OKLAHOMA BAR ASSOCIATION, 1901 N. LINCOLN BOULEVARD, OKLAHOMA CITY, OKLAHOMA 73105. PERIODICALS POSTAGE PAID AT OKLAHOMA CITY, OK. POSTMASTER: SEND ADDRESS CHANGES TO THE OKLAHOMA BAR ASSOCIATION, P.O. BOX 53036, OKLAHOMA CITY, OK 73152-3036. SUBSCRIPTIONS ARE \$55 PER YEAR EXCEPT FOR LAW STUDENTS REGISTERED WITH THE OKLAHOMA BAR ASSOCIATION, WHO MAY SUBSCRIBE FOR \$25. ACTIVE MEMBER SUBSCRIPTIONS ARE INCLUDED AS A PORTION OF ANNUAL DUES. ANY OPINION EXPRESSED HEREIN IS THAT OF THE AUTHOR AND NOT NECESSARILY THAT OF THE OKLAHOMA BAR ASSOCIATION, OR THE OKLAHOMA BAR JOURNAL BOARD OF EDITORS.



Photographer: Joseph Mills, OCU LAW

J. William Conger



Photographer: Gordon Ditsmore

Daughters Christen, Erin, Jennifer; wife, Sherry, and Bill at Jennifer's wedding in 1998.

J. William Conger Takes the Helm as OBA President

Bill was born March 6, 1945, in Shreveport, La., five minutes before his twin sister, Betty. He was raised in Shreveport and was horrified when his father announced the family was moving to Bartlesville, Okla., at the end of his sophomore year. Turns out, it was meant to be. Bill met and started dating Sherry Martin during his junior year at his new high school, Bartlesville College High School. They have been married 40 years now and have three grown daughters, Christen and Jennifer of Oklahoma City and Erin of Denver, Colo. They have two grandchildren, Parker, age 7, and Julianne, age 5. Another member of the family is Bill's blonde lab, Max.

EDUCATION AND LEGAL CAREER

Bill graduated from Oklahoma University in 1967 with a degree in history. He is a member of Beta Theta Pi fraternity. He attended the law school at Louisiana State University but transferred to Oklahoma University School of Law and received his juris doctor in December 1970.

Bill began his practice with Woods Corp. (NYSE) in Oklahoma City and became general counsel. He later became a solo practitioner before founding with Larry Hartzog and Len Cason the Oklahoma City firm of Hartzog Conger Cason & Neville, where he practiced for 25 years. In 2003 he became of counsel to the law firm and moved to Oklahoma City University, where he is university general counsel and a member of the faculty at the OCU School of Law. He teaches courses in trial practice, introduction to legal practice and

complex litigation. In 2005, he was named Professor of the Year.

He is a member of the American Bar Association, Oklahoma Bar Association, Oklahoma County Bar Association and the Tulsa County Bar Association.



Bill early in his law career in the mid-1980s

OBA ACTIVITIES

Bill has been very active in the state bar for many years. He has served on the Board of Governors since 2003 and has served on and chaired numerous committees. He has served as Bench and Bar Committee vice chair and is the current chair of the Bar Center Facilities Committee, which is overseeing the renovation of the Oklahoma Bar Center. Bill is a member of the Access to Justice Committee and Work/Life Balance Committee. In 2004 he was chair of the OBA Task Force on Tort Reform.

Personal Trivia

What was your very first job?

Working on a survey crew for Cities Service Oil Co.

What station is your radio tuned to in the car & home?

Channel 74, satellite radio - Bluesville

If you could choose a superpower, what would it be?

Photographic memory

Early bird or night owl?

Early bird

Who has made the biggest impact on your life?

My father who was a lawyer and teacher. He taught me to love the legal profession and that teaching really is doing the greater good.

What would your career be now if you had not become a lawyer?

History professor at a small liberal arts college

What famous person (living or dead) would you most like to meet?

Abraham Lincoln

What's your favorite sporting event?

Final Four basketball

What's your happiest childhood memory?

Fishing with my father



Bill and future wife Sherry as stars on the backpage of the Bartlesville College High School yearbook.



At Bartlesville College High School, Bill played fullback.

OBA AWARDS

In 2004 he received the John E. Shipp Award for Ethics and the President's Award for outstanding service to the Oklahoma Bar Association.

OKLAHOMA COUNTY BAR ASSOCIATION ACTIVITIES

Bill served as Oklahoma County Bar Association president in 2000-2001 and served two terms as a director of the association. He served on and chaired numerous committees including the Law Day Committee, Fee Grievance and Ethics Committee, Legal Aid Fundraising Drive and the Work/Life Balance Committee.



Bill at age 3.

AFFILIATIONS

Bill is a Fellow in the American College of Trial Lawyers, a Fellow of the American Bar Foundation and a Benefactor Fellow of the Oklahoma Bar Foundation of which he is also a trustee. He is a master emeritus of the William J. Holloway Jr. American Inn of Court, where he served as president, counselor and was an Executive Committee member. He is listed in Best Lawyers in America and was selected as an Oklahoma Super Lawyer.



Bill on the mound pitching for the "Nabobs."

HOBBIES

Bill plays a lousy game of golf but enjoys the camaraderie. He loves to read and enjoys boating on Grand Lake.

COMMUNITY SERVICE

In addition to his bar association activities, Bill has been very active in his community. He is a past president of the Heritage Hall School Board of Trustees and is a former director of the Speck Home for Boys and was a member of the Oklahoma City Museum of Art Legacy Campaign. He currently serves on

the Executive Committee for the Oklahoma City University School of Law and is a Director of the YMCA Youth and Government Program.



Bill and Sherry together in college and years later in their lake house on Grand Lake.

Trivia cont'd

What's your favorite ice cream flavor?

Chocolate

Favorite vacation spot:

Any place with water. I love my home on Grand Lake.

Nobody knows:

Can't tell ... it's a secret.

Who would you like to star in a movie about you?

I always like Spencer Tracy.

I wish I could sing like: *Elvis*

My worst habit is:

The usual . . . procrastination

Favorite movie:

"To Kill a Mockingbird" A classic!

Name one thing you will never part with: *Elvis CDs*

What inspired you to become a lawyer? *My father*

What makes you laugh?

A good practical joke

Favorite food:

Barbeque from JT's in Del City

Favorite book:

There are many, but "Winds of War" by Herman Wouk ranks right up there.

Favorite color: *Green*

Trivia cont'd

What do you enjoy most about teaching?

The ability to make an impact and difference in a student's life

Best advice I could give to a new lawyer is:

The law is dynamic and constantly changing. Always stay technically competent. Work hard but have a life. Take care of yourself physically and spiritually and have a healthy work life balance. Improve yourself intellectually — take a course, teach a course, read good books — study humanities, history, philosophy, literature. This will take you to the realm of wisdom and, if you are technically competent and exercise wise judgment ... you will be called —counselor.

The most important thing I learned in law school was:

Lawyering is hard work!

LEADERSHIP STYLE

"Hopefully, I lead by example," he says. "In any event, I delegate and let people do their job. I try not to micromanage. I believe we have a very strong staff of veteran directors at the bar who manage the day-to-day operations of our association quite capably."



Photo courtesy of OCU LAW

In the classroom, Bill serves as a professor at OCU.



Bill working on his short game while taking a break at work.

Volunteers Who Guide Your Association



Jon Parsley
PRESIDENT-ELECT
Guymon

■ Background: Born and raised in Guymon. Went away for seven years for college and law school. Returned to Guymon to practice law in 1994.

■ Education: Guymon High School, University of Central Oklahoma, B.A., University of Oklahoma College of Law, J.D.

- What was your very first job? My family had a carpet business – so carpet layer's helper.
- What station is your radio tuned to? Blue Collar Radio (Sirius 103)
- If you could choose a superpower, what would it be? X-ray vision
- Early bird or night owl? Night owl
- Who has made the biggest impact on your life? My father. He taught me the value of hard work and honest living.
- What would your career be now if you had not become a lawyer? Probably carpet layer
- What famous person would you most like to meet? Albert Einstein
- What's your favorite sporting event? Love to watch college hoops
- What's your happiest childhood memory? Trip to California with six kids and mom and dad in one station wagon
- What's your favorite ice cream flavor? Orange sherbet



Stephen Beam
PAST PRESIDENT
Weatherford

■ Background: Born in Pampa, Texas; attended Duncan High School

■ Education: Graduated from OSU in 1979 and OU College of Law in 1982

■ What was your very first job? Picking up dead animals beside the road (an even better job after a long weekend)

- What radio station is your radio tuned to? Howard 100
- If you could choose a superpower, what would it be? Power negation (ability to cancel the superpowers of others)
- Early bird or night owl? Could be both. Depends on the day (or night).
- Who has made the biggest impact on your life? My grandmother. She taught me the value of hard work and an education.
- What would your career be now if you had not become a lawyer? College professor
- What famous person would you most like to meet? Leonardo da Vinci
- What is your favorite sporting event? OSU football
- What is your happiest childhood memory? Traveling with my grandmother



Mike Mordy
VICE PRESIDENT
Ardmore

Education:
Undergraduate
degree from the
University of
Oklahoma, law
degree from OCU
School of Law

What was your first
job? I mowed yards
when I was 14 years
old to earn money.

What station is your
radio tuned to?
Public radio

If you could choose a
superpower, what
would it be? Leap
tall buildings in a
single bound

- Who has made the biggest impact on your life? My father. He is clever and has a strong work ethic.
- What would your career be now if you had not become a lawyer? Rock and roll star
- What famous person would you most like to meet? Jesus
- What's your favorite sporting event? Baseball is my favorite event that I most enjoy watching live.
- What's your happiest childhood memory? Getting a pony. My next happiest memory was getting rid of the pony.
- What's your favorite ice cream flavor? Blue Bell "Moolenium"



Julie Bates
GOVERNOR AT LARGE
Oklahoma City

Background: I was
born in England
while my father was
in the Air Force. I
practice law with my
husband and best
friend, Marty Postic.
We are blessed with
two wonderful sons,
ages 20 and 17. My
parents are Hon.
Gloria Bates and John
T. Bates, and I have a
younger brother and
younger sister.

Education: I
graduated from
Midwest City High
School, Texas
Christian University
(bachelor's) and the
OU College of Law
(J.D.).

- What was your very first job? Babysitting for 35 cents an hour
- What station is your radio tuned to? 88.9 FM (contemporary Christian)
- Early bird or night owl? Both
- Who has made the biggest impact on your life? My parents, husband, sons and a few close friends. Each of them has impacted my life in many different ways and made me a better person.
- What would your career be now if you had not become a lawyer? Third baseman for the Yankees
- What's your favorite sporting event? Major League Baseball, preferably at a stadium
- What's your happiest childhood memory? Learning to ride the pink Schwinn bike I got for my 7th birthday



Jack Brown
GOVERNOR AT
LARGE
Tulsa

- Education: TU Law; OU undergrad
- What was your very first job? Golf caddie
- What station is your radio tuned to? NPR
- If you could choose a superpower, what would it be? The ability to read minds
- Early bird or night owl? Night owl
- Who has made the biggest impact on your life? Parents, because of their strong value system, character and work ethic

- What would your career be now if you had not become a lawyer? Broadcast journalist
- What famous person would you most like to meet? Benjamin Franklin
- What's your favorite sporting event? College football
- What's your happiest childhood memory? Disney World
- What's your favorite ice cream flavor? Peppermint



Cathy Christensen
GOVERNOR -
DISTRICT NO. THREE
Oklahoma City

- Background: Born in Norristown, Penn., moved to Oklahoma during high school, attended OSU, became an Okie.
- Education: OSU and OCU School of Law
- What station is your radio tuned to? 640 AM The Sports Animal, or any channel with "elevator music"
- If you could choose a superpower, what would it be? I'd like the power to be invisible.

- Early bird or night owl? A little bit of both - but not during the same 24-hour period!
- Who has made the biggest impact on your life? Two people have greatly impacted my life and I am unable to select just one. My mother was my role model in so many ways. She is an integral part of who I am today. My husband has greatly impacted my life since we first met. He is invaluable to me.
- What would your career be now if you had not become a lawyer? I most likely would have attended medical school.
- What famous person would you most like to meet? Saint Catherine Drexel from Philadelphia
- What's your favorite sporting event? My most favorite sporting events are those in which any one of my sons are participating.
- What's your happiest childhood memory? Spending family vacations at the shore in Ocean City, N.J.
- What's your favorite ice cream flavor? Vanilla



Donna Dirickson
GOVERNOR -
DISTRICT NO. FOUR
Weatherford

- Background: Born in San Diego, Calif., while my father was in the Navy; attended and graduated from Weatherford High School; Duncan & Dirickson, partner, March 1999 to present; assistant district attorney, Custer County, from 1996 through 1999.
- Education: Graduated from Southwestern Oklahoma State University in 1993 and OCU School of Law in 1996
- What was your very first job? I worked in a shoe store while in high school.
- What station is your radio tuned to? Radio Disney if my 5-year-old daughter is with me, otherwise in the car and at home usually a classic rock station.

- If you could choose a superpower, what would it be? Mind reader
- Early bird or night owl? I'm an early bird.
- Who has made the biggest impact on your life? Personally, my parents because they instilled in me a sense of honesty and compassion for others. Professionally, John W. Donley, who is an attorney in Weatherford. I started working for him as a secretary while in college and watching him help people while being so respectful of them, the attorneys involved and the justice system as a whole, inspired me to become an attorney.
- What would your career be now if you had not become a lawyer? Probably administration in the medical field.
- What famous person would you most like to meet? Margaret Thatcher
- What is your favorite sporting event? Football on TV
- What's your happiest childhood memory? Vacation in Florida at the beach
- What's your favorite ice cream flavor? Chocolate



Bob Farris
GOVERNOR –
DISTRICT NO. SIX
Tulsa

- Background: Lifelong Tulsa resident; married to Pam, my high school sweetheart and the love of my life; father of Nic and Matt; father-in-law of Kirstin and Stephanie; grandfather of Jakob and Payton.
- Education: Edison High School; B.S. in mechanical engineering from TU in 1972; J.D. from the TU College of Law in 1975

- What was your very first job? Laborer for a brick-laying crew that specialized in tall chimneys (I carried the bricks up the scaffold to the brick-layers)
- What station is your radio tuned to? KWGS (NPR at University of Tulsa)

- If you could choose a superpower, what would it be? Flying
- Early bird or night owl? Definitely night owl
- Who has made the biggest impact on your life? My parents. My dad for the example he set for integrity, dedication and hard work and my mother because she has always believed in me, even to this day.
- What would your career be now if you had not become a lawyer? Doing something with my hands
- What famous person would you most like to meet? Jesus Christ
- What's your favorite sporting event? World Cup soccer tournament (I would love to attend one in person)
- What's your happiest childhood memory? Swinging from a tree on a rope swing
- What's your favorite ice cream flavor? Vanilla



Brian Hermanson
GOVERNOR –
DISTRICT NO. ONE
Ponca City

- Background: Born in Milwaukee and raised in Green Bay, Wis. I moved to Oklahoma in 1975 to attend law school and decided that this is where I wanted to make my home.
- Education: B.A. from Carroll College (Wisconsin) and J.D. OU College of Law
- What was your very first job? I was a busboy at a Supper Club.

- What station is your radio tuned to? In my car it is turned to a country and western station. I don't listen to the radio at home.
- If you could choose a superpower, what would it be? The ability to fly would be cool. I remember as a child tying a beach towel around my neck as a cape and trying to fly on a windy day. Unfortunately, it did not work.
- Early bird or night owl? Both

- Who has made the biggest impact on your life? Wow. I don't know how to answer that one. So many people have had huge impacts on my life – from family to friends to teachers to people in the church. I would have a great deal of difficulty to giving one name.
- What would your career be now if you had not become a lawyer? I would probably be a college history or political science professor.
- What famous person would you most like to meet? If I could go back in time and meet any person, I would have to say that I would like to meet Jesus.
- What's your favorite sporting event? In a broad sense, it would have to be football. More specifically, I would say either the Packers or the Sooner football teams.
- What's your happiest childhood memory? I think it was the camping trips I would take with my family or with my scout troop.
- What's your favorite ice cream flavor? If I am just going to have a scoop of ice cream it will almost always be vanilla.



Mark Hixson
GOVERNOR –
DISTRICT NO. NINE
Yukon

■ Background: Born and raised in Oklahoma City, interned in Canadian County and fell in love with the area. Married the beautiful Shaa Hixson and have three sons: Will, 8; Auguste, 5; and Alec, 10 weeks. My house and office are located in Yukon.

■ Education: Catholic parochial school brat; Bishop McGuinness High School; Conception Seminary College, Conception, Mo., B.A.; and the University of Oklahoma, J.D.

- What was your very first job? I was a summer camp counselor at Slippery Falls Boy Scout Ranch near Tishamingo when I was 16. I was the instructor for cooking, camping, first aid and wilderness survival. I lived out of a tent for about nine weeks and was paid an incredible \$40 a week.
- What station is your radio tuned to? In my car I take advantage of my six preprogramed stations (all rock), and at home I rarely listen to the radio and my wife controls the stations.
- If you could choose a superpower, what would it be? Mind control. I believe it would be interesting to see how other people think and toy with their thoughts.
- Early bird or night owl? Night owl – it is when the best old black and white movies are on TV.
- Who has made the biggest impact on your life? My father. My father was raised poor in Edmond, when Edmond was small and poor. He has worked hard his entire life. He sacrificed to send his three children to private grade school and high school. He put all three of us through college and helped me through law school. He was my coach and scout master. He did all this as a master sergeant in the Oklahoma Air National Guard. To this day he has never even hinted that my sibling or I owe him anything. To this day he remains a loving husband and father. All my better attributes come from him.
- What would your career be now if you had not become a lawyer? I would likely be a pilot or a psychologist.
- What famous person would you most like to meet? At the risk of sounding like a religious nut, Jesus. Putting aside His divinity, no one has influenced world history more than Him.
- What's your favorite sporting event? OU football on TV, and major league baseball live

- What's your happiest childhood memory? Spending time at my paternal grandfather's house. My grandfather lived on an acreage in Edmond. He had a tractor, chickens, ducks, rabbits, a pony, a horse and a large garden. My brother, sister and I rode minibikes for hours. My grandmother was an excellent cook.
- What's your favorite ice cream flavor? Chocolate, there is no substitute.



Jerry McCombs
GOVERNOR –
DISTRICT No. Two
Idabel

- Background: I was born and raised in Idabel, graduating high school there in 1962.
- Education: After college attendance at several state schools, I received my B.A. in English from Central State University and my law degree from Oklahoma City University in 1975.

■ What was your very first job? Part-time filling station attendant from the time I was in eighth grade until I graduated with a short timeout as a sack boy at the local Piggly Wiggly grocery store.

- What station is your radio tuned to? Air America on XM satellite radio
- If you could choose a superpower, what would it be? Mental telepathy
- Early bird or night owl? I was a night owl until about 1993, thereafter an early bird.
- Who has made the biggest impact on your life? I can honestly say my wife who worked 33 years as a teacher – mostly in the field of special education. Without her help and support, I would probably have never made it through law school, not to mention the lean early years of practice.
- What would your career be now if you had not become a lawyer? Probably a heavy equipment operator on a pipeline somewhere in the world.
- What famous person would you most like to meet? President John Fitzgerald Kennedy

- What's your favorite sporting event? Sooner football
- What's your happiest childhood memory? Christmas gift of a Red Ryder BB Gun (and nobody saying no "because you will shoot your eye out"!))
- What's your favorite ice cream flavor? Vanilla (with chocolate syrup)



Deborah Reheard
GOVERNOR – AT
LARGE
Eufaula

- Background: Raised on a dairy farm near Vinita; first career was as a newspaper editor in Vinita, Sand Springs and Broken Arrow
- Education: Undergrad – OSU and NSU; J.D. – TU
- What station is your radio tuned to? 87.7 CBS on the Radio
- If you could choose a superpower, what would it be? Telepathy

- Early bird or night owl? Early bird
- Who has made the biggest impact on your life? My elementary school teacher, Mrs. Ortlieb. She encouraged me to read and study the lessons of the higher grades in our two-room school, and she gave me my public speaking debut with the lead role in the Christmas play.
- What would your career be now if you had not become a lawyer? Something in the media, probably a newspaper editor.
- What famous person would you most like to meet? Will Rogers
- What's your favorite sporting event? Reining, cutting and working cowhorse events, NASCAR
- What's your happiest childhood memory? Riding the tractor with my dad
- What's your favorite ice cream flavor? Blue Bell Moo-llennium Crunch



Alan Souter
GOVERNOR –
DISTRICT NO. SEVEN
Bristow

■ Background: Born in Oklahoma City, 1967; grew up in Edmond; married to Kim Hays, a lawyer in Tulsa; two amazing children – Noelle, 8 and Parker, 4.

■ Education: B.S. in economics, Oklahoma State University, 1989; J.D., University of Kansas, 1993.

■ If you could choose a superpower, what would it be? Ability to breathe underwater

■ Early bird or night owl? Night owl

■ Who has made the biggest impact on your life? My children

■ What would your career be now if you had not become a lawyer? Mortgage broker

■ What famous person would you most like to meet? Benjamin Franklin

■ What's your favorite sporting event? College basketball (Rock Chalk, Jayhawk!)

■ What's your happiest childhood memory? Hunting and fishing with dad

■ What's your favorite ice cream flavor? Cappuccino Chunky Chocolate at Braum's



Peggy Stockwell
GOVERNOR –
DISTRICT NO. FIVE
Norman

■ Background: I was born in Oklahoma City; moved to Norman at age 5; been here ever since.

■ Education: B.A. OU 1978; J.D. OU 1983

■ What station is your radio tuned to? KGOU (NPR).

■ If you could choose a superpower, what would it be? Flying

■ Early bird or night owl? Neither

■ Who has made the biggest impact on your life? My father. He taught me how to be a lawyer.

■ What would your career be now if you had not become a lawyer? I don't know.

■ What famous person would you most like to meet? Paul McCartney

■ What's your favorite sporting event? World Series. Live.

■ What's your happiest childhood memory? Going with my mother and brother to pick out our first pets. We got two cats. I was in the first grade.

■ What's your favorite ice cream flavor? Chocolate chip



Jim Stuart
GOVERNOR –
DISTRICT NO. EIGHT
Shawnee

■ Background: Lifetime Shawnee resident; wife Kathy (parent educator with Shawnee Public Schools), and three daughters, Emily (teacher in Dallas), Rachel (junior at UCO) and Sarah (freshman at OU).

■ Education: Shawnee High School-1971; B.B.A. Central State University-1975; J.D. University of Tulsa-1978

■ What was your very first job? Newspaper carrier – Shawnee News-Star

■ What station is your radio tuned to? Car: XM 46-early classic rock; Home: A.M. 640-The Sports Animal

■ If you could choose a superpower, what would it be? To be invisible

■ Early bird or night owl? Both

■ Who has made the biggest impact on your life? My wife, Kathy; we've been married 30 years, she's my best friend, supporter and soul mate.

■ What would your career be now if you had not become a lawyer? Secondary school teacher

- What famous person would you most like to meet? Confederate General J. E. B. Stuart
- What's your favorite sporting event? Live and T.V. – college football
- What's your happiest childhood memory? Watching Saturday afternoon major league baseball with my father (complete with Dizzy Dean and PeeWee Reese, Jax beer, sardines, and cheese and crackers).
- What's your favorite ice cream flavor? Banana nut



Kimberly Warren

GOVERNOR – YLD
CHAIR
Tecumseh

■ Background: Born and raised in Shawnee/Bethel Acres. Married my high school sweetheart Darren, with whom I have two wonderful children: Blaine age 16 and Kelsey age 14. Attended college in Tulsa and law school in Columbus, Ohio. Returned back home in 2000.

- Education: B.A. in political science and economics from TU in 1990; M.B.A., J.D. and LL.M. in taxation from Capital University in 1998.
- What was your very first job? Wendy's at age 16
- What station is your radio tuned to? It depends on my mood. I frequently channel surf, but primarily I listen to 96.9 FM (classic rock) or K-Love (contemporary Christian).
- If you could choose a superpower, what would it be? Super-speed, the ability to get everything done within a matter of seconds
- Early bird or night owl? Neither, I like my sleep
- Who has made the biggest impact on your life? My husband – if it wasn't for him I wouldn't be where I am today.
- What would your career be now if you had not become a lawyer? I actually practice accounting. If I wasn't an accountant I would be an investment banker, engineer or writer.
- What famous person would you most like to meet? Jesus Christ
- What's your favorite sporting event? Football
- What's your happiest childhood memory? Making mud pies
- What's your favorite ice cream flavor? Butter pecan



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Meet Your Bar Association

OBA Departments and the Member Services They Provide

Volunteer leaders may be the chief engineers who keep any professional association on track, but it is the staff who provides the power to move forward. Member services are an essential part of the Oklahoma Bar Association. Learn more about what each department offers members, and put a name together with a face in photos of the employees who work for you — bar association members.

Administration

The responsibilities of the Administration Department are multi-faceted, but its primary emphasis is handling finances, human resources, Annual Meeting planning, bar center operations and maintaining official membership information. Specific duties include:

- scheduling bar center meeting rooms
- coordinating and scheduling meetings utilizing video conference equipment in Oklahoma City and Tulsa
- assisting committees and sections with mailings to their members
- providing mailing labels of bar members to committees and sections
- tracking expenditures for all committees and sections
- providing monthly committee and section accounting reports upon request
- ensuring the bar center interior and exterior facilities are maintained so members can take pride in their building
- maintaining and updating member roster information

- invoicing senior members and non-members for *Oklahoma Bar Journal* subscriptions
- managing the Legal Intern Program
- producing certificates of good standing for our members
- processing expense claims for OBA officers, YLD officers, and section and committee members
- managing OBA mail room and OBA office equipment



ADMINISTRATION - (Front Row) Suzi Hendrix, Roberta Yarbrough, Wanda R. Murray, Jenny Barrett, (Back Row) Director Craig Combs and Durrel "Doc" Lattimore

- contract negotiations with Annual Meeting hotels, scheduling and coordinating Annual Meeting events, exhibitors, and committee and section meetings
- accounting and budgeting for all departments
- investing association reserves
- management of employee benefit programs

Phone: (405) 416-7000

Membership: (405) 416-7080



COMMUNICATIONS – Director Carol Manning, Brandon Haynie and Melissa Brown

Communications

The Communications Department has responsibility for the OBA's member communications and external public relations efforts. Areas of major emphasis are:

- publishing 34 issues of the *Oklahoma Bar Journal* every year
- managing the content of the OBA's main Web site to ensure its organization and up-to-date information
- assisting the Law Day Committee in accomplishing extensive Law Day statewide activities and community service projects that generate significant positive public recognition for the legal profession
- publishing the OBA Annual Meeting program and House of Delegates book and pro-

moting award winners, the meeting itself and election results

More specific duties that benefit members are:

- editing information submitted by and about bar members for the FYI and Bench & Bar Briefs section of the bar journal
- reviewing Web content submitted by committees and sections and assisting them with organization and content ideas
- publishing the monthly E-News for OBA members with e-mail addresses
- expediting information requests from the news media
- issuing news releases about association events
- assisting OBA committees, sections and divisions in publicizing their projects to both members and the media
- working with sections to publish short law articles related to the section's focus
- assisting sections and committees with placing and designing free ads in the bar journal to promote their activities to other members

The department serves as a liaison for one board and several committees and assists in accomplishing their goals. A summary of services provided to those groups are:

- working with the 10-member Board of Editors that reviews articles submitted and plans for future theme-related *Oklahoma Bar Journal* issues; once articles are approved for publication, the staff has charge of editing, proofreading and layout
- assisting the Communications Committee in its projects including overseeing the publication of 16 brochures on such topics as divorce, landlord tenant rights, advanced directive and lawyers and legal fees; Brochures are distributed free as a community service to individuals, libraries, nonprofit organizations, etc., and staff handles the continuous demand for those materials to be mailed across the state

Law Day Committee — Communications Department staff members work closely with committee members in their efforts to promote Law Day, celebrated nationwide on May 1. Activities include:

- conducting statewide contests for Oklahoma students
- providing county Law Day chairpersons with both event and promotion ideas for county celebrations

- coordinating the statewide Ask A Lawyer community service project in which volunteer attorneys give free legal advice to people who call in
- producing public service announcements and other marketing strategies to promote the Ask A Lawyer free legal advice
- produce a one-hour, interview style TV program, in cooperation with OETA (the state's PBS affiliate) featuring lawyers and other experts discussing three legal topics

The department also assists the Awards Committee, Disaster Response and Relief Committee, Lawyers Helping Lawyers Committee and Young Lawyers Division.

Phone: (405) 416-7004



*CONTINUING LEGAL EDUCATION -
(Front Row) Renee Montgomery, Nina
Anderson, Director Donita Douglas,
(Back Row) Heidi McComb Mark
Schneidewent and Susan Hall*

Education

■ Continuing Legal Education

The most recent OBA Membership Survey established that more than 80 percent of our members identify OBA Continuing Legal Education as an important service to them- more than any other OBA service. The staff of OBA/CLE is honored that members hold that view and will continue to work with the aspiration of becoming an even more integral part of each member's legal life by providing the best, the most creative, the most timely and the most practical in CLE programming and

publications. OBA/CLE is a necessity, not a requirement!

Let us know what else you want and need because OBA/CLE wants to be your continuing legal education provider. Call CLE Director Donita Douglas at (405) 416-7028 with your ideas.

Department services include:

- developing and producing 80-100 live seminars throughout the state
- offering video replays of the live seminars
- developing and producing online video and audio seminars, including webcast seminars
- offering recent seminar publications and CDs for sale to association members
- developing and producing the multi-track, multiple session CLE at the OBA Annual Meeting
- coordinating with the Management Assistance Program to plan the annual Solo and Small Firm Conference
- coordinating with the Management Assistance Program to plan the New Lawyer Experience seminar
- coordinating with the Women in Law Committee to plan the annual Women in Law Conference
- coordinating with OBA officers to plan leadership training for OBA members
- coordinating with various OBA sections in the planning of OBA/CLE section co-sponsored CLE seminars
- attracting and securing nationally-recognized experts to present continuing legal education programming to OBA members
- publishing volumes (non-seminar) to members to assist in their practice, including form books, practice manuals and treatises
- providing online registration for OBA/CLE to members
- applying attendance credit electronically to enable members to have an up-to-date view of accumulated OBA/CLE credit on my.okbar.org

Phone: (405) 416-7006

E-mail: cle@okbar.org



*LAW-RELATED EDUCATION –
Debra Jenkins and LRE
Coordinator Jane McConnell*

■ Law-related Education

The Law-related Education (LRE) Department of the Oklahoma Bar Association was established in 1989 to further the OBA's goals of increasing public service and enhancing public understanding of the law and the legal system. To that end, LRE endeavors to educate citizens in a constitutional democracy and to create an active, responsible citizenry.

LRE conducts programs independently and in partnership with non-profits, civic organizations and educational groups. Programs include professional development for teachers and others in the civic community via institutions and workshops. Classroom materials are created and distributed for programs administered by LRE at no cost to educators.

LRE aims to join the education and law communities in its mission of fostering civic-mindedness. An understanding of the role of the law in society is essential to informed participation in democracy. Creating active citizens requires active civic education.

LRE is under the direction of Jane McConnell, Law-related Education coordinator and Debra Jenkins, administrative assistant. Among the many programs and resources available are:

- **Lawyers in the Classroom:** Attorney guest presenters instruct students on topics in law, the Constitution, citizenship and the new INFORM (Information Now for Oklahomans

Rejecting Meth) Program. Participating attorneys are trained in making presentations to K-12 students and provide a unique perspective on topics related to scheduled courses. Attorneys are provided reference lesson plans if desired.

- **Young Adult Guide:** "You're 18 Now — It's Your Responsibility!" Updated in spring 2007. This booklet explains the rights and responsibilities of adult citizens under U.S. and Oklahoma law. Approximately 13 areas of law are addressed, including consumer credit and contracts, criminal law and family law matters such as divorce and parental rights and responsibilities. A new Spanish edition is available in electronic and print format. Both guides are available free of charge and on the Web site at www.okbar.org.
- **Pocket Constitutions:** These handy editions include the full text of the Constitution and Declaration of Independence. They are available for class-wide distribution and also free of charge.
- **Supreme Court Awards:** School of the Year and Teacher of the Year. These awards are given annually to those who develop creative, innovative approaches to civic education programming. Members of the Oklahoma Supreme Court recognize outstanding service by presenting honorees with awards and stipends in a ceremony held in the Supreme Court Courtroom.
- **Civitas:** An International Civic Exchange Program. The Civitas exchange program partners U.S. teachers and civic education leaders with their counterparts in countries with developing democracies. OBA/LRE participates in a partnership with Michigan, Colorado, the Czech Republic and Slovakia.
- **LRE Media Library:** The Media Library, housed in the Oklahoma Bar Center on Lincoln Boulevard in Oklahoma City, is open for teachers to browse and preview materials available on loan from LRE. LRE will ship free of charge videos and books to all parts of the state for teachers' use in the classroom.
- **YLD High School Mock Trial Committee:** The LRE coordinator serves as the liaison to the committee. LRE staff supports Mock Trial Coordinator Judy Spencer with efforts related to the rounds of competition that lead to the finals competition that determines Oklahoma's state champion, who advances to nationals.

- **The PACE Institute:** PACE (Programs Advancing Citizenship Education) guides educators through a focused examination of a topic in law-related education. During the week-long summer session, presenters provide both content and strategies to apply the subject in the classroom. Participants are required to develop lesson plans based on the selected topic, to be added to the LRE resource library and our Web page at www.okbar.org/public/lre. The institute's goal is to educate participants in a topic in citizenship education, to expose them to creative methods in presenting the subject matter to their students, and to encourage them to develop and share their own strategies in teaching law-related education. PACE is offered free of charge to educators. PACE is sponsored by the Oklahoma Bar Foundation.

- **We the People: Project Citizen:** This is a portfolio-based program for elementary through high school students. As a class, the students identify and study a public-policy issue and develop an action plan for implementing a policy change. The final project is a portfolio including a research binder and presentation boards displaying the group's efforts. Our state winning portfolio (Grades 5-8) will compete at the nationals in New Orleans, La., in August.

- **We the People: The Citizen & The Constitution:** Students demonstrate their understanding of their rights and responsibilities as citizens by testifying in a simulated congressional hearing before panels of judges, which include, among other dignitaries, OBA/LRE committee members, concerning the values and principles found in the Constitution and its conception and development. The winning class will represent Oklahoma at the national competition in Washington, D.C., early May.

- **PROS (Peers Responsible for Oklahoma Students):** PROS is a collaborative project of the Early Settlement Programs administered by the Supreme Court of Oklahoma, Administrative Office of the Courts and LRE. This school-based peer mediation program encourages young people to resolve conflicts in a positive and constructive manner. Regional trainings will be held in September at the bar center.

- **2008 Foundations of Democracy – LRE Basic 101 Summer Teacher Training Institute** will guide educators through a focused examination of K-12 curricular programs

based on concepts fundamental to an understanding of politics and government such as authority, privacy, responsibility and justice. This multi-disciplinary institute will draw upon such fields as political philosophy, political science, law, history, literature and environmental studies.

Phone: (405) 416-7024

E-mail: janem@okbar.org



ETHICS COUNSEL – Manni Arzola and Ethics Counsel Gina Hendryx

Ethics Counsel

The Office of Ethics Counsel is a membership service available only to OBA members. It was created to assist members with conflict dilemmas, confidentiality questions, communication concerns and other ethical inquiries unique to the profession. The Office of Ethics Counsel is completely autonomous from and independent of the Office of the General Counsel. Members seeking assistance with ethical questions are afforded an "attorney/client" relationship with the full expectation of confidentiality of disclosed information.

Through the Office of Ethics Counsel, Oklahoma Bar Association members can obtain informal advice and interpretations of the rules of professional conduct. Responsibilities of the Ethics Counsel include:

- answering ethics questions from members of the Oklahoma Bar Association
- memorializing questions presented and advice given
- researching and writing ethics materials for the Oklahoma Bar Association Web site and the Oklahoma Bar Journal
- preparing and presenting CLE programs on the topics of ethics and professionalism
- working with the Legal Ethics Advisory Panel to produce practical written advice and opinions
- monitoring attendance and compliance of diversion program attendees
- creating, supervising and administering training in the areas of trust accounting, ethics and professionalism
- coordinating the registration of out-of-state attorneys

Phone: (405) 416-7083

E-mail: ginah@okbar.org



GENERAL COUNSEL – (Front Row) Tracy Sanders, Dorothy Walos, Loraine Farabow, Jan Hubbard, Janna Hall, Sharon Orth, Debi Lowry, Misty Hill, Laura Willis, (Back Row) Robert Hanks, Courtney Smith, Mark Davidson and General Counsel Dan Murdock

General Counsel

The Office of the General Counsel has certain enumerated powers and duties regarding disciplinary actions pursuant to the Rules Governing Disciplinary Procedure as written

by the Oklahoma Supreme Court. Included among those powers and duties are:

- investigating alleged lawyer misconduct or incapacity to practice law
- reporting to the Professional Responsibility Commission the results of those investigations
- making recommendations to the commission concerning the disposition of any investigation, and prosecuting all disciplinary and reinstatement proceedings before the Professional Responsibility Tribunal

Many grievances received include complaints from clients about a lack of communication, in that their lawyer will not return phone calls or respond to letters or requests for information concerning the progress of their case. In October 1987 the Office of the General Counsel created a “two-week letter” that requests the attorney communicate with the client concerning the status of the case and send the general counsel a copy of that communication. This procedure has proven to be an effective method of allowing a problem to be resolved on an informal basis and is appreciated by both attorneys and their clients.

In a one-year period the Office of the General Counsel receives and handles:

- about 450 formal grievances involving approximately 340 attorneys
- over 1,100 informal grievances involving nearly 800 attorneys
- about 300 items of general correspondence

All activities of the Office of the General Counsel, including investigation, prosecution of attorney discipline, criminal

summary proceedings, reinstatements, resignations and suspension of attorneys for personal incapacity to practice law are performed under the supervision of the Professional Responsibility Commission.

Also as a member service, the general counsel, his staff and the Professional Responsibility Tribunal and Commission members speak to county bar association meetings, Continuing Legal Education classes and various civic organizations at no charge. In these sessions, disciplinary and investigative procedures, case law and ethical standards within the profession are discussed. This effort directs lawyers to a better understanding of the disciplinary process and informs the public of the efforts of the OBA to regulate the conduct of its members.

Phone: (405) 416-7007



INFORMATION SYSTEMS – Matt Gayle, Robbin Watson and Director Rick Loomis

Information Systems

The Information Systems Department is responsible for desktop computer support to staff, network management of internal servers and externally accessible servers, Web site development and maintenance, mailing list management, development of association management system and database, network security, audio/visual support to staff, monitoring of evolving technologies and assistance to all departments to utilize technology in their departments. The Information Systems Department's functions are mostly of an internal nature; however, services directly benefiting members are:

- providing a mailing list for each committee and section through the list servers to communicate with members easily and in a cost effective manner
- maintaining a committee chairperson list and a section chairperson list serve to allow communication between the association and

the chairs, as well as between the chairs themselves

- working hand in hand with the Communications Department to maintain www.okbar.org
- helping develop Web sites for Oklahoma county bar associations
- providing a members-only Web site where members can update roster information, pay dues, register for CLE, review MCLE credits, etc.
- providing free sign-up for the www.oklahomafindalawyer.com lawyer referral service

Phone: (405) 416-7045



MANAGEMENT ASSISTANCE PROGRAM – Director Jim Calloway and Sharon Dotson

Management Assistance Program

The OBA Management Assistance Program focuses on helping Oklahoma lawyers with the nuts and bolts of running their law offices. From "basic training" for the new lawyer to providing management and technology advice for the seasoned professional, the department has a wide array of information to assist every lawyer in every practice setting.

- **Free Telephone Hotline** — The OBA-MAP staff attempts to answer brief questions about management and technology issues. Our number is (405) 416-7008. The toll free number is (800) 522-8065. Advice provided is confidential.

- **The OBA Solo and Small Firm Conference** — Attend great CLE programs with nationally recognized experts, network with other small firm lawyers from across the state and meet with vendors in a fun family setting. Join us for the 11th Annual Solo and Small Firm Conference June 19-21, 2008, at Tanglewood Resort on Lake Texoma.
- **OBA-NET** — This is an incredible online resource that is free to all OBA members. Oklahoma lawyers post questions and brainstorm with other lawyers online. Additional paid premium services, such as downloadable OBA/CLE materials since 1996, are available also.
- **Jim Calloway's Law Practice Tips Blog** — Weekly postings of Internet tips, law practice tips and hot news in law office management and technology are available by either visiting the blog Web site, subscribing to the e-mail alerts or subscribing to the RSS news feed. Visit the blog at <http://jimcalloway.typepad.com/lawpracticetips/>.
- **Oklahoma Bar Journal Articles** — Each theme issue of the Oklahoma Bar Journal contains the regular column "Law Practice Tips" by OBA-MAP Director Jim Calloway. They are available online at www.okbar.org/members/map/articleindex.htm.
- **Office "Health Checks"** — These consultations take place in the lawyer's office on a fee for services basis. A wide range of management issues can be covered. Typically all staff and attorneys will be involved both in group and individual interviews.
- **Free Consultations at the Bar Center** — Any lawyer who is setting up a new practice or has encountered a difficult issue that cannot be comfortably handled over the telephone is welcome to schedule a free one-hour appointment with the OBA-MAP director.
- **The New Lawyers Experience: Hit the Ground Running** — This innovative new program consists of a one-day seminar, scheduled twice a year in both Oklahoma City and Tulsa, to assist attorneys setting up new solo practices. A companion project is the "Starting a Law Practice Web Directory" which is available to any attorney at www.okbar.org/members/map/practice.htm.
- **Resource Center and Lending Library** — Attorneys can browse free management resources and product information. Law practice management books, videos and audio tapes are available for lawyers to "check out" and review. We are also a dis-

tributor of ABA Law Practice Management books and offer these for sale to our members at a discounted price.

- **Local Bar Presentations** — The OBA-MAP director is available to speak at your county bar meetings or other organized lawyer groups at no charge.
- **Grande Macros** — We are the exclusive sales agent for Doug Loudenback's Grande Macros for family lawyers who use the WordPerfect word processing program. These macros can be used to draft pleading and compute child support in a fraction of the time previously needed. For more information on the Grande Macros, go to www.dougloudenback.com.

Phone: (405) 416-7008



MANDATORY CONTINUING LEGAL EDUCATION – Administrator Beverly Petry, Brenda Card and Johnny Floyd

Mandatory Continuing Legal Education

The OBA Mandatory Continuing Legal Education Department is the regulatory office concerned with the accreditation of all continuing legal education programs and the compliance by all Oklahoma Bar members with the MCLE requirement. Often confused with the CLE Department, the MCLE Department does not sponsor CLE seminars.

Mandatory Continuing Legal Education, a program adopted by the Oklahoma Supreme Court in 1986, establishes minimum requirements for continuing legal education for Oklahoma attorneys. The program is administered by the OBA Mandatory Continuing Legal Education Commission, which consists of nine members, that has general supervisory

authority over the rules and may adopt regulations consistent with the rules.

Member services provided include:

- reviewing seminars for accreditation
- accreditation of teaching activities
- responding to requests for clarification of the Rules of the Oklahoma Supreme Court for Mandatory Continuing Legal Education
- processing the annual reports of compliance
- helping each member receive all the credit he or she is entitled to for qualified CLE activities
- keeping a record of the Oklahoma approved seminars attended by members

Phone: (405) 416-7009

E-mail: mcle@okbar.org



Don't Know Whom to Contact?

If you need more information about which employee in a department to contact, go to www.okbar.org. Pull down from "Quick Links" and select "OBA Staff." You will find a list of each OBA staff member, a summary of his or her responsibilities, and their e-mail address.

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Meet Your Bar Association

OBA Membership Benefits

Perks Bar Members Receive from Their Association

Your state bar association offers you a broad selection of opportunities to make the most of your membership. You may not even be aware of some of the professional benefits available to you as an Oklahoma Bar Association member. Check this list to be sure you are taking full advantage of the member services provided.

ONLINE SERVICES

Fastcase — The OBA now offers online legal research software as a free benefit to all OBA members. The OBA has contracted with Fastcase to provide the member benefit for three years, which includes national coverage, unlimited usage, unlimited customer service and unlimited free printing – at no cost to bar members, as a part of their existing bar membership. To use Fastcase, go to www.okbar.org. Under the Fastcase logo, to log in enter your username (OBA number) and password PIN for the myokbar portion of the OBA Web site.

www.okbar.org — main site or front door for the OBA with links to all other OBA Web presences and much information for members as well as a great deal of information for the public.

My okbar — password-protected portion of the OBA's Web site. Easy to do everything from changing your official address, enrolling in a CLE course, checking your MCLE credits to listing your practice areas on the Internet so potential clients can find you. You can also receive electronic communications from the bar by adding your e-mail address to the roster.

OBA-NET — members-only interactive service. Free basic service with premium services available to enhance the member benefit. This

is where lawyers are empowered to help each other through online discussions and an online document repository. You must agree to certain terms and be issued a password to participate in OBA-NET.

E-News — current OBA news and information to assist in your law practice that is sent once a month to members with an e-mail address as part of their official roster information.

Online CLE — quality OBA/CLE online programming, plus online seminar programs from other state bar associations. Programs include webcasts, CLEtoGo, online archived video, telephone seminars, and webinars. It's a convenient way to get up to three hours MCLE credit. www.okbar.org/cle/default.htm.

Oklahomafindalawyer — the OBA's official lawyer listing service. Free to members and the public. It is also a useful tool for lawyers to identify attorney practice area expertise in specific geographic areas. Sign up through my okbar.

www.okbar.org/research/links.htm — a quick way to find the Oklahoma Supreme Court Web site to look up Oklahoma cases and statutes online. Can be used to find the online site of the Court of Criminal Appeals or any of Oklahoma's District Courts, hunt a state or federal agency, locate a federal court site, find a municipal ordinance or find the rules from local or

federal courts. As a bonus there are many other links to assist in your legal and factual research.

Web site design and hosting — provided by the OBA staff to committees, sections and county bar associations.

Prepared speeches for community/civic groups — speeches, outlines and handouts prepared by the OBA's Bench and Bar Committee on selected topics for presentation to public groups. Available through www.okbar.org.

PUBLICATIONS

Oklahoma Bar Journal — 34 issues annually, contains articles, court opinions, substantive law, state bar news, professional changes, member news (moves, kudos, additions to firms, etc.), master calendar of judicial and bar events, \$55 annual subscription, free to members. Specially printed binders to keep bar journals organized are provided to members at \$15.95 each.

Judicial directory — photos, addresses and telephone numbers of state judiciary, free to members. Updated biennially.

Continuing Legal Education materials — seminar materials and form books available for purchase, an affordable way to get quality, state-specific practice aids. Prices start at approximately \$40. A complete list of publications are available online, or come by the CLE Dept. at the Oklahoma Bar Center Monday - Friday, 8:30 a.m. - 5 p.m., and review the books available.

Consumer information brochures — pamphlets on 14 topics covering commonly asked questions to give to clients, sold to OBA members at a minimal cost of \$16 for 100. Brochure topics are: wills, probate, joint tenancy, home buying, tenant rights and duties, landlord rights, divorce, small claims court, employee rights, bankruptcy, trial juror information, lawyers & legal fees, living wills (brochure and form), criminal law and resolving conflicts and disputes. As a community service the OBA dis-

tributes the brochures free to courthouses and libraries throughout the state.

PRACTICE MANAGEMENT/ PROFESSIONALISM

Young Lawyers Division — YLD is a professional service network offering the chance to participate in community and bar-related programs. Lawyers of any age who have been in practice less than 10 years are automatically members. No dues are required. Information about YLD programs is available at www.okbar.org/members/yld.

Continuing Legal Education seminars — the OBA creates and coordinates over 100 live seminars, produces numerous videotaped programs annually and offers materials on a full spectrum of legal topics. OBA members can come to the bar center anytime during regular business hours to watch a seminar video of your choice and earn CLE, but please call in advance to schedule. Call Renee Montgomery at (405) 416-7029.



Practice management/technology hotline service — free telephone calls to the Management Assistance Program (MAP) staff and the OBA Director of Information Systems for brief answers about practical management and technology issues, such as law office software, understanding computer jargon, staff and personnel

problems, software training opportunities, time management and trust account management. Call (405) 416-7008.

Office "health checks" — in-depth personal or group consultations that take place in the lawyer's office, consultations may focus on technology, office procedures or other areas agreed upon by attorney and MAP Coordinator. Fee is \$500 per day for small law firms (five attorneys or less) or \$750 per day for medium or larger firms (more than five attorneys), program offered by OBA's MAP Dept. Call (405) 416-7008 to schedule.

MAP workshops — customized day-long presentations on technology and office procedures conducted on-site to a group of attorneys and

staff members from different firms using a multimedia approach, may include computer generated presentation, videotapes on such topics as professionalism and trust accounting procedures and workshop exercises, afternoon session devoted to answering specific questions anonymously submitted. This is for firms who wish to share costs and have more general information presented to them.

Book purchasing program — OBA members can purchase ABA Law Practice Management Section books at the same discount as ABA/LPM members through the OBA Management Assistance Program.

Lending library — law practice management books, video and audio tapes available for lawyers to check out and review. There is no fee for checking out materials to take home.

Ethics Counsel — assists members with ethical questions and inquiries on subjects such as conflicts, confidentiality and client concerns. The Ethics Counsel also presents continuing education programs on the topics of ethics and professionalism. Call (405) 416-7083.

Lifefocus Counseling Services — Need help with stress, depression or addiction? Call Life-Focus Counseling Services at (405) 840-5252 or toll-free (866) 726-5252. The OBA offers all bar members up to six hours of free crisis counseling. It's strictly confidential and available 24 hours a day.

Lawyers Helping Lawyers — 24 hour, 7 day a week confidential assistance program for members suffering from psychological, physical and substance abuse problems that are having an adverse impact on their practice of law. Call (800) 364-7886.

OBA sections — 23 substantive law sections that offer professional development and interaction, experience professional growth by learning from colleagues in your practice area and develop new contacts, benefits vary by section with a growing number of sections holding midyear or quarterly meetings that offer free or discount CLE to section members, some sections publish member newsletters. See the 2007 OBA Reference Guide (OBJ Vol. 78 No. 4) for a list of sections and

their annual dues or check out the information online.

County bar association and civic group speakers — OBA officers, Board of Governors members and staff members are available (for the price of a meal) to speak at luncheons and banquets on a wide variety of topics including legislative issues, ethics, law office management and law practice tips.

NETWORKING

Leadership opportunities — boards, committees, sections and commissions are some of the volunteer opportunities that offer career development and ways to interact with other attorneys and judges.

Annual Meeting — participate in CLE programs, section and committee meetings, have a voice in determining the OBA's legislative program and electing future state bar leaders, take advantage of networking opportunities with attorneys and judges from throughout the state. The 2008 Annual Meeting will take place Nov. 19-21 at the Sheraton Hotel in Oklahoma City.

Solo & Small Firm Conference/YLD Midyear Meeting — lawyers have the opportunity to get to know one another and to take advantage of a CLE seminar in a relaxed family setting. The 2008 meeting will be held June 19-21 at Tanglewood Resort on Lake Texoma.

OBA MERCHANDISE

Lady of Justice color lithograph — this framed and matted lithograph of the bar center's Lady of Justice makes a great addition to any office. Each piece is signed by the artist, Greg Burns. Visit www.okbar.org for more details and to view a sample.

OTHER SERVICES

Toll-free phone number — in-state OBA members who live outside the Oklahoma City metro calling area can place free calls to the Oklahoma Bar Center by dialing (800) 522-8065, which connects you to our receptionist (a real, live person — not a machine) to direct your call to the proper person or department.



Direct dial and 24-hour messaging to OBA staff members — bypass waiting for the OBA receptionist to answer your call by dialing a staff person or department directly, a list of phone numbers is published in the *Oklahoma Bar Journal* next to the events calendar, leave a voice message anytime (nights and weekends too). After-hour calls to the general phone numbers (405) 416-7000 or (800) 522-8065 are automated and will list department extension numbers to punch in if you don't know the direct phone number.

Video conferencing — available at Tulsa County Bar Center, Arapaho and McAlester so that committee and section members can join in on meetings without traveling to Oklahoma City.

Legislative services — the OBA's executive director works for adoption of legislative issues approved by the House of Delegates, and the Legislative Monitoring Committee provides a weekly legislative report highlighting the status of selected bills during the session. The report is published in the *Oklahoma Bar Journal* and on the Web site while the Legislature is in session.

Meeting rooms at bar center — many size rooms to choose from to accommodate small and large group meetings, client conferences and depositions, free to members during week-day business hours, nominal fee for evenings.

OPTIONAL MEMBER PURCHASE

Oklahoma Legal Directory — official directory of OBA members with addresses and phone numbers, roster alphabetical and by county, includes guide to county, state and federal offices plus departments of the U.S. and Oklahoma government, complete digest of courts, professional associations including OBA officers, committees and sections. Published by Legal Directories Publishing Co., hard bound edition \$54, computer disk and CD ROM also available. Call (800) 447-5375 to request order form or go to www.legaldirectories.com.

Title Examination Standards — contains all the presently effective Oklahoma Title Examination Standards and reflects all revisions, produced by the OBA Real Property Law Section, \$5 per copy, free to section members.

OBA sponsored insurance programs — keep rates low through group buying power. For information about OBA programs for life, health (employer-group and individual), indi-

vidual disability, personal umbrella liability, long-term care and other insurance plans, contact Beale Professional Services at (405) 521-1600, (800) 530-4863. For information on professional liability and court bonds, contact Oklahoma Attorneys Mutual at (405) 236-8205, (800) 318-7505.

ABA Retirement Funds — ABA Retirement Funds offers tax-qualified retirement plan services to qualified law professionals. This includes full-service, cost-effective retirement plans such as 401k and profit sharing. Corresponding services include plan design, administration and fiduciary oversight. Program eligibility is open to any law firm or practitioner that has at least one partner or shareholder who is a member of the ABA, or state or local bar association represented in the ABA's House of Delegates. For more information, call (877) 947-2272 or visit www.abaretirement.com.

MEMBER DISCOUNTS



Law Firm Merchant Account — Credit card processing designed for attorneys that safeguards and separates client funds into trust and operating accounts. Credit cards attract clients, win business, improve cash flow and reduce collections. To learn more call (866) 376-0950 or visit www.affiniscape.com/oklahomabar for more information.



Online Data Backup & Recovery — CoreVault offers bar members data backup and recovery services at a discounted rate. The service is automated and centrally managed to help law firms protect their data. It provides daily offsite protection, fast restores, encrypted data and customer service. In addition, CoreVault's two private data centers are geographically separated and possess redundant systems. Don't worry about losing your data and not being able to restore it due to virus, hard drive crash, accidental deleting of data, natural disaster, flood and the many other ways that could cause you to lose your data. To sign up or get more information, visit www.corevault.net/oba or call (888) 265-5818.

LawWare — bar members may subscribe to the document assembly, document management and client management software program at a discounted group rate. Created by Oklahoma

attorneys in 1991, LawWare streamlines the process of organizing and generating legal forms and related documents for law offices of any size. With the OBA endorsement, members may subscribe to LawWare at a discounted rate of \$49 per month for the first copy and \$10 per month for each additional office copy. The inquire about LawWare or to order a subscription, call (866) LAW-WARE or visit www.LawWare.com.

International travel — Go Next has been in business for 36 years. They provide high quality, recreational travel to destinations around the globe. Group rates on trips are available to you, your family and your friends. All trips include airfare from either Oklahoma City or Tulsa, accommodations, transfers, breakfast buffet and other amenities. See highlights of the current trip offerings at www.GoNext.com. Call Go Next toll-free at (800) 842-9023 for more information and/or reservations.

Office furniture — OBA members receive a 51 percent discount off the list price on all National Furniture products offered by Bill Warren Office Products. Delivery is FREE in the Oklahoma City and Tulsa metro areas. There is also FREE drop shipment within the state of Oklahoma. Installation services are available with the fee based on the product. OBA members can also receive a FREE initial office design and space plan with up to two free revisions per project. Additional design work will be billed at \$45 per hour. Call Bea Gee or Christi Smith at (405) 947-5676 or visit www.warrenproducts.com.



Student loan consolidation — SunTrust Bank offers OBA members special interest rate reductions on Federal Student Loan Consolidation on loans of \$10,000 or more. Lower your interest rate by 0.5 percent just for having your monthly payments deducted from your personal bank account. Earn another 1 percent interest rate reduction when you make your first 24 consecutive monthly payments on time. (Borrower must stay current for the remaining term of the loan to keep the rate reduction in effect.) For more information on SunTrust and student loan consolidation visit www.suntrust-education.com/legal or call (888) 403-5027 to apply. There are no credit checks, application or origination fees. This offer is subject to change without notice.

WESTLAW discounts — West Publishing Corp. offers OBA members a variety of discounts on its products and services, members receive Oklahoma's jurisdictional CD-ROM libraries with the first billable monthly subscription charge waived. For information on other offers available call (800) 762-5272.

WordPerfect licensing program — The Oklahoma Bar Association has signed on to Corel Corporation's new Bar Association licensing program, allowing Oklahoma Bar Association members to purchase licenses of the award-winning WordPerfect® Office x3 at substantially reduced prices. To place an order call toll-free (888) 394-5181 or go to www.corel.com/barassociation.



OBA Web Sites

What Information Do They Provide?

www.okbar.org

- ▶ The official Web site of the Oklahoma Bar Association. It's your one-click resource to all the information you need, including what's new at the OBA, ethics opinions, upcoming CLE seminars, staff contacts, and section and committee information.

my.okbar.org

- ▶ On this site, you can do everything from changing your official address, enrolling in a CLE course, checking your MCLE credits and listing your practice areas on the Internet so potential clients can find you. The PIN number required is printed on your dues statement and can be e-mailed to you if the OBA has your current e-mail address.

www.oba-net.org

- ▶ Members-only interactive service. Free basic service with premium services available to enhance the member benefit. Lawyers are empowered to help each other through online discussions and an online document repository. You must agree to certain terms and be issued a password to participate in OBA-NET.

www.oklahomafindalawyer.com

- ▶ People from across Oklahoma visit this Web site every day in search of an attorney. How can you get your name on this list for free? Signing up is easy – log into your account at my.okbar.org and click on the “find a lawyer” link.

Fastcase at www.okbar.org

- ▶ The OBA teamed up with Fastcase in 2007 to provide online legal research software as a free benefit to all OBA members. Fastcase services include national coverage, unlimited usage, unlimited customer service and unlimited free printing — at no cost to bar members, as a part of their existing bar membership. To use Fastcase, go to www.okbar.org. Under the Fastcase logo, enter your username (OBA number) and password PIN for the myokbar portion of the OBA Web site.

Standards of Review

By Justice John F. Reif

This discussion of standards of review was written to clarify the role of standards of review in appellate decision making. It covers not only the definition and examples of standards of review, but also explores the rationale for each standard and distinguishes standards of review from concepts such as scope of review and burdens of proof. This discussion is organized to answer the news story questions about standards of review — who, what, where, when, why and how.

WHO, WHAT, WHERE AND WHEN OF STANDARDS OF REVIEW

A good starting point for discussing standards of review is the relationship between trial and appellate courts, and the nature of an appeal. Professor Martha S. Davis, a noted academic authority on standards of review, points out that the relationship between trial courts and appellate courts is one of shared decision making in adjudicating a particular case. Professor Davis further notes that standards of review help define this relationship and delineate the powers they share with respect to particular decisions.¹

A difference in the roles of the respective courts is seen in the very definition of an appeal. An appeal is a complaint to a superior court of an injustice or error committed by an inferior court, whose judgment or decision the court above is called upon to correct or reverse.² Unlike a trial where the focus is upon the merits of the case, an appeal focuses upon the decision of the trial court to determine whether the trial court committed error in making the decision.

A standard of review is the legal scale to be used by an appellate court in weighing a claim of error.³ More particularly, a standard of review provides the degree of deference the decision under review should receive.⁴

HOW STANDARDS OF REVIEW WORK

The U.S. Supreme Court has provided a simple and useful framework for examining standards of review. The Supreme Court has observed that “[f]or purposes of standard of review, decisions by judges are traditionally divided into three categories, denominated questions of law (reviewable *de novo*), questions of fact (reviewable for clear error), and matters of discretion (reviewable for ‘abuse of discretion’).”⁵

The Supreme Court has said that “[w]hen *de novo* review is compelled, no form of appellate deference is acceptable.”⁶ “[R]eview under the ‘clearly erroneous’ standard is significantly deferential, [because it requires] a ‘definite and firm conviction [on the part of the appellate court] that a mistake has been committed.’”⁷ While “[t]here is no exact measure of what constitutes abuse of discretion,”⁸ Professor Davis considers this standard to be “the most deferential standard of review.”⁹ This is the most deferential standard because an appellate court may strongly disagree with the trial court’s decision, and even articulate a better decision, but will not reverse if the trial court’s decision was one of the reasonable choices presented by the facts and law.

Under *de novo* review, where the appellate court shows no deference to trial court decisions on questions of law, the appellate court indepen-

dently determines the question of law.¹⁰ In cases involving jurisdiction and constitutional violations, this independent review can involve weighing the evidence and redetermination of the facts.¹¹ In other cases such as statutory construction and summary judgment, the independent review does not involve factual determinations.¹²

In reviewing factual determinations by a trial court, the appellate court shows deference to the trial court unless the trial court's finding is clearly erroneous. "A finding is 'clearly erroneous' when although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed."¹³ A variation of this standard that is applied in equity cases states an appellate court may and will examine and weigh the evidence, but the findings of the trial court cannot be disturbed unless found to be against the clear weight of the evidence.¹⁴ Under these standards, the appellate court is to consider the evidence as a whole and must conclude to a strong degree of certainty that a finding was wrong before disturbing it.

In Oklahoma, trial court findings in cases of legal cognizance cannot be disturbed on appeal if supported by any competent evidence. Under this standard, the appellate court's responsibility is to canvass the facts, not with an object of weighing conflicting proof to determine where the preponderance lies but only for the purpose of ascertaining whether the decision is supported by competent evidence.¹⁵ This standard is even more deferential than the federal clearly erroneous standard or the standard applicable to findings in cases of equitable cognizance.



“ This same court further provided some helpful guidance on this subject by observing that judicial discretion is governed by the situation and circumstances of an individual case. ”

Finally, appellate courts review trial court discretionary rulings for abuse of discretion. There is no single test or guiding principle that tells the reviewing court when the trial court has not properly exercised its discretion. As one federal court has said, "There is no exact measure of what constitutes abuse of discretion."¹⁶

This same court further provided some helpful guidance on this subject by observing that judicial discretion is governed by the situation and circumstances of an individual case. This court concluded that an abuse of discretion occurs only when the "situation and circumstances clearly show... arbitrary action not justifiable in view of such situation and circumstances."¹⁷

Another federal court has said that a trial court's decision will not be disturbed as long as it is within the range of discretion afforded to a given determination and is not influenced by a mistake of law.¹⁸ In Oklahoma, to reverse a trial court on the ground of abuse of discretion, it must be found that the trial judge made a clearly erroneous conclusion and judgment against reason and the evidence.¹⁹

In all that has been said and written about discretion, it seems to boil down to the question of whether the trial court made a reasonable choice (not necessarily the best choice) within the bounds of the law and properly determined facts. It seems more appropriate to review discretion by a reasonableness/unreasonableness test.²⁰ This standard is highly deferential and requires the reviewing court to sustain a decision unless it is so likely wrong that no reasonable person would reach the same conclusion.

To some extent, standards of review operate to limit appellate review. However, standards of

review should not be confused with the scope of review. Standards of review limit *how* the appellate court reviews a trial court decision in terms of the deference to be shown such decision, while the scope of review limits *what* issues the appellate court may consider *vis-à-vis* the record in its review of a trial court decision.²¹

An example may be helpful to illustrate the difference. The scope of review on summary judgment is limited for both the trial court and appellate court to the record actually presented. Both the trial court and appellate court review the record actually presented to determine whether there is a controversy over any material fact or facts and, if not, whether reasonable minds could reach different conclusions from the undisputed facts. In order to grant a summary judgment, the trial court must decide there is no controversy over any material fact and that the moving party is entitled to judgment as a matter of law. This decision is reviewed by the appellate court under the *de novo*/no deference standard of review.

Care should likewise be taken not to confuse trial court burdens of proof and the standards of review for factual determinations. Burdens of proof specify the degree of certainty to which a fact must be proven in the first instance (i.e., at trial), while standards of review describe the degree of certainty an appellate court must entertain to conclude a mistake was made in finding a fact under the applicable burden of proof.²² As noted above, an appellate court must have “a definite and firm conviction” the trial court made a mistake in its fact finding.²³

THE ‘WHY’ OR RATIONALE FOR DIFFERENT STANDARDS OF REVIEW

A particular standard of deference for appellate review normally reflects an accommodation of the respective institutional advantages of trial and appellate courts. The United States Supreme Court has discussed the respective institutional advantages of trial and appellate courts in



“Care should likewise be taken not to confuse trial court burdens of proof and the standards of review for factual determinations.”

explaining why the non-deferential *de novo* standard of review is applied to trial court rulings on issues of law:²⁴

“District judges preside alone over fast-paced trials: Of necessity they devote much of their energy and resources to hearing witnesses and reviewing evidence. Similarly, the logistical burdens of trial advocacy limit the extent to which trial counsel is able to supplement the district judge’s legal research with memoranda and briefs. Thus, trial judges often must resolve complicated legal questions without benefit of ‘extended reflection [or] extensive information.’...”

“Courts of appeals, on the other hand, are structurally suited to the collaborative judicial process that promotes decisional accuracy. With the record having been constructed below and settled for purposes of the appeal, appellate judges are able to devote their primary attention to legal issues. As questions of law become the focus of appellate review, it can be expected that the parties’ briefs will be refined to bring to bear on the legal issues more information and more comprehensive analysis than was provided for the district judge.

Perhaps most important, courts of appeals employ multi-judge panels ... that permit reflective dialogue and collective judgment.”

However, in areas of factual determinations, the exercise of discretion and resolution of mixed questions of fact and law, the Supreme Court has found the institutional advantage of the trial court (i.e. “the unchallenged superiority of the district court’s fact-finding ability”) to warrant deferential review.²⁵

The U.S. Supreme Court has said such deference is justified for two reasons. The first reason is that the costs of providing for duplicative fact-finding proceedings by an appellate court outweigh the benefits.²⁶ The second and more important reason is that, in the usual case, the trial court fact finder is in a better position to make

judgments about the reliability of some forms of evidence than a reviewing body acting solely on the basis of a written record of that evidence.²⁷

Professor Maurice Rosenberg considers the trial court's institutional advantage of first-hand observation to be "the chief and most helpful reason for appellate court deference to trial court rulings," particularly in regard to discretionary rulings.²⁸ Professor Rosenberg calls this the "you are there" reason; that is, the trial judge was present to feel the "climate" of trial and smell the "smoke of battle."²⁹ Professor Rosenberg believes this advantage is "a sound and proper reason for conferring a substantial measure of respect to the trial judge's ruling whenever it is based on facts or circumstances that are critical to decision and that the record imperfectly conveys."³⁰

Professor Davis points out that the need for discretion and attendant deference arises because "there are areas in which the trial court or agency must exercise a certain measure of judgment in reaction to its 'on the scene' presence at trial, or because [there are] no guidelines for deciding the issue, or because the issue is one that is so novel or vague that there is no way to measure the 'correctness' of the trial court's decision."³¹ Professor Davis identifies trial supervision, conduct of the parties and admission or rejection of evidence to be the "major" areas involving discretion.³²

For the most part, the standard of review for a particular decision will either be found in a legislative provision addressing the issue or be settled by a long history of appellate practice.³³ There are cases, however, where a district court is called upon to make determinations in order to apply a statute and a standard of review has not been provided by the statute or case law.³⁴

In such cases, the U.S. Supreme Court has said the question of whether deference should be shown to the trial court determinations should be answered by 1) asking whether deference can be inferred from the statute, 2) considering whether deference has been shown in cases involving similar or related provisions, 3) assessing, as a matter of the sound administration of justice, which court (trial or appellate) is better positioned than another to decide the issue being reviewed, 4) evaluating the practicability or impracticability of formulat-

ing a rule of decision for the issue (i.e. is the issue so multifarious, or one with special narrow facts, that it resists generalization), and 5) judging the extent to which potential liability and consequences call for more intensive review.³⁵

In deciding the appropriate standard of review to be applied in unsettled cases, Professor Davis also suggests that appellate courts give some weight to how the decision appears under common understanding of law and discretion. That is, does the decision appear to be discretionary (involving judgment, choice, sensitivity and presence) or is the decision, instead, informed by broader concepts that seem legal.³⁶

Furthermore, in deciding the appropriate standard of review to be applied in unsettled cases, the choice of the highly deferential "abuse of discretion" standard does not foreclose consideration of the legal and factual basis of the trial court's decision. Although rejecting the approach of dissecting a multifaceted issue into legal, factual and discretionary components (separately reviewable *de novo*, for clear error and for abuse), the U.S. Supreme Court does recognize that "[a] district court would necessarily abuse its discretion if it based its ruling on an erroneous view of the law or on a clearly erroneous assessment of the evidence."³⁷

CONCLUSION

The long-term experience of the common law system has shown that efficient, economical and fair appellate review should not duplicate the trial court process, but instead, focus on the decision of the trial court and the procedure used to reach that decision.

“ In reviewing trial court decisions, appellate courts usually work from a record of the trial court proceedings without the benefit of first-hand observation of the people involved and events that take place. ”

In reviewing trial court decisions, appellate courts usually work from a record of the trial court proceedings without the benefit of first-hand observation of the people involved and events that take place. This physical removal from the environment that yields the decision(s) being reviewed dictates a certain amount of deference should be shown the decision maker who was present. The various standards of review discussed above attempt to articulate the deference appellate courts have shown to different decisions and the reasons for the degree of deference shown.

1. Martha S. Davis, *A Basic Guide to Standards of Judicial Review*, 33 S. D.L. Rev. 468, 480 (1980).
2. BLACK'S LAW DICTIONARY 124 (Rev. 4th ed. 1968).
3. *Unified School District No. 500 v. Robinson*, 940 P.2d 1 (Kan. 1997) (syllabus 3).
4. *Id.* at 4.
5. *Pierce v. Underwood*, 487 U.S. 552, 558, 108 S. Ct. 2541, 2546.
6. *Salve Regina College v. Russell*, 499 U.S. 225, 237, 111 S. Ct. 1217, 1224 (1991).
7. *Concrete Pipe and Products of California Inc. v. Construction Laborers Pension Trust for Southern California*, 508 U.S. 602, 623, 113 S. Ct. 2264, 2280 (1993).
8. *N.L.R.B. v. Guernsey-Muskingum Electric Cooperative Inc.*, 285 F.2d 8, 11 (6th Cir. 1960).
9. Davis, *supra* note 1.
10. *Salve Regina*, 499 U.S. at 231, 111 S. Ct. at 1221.
11. *Bomford v. Socony Mobil Oil Co.*, 1968 OK 43, && 19-20, 440 P.2d 713, 719 (jurisdiction); *Bose Corp. v. Consumers Union*, 466 U.S. 485, 104 S. Ct. 1949 (1984) (constitutional question).
12. *Arrow Tool & Gauge v. Mead*, 2000 OK 86, & 6, 16 P.3d 1120, 1122-23 (statutory construction); *Carmichael v. Beller*, 1996 OK 48, & 2, 914 P.2d 1051, 1053 (summary judgment).
13. *United States v. United States Gypsum Co.*, 333 U.S. 364, 395, 68 S. Ct. 525, 542 (1948).
14. *Mooney v. Mooney*, 2003 OK 51, & 27, 70 P.3d 872, 878; *Mueggenborg v. Walling*, 1992 OK 121, & 7, 836 P.2d 112, 114.
15. *Parks v. Norman Municipal Hospital*, 1984 OK 53, & 12, 684 P.2d 548, 552.
16. *Guernsey-Muskingum*, 285 F.2d at 11.
17. *Id.*
18. *United States v. McNeil*, 90 F.3d 298, 300-01 (8th Cir. 1996).
19. *Abel v. Tisdale*, 1980 OK 161, & 20, 619 P.2d 608, 612.
20. *Concrete Pipe*, 508 U.S. at 621-23, 113 S. Ct. at 2279-80.
21. *Unified School District*, 940 P.2d at 1 (syllabus 3).
22. *Concrete Pipe*, 508 U.S. at 622-23, 113 S. Ct. at 2279.
23. *United States Gypsum Co.*, 333 U.S. at 395, 68 S. Ct. at 542.
24. *Salve Regina*, 499 U.S. at 231-32, 108 S. Ct. at 1221.
25. *Id.* at 233, 108 S. Ct. at 1222.
26. *Concrete Pipe*, 508 U.S. at 623, 113 S.Ct. at 2280.
27. *Id.*

28. Maurice Rosenberg, *Appellate Review of Trial Court Discretion*, 79 F.R.D. 173, 183 (1978).
29. *Id.*
30. *Id.*
31. Martha S. Davis, *Standards of Review: Judicial Review of Discretionary Decisionmaking*, 2 *Journal of Appellate Practice and Process* 47, 49 (Winter, 2000).
32. *Id.*
33. *Pierce*, 487 U.S. at 557-58, 108 S. Ct. at 2546.
34. *Id.*
35. *Id.* at 559-62, 108 S. Ct. at 2547-49.
36. Davis, *supra* note 30, p. 66.
37. *Cooter & Gell v. Hartmarx Corp.*, 496 U.S. 384, 405, 110 S. Ct. 2447, 2461 (1990).


ABOUT THE AUTHOR



Justice John Reif of Skiatook was appointed to the Oklahoma Supreme Court by Gov. Brad Henry in October 2007. He has served in the state judiciary for 26 years. Before joining the Supreme Court, Justice Reif served as a member of the Oklahoma Court of Civil Appeals for 23 years. He has also served as a special district judge and an assistant district attorney in Tulsa County. He earned a law degree and a bachelor's degree at the University of Tulsa.

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A Primer on Administrative Law in Oklahoma

By Gary E. Payne

“Government, after all, is a very simple thing.”

Warren G. Harding

One of our great founders, James Madison, apparently did not anticipate the extent that “administrative law” and “administrative law courts” would be concocted nor how the rights and feelings of private citizens would be affected by the concept of voluminous regulations being imposed on the citizenry, not by elected officials, but by bureaucrats. Writing in the *Federalist No. 62*, Madison stated:

“It will be of little avail to the people that the laws are made by men of their own choice if the laws be so voluminous that they cannot be read, or so incoherent that they cannot be understood.....Every new regulation concerning commerce or revenue, or in any manner effecting the value of the different species of property, presents a new harvest to those who watch the change, and can trace its consequences; a harvest, reared not by themselves, but by the toils and cares of the great body of their fellow-citizens....”

Few attorneys are going to be very far into their practice before they are called upon to represent a client whose driver’s license is being revoked, who has an industrial injury, who is being fined for not maintaining a sanitary restaurant or who is being pursued for child support by the Oklahoma Department of Human Services. The Oklahoma Department of Public Safety, the Workers’ Compensation Court, the Oklahoma State Health Department and DHS are just a few of the many state agencies with due process hearing powers. The

opportunities to represent a client before a state agency are many and varied and can, like Madison said, produce a new harvest.

Practicing before an administrative agency in Oklahoma does not have to be dreaded like a third world experience. At a minimum, there are a few basic things that must be remembered and applied. Attorneys who become familiar with administrative proceedings often add a lucrative and fulfilling dimension to their practice.

The concept of administrative due process seems elementary to some lawyers. Surprisingly, there are still many lawyers who come before an administrative law judge with no concept of the basic fundamentals of administrative due process.

This article is not meant to present an exhaustive treatise on the subject of administrative due process procedure. Instead, it is intended to present a basic primer from which attorneys can initiate their preparation for administrative hearings.

“ Every state agency is responsible for adopting rules and regulations consistent with the particular legislative provisions that create and empower the agency. ”

WHAT IS DUE PROCESS?

The right to due process ensures that government agencies must proceed fairly when dealing with citizens in their day-to-day dealings with the bureaucracy. Only one imperative is stated twice in the United States Constitution. Both the Fifth Amendment and the 14th Amendment state that no one shall be “deprived of life, liberty or property without due process of law.” These “Due Process Clauses” have as their core the assurance that all levels of American government must operate within the law and provide fair procedures.¹

The United States Supreme Court case of *Goldberg v. Kelly*, 397 U.S. 254 and similar cases have established the essential basic requirements for administrative due process. They are:

1. An unbiased tribunal.
2. Notice of the proposed action and the grounds asserted for it.
3. Opportunity to present reasons why the proposed action should not be taken.
4. The right to present evidence, including the right to call witnesses.
5. The right to know opposing evidence.
6. The right to cross-examine adverse witnesses.
7. A decision based exclusively on the evidence presented.
8. Opportunity to be represented by counsel.
9. Requirement that the tribunal prepare a record of the evidence presented.
10. Requirement that the tribunal prepare written findings of fact and reasons for its decision.

APPLICABLE OKLAHOMA AUTHORITY

Every state agency charged with licensure authority and which regulates any business or vocation must provide for due process hearings if a party regulated feels aggrieved by an agency decision. Many agencies have the ability to issue or revoke a license or approve a certain use, practice or procedure. Other agencies, such as the Department of Human Services, not only issue licenses but are also charged with certain protective and collection responsibilities. A due process hearing is simply an administrative hearing conducted by an administrative law judge. Some agencies have full time administrative law judges who preside in a formal courtroom setting. Other agencies engage practicing attorneys to be contract ALJs that only serve on an “as needed” basis.

There are two fundamental legal sources a lawyer must be familiar with to practice before an administrative agency in Oklahoma. The first is the *Oklahoma Administrative Procedures Act* found at Title 75 of the Oklahoma Statutes, Sections 250 through 323, (the OAPA). The second is the *Oklahoma Administrative Code*, (OAC), which is maintained by the Office of Administrative Rules in the Office of the Secretary of State.² Article 1 of the OAPA provides that the Legislature may delegate rulemaking authority to administrative agencies.

As stated on the Oklahoma Secretary of State Web site, “the Office of Administrative Rules (OAR) is responsible for publishing *The Oklahoma Administrative Code* and *The Oklahoma Register* and implementing the provisions of Article 1 of the Administrative Procedures Act [75 O.S., Sections 250 et seq.]. The OAR maintains the official records of the state’s rules and rulemaking notices, and provides assistance to approximately 150 regulatory agencies in the rulemaking process.”

Every state agency is responsible for adopting rules and regulations consistent with the particular legislative provisions that create and empower the agency. The OAC is the official compilation of agency rules and executive orders for the state of Oklahoma. The code is revised annually in the form of cumulative supplements.

The *Oklahoma Register* is a semi-monthly publication, which serves as supplementation between publications of the annual supplements. The *Oklahoma Register* includes new rules, amendments, revisions and revocations

of existing rules, emergency rules, notices of proposed rules and the rule making process and executive orders.

Many state agencies have proposed rules and regulations pending throughout the year. They are often written to comply with various changes in state or federal law or, to be consistent with federal regulations that may be applicable to a particular agency. When a state agency has the responsibility for regulating federal programs or, when a state agency receives funding from the federal government, the *United States Code* and/or the *United States Code of Federal Regulations* generally apply as well. Both the USC and the CFR are freely accessible by Internet search.³

Most state agencies maintain a Web site which explains the various agency statutory and regulatory duties and gives reference to its statutes and regulations. Some agencies also have certain forms that have to be used in administrative proceedings and those may usually be found on the Web site as well.

When an attorney is engaged to represent a client before any agency of state government there are certain things that must be done as a minimum. First, the attorney should read the applicable statutes under which the agency is created and empowered and which give authority to the action being taken. Second, the attorney should read the rules and regulations, both state and federal that apply to the situation including the OAPA. Third, the attorney should view the agency Web site or call the particular agency to determine how agency hearings are conducted. Some agencies simply record the proceedings for later transcription if needed by a party or court. Other agencies, such as the Corporation Commission, are more formal and rely on

the use of court reporters to chronicle their proceedings.

Attorneys need to determine in each case if the hearing is initiated by action taken by an agency employee, such as an investigator with the authority to issue citations, or by the board or commission of the agency. If the action involves a vote of a board or commission than the *Oklahoma Open Meeting Act*, (23 O.S. §307) will apply. In those types of cases, the attorney should obtain a copy of all agency minutes that relate to the proceedings. Note that some agencies are only authorized to make a determination to refer a complaint to the appropriate authority based on facts revealed in its nonadjudicative, administrative investigations.⁴

BURDEN OF PROOF

In the case of *Johnson v. Bd. Of Gov. of Regist. Dentists*, 913 P.2d 1339, 1996, the Oklahoma Supreme Court stated: "This court has consistently recognized where it is necessary to procure a license in order to carry on a chosen profession or business, the power to revoke a license, once granted, and thus destroy in a measure the means of livelihood, is penal and therefore should be strictly construed."⁵ The court declared that the loss of a professional license is more than a monetary loss; it is a loss of a person's livelihood and loss of a reputation and is a constitutionally protected property interest, which must be afforded due process.⁶ For these reasons, the court determined that the standard of proof for license revocation proceedings against a person holding a professional license is a clear-and-convincing-evidence standard.⁷

The *Oklahoma Uniform Jury Instructions*, (Number 3.2) defines clear and convincing evidence as follows: "When I say that a party has the bur-



“ When an attorney is engaged to represent a client before any agency of state government there are certain things that must be done as a minimum. ”

den of proving any proposition by clear and convincing evidence, I mean that you must be persuaded, considering all the evidence in the case, that the proposition on which the party has this burden of proof is highly probable and free from serious doubt.”⁸

In any case not involving a license, the standard of proof used in administrative law proceedings is preponderance of the evidence⁹ (See OUJI number 3.1)¹⁰

UNIQUE REQUIREMENTS IMPOSED

One thing unique about an administrative decision is that Section 312 of the OAPA requires that every final agency order adverse to a party must include findings of fact and conclusions of law, separately stated. Further, the statutes require that a findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.

RIGHT OF APPEAL

Any party aggrieved by an agency decision generally has two courses of action that can be taken. First, any final agency order is subject to rehearing, reopening or reconsideration by the administrative head of the agency. The grounds for such action are limited to the following five reasons: (1) newly discovered or newly available evidence, relevant to the issues; (2) need for additional evidence adequately to develop the facts essential to proper decision; (3) probable error committed by the agency in the proceeding or in its decision such as would be ground for reversal on judicial review of the final agency order; (4) need for further consideration of the issues and the evidence in the public interest; or (5), a showing that issues not previously considered ought to be examined in order properly to dispose of the matter. (APA §317)



“ First, any final agency order is subject to rehearing, reopening or reconsideration by the administrative head of the agency. ”

In addition to the choices listed above, any party aggrieved by a final agency order in an individual proceeding is entitled to file a petition, in the district court of the county in which the party seeking review resides, or at the option of such party, where the property interest affected is situated, within thirty days after the appellant is notified of the final agency order. (OAPA §318). The party aggrieved by the final agency order may be entitled to recover against such agency any court costs, witness fees, and reasonable attorney fees if the court determines that the proceeding brought by the agency is frivolous.

In any discussion of appeal from an administrative order, two United States Supreme Court cases should be examined, the *Chevron* case and *Bishop v. Wood*. *Chevron* articulated a two-step analysis of statutory interpretation: The first (judicial) step is to determine the possible meanings of the statute, and the second (agency) step is to choose among those possibilities. *Chevron* held that courts must accept agencies’ “reasonable” interpretations of statutes if those interpretations fall within the possible range of a statute’s terms. *Chevron U.S.A.,*

Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837 (1984).

In *Bishop v. Wood*, 426 U.S. 341 (1976), a divided Supreme Court stated that the federal court is not the appropriate forum in which to review the multitude of personnel decisions that are made daily by public agencies. It went on to say that numerous individual mistakes are inevitable in the day-to-day administration of our affairs and that the United States Constitution cannot feasibly be construed to require federal judicial review for every such error. The court concluded that the Due Process Clause of the 14th Amendment is not a guarantee against

incorrect or ill-advised personnel decisions.

APPLICATION

It is important to note that the rules and regulations of state agencies are not static. Attorneys should check for revisions of agency rules the same way as they should check for statutory changes. Second, the rules regulating state agencies are not monolithic. Every agency has unique rules. As an example, the Commissioner of the Oklahoma State Department of Health, by both statute and regulation, can designate an administrative law judge to issue a final agency order. The Oklahoma Tax Commission has special rules that must be followed regarding an appeal from that agency which involve the posting of a bond and other requirements.¹¹

Most state agencies such as the Department of Human Services and the Oklahoma Employment Security Commission provide informative brochures to attorneys and citizens outlining the necessary procedures for due process hearings. It is advisable to obtain any such information prior to attending a hearing.

Several cases involving appeals from administrative agencies have been published. Any attorney representing a client before a particular state agency should read published decisions. As an example, any attorney appearing before the Oklahoma Employment Security Commission Appeal Tribunal or Board of Review should be familiar with the unique nuances in the *Tynes v. Uniroyal Tire Co.*, 679 P.2d 1310, (Okla 1984). In that case, the Supreme Court determined that the Oklahoma Employment Security Act, (40 O.S. 1981 § 2-406) did not provide a definition of misconduct connected with an employee's last work so the Court imposed its own definition. The Court also determined that in unemployment benefit cases, the burden of proof is upon the claimant to show she qualifies for unemployment compensation and upon the employer to show claimant was guilty of misconduct.

Many administrative hearings consider complex and protracted matters involving unique provisions of law and highly technical issues. In cases such as this, it is usually advisable to refer the matter to an attorney who specializes in that particular area of law.

SUMMARY

It is well for all attorneys to remember the quote of Justice Frankfurter in the landmark decision of *Youngstown Sheet & Tube Co. et al. v. Sawyer*, 344, U.S. 579 (1952). He was struggling with the issue of separation of powers between the executive and judicial branch of government and quoted an admonition of Justice Marshall: "The great ordinances of the Constitution do not establish and divide fields of black and white." Justice Frankfurter, unlike President Harding, realized that we do not live in a fairytale world when it comes to our laws.

Both the state and federal constitutions guarantee certain procedural safeguards for the citizens of Oklahoma. Government agencies have grown significantly over the last few years and their regulatory authority over citizens has expanded. Knowledge of laws, codes, precedents, government regulations, executive orders and agency rules is imperative to the attorney representing a client before a state agency.

Administrative decisions must be based upon adequate findings which, in turn, must be supported by substantial evidence in the record. It is the attorney's responsibility to make sure every client's rights are insured and protected. The attorney must know how to make and protect the record in an administrative hearing which cannot be done without a working knowledge of the rules and procedures of a particular agency.

Lawyers must remember the motive of an agency conducting an administrative due process hearing in compliance with constitutional due process requirements. Agencies involved in due process hearings are generally trying to deprive an individual of certain interests ("life, liberty, or property"). Due process hearings are adversarial proceedings. Agency action can result in a permanent record being created. It can have a monetary affect and can be quite punitive. Attorneys must possess a working knowledge of the rules of engagement in order to properly represent their clients.

1. For a good article describing the history and evolution of due process in America, see "Due Process" by Peter Strauss published by the Cornell University Law School Journal at "www.law.cornell.edu/wex/index.php/Due_process"

2. The entire Oklahoma Administrative Code is accessible for free from the Oklahoma Secretary of State Web site.

3. <http://uscode.house.gov/search/criteria.shtml> and <http://gpoaccess.gov/cfr/index.html>

4. *Walters v. Oklahoma Ethics Com'n*, 1987 OK 103; 746 P.2d 172; *Grand River Dam Authority v. State*, 645 P.2d 1011, (Okla. 1982).

5. See also *State ex rel. Oklahoma State Board of Embalmers and Funeral Directors v. Guardian Funeral Home*, 429 P.2d 732, 733, 736 (Okla. 1967); *Board of Examiners of Veterinary Medicine v. Mohr*, 485 P.2d 235, 240 (Okla. 1971).

6. See *Okla.Stat.Tit. 59, § 328.32* (1991); *Barry v. Barchi*, 443 U.S. 55, 64, 99 S.Ct. 2642, 2649, 61 L.Ed.2d 365 (1979); *Perry v. Sindermann*, 408 U.S. 593, 601, 92 S. Ct. 2694, 2699-700, 33 L.Ed.2d 570 (1972).

7. *State ex rel. State Bd. of Official Shorthand Reporters v. Isbell*, 803 P.2d 1143 (Okla. 1990); *State ex rel. Oklahoma Bar Association v. McMillian*, 770 P.2d 892, 895, n. 6 (Okla. 1989).

8. See *Matter of C.G.*, 637 P.2d 66, 77 n.12 (Okla. 1981) ("Clear and convincing evidence is that measure or degree of proof which will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegation sought to be established."), and the cases cited.

9. *Cherokee Data Computer Parts and Service, Inc. v. Okla. Dept. of Labor*, 122 P.3d 56 (2005).

10. This instruction uses "greater weight of the evidence" instead of "preponderance of the evidence" to make the instruction more understandable to jurors. The words have the same meaning, and no change is intended in the standard of proof for civil cases. See *Henderson v. State*, 568 P.2d 297, 298 (Okla. Crim. App. 1982) ("A preponderance of the evidence has been defined by this Court to mean simply the greater weight of evidence."); *Black's Law Dictionary* 1182 (6th ed. 1990).

11. A 2002 article entitled "Sales And Use Tax Procedures: Administrative and Judicial" by Richard B. Kells of Hartzog Conger Cason & Neville in Oklahoma City provides a good explanation of OTC procedures.

ABOUT THE AUTHOR



Gary Payne is Chief Administrative Law Judge of the Oklahoma State Department of Health. He is a graduate of the OU College of Law, was a member of the Oklahoma House of Representatives, served for 10 years as an appellate administrative law judge on the Board of Review for the Oklahoma Employment Securities Commission, has served as a municipal judge and is an appeal judge for Department of Education disability due process hearings.



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Business and Corporate Law Section

Avoiding the Premature Death of an LLC

By Libby Anne Mercer

Oklahoma enacted the Oklahoma Limited Liability Company Act in 1992.¹ The LLC act has been amended several times since then, most recently in 2006.² Several provisions added as amendments carry serious consequences for an LLC that fails to comply with the act.

Added in 2001 is the requirement that each domestic LLC and each foreign LLC registered to do business in Oklahoma “shall” annually file a certificate with the Office of the Secretary of State. The certificate “shall confirm [the LLC] is an active business and include its principal place of business address.”³ Before Nov. 1, 2006, the due date for filing the annual certificate was July 1 of each year.⁴ Effective Nov. 1, 2006, the annual certificate is due “on the anniversary date of filing the certificate following the close of the calendar year.”⁵

Additionally, if the secretary of state acts as the registered service agent for an LLC, an annual fee is also required and is due on July 1 of each year.⁶ An LLC that fails to pay the annual fee is subject to the same consequences as the LLC that fails to file the annual certificate.⁷

The first failure to file the annual certificate results in a termination of “good standing as a domestic limited liability company or [entity] registered as a foreign limited liability company in this state.”⁸ Upon the loss of good standing, a domestic LLC or a foreign LLC registered to do business in Oklahoma, “may not maintain any action, suit or proceeding in any court of this state” until its “good standing” or “duly registered” standing has been restored.⁹ Importantly, no “successor or assignee” of the LLC is

allowed to maintain any action on any “right, claim or demand arising out of business by the domestic” LLC after it ceased to be in good standing *unless and until* the LLC, “or any person that has acquired all or substantially all of its assets, has filed its annual certificate with the Secretary of State or paid its registered agent fee to the Secretary of State then due and payable, together with penalties.”¹⁰ Unfortunately, this may not be possible.

Unlike an Oklahoma corporation that has been suspended for its failure to pay franchise taxes, an Oklahoma LLC does not have unlimited time in which to seek reinstatement of good standing. A suspended corporation may be restored to good standing upon payment of all past due franchise taxes regardless of the number of years the tax has gone unpaid.¹¹ The corporation may discover that its name now belongs to a different corporation, but it nevertheless has the ability to choose another name and be reinstated.¹² An LLC lacks this option because the Oklahoma LLC Act limits an LLC to three years within which to obtain restoration of its good standing status.¹³ After three years of noncompliance with the filing and/or fee requirement, reinstatement is no longer available to an LLC. The LLC is dead and cannot be revived under any name!¹⁴

Section 2012.1 of Title 18 provides,

The articles of organization of a domestic limited liability company *shall be deemed to be cancelled* if the domestic limited liability company shall fail to pay the annual fee provided in Section 2055.2 of this title

or a registered agent fee to the Secretary of State due under Section 2055 of this title *for a period of three (3) years from the date it is due*, the cancellation to be effective on the third anniversary of the due date. [Emphasis added]

This provision removes forever the ability of an LLC to be restored to good standing. Unlike the statute that suspends a corporation for failure to pay franchise taxes,¹⁵ the current LLC Act does not allow reinstatement of an LLC that has been cancelled by the secretary of state after three years of noncompliance. Neither the members of the deceased LLC nor its assignees or successors can revive an LLC whose articles of organization have been cancelled. Some of you must be thinking this conclusion is absolutely wrong. Here is why it is not.

An LLC whose articles of organization have been cancelled is no longer a legal entity. The day after the secretary of state administratively cancels the articles of organization, the name of the deceased LLC becomes available to anyone, other than a corporation, for the taking.¹⁶ The name of the deceased LLC may be reserved¹⁷ or may be assumed by any person who files articles of organization using the LLC name.¹⁸ Although the individuals who owned or controlled the deceased LLC could again file articles of organization using the same name (assuming the name was still available), the former LLC nevertheless would not be revived or reinstated. The secretary of state would issue a certificate of organization under a new identification number that is different from the identification number of the deceased LLC. The deceased LLC would not have been reinstated; rather, an entirely new entity would be created.

Another reason refusing would not restore the former LLC is that after cancellation of the articles of organization, the members of the deceased LLC would be free to decline to participate in the new LLC. Even if the new LLC used the old name, it is possible that the members could be different. An attorney representing an LLC that has been

cancelled by operation of law who attempts to revive the LLC's existence merely by filing new articles of organization under the name of the deceased LLC should consider carefully whether s/he has an ethical obligation to inform the members of the deceased LLC they may have the option to refuse to become members of the new LLC.

To illustrate a potential consequence of non-compliance with the act's requirements, consider the following scenario from a recent case. John Doe formed an LLC naming himself, his wife Jane, and his mother, Mary Smith, as members of the LLC. John and Jane later became embroiled in an action to dissolve their marriage. John caused the LLC to sue Jane in an attempt to enforce an alleged contract that would have removed property from the marital estate. Jane moved to dismiss on the basis that the LLC had died after it failed to comply with the act for three consecutive years. The motion was granted; the court held the LLC no longer existed, and therefore, it lacked capacity to attempt to enforce the alleged contract.¹⁹

Many people associate the death of an LLC solely with "dissolution" and believe that an LLC is a legal entity until completion of the winding up of its business. Contrary to this belief, the Oklahoma LLC Act expressly sets out that the manner of death of an LLC is the cancellation of the articles of organization.²⁰ The act states that a "limited liability company formed under this act is a separate legal entity, the existence of which as a separate legal entity continues until *cancellation* of the limited liability company's *articles of organization*."²¹ The act then provides that the articles of organization shall be cancelled by dissolution or merger,²² or shall be deemed cancelled after three years of failing to file the annual certificate and pay the associated fee.²³ Consequently, an LLC is no longer a legal entity after its articles of organization have been cancelled, whether by dissolution, merger or by operation of law.

Those Oklahoma LLCs whose articles of organization have been cancelled by the secretary of state after three consecutive years of

“ Contrary to this belief, the Oklahoma LLC Act expressly sets out that the manner of death of an LLC is the cancellation of the articles of organization. ”

“ The issues and conflicts apparent in the current provisions of the Oklahoma LLC Act discussed in this article will likely be resolved by the Oklahoma Legislature in 2008 in Senate Bill 1043. ”

noncompliance, but who continue to transact business, have placed themselves in a Catch-22. The 10th Circuit Court of Appeals has held that an Oklahoma LLC whose legal existence has been terminated *no longer exists for any purpose* and lacks the capacity to wind up its affairs and dissolve.²⁴ In *In re Midpoint Development L.L.C.*,²⁵ articles of dissolution containing an immediate effective date were filed with the Oklahoma secretary of state. Midpoint Development L.L.C. thereafter filed a petition for bankruptcy relief. Creditors sought dismissal arguing that Midpoint was no longer a legal entity and was therefore ineligible to be a debtor. Midpoint claimed it had the right to wind up its affairs after dissolution. The 10th Circuit disagreed with Midpoint and concluded that “the winding up period should precede the effective date of the articles of dissolution, which ultimately terminates an L.L.C.’s legal existence by cancelling its articles of organization.”²⁶

While *In re Midpoint* addresses the situation of an LLC that ceased to exist after the effective date of its articles of dissolution, the reasoning applies equally to an LLC that ceased to exist after three consecutive years of noncompliance with the reporting and fee requirements. An Oklahoma LLC whose articles of organization have been cancelled for any reason lacks the capacity to conduct business as a legal entity.

An additional problem encountered by those LLCs that, perhaps unknowingly, have been canceled by operation of law occurs when the nonexistent LLC attempts to sell real property. A certificate of good standing for the LLC likely will be required as a formality necessary to finalize the sale. Of course, when the LLC attempts to obtain the certificate from the secretary of state, it will be confronted with the unpleasant discovery that it no longer exists and cannot be reinstated as the same entity.²⁷ This obviously presents a significant obstacle to a defunct LLC attempting to sell real property which remains titled in its name, espe-

cially in light of the 10th Circuit’s ruling in *In re Midpoint Development L.L.C.*²⁸ that an LLC whose articles of organization have been cancelled no longer exists for any purpose.

The LLC Act also currently contains an inherent conflict for an LLC that has been suspended from good standing for less than three years and wishes to dissolve. The act gives “persons winding up the business or affairs” of an LLC the ability to “prosecute and defend suits.”²⁹ This statutory provision does not expressly limit the dissolving LLC’s participation in lawsuits solely to legal actions necessary to wind down LLC affairs. However, a suspended LLC is expressly prohibited from *maintaining* any lawsuit in Oklahoma.³⁰ It thus appears that a suspended LLC claiming to be dissolving and winding down its affairs might be allowed to file lawsuits while a suspended, but not dissolving, LLC is prohibited from doing so. However, as shown above, an LLC that is no longer a legal entity does not exist for any purpose and therefore lacks the capacity to participate in a law suit in any way.

The issues and conflicts apparent in the current provisions of the Oklahoma LLC Act discussed in this article will likely be resolved by the Oklahoma Legislature in 2008 in Senate Bill 1043. Until these statutory provisions are amended, practitioners who represent LLCs would do well to take careful note of the act’s requirements and to make sure their LLC clients do not die a premature death for failure to comply.

1. Chapter 148, 1992 Oklahoma Session Laws.

2. Amended by Laws 2006, SB 1556, c. 22, § 1, eff. Nov. 1, 2006.

3. 18 O.S. §2055.2 (A).

4. 18 O.S. §2055.2 (B), superceded effective Nov. 1, 2006.

5. 18 O.S. §2055.2 (B), as amended effective Nov. 1, 2006.

6. 18 O.S. §2055(12).

7. 18 O.S. §2055.1. Nonpayment the first year results in loss of good standing. 18 O.S. §2055.2(G). Nonpayment for three consecutive years results in cancellation of the LLC’s articles of organization. 18 O.S. §2012.1(B).

8. 18 O.S. §2055.2 (D).

9. 18 O.S. §2055.2 (G).

10. *Id.*

11. 68 O.S. §1212.

12. A corporation that has been suspended for a number of years may discover that its name has been taken by another company. The secretary of state works closely with the Oklahoma Tax Commission, and after three years of suspension for failure to pay franchise taxes, the secretary of state apparently will make the corporate name available to the public under 18 O.S. §1006(A)(1)(a). If the corporate name has been used by another, a suspended corporation seeking reinstatement will be required to choose a different name.

13. 18 O.S. §2012.1.

14. 18 O.S. §2012.1.

15. 68 O.S. §1212.

16. 18 O.S. §2008(2)(a)(1) prohibits a new LLC from organizing under the same name or a name indistinguishable from "then existing limited liability companies." In contrast, a corporation is prohibited by 18 O.S. §1006(A)(1)(c) from incorporating under the "names of limited liability companies, whether domestic or foreign, then existing or which existed at any time during the preceding three (3) years."

17. 18 O.S. §2009.

18. 18 O.S. §2008.

19. Jane later reserved the name of the former LLC herself. Although this step was not necessary to prevent resurrection of the former LLC, it did prevent John and Mary from registering a new LLC under the former name, and then attempting (albeit unsuccessfully) to reopen the dismissed case. However, the divorce court later allowed both the LLC and Mary to intervene in the divorce in order to "dissolve" the LLC, an action this author believes to be in direct violation of the LLC Act and the *Midpoint Development* decision. The dispute is still pending.

20. 18 O.S. §2004 (B).

21. 18 O.S. §2004 (B) (emphasis added).

22. 18 O.S. §2012.1 (A).

23. 18 O.S. §2012.1 (B).

24. *In re Midpoint Development L.L.C.*, 466 F.3d 1201 (10th Cir. 2006).

25. 466 F.3d 1201 (10th Cir. 2006).

26. *Id.* at 1205.

27. It is outside the scope of this article whether a new LLC, otherwise identical to the LLC that was canceled by operation of law, will be allowed by the IRS to use the defunct LLC's tax identification number.

28. 466 F.3d 1201 (10th Cir. 2006).

29. 18 O.S. §2039 (A)(2)(a).

30. 18 O.S. §2055.2 (G).

ABOUT THE AUTHOR

Libby Mercer is a private practice attorney in Oklahoma City. Her 20 years of experience encompass both state and federal judicial clerkships and private civil litigation. Currently, her practice emphasizes representing consumers in cases involving auto fraud, warranty law, debt collection abuses, predatory lending practices and other consumer-related issues. Mercer also works as a research and briefing consultant and provides litigation support. She may be reached at (405) 525-8858 or by e-mail at consumerlaw@swbell.net.

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Health Law Section

Recent Change in the Law Alters Language of Written Consent to Disclose Medical Information

By *Teresa Meinders Burkett and Kathryn S. Burnett*

On Nov. 1, 2007, changes to Oklahoma Statute Tit. 63 §1-502.2, the Oklahoma statute pertaining to confidential health information and written consent for its disclosure, went into effect. These changes require attorneys who ask clients to sign authorization forms to access medical records to revise the boldface language included in those forms in order to obtain such records from Oklahoma health care providers.

The statutory amendment also grants heightened protection to information that an individual has or may have a noncommunicable disease, including such common conditions as heart disease, obesity, diabetes, depression and arthritis. Importantly, unlike the provisions of the Health Insurance Portability and Accountability Act (HIPAA)¹ that governs only "covered entities" defined by HIPAA, this amended Oklahoma law applies to any person or organization in the state that holds or maintains any "records of any disease" relating to any individual.

COMPARING THE ORIGINAL AND REVISED STATUTES

Originally, this statute pertained only to the confidentiality and disclosure of treatment records of communicable diseases.² The statute required that any written consent form for the release of confidential health information include the boldface language, "The information authorized for release may include records which may indicate the presence of a communicable or venereal disease which may include, but are not limited to, diseases such as hepatitis, syphilis, gonorrhea and the human immu-

nodeficiency virus, also known as Acquired Immune Deficiency Syndrome (AIDS)."³

The revised statute pertains not only to records of treatment for communicable diseases, but also to those of noncommunicable diseases.⁴ The statute now requires that any written consent form for the disclosure of any confidential health record contain the boldface language, "The information authorized for release may include records which may indicate the presence of a communicable or noncommunicable disease." Under this statute, any written consent obtained for the disclosure of confidential health information after Nov. 1, 2007, that does not contain this statement is not valid. In most instances, this law also requires either the patient's written consent or a court order to disclose information covered by this law.⁵

Most patients have some record of noncommunicable disease in their medical records, so this amendment means that few medical records may be disclosed through use of a subpoena that is not accompanied by a patient's written consent or a court order.

WHAT THIS MEANS FOR OKLAHOMA ATTORNEYS

Oklahoma attorneys should review the forms they currently use to access clients' and third parties' health information to ensure that they contain the new boldface language required by the revised statute. Unlike HIPAA, "any person or organization" that has records or information that an individual has or may have any

disease is governed by this Oklahoma law, including attorneys and their law firms.

Disclosure of information pursuant to a subpoena or the discovery process, which reveals that an individual has or may have a communicable or noncommunicable disease, without the individual's written authorization or a court order could subject the disclosing party to damages for its release, including punitive damages and the individual's attorney fees and costs associated with protecting the individual's privacy rights under this state law.⁶

It is important that lawyers who receive or disclose health information about their clients or other parties to litigation be aware of these statutory amendments to limit the risk of civil liability as a result of inappropriate disclosures. They also need to update their internal forms used to obtain or share health information to comply with the new law.

1. 45 CFR Part 160 and Subparts A and E of Part 164.

2. The superceded statute, passed as amended in 2004, was originally passed in 1988 in response to concerns about disclosure of HIV/AIDS infection.

3. 63 O.S. §1-502.2 (2004).

4. The revision of this statute changed only the boldface language required for medical record disclosure. All other components of the statute, including those pertaining to inmates, persons exposed to infectious diseases and students infected with HIV/AIDS, remain unchanged.

5. Significantly, under the revised statute, a subpoena alone will generally no longer be sufficient for the disclosure of medical records.

6. 63 O.S. §1-502.2(H) (2007) provides: Any person who negligently, knowingly or intentionally discloses or fails to protect medical or epidemiological information classified as confidential pursuant to this section shall be civilly liable to the person who is the subject of the disclosure for court costs, attorney fees, exemplary damages and all

actual damages, including damages for economic, bodily or psychological harm which is proximately caused by the disclosure. While this statute is limited by the prefatory language, "unless otherwise provided by law," the scope of the waiver of any privilege protecting medical information in the course of litigation was clearly and narrowly limited by the Oklahoma Supreme Court in *Holmes vs. Nightingale*, 2007 OK 15, 158 P.3d 1039.

ABOUT THE AUTHORS



Teresa Meinders Burkett is a partner in the Tulsa office of Conner & Winters, LLP. Also a registered nurse, Ms. Burkett's law practice focuses on the representation of hospitals and other health care providers across the region. She advises health-care professionals and organizations with regard to issues of patient care, licensure and credentialing, employment practices, compliance, HIPAA privacy and security, fraud and abuse, and contracting.



Kathryn S. Burnett is an associate in the Tulsa office of Conner & Winters, LLP. Ms. Burnett practices primarily in the areas of healthcare and employment law. She obtained her J.D. from William & Mary in 2007 and is a member of the American Health Lawyers Association.



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Happy New Year from a Relic

By John Morris Williams

Happy new year. Actually, I hope you are enjoying the start of a new year. Things are not so good today in the modular offices. I am a bit down over the demise of my team to a team who has a guy dressed in buckskin with a musket as their mascot. I thought it would take something with more fire power than that to take down my team! Alas, it was not so. Of course if you think about it, the two of the major teams here in the state have a guy with a pistol and horses and a wagon as the mascots. It seems that we do like some relics of the past, even if just for fun.

One relic of the past, the east wing of the bar center, is now totally gutted. I walked through a month ago and it reminded me of one of those loft buildings. You would be amazed at the amount of steel and concrete used in its construction. With the asbestos gone, things are moving right along. The duct work for the heat and air is being hung as I write this column. The new windows will soon be installed. Welders are working to close in the old main stairwell and relocate the elevator. We are still looking toward a May 1, 2008, finish. To all of you who have been inconvenienced by the

construction, I once again apologize.

The changes to the Oklahoma Rules of Professional Conduct went into effect Jan. 1. A committee worked on these changes for three years, we held open public meetings,

very informative on the subject. If you have not familiarized yourself with these changes, it is imperative that you do so. The changes are significant enough that your ignorance of the changes could result in disciplinary action against your license.

“The OBA would quickly become a relic of the past if we did not have diverse and dynamic leadership.”

and this was passed by the House of Delegates before it was sent to the Oklahoma Supreme Court. Yet, I fear that some folks may not have gotten the word. In order that every OBA member has a ready reference to this material, we are in the process of publishing a complete copy of the rules in a form that you can keep as a ready reference. Also, the rules can be accessed on the OBA Web site at www.okbar.org/ethics/ORPC.htm. If you follow this link you can see the rules in redline and regular formats. The redline format is extremely helpful in quickly finding changes to the old rules. Also, the OBA has a great online CLE that is

The new year also brings us new leadership in the form of J. William “Bill” Conger as our new president. Bill has some exciting plans for the upcoming year. The Board of Governors will travel to Enid, Idabel, Grand Lake and Ardmore for meetings during the year. Also, we have Mike Mordy returning to the Board of Governors as vice president and new Governors Jack Brown, Jim Stuart, Mark Hixson, Jerry McCombs and YLD Chair Kimberly Warren. Jon Parsley will serve as our president-elect. Congratulations to each of them. Without the dedication, work and time commitment of these

governors and the other elected and volunteer leaders, our association would not function. The OBA would quickly become a relic of the past if we did not have diverse and dynamic leadership.

I guess this is about as much as I can pen given my current downward spiral following the bowl loss. (Note I did not even mention the name of the bowl, to me it is a relic of the past.) May all your disappointments become relics of the past and may 2008 be a prosperous and happy year. Oh gosh, I just remembered I am turning 50 this year; I have become a relic. Oh well, from this relic to all of you: Happy New Year!



To contact Executive
Director Williams,
e-mail him at johnzw@okbar.org

Oklahoma Bar Journal Editorial Calendar

2008

*If you would like
to write an article
on these topics,
contact the editor.*

- February
Real Estate Law
Editor: John Munkacsy
johnmunk@sbcglobal.net
Deadline: Oct. 1, 2007
- March
Pretrial Litigation
Editor: Julia Rieman
rieman@enidlaw.com
Deadline: Jan. 1, 2008
- April
Law Day
Editor: Carol Manning
- May
Work/Life Balance
Editor: Jim Stuart
jtstuart@swbell.net
Deadline: Jan. 1, 2008
- August
Insurance Law
Editor: Judge Lori Walkley
lori.walkley@oscn.net
Deadline: May 1, 2008
- September
Bar Convention
Editor: Carol Manning
- October
Guardianship
Editor: Stephen Barnes
barneslaw@alltel.net
Deadline: May 1, 2008
- November
Technology/Practice Management
Editor: Melissa DeLacerda
melissde@aol.com
Deadline: Aug. 1, 2008
- December
Ethics & Professional Responsibility
Editor: Martha Rupp Carter
mcarter@tulsa-health.org
Deadline: Aug. 1, 2008

For 2008, I Hereby Resolve ...

By Jim Calloway, Director, OBA Management Assistance Program

New Year's resolutions have become quite a part of our culture.

But they seem to be honored more in the breach than in the accomplishment. Some of them are followed for a week. Some may last for a month. A very few last for a year or a lifetime. In fact, the cynic in me wants to guess that most New Year's resolutions will be broken by the time you read this month's column.

If the title of this article made you believe that I was going to tell you my personal New Year's resolutions, please accept my apologies.

Instead I would like to spend a few minutes discussing with you some possible New Year's resolutions for your law practice. The first of the year is a good time to take stock of the previous year and set goals for the future year. Rather than discussing diet, exercise or smoking, let us instead discuss what might be done to improve your law practice.



Looking back over the previous year will probably reveal some things that you did well and some things that you wish you'd done differently. So instead of calling them resolutions, let us talk about the next year's goals for your law firm.

These certainly can include personal individual professional goals. Some of you may have the goal of working more hours in the future, while others of you have the goal of working fewer hours next year. It all depends on your personal situation.

Setting goals is something that everyone feels like they know how to do. But, as evidenced by the number of broken New Year's resolutions, it is easy to set resolu-

tions or goals. Realizing those goals presents a challenge for at least some of us.

As a lawyer you typically have many, many tasks to accomplish on any given day. Getting a complex legal brief filed on time or getting a lengthy and detailed contract negotiated, finalized and signed may give you a great sense of accomplishment, but these are tasks and if you aren't careful you may miss out on your long-term goals as you accomplish task after task each day.

Lawyers tend to be very busy individuals. Many of us, me included, tend to take on too many assignments and say "yes" to additional projects when we should practice saying "no." We will talk about how to set goals. While I believe that this advice is generally aimed at lawyers, most of it is probably true for many people as we tend to live in a frantically busy society.

TAKE SOME TIME

If you want to set goals for the future, it is important to have information at hand

“The first of the year is a good time to take stock of the previous year and set goals for the future year.”

and time to focus on it. For most of us this means either doing it outside of normal office hours or scheduling a 90-minute to two-hour block of time where you are not to be disturbed except in the direst of emergencies. You probably want to turn off your e-mail so you won't be tempted to look at it.

PLAN IN ADVANCE

One of the best ways to derail a planning session is to interrupt your thoughts several times to go locate some bit of information or ask the assistant to bring you something. Your loyal assistant may not be able to keep from saying "Mr. X has called twice and sounds angry." There goes the focus on the planning session!

If you're thinking about goals for your law firm, you probably want to make arrangements to have some basic information handy in advance. This will include your calendar from the previous year, your financials for that time period, including a profit and loss, your favorite non-alcoholic drink and whatever other data you wish to consider.



“ Sometimes our goals may be so ambitious that it is hard to know where to start. ”

PUT YOUR GOALS IN WRITING

If you do not put goals in writing, they are just dreams or aspirations.

You have to put goals in writing to make certain that they are clear and to help prioritize the most important or urgent goals.

BE REALISTIC

Don't aim for the moon. It is far better to succeed with a modest set of goals than to miss out on overly ambitious ones. (Note that this applies to your first goal-setting exercise or your first one in a long time. Once you get your

feet on the ground, you should be more ambitious.)

GIVE YOURSELF A REVIEW DATE

If you don't put a concrete date on your calendar to review your progress on your goals, you may not think of them again until this time next year. Make an appointment with yourself to see how you are progressing on your goals.

BREAK GOALS DOWN INTO ACTION STEPS

Sometimes our goals may be so ambitious that it is hard to know

where to start. Think of several things that you can do to move you closer to your goals and calendar a date by which you intend to accomplish those specific steps.

How do you eat an elephant? One bite at a time.

CONCLUSION

We all are very busy. But, by setting a few goals and reviewing your progress on them, you can make certain that you are taking care of your own needs as well as your clients.

May the year 2008 be the year you accomplish the majority of your goals.

How Would Your 'Customers' Rate You?

By Dan Murdock, OBA General Counsel

One of my compact discs got stuck in the CD player in my car last week. My choices were clear. It was either the radio, the same compact disc all the time or quiet time. I certainly enjoy the quiet time but every now and then I like to choose my own music. My broken compact disc made that difficult. I will admit that the stuck compact disc was one by Jimmy Buffett, a favorite of mine. I stopped by David's Stereo on North May Avenue in Oklahoma City for assistance. I just wanted to have the disc removed from the player. I specifically refer to the business not for any commercial reason but because of what happened there generated my thoughts in this missive. The older I get, the more I like and recognize service when I shop, go out to eat or purchase a service. I do not think that I am someone difficult to please in these areas and, after almost 19 years at the OBA, I have a pretty good idea about what people seeking services from those in the legal profession want, expect and deserve. My experience at David's was what I wanted but certainly not expected and probably not deserved. I had done business with them before but not to any great extent. I was what you might call a

casual customer who liked to check out the new car stereo equipment and other electronic gadgets that I didn't know how to use, did not need and couldn't afford.

I was a customer. For some time now, I have tried to determine the difference between a "customer" and a "client." Merriam-Webster's Dictionary of Law, © 1996 Merriam-Webster Inc., defines "customer" as a person or business that purchases a commodity or service. I think that a commodity is a product or good, such as a compact disc player. The Random House Unabridged Dictionary, © 2006 Random House Inc., defines "client" in several ways. The first one is probably the most common, "a person or group that uses the professional advice or services of a lawyer, accountant, advertising agency, architect, etc." If you review the additional definitions you will find that of "a customer." If you are learning Spanish, the word for customer is "cliente." It does not take much thought to note the similarity. The etymology (like that word?), or origin of the word, can be traced to where it meant "one who leaned on another for protection." I think that is

really what this is all about. The only difference I see between client and customer is that one sounds awfully more important than the other but that is not really the case. Remember that those clients are really customers, just people who ask us to render a service and who lean on us for protection.

The following paragraph is from one of my old articles, but I think it fits in well today. I hope that you agree.

Not all of our clients will remember us and not all will remember what we did for them. We will, however, have our own special memories. We will remember our special relationships. Maybe that is why we refer to them as "our clients." They are not customers. They don't just stop in for a nominal service or for a nominal time. A relationship is developed. Maybe a relationship that exists a lifetime and even beyond. Most of all, a relationship of trust, a relationship wherein the client discloses all secrets and personal feelings and puts their lives and financial worth in our hands and seek our help and guidance.

Maybe that's why they call us "their lawyer."

December Meeting Summary

The Oklahoma Bar Association Board of Governors met at the Oklahoma Bar Center on Friday, Dec. 14, 2007.

REPORT OF THE PRESIDENT

President Beam reported final Annual Meeting numbers were a total of 769 people registered, and 418 tickets sold to the Annual Meeting luncheon, which was the highest ever for the luncheon. In the haste of trying to work through the agenda at last month's board meeting during the Annual Meeting, President Beam said he didn't think the State Legal Referral Service Task Force was sufficiently recognized for its work. He commended task force members for their dedication and hard work in researching a potential referral service, preparing the report and making the recommendation. He reported he attended many OBA Annual Meeting events, the Oklahoma Bar Foundation meeting, Custer County Bar Association meeting and Christmas party, Canadian County Bar Association Christmas party and Oklahoma County Bar Association Christmas party. He met with Chief Justice Winchester and met with Executive Director Williams on several occasions. He also planned the Board of Governors Christmas party.

REPORT OF THE PRESIDENT-ELECT

President-Elect Conger reported he attended the OBA Annual Meeting, Okla-

homa Bar Foundation meeting, Bar Center Facilities Committee meeting and staff appreciation luncheon. He gave the commencement address at the OCU School of Law and also presented the OBA 2008 budget to the Supreme Court.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported as a result of the ice storm that caused the Tulsa County Bar Association to be without power, the OBA stepped in to assist by e-mailing Tulsa County lawyers. He attended many of the Annual Meeting events, Bar Center Facilities Committee meeting, staff directors meeting and the Lawyers Helping Lawyers seminar. He met with President-Elect Conger on appointments and with President Beam to plan for the December board meeting. He attended the Tulsa County Bar Association holiday party and the staff appreciation lunch.

BOARD MEMBER REPORTS

Governor Caudle reported he attended the OBA Annual Meeting, Resolutions Committee meeting and Mentoring Task Force meeting. At the Annual Meeting, he hosted Missouri Bar Association Vice President Skip Walther and attended most of the social events. He attended

the Comanche County Bar Association CLE and monthly meeting in addition to the staff appreciation luncheon at the Oklahoma Bar Center. **Governor Christensen** reported she attended the Tuesday night dinner at Abuelo's with the Board of Governors, OBA Annual Meeting, House of Delegates and Oklahoma Bar Foundation trustees meeting. She attended the Oklahoma Bar Foundation reception, OBA staff appreciation holiday luncheon, and she met with Director Douglas to coordinate the Women in Law Committee holiday networking function. **Governor Dirickson** reported she attended the OBA Annual Meeting, House of Delegates meeting and the Custer County Bar Association meeting and Christmas party. **Governor Farris** reported he attended the Tuesday night Board of Governors dinner, OBA Annual Meeting, House of Delegates meeting, Tulsa County Bar Association Probate/Estate/Elder Law Section meeting, Legal Intern Committee meeting and the TCBA meeting and holiday party. He also attended the TCBA Community Outreach Committee clothes sorting for "Santa Brings A Lawsuit" project. **Governor Herman**son reported he attended the Tuesday night governors dinner, OBA Annual Meeting, Kay County Bar Associ-

ation meeting and the joint KCBA and Kay County Medical Association Christmas party. He participated in an ABA General Practice, Solo and Small Firm Division teleconference to brainstorm projects for the GP Swat Team and programming. He also wrote an article for the Criminal Law Section newsletter. **Governor Hogan** reported he attended the Annual Meeting and Pittsburgh County Bar Association meeting. He also attended the OBA staff appreciation lunch at the bar center and worked on a Christmas project for children in rural Pittsburgh County. **Governor Kennemer** reported he attended the November board dinner, Annual Meeting, December Mentorship Task Force meeting and December board dinner. He also attended the Seminole/Hughes Counties Bar Associations luncheon and OBA staff appreciation luncheon. He also audited the plenary panel discussion. **Governor Reheard** reported she attended the OBA Annual Meeting, House of Delegates and Oklahoma Criminal Defense Lawyers Association annual meeting. **Governor Souter** reported he attended the OBA Annual Meeting, House of Delegates, Paralegal Committee meeting and November Creek County Bar Association meeting and annual Christmas party.

REPORT OF THE YOUNG LAWYERS DIVISION

Governor Camp reported he attended the OBA Annual Meeting and most of the social events, House of Delegates, November OBA/YLD Board of Directors meeting and the Tulsa County Bar Association Membership Committee meeting. He hosted the YLD Friends and

Fellows Breakfast and participated in a conference with the ABA/Young Lawyers Division district representative. President Beam noted that a positive editorial was published in The Daily Oklahoman regarding the YLD's Wills for Heroes program.

SUPREME COURT LIAISON REPORT

Justice Taylor reported the Supreme Court approved the 2008 OBA budget.

LAW STUDENT DIVISION LIAISON REPORT

LSD Chair Pappy reported she attended the OBA Annual Meeting and the Oklahoma Law School Division dinner at the Petroleum Club with Mike Turpen.

GENERAL COUNSEL REPORT

General Counsel Murdock shared a status report of the Professional Responsibility Commission and OBA disciplinary matters. He reported Office Manager Dana Shelburne has taken a position with the Board of Bar Examiners, and Debi Lowry has been hired to replace her. He attended the monthly meeting of the Professional Responsibility Commission, an OBA directors meeting, OBA employee monthly celebration and OBA staff appreciation luncheon. He spoke to a professional responsibility class at the OU law school, participated in a fundraising auction at the OU law school for the Organization of Women in Law and participated in a seminar sponsored by Integrus Foundation at the University of Central Oklahoma, attended by more than 600 participants. He participated in the professionalism CLE for the Tulsa County Bar Association

and participated in two Atticus Finch CLE programs, one in Oklahoma City and one in Tulsa. He attended rehearsals for the annual ethics musical presented in Oklahoma City and Tulsa, presented an evening ethics seminar sponsored by BancFirst in Oklahoma City, presented an ethics CLE at Remington Park and presented a noon ethics CLE to both the McCurtain County Bar Association in Idabel and the McClain County Bar Association in Purcell. He met with a UMB Bank representative concerning the new automatic trust account overdraft notification rule, conducted interviews for office manager and hosted the OBA office Christmas party at his home.

CLIENTS' SECURITY FUND REPORT

Client's Security Fund Chairperson Micheal Salem reviewed the committee recommendation to reimburse clients \$103,471.54. The board approved the recommendation and authorized distribution of a news release. Mr. Salem reported that possible rule changes may be requested next year to assist with the collection of funds.

BAR CENTER RENOVATIONS

President-Elect Conger reported abatement is finished in the bar center building, and the construction schedule continues to be on track. He showed a small model of the custom table to be built for the board room that will seat 26 people. The table will be constructed in seven sections although the top will appear seamless. Referred to as a "smart table," it is designed to accommodate computers.

LEGAL INTERN RULE 7.6

As Legal Intern Committee liaison, Governor Farris reported an early draft was incorrectly submitted to the board last month, and the final draft of the committee's recommended change is presented at this meeting for consideration. The board approved the change.

COMMUNICATIONS TASK FORCE

President Beam reported he visited with Chief Justice Winchester regarding the task force's recommendation to provide bar members with case summaries in the Oklahoma Bar Journal. President Beam said the task force also suggested indexing the cases. Executive Director Williams explained the changes in production that would be needed if cases were indexed in each issue and the additional cost that would be incurred. The board voted to withdraw the recommendation for summaries and indexing. The Communications Task Force recommended hiring a Web consultant. Executive Director Williams reported staff agreed a consultant would be helpful.

The board requested that staff research hiring a consultant. The Communications Task Force recommended a staff realignment. Executive Director Williams reviewed the impact of moving the employee. The board decided to hold taking action on the staff realignment recommendation until a consultant is hired and issues a report.

APPEAL OF LEGAL ETHICS ADVISORY OPINION 2007-OK LEG ETH 01

The board voted to hear the appeal requested of Legal Ethics Advisory Opinion 2007-OK LEG ETH 01.

CRIMINAL LAW SECTION BYLAWS AMENDMENTS

President Beam reported the Criminal Law Section approved changes to its bylaws that clarify that law students do not have a vote but are welcome to participate in section activities. The board approved the amended section bylaws.

BUDGETED BUT UNEXPENDED FUNDS

The board approved the Communication Committee's request to carryover \$15,000 in budgeted but unexpended funds for consumer legal brochures. The board also voted to carryover Mentoring Task Force budgeted but unexpended funds and Women in Law Committee unexpended funds.

HATTON W. SUMNERS FOUNDATION INC.

Executive Director Williams announced the OBA has received a \$50,000 grant from the Hatton W. Sumners Foundation to support the 2008 Foundation of Democracy teacher training program that will be implemented by the OBA's Law-related Education Department.

SWEARING-IN CEREMONY

Board of Governors officers and new board members will take their oaths of office at 10 a.m. on Jan. 18, 2008, in the Supreme Court Courtroom at the State

Capitol. The board meeting will follow the ceremony.

APPOINTMENTS

President-Elect Conger announced the following appointments:

MCLE Commission — reappoint Margaret Hamlett, Tulsa, as chairperson for a one-year term (expires 12/31/08)

Board of Medicolegal Investigations — reappoints Shanda McKinney, Oklahoma City, to a one-year term (expires 12/31/08)

Legal Ethics Advisory Panel Coordinator/Chairperson — reappoint Roger R. Scott, Tulsa, to a one-year term (expires 12/31/08)

Legal Ethics Advisory Panel (Oklahoma City panel) — reappoint Andrew Karim, Oklahoma City, and James Drummond, Norman, for three-year terms (expires 12/31/10); appoints Peter Bradford, Oklahoma City, to a three-year term (expires 12/31/10)

Legal Ethics Advisory Panel (Tulsa panel) — reappoint Jon Prather, Tulsa, Steve Balman, Tulsa, and David Butler, Enid, to three-year terms (expires 12/31/10)

Audit Committee — appoints W. Mark Hixson, Yukon, to a three-year term (expires 12/31/10)

NEXT MEETING

The board will meet in Oklahoma City on Friday, Jan. 18, 2008, at the Oklahoma Bar Center in Oklahoma City following the swearing-in ceremony that begins at 10 a.m.

Charitable Good Works by Oklahoma Attorneys for Oklahoma Citizens

Attention 2008 OBA members! Did you know that if you are a licensed attorney and member of the Oklahoma Bar Association, you are also a member of the Oklahoma Bar Foundation? Are you aware of all of the good works the OBF, as the “charitable arm” of the Oklahoma legal profession, is doing to benefit your fellow Oklahomans on your behalf? And — with your help — we can do more in 2008 to meet the OBF’s mission of “advancing education, citizenship and justice for all?” It is time to kiss goodbye any past erroneous perception of lawyers as uncaring workaholics and usher in the appropriate image of Oklahoma lawyers in 2008 — as caring and giving philanthropists.

The generous nature of Oklahoma lawyers is impressive. The OBF was just the third state bar foundation ever established in the United States when it was incorporated in 1949. During the 60-plus years since, the OBF has continuously supported projects that provide critical legal services to Oklahomans in need, including children, the elderly, the poor and victims of domestic violence, by extending grants to entities such as Legal Aid, CASA, CAAVA, DIVIS and many others that provide legal aid, law-related education pro-

grams, advocacy programs and equal access to justice. The OBF also supports future Oklahoma lawyers who will almost certainly carry on with the generosity shown them. Thus, every year the OBF provides generous legal scholarship awards to deserving students attending our three Oklahoma law schools.

These awards add up to a very significant amount of money. In 2007, the OBF awarded grants and scholarships which brought approximately \$7.5 million to the total OBF grant awards made since inception. This comes from revenues that grew from only \$330,500 in 2000 to nearly \$1.25 million in 2007. Where does the money come from that makes these awards possible? There are several sources, each again demonstrating the charitable nature of Oklahoma attorneys.

The Fellows Program This is where the generous spirit of each individual Oklahoma lawyer comes in. Remember, you are an OBF member because you are an OBA member. You have the opportunity, however, to purposely participate by giving as an OBF “Fellow.” Financial support to the OBF is not only tax deductible, but necessary to carry out the OBF’s legal-related charitable activities. You can choose from three levels of Fellows recognition,

depending upon your desired level of support: “Fellows” contribute \$1,000 by donating \$100 per year over a 10-year period; “Sustaining Fellows” have completed initial contributions and then continue their annual \$100 per year contribution; “Benefactor Fellows” — the highest OBF leadership level — contribute at least \$300 per year after meeting their initial \$1,000 contribution. For new OBA members, reduced Fellow enrollment programs are available.

IOLTA — Interest on Lawyers Trust Accounts Effective July 1, 2004, the Oklahoma Supreme Court ruled that Oklahoma lawyers and law firms are required to place in an interest-bearing pooled trust account client’s funds that are nominal in amount, or will be held for only a short time. The interest generated on the account then goes to the OBF for charitable use. Without this “mandatory IOLTA,” these funds, which could never generate positive net interest for any client, would go unused. With its important decision, our Supreme Court made possible the increased funding cited above, which the OBF uses to support critical law-related charitable programs throughout Oklahoma.

Specific Donations and Income on Investments The

OBF invests and administers charitable endowment and scholarship funds generously created by and in honor of Oklahoma attorneys, including the Gerald B. Klein Fund, Joseph S. Lewis Fund and Marvin Emerson Fund, to name just a few. The OBA enrollment card also has a designation for attorneys or firms to make donations to the OBF.

CyPres Awards The OBF has recently been fortunate to receive some very significant cy pres awards, which are final surplus funds in class action cases and other court proceedings that, for various reasons, cannot be distributed to all intended recipients. These awards enable OBF to expand its charitable mission, increase its overall grant awards and dramatically improve its capacity for new initiatives.

2008 OBF Officers, Trustees and Administration

The OBF is governed by a board of trustees consisting of attorneys from across the state who volunteer their time and talents to assist the OBF, including determining the grants OBF will make and the amount of each grant. Five trustees serve each year as officers. In 2008, Renée DeMoss of Tulsa will serve as OBF president. Renée, a shareholder with the law firm of GableGotwals, graduated from the University of Oklahoma College of Law in 1984, is immediate past-president of the Tulsa County Bar Association, chair of the OBA Litigation Section and serves on the Board of the Oklahoma Attorneys Mutual Insurance Co. The 2008 Executive Committee is made up of President DeMoss and President-Elect Richard A. Riggs, a shareholder with McAfee &

Taft in Oklahoma City, who obtained his law degree, cum laude, from the University of Michigan in 1974; Vice President Phil Frazier of the Frazier & Phillips firm in Tulsa, a University of Oklahoma graduate and past president of the Tulsa County Bar Association; Secretary/Treasurer John D. Munkascy Jr. of Lawton, a graduate of Ohio State University Law School and past president of the Comanche County Bar Association; and OBF Immediate Past President Mark Curnutte of Logan & Lowry, LLP in Vinita, who graduated from the OU College of Law in 1979 and is a Fellow of the American Bar Association.



Renée DeMoss
2008 OBF President

The 2008 OBF Board of Trustees, in addition to the Executive Committee members, includes the following attorneys: Jack L. Brown, Tulsa; Cathy M. Christensen, Oklahoma City; J. William Conger, Oklahoma City; Judge Valerie Couch, Oklahoma City; Austin R. Deaton Jr., Ada; Kevin R. Donelson, Oklahoma City; Jack S. Dawson, Oklahoma City; Shon T. Erwin, Lawton; William E. Farrior, Tulsa; Steven R. Mackey, Tulsa; A. Edwin McComas, Elk City; Michael C. Mordy, Ardmore; Brooke Smith Murphy, Oklahoma

City; Judge Millie E. Otey, Tulsa; Roger R. Scott, Tulsa; Susan B. Shields, Oklahoma City; Dennis A. Smith, Clinton; Linda S. Thomas, Bartlesville; John Morris Williams, Oklahoma City; and YLD Representative Brent D. Cable, McAlester.

Nancy Norsworthy is the OBF Director of Administration and IOLTA Programs. Nancy is responsible for the daily activities of the foundation and has devoted over 20 years of service to the foundation. Nancy and staff members Tommie LeMaster and Marie Galloway are available whenever assistance is needed on foundation issues, at (405) 416-7070 or foundation@okbar.org.

Our 2008 OBF Charitable Mission

Please help make 2008 a special year for the OBF. If you are not an OBF Fellow, please sign up to become one today. When you join the OBF Fellows program, you don't just belong to the foundation — it belongs to you. Fellows membership is an opportunity to become more involved in helping make a difference in the lives of other Oklahomans while enhancing the image of our legal profession. By becoming a Fellow, you can help spread the word about the work of your foundation, as well as look out for qualified programs that you may want to refer for grant applications. Your generous contribution as an OBF Fellow will make your own 2008 memorable, knowing that you are contributing to the charitable mission of our legal profession.

"In charity there is no excess." — Sir Francis Bacon, "Of Goodness and Goodness of Nature" (1625)

OBF

FELLOW ENROLLMENT FORM

☐ Attorney ☐ Non-Attorney

Name: _____
(name, as it should appear on your OBF Fellow Plaque) County _____

Firm or other affiliation: _____

Mailing & Delivery Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____ E-Mail Address: _____

☐ I want to be an OBF Fellow **now** – Bill Me Later!

☐ Total amount enclosed, \$1,000

☐ \$100 enclosed & bill annually

☐ *New Lawyer 1st Year*, \$25 enclosed & bill as stated

☐ *New Lawyer within 3 Years*, \$50 enclosed & bill as stated

☐ I want to be recognized as a **Sustaining Fellow** & will continue my annual gift of **at least \$100** – (initial pledge should be complete)

☐ I want to be recognized at the leadership level of **Benefactor Fellow** & will annually contribute **at least \$300** – (initial pledge should be complete)

**YES –
I support charitable good works
& agree to become a member of
the OBF Fellow Program.**

Signature & Date: _____ OBA Bar #: _____

Make checks payable to:
Oklahoma Bar Foundation • P O Box 53036 • Oklahoma City OK 73152-3036 • (405) 416-7070

OBF SPONSOR: _____

☐ *I/we wish to arrange a time to discuss possible cy pres distribution to the Oklahoma Bar Foundation and my contact information is listed above.*

Many thanks for your support & generosity!

Does Oklahoma Need a Homeless Court?

By William H. Hoch

As the housing crisis worsens throughout the United States, there are increased demands placed on emergency shelters without adequate shelter space to meet these increased needs. In 2005, 14 percent of overall emergency shelter requests went unmet and 32 percent of shelter requests by homeless families were unmet.¹ There are more than 3.5 million Americans who will experience homelessness in a given year. Of these 3.5 million homeless Americans, 1.35 million are children — the fastest growing homeless population. More than half of these children are under the age of 6.² Oklahoma is not immune.

Downtown Oklahoma City's 2007 "Point-in-Time" count of the homeless was approximately 1,930, an increase of almost 500 homeless individuals in a two-year span. Tulsa's "Point-in-Time" count in 2005 reported 524 homeless. Rural homelessness makes up approximately 9 percent of overall homeless population. In Oklahoma City, 28 percent met HUD's definition of chronic homeless. Twenty-eight percent report mental illness. Thirty-nine percent report substance abuse and 19 percent report physical illness or disability.

THE PROBLEM

With these growing homeless populations, many communities turn to the criminal justice system to respond to individuals living in public spaces. This includes targeting persons by making it illegal to perform life-sustaining activities in public such as sleeping, eating, sitting in public spaces — with criminal penalties resulting from violation of these laws. People experiencing homelessness often receive citations for public nuisance offenses and then fail to appear in court for numerous reasons. Homeless defendants fail to appear in traditional courts, not because of a disregard for the court system but due to their status and condition.

For many homeless people, their day is consumed with a search for food, clothing and shelter. Most homeless persons are not in a position to fight the procedural or substantive issues a case presents. The homeless are aware that the court also requires a decent appearance. A homeless person with poor hygiene or without a place to store belongings may choose not to appear in court at all. Many homeless people are reluctant to attend court given the uncertainty of court proceedings and the threat of custody.

Unresolved legal issues can ultimately preclude homeless people from accessing desperately needed services such as employment, housing, public assistance and treatment programs.

Essentially, this is criminalizing one's status as homeless. Placing an individual in jail is usually 10 more times expensive than placing them in a shelter (and without constructive programs available such as AA or NA meetings and job training). There are better and more cost-effective solutions. One solution is the Homeless Court Program.

HOMELESS COURT PROGRAM

In 1989, San Diego started the first Homeless Court Program in the nation, a special Superior Court session held at local shelters for homeless defendants to resolve outstanding misdemeanor criminal cases. The homeless court was created in response to a survey conducted in San Diego, in which one in five homeless veterans requested help with the criminal justice system. To counteract the effect of criminal cases pushing homeless defendants further outside society, this court combines a progressive plea bargain system, alternative sentencing structure, assurance of "no custody" and

proof of program activities, to address a full range of misdemeanor offenses and bring homeless individuals back into society.

Alternative sentencing substitutes participation in agency programs for fines and custody. These activities include life skills, chemical dependency or AA/NA meetings, computer or English literacy classes, training or search for employment, counseling or volunteer work. The court agreement of "no custody" acknowledges participants' efforts in their program activities to satisfy court requirements. Homeless shelters and agencies in San Diego act as the gateway for participants to enter this court. Homeless persons who want to appear before this court sign up at participating local shelters.

Prospective participants work with a shelter caseworker to design a plan to move toward self-sufficiency. The shelter representatives write advocacy letters for each client. The advocacy letter is symbolic of the relationship between the client and the agency while including a description of the program, the client's start date, and accomplishments, programs completed and insight into the client's efforts.

HOMELESS COURT PROGRAM BENEFITS

Homeless courts expand access to justice and reduce the number of hearings necessary to successfully complete court orders by integrating the shelter system into the "currency" participants present for sentencing. Advanced preparation and fewer hearings translate into efficiency during courtroom hours and reduced court costs.

Shelters and service agencies save precious resources when clients move toward self-sufficient lives with cleared criminal cases. Before the Homeless Court Program, a client might successfully complete the agency program only to be incarcerated on an outstanding criminal case and, afterward, return to homelessness. When cases are resolved through the homeless court, the homeless service providers do not have to redouble their efforts. The shelters address the underlying problems homelessness represents.

For *participants*, the court hearing is an opportunity to separate the past, as represented by the cases before the court, from the present (and future) by presenting the accomplishments described in the advocacy letters, along with plans for future improvement.

For the *community*, the homeless court helps the community by engaging homeless people in gainful activity, thereby removing them from doorways, parks and gathering places where they are unwanted and susceptible to arrest. It helps homeless people move back into productive lives by addressing the legal issues that often create barriers to accessing employment, housing, public assistance and treatment programs.

The American Bar Association Commission on Homelessness and Poverty has led the effort to replicate homeless courts in communities where there is a need. Their efforts have been successful where homeless courts are presently operating in the following jurisdictions:

Arizona - Maricopa County, Phoenix, Pima County/Tucson

California - Alameda County, Bakersfield, Contra Costa, Fresno County, Humboldt, Los Angeles, Kern County, Orange County, Sacramento, San Bernardino, San Diego, San Joaquin, Santa Clara, Santa Maria, Sonoma County, Ventura County

Colorado - Denver

Michigan - Ann Arbor

New Mexico - Bernalillo

County/Albuquerque

Texas - Houston

Utah - Salt Lake City

Washington - Vancouver

Many other jurisdictions are examining the possibility of creating similar programs. Communities in Oklahoma should be among them. For more information about these efforts, go to www.abanet.org/homeless.

Note: A portion of this article was reprinted by permission of the ABA Commission on Homelessness and Poverty.

Note from Access to Justice Committee Chair Kade McClure: Last year our committee voted to create a subcommittee on homelessness recognizing the many unique issues affecting these folks in our state. Will Hoch heads this subcommittee and has been active in the Oklahoma City homeless community. Will was asked to submit this article in hopes of educating Oklahoma lawyers about homeless legal issues, suggesting solutions and eliciting feedback. Please share your thoughts with the committee on this important issue by e-mailing me at kade.mcclure@laok.org.

1. U.S. Conference of Mayors, A Status Report on Hunger and Homelessness in America's Cities: A 24-City Survey 5 (Dec. 2005).

2. Martha Burt et al., *Helping America's Homeless* 49-50 (The Urban Institute Press, 2001).

YLD TO SPONSOR MARDI GRAS RENDEZVOUS

The OBA/YLD has agreed to help sponsor the Tulsa County Bar Association Young Lawyers' fifth annual Mardi Gras Party. This event is being held at the Mayo Building in downtown Tulsa on Fat Tuesday, Feb. 5 at 6:30 p.m. Five-star Creole and Cajun chef Lanney Aund're will be serving a buffet of traditional fare. There will also be a full cash bar and live music. Door prizes will be distributed. Tickets are \$18. Money raised by ticket sales will be used to support the Parkside Psychiatric Hospital's food pantry program. If you are interested in attending, contact Adam Marshall at marshall@bogg.com or (918) 584-1600, or Melissa Holderby mholderby@robinettmurphy.com or (918) 592-3699 for more information.

DELAWARE COUNTY TEEN COURT GOING STRONG WITH HELP FROM THE YLD

After 12 years of success, the Delaware County Teen Court program continues to give teenagers a firsthand look at the Oklahoma justice system. Each year, students from Grove, Jay and Ketchum high schools in Delaware County receive approximately eight hours of courtroom procedure training, pass a comprehensive test and then are sworn in as new members of the Delaware County Teen Court program.

Once sworn in, the new student members, along with veteran Teen Court members and with assistance from two volunteer attorneys from the community, meet monthly to conduct court, disposing of numerous minor charges (traffic tickets, minor in possession of tobacco or beer, shoplifting and vandalism) against teens under the age of 18. The roles of defense attorney, prosecuting attorney, judge and court clerk are filled by Teen Court members. Through their respective roles, the Teen Court members fulfill various functions of the court including meeting with the defendant, entering a plea of guilty or not guilty, conducting a sentencing hearing or trial and carrying out the court's sentence.

In addition to gaining invaluable experience and insight into the functions of the judicial system, Teen Court members can earn community service credits on their high school transcript for scholarship eligibility purposes.

Juvenile defendants may voluntarily participate in the Teen Court program. Defendants benefit from being tried in Teen Court because it keeps the matter off their record if they are found guilty.

However, defendants found to be guilty of the charges against them can be ordered to serve up to 50 hours of community service per charge, pay restitution

and/or write a letter of apology where appropriate. Additionally, a defendant may be ordered to attend the first offenders program – a six-week program requiring attendance by the teen and a parent and designed to divert teens from criminal behavior.

The Delaware County Teen Court program was started in 1995. It operates as a branch of the Explorer Scout Program and is sponsored by the Grove Kiwanis Club. Its continued operation and success can be attributed in large part to the untiring efforts and support of Delaware County Associate District Judge Barry V. Denny as well as those of the program's teacher sponsors, Linda Fracek (Grove High School) and Ruth Cartagena-nutter (Jay High School).

The Young Lawyers Division has supported the Delaware County Teen Court program over the last several years through the efforts of the young lawyers volunteering their time to assist with the court functions and through monetary contributions. Funds provided by the Young Lawyers Division ensure that students wishing to participate in the program can do so without cost. Those funds also help the Delaware County Teen Court program to sponsor additional activities for its teen members, including a field trip to a team-building exercise and ropes course at the start of each year.

Calendar

January

14 Law Day Committee Meeting; 3:30 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Giovanni Perry (405) 601-2222

Mock Trial Committee Meeting; 5:45 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Judy Spencer (405) 755-1066

15 Civil Procedure Committee Meeting; 3 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: James Milton (918) 591-5229

17 OBA Bench and Bar Committee Meeting; 12 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa, Tulsa; Contact: Jack Brown (918) 581-8211

18 OBA Board of Governors Swearing In; 10 a.m.; Supreme Court Courtroom, State Capitol; Contact: John Morris Williams (405) 416-7000

OBA Board of Governors Meeting; Oklahoma Bar Center, Oklahoma City; Contact: John Morris Williams (405) 416-7000

21 Martin Luther King Jr. Day (State Holiday)

24 Paralegal Committee Meeting; 3 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Joseph H. Bocock (405) 235-9621



28 OBA Alternative Dispute Resolution Section Meeting; 4 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Larry Yadon (918) 595-6607

29 OBA Bar Center Facilities Committee Meeting; 9:30 a.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: John Morris Williams (405) 416-7000

31 OBA Legal Intern Committee Meeting; 3:30 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: H. Terrell Monks (405) 733-8686

February

- 7 OBA Board of Editors Meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Carol Manning (405) 416-7016
- 8 OBA Family Law Section Meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Donelle Ratheal (405) 842-6342
- 18 President's Day** (State Holiday)
- 19 Civil Procedure Committee Meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: James Milton (918) 591-5229
- 21 OBA Bench and Bar Committee Meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa, Tulsa; Contact: Jack Brown (918) 581-8211
- 22 OBA Board of Governors Meeting;** 9 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: John Morris Williams (405) 416-7000
- 26-29 OBA Bar Examinations;** 8 a.m.; Oklahoma Bar Center, Oklahoma City; Contact: Board of Bar Examiners (405) 416-7075

March

- 13 OBA Bench and Bar Committee Meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact: Jack Brown (918) 581-8211
- 14 OBA Family Law Section Meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: Donelle Ratheal (405) 842-6342
- 15 OBA Title Examination Standards Committee Meeting;** 9:30 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Scott McEachin (918) 296-0405
- 18 Civil Procedure Committee Meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City and OSU Tulsa; Contact: James Milton (918) 591-5229
- 20 Paralegal Committee Meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Joseph H. Bocock (405) 235-9621



This master calendar of events has been prepared by the Office of the Chief Justice in cooperation with the Oklahoma Bar Association to advise the judiciary and the bar of events of special importance. The calendar is readily accessible at www.oscn.net or www.okbar.org.

**Supreme Court Justice
to be Formally Sworn In**



The Supreme Court
State of Oklahoma

You are cordially invited to
the formal swearing in of

Justice John F. Reif

as Justice of the Oklahoma Supreme Court

Wednesday, January 23, 2008
3:30 p.m.

State Capitol
Supreme Court Courtroom, 2nd Floor
2300 North Lincoln Boulevard
Oklahoma City, Oklahoma

Reception Immediately Following
State Capitol Rotunda

Bar Center Holiday Hours

The Oklahoma Bar Center will be closed Monday, Jan. 21 in honor of Martin Luther King Jr. Day. The bar center will also close Monday, Feb. 18 in observance of President's Day.

OBA Member Resignations

The following OBA members have resigned as members of the association and notice is hereby given of such resignation:

Kim Sook Bump
OBA No. 19056
5721 Spilman Ave.
Sacramento, CA 95819

Susan Ann Gengras
OBA No. 18063
P.O. Box 1197
Owasso, OK 74055

Jeffrey Alan Heater
OBA No. 20501
Jefferson County Courthouse
P.O. Box 100
Hillsboro, MO 63050

John Dexter Marble
OBA No. 13313
119 N. Robinson Ave., Ste. 820
Oklahoma City, OK 73102

Michael C. McClintock
OBA No. 5885
Gonzaga University School of Law
P.O. Box 3528
Spokane, WA 99220-3528

Beverly M. Ryall
OBA No. 11698
629 Golden Hills Road
Colorado Springs, CO 80919

New OBA Board Members to be Sworn In

Eight new members of the OBA Board of Governors will be officially sworn in to their positions on Jan. 18, 2008, at 10 a.m. in the Supreme Court Courtroom at the State Capitol. The new officers are President J. William Conger, Oklahoma City; President-Elect Jon K. Parsley, Yukon; and Vice President Michael C. Mordy, Ardmore.

To be sworn in to the OBA Board of Governors to represent their judicial districts for three-year terms are James T. Stuart, Shawnee; Jerry L. McCombs, Idabel; W. Mark Hixson, Yukon; and Jack L. Brown, Tulsa.

To be sworn in to one-year terms on the board are Immediate Past President Stephen D. Beam, Weatherford; and Young Lawyers Division Chairperson Kimberly Warren, Tecumseh.

Kudos

Gov. Brad Henry is being honored by a Washington group for his service to his home state. The Woodrow Wilson International Center for Scholars will present the Woodrow Wilson Award for Public Service to the governor. A third-generation Oklahoman, he began his career as an attorney and was a state senator before being elected governor in 2002 and re-elected in 2006. The awards will be presented Feb. 12 at the Renaissance Hotel in Tulsa.

The Board of Directors of the Oklahoma County Bar Foundation has made grants of \$6,000 each to Oklahoma Lawyers for Children and CASA of Oklahoma County. Oklahoma Lawyers for Children was organized in 1997 to recruit, train and use the time, talent and resources of qualified pro bono lawyers and others serving our community's justice system to represent and assist abused, deprived and neglected children involved in proceedings pending in the Juvenile Division of the Oklahoma County District Court. OLFC has more than 400 volunteer attorneys and more than 180 non-lawyer volunteers who donate their time and skills. To date, OLFC volunteers have represented approximately 2,300 children in Oklahoma County. CASA

of Oklahoma County, established in 1987, recruits and trains community volunteers to serve as advocates in court for abused and neglected children. CASA advocates investigate the facts and circumstances of their assigned cases, make independent evaluations and recommendations regarding actions in the child's best interests (both short term and long term), and monitor the case until a permanent resolution has been accomplished. For the year 2007, 180 CASA volunteers have represented 575 children in 234 cases in our community.

Gov. Brad Henry recently announced the appointment of **Chris L. Ross** as district attorney for the 22nd District, which encompasses Pontotoc County. He succeeds William Peterson, who resigned effective Jan. 1, 2008. Mr. Ross previously served as first assistant district attorney for the 22nd District. He has been with the prosecutor's office since 1983. After graduating from OU in 1979, he earned his law degree from the OU College of Law in 1982.

The State Bar of Texas honored **Arnold Battise** with a Lifetime Achievement Award at the Texas Law Center in Austin in November. Additionally, the Texas bar's Native American Law Section presented him with a plaque, a drum group and an honors song.

Mr. Battise is a member of the Alabama-Coushatta Indian Nation of Texas. He is admitted to practice in Oklahoma and Texas.

The Garfield County Bar Association held an award presentation during its annual banquet and Christmas party. **Robert R. Faulk** of Faulk Law Firm in Enid was awarded Garfield County Bar Association's inaugural Outstanding Young Lawyer Award. **Curtis Horrell** of Enid received Oklahoma Bar Association's 50-year pin while Lifetime Achievement Awards were given to **Frantz Conrad**, **Page Belcher** and **Robert L. Gregory**, all of Enid. Shera Shirley of Enid was awarded Ann Overstreet Pro Bono Award for service to the poor and indigent of Garfield County. The Professionalism Award was awarded to Enid attorney **Owen Wilson**.

Karl Rysted has been appointed to the Cleveland County Election Board and will now serve as the chairman for a four-year term. He is currently a staff attorney with Legal Aid Services of Oklahoma in the Oklahoma City law office.

Benjamin J. Butts was recently inducted as a Fellow of the American College of Trial Lawyers at its 2007 Annual Meeting in Denver. Mr. Butts is a partner in the firm of Butts and Marrs and has practiced in Oklahoma City for 24 years.

The Women's Law Caucus at the TU College of Law is raising money to help build a school house in Cambodia. The project will provide education to hundreds and help give a new future to girls who may otherwise be forced into negative situations.

Glenn J. Sharpe was confirmed as Wewoka City Attorney on Dec. 6. Mr. Sharpe received his J.D. from the OU College of Law in 1963 and has practiced in the general practice of law for 44 years. He maintains a private law practice in Wewoka specializing in Indian law, probate and estate planning.

On The Move

Lora Smart has been named a state's attorney in the Tulsa West Child Support Enforcement office. Ms. Smart received her B.A., summa cum laude, from OU, where she was a member of the Honors College and a Puterbaugh Fellow. She received her J.D. from OU, where she was a Comfort Scholar and note editor for the *American Indian Law Review*. She was an assistant district attorney in Tulsa, serving as a prosecutor in juvenile court, and later as a criminal felony prosecutor. The Tulsa West CSE office is located at 440 S. Houston, Suite 401, Tulsa, 74127-8927.

Daugherty, Fowler, Peregrin, Haught & Jensen announce that **Mark J.**

Peregrin has joined the firm as senior associate. Mr. Peregrin graduated from the OU College of Law in 1987 after receiving his B.S., summa cum laude, in law enforcement and police science from Sam Houston State University. His practice is focused in the area of aviation law, including representation of clients worldwide involving the sale, leasing, registration and financing of private, corporate and commercial aircraft, and the filing of associated instruments with the FAA and registration of interests with the International Registry.

Paula S. Hancock has joined the aviation law group at McAfee & Taft. Her practice is concentrated in the buying, selling, leasing, financing and registration of aircraft in a wide spectrum of transactional matters. After graduating from OSU in 1995, Ms. Hancock worked in the aviation industry while serving as a co-owner and operator of a full-service FBO, flight school and corporate flight management company in Ada. She later earned her J.D. from the TU College of Law in 2005 and worked at a Wichita, Kan., law firm before returning to Oklahoma. She serves as a panel attorney for the Aircraft Owners and Pilots Association.

Hall, Estill, Hardwick, Gable, Golden & Nelson PC's Tulsa office announces the election of **Stuart E. Van De Wiele** as shareholder and the addition of **Angela L. Smoot** as an associate. Mr. Van De Wiele received a B.B.A. from OU and his J.D. with highest honors from the

TU College of Law. His practice areas include banking, bankruptcy/debtor/creditor, commercial finance, Indian law, estate planning, tax, and trusts and estates. Ms. Smoot received a B.A. from TU and her J.D. from the TU College of Law. Her practice areas include corporate/commercial litigation, financial services, health care, insurance, real estate, and tort and insurance defense.

Howard J. Klatsky has become a partner with the Dallas, Texas, firm of Fee, Sharp, Smith & Vitullo LLP. He may be reached at Three Galleria Tower, 13155 Noel Road, Suite 1000, Dallas, Texas, 75240; (972) 934-9100; fax: (972) 934-9200; hklatsky@feesmith.com.

The Corbyn Law Firm and the Hampton Law Firm are pleased to announce that the firms have merged to create Corbyn Hampton PLLC. The merger will combine the practices of **George S. Corbyn, Joe M. Hampton, Cara S. Nicklas** and **Amy J. Pierce**. Corbyn Hampton is located at 211 N. Robinson, Suite 1910, Oklahoma City, 73102; (405) 239-7055; www.corbynhampton.com. E-mail and additional contact information for each attorney is available on the Web site.

The partners of Nelson Roselius Terry O'Hara & Morton announce the formation of their new law firm with offices in Oklahoma City and Elk City. The firm will provide litigation services in both state and federal courts, including personal injury, wrongful death, products

liability, complex litigation, insurance bad faith, business law, tax law, oil and gas, estate planning and class action litigation. Partners in the new firm will be **Robert Nelson, Jason Roselius, Douglas Terry, Pat O'Hara, Patrick O'Hara, Derrick Morton, Greg Kirby, Derrick DeWitt, Thomas Paruolo** and **Guy Wood**. Associates joining the firm will be **Chad Ihrig, Brian Cramer** and **Justin Meek**. The firm's address and telephone number will remain P.O. Box 138800, Oklahoma City, 73113; (405) 705-3600; Fax: (405) 705-2573.

First American Title & Trust Co. announced the addition of **Jason Soper** as Commercial Title Counsel. His responsibilities include providing legal counsel and underwriting for their downtown Oklahoma City commercial division. He is a graduate of OU and TU and has worked in the areas of civil litigation and commercial law. Mr. Soper currently serves as an appointed commissioner for the Cherokee Nation Gaming Commission, which oversees and regulates the Cherokee Nation's eight casinos and the "racino" at Will Roger's Downs in Claremore.

Kent R. McGuire announces that he has joined the Oklahoma City firm of White & Weddle PC in an of counsel capacity. Mr. McGuire was formerly a partner with Whitten, Nelson, McGuire, Terry & Roselius. He will continue to focus his practice in civil litigation, including areas of personal injury, bad faith insurance,

class action litigation, product liability and general tort liability.

Kenneth L. Peacher II announces his relocation to Nash, Cohenour, Kelley & Giessmann P.C. offices located at 4101 Perimeter Center Dr., Suite 200, Oklahoma City, 73112.

Lorrie Gray, formerly a partner of the Gray Law Firm in Oklahoma City, announces that she is now the owner/broker of United Country Red River Realty in Durant. Her new real estate firm brokers properties in Bryan County and surrounding counties, as well as Lake Texoma properties.

Don G. Pope & Associates PC announces that **Sarah L. Soles** and **Margie A. Weaver** have joined the firm as associates. Ms. Soles received her J.D. from OU College of Law in May 2007 and holds a B.A. in public affairs and administration and a B.A. in criminology with a minor in psychology from OU. Ms. Weaver received her J.D. from OCU School of Law in May 2007 and holds a B.A. in political science from OCU. Both are admitted to practice in the U.S District Court for the Western District of Oklahoma. They will assist the firm in its practice involving civil rights litigation, bankruptcy, family law, estate planning, real estate, business matters and criminal defense.

Best & Sharp announces that **Vincent Tubiana** has joined the firm as an associate. Mr. Tubiana graduated from Florida International

University with a B.A. in liberal studies and a M.A. in comparative sociology. He received his J.D. from TU in 2004. He practiced in Florida for two years before returning to Oklahoma. He focuses his practice in civil litigation including medical malpractice defense, products liability and general tort litigation.

At The Podium

Chris A. Paul and **David M. vonHartitzsch** of Joyce & Paul PLLC in Tulsa both made presentations at the Marsh Pipeline Roundtable in November. Mr. Paul spoke on "Records Management," examining the risks and liabilities (both civil and criminal) surrounding the creation, maintenance and destruction of records in a post-Enron world, and providing suggestions as to how to avoid these risks and liabilities. Mr. vonHartitzsch spoke on "Construction Risks Best Practices," concerning some key practices that can be utilized by pipeline companies to reduce exposure to claims of contractors and/or other third parties.

D. Kenyon "Ken" Williams Jr., a shareholder with Hall, Estill, Hardwick, Gable, Golden & Nelson PC, recently spoke at the November meeting of the Oklahoma Chapter of the American Industrial Hygiene Association. The topic was

"Trichloroethylene (TCE): Where Are We and Where Are We Going?" in which he discussed the current state of environmental regulation of TCE, current litigation trends, and anticipated changes in regulations and litigation. Mr. Williams is a frequent speaker and lecturer on environmental law.

F. Anthony Musgrave of Houston, Texas, was a featured speaker at the 10th annual Responsible Mortgage Lending Conference recently held in Las Vegas. Mr. Musgrave addressed the topic of compliance with new and anticipated loan disclosure requirements.

Keith Tracy, of Keith Tracy PLLC spoke at the Wind Energy Public Forum in Arnett in November. He informed attendees about the legal aspects associated with entering into a lease or easement with wind energy companies.

Compiled by Jeff Kelton

How to place an announcement: If you are an OBA member and you've moved, become a partner, hired an associate, taken on a partner, received a promotion or an award or given a talk or speech with statewide or national stature, we'd like to hear from you. Information selected for publication is printed at no cost, subject to editing and printed as space permits. Submit news items (**e-mail strongly preferred**) in writing to:

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Articles for the Feb. 9 issue must be received by Jan. 22

CODE OF JUDICIAL CONDUCT

The OBA Bench and Bar Committee has drafted proposed revisions to the Oklahoma Model Code of Judicial Conduct.

**Your comments
are requested.
Deadline:
Jan. 31, 2008.**

For complete details, go to **www.okbar.org** and click on the Proposed Code of Judicial Conduct link under the Other News heading.

GableGotwals Adds to Business Litigation Team

After more than 10 years of successful practice at Bryant Law Firm, a Tulsa business litigation boutique, David Bryant and Craig Fitzgerald are joining GableGotwals, one of the largest firms in Oklahoma.

A POSITIVE BENEFIT FOR CLIENTS

This addition benefits our clients in several ways:

- Five of Oklahoma's "Top 50 Super Lawyers" (as selected by their peers) are now practicing at GableGotwals.
- The move further strengthens the talented team of business litigators at GableGotwals.
- Clients of Bryant Law Firm now can have their needs met in complex business cases or in matters other than litigation by a firm with broad depth and experience.

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Terrence (Terry) L. Ball, former Muskogee resident, died Dec. 7, 2007, in Idabel. He was born in North Brad-dock, Pa., on March 9, 1951. He lived in Muskogee for most of his childhood and adult life. He graduated from Muskogee High School in 1969 and received his bachelor's degree in psychology from Northeastern State University. After several years as a grocery clerk, he went to work for Congressman Mike Synar in 1983 as a field representative for the Second Congressional District. While working for Mr. Synar, he attended the TU College of Law in the evenings, receiving his J.D. in 1990. He served as Muskogee's assistant city attorney and later as an assistant district attorney for Muskogee County. He later ran the district attorney's Child Support Enforcement Division Office in Muskogee County for eight years and in January 2007, he became the managing attorney for the Child Support Enforcement Division of DHS in McCurtain, Pushmataha and Choctaw counties and moved to Idabel. He sang in the church choir, and he was a soloist at numerous church and civic functions for over 40 years. He served on the board of directors for many civic organizations. Memorial contributions may be sent to the First United Methodist Church Memorial Fund, c/o 600 East Okmulgee, Muskogee, 74403, or the Hospice Center

of Southeastern Oklahoma located at 1100 NE Lincoln, Idabel, 74745.

Major Otto Brunner died Jan. 21, 2007. Born in Topeka, Kan., on Aug. 28, 1928, he received his bachelor's degree from Washburn College and his J.D. from TU. After retiring from the Williams Cos. in the mid-1980s, he moved to Asheville, N.C., where he became active in pro bono work, earning a nomination for the 1994 North Carolina Bar Association Pro Bono Service Award.

Andre Carolina of Tulsa died Dec. 22, 2007. He was born June 10, 1973. He graduated from Wewoka High School in 1991. **He joined the Marines and served until he was honorably discharged because of injuries he suffered when a howitzer ran over his foot.** He graduated from the University of Tulsa College of Law in 2002 and was admitted to the OBA in April 2003. He worked at the Carolina and Morgan law office in Tulsa. His practice focused primarily on criminal defense.

William Thomas Coffman of Tulsa died Dec. 26, 2007. He was born Nov. 10, 1940, in Alva. He graduated from Alva High School and attended TU on a football scholarship. **He received his J.D. with honors from TU in 1966 and served**

in the U.S. Army Reserve and in the U.S. Navy Reserve as a Lt. Commander JAGC until 1977. He began his legal career with the firm Gable and Gotwals in 1966 and later became a shareholder. In 1994, he co-founded the firm Johnson, Jones, Dornblaser, Coffman and Shorb. He was active in both the Oklahoma County Bar Association and Tulsa County Bar Association, where he served as president. He co-authored Oklahoma Estate Planning, Will Drafting and Estate Administration Forms, all designed for Oklahoma attorneys. He was also president of Kiwanis Club of Tulsa, University of Tulsa Alumni Association and University of Tulsa College of Law Alumni Association. Memorial contributions may be made to the Friends of TU Law Fund, the Tulsa County Bar Foundation or Kiwanas Club Foundation of Tulsa.

Sharon L. Corbitt of Tulsa died Dec. 18, 2007. She was born Nov. 13, 1946, in Prague. She was a 1965 graduate of Midwest City High School. She earned her bachelor's degree from Northeastern State University and later earned a J.D. from TU. An active member and fellow of the ABA, OBA and TCBA, she was also a fellow in the American Academy of Matrimonial Lawyers and a past president of the Oklahoma chapter. Over the years, she served in many ca-

pacities on the TCBA Board of Directors, currently as its ABA delegate. She served as chair of the ABA Family Law Section from 2001-2002. She was recognized as the TU College of Law Distinguished Alumna in Residence and was twice selected as the outstanding Family Law Attorney by the OBA Family Law Section. She was a past chair of the OBA Family Law Section. Throughout her career, she received numerous awards, including the OBA Pro Bono Service Award, OBA Spotlight Award and TCBA Golden Rule Award recipient. She was active in the community, as she was one of the original trustees of the Long Term Care Authority and a past president of Domestic Violence Intervention Services in Tulsa. She had been active in the United Way for several years. Memorial donations to be made to the Sharon Corbitt Memorial Scholarship Fund at the University of Tulsa, 800 S. Tucker Dr., Tulsa, 74104.

Harold Max Cumpston of Enid died Dec. 15, 2007. He was born Sept. 24, 1928, in Enid. He attended and graduated from Enid High School in 1946 and went on to receive a degree in mechanical engineering from OSU. **Six weeks after he graduated from college in 1951, he was called into the U.S. Army and commissioned as 1st Lieutenant at Fort Leavengood. He was assigned to the 65th Engineering Combat Battalion in Korea in May 1952.** He returned to the United States in 1953 and went to work for George E. Failing as a design engineer. In 1960, he was hired by Serv-Air as the

director of civil engineering at Vance Air Force Base before Northrop gained the contract in 1972, when he became manager of operation of the base contract. He received his law degree from OCU in 1974 and relocated to the corporate office in Lawton negotiating contracts with several mid-eastern companies. Upon returning to the United States on a full-time basis, he became manager of Vance Air Force Base Environmental Branch. He retired in January 2001. Memorials may be made to the New Hope United Methodist Church or Ross Hospice with Ladusau-Evans Funeral Home serving as custodians.

James Brewster (Jim) Dolman of Ardmore died Dec. 25, 2007. He was born on April 19, 1938. He completed his primary and secondary educations through the Ardmore school system. **After receiving his B.S. in 1960, J.D. in 1962 and completion in the U.S. Army, he returned to Ardmore in 1964 to join the Dolman family law practice alongside his late father, James Lewis Dolman.** His professional career and community service in the Ardmore community was marked with great achievements. He was president of the Hewitt Mineral Corp. served as president of Ardmore's First National Bank Board of Directors. He was instrumental in securing 100 acres of land in the northern part of the city, which is home to the present Ardmore High School complex. A multiple Paul Harris Fellow, he also chaired the Youth Exchange Program for many years and

was founder of the Rotary Youth Leadership Awards. He served actively in the Historic Preservation of Ardmore, Oklahoma Bar Association, American Bar Association and ACTEC. Memorial contributions may be made to CrossTimbers Hospice of Ardmore, Children's Shelter of Ardmore, and First Presbyterian Church of Ardmore.

Donald Glen (Hoppy) Hopkins of Broken Arrow died Nov. 25, 2007. He was born June 12, 1931, in Henryetta. He grew up and attended public schools in Russell, Kan., where he debated on the state championship team, was student body president and graduated with honors. He received his degree in political science at Kansas State University. **He completed a tour of duty as a commissioned first Lieutenant in the Air Force and attended law school at OU shortly after. He graduated with a law degree and completed a second tour of duty attaining the rank of Major.** In 1964, his family moved to Tulsa and he joined the law firm of Rucker and Tabor, ultimately becoming a partner. He practiced law for 43 years. He loved Sooner football and Jayhawk basketball. Memorial donations may be made to the Tulsa County Bar Foundation to benefit the bar's Christmas programs.

Mickey K. Jones of Oklahoma City died Nov. 8, 2007. He was born July 17, 1920, in Paoli. He graduated from Paoli High School as valedictorian. **He attended OU**

before enlisting in the Navy during World War II. Following the war, he returned to OU and earned his J.D. He taught high school business classes in Lindsay and Elmore City public schools before starting his 27-year career with Home State Life and Mid-Continent Life Insurance Companies. Memorial donations may be made to Jesus House in Oklahoma City.

Marion Cecil Klem of Shattuck died Dec. 4, 2007. He was born April 1, 1930. **He received a law degree from OU in 1962 where he was active in ROTC and began duty in the Air Force and eventually became a jet pilot trainer at Vance Air Force Base.** He retired from his law practice in Shattuck in July 2007.

James C. Lang of Tulsa died Dec. 12, 2007. He was born Nov. 10, 1940, and he graduated from Will Rogers High School in Tulsa. He earned bachelor's and master's degrees from TU and worked for a time as a forest ranger before enrolling in the TU law school. He earned his law degree in 1964. He served as an FBI agent in Albuquerque and Philadelphia between 1966 and 1969 and as a Tulsa County assistant district attorney from 1969 to 1971. He was a founding member of the Sneed Lang law firm. As a private attorney, he tried many cases throughout the United States and presented appellate arguments in courts of all levels, including the U.S. Supreme Court. He was active in many legal organizations,

including the Tulsa County Bar Association, the American Inns of Court and several OBA committees. He was a former president of the TU College of Law Alumni Association. In 2003, he was the recipient of the Maurice Merrill Golden Quill Award for the best article in the *Oklahoma Bar Journal*. He enjoyed hiking, bird watching and fishing. Memorial contributions may be made to the Tulsa Zoo, c/o Jim Lang Zoo Donation, 4564 S. Harvard, Suite A, Tulsa, 74135.

Colonel Fred J. McDonald died Dec. 9, 2007. He was born Aug. 6, 1917, in Lamar County, Texas, and spent his youth in Erick. **After joining the U.S. Army, he achieved rank of Captain, specializing in artillery and logistics. While in college, he returned to active duty during the Korean War as an artillery combat battalion commander. His service continued after the war as a command and logistics instructor at Ft. Leavenworth, Kan.; Ft. Lee, Va.; and the Sandia Base in Albuquerque, N.M., shortly becoming a certified logistician with the U.S. Department of Defense where he attained the rank of Colonel.** He received his law degree in 1955 from OU and taught business law at OSU until 1968 while obtaining his master's degree in law from the University of Michigan in 1965. Thereafter, he joined the faculty at OCU School of Law and served as the director of the OCU commercial law department and later as the director of the clinical legal education program until his retirement in 1983.

Harry Mims McMillan of Oklahoma City died Dec. 4, 2007. He was born Feb. 17, 1929, in Bristow. He attended Bristow Public Schools and graduated in 1946. He graduated from OU in 1950 and earned his J.D. from OU in 1952. **He served in the Strategic Air Command of the U.S. Air Force, called to active duty with the Judge Advocate General's Department and served at Carswell Air Force Base in Fort Worth, Texas, until his release from active duty in 1955. He retired with the rank of Major.** Following his military duty, he was an associate with several firms in Oklahoma City. He was Bristow city attorney for 12 years and a Bristow City Council member for two terms. He served on the boards of several community organizations, including a term as president of the Bristow Hospital Memorial Foundation. He also served as general counsel of the Oklahoma Turnpike Authority. Memorial contributions may be made to the Bristow Presbyterian Church Backpack Food Program, Bristow Hospital Fund or the American Civil Liberties Union.

Lucy O'Bert Roberts of Tulsa died Nov. 26, 2007. She was born Feb. 2, 1953, in Los Angeles. Her family moved to Tulsa when she was 5, and she graduated from Edison High School. She attended OSU, earning bachelor's and master's degrees in education. After teaching for a year, she began law school at TU. After graduation, she began her career as a prosecutor when she became an assistant

district attorney with the Tulsa County District Attorney's Office, where she worked for 12 years. She later became an assistant U.S. attorney for the Northern District of Oklahoma where she continued her work and set the standard for work as a career prosecutor. Her reputation was one of perfection being known as fair, honest, hardworking with intense preparation and dedication. Her time away from law was spent with friends, horses, dogs and her family. Memorial donations may be made in her name to the Susan G. Komen for the Cure, 5005 LBJ Freeway, Suite 250, Dallas, TX 75244.

Robert (Bob) L. Shepherd of Skiatook died Nov. 8, 2007. He was born April 26, 1923. He graduated from the OU Law School and became a member of the Oklahoma bar in 1949. He worked with several law firms throughout his career. He loved golfing, fishing, cooking, antiques and playing cards with his friends. He was active in his CHUMS Sunday School group from

Skiatook First United Methodist Church. Memorial contributions may be made to the American Heart Association.

Patrick Noel Sullivan died Dec. 6, 2007, in Corpus Christi, Texas. He was born March 9, 1930, in Shawnee. **He served in the U.S. Air Force during the Korean War.** He attended OU and received a bachelor of arts degree in 1957 and a bachelor of laws degree in 1960. He was admitted to the OBA in 1960 and engaged in the private practice of law while serving briefly as assistant county district attorney in Comanche County from 1961 to 1963. In addition, he was appointed to the Council of Campaign Compliance and Ethical Standards, formerly the Oklahoma Ethics Commission, from 1989 to 1991. Memorial contributions may be made to the Memorial Fund of Trinity by the Sea Episcopal Church, 433 Trojan, Port Aransas, Texas 78373, or the National Jewish Hospital in Denver.

Benjamin T. Willey Jr. of Edmond died Dec. 17, 2007. He was born on Feb. 23, 1946, in Richmond, Va. Following graduation from OCU Law in 1976, he was admitted to the Oklahoma bar where he practiced in oil and gas, business and contract law, and trial practice in all state and federal courts. **He was a Vietnam Veteran, an AF Operations 1 Detachment Commander and Commander of Company A, 2nd BN, 12th SFGA. He received the combat Infantry Badge, Bronze Star Medal and Vietnamese National Police Medal of Honor during his devoted service.** He was a member of Masonic Lodge #37 in Edmond and was recently appointed Junior Deacon and was Class C Lecturer certified. He was a very productive and well-respected teacher and 32nd Degree Scottish Rite and a Knight Templar in York Rite. Memorial contributions may be made to All Souls Episcopal Church in Oklahoma City.

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ESTABLISHED AV RATED Northern Oklahoma firm seeks an attorney with 1-5 years experience to handle all phases of claimant's Workers' Compensation practice. Send replies to Box "X," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

SMALL LITIGATION FIRM seeks an associate 0-3 years experience, must be willing to make court appearances. Send resume to Chris Harper, P.O. Box 5888, Edmond, OK 73083-5888.

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OKLAHOMA CITY LAW FIRM concentrating in the statewide representation of mortgage lenders seeks experienced title attorney. Title examination experience required. Statewide travel required. Send resume and salary requirement to Kirk J. Cejda c/o Shapiro & Cejda, L.L.P., 770 N.E. 63rd, Oklahoma City, OK 73105 or by e-mail to kcejda@logs.com.

OKLAHOMA CITY FIRM focusing mainly in personal injury and criminal law practice seeks associate. Competitive salary. Flexible hours. All contacts will be kept confidential. Send resume to Box "I," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

THE OKLAHOMA TAX COMMISSION is accepting applications for an attorney position in the General Counsel's Office. Duties may include representation of the Commission in foreclosure and collection actions in state court, administrative tax protest proceedings and appeals. Applicants must be licensed or eligible to be licensed to practice law in Oklahoma courts, both federal and state, and have zero to three years experience in the practice of law. Interested applicants must have strong research and writing skills and a professional attitude in dealing with taxpayers, other attorneys, auditors and support staff. The salary will be commensurate with experience and qualifications. Please submit a resume and writing sample to Kathryn Bass, Oklahoma Tax Commission, General Counsel's Office, 120 N. Robinson, Suite 2000W, Oklahoma City, OK 73102-7801. The Oklahoma Tax Commission is an equal opportunity employer.

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STATE OF OKLAHOMA, DEPARTMENT OF HUMAN SERVICES CHILD SUPPORT ENFORCEMENT ANNOUNCEMENT # 08-C001 — The Oklahoma County Child Support Office has an opening for a full-time attorney with experience in child support enforcement. This position will be located in the Oklahoma County (South) located at 2701 South Harvey Avenue, Oklahoma City, OK 73109. The position involves preparation and trial of cases in child support related hearings in district and administrative courts, and preparation and filing of pleadings incident thereto. Duties will also include consultation and negotiation with other attorneys and customers of Child Support Enforcement Division. Position will assist office staff with preparation of legal documents and insure their compliance with ethical considerations. Active membership in the Oklahoma Bar Association is required. This position is a Child Support Enforcement Attorney IV (beginning salary \$4078.70 monthly) and may be underfilled as a Child Support Enforcement Attorney III (beginning salary \$3703.36 monthly), a Child Support Enforcement Attorney II (beginning salary \$3380.14 monthly) or as a Child Support Enforcement Attorney I (beginning salary \$3158.67 monthly). Interested individuals must send a cover letter noting announcement number 08-C100, resume, and a copy of current OBA card to: Department of Human Services, Attn.; Human Resource Management Division, P.O. Box 25352, Oklahoma City, OK 73125. Application must be received no earlier than 8:00 AM Friday, January 11th, 2008 and no later than 5:00 p.m. on Friday, January 25th, 2008. For additional information, please contact Cynthia Zinn at cynthia.zinn@okdhs.org. THE STATE OF OKLAHOMA IS AN EQUAL OPPORTUNITY EMPLOYER

FENTON FENTON SMITH RENEAU & MOON is an AV rated defense firm seeking an attorney with 0-3 years experience to assist in its civil litigation department. Please submit a resume, writing sample and transcript to the Recruiting Coordinator, 211 N. Robinson, Ste. 800N, Oklahoma City, OK 73102.

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Cool Little Old Ladies

By Mark S. Darrah

"Now she was a cool little old lady," Bill Cosby once said, "you see, that's the only way you get to be a little old lady — by being a cool little old lady."

Margaret's only relatives lived in Maine and Indiana. They never called, never wrote. Margaret had no husband, no children and no living brothers and sisters.

Why leave one's earthly belongings to people whose only connection to you are common ancestors, particularly when those same people can't punch a few buttons on a telephone?

Margaret decided to give her estate to her friends and to her church.

If not properly signed and witnessed, a will may be successfully contested. Margaret's relatives would certainly find the where-withal to punch the buttons on a telephone to call an attorney if anything about Aunt Margaret's will looked suspect, particularly if that meant hitting the jackpot and collecting from a deceased aunt's estate.

Margaret had white hair that looked like spun silver. Every time she came to see her lawyer she wore a different navy suit, each the type one wears when one means business. She had been a young housewife when the Great Depression came. By the start of World War II, she had become a widow, never remarrying. When she laughed, you wanted to laugh with her.

Her attorney checked every word in her will twice. He lined up three

people to witness her will, although only two are required. He very carefully led Margaret, the witnesses and the notary through the procedure Oklahoma law requires for the execution of a will.

After completing the ceremony, the attorney led Margaret from his conference room to his office to discuss where to keep her will, how to change it and to discuss any other questions Margaret may have had.

Margaret sat down and gasped, "I'm breathless!"

Had Margaret waited to die until just the moment her will was finished? Maybe she was just having a spell, but that might require the will to be signed and witnessed again. If she had a spell she never came out of, questions certainly would be raised about the will's validity.

"What's wrong?" her attorney asked. "Is there anything I can do?"

"My brassiere is just too tight," Margaret said.

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Leah lived life with a missionary's zeal to help and protect those hurting and injured. She loved good food, a pleasant night on the town and company.

In the eighth decade of her life, Leah walked with a walker; each step, a stumble and a push. Leah and her



husband, Hubert, invited my wife, Jackie, and I out to dinner at one of my city's exclusive private clubs.

I was 32 years old.

Before the walker, before the arthritis, it might have taken Leah five minutes to get from her car to the front door of the nightclub. That evening, it took between 10 and 15.

As dinner with Hubert and Leah concluded and the dessert dishes were carried away, a dance band began to play. Hubert asked Jackie to dance, and they did. An 85-year-old man dancing with my wife!

Leah looked at them as they moved over the shining parquet floor. "Hubert loves to dance, but I can't anymore," Leah said. She took my hand. "Yesterday I was your age."

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Zoe was 81 years old when she moved from suburban Seattle to Oklahoma. She had never lived outside her native Northwest and felt like

she had moved to Dodge City when she got to Tulsa. Her daughters lived here and wanted to be able to help her in her final years. Her son, a resident of Oklahoma's Little Dixie, would have loved to have had her stay with him. Tulsa was a big enough adjustment.

When she was 89, Zoe discovered a lump in her breast, and she was hospitalized for a radical mastectomy. Surgery was performed, but the wrong breast excised. When she regained consciousness, her surgeon stood by her bed. He explained what had happened and apologized for his gross error.

"Well, doctor," Zoe said, "I guess my bikini wearing days are over."

The stories shared here are true, although the names have been changed.

Mr. Darrah practices in Tulsa.