

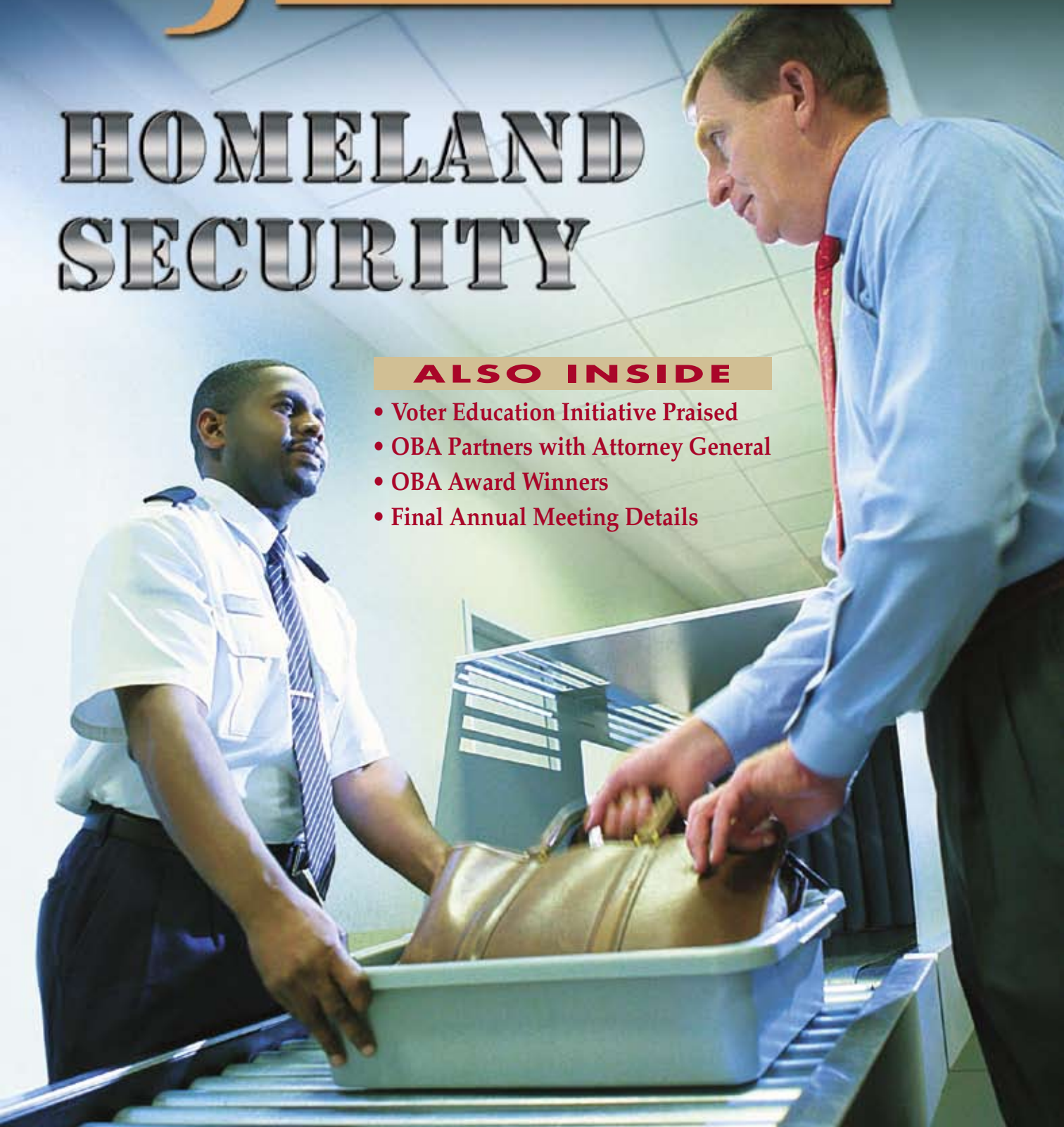
WIT Oklahoma Bar JOURNAL

Volume 83 ♦ No. 29 ♦ Nov. 3, 2012

HOMELAND SECURITY

ALSO INSIDE

- Voter Education Initiative Praised
- OBA Partners with Attorney General
- OBA Award Winners
- Final Annual Meeting Details



OBA TECH

OBA Annual Meeting 2012 Technology Fair

November 16, 2012
Sheraton Hotel
1 North Broadway Ave.

Planner/Moderator:

Jim Calloway, OBA Management Assistance Program Director, Oklahoma City



www.okbar.org/cle

Back by popular demand is a post-game session offering yet another opportunity for members to get their CLE. Friday, an additional 6 hours of MCLE credit will be offered during OBA Tech brought to you by Jim Calloway and cosponsored by the OBA Law Office Management and Technology Section. This training focuses on law office management and technology and is particularly geared for solo and small firm attorneys. OBA Tech opens with the ever-popular "60 Tips in 60 Minutes." The program continues with an opportunity to hear from Paul J. Unger, an attorney and CEO of HMU Consulting, Inc. and founding principal of Affinity Consulting Group, LLC, a nationwide consulting company providing legal technology consulting, training, and continuing legal education. Paul was also Chair of the ABA Techshow 2011. Annual meeting registration is not required to attend.

8:30 a.m.

Registration and Continental Breakfast

9

60 Hot Tech Tips in 60 Minutes

Paul Unger, CEO, HMU Consulting, Inc., Columbus

Jim Calloway

10

Break

10:10

PDF for Lawyers

Paul Unger

Jim Calloway

11

Technology Trends Impacting Your Practice

Paul Unger

Jim Calloway

11:50

Lunch and Fastcase Training (included in registration)

12:50

Time Management: Is it 5:00 p.m. already?

Paul Unger

1:40

Break

1:50

The High Tech Trial

Paul Unger

2:20

The Mobile Lawyer: From Phones to Tablets

Paul Unger

Jeffrey Taylor, Absolute Legal Services, LLC, Oklahoma City

Jim Calloway

3:20

Adjourn

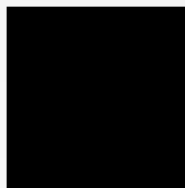
oba  cle
continuing legal education

Credit: Approved for 6 hours MCLE/ 0 Ethics.

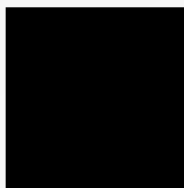
Tuition: \$60 for Law Office Management and Technology Section members and \$75 for non-section members, includes FastCase training luncheon; \$25 for FastCase training luncheon only (does not qualify for MCLE credit). Annual Meeting registration is not required.

Cancellation Policy: Cancellations will be accepted at any time prior to the seminar date; however, a \$25 fee will be charged for cancellations made within four full business days of the seminar date. Cancellations, refunds, or transfers will not be accepted on or after the seminar date.

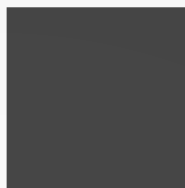




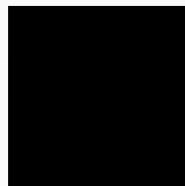
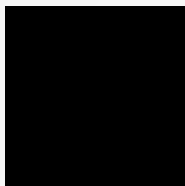
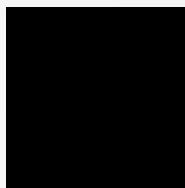
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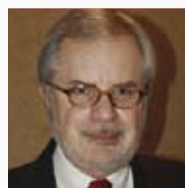
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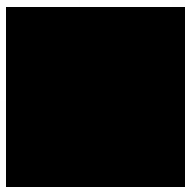
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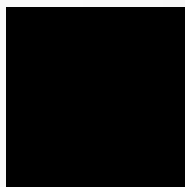
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2. If you currently save 10% of your salary each year, going one year without income due to disability would eliminate **TEN** years of savings.
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6. With the association plan, the monthly benefit will not be reduced by other disability payments you might be eligible for, including Workers' Compensation, Social Security, employer group disability payments, or other individual disability payments.
7. The association has a **YOUR OCCUPATION** definition of disability which means you will not be forced to work in ANY occupation.
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9. How certain are you that you won't succumb to one of the leading causes of long term disability claims: Musculoskeletal/connective tissue disorder, cancer, injury or accidental poisoning, cardiovascular/circulatory disorder, nervous-system/mental disorder?³
10. Your expenses will not stop if your income decreases or ceases due to a disability. How will you pay your mortgage, insurance premiums, medical expenses, utilities, credit cards and loan payments, etc?
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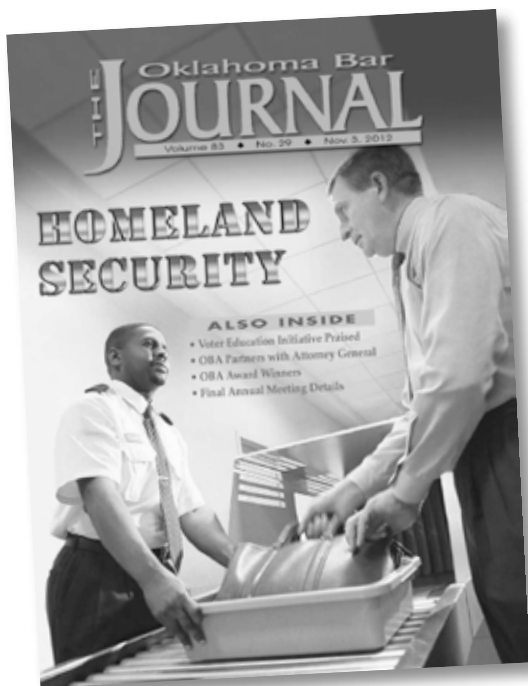
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¹ Social Security Administration, Disabled Worker Beneficiary Statistics, ssad.gov?
² http://www.disabilityrightsreport.org/chances_ofgettingdisability_stats.asp
³ Journal for Disability Resources 2011 Review

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MORTGAGE FORECLOSURE
PARTNERSHIP

Preserving Judicial Integrity is Worth Your Support

By Cathy Christensen

Remember that great line from the movie *All the President's Men*, "Follow the money" or the quote from the movie *Jerry McGuire*, "Show me the money"? That philosophy should never permeate the judicial system! Leave the punch lines to Hollywood and the financial influence at the other two branches of the government — legislative and executive. Let's work together to preserve the integrity and independence of the judicial system for the benefit of all Oklahomans.

The preamble to the Model Rules of Professional Conduct contains a call upon lawyers to demonstrate moral courage, "A lawyer...is a public citizen having special responsibility for the quality of justice." I am going to do my best to fulfill my special responsibility this election cycle and hope that you will, too. I hope you will make a personal commitment to be actively and zealously involved in preserving the independence of the third branch of government from this moment until election Tuesday and beyond, if necessary.

Encourage your friends, family, neighbors and strangers to visit the OBA site www.CourtFacts.org for nonpolitical, nonpartisan information about the justices and the judges on the retention ballot. Oklahomans understand and uphold the belief that all men and women are created equal, all litigants are entitled to a fair trial; and in the eyes of the law, all litigants are treated equally regardless of race, creed, color, occupation, wealth, age or gender. Oklahomans understand the principles on which our country was founded, and they are entitled to educational materials that explain how and why a fair and impartial judiciary preserves the principles of our democracy.

Political agendas, promotion of special interests or preferred outcomes and financial influence should never taint the judicial system. Agendas created by special interest groups or political action committees will undoubtedly wax and wane every few years, but the necessity of an independent judicial system with fair and impartial justices and judges shall never wane. It is a principal which rests on the bed-

rock of the Constitution of the United States. It is older and stronger than any agenda or interest. It was born of the blood, sweat and tears of our forefathers. Our Constitution protects the interests of every man, woman and child.

It does not protect or promote only the interests of a few individuals or entities.

I am reminded of Thomas Paine's quote, "Those who expect to reap the blessings of freedom, must, [like men {and women}] undergo the fatigue of supporting it," and of the Oath of Attorney wherein we swore "to support, protect and defend the Constitution of the United States, and the Constitution of the State of Oklahoma."

I will be very busy through Election Day fulfilling my oath and educating Oklahomans. Election Day may find me fatigued, but I trust with everything I hold dear, my efforts will be worth it. The days leading up to this election give lawyers the opportunity to brag about the safeguards this country has put into place to ensure that there is equal justice for all regardless of their race, their gender or the size of their bank accounts. It is a system that is the envy of every free country and is deserving of our support.

"Leave the punch lines to Hollywood..."



Cathy Christensen

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EVENTS CALENDAR

NOVEMBER 2012

- 6 **OBA Law Related Education Committee meeting;** 12 p.m.
Oklahoma Bar Center, Oklahoma City with teleconference; Contact
Suzanne Heggy 405-556-9612
- 7 **OBA Appellate Practice Section meeting;** 11:30 a.m.; Oklahoma Bar
Center, Oklahoma City and Dean's Conference Room, John Rogers Hall,
Tulsa University Law School, Tulsa; Contact Greg Eddington
405-208-5973
- OBA Government and Administrative Law Practice Section
meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City; Contact
Tamar Scott 405-521-2635
- 12 **OBA closed** – Veterans Day observed
- 13 **OBA Professional Responsibility Commission meeting;**
2 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Dieadra Goss
405-416-7063
- 14–16 **OBA Annual Meeting;** Sheraton Hotel, Oklahoma City; Contact
Craig Combs 800-522-8065
- 15 **OBA Family Law Section meeting;** 8:30 a.m.; Oklahoma Bar Center,
Oklahoma City; Contact Tamera Childers 918-581-8200
- Oklahoma Justice Commission meeting;** 2 p.m.; Oklahoma Bar
Center, Oklahoma City; Contact Drew Edmondson 405-235-5563
- OBA Women In Law Committee meeting;** 3 p.m.; Oklahoma Bar
Center, Oklahoma City with Tulsa County Bar Center, Tulsa; Contact
Deirdre Dexter 918-584-1600
- 16 **OBA Family Law Section Collaborative Law Division;** 1 p.m.;
Oklahoma Bar Center, Oklahoma City; Contact Tamera Childers
918-581-8200
- 22-23 **OBA closed** – Thanksgiving observed
- 26 **OBA Alternative Dispute Resolution Section meeting;** 4 p.m.;
Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa;
Contact Michael O'Neil 405-232-2020
- 27 **OBA Communications Committee meeting;** 12 p.m.; Oklahoma Bar
Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact
Dick Pryor 405-740-2944

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

The Oklahoma Bar Association's official website: **www.okbar.org**

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Who is a Terrorist?

By Kate Barber

Approximately 120-130 refugees are resettled in Oklahoma each year.¹ This number does not include immediate family members who later join them, refugees who spent a couple of months in another state, or those who are in Oklahoma and have been granted asylum by our country. While this number is not large, it represents our country's commitment to the sentiments penned by Emma Lazarus in her poem, *The New Colossus*:

*"Keep, ancient lands, your storied pomp!" cries she
With silent lips. "Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tost to me,
I lift my lamp beside the golden door!"*

But before one of these "homeless, tempest-tost" souls crosses our border, he or she must not be subject to any grounds of inadmissibility. Essentially our laws set up a number of characteristics or situations that will bar a person from admission to the United States. Probably the most well-known of these bars is simply not being in the possession of a travel document or visa.² Others deal with a person's health,³ financial stability⁴ and criminal history.⁵ One of these grounds of inadmissibility, the terrorism-related grounds of inadmissibility,⁶ or TRIG laws for short, can yield surprising results.

The TRIG laws first came into being with the Immigration Act of 1990 (Imm. Act 90) and barred those who were members of a "terrorist organization" or who had "engaged in terrorist activity." The definition of "engage in terrorist activity" is rather disjointed from the definitions of "terrorist organization" and "terrorist activi-

ty." Before we continue to the definitions, it is important to understand what happens to a person when one of the bars applies. Their case is put on hold, sometimes for years, while the Department of Homeland Security, usually through the subagency of U.S. Citizenship and Immigration Services (USCIS), sorts out what to do with the case. Additionally, any petitions for that person's spouse and children will be placed on hold. So the consequences of "engaging in terrorist activity," belonging to a "terrorist organization," or simply being suspected of such actions can be far-reaching.

The definition of a "terrorist organization" has been much altered since Imm. Act 90. It was remodeled with the passage of the Antiterrorism and Effective Death Penalty Act of 1996, the USA Patriot Act in 2001 and the REAL ID Act of 2005.⁷

As things currently stand, terrorist organizations are divided into three “tiers.”

Tier I organizations are known as Foreign Terrorist Organizations or FTOs and are designated by the secretary of state under INA §219. These are foreign organizations that “engage in terrorist activities” which threaten the security of the United States.⁸ The most well-known of these is Al Qaeda, but the list also includes the Basque Fatherland and Liberty (ETA), HAMAS (Islamic Resistance Movement), Revolutionary Armed Forces of Colombia (FARC), and many more.⁹

Tier II organizations are groups that are “otherwise designated” by the Department of State in the *Federal Register*.¹⁰ To be designated as Tier II, an organization must “engage in terrorist activity.” The secretary of state together with the secretary of homeland security designates these organizations. This list includes organizations such as the Afghan Support Committee, Alex Boncayao Brigade (ABB) and Libyan Islamic Fighting Group.¹¹

Tier III organizations represent the largest group. They are very loosely defined and therefore embrace a broad range of associations, clubs and societies.

A Tier III organization consists of “two or more individuals, whether organized or not,”¹² that engages in, or has engaged in, or has a subgroup which engages in” terrorist activity as described in INA §212(a)(3)(B)(iv). There is also no list of these organizations or other publication denouncing them. This makes it very difficult for both attorneys and clients to identify memberships that will bar a person from admission. There is no *de minimis* or duress exception in the statute so any contribution or aid to a group that fits the definition can be considered “engaging in terrorist activity” and will bar a person from admission. It may very well be that the applicant himself has no idea that he was contributing to a group with terrorist ties.

“Terrorist activity” includes a fairly standard list of activities such as hijacking, sabotage, use of biological or chemical agents in the destruction of persons or property, violent attacks and assassination. However, the term “engage in terrorist activity” takes a completely different track.

The phrase “engage in terrorist activity” has a special meaning under the Immigration and

Nationality Act and encompasses a much broader range of actions than what is commonly associated with those words. The phrase that casts the widest net is a part of the definition called the “material support” provision. This provision bars a person who has contributed “a safe house, transportation, communications, funds, transfer of funds or other material financial benefit, false documentation or identification, weapons... or training” for the commission of a terrorist activity or to an individual that the supporter knows or reasonably should know plans to commit a terrorist activity.¹³ This also includes medical care, whether or not provided pursuant to the Hippocratic Oath. As stated earlier, there is no *de minimis* or duress exception in the statute.

Virtually any form of support or assistance given to a terrorist organization, no matter how small or unwillingly given, will fall within the purview of “engaging in terrorist activity,” largely because of the material support provision. One can only escape its reach by demonstrating by clear and convincing evidence that the terrorist nature of the organization was unknown and should not reasonably have been known. For example, a person who is forced to provide food and lodging against his or her will to Al Qaeda members would be considered to have “engaged in terrorist activity” under the material support provision. Similarly, a person who gave money to a pro-democracy organization would have to show that he or she did not know and could not reasonably have known that that organization also used firearms to defend itself from a corrupt regime.¹⁴

The largest groups of people affected by these laws are those seeking entrance as refugees, those requesting asylum, and refugees and asylees seeking to adjust status to permanent resident.¹⁵ Refugees are persons outside the United States who either are internally displaced or have left their country of origin due to persecution on account of their “race, religion, nationality, membership in a particular social group or political opinion.” These are people who are displaced due to internal conflicts, foreign wars, or the biases of their own mother nation and seeking entrance to the United States. Asylees have found their way into the United States and are seeking to remain here because they have suffered persecution, or have a well-founded fear of persecution, based on one of the same five attributes.

Ironically, it is often the same events which qualify a person for status as a refugee or asylee that also make them subject to TRIG. Take, for example, this story shared by Human Rights First about a young man who was kidnapped from a camping trip and forced to act as a porter for a group of militant Maoists. He managed to escape, but continued to fear for his life.

“No one would think that forced labor in a terrorist camp would make a person a terrorist.”

“The Maoists continued to look for Nishesh after he escaped, and they even blew up a pipe bomb outside his grandfather’s home. Nishesh was able to escape to the United States and seek asylum. His file indicates that the asylum office was prepared to recommend that his asylum case be approved, but like other cases involving those who are the victims of violent groups, the case has been on an extended hold for ‘review’ at the Department of Homeland Security’s headquarters.”¹⁶

The common definition and understanding of terrorist behavior would absolutely exclude circumstances like Nishesh’s. No one would think that forced labor in a terrorist camp would make a person a terrorist. Rather, the consensus would be that this is a person worthy of compassion of *The New Colossus* sort. Unfortunately, though, the law as written yielded this kind of perverse result because the language of the statute is overbroad.

To mitigate these perverse results, an exemption was written into the statute. Prior to the Consolidated Appropriations Act (CAA), the exemption authority allowed “the secretary of homeland security or the secretary of state, in consultation with each other and with the attorney general, could ‘conclude in such secretary’s sole unreviewable discretion that subsection 212(a)(3)(B)(iv)(VI) [the material support provision] shall not apply with respect to material support an alien has afforded to an organization or individual that has engaged in terrorist activity.’”¹⁷ However, this authority was practically never exercised; meaning that thousands of cases simply remained on hold. Fortunately, the exemption was expanded when the government enacted the CAA in 2008, such that it could “be exercised in nearly all cases involving the terrorism-related bars, with the exception of those involving individuals who voluntarily and knowingly supported a designated terrorist group.”¹⁸

The CAA also made law what had previously been blanket policy exemptions for certain groups.¹⁹ These included the Karen National Liberation Army (KNLA)/Karen National Union (KNU), the Chin National Front (CNU)/Chin National Army (CNA), the Chin National League for Democracy (CNLD), the Kayan New Land Party (KNLP), the Arakan Liberation Army (ALP), the Mus-

tangs (a Tibetan group), an anti-Castro group in Cuba and “appropriate groups affiliated with the Hmong and Montagnards.”²⁰ The blanket exemptions meant that many of the perverse results were mitigated. The exemptions, however, only apply to conduct occurring on or before the CAA’s date of enactment, Dec. 26, 2007.²¹ Any membership or activities involving the above-named groups after that date is still subject to scrutiny.

The CAA was not the last of the exemptions. From 2009 to the present, USCIS has issued several policy memoranda expanding and implementing duress and other exemptions. The exemptions are of two kinds: group-specific and conduct-specific.²² Five other groups were exempted in 2009, also by policy memorandum. In February 2011, two memoranda issued which exempted solicitation of funds or members and military-type training under duress.²³ Another memorandum in October 2011 implemented an exemption for voluntary medical care provided under certain circumstances.²⁴ Another memorandum issued just recently exempts certain activity associated with the Kosovo Liberation Army (KLA).²⁵ Since the issuance of these memoranda, more than 14,500 exemptions have been granted, allowing people to move on with their lives or be reunited with loved ones.²⁶

To be clear, these policy memoranda do not provide procedures for affirmatively requesting an exemption. Policy memoranda are issued to the employees of USCIS who adjudicate cases under the authority of the Department of Homeland Security and are meant solely to guide them when reviewing a case. A person who has been found subject to TRIG and his case put on hold has no way of discovering what the hold is for, how long the case will be on hold, or what evidence he could provide to mitigate his case. The entire process of

holding a case and then exempting it lies solely in the discretion of USCIS with little to no outside influences.²⁷

When evaluating these cases, USCIS uses a “totality of the circumstances” approach. As the test currently stands,²⁸ the factors to be considered are as follows:

- Amount, type and frequency of solicitation
- Nature of the activities committed by the organization
- Alien’s awareness of those activities
- Whether applicant participated in any violent activities
- Time lapsed since the solicitation
- Alien’s conduct since last solicitation

The exemption does not include solicitation of funds or members for a terrorist activity or for engagement in terrorism-related conduct. All it does is provide an exemption for those who solicited funds or members or provided “material support” for a “terrorist organization” while under duress. It does apply across the board to all three tiers. The person must also be otherwise eligible for the benefit.

The most recent exemption concerns the treatment of a refugee or asylum seeker’s family. As mentioned briefly, the spouse and children of a person with a TRIG hold will also have holds placed on them if they try to immigrate. In the *Federal Register* on Aug. 17, 2012, an Exercise of Authority by the secretary of homeland security was published which would allow the family members of those who were previously admitted as refugees or an asylee to be exempted. There are several requirements that must be met, including that the reason for the hold was for specified conduct related only to a Tier III organization and that the organization “at no time targeted U.S. interests or persons.” The exemption will likely be implemented through a USCIS policy memorandum in the coming months.²⁹

As you can tell, navigating the various tiers and exemptions can become very complex very quickly. In order to adequately assist a person, it is necessary to know what the group was called, when the person was a member, the precise activities performed by the person and several other details. Then an analysis of the organization must be performed to see what activities and subgroups it supports. To aid comprehension, I have produced a brief chart with the tiers, the type of activity that will make a person subject to TRIG, the exemptions and the activities that will make a person ineligible for exemption.³⁰

Tier	Activity Falling Under TRIG	Exemptions	Ineligible for Exemption
I	<ul style="list-style-type: none"> • Voluntarily and knowingly engaging in “terrorist activity” • Actions under duress other than material support • Voluntary medical care • Spouse or child of someone who committed a qualifying act 	<ul style="list-style-type: none"> • Material support under duress³² • Solicitation of funds or members under duress • Military-type training under duress³⁴ 	<ul style="list-style-type: none"> • Members or representatives • Voluntarily and knowingly engaging in “terrorist activity” • Is engaged in or is likely to engage in terrorist activity
II	<ul style="list-style-type: none"> • Voluntarily and knowingly engaging in “terrorist activity” • Actions under duress other than material support • Voluntary medical care • Spouse or child of someone who committed a qualifying act 	<ul style="list-style-type: none"> • Material support under duress • Solicitation of funds or members under duress • Military-type training under duress³⁴ 	<ul style="list-style-type: none"> • Members or representatives • Voluntarily and knowingly engaging in “terrorist activity” • Is engaged in or is likely to engage in terrorist activity
III	<ul style="list-style-type: none"> • Voluntary activities • Actions under duress other than material support • Spouse or child of someone who committed a qualifying act 	<ul style="list-style-type: none"> • Material support under duress • Solicitation of funds or members under duress • Military-type training under duress³⁴ • Voluntary medical care³⁵ 	<ul style="list-style-type: none"> • Is engaged in or is likely to engage in terrorist activity

It was mentioned earlier that over 14,000 exemptions have been granted as of March of this year. Of those 14,000, nearly 11,500 or roughly 77 percent were refugees. The majority of those refugees were part of the group exemptions for the Burmese pro-democracy groups. The next largest group was Tier III duress exemptions. Only 99 exemptions have been denied out of the thousands processed. That's less than 1 percent.

However, there are still almost 4,000 cases on hold for TRIG issues; 3,000 of which are refugee and asylee adjustment of status applications.³¹ These are people who have already been granted protection within our borders and made application to become lawful permanent residents as required by law. Some of these cases, including one in Oklahoma, have been pending for over five years.

In the case of the Oklahoma man, his application for permanent residency has been pending and his family separated because of forced membership in a rebel group 15 years ago. The rebels are a Tier III organization. They posed no threat to the United States and have long since disbanded. There is no formal process to request an exemption or offer proof of forced conscription for this man. He must simply wait for the cogs at USCIS to turn in his favor.

So who is a terrorist? Is it the freedom fighter? Is it the student activist? The family caught up in the civil war of its country? According to TRIG, the answer is likely yes. Gratefully, though, the new policy exemptions are taking these people out of the terrorist category and putting them back into the category of the "homeless" and the "tempest-tost." While we must, as a nation, be vigilant of our borders, we must also uphold our values as a nation welcoming of immigrants, the land of the free, and the home of the brave.

1. I happen to work in the same building as the only refugee resettlement agency in the state. These figures are informal ones that I obtained from questioning the employees.

2. INA §212(a)(7).

3. INA §212(a)(1) provides that an alien cannot have "a communicable disease of public health significance."

4. INA §212(a)(4) requires that applicants for a visa prove that he or she will not become a "public charge."

5. INA §212(a)(2) sets forth the criminal convictions that will disqualify a person from admission including commission of crimes of moral turpitude and aggravated felonies. It should be noted that these phrases have specific meanings in the immigration context and encompass a much broader range of criminal activity than their names imply.

6. INA §212(a)(3) contains all of the terrorism-related bars.

7. "Material Support and Related Bars to Refugee Protection: Summary of Key Provisions of the Immigration and Nationality Act

(INA)"; *UNHCR*, 15 December 2006. www.rcusa.org/index.php?page=background-summaries.

8. INA §219(a)(1)(A-C).

9. From the Department of State website accessed Aug. 30, 2012. www.state.gov/j/ct/rls/other/des/123085.htm. Last updated Jan. 27, 2012.

10. INA §212(a)(3)(B)(vi)(II).

11. From the National Counterterrorism Center accessed Aug. 30, 2012. www.nctc.gov/site/other/exclusion.html. Last updated Aug. 27, 2009.

12. Oh the irony that an unorganized group can be a terrorist organization.

13. INA §212(a)(3)(B)(iv)(VI).

14. Matter of S-K-, 23 I&N Dec. 936 (BIA 2006).

15. People who have been granted refugee or asylee status are required by law to present themselves for adjustment of status to that of lawful permanent resident after one year. INA §209(a).

16. Report "Abandoning the Persecuted: Victims of Terrorism and Oppression Barred from Asylum," 2006. www.humanrightsfirst.org/wp-content/uploads/pdf/06925-asy-abandon-persecuted.pdf.

17. USCIS policy memorandum dated July 28, 2008, called the Aytes Memo, at 2. 70/21.19. Quoting INA §212(d)(3)(B)(i).

18. "The Problem of Terrorism-Related Inadmissibility Grounds (TRIG) and the Implementation of the Exemption Authority for Refugees, Asylum Seekers, and Adjustment of Status Applicants"; March 2009 Update p.1; www.rcusa.org/index.php?page=background-summaries.

19. According to footnote 31 of the article "Combating the Terrorism Bars Before DHS and the Courts," these blanket exemptions have been previously announced by DHS and DOS. The only effect that CAA had was to take these groups out of the TRIG label such that persons who had past memberships no longer required an exemption. The CAA also disallowed exemptions for certain groups including aliens for whom there are reasonable grounds to believe are engaged in or are likely to engage in terrorist activity, members of Tier I and Tier II groups, and aliens who voluntarily participated in terrorist activities or military training with Tier I or Tier II organizations.

20. "The Problem of Terrorism-Related Inadmissibility Grounds (TRIG) and the Implementation of the Exemption Authority for Refugees, Asylum Seekers, and Adjustment of Status Applicants"; March 2009 Update p.1; www.rcusa.org/index.php?page=background-summaries.

21. Hughes, Anwen, Thomas K. Ragland, and David Garfield. *Combating the Terrorism Bars Before DHS and the Courts*. Copyright 2010, American Immigration Lawyers Association.

22. Guilfoyle, Jennie. "Update on Terrorism-Related Inadmissibility Grounds: Most Recent Exemptions." Source URL: <http://cliniclegal.org/may2011newsletter/terrorism> (may be accessed by CLINIC members and affiliates only).

23. Duress was defined in another policy memorandum called the Scharfen memorandum (May 24, 2007), as a reasonably-perceived threat of a serious harm. At 5.

24. USCIS policy memorandum Nov. 20, 2011. PM-602-0052. Subject to various requirements such as posing no danger to the United States and not having provided the medical care "with the intent of furthering the terrorist or otherwise violent activities of an organization or individual." At 9.

25. USCIS policy memorandum July 5, 2012. PM-602-0068.

26. Exemption statistics from USCIS TRIG NGO Meeting, March 20, 2012. www.ilw.com/immigrationdaily/news/2012,0323-trig.pdf.

27. In a Catholic Legal Immigration Network webcast on Aug. 9, 2012, presented by Sarah Bronstien and Jennie Guilfoyle titled "Terrorism-Related Inadmissibility Grounds," it was suggested that an attorney could "supplement the file if you think client qualifies for exemption or have other positive information." I can offer no information on the efficacy of this practice, but it is likely the only resort that client and counsel have in the face of a TRIG hold.

28. USCIS policy memorandum dated Feb. 23, 2011; Subject: Implementation of New Discretionary Exemption Under INA Section 212(d)(3)(B)(i) for the Solicitation of Funds or Members under Duress. 29. Federal Register Vol. 77, No. 160, Friday, Aug. 17, 2012, Notices. At 49821.

30. A word of caution: the exemptions are constantly being added to and the process for a person in removal (deportation) proceedings is beyond the scope of this article. The chart is merely meant as a way of visualizing the information thus far discussed. I do not recommend using this chart solely as a guide for representation of a client without more research on the part of the advocate.

31. Guilfoyle, Jennie. "Update on Terrorism-Related Inadmissibility Grounds: Most Recent Exemptions." <http://cliniclegal.org/may2011newsletter/terrorism>, accessed Aug. 27, 2012.

32. Duress is defined as a "reasonably-perceived threat of serious harm." USCIS PM-602-0031, at 3, quoting the Scharfen memorandum (May 24, 2007), at 5.

33. USCIS policy memorandum Feb. 23, 2011. PM-602-0031.

34. USCIS policy memorandum Feb. 23, 2011. PM-602-0030.

35. USCIS policy memorandum Nov. 20, 2011. PM-602-0052. Subject to various requirements such as posing no danger to the United States and not having provided the medical care "with the intent of furthering the terrorist or otherwise violent activities of an organization or individual." At 9.

ABOUT THE AUTHOR



Kate Barber focuses her practice in immigration and nationality law with a particular emphasis on family-based immigration. In her work as part of the Immigration Assistance Program at Catholic Charities in Oklahoma City, she also represents refugees and asylees in adjustment proceedings. Additionally, Ms.

Barber works with victims of human trafficking and other crimes to present their cases to USCIS. She graduated from OU College of Law in 2011.

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HB 1804: Where Are We Now? Oklahoma's Landmark Immigration Legislation Five Years Later

By Angela D. Mauch

I am pleased that the U.S. Supreme Court confirmed that state laws cannot dictate the federal government's immigration enforcement policies or priorities.

-Secretary Napolitano, United States Department of Homeland Security¹

In 2007, as the United States fell into recession and anti-immigrant sentiment grew, the Oklahoma legislature passed House Bill 1804, and Governor Brad Henry signed it into law. Although other states have since passed harsher immigration laws, at the time it was the most restrictive state law seeking to address illegal immigrants. Also known as the Oklahoma Taxpayer and Citizen Protection Act, HB 1804 faced a legal minefield. This article traces its path through the state and federal courts and examines the bill's effect on individuals, businesses, and government agencies across the state.

The stated purpose of HB 1804 was to address "economic hardship and lawlessness" caused by illegal immigrants, and it utilized a variety of methods aimed at addressing this goal.² Notably, it made it a felony to transport, conceal, harbor, or shelter an illegal alien, and it required applicants for official identification cards and birth certificates to be legally present in the United States.³ Also, the bill required Oklahoma law enforcement officers to make a reasonable effort to determine the citizenship of anyone arrested for a felony or driving under the influence, and it specified the means by which public employers, as well as contractors and subcontractors engaged in business with the government, are to verify the immigration status of all

job applicants.⁴ Additionally, HB 1804 required state agencies to verify the lawful presence of all applicants for public benefits before issuing such benefits to each applicant, instructed the Attorney General to negotiate with the U.S. Department of Homeland Security regarding the enforcement of federal immigration laws in the State of Oklahoma, and mandated that the Department of Public Safety create a fraudulent documents identification unit.⁵ Furthermore, the bill articulated policy changes to the Regents for Higher Education prohibiting scholarships, financial aid, and resident tuition for illegal immigrants.⁶

The enactment of HB 1804 created a culture of fear among the Latino community, and initially had a chilling effect on their use of public services.⁷ The broad language of the bill gave rise to uncertainty regarding what constitutes a "public benefit" and what conduct may now be illegal. Although many immigrants continued to reside in Oklahoma, they were less likely to contact police to report a crime for fear that they might be deported.⁸

In anticipation of the financial harm HB 1804 would cause to their member businesses, Chambers of Commerce successfully complained to the United States District Court for the Western District of Oklahoma on grounds that Sections 7

and 9 were preempted by federal law. These sections created a new cause of action for employment discrimination if a legal employee were discharged while an illegal worker was retained, required contractors with government agencies to electronically verify employees' work validation, and resulted in adverse tax consequences for any contractors in Oklahoma that fail to utilize the appropriate verification measures. Because of the risk of harm and the likelihood that federal immigration law preempted these provisions, the district court enjoined enforcement of Sections 7(B), 7(C), and 9.⁹

The Oklahoma Attorney General and other defendants appealed the court's order to the Tenth Circuit Court of Appeals, challenging plaintiffs' standing and arguing that the enjoined provisions of HB 1804 are within Oklahoma's sovereign police powers and Congress overstepped its constitutional authority. The Court of Appeals found plaintiffs' associational standing sufficient, affirmed the order enjoining enforcement of Sections 7(C) and 9 on preemption grounds, and reversed the order with respect to Section 7(B). The case was remanded to the district court, where it is currently pending. The state remains enjoined from enforcing the provisions increasing tax penalties related to independent contractors and creating new liability for employment discrimination.¹⁰

Challenging the anticipated wrongful expenditure of public funds, taxpayer Michael Thomas petitioned the Tulsa County District Court for a declaratory judgment that HB 1804 violates Oklahoma's Constitution. The trial judge ruled only one portion of the law unconstitutional, that which denies resident tuition to those passing a GED examination. This portion of Section 13 was severed as a violation of the single-subject rule in Article 5 §57.¹¹

The plaintiff appealed, arguing that the Oklahoma legislature exceeded their constitutional authority when passing HB 1804, and in 2011, the Supreme Court of Oklahoma held that his taxpayer standing was sufficient to challenge the legislation. Regarding the violation of the single-subject rule, the court affirmed, and also

found Section 5(C) unconstitutional as a special law in violation of Article 5 § 46. This section created a presumption that illegal immigrants were at risk of flight. The court upheld the remainder of the challenged provisions as constitutional.¹²

These facial challenges left the majority of HB 1804 intact and enforceable. Notably, Sections 3, 4, and 8 remain in effect, restricting public benefits and identification documents, as well as creating criminal penalties. However, because of multiple state immigration laws and the ongoing controversy surrounding them, future as-applied litigation may further restrict how courts interpret HB 1804.¹³

“These facial challenges left the majority of HB 1804 intact and enforceable. Notably, Sections 3, 4, and 8 remain in effect...”

Today, the Tulsa County Sheriff's Office (TCSO) is the only Oklahoma law enforcement agency to have entered into an agreement with Immigration and Customs Enforcement (ICE), pursuant to which selected personnel perform immigration functions, and ICE implemented the Secure Communities Program statewide to automatically check the immigration status of arrestees.¹⁴ In accordance with HB 1804, the Department of Public Safety established an Identity Verification Unit to investigate identity theft and fraud, and the State Regents

approved policy changes restricting immigrants' eligibility for in-state tuition and financial aid to those who filed a federal application to legalize their status and graduated from an Oklahoma high school.¹⁵ Because previously enacted federal laws require many of the changes outlined in HB 1804, some government agencies saw little change to their procedures, and the new felony of transporting an illegal alien rarely resulted in criminal prosecution.¹⁶

Under HB 1804, private employers contracting with government agencies should utilize E-Verify to confirm the work authorization of new employees, and after *Chamber of Commerce v. Edmondson*, the state may enforce this condition.¹⁷ E-Verify is an online database maintained by U.S. Citizenship and Immigration Services where employers can compare employees' I-9 forms to federal records.¹⁸ Some business owners have expressed a concern that competitors who do not comply with this requirement are able to

provide services at a lower cost.¹⁹ Developments in the 2012 race for Oklahoma's Second Congressional District seat called into question the requirements of Section 7(B). State statute allows employers to utilize another "independent, third-party system with an equal or higher degree of reliability" instead of E-Verify.²⁰ This exception and concerns surrounding the appropriate role of state agencies create uncertainty regarding future enforcement of Section 7(B).²¹

Advising a public service organization may require fact-specific research to determine how they can best comply with the provisions of this bill. Often at issue are what public benefits the agency provides, and whether those benefits are exempt as necessary for the protection of life or safety, or whether education services are protected under *Plyer v. Doe*.²² Lawyers representing immigrants could also benefit from familiarity with the implementation of HB 1804, so that they can advise their clients how to best function within society.

Five years after implementation, the Oklahoma Taxpayer and Citizen Protection Act has not resulted in an obvious improvement to either economic conditions or crime. At the time HB 1804 became effective, the unemployment rate in Oklahoma was 3.7 percent. This figure began to climb in 2008 and peaked in 2010 at 7.2 percent.²³ Similarly, the number of reported index crimes rose between 2008 and 2009, dropping in 2010 to a level near that of 2007.²⁴ Immigration law presents unique challenges, in Oklahoma and around the nation, and we must continually evaluate our responses, both for effectiveness and consistency with federal enforcement.

The National Government has significant power to regulate immigration. With power comes responsibility, and the sound exercise of national power over immigration depends on the Nation's meeting its responsibility to base its laws on a political will informed by searching, thoughtful, rational civic discourse. Arizona may have understandable frustrations with the problems caused by illegal immigration while that process con-

tinues, but the State may not pursue policies that undermine federal law.

— *Arizona v. United States*²⁵

1. Statement by Secretary Napolitano on the Supreme Court's Ruling on *Arizona v. the United States*, U.S. Department of Homeland Security (June 25, 2012), www.dhs.gov/ynews/releases/20120625-secretary-napolitano-statement-supreme-court-ruling-sb1010.shtm.
2. The Oklahoma Taxpayer and Citizen Protection Act, H.B. 1804, 51st Leg. § 2 (2007).
3. *Id.* at §§ 3-4.
4. *Id.* at §§ 5-7, 9.
5. *Id.* at §§ 8, 10-11.
6. *Id.* at §13.
7. Robin Koralek et al., *Untangling the Oklahoma Taxpayer and Citizen Protection Act: Consequences for Children and Families*, Urban Institute and National Council of La Raza (2010), www.urban.org/publications/1001356.html.
8. *Id.*
9. *Chamber of Commerce v. Henry*, No. 08-109 (W.D. Okla. 2008).
10. *Chamber of Commerce v. Edmondson*, 594 F.3d 742 (10th Cir. 2010).
11. *Thomas v. Henry*, 2011 OK 53, 260 P.3d 1251.
12. *Id.*
13. "This opinion does not foreclose other preemption and constitutional challenges to the law as interpreted and applied after it goes into effect." *Arizona v. United States*, Slip op. No. 11-182 at 24 (June 25, 2012).
14. U.S. Immigration and Customs Enforcement (accessed August 1, 2012), www.ice.gov.
15. 28 Okla. Reg. 2062 (July 15, 2011); Mick Hinton, Regents Revise Student Policy, *Tulsa World*, October 26, 2007.
16. Koralek, *supra* note 6.
17. See note 11.
18. What is E-Verify?, U.S. Citizenship and Immigration Services (updated July 18, 2012), www.uscis.gov.
19. Joint Immigration Task Force, Oklahoma House of Representatives, Interim Study 11-117 (September 29, 2011).
20. Oklahoma Statutes, Title 25, §1312 (2007).
21. Randy Krehbiel, Oklahoma law on checking employees' immigrant status is called unclear, *Tulsa World*, October 27, 2012.
22. 457 U.S. 202 (1982); Oklahoma Statutes, Title 56, § 71 (2010).
23. Local Area Unemployment Statistics (Oklahoma), U.S. Bureau of Labor Statistics (accessed August 1, 2012), www.bls.gov/lau/.
24. Crime Statistics, Oklahoma State Bureau of Investigation (2010), www.ok.gov/osbi/Publications/Crime_Statistics.html.
25. Slip op. at 25.

ABOUT THE AUTHOR



Angela D. Mauch was awarded a baccalaureate degree, *summa cum laude*, from Oklahoma City University in 2001 and a juris doctorate with honors from the University of Tulsa College of Law in 2011. She currently serves as an officer in the Oklahoma Army National Guard and previously worked as a police officer for the City of Broken Arrow. Ms. Mauch is a member of the Oklahoma Bar Association and the Tulsa County Bar Association.



New Borders and Horizons: Homeland Security and the Modern Exporter

By James E. Eggenschwiler

Commercial expansion into new markets around the world has permeated nearly every sector of the U.S. marketplace. One byproduct of this is an enhanced complexity of integrated commercial issues that now includes a mix of international transactions and the various regulations that surround them. The rapid advances in and reliability of electronic commerce has helped remove many impediments to trade, allowing small companies and even individuals to dabble with promising markets around the world.

As clients, these businesses present increasing need for legal counsel that can identify and navigate regulatory issues that previously did not apply. Add to this the relatively new layer of enhanced security concerns that have arisen since 9-11. Though it might seem more logical for security measures to address shipments trying to enter our country, a significant number of export regulations are aimed at improving homeland security as well. With fines sometimes beginning with a five-figure number — and potential prison sentences threatening major life chapters — these regulators command attention. In 2011 alone, the Office of Export Enforcement reported criminal convictions of 29 individuals and 10 companies, resulting in a combined \$20.2 million in criminal fines and \$2.1 million in forfeitures.¹ Unfortunately, the free nature of exporting in the United States permits many to travel well into the journey before they realize it — which makes our role as counsel a bit more difficult.

WHERE IT BEGINS — PERSPECTIVE

As counsel, the first meaningful (and perhaps greatest) benefit we can provide, to new and experienced exporters alike, is a clear perspective on the export compliance mindset. Unlike importing, where customhouse brokers and U.S. Customs and Border Protection (CBP) are significant gatekeepers with physical process restraints, exporting can feel relatively unregulated because physical constraints are few, and are often transparent. Today, evidence of export filings (a confirmation number generated by the Automated Export System) is required as part of the transit arrangements, but most shippers rely on a third-party transportation broker (usually a freight forwarder) to handle it as a technicality. Other restrictions, such as licenses and advance notifications, are enforced after the fact when discovered, so the exporter can be oblivious to requirements until someone comes knocking with enforcement in mind.

Adding to potential confusion, exporting is less focused on physical borders than importing, and instead is more focused on transfer of control. One explanation for this could be the age-old revenue motivation that underlies the import process structure, as opposed to the much newer security motivation that underlies export controls. For example, a retailer might buy paperclips from a Chinese seller as a domestic transaction if the Chinese seller entered the paperclips into the United States prior to the sale. Yet, if the roles were reversed and the same U.S. company sells the paperclips to the same Chinese company for export, the transaction could be considered an export even if the U.S. seller delivers the paperclips to a U.S. address and the Chinese company's transportation forwarder handles the export shipment. If the commodity were changed from paperclips to coated steel plating with high temperature performance qualities, the sale might involve an export of a controlled commodity with potentially significant civil and criminal penalty. However, in both hypothetical instances, the U.S. company might not consider the sale to be an export.

KNOW YOUR CUSTOMER (AND EVERYONE ELSE IN THE PROCESS)

Under Public Law 107-56² (as amended), better known as the Patriot Act, any business engagement with prohibited or restricted individuals, organizations or nations (or political subdivisions) can create exposure to substantial civil and criminal penalties. The lists of these denied or restricted parties are lengthy and numerous. They are also continually changing and our trading partner nations are adding their own lists with reciprocal enforcement as the ultimate objective. Although a number of provisions of the Patriot Act might become diluted or altogether revised over time because of their potential encroachment upon civil rights, the portions that changed the landscape of scrutiny for exporters (and importers for that matter) have not been part of the controversies and are likely here to stay. The Patriot Act is too pervasive in many ways to allow a simplified rule of thumb, but for this discussion, the primary thrust can be summed up as "don't deal with bad people." The term "bad people" is aimed at essentially anyone that can be shown as a terrorist or terrorism "supporter," illegal weapons trafficker, illegal drug source or trafficker, money launderer, or anyone who is suspected of being or is in any

way affiliated with any of the foregoing. This includes those who have been identified for inquiry but have not responded or been reachable. The terms are broad because the context so requires, making compliance through active and frequent screening so important. The Patriot Act's purpose is to cut off commercial and financial support to the "bad people" as a matter of promoting U.S. national security.

With that as today's environment, the first and perhaps greatest challenge for legal counsel is to help the exporter understand what it means to "know their customer."³ Practically speaking, this responsibility starts before the purchase order is accepted and continues until shipment by gathering information about all parties and participants related to the transaction (and the ongoing commercial relationship) and comparing it against the lists maintained by the various agencies. These include not only the customer, but all banks, intermediate consignees and agents (buying agents, warehouses, assemblers and others), and even transportation carriers including specific vessels if ocean transit is used. Anyone who will have a financial interest in the transaction, or who will have custody of the goods or will participate in the financial chain is a prospect for screening. Since the restraint is not only transactional but also relationally driven, the screening activity must be maintained throughout the relationship, including customer service, maintenance, updates and upgrades (even free ones) and warranty claims.

The screening process itself can be performed manually, as all the lists are available on the Internet. Those published by the various departments within the Commerce Department, the State Department, and the Treasury Department should be consulted at a minimum regardless of industry.⁴ This is not recommended, though, since the lists are numerous, and are constantly changing in content and identity. Even more, numerous trading-partner nations have their own lists many of which are reciprocally enforced by U.S. agencies. A number of software and web-based services are available to help automate the process and some of them can be integrated into enterprise resource planning (ERP) systems used for whole-business process management, and their use is highly recommended.

THE ALLURE OF RELATIONSHIPS

Let's be candid. The point of exporting is sales. As counsel, we must never lose sight of that single-focus motivation. Few companies simply aspire to do business in a foreign market that often involves higher front-end investment, higher cost of sales and more perilous credit risk. Also consider that few businesses begin exporting in a vacuum by positioning themselves and their product in a new market and expect customers to respond. Though this type of planning is always involved, the exporting doesn't really begin until relationships begin. Someone in the new market sees promise in the exported product (or service) and wants it or wants to profit from it. In most cases, commercial and often personal advantage sits at the heart of these new-found relationships. Neither commercial nor personal advantage is inherently wrong, but dealing with it becomes dangerous for the exporter.

In 1977, Congress enacted the Foreign Corrupt Practices Act (FCPA)⁵ to curb bribery activities by U.S. corporations who were using inappropriate methods to secure high level favor by foreign government officials. What began as restrictions aimed at publicly held companies quickly grew to prohibit any "corrupt" practice by any U.S. person or entity involving virtually any foreign government employee or functionary or the purpose of gaining or retaining business. Many of the key terms (such as "gaining or retaining business") used in the FCPA are very broad and have been expansively interpreted by U.S. courts and agencies. Congress strengthened the law in 1988, and its tenets have been adopted in more than 33 other countries.

Very succinctly, a violation of the law requires the following five elements:

1) A payment (including any offer, authorization, or promise to pay money *or anything else of value*);

2) To a foreign government official (which can include a party official, manager of a state-owned concern, general employee, contractor/service provider) *or to any other person*, knowing (or having reason to believe) that the payment or promise will be passed on to or benefit a foreign official;

3) With a corrupt motive (broadly seen as enjoying an "unfair" advantage produced by

conduct that actively pursued it or passively ignored it);

4) For the purpose of: (a) influencing actions or decisions, (b) inducing acts or omissions contrary to lawful duty, (c) securing an improper advantage or (d) inducing use of influence to cause an official act or decision;

5) A purpose to assist in obtaining or retaining business *with or for any person or business*.

The law applies very broadly to all U.S. individuals or entities. It commonly extends to non-U.S. subsidiaries, and can even reach to conduct by agents, partners and joint-venture/strategic alliance participants. The enforcement motivation has been strong and growing in recent years.

The types of scenarios that can trigger exposure to an exporter are endless. But consider the following example as one common and basic way it can apply:

A foreign contact called to say that he has spoken with his owners and they are quite eager to speak with us about our product. He assured us that our discussion is very timely, as his country's Ministry of Development has recently been tasked to find solutions to their growing needs, and several projects are being planned. They intimated that they are well positioned with the project planners at very important levels, and that they have a very close connection with one of their leading universities which can lend support to the inclusion of our product as part of the detailed plans. A principal of the foreign entity on the phone (we'll call him Mr. P) was a longtime friend of a ranking government official (Mr. O) who was tasked with making infrastructure improvements relevant to our product. Mr. P later emphasized the need to work with specific university faculty members, who in fact were only tangentially related to the government projects, and were to be paid a personal fee for their support under the guise of covering the cost of university expenses for "research." It turned out that no research would likely be conducted. After digging a little more, Mr. O offered the carrot of his own personal interest in eventually acquiring a financial stake in the local venture that could be created around our product.

In this scenario, our decision to walk away came easily and quickly. Over a two-week

period, our persistent digging developed the true picture quickly, and we happily avoided wasted investment of time and resources. The initial posturing by Mr. P concerning his firm's capability to position us with important people with money and need for the product had suspicious overtones, but could have proved to be legitimate. Had university confirmation of product performance claims been needed, and had the payment been to the university for that research, we might have waded further in. As it was, the money was simply to buy political favor. The university was a government entity (though it was made to look private), so the specific faculty members qualified as government officials. They would have likely shared the payment with Mr. O, further eliminating doubt. We determined that Mr. O was tacitly seeking payment to award us a contract related to upcoming projects in exchange for the fees, and later in exchange for awarding him a financial interest in some other way based on our sales in the market. We made no offers, and we walked when we smelled real problems.

Unfortunately, other situations aren't as easily discerned or as quick to develop. Despite its simplicity, the example gives a flavor of how the subtleties of a relationship-driven new market entry can trap an ill-equipped exporter.

Today, the FCPA serves as another tool in the regulatory belt to promote homeland security. On one hand, the law promotes a climate that can lead to detection of corruption. On the other, it serves as a broad net for authorities to use indirectly against targets under the Patriot Act, where there is insufficient evidence to act against the target directly. The thought goes: a serious target probably engages in less serious corruption as well, so individuals and entities governed by the FCPA (and similar laws) can at least reduce the wallet of the target and deter others from engaging with the target commercially.

EXPORT CONTROL REGULATIONS

Like the Patriot Act, a number of regulations promulgated by various agencies limit or prohibit the sale or proliferation of a wide range of items, including manufactured products, raw materials and technology. The central purpose of these controls is to limit the capability of others around the globe from harming the U.S. and its interests. Among the more universally

applicable are those promulgated and maintained by the Commerce Department and its Bureau of Industry Security. Known as the Export Administration Regulations⁶ (EAR), these regulations are sufficiently broad and diverse to warrant a discussion all their own. We will limit our focus on the basic introduction of two essential concepts: 1) the definition of an exporter, and 2) the concept of "deemed exports."

Exporter

The Commerce Department refers to an exporter as the U.S. Principal Party in Interest (USPPI), who is the person or legal entity in the United States that receives the primary benefit, monetary or otherwise, from the export transaction.⁷ Responsibilities track to the USPPI in terms of accurately filing export declarations, and in terms of compliance with applicable regulations, including the EAR. Back to the opening paperclip example, the U.S. seller of paperclips to the Chinese company constituted an export, even though the buyer's transportation agent took delivery in the United States. The U.S. seller was the USPPI and the delivery recipient was an intermediate consignee, not the Foreign Principal Party in Interest (FPPI).⁸ In these real-life situations, the transportation agent typically files the export declaration with little or no accuracy to the facts, and often in the name of the U.S. seller.

A more salient risk to the exporter is that the foreign buyer might not be the FPPI. In many industries using complex or distributed manufacturing processes, various contractors and other intermediate entities place orders and receive shipments. This is an added element to the "know your customer" concept, in that many of the EAR provisions require the exporter to perform reasonable diligence to know the actual end use of their product, and by whom if that can be determined in advance.⁹ With exports involving sensitive commodities requiring a license, inability to adequately obtain reliable information about downstream use and users (including intended resale) might require refusal to sell or ship even at a transactional midpoint.

Deemed Exports

The EAR and similar regulations of other agencies define this to be the transfer of technology to a foreign national, regardless of where that transfer takes place.¹⁰ Technology can include nearly any proprietary software, related source

code, technical know-how, or data and becomes increasingly problematic if it is subject to licensing under the EAR. A transfer can occur with or without physical conveyance, and can include physical or electronic documentation, or even oral communication of information. In application, customer service emails and even technology sales conferences require careful parameters that prevent inadvertent disclosure or access (including lab tours) to covered technology.

ON THE HORIZON — SUPPLY CHAIN SECURITY

At a more pedestrian level, homeland security concerns include basic physical security from threats that could be posed through load tampering. Although risks might seem greater when containerized goods are arriving from foreign origins, domestic tampering can threaten internal transit points and major urban areas like seaport cities. In November 2001, the U.S. Customs and Border Protection (CBP) instituted the Customs Trade Partnership Against Terrorism (C-TPAT) program¹¹ which is a growing voluntary program that establishes security protocol to prevent terrorist tampering with ocean containers and cargo. It is an import-related program, but the growth of reciprocal programs outside the United States suggests that U.S. exporters might be well served by considering the details. C-TPAT participants undergo a certification process that begins with creating written protocol surrounding equipment storage and loading, limitation of access to warehouses and loading docks, and various monitoring, self-assessment and incident reporting measures. To maintain certification, participants are required to use C-TPAT participating vendors, including suppliers, transportation carriers and other service providers. Where the participant uses non-participating suppliers or service providers, the participant or supplier must establish a qualifying protocol that operates as if the supplier or service provider is a program participant.

Currently, no requirement or direct outside benefit exists for most exporters to justify the expense of participation. However, major trade partners with the United States are among those adopting similar measures, so exporters are becoming impacted indirectly through their customers. More direct impact will likely ensue

as the trade community begins to connect the dots and make their respective programs mesh with one another, as we already see with harmonized commodity classification systems. Exporting clients would be well counseled to begin the thought process necessary for implementing the needed measures sooner than later.

MAINTAINING PERSPECTIVE IS KEY

It bears reiterating that our role as counsel involves our thorough and constant reinforcement of the overarching export compliance perspective. Many rules lack bright lines and precise tests, and some feel like they require a certain “sixth sense” to detect warning signs. All can feel counterintuitive, and even counterproductive to the sales objective that is so dominant and focused in export activity. Well designed work-flow protocol that incorporates compliance steps can ease the adaptation, but without proper perspective, compliance measures will reduce to technical formalities and exposure to risk will grow. Continued training and awareness measures are necessary components to maintain a healthy compliance mindset regardless of the sophistication level of the staff.

1. “The Exporter’s Balancing Act | Export Operations & Compliance Report 2012,” *American Shipper*, September 2012, p.3.

2. Enacted Oct. 26, 2001.

3. See www.bis.doc.gov for more guidance concerning operational definitions and expectations concerning the “know your customer” standard, including “downstream” responsibilities for due diligence.

4. See http://export.gov/ecr/eg_main_023148.asp for streamlined access to the more generally applicable lists.

5. 15 U.S.C. §§78dd-1, et seq.

6. 15 C.F.R. Chapter VII, Subchapter C.

7. See www.aesdirect.gov/support/usppi_overview.html.

8. See www.census.gov/foreign-trade/regulations/clarifications/tofr.html.

9. Title 15 C.F.R. Part 744.

10. See 15 C.F.R. §734.2(b)(2)(ii).

11. See www.cbp.gov/xp/cgov/trade/cargo_security/ctpat/ for more information.

ABOUT THE AUTHOR



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The Fourth Amendment — the Airport and Borders

By Robert Don Gifford II

The young man knows the rules, but the old man knows the exceptions.

— Justice Oliver Wendell Holmes

THE END IS OUR BEGINNING

While the U.S. Constitution¹ and the Oklahoma Constitution² recognize the right of people to be “secure in their persons, houses, papers, and effects against unreasonable searches,” those protections may lessen depending on a person’s acts or location. Since the first recorded aircraft hijacking in 1931, concerns over such acts escalated during the late 1960s with eight airliners hijacked to be taken to Cuba.

From D.B. Cooper’s infamous getaway into lore in 1971³ to the shock and anger of Sept. 11, 2001, since 1973 the federal government has continually responded since with pre-boarding screening of selected passengers. Security on our borders and at our airports further increased after the attacks on Sept. 11, 2001. In response and with the passage of the Aviation and Transportation Security Act of 2001,⁴ Congress put airport screening under the authority of the newly created Transportation Security Administration (TSA). The law introduced stricter screening procedures beyond what the F.A.A. regulations previously provided.

Among the responsibilities assigned by Congress to TSA, procedures were established for informing airlines of the identity of “individuals known to pose, or suspected of posing, a risk of air piracy or terrorism or a threat to airline of passenger safety” — and to establish policies that enable air carriers to identify people “on passen-

ger lists who may be a threat” and prevent them from boarding an aircraft.⁵

Constitutional challenges to airport security measures typically involve a motion to suppress evidence in a criminal trial, alleging that a search or seizure violates the Fourth Amendment. From requiring picture identification to baggage check to going through security to actual physical inspection, the challenges have arisen. These searches were typically conducted on less-than-probable cause, and thus courts would apply the U.S. Supreme Court’s “stop and frisk” analysis of *Terry v. Ohio*,⁶ to assess the propriety of these security measures under the Fourth Amendment.⁷

PROVIDING PICTURE IDENTIFICATION

These aren’t the droids you’re looking for.

— Obi-Wan Kenobi

Courts have determined there is no Fourth Amendment seizure violation for routine pre-boarding requests for identification papers.⁸ In a lawsuit against the United States, an airline refused to allow a passenger to board an airplane after he refused to provide a government-issued identification or consent to a search at the security checkpoint. The would-be traveler then sued for alleged violations of his First and Fourth Amendment rights. The federal district court in California rejected the claim the security measures violated the plaintiff’s rights in any way under either the First or Fourth Amendments. Identification

requests unaccompanied by detention, arrest, or any other penalty, other than the significant inconvenience of being unable to fly, do not amount to a seizure within the meaning of the Fourth Amendment.⁹

'BEAM ME UP, SCOTTY' — SCANNERS, X-RAYS AND BEYOND

Is that a pistol in your pocket, or are you just happy to see me?

— Mae West

Advances in technology have increased TSA's ability to screen passengers by use of advanced imaging technology (AIT) instead of magnetometers. An AIT scanner, unlike a magnetometer, was capable of detecting, and therefore of deterring, attempts to carry explosives in liquid or powder form on airplanes. Any passenger could opt out of AIT screening in favor of a pat-down, which allowed him to decide which of the two options for detecting a concealed, nonmetallic weapon or explosive was least invasive.¹⁰ With the new technology came new legal challenges — however, the courts have consistently maintained the use of the AIT still constituted an administrative search that did not violate the Fourth Amendment.

YOUR BAGGAGE AND CARRY-ON

Another area ripe for Fourth Amendment attack is the search of a passenger's baggage following a suspicious magnetometer (or X-ray), however, it has been generally allowed by statute and case law.¹¹ A scan and later search intrudes only slightly on privacy if the scope of the search is limited to detecting weapons, explosives or any other dangerous devices, and if the search is conducted in a way that produces a "negligible social stigma."¹²

Pre-boarding airport searches have been justified by the compelling interest in protecting the safety of prospective passengers and millions of dollars' worth of private property.¹³ Searches of this type have been analyzed as being lawful under three approaches. First, a search could be upheld as simply reasonable under the circumstances. Secondly, a search is proper on the grounds that a passenger entering "sterile" areas within an airport implicitly consents to a search of his or her person and carry-on. Finally, the action could be validated under the principle that no one entering a controlled area has a rea-

**“...I can say
'bomb' if I want to
say 'bomb'...”**

sonable expectation of privacy in packages brought. Regardless, airport security searches may be conducted without a warrant if only as intrusive as is reasonable, and in light of the compelling interest to prevent terrorist acts.¹⁴

Justification for further search of luggage may also occur by statements made by the would-be passenger. An obvious example such as a passenger's statement that, "I can say 'bomb' if I want to say 'bomb'" gives security personnel the reason to look;¹⁵ sprinting through security, subsequent bizarre behavior and incoherent responses to a security guard's questions could reasonably lead to the conclusion that the traveler might be armed and present an imminent threat to the officer's life.¹⁶

RIGHT TO LEAVE

It should be noted that once a passenger voluntarily enters the screening process, he acquiesces to its full potential scope, including bodily inspection.¹⁸ Once a would-be passenger consents to the search by sending a bag through the X-ray or walks through a magnetometer, he could not withhold permission after it was discovered he was trying to carry aboard the aircraft items that were concealed from the X-ray.¹⁹ Courts have held that express or implied consent was established²⁰ to support the validity under the Fourth Amendment of an airport security search. A right to leave once airport screening procedures begin would constitute a one-way street for the benefit of a party planning airport mischief and would encourage airline terrorism by providing a secure exit where detection was threatened.²¹

THE BORDER

The need to safeguard the borders has drawn consistent attention since Sept. 11, 2001, and the very public political battles over border security. Congress and the courts have recognized that significant public safety interests are at stake when it comes to safeguarding America's borders, whether the site is the actual border or the "functional equivalent" of the border. This has led to a unique area of the law that allows the government to exercise broad search authority at the border to safeguard the public.

Detaining someone at the border longer than for a routine search is justified if based on rea-

sonable suspicion that the traveler is “smuggling contraband in her alimentary canal.”²² Once the decision is made to detain, the issue becomes the length of time. Courts have repeatedly recognized that the time for which a suspect is held is often determined by his or her own behavior. In the “balloon swallowing” cases, refusing to eat, drink, take laxatives or consent to an X-ray will alter that time. These detentions are not “arrests,” although many do lead to formal arrest.

THE ACTUAL BORDER

The law for search authority on the true border is easily understood and straightforward. Such searches are often considered an exception to the Fourth Amendment’s warrant and probable cause requirement (within reason) or an animal completely beyond the amendment’s protections. When crossing the border back into the United States, a traveler’s luggage, outer clothing, vehicle, purse/wallet and pockets are subject to routine search without suspicion.²³

A search executed on the “true” or actual border can be made without probable cause, without a warrant and without any articulable suspicion at all.²⁴ The only limitation on such a search is that it must be conducted reasonably to still be allowable under the Fourth Amendment. It is important to note that what is considered “reasonable” on the border is different than farther inland in the United States.²⁵ In addition, the facts and circumstances surrounding the search are analyzed through the view of the law enforcement officer’s experience and training.²⁶ Depending on how intrusive the search is, the courts will require a higher level of articulable suspicion by the law enforcement officer.

NON-ROUTINE BORDER SEARCH

You using the whole fist, Doc?

— Irwin “Fletch” Fletcher, *Fletch Lives*

When a border search becomes more invasive than a “routine” inspection, additional requirements are imposed upon the government. The degree of invasiveness must be weighed by an “indignity analysis.”²⁷ A strip search, for example, requires “reasonable” or “real” suspicion, directed specifically to the person.²⁸ Body cavity searches, whether they are only visual inspections or physical examinations, are the most invasive. A visual examination of body cavities generally requires only a reasonable suspicion,²⁹ however, those border states within the jurisdiction of the 9th Circuit Court of Appeals require a

clear indication or plain suggestion that contraband is being hidden in a body cavity.³⁰

CONCLUSION

You wake up at Seatac, SFO, LAX. You wake up at O’Hare, Dallas-Fort Worth, BWI. Pacific, mountain, central. Lose an hour, gain an hour. This is your life, and it’s ending one minute at a time. You wake up at Air Harbor International. If you wake up at a different time, in a different place, could you wake up as a different person?

— *Fight Club*

After the attacks on this country on Sept. 11, 2001, security was naturally increased at our air terminals and borders. If you walked into the airport or visited the border in the months immediately following Sept. 11, 2001, you likely saw soldiers under arms stationed in the terminal. Simple items like fingernail files or clippers became contraband. In August 2006, airport security began banning passengers from bringing aboard more than three ounces of any liquid after a plot to set off liquid explosives was uncovered in London, resulting in a limitation on liquids you are carrying to the “3-1-1” rule.

Many of the new procedures required to fly may frustrate some travelers, and those frustrations often lead to tempers flaring. More and more charges are filed for violence at international airports,³¹ bomb threats,³² destruction of aircraft facilities,³³ interference with security screening personnel,³⁴ or interference with flight crew members.³⁵ While these are not routine criminal filings, they are necessary to enforce at times — and good “preventive law” advice to pass along to the client with a short temper and little patience. Search authority in our airports and along our borders has become a new way of doing things and is an important tool for law enforcement. This tool is only as useful as it is used lawfully and within reason.

Author’s note: The views expressed herein are those of the author, and do not necessarily reflect those of the Department of Justice or the Department of the Army.

1. The Fourth Amendment provides for the “right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularity describing the place to be searched, and the persons or things to be seized.”

2. Article 2, Sec. 30, Oklahoma Constitution provides for “[t]he right of the people to be secure in their persons, houses, papers, and effects against unreasonable searches or seizures shall not be violated; and no warrant shall issue but upon probable cause supported by oath or affirmation, describing as particularly as may be the place to be searched and the person or thing to be seized.”

3. The infamous D.B. Cooper successfully parachuted from a Boeing 727 after demanding \$200,000. In the following seven months, 18 more extortion attempts on U.S. air carriers were made. See Theresa L. Kraus, *The Federal Aviation Administration: A Historical Perspective*, 1903-2008, 39 (U.S. Dep't of Transp. 2008) available at www.faa.gov/about/history/historical_perspective/.

4. Pub. L. No. 107-71, 115 Stat. 597 (2001).

5. See 49 U.S.C.A. §114(h)(2) to (3).

6. 392 U.S. 1, 88 S. Ct. 1868, 20 L. Ed. 2d 889 (1968).

7. See Am. Jur. 2d, Aviation §73; 2 Criminal Procedure, LaFave, Israel & King, §3.9[h] (2nd ed.).

8. *United States v. Black*, 675 F.2d 129 (7th Cir. 1982) (request that a person in an airport produce his driver's license and airline ticket was not a seizure, and that a seizure occurred only after the officers took and kept the airline ticket and driver's license. The court reasoned that the mere request for and voluntary production of the documents does not constitute a seizure, but instead constitutes merely a noncoercive police-citizen encounter).

9. *Gilmore v. Ashcroft*, 2004 WL 603530 (N.D. Cal. 2004).

10. *Electronic Privacy Information Center v. U.S. Dept. of Homeland Sec.*, 653 F.3d 1 (D.C. Cir. 2011).

11. 49 U.S.C.A. §44901. *U.S. v. McCarty*, 672 F. Supp. 2d 1085 (D. Haw. 2009).

12. *United States v. Figueroa Cruz*, 822 F. Supp. 853 (D.P.R. 1993) (an administrative search of the defendant's luggage to prevent the carrying of weapons or explosives aboard an aircraft did not violate the Fourth Amendment, as the search followed an X-ray screening of luggage that disclosed "blocks" inside a package within a suitcase).

13. *State v. White*, 26 Ariz. App. 505, 549 P.2d 600 (Div. 1 1976).

14. *People v. Waring*, 174 A.D.2d 16, 579 N.Y.S.2d 425 (2nd Dep't 1992).

15. *United States v. Krug*, 34 F. Supp. 2d 1064 (M.D. Tenn. 1999) (search based on statement "the bomb was in the bag yesterday" was proper for consideration for search).

16. In *People v. Rivera*, 141 A.D.2d 572, 529 N.Y.S.2d 180 (2nd Dep't 1988).

17. *State v. Rosof*, 180 Ga. App. 637, 350 S.E.2d 36 (1986).

18. 49 C.F.R. §1540.107; *United States v. Aukai*, 497 F.3d 955 (9th Cir. 2007); see also *United States v. Herzbrun*, 723 F.2d 773 (11th Cir. 1984).

19. *United States v. DeAngelo*, 584 F.2d 46 (4th Cir. 1978).

20. *Fla. v. Rodriguez*, 469 U.S. 1, 5-6 (1984) (no seizure during routine interaction with police in airports because it is a consensual encounter and implicates no Fourth Amendment interest).

21. *United States v. Hartwell*, 436 F.3d 174 (3rd Cir. 2006); *United States v. Aukai*, 440 F.3d 1168 (9th Cir. 2006).

22. The alimentary canal is the "mucous membrane-lined tube of the digestive system, extending from the mouth to the anus and including the pharynx, esophagus, stomach and intestines. See *United States v. Montoya de Hernandez*, 473 U.S. at 541 (the defendant swallowed 88 cocaine-filled balloons, which she passed while being detained by U.S. Customs for 16 hours prior to her arrest, a period the Supreme Court found reasonable under the circumstances. See also *United States v. Onumonu*, 967 F.2d 782 (2nd Cir. 1992) (83 condoms, X-ray refused, four-day detention prior to arrest);

23. *United States v. Braks*, 842 F.2d 509 (1st Cir. 1988).

24. *United States v. Braks*, 842 F.2d 509, 514 (1st Cir. 1988); *United States v. Asbury*, 586 F.2d 973, 975 (2nd Cir. 1978).

25. *United States v. Montoya de Hernandez*, 473 U.S. 531, 538 (1985) ("[T]he Fourth Amendment's balance of reasonableness is qualitatively different at the international border than in the interior" and "not only is the expectation of privacy less at the border than in the interior, the Fourth Amendment balance between the interests of the government and the privacy right of the individual is also struck much more favorably to the government at the border.") *Id.* At 539-40 (citations omitted).

26. *United States v. Vega-Bravo*, 729 F.2d 1341, 1350 (11th Cir. 1983); ("Many of the factors supporting reasonable suspicion will seem innocent enough if evaluated independently and without expertise of an experienced customs inspector.").

27. *Vega-Bravo*, 729 F.2d at 1346 ("...that personal indignity suffered by the individual searched controls the level of suspicion required to make the search reasonable.").

28. *United States v. Aguebor*, 166 F.3d 1210 (4th Cir. 1999).

29. *United States v. Ogberha*, 771 F.2d 655, 658 (2nd Cir. 1985) (reasonable suspicion contraband being concealed internally).

30. *United States v. Mastberg*, 503 F.2d 465, 471 (9th Cir. 1974).

31. 18 U.S.C. §37.

32. 18 U.S.C. §35 or 49 U.S.C. §46507.

33. 18 U.S.C. §32.

34. 49 U.S.C. §46503.

35. 49 U.S.C. §46504.

ABOUT THE AUTHOR



Robert Don Gifford is an assistant U.S. attorney in Oklahoma City, a lieutenant colonel in the U.S. Army Reserve, a tribal court judge and an adjunct law professor at the Oklahoma City University School of Law teaching military and national security law.



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PROGRAM

9:00-9:30	The Importance of Social Media (video)	
9:30-10:30	Discovery and Ethical Issues of Social Media	Courtney D. Powell <i>Lester Loving & Davies</i>
10:40-12:00	NLRB Decisions Limiting Employer Control of Social Media & NLRB Expansions into the Non-Union Work Environment	Leonard Court <i>Crowe & Dunlevy</i>
12:00-1:00	Lunch (provided)	
1:00-3:00	Tips from the Bench – Judges Discuss the Do's and Don'ts of Summary Judgment, Opening and Closing Statements, and Witness Examinations Panel: Judge Joe Heaton, West. Dist. Okla.; Judge Thomas E. Prince, Dist. Ct. Okla. Cnty; Mag. Judge Steven P. Shreder, East. Dist. Okla. ¹	
3:10-4:15	The New EEOC Guidance on Criminal Background Checks	Holly Cole, Director <i>EEOC Area Office</i>
4:15-5:00	What the Heck is MMSEA and How Does it Affect Every Settlement? <i>(Defendant and Plaintiff perspective)</i>	Elaine Turner/Amber Hurst <i>Hall Estill - Hammons, Gowens & Hurst</i>

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AGENDA

- 7:30 – 8:30 Registration: Grand Ballroom Lobby – OKC Marriot Hotel
8:30 – 8:45 **Welcome**
The Honorable Patrice Douglas, Chairman, Corporation Commission; The Honorable Bob Anthony, Vice Chairman, Corporation Commission; The Honorable Dana Murphy, Commissioner, Corporation Commission; Pamela S. Anderson, Attorney at Law, Chair, OBA Energy & Natural Resources Law Section
- 8:45 – 9:45 **Beyond the Shale Reservoir Development Act – Longer Laterals and Electrical Infrastructure**
Moderator: The Honorable Dana Murphy, Corporation Commission; Panel: Gary Roulet, Chief Executive Officer, Western Farmers Electric Cooperative; Rick Sosa, Director of Electrical Infrastructure, Sandridge Energy Corp.; Mike Blackburn, General Manager, Marmaton Area, Unit Petroleum Corporation; Michael Stack, Attorney at Law
- 10:00 – 10:45 **Ethics Discussion – Conflicts of Interest in the Petroleum Industry**
Drew L. Kershen, Earl Sneed Centennial Professor of Law, Emeritus, University of Oklahoma College of Law
- 10:45 – 11:45 **Update on Environmental Issues – Air Quality Regulations, FracFocus, Hydraulic Fracturing & Disposal Well Regulations**
Moderator: Ron Dunkin, Director of the Oil and Gas Division, Corporation Commission; Panel: Tim Baker, Manager of Pollution Abatement, Corporation Commission; Robert Singletary, Attorney at Law, Oklahoma Dept. of Environmental Quality; Brian Woodard, Vice President of Regulatory Affairs, Oklahoma Independent Petroleum Association; Mike Paque, Executive Director, Ground Water Protection Council; Russell Walker, Attorney at Law.
- 11:45 – 12:30 Catered Lunch: Grand Ballroom
12:30 – 1:30 **Mock OCC Hearing – Horizontal Well Application with a Vertical Twist**
David E. Pepper, Attorney at Law; Charles Helm, Attorney at Law; Devon Energy Inc. Staff; ALJ Paul Porter, Senior ALJ, Oklahoma City; and OCC Staff
- 1:30 – 2:30 **The Jurisdiction of the Commission – Surface Owner Rights and Fiduciary Issues**
Moderator: John Reeves, Attorney at Law; Panel: Terry Stowers, Attorney at Law, National Association of Royalty Owners; Dale E. Cottingham, Attorney at Law; Jeremy Fitzpatrick, Vice President – Land, Kirkpatrick Oil Company; Julie Woodard, Chesapeake Energy Co. and President of the Oklahoma Association of Professional Landmen; H. W. “Bud” Pierce, National Association of Royalty Owners
- 2:30 – 2:45 Mid-Afternoon Break
2:45 – 3:45 **Review and Comment – Current Issues Impacting the OCC’s Oil and Gas Conservation Adjudication Process**
Moderator: ALJ Michael Decker, Director, Office of Administrative Proceedings; Panel: ALJ Patricia D. MacGuigan, Oil and Gas Appellate Referee; ALJ Curtis M. Johnson, Deputy ALJ, Tulsa; ALJ Kathy McKeown, Senior ALJ, Tulsa; ALJ Michael Norris, Senior ALJ, Oklahoma City; ALJ David D. Leavitt, Deputy ALJ, Oklahoma City; Richard K. Books, Attorney at Law; Richard Grimes, Attorney at Law
- 3:45 – 4:00 **Evaluation and Acknowledgements**
ALJ Michael Decker

Please find the registration form online at www.occeweb.com — “Hot Topics” menu. Send completed registration form and check: C/o Ms. Snooks Campbell, Office of Administrative Proceedings, Oklahoma Corporation Commission, P.O. Box 52000, Oklahoma City, Oklahoma 73152-2000, Telephone: (405) 521-2756, Facsimile: (405) 522-6397, s.campbell@occemail.com. **Seating is limited, so register promptly; telephone if you fail to receive confirmation e-mail in response to registration. Fee: \$75.00 (pre-registration by COB Wednesday, November 28, 2012) \$85.00 (registration at the door). Please make checks payable to: “Oklahoma Corporation Commission, 2012 Oil and Gas Institute.” No credit cards please.** The seminar is approved by the Oklahoma Bar Association’s Mandatory Continuing Legal Education Commission for 7.0 hours of MCLE credit, including 1 hour of Ethics credit. An application is pending for continuing education credits through the American Association of Petroleum Land Managers (AAPL). Please visit the Oklahoma Corporation Commission’s information booth in the lobby for demonstrations of the Commission’s website and current online oil and gas forms and reports. Guidance about online filing of forms and reports with the Oil and Gas Conservation Division will be available from 8:00-4:00. Additional inquiries to: ALJ Michael Decker, OAP Director (405) 521-2241, m.decker@occemail.com.

Real Property Law Section

The Need For A Federal District Court Certificate in All Title Examinations: A Reconsideration

By Kraettli Q. Epperson

INTRODUCTION AND SUMMARY

In this article, the author considers whether attorneys examining title to Oklahoma real estate, at the present time, should require the abstract that they are reviewing to include a current federal district court certificate.¹

It is true that over time the relevant federal and state common law and statutes have changed so that eventually — after two initial stages — any pending federal district court proceeding would be constructive notice only when a document known as a notice of *lis pendens* was filed in the local land records of the county clerk where the land was located?²

Consequently, as explained in more detail below, it appears that there are three periods of time (going back to sovereignty) when different legal rules have applied concerning the need for a title examiner to look at federal district court proceedings, as reflected in an abstract containing a federal district court certificate. Oklahoma has three separate federal district courts with each district covering multiple counties.³

As the result of the interaction of such federal and state laws, the title examination requirement for these three periods of time could be reflected in a title examination standard worded as follows.

Pre-1958

For lands under examination which are located in any of the counties located in the multi-county jurisdiction of a federal district court, there must be a federal district court certificate

covering from inception of title (*i.e.*, sovereignty) to Aug. 19, 1958.

1958-1977

For lands under examination which are located in the same county where the federal district court is located, there must be a federal district court certificate covering from Aug. 20, 1958, to Sept. 30, 1977.

Post-1977

For any lands under examination, there is no need for a separate federal district court certification for the period after Sept. 30, 1977.

Comment: Although the 30-year Marketable Record Title Act (16 O.S. §§71 to 79) may eliminate the impact of some of the matters in the federal district court arising in the earlier period of time (*i.e.*, pre-1977), the express exceptions to the extinguishing effect of the MRTA (*e.g.*, “easements,” and “any right, title or interest of the United States”) cause such matters (such as judgments) to continue to impact the title in the present.⁴

The circumstances which prompted this author to consider this issue involved a 1943 eminent domain proceeding in a federal district court, where a flowage easement was taken by the U.S. government. One of the questions being considered was whether, under applicable statutory and common law, a *lis pendens* notice had to be filed in the local county land records. Upon review of the applicable law, it became clear that, at that time (*i.e.*, 1943), the filing of a separate *lis pendens* notice in the local land records was neither required, nor

authorized, by either federal or state common law or statutes. The land involved was located in one of the counties (*i.e.*, Delaware County) of the multicounty district covered by the federal district court (*i.e.*, the Northern District of Oklahoma), but the tract was not located in the particular county where the federal court sat (*i.e.*, Tulsa County).

An analysis of the law showed that, at that time (*i.e.*, 1943), the filing of the federal action in the federal district court itself constituted notice of the proceeding, and of all judgments arising in such case. In addition, all subsequent owners of the underlying fee simple interest — up to and including the present day — took their title subject to such easement.

DETAILED DISCUSSION

Discussion of Notice in General

The concept of “notice” is defined by our state statutes as follows:

25 O.S. §10: Notice is either actual or constructive.

25 O.S. §11: Actual notice consists in express information of a fact.

25 O.S. §12: Constructive notice is notice imputed by the law to a person not having actual notice.

25 O.S. §13: Every person who has actual notice of circumstances sufficient to put a prudent man upon inquiry as to a particular fact, and who omits to make such inquiry with reasonable diligence, is deemed to have constructive notice of the fact itself.

Therefore, the concept of “constructive notice” relates to the knowledge of information being “imputed by the law to a person.” Constructive notice derives its existence not from a person learning directly about the outstanding interest (*e.g.*, from seeing an instrument creating an interest or from talking to a claimant of an interest — *i.e.*, not “actual notice”), but from the statutorily-created presumption of the receipt of such knowledge. Such presumption arises when certain legally prescribed actions have been taken, such as the proper filing of a deed or judicial decree in the county land records where the subject land is located.⁵

Lis pendens notice (*i.e.*, “the matter is pending”) is a form of constructive notice. *Lis pendens* notice, initially, was more of a matter of public policy than strictly a matter of notice. As

stated in *McClaskey v. Barr*, 48 F. 130, 7 Ohio F. Dec. 55, (Nov. 10, 1891) at page 133: “It has also been held that, as the doctrine [of *lis pendens*] operates in cases where there is no possibility of the purchasers having notice of the pendency of the suit, it rests upon considerations of public policy, and not on presumptions of notice.” (emphasis added) In other words, in the beginning, when a lawsuit was filed in federal (or state) district court, whereby the court was asked to affect title to real property, it was a matter of “public policy” that anyone who received title to such real property, during the pendency of such action, from a party to the suit, took such interest subject to the outcome of the action. Otherwise, the court would be thwarted in its efforts to resolve the dispute, and, if the parties could convey their interest in the land free from the court’s jurisdiction, the parties could be forced to relitigate the same matter repeatedly.⁶

The concepts, procedures, and consequences, being focused on herein, are those which relate to determining when real estate titles to land located in Oklahoma are impacted by that form of constructive notice, known as a *lis pendens* notice. In particular, under what circumstances would such constructive notice arise from court proceedings filed in federal district courts located in this state (such as quiet title actions, partition actions, mortgage foreclosures, and eminent domain takings), meaning when would there be imputed knowledge of the resulting orders and judgments?

Discussion of Lis Pendens Notice

Depending on the date of the initiation of a federal district proceeding — seeking to affect title to such real estate — there was and is a regimen prescribed in the beginning by the common law and then later by federal and state statutes. Such rules specified how federal district court proceedings affecting real estate were and are brought to the attention of subsequent purchasers and encumbrancers.

The *lis pendens* notice procedures have varied over time. The three periods of time and the actions which gave, and give rise to *lis pendens* notice during those periods were as follows.

Pre-1958

Initially, state court proceedings affecting land constituted *lis pendens* notice based on public policy established under the common law; from the moment the state court action was filed, it was notice as to lands anywhere in

the state of Oklahoma, not just as to lands in the county where the state court sat. It was notice “to all the world.”⁷ Such broad notice became restricted, as to state court actions, by the passage of Compiled Laws of 1909, §5621,⁸ so that, according to a case decided in 1913,⁹ such statute caused the *lis pendens* notice (arising from filing a petition in state court) to extend only to lands in the county where the state court sat. Consequently, if a state action sought to impact separate non-contiguous tracts of land in different counties, the single action filed in one county did not constitute notice in any other county. Hence, to avoid some interest being conveyed or encumbered affecting the land located in the other (non-court proceeding) county, there had to be either a separate action filed, or a judgment secured and filed as soon as possible, in the other county.¹⁰

During this same period (*i.e.*, pre-1958), based on the common law, federal district court actions constituted *lis pendens* notice solely upon the filing of the action in federal court as to any lands located in any of the counties in its multicounty district.¹¹

During this period (pre-1958), there was a series of federal cases that began to reflect a shift which suggested that the concept of *lis pendens* notice was a rule of property, so that it was to be governed by the laws of the state where the land was located.¹²

1958 to 1977

However, Oklahoma only enacted a statute, requiring or allowing the filing of record a separate *lis pendens* notice in the local county land records, when it enacted the following statute in 1953 (12 O.S. §180.1):

“No action pending in either a state or federal court shall constitute notice with respect to any real property situated outside of the county where said action is on file until such time as a notice of the filing of such action identifying the case and the court in which it is pending, and describing the land affected by the action, is filed in the office of the county clerk where said land is situated.” 12 O.S. §180.1 (emphasis added)

As is evident in this language, the simple filing of the petition in a state or federal court was for the first time, as of 1953 (by state statute), restricted so that it did not serve as *lis*

pendens notice as to any “real property situated outside the county where such action is on file”; this language made it clear that *no separate filing* in the local land records, apart from the petition being filed in the court clerk’s office, was required for either state or federal court, *as to lands situated in the same county as where the state or federal court sat*.

In order to end any question about whether the creation of *lis pendens* notice for federal district courts had to comply with state statutes, 28 U.S.C. Section 1964 was enacted in 1958 (effective Aug. 20, 1958), to provide:

“Where the law of a State requires a notice of an action concerning real property pending in a court of the State to be registered, recorded, docketed, or indexed in a particular manner, or in a certain office or county or parish in order to give constructive notice of the action as it relates to the real property, and such law authorizes a notice of an action concerning real property pending in a United States district court to be registered, recorded, docketed, or indexed in the same manner, or in the same place, those requirements of the State law must be complied with in order to give constructive notice of such an action pending in a United States district court as it relates to real property in such State.” (emphasis added)

The 1953 state statute, 12 O.S. §180.1, remained unchanged until Oct. 1, 1977.

1977 to present

In 1977, 12 O.S. §180.1 was amended (effective October 1, 1977) to require, *inter alia*, for the first time, that a separate *lis pendens* notice instrument be filed of record “in the office of the county clerk where said land is situated.”

Such 1977 version of this statute removed the phrase: “in either state or federal court,” but it was again amended in 1978 to reinsert words expressly making it applicable to both state and federal courts.

Since then, the statute 12 O.S. §180.1 was repealed Nov. 1, 1984, and replaced with 12 O.S. §2004.2 (effective Nov. 1, 1985), with essentially the same provisions, for both state and federal courts.¹³ Consequently, such notice given by *lis pendens* includes knowledge of all the contents of the court file, including but not limited to any orders or judgments.¹⁴

The 1943 federal eminent domain case, discussed above, was initiated in the federal dis-

strict court affecting lands included in one of the counties in its district prior to 1958; consequently, the procedure that was relevant was the “pre-1958” one.

Under the “pre-1958” rules (*i.e.*, such constructive notice covered all lands in any of the counties in the federal district — without any filing in the local county clerk’s land records) — all third parties, acquiring an interest in the subject lands from the then owner, or from subsequent owners, had *lis pendens* notice of the pendency and of the results of that eminent domain action, including whatever the court therein concluded and ordered concerning such taking.

Non-Applicability of the MRTA

An argument might be advanced suggesting that any pre-1958, or pre-1977 interests created by a federal district court case (*i.e.*, a flowage easement in favor of the United States) was an interest that was extinguished by a curative act that the Oklahoma Legislature enacted to dispose of “stale claims.” This 30-year Marketable Record Title Act (which was preceded by a 40-year version), was first adopted in 1963 (collectively referred to herein as the MRTA).¹⁵

The MRTA is intended to facilitate determination of title to real estate and, in order to do so, is designed to extinguish all claims arising prior to the instrument constituting the root of title (a root is explained below). However, for practical and public policy reasons, there is a designated set of outstanding real property interests and liens and encumbrances arising prior to the root instrument (*e.g.*, deed or decree) which are not eliminated.¹⁶

To be a root of title, the instrument must have been the first instrument recorded more than 30 years prior to the date for which a person is determining the ownership of title. In other words, if you are looking at a chain of title in 2012 (*i.e.*, a series of conveyances or decrees), you examine all instruments back for 30 years to 1982, and slowly look further backward in time (one instrument at a time) from that date to locate the first instrument prior to such 30-year date.

Any title claims (*i.e.*, outstanding interests, or liens and encumbrances) which are recorded *after the root* will require release or remediation (such as requiring a quiet title proceeding, mortgage release, conduct of a probate, etc.). Without remediation, the title continues to be

subject to such post-root instrument’s negative impact, such as the threat of a successful challenge to title or a foreclosure.

If a title claim arises *prior to such root*, then, unless it is among the limited list of types of interests, proceedings, or persons expressly exempted from the impact of the MRTA (exempt title claims, discussed below), it is automatically extinguished, as if it never existed (the MRTA is a statute of repose, and not a statute of limitation).¹⁷ Consequently, a subsequent purchaser or encumbrancer takes title free from such potential challenge.

However, as noted above, there is an express list of certain types of pre-root title claims which are exempt from the cleansing effect of the Oklahoma MRTA.¹⁸ The Uniform MRTA was designed as a Uniform Act and was crafted based on the language of several other states’ similar acts adopted before the uniform version was created. However, each state that adopted their version of the Uniform MRTA had to decide whether to adopt the Uniform Act in its entirety without changes, or to choose to exempt certain specific types of interests or certain proceedings and persons (*i.e.*, the exempt title claims) from its effect.

When Oklahoma adopted its version of the Uniform MRTA for use in Oklahoma in 1963, it expressly made certain items exempt from the extinguishing impact of the MRTA (*i.e.*, the exempt title claims). Such exempt title claims were expressly listed in 16 O.S. Section 76(A) as follows:

§76(A). Sections 71 through 80 of this title shall not be applied [1] to bar any lessor or his successor as a reversioner of his right to possession on the expiration of any lease; or [2] to bar or extinguish any mineral or royalty interest which has been severed from the fee simple title of the land; [3] or to bar or extinguish any easement or interest in the nature of an easement, or any rights granted, reserved or excepted by any instrument creating such easement or interest; or [4] use restrictions or area agreements which are part of a plan for subdivision development or [5] to bar any right, title or interest of the United States by reason of failure to file the notice herein required. (numbering and emphasis added)

The interest in question, in the sample case, is a flowage *easement* granted in an eminent domain case running in favor of the *United States*. The eminent domain case was filed in

1943 in the federal court for the Northern District of Oklahoma.

Such type of interest, an “easement,” and the holder of the interest, the “United States,” are expressly exempt from the extinguishing effect of the MRTA, as the Uniform Act was modified and adopted in Oklahoma. Consequently, the MRTA cannot and does not extinguish such disputed flowage easement, even if there was not a *lis pendens* notice filed in the local land records of the county clerk over 30 years ago (*i.e.*, before the root).

CONCLUSION

In conclusion, the rules for the creation of *lis pendens* notice as constructive notice, relating to federal district court actions in Oklahoma affecting real property, have steadily increased the steps needed to impute knowledge to subsequent grantees and encumbrancers. It started as being sufficient (until 1958) for the simple filing of a federal district court action to be sufficient to give *lis pendens* notice as to all lands in such multicounty federal court district. Later, such filing of the federal case alone only gave notice as to lands located in the single county where the federal court was situated (from 1958 to 1977). Currently (post-1977), it is required that a written *lis pendens* notice document be filed in the local county land records, where the subject land is located, to give constructive notice of such proceeding. Because constructive notice arises simply from the filing of the action in federal district court in the earlier periods (*i.e.*, pre-1958, and 1958-1977), the federal district court records for such periods will need to be abstracted, as evidenced by a federal district court certificate, with any court cases that are revealed needing to be examined.

The existing Title Standard No. 30.14, covering “Federal District Court Cases and Bankruptcy” cases provides: “*The absence of certification as to federal district court and bankruptcy court matters should not be deemed a deficiency in the title evidence for the real property under examination.*” A significant revision to this existing Title Examination Standard No. 30.14 (substantially in the form suggested above), is apparently appropriate, because the current version is only accurate as to post-1977 federal district court matters.

The proposed revised Title Examination Standard (set forth above) has been adopted by the Title Examination Standards Committee of

the Oklahoma Bar Association Real Property Law Section at the committee’s Aug. 18, 2012, meeting. The proposed revision is scheduled to be considered by the OBA Real Property Law Section and the OBA House of Delegates at their annual meetings in November 2012.

Comments from other title examiners and other title professionals are solicited by this author.

1. Consideration of this issue by this author was prompted by his involvement as an expert in a recent case involving a 1943 flowage easement taken in an eminent domain action by the United States; the legal research that was undertaken was guided initially by study of a law review article written by attorney Dale Astle, and the supporting authorities cited therein; see Astle, Dale L., 32 *Oklahoma Law Review* 812 (1979), “An Analysis of the Evolution of Oklahoma Real Property Law Relating to *lis pendens* and Judgment Liens.”

2. This author has previously written the following articles concerning some of the series of changes in requirements for giving notice of federal district court proceedings and other federal actions, affecting title to real property in Oklahoma: Epperson, Kraettli Q., *Oklahoma Bar Association Real Property Law Section Newsletter* (Summer 1992), “Local Real Property Filings Required for Federal Matters – or – The Proposed End of ‘Standard 1.3. Federal Court Certificates;’” Epperson, Kraettli Q., 63 *Oklahoma Bar Journal* 2697 (09-30-92), “Local Real Property Recordings Required for Federal Money Judgments;” Epperson, Kraettli Q., 64 *Oklahoma Bar Journal* 3195 (10-23-93), “Federal Money Judgment Liens Under the Federal Debt Collection Procedure Act: A 40-Year Super-Lien”; and Epperson, Kraettli Q., 47 *Consumer Finance Law Quarterly Report* 352 (Fall 1993), “Federal Money Judgment Liens Under the Federal Debt Collection Procedure Act: A 40-Year Super-Lien.”

3. Oklahoma’s three federal district courts are the Northern (Tulsa), Eastern (Muskogee) and Western (Oklahoma City); see PACER for which counties are in each district (www.pacer.gov).

4. Consideration is currently underway to revise Oklahoma’s current Title Examination Standard 30.14 to reflect such new language. The current TES 30.14 was adopted in 2000, and provides:

The absence of certification as to federal district court and bankruptcy court matters should not be deemed a deficiency in the title evidence for the real property under examination.

Authority: 28 U.S.C.A. §1964; 28 U.S.C.A. §1962; 28 U.S.C.A. §3201.

Comment: Title 28 U.S.C.A. §1964 requires *lis pendens* notice as to federal district court actions to be filed in same manner as required by state law, (*i.e.*, with the county clerk where the real property is located), 12 O.S. §2004,2 (A)(1). Title 28 U.S.C.A. §§1962 and 3201 requires any judgment of a federal district court to be filed in the same manner as required by state law to create a lien on real property, (*i.e.*, with the county clerk where the real property is located), 12 O.S. §706; See also 68 O.S. §3401 et seq.

Caveat: The automatic stay of a federal bankruptcy proceeding is not subject to the requirements of Title 28 U.S.C.A. §1964. The automatic stay is generally effective without filing notice and regardless of where the bankruptcy is filed, 11 U.S.C.A. §362(a); See Chapter 34, *infra*, regarding bankruptcy proceedings.

History: The 2000 Title Examination Standards Committee recommended adopting this standard to evidence the fact that the constructive notice aspects of federal court matters are the same for all counties in Oklahoma. 71 OBJ 2629 (2000). The Real Property Law Section approved the committee’s proposal on Nov. 16, 2000, and the House of Delegates adopted the standard on Nov. 17, 2000, 71 OBJ 3136 (2000).

5. See: 16 O.S. §15-16: §15: “Except as hereinafter provided, no acknowledgment or recording shall be necessary to the validity of any deed, mortgage, or contract relating to real estate as between the parties thereto; but no deed, mortgage, contract, bond, lease, or other instrument relating to real estate other than a lease for a period not exceeding one (1) year and accompanied by actual possession, shall be valid as against third persons unless acknowledged and recorded as herein provided. No judgment lien shall be binding against third persons unless the judgment lienholder has filed his judgment in the office of the county clerk as provided by and in accordance with Section 706 of Title 12 [12-706] of the Oklahoma Statutes.”

§16: “Every conveyance of real property acknowledged or approved, certified and recorded as prescribed by law from the time it is filed with the register of deeds for record is constructive notice of the contents thereof to subsequent purchasers, mortgagees, encumbrancers or creditors.”

16 O.S. §31: “Any judgment or decree of a court of competent jurisdiction finding and adjudging the rights of any party to real estate or any interest

therein, duly certified, may be filed for record and recorded in the office of the register of deeds, with like effect as a deed duly executed and acknowledged."

16. See: *Hart v. Pharoah*, 1961 OK 45, ¶25, 359 P.2d 1074 ("The chief purpose of his pendens is to keep the subject matter involved within the power of the court until final judgment is rendered so that such judgment may be effective. *Guaranty State Bank of Okmulgee v. Pratt*, 72 Okl. 244, 180 P. 376."); and *Bowman v. Bowman*, 1949 OK 70, ¶16, 206 P.2d 582 ("The filing of the petition of the plaintiff herein was sufficient to charge the world with notice that the land involved was in litigation, and the above-quoted statute clearly states that no interest could be acquired therein by third parties pending litigation.")

7. See *Astle, Dale L.*, 32 *Oklahoma Law Review* 812, P. 813, "An Analysis of the Evolution of Oklahoma Real Property Law Relating to *lis pendens* and Judgment Liens."

8. §5621: "When the petition has been filed, the action is pending, so as to charge third parties with notice of its pendency, and while pending no interest can be acquired by third persons in the subject matter thereof as against the plaintiff's title; but such notice shall be of no avail unless the summons be served or the first publication made within 30 days after the filing of the petition."

9. *Orton v. Citizens State Bank*, 1929 OK 332, ¶0, 291 P.15 ("The statutes of this state failing to allow the filing of a notice *lis pendens* in counties other than the one where the action is brought, an action, brought to recover real estate consisting of separate and distinct noncontiguous tracts situate in different counties, will affect only the tract or tracts situated in the county where the action is pending so as to charge a purchaser *pendente lite*, who is not a party to the action, with notice under the provisions of section 260, C. O. S. 1921.")

10. *Id.*

11. *Tilton v. Cofield*, 93 U.S. 163 (1876), p.168 ("The law is that he who intermeddles with property in litigation does it at his peril, and is as conclusively bound by the results of the litigation, whatever they may be, as if he had been a party to it from the outset."); see, *City of Mankato v. Barber Asphalt Paving Co.*, 142 F. 329, 341 (8th Cir. 1905), relying on *Tilton*; see also *Stewart v. Wheeling & Lake Erie Ry.*, 53 Ohio St. 151, 157, 41 N.E. 247 (1895) ("A suit brought in a federal court to foreclose a mortgage on the property of a railroad corporation operates as constructive notice throughout the district, and all persons acquiring an interest in or lien on any part of the property during the pendency of the suit will be bound by the decree and sale made thereunder.")

12. *Erie R.R. v. Thompkins*, 304 U.S. 64, 78 (1938) ("Except in matters governed by the Federal Constitution or by acts of Congress, the law to be applied in any case is the law of the state."); *United States v. Calcasieu Timber Co.*, 236 F. 196, 198 (5th Cir. 1916) ("It is well settled that the acquisition and ownership of real estate and all the means by which the title to it is transferred from one person to another, whether by deed, by will or descent, or by judicial proceedings, and the construction and effect of all instruments intended to convey it, are governed exclusively by the laws of the country or state in which the property is situated, and that such laws of the several states, being rules of property, are binding upon and are to be applied by the federal courts.")

13. 12 O.S. §2004.2: A. Upon the filing of a petition, the action is pending so as to charge third persons with notice of its pendency. **While an action is pending, no third person shall acquire an interest in the subject matter of the suit as against the prevailing party's title; except that:**

1) As to actions in either state or federal court involving real property, such notice shall be effective from and after the time that a notice of pendency of action, identifying the case and the court in which it is pending and giving the legal description of the land affected by the action, is filed of record in the office of the county clerk of the county wherein the land is situated; and

2) Notice of the pendency of an action shall have no effect unless service of process is made upon the defendant or service by publication is commenced within one hundred twenty (120) days after the filing of the petition.

B. Except as to mechanics and materialman lien claimants, any interest in real property which is the subject matter of an action pending in any state or federal court, acquired or purported to be acquired subsequent to the filing of a notice of pendency of action as provided in subsection A of this section, or acquired or purported to be acquired prior to but filed or perfected after the filing of such notice of pendency of action, shall be void as against the prevailing party or parties to such action.

C. No person purporting to acquire or perfect an interest in real property in contravention of this section need be given notice of a sale upon execution or of hearing upon confirmation thereof.

14. It should be noted that according to the sixth syllabus of *Wilkin v. Shell Oil Company*, 10th Cir., 1951, 197 F. 2d 42, 43, as quoted in *Hart v. Pharoah*, 1961 OK 45, ¶27: "Generally, under Oklahoma law, *lis pendens* continues through time within which appeal, writ of error, or other action may be taken to review judgment."

15. 16 O.S. Sections 71 to 79.

16. 16 O.S. §76(A).

17. *Mobbs v. City of Lehigh*, 1982 OK 149, 655 P.2d 547.

18. 16 O.S. §76(A).

ABOUT THE AUTHOR



Kraettli Q. Epperson graduated from OU (B.A., political science, 1971), and from OCU (J.D., 1978). He is a partner of Mee Mee Hoge & Epperson in Oklahoma City, and focuses on mineral and real property litigation (arbitration, lien priorities, ownership, restrictions, title insurance and condemnation issues) and commercial real property acquisitions. He teaches Oklahoma land titles at OCU School of Law and serves as chair of the OBA Title Examination Standards Committee.

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Taxation Law Section

2012 Oklahoma Tax Legislation

By Sheppard F. Miers Jr.

Legislation enacted in the 2012 session of the Oklahoma Legislature included changes described below, which are some of the new Oklahoma state laws on taxation.

INCOME TAX

Oklahoma Capital Investment Board Credits

The allowance of transferrable income tax credits purchased from the Oklahoma Capital Investment Board was extended from July 1, 2015, to July 1, 2020. Credits purchased under a commitment made prior to Dec. 31, 1995, may be exercised after July 1, 2020. SB 1159, amending 74 O.S. 2011, §5085.7; effective June 8, 2012.

Income Tax Refund Intercept; Child Support

The procedure for individual income tax refunds to be reduced by debts sought to be collected by a state agency, municipal court or district court was amended to provide for claims filed by the Department of Human Services for collection of child support and spousal support shall have priority. The tax commission shall provide electronic notice to the Department of Human Services of amounts withheld from a refund, and the contact information for the taxpayer. SB 1471, amending 68 O.S. 2011, §205.2; effective Nov. 1, 2012.

Income Tax Reporting

The frequency of report filing related to income tax withholding was modified to be quarterly. The timing of penalty for failure to pay income tax withheld was modified. HB 2576, amending 68 O.S. 2011, §§2385.3, 2385.6; effective July 1, 2012.

Income Tax Refund Checkoffs

The income tax refund charitable contribution checkoffs were reauthorized for the Oklahoma CASA Association for Court Appointed Special

Advocates, Oklahoma National Guard Relief Program and Oklahoma Regional Food Banks. SB 1071, amending 68 O.S. 2011, §§2368.12, 2368.14, 2368.16; effective Nov. 1, 2012.

Firefighter Training Credit

The training requirements for qualification for the income tax credit for firefighter training was modified. HB 1835, amending 68 O.S. 2011, §2358.7; effective Nov. 1, 2012.

SALES AND USE TAX

Nonprofit Exemption

The Oklahoma sales tax exemption for non-profit organizations was changed to prohibit a person from claiming a sales tax exemption granted to the organization for a purchase made for personal use. HB 2510, adding 68 O.S. Supp. 2012, §1356.2; effective Nov. 1, 2012.

Direct Payment Permit Liability

The sales and use tax liability of companies that hold a direct payment permit was modified. No sales or use tax shall be due on tangible personal property held by such a permit holder in the state for use in other states or for fabrication, repair or performance of certain other services. SB 1465, amending 68 O.S. 2011, §1364.1; effective May 9, 2012.

Aircraft Repair

The sales tax exemption for machinery and equipment used in the repair of aircraft was modified. SB 1465, amending 68 O.S. §1357; effective May 9, 2012.

Sales Tax on Vessels

The Oklahoma sales tax was amended to subject retail sale of canoes and paddle boats to sales tax. Canoes and paddle boats were exempted from vessel registration. HB 3093, amending 68 O.S. 2011, §1354; effective July 1, 2013.

AD VALOREM TAX

Intangible Property Exemption-State Question

An amendment of Section 6A, Article 10, of the Oklahoma Constitution will be submitted to the voters at the November 2012 general election to exempt all intangible property from ad valorem tax. The change would apply to all tax years beginning on and after Jan. 1, 2013. Senate Joint Resolution 52, State Question 766.

Homestead Exemption

The maximum qualifying income for qualification for a \$2,000 exemption by a resident of the state domiciled in the state for the entire year who owns and resides in a manufactured home located on land not owned by such owner of the manufactured home was increased. SB 1449, amending 68 O.S. 2011 §2949; effective Jan. 1, 2013.

Livestock Exemption

The ad valorem tax exemption for livestock used in the support of the family was amended to include certain business relationships, including livestock ownership by a partnership, corporation, limited liability company, estate, trust or entity whose primary purpose is to confer economic benefits on family members. HB 3110, amending 68 O.S. 2011, §2807.1; effective Jan. 1, 2013.

Ad Valorem Tax Administration

Procedures were established for release of documents to be used for appraisal and valuation purposes, allowing use and return of copies of taxpayer filings by appraisers appointed by (or assigned by the tax commission to) a county assessor. HB 2648, amending 68 O.S. 2011, §2826; effective Nov. 1, 2012.

County Board of Equalization Appeal Procedure

Taxpayers are to be allowed to appear at an ad valorem tax protest hearing by telephone or other electronic means. Communications between the county board of equalization and county officials are to be limited as to matters related to a pending appeal before the board, with certain exceptions. HB 2648, amending 68 O.S. 2011, 2877; effective Nov. 1, 2012.

BUSINESS ACTIVITY TAX

Business Activity Tax Extension

The Oklahoma business activity tax in lieu of ad valorem tax on intangible personal property and related provisions were extended through tax year 2013. SB 1436, amending 68 O.S. 2011, §§1218, 1219, 1222, 1225; effective Nov. 1, 2012.

Business Activity Tax Revocation

The Oklahoma business activity tax will cease to apply for tax years beginning after Dec. 31, 2012, if voters approve of SJR 52, State Question 766, to amend Section 6A, Article 10, of the Oklahoma Constitution to exempt all intangible property from ad valorem tax. SB 1436, amending 68 O.S. 2011, §1228; effective Nov. 1, 2012.

TAX ADMINISTRATION AND PROCEDURE

Tax Commission Business Closures

The Oklahoma Tax Commission was authorized to close the business of a noncompliant taxpayer, subject to administrative and judicial appeal procedures if the taxpayer fails to file three (3) reports or remit taxes due for any three (3) months. SB 1984, adding 68 O.S. Supp. 2012, §1368.3; effective Nov. 1, 2012.

Tax Commission Refund Intercept

The Oklahoma Tax Commission will be allowed to intercept tax refunds for debts or judgments to a public housing authority. SB 1019, amending 68 O.S. 2011, §205.2; effective Nov. 1, 2012.

ECONOMIC DEVELOPMENT INCENTIVES

Oklahoma Quality Jobs Program Act

The definition of a “basic industry” for qualification for Oklahoma Quality Jobs Program Act incentive payments was amended to add and delete certain business classifications. The act was amended to provide that a qualifying business establishment that has filed at least one (1) claim for incentive payments under the act but fails to file another claim within two (2) years may be dismissed from the program forfeiting its right to receive incentive payments. SB 1235, amending 68 O.S. §§3601, 3606; effective Nov. 1, 2012.

TAX LEGISLATION PROPOSALS NOT ENACTED

Oklahoma Income Tax Reduction

The Legislature did not enact reductions of the Oklahoma income tax proposed by the governor and leaders in the Legislature. Proposed bills advocated by the governor and leadership of the Legislature would have reduced individual income tax rates and eliminated certain income tax deductions or credits to make rate reductions revenue neutral to the state. Another version proposed would have included "triggers" to reduce the individual income tax when state revenues from specified tax sources increased above a stated threshold.

Independent Tax Hearings Office

The Legislature did not enact the Oklahoma Bar Association's proposed legislation to create a state tax protest hearings office independent of the Oklahoma Tax Commission. The OBA proposed bill is from a model act published and endorsed by the Tax Section of the American Bar Association. Georgia and Illinois enacted this form of legislation in 2012.

Author's note: The author acknowledges information, guidance and assistance he received on the topic of this article from Alicia Emerson, senior policy analyst, research division, Oklahoma Senate.

ABOUT THE AUTHOR



Sheppard F. Miers Jr. is a shareholder in the Tulsa office of Gable & Gotwals and practices in the areas of federal and state taxation.

FREE CLE

An Introduction to Practice: The United States Bankruptcy Court, Chapter 7

Hours of CLE: The course offers fifteen (15) hours of continuing legal education credit upon its completion, including two (2) hour of ethics.
Thursday, November 1, 2012 and Friday, November 2, 2012 and Wednesday, December 19, 2012 and Thursday, December 20, 2012

An Introduction to Practice: The United States Tax Court

Hours of CLE: The course offers six and one half (6 ½) hours of continuing legal education credit upon its completion, including one (1) hour of ethics.
Wednesday, November 28, 2012

An Introduction to Practice: The United States Bankruptcy Court, Chapter 13

Hours of CLE: The course offers six and one half (6 ½) hours of continuing legal education credit upon its completion, including one (1) hour of ethics.
Monday, December 17, 2012

An Introduction to Practice: The United States Court of Federal Claims and United States District Court, Filing Claims and Suits for Refund of Overpayments

Hours of CLE: The course offers six and one half (6 ½) hours of continuing legal education credit upon its completion, including one (1) hour of ethics.

Friday, December 21, 2012

Location: The Oklahoma Bar Association — 1901 N. Lincoln Blvd.
Oklahoma City, OK 73105 • Phone: 405-416-7000

CLE Credit: These courses have been approved by the Oklahoma Bar Association Continuing Legal Education Commission for mandatory CLE credit.

Tuition: These CLE courses and their accompanying materials are free. Attendees are not required to make a contribution of volunteer time or money. This course is sponsored by the Low Income Taxpayer Clinic at Oklahoma Indian Legal Services, Inc.

Cancellation Policy: Cancellations will be accepted at any time.

Enrollment: Call 1.800.658.1497 (toll free) or 405.943.6457 and request course enrollment.

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Oklahoma Mortgage Settlement Fund

OBA Partners with State Attorney General to Assist Victims

Oklahomans who encounter mortgage-related legal challenges are the focus of a newly announced partnership between the OBA and Oklahoma Attorney General Scott Pruitt. The combined effort is designed to help families navigate mortgage and foreclosure issues, with the goal of keeping more people in their homes.

**Visit www.oag.state.ok.us
to learn more about the
Oklahoma Mortgage Settlement Fund**

The OBA has been approved for grants from the Oklahoma Mortgage Settlement Fund, which will provide training for Oklahoma lawyers on mortgage, foreclosures and related legal issues. Grant funds will also assist the OBA Office of General Counsel in identifying and prosecuting unlicensed individuals who are offering unauthorized legal advice related to foreclosures.

The Oklahoma Mortgage Settlement Fund was established in February 2012 to provide justice and compensation to Oklahomans who were harmed by unfair banking practices during a mortgage modification or foreclosure process. A group of five national mortgage servicers settled claims of deceptive and misleading practices by providing a direct cash payment of \$18.6 million to Oklahoma.

Much of those funds will be distributed directly to families that have already lost their homes through the foreclosure process, but some funds will be distributed as grants to partnering agencies and associations. Among other grants, the OBA will receive \$50,000 to assist in its efforts to stop those who attempt to practice law without a license.

"The bar association receives complaints every day from Oklahomans who have been scammed by individuals pretending to be lawyers offering mortgage assistance and expertise," OBA President Cathy Christensen said. "Many of these homeowners do not realize they have been defrauded until it is too late and they have lost their homes. This grant will add resources to the Unauthorized Practice of



The Oklahoma attorney general answers questions during a recent press conference announcing the new partnership. Also attending were a Tulsa couple who were the first to receive compensation from the Oklahoma Mortgage Settlement Fund. From left: OBA President Cathy Christensen, Oklahoma Attorney General Scott Pruitt, homeowners Zachary Zuniga, Melissa Zuniga and OBA General Counsel Gina Hendryx.

Law Initiative and make it easier to investigate and prosecute these crimes.”

Many Oklahomans, including hundreds of military servicemembers and their families, will benefit from this partnership. A portion of the grant funds will be used through the Oklahoma Lawyers for America’s Heroes program to identify servicemembers past and present who qualify for the attorney general’s program.

The Heroes Program offers no-cost legal assistance to qualified military members and veterans on a wide variety of legal issues. Under the partnership with the Attorney General’s Office, the OBA will quickly identify assistance requests dealing with foreclosures or modifications, and those homeowners will be referred to the Office of Attorney General for qualification into a voucher program.

Continuing legal education seminars aimed at training lawyers to provide mortgage-related assistance to qualified applicants are scheduled for December and March.

The Oklahoma Lawyers for America’s Heroes program was launched in 2010 to offer one-on-one legal advice and assistance to Oklahomans who have honorably served our country and otherwise cannot afford or don’t have access to the legal services they need. Since its beginning, volunteer lawyers have donated nearly \$2 million in free legal services to more than 1,600 heroes.

For more information or to sign up to volunteer, visit www.okbar.org/heroes or call 405-416-7000; toll free 800-522-8065.

**THE ANNUAL BUSINESS MEETING OF THE
OBA FINANCIAL INSTITUTIONS AND COMMERCIAL LAW
SECTION**

**TO BE HELD ON
THURSDAY, NOVEMBER 15, 2012 AT 4:00 PM**

HAS BEEN MOVED TO

**THE COX CONVENTION CENTER, ROOM 11
(ACROSS THE STREET FROM THE SHERATON HOTEL)**

RECEPTION IMMEDIATELY FOLLOWING

OBA Voter Education Initiative Praised: www.CourtFacts.org

By Lori Rasmussen

Election Day 2012 will soon be in the history books, and OBA members can take great pride in the association's efforts to educate voters about the third branch of government and the importance of a fair and impartial judiciary.

In early October, the OBA launched Courtfacts.org, a website dedicated to providing accurate, nonpartisan information related to this year's retention ballot. The site explains how the merit retention process works while offering background information about the four state Supreme Court justices and eight appellate judges on the ballot.

OBA President Cathy Christensen of Oklahoma City identified law-related education outreach as one of her top priorities during her presidential year, and the ability to reach an engaged public during an election year presented a unique opportunity to share important information about our legal system.

"Oklahomans have been bombarded with information related to the elections," President Christensen said. "Some interest groups may have been using the retention ballot to promote their own agendas. Our intent in creating Court Facts was to provide voters accurate, nonbiased information — just the facts. I trust our voters to make up their own minds."

The site was discussed in multiple news articles featured in newspapers and online blogs across the state. An editorial in the Oct. 5, 2012, *Tulsa World* praised the site:

The courts are open to everyone, and judges, by oath, are duty-bound to follow the law ... Enter the Oklahoma Bar Association, which has announced a website to provide voters with information about four Supreme Court and seven appellate judges on the Nov. 6 ballot.



The CourtFacts digital billboard towers over the Hefner Parkway in Oklahoma City.

In addition to positive media coverage, a digital billboard was purchased in high-traffic areas in both Oklahoma City and Tulsa. Thousands of drivers are seeing the billboard every day during the last weeks before the election, and the number of hits to the website have spiked. So far, nearly 17,000 visitors have viewed the site, and the number is expected to go even higher as the Nov. 6 election draws to a close.

"Our goal is to make sure voters are aware that our independence depends on judicial independence," President Christensen said. "A well-informed citizenry is the basis of strong and well-functioning democracy, and as a bar association, it is part of our mission to provide information untainted by political influence. I am very proud of our efforts in that area this year."

The website will remain available through the Nov. 6 election. OBA members are encouraged to share the site with their family, friends, colleagues or anyone who may have questions about this year's retention ballot.

Ms. Rasmussen is an OBA communications specialist.

The Seven Deadly Sins of Legal Writing

By Theodore L. Blumberg

Reviewed by Erin L. Means

Writing pervades nearly every aspect of lawyering. Whether writing letters, memoranda, contracts, briefs, estate documents or otherwise, lawyers write to further the interests of their clients in a variety of contexts. In his book, *The Seven Deadly Sins of Legal Writing*, author Theodore L. Blumberg addresses common problems found in the mechanics of legal writing and provides an easy, bite-sized refresher for lawyers in any practice area to “clean up” their writing.

The author is a practicing attorney in New York and a frequent lecturer at legal writing seminars. He begins his book by detailing some of the more egregious errors in legal writing, particularly the use of obscure, antiquated language and legalese. He urges lawyers to write in plain English and with precise clarity.

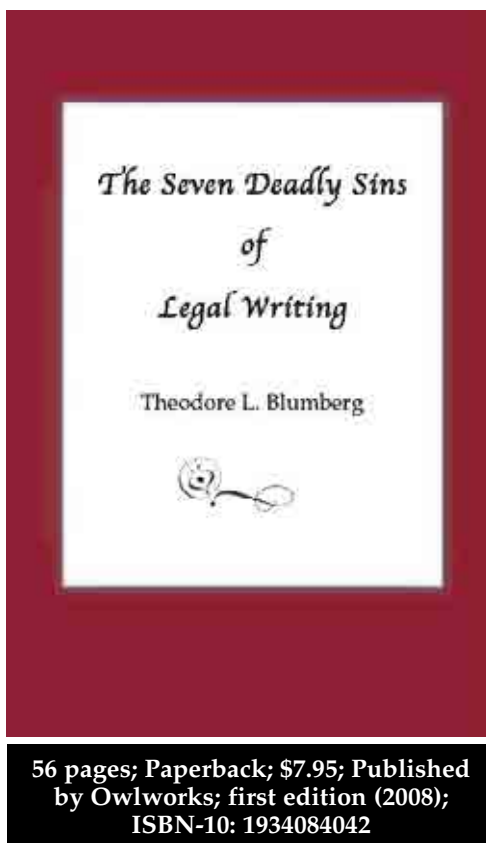
The book, which is under 60 pages, consists of seven short chapters, each addressing a different “deadly sin.” The deadly sins are writing practices that create cluttered, opaque and convoluted legal prose that consist of “passivity, abstraction, adverbage, verbosity,

redundancy, speaking footnotes and negativity.”

Each chapter explains the “deadly sin” it addresses, provides examples of it in context, and provides straightforward advice for the reader to correct or improve the problem. The book also contains short exercises aimed at each sin that allow the reader to practice the author’s suggestions for correcting it.

The Seven Deadly Sins of Legal Writing serves as an excellent reminder that lawyers write not to fill space on a page, but rather to achieve a purpose. Regardless of the lawyer’s purpose — letter regarding status of a case, a motion asking for a decision on a contested issue, a brief advocating for a certain

result for a client or a contract regulating the behavior of two or more parties — the more clearly, concisely and comprehensibly a lawyer writes, the better the reader will receive the information contained in the writing. *The Seven Deadly Sins of Legal Writing* functions as an excellent and quick resource to achieve that aim.



56 pages; Paperback; \$7.95; Published by Owlworks; first edition (2008); ISBN-10: 1934084042

Call to Action: Volunteers Needed to Serve on OBA Committees

I am excited about the coming year and the opportunity to serve as your president in 2013. But I need your help to accomplish my goals for the association. The work of OBA committees is incredibly important. I'm a small firm lawyer in Shawnee and realize the sacrifice of time out of the office, but I can honestly say the opportunities for networking and service make it worthwhile.

Look over the committee list below. There has to be at least one that interests you. Make the commitment and get involved. Remember if you live in the Tulsa metro that videoconferencing connects you with other committee members at the bar center in Oklahoma City.

Signing up online at www.okbar.org is easy. Find the "Join a committee" link inside the "Get Involved" box at the bottom. Or if you still love paper, complete this form and either fax or mail it to the OBA. I'll start making committee appointments soon, so please let me hear from you by **Dec. 3, 2012**.


Jim Stuart, President-Elect

Standing Committees

- | | | |
|-------------------------------------|--|---|
| • Access to Justice | • Diversity | • Paralegal |
| • Awards | • Group Insurance | • Professionalism |
| • Bar Association Technology | • Law Day | • Rules of Professional Conduct |
| • Bar Center Facilities | • Law-related Education | • Solo and Small Firm Conference Planning |
| • Bench and Bar | • Law Schools | • Strategic Planning |
| • Civil Procedure and Evidence Code | • Lawyers Helping Lawyers Assistance Program | • Uniform Laws |
| • Communications | • Legal Intern | • Women in Law |
| • Disaster Response and Relief | • Legislative Monitoring | • Work/Life Balance |
| | • Member Services | |
| | • Military Assistance | |

Note: No need to sign up again if your current term has not expired. Check www.okbar.org/members/committees/ for terms

Please Type or Print

Name _____ Telephone _____

Address _____ OBA # _____

City _____ State/Zip _____

FAX _____ E-mail _____

Committee Name

1st Choice _____

2nd Choice _____

3rd Choice _____

Have you ever served
on this committee?

☐ Yes ☐ No

☐ Yes ☐ No

☐ Yes ☐ No

If so, when?
How long?

■ Please assign me to ☐ one ☐ two or ☐ three committees.

Besides committee work, I am interested in the following area(s):

Mail: Jim Stuart, c/o OBA, P.O. Box 53036, Oklahoma City, OK 73152

Fax: (405) 416-7001



Annual Meeting Highlights

See You at Homecoming!

By Cathy Christensen

"See you at Homecoming" is the perennial phrase of fall! I write this article on Sunday afternoon of homecoming weekend for OSU, OU, TU and many state high schools. Homecoming is a great time to see old friends, make new friends and enjoy the tradition and pageantry! This year's OBA Annual Meeting HOMECOMING 2012 will offer a similar opportunity to enjoy the friendship and collegiality of fellow OBA members and the judiciary. I invite everyone to "come home" for our annual gathering to socialize, network, learn, elect new leaders and conduct the important business that guides our association.

Five CLE tracks will be offered on Wednesday: Family Law, Criminal Law, Sports Law, Nuts and Bolts, and Recent Developments. The Family Law, Criminal Law and Recent Development tracks will repeat the tradition of undefeatable CLE! Sports law is a new addition this year. This track will explore the legal issues behind bringing a professional sports team to the state (*Thunder in the Court*); working with the NCAA (*OU and Georgia vs. NCAA: We Let the Tiger Loose!*); and insights into the thrills of sports agency (*The World of Sports Agency*).

Thursday's Plenary Session "Go for the Gold: How We Select Our Judges" offers several first-ever events. The Oklahoma Justice Commission, created in 2011 by Past Presidents Conger and Reheard, is dedicated to preventing wrongful convictions in light of a growing number of individuals across the United States who were convicted of crimes and later exonerated through DNA evidence. Commission Chairman and former Attorney General Drew Edmondson will present the *Commission's Recommendations* for improvements in Oklahoma's criminal justice system. Mr. Bob Burke, will present *A Historical Look at Court Reform of the 1960s* explaining the x's and o's behind the creation of the

Judicial Nominating Commission. Past President Deborah Reheard will moderate a panel discussion with members of the Judicial Nominating Commission and the Oklahoma Council on Judicial Complaints. It is not locker room revelation, but it will explain the nonpartisan processes in determining the best applicants for the governor's selection of justices and judges.



Social events will include the President's Tailgate Party on Wednesday night. Wear your favorite team colors, cheer on the Thunder on two big screens and enjoy some great tailgate fixin's! On Thursday night, dust off your old letter jacket or poodle skirt and enjoy a Sock Hop to the tunes of Dave and the Wavetones, an Oklahoma favorite. The YLD will offer a celebration of their own at the Sock Hop and recognize YLD leaders of years gone by — a YLD Homecoming Court of past leaders. It will be an unforgettable good time! Dress for the occasion, and you may take home first place in the costume contest!

Our generous sponsors will provide several "Timeout" opportunities for refreshments and snacks where members can rest and rejuvenate before going back into the CLE game. After a cup of coffee, a snack and a short break, OBA members will say, "Put me in coach, I'm ready to play," and return to the CLE classroom or the courtroom.

It won't be Homecoming without you! If you haven't done so already, go to the website www.amokbar.org for the agenda of Team OBA's Homecoming and register online.

Sheraton Room Block Closed, Other Hotel Options Available

As we hurtle toward Annual Meeting, hotels are booking up! Rooms at the Sheraton for Wednesday, Nov. 14 are no longer available, but there are several other hotels in the area that still have vacancies. Remember, there is a Thunder game that Wednesday evening, so the rest of the hotels will book up quickly! DO NOT WAIT to make your hotel reservations; we don't want you to miss out!



Hotels in Downtown Oklahoma City:

Renaissance Hotel

10 N. Broadway; Oklahoma City, OK
405-228-8000

Skirvin Hotel

1 Park Ave; Oklahoma City, OK
405-272-3040

Courtyard Marriott

2 W. Reno Ave.; Oklahoma City, OK
405-232-2290

Colcord Hotel

15 N. Robinson; Oklahoma City, OK
405-601-4300

Hampton Inn

300 E. Sheridan Ave; Oklahoma City, OK
405-232-3600

Residence Inn

400 E. Reno Ave; Oklahoma City, OK
405-601-1700

Hotels in Midwest City (ten-minute drive from Downtown OKC):

Hampton Inn

1833 Center Drive; Midwest City, OK
405-732-5500

Hawthorn Suites

5701 Tinker Diagonal; Midwest City, OK
405-737-7777

Sheraton Hotel

5750 Will Rogers Rd; Midwest City, OK
405-455-1800

Best Western Plus Midwest City Inn and Suites

6701 Tinker Diagonal; Midwest City, OK
405-737-6060

Holiday Inn Express

1700 S. Sooner Rd.; Midwest City, OK
405-736-1000

Comfort Inn

5653 Tinker Diagonal; Midwest City, OK
405-733-1339

Parking

If you are unable to find a room downtown and must drive from your hotel, please make sure you come early. With the Thunder taking on the Grizzlies, the already-limited downtown parking will fill up quickly! Valet parking at the Sheraton will be available for \$25; and nearby parking garages can be found at 119 W. Main St. and 2 Santa Fe Plaza in downtown Oklahoma City. There is also a limited amount of free parking in nearby Bricktown.

Frank Deford and Bob Burke Book Signing



Frank Deford

Immediately following Thursday's Annual Meeting Luncheon, authors Frank Deford and Bob Burke will be signing books in the Kiamichi Room. Sports commentator, author and Annual Luncheon speaker, Mr. Deford, has authored 16 books including *Bliss*, *Remembered* and *Everybody's All-American*. Oklahoma attorney and author Bob Burke practices workers' compensation law in Oklahoma City. He has written 106 nonfiction books, more than any other author in history. Mr. Burke is the 9:15 a.m. Plenary speaker on Thursday. Mr. Deford's and Mr. Burke's books — along with *Big League City*, written by Wednesday's Sports Law Track speaker, Sen. David Holt — will be available for purchase at the book signing.



Bob Burke

Sock Hop Costume Contest

Thursday's At the Hop sock hop reception is sure to be a hoppin' good time! Nostalgia isn't the only reason to dust off your old letter jackets and poodle skirts — best-dressed will take home first place in our costume contest! While you're at it, you may want to dust off your dance moves as well. Okla-



homa band, Dave and the Wavetones, will rock the crowd during the event. The Young Lawyers Division will offer a celebration of their own at the sock hop, where they will recognize YLD leaders of years gone by.

Annual Meeting App Coming Soon

Keep an eye out for the Annual Meeting smartphone app! This app allows you to see the entire Annual Meeting schedule by day, by track, by topic and by speaker. You can even create your own schedule so you won't miss your favorites. Add your contact information in the *Contact* area to make new friends or reconnect with old ones. Use your *Notes* to jot down ideas or events. Check out speaker bios, tweet to your friends or post comments on the Annual Meeting Facebook page. Check out our sponsors and exhibitors, and link to their websites to learn more about them. You can also check your *Messages* for notifications of what's happening during the meeting. The app will be available for Apple and Android devices. Keep checking www.okbar.org to find out when the app will officially be launched!



Annual Luncheon Seats Limited

With sports writer, commentator and novelist Frank Deford giving the Annual Luncheon address, it's no wonder seats are filling up! Mr. Deford's topic

for the luncheon will be "Sports: The Hype and the Hypocrisy." In his speech, Mr. Deford will provide a look at the sports industry from multiple angles. Using personal anecdotes gathered from a lifetime of writing and reporting about sports and sports personalities, he will give a behind-the-scenes look at the industry. OBA awards will also be presented during the luncheon. Immediately following, Mr. Deford will autograph books, and his books will be available for purchase. The Annual Luncheon will take place from noon to 1:45 p.m. Thursday, Nov. 15. Cost to attend is \$35. Register today, as seating is very limited!

What does your registration fee include?

What better place to show your team spirit than in the hub of Oklahoma City? OBA Homecoming will be held at the downtown Sheraton Hotel, just blocks away from the OKC Thunderdome. In addition to the President's Tailgate Party and At the Hop, your registration fee includes a continental breakfast in the hospitality area Wednesday morning, Thursday "Time Out" in the hospitality area, book signings by renowned sports writer Frank Deford and Oklahoma author Bob Burke, convention gift and Vendors Expo.

Online Registration Closes Nov. 9 at 5 p.m.

Procrastinators, beware! Online registration will close at 5 p.m. Nov. 9. After that time, we will take walk-in registrants only. Until Nov. 9, you can register for all homecoming events using the Annual Meeting registration form and submitting it by mail or by fax, or register online at www.amokbar.org.

Sponsors

Super Bowl

- ★ Beale Professional Services
- ★ OBA Litigation Section
- ★ Oklahoma Attorneys Mutual Insurance Co.

Major League

- ★ OBA Criminal Law Section
- ★ OBA Young Lawyers Division

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- ★ OBA Family Law Section
- ★ CoreVault
- ★ OBA Law Office Management and Technology Section
- ★ Law Pay
- ★ OBA Labor and Employment Law Section
- ★ GableGotwals
- ★ Imprimatur Press





Program of Events

Sheraton Oklahoma City ♦ Nov. 14-16, 2012

All events will be held at the Sheraton Oklahoma City Hotel unless otherwise specified.

TUESDAY, Nov. 13

OBA Registration..... 4 – 7 p.m.
Sheraton Lobby

Oklahoma Fellows of the
American Bar Foundation7 – 9 p.m.
Crystal Room
Skirvin Hilton Hotel
1 Park Ave.

OBA Indian Law Section..... 11 a.m. – Noon
Green Country Room

OU College of Law
Alumni Reception
and Luncheon..... 11:30 a.m. – 1:30 p.m.
Colcord Hotel
Terrace Ballroom

Outstanding Senior Law School Student Award

Ashley L. Powell
University of Oklahoma College of Law

WEDNESDAY, Nov. 14

Oklahoma Fellows of the American
Bar Foundation.....7:30 – 9 a.m.
Kiamichi Room

OBA Registration..... 8 a.m. – 5 p.m.
Mall Pavillion

"Timeout" Hospitality..... 8 a.m. – 5 p.m.
Mall Pavillion

Board of Bar Examiners.....8:30 a.m. – Noon
Frontier Room

OBA/CLE Seminar.....8:30 a.m. – Noon

*See seminar program for speakers
and complete agenda*

Sports Law Plaza North Ballroom
Recent Developments 20th Century Ballroom
Criminal Law 19th Century Ballroom
Family Law 18th Century Ballroom

OBA Criminal Law Section
Luncheon Noon – 1:30 p.m.
Petroleum Club
35th Floor

Speaker:



Andrew Vachss,
Child advocate attorney
and best-selling author
New York City

TOPIC: *Child Advocacy in the
Criminal Justice System*

TU College of Law
Alumni Luncheon..... Noon – 1:30 p.m.
Red Carpet Room

Outstanding Senior Law School Student Award

*Rachel Jones,
University of Tulsa College of Law*

OCU School of Law
Alumni Luncheon..... Noon – 1:30 p.m.
*Devon Tower
50th Floor
North Ballroom*

Outstanding Senior Law School Student Award

*Joshua A. Rummel
Oklahoma City University School of Law*

OBA Board of Governors Meeting..... 2 – 4 p.m.
Kiamichi Room

OBA/CLE Seminar..... 2 – 5 p.m.

*See seminar program for speakers
and complete agenda*

Nuts and Bolts *Plaza North Ballroom*
Recent Developments *20th Century Ballroom*
Criminal Law and
Family Law Joint Session *19th Century Ballroom*

OBA Board of Editors..... 3:30 – 5 p.m.
Boardroom

Friends of Bill W. 5 – 6 p.m.
Great Plains Room

OBA YLD Board of Directors
Annual Meeting 5 – 6 p.m.
Suite 308

OBA YLD Friends and
Fellows Reception 5:30 – 7 p.m.
Red Carpet Room

**President's Tailgate Party..... 7 – 9:30 p.m.
Century Ballroom**

**(Free for everyone
with meeting registration)**

SUPER BOWL SPONSOR:
Beale Professional Services

SPONSOR: OBA Labor and Employment Law
Section

SPONSOR: OBA Litigation Section

*Celebrate the Annual Meeting Oklahoma style
with President Cathy Christensen.
Each attendee receives two drink tickets.
Wear your favorite sports team attire.*

Past Presidents' Dinner 8 – 10 p.m.
*Petroleum Club
36th Floor*

THURSDAY, Nov. 15

OBA Lawyers Helping Lawyers
Assistance Program
Committee Breakfast
and Fellowship Meeting..... 7:30 – 9 a.m.
Kiamichi Room

American College of Trial Lawyers... 8 – 9:30 a.m.
Red Carpet Room

American College of Trust
and Estate Counsel 8 – 9:30 a.m.
Great Plains Room

OBA Section Council..... 8 – 9:30 a.m.
Frontier Room

"Timeout" Hospitality 8 a.m. – 5 p.m.
Mall Pavillion

OBA Registration 8 a.m. – 5 p.m.
Mall Pavillion

Annual Insurance, Tort &
Workers' Compensation
Update 8:30 a.m. – 4 p.m.
Cox Center, Room 3
*(Program offered by the Oklahoma
Association for Justice)*

OBA Family Law Section 8 a.m. – 5:15 p.m.
Emerson Hall
Oklahoma Bar Center
1901 N. Lincoln Blvd.

Speakers:



**Professor Emeritus
Robert G. Spector,
University of
Oklahoma
Norman**

TOPIC: *Recent Developments in Family Law and
Unpublished Family Law Cases*



**Dr. Sol R. Rappaport
Counseling
Connections
Libertyville, Ill.**

TOPIC: *The Science Behind Removal (Relocation)
and Deconstructing a Child Custody
Evaluation*

OBA Credentials Committee..... 9 – 9:30 a.m.
Boardroom

OBA Rules of Professional
Conduct Committee..... 10 – 11:45 a.m.
Green Country Room

Plenary – Go For the Gold:
How We Select Our Judges 9 – 11:45 a.m.
Plaza Ballroom

Speakers:

9 – 9:15

**W.A. Drew Edmondson
GableGotwals and Former
Oklahoma Attorney General
Oklahoma City**

9:15 – 9:50

**Bob Burke
Attorney, Author, Historian
Oklahoma City**

**10 – 10:50 Panel Discussion Speaker
Terry West, Oklahoma Council
on Judicial Complaints
Shawnee**

MODERATOR: *Deborah Reheard*

Speaker:



**Morris Dees
Civil Rights Attorney
Southern Poverty
Law Center
Montgomery, AL**

TOPIC: *With Justice for All*

SPONSOR: *Law Pay
GableGotwals
OBA Litigation Section*

OBA Estate Planning, Probate
and Trust Section 9:30 a.m. – Noon
Cox Center, Room 10

Speaker:



**Rebecca Wallenfelsz,
Partner
Cutler LLP
Chicago**

TOPIC: *For the Trustee's Ears Only: Applying the
Attorney-Client Privilege to Fiduciaries*

OBA Rules and ByLaws
Committee..... 10 – 10:30 a.m.
Boardroom

MCLE Commission 10:30 a.m. – Noon
Frontier Room

OBA Resolutions Committee 10:45 – 11:45 a.m.
Boardroom

**Annual Luncheon
For Members,
Spouses and Guests Noon – 1:45 p.m.
Century Ballroom**

**(\$35 with meeting
registration)**

Earl Sneed Award

Donita Bourns Douglas, Oklahoma City

Award of Judicial Excellence

Judge Stephen Friot, Oklahoma City

Liberty Bell Award

Ginnie Graham, The Tulsa World

Joe Stamper Distinguished Service Award

Melissa G. DeLacerda, Stillwater

Alma Wilson Award

Frederic Dorwart, Tulsa

Neil E. Bogan Professionalism Award

Robert S. Farris, Tulsa

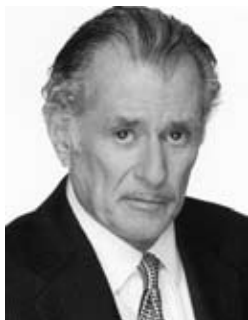
John E. Shipp Award for Ethics

Rex Travis, Oklahoma City

Trailblazer Award

Retired Judge Charles L. Owens, Oklahoma City

Speaker:



**Frank DeFord
Legendary
Sports Writer
Westport, Conn.**

TOPIC: *Sports: The Hype and the Hypocrisy*

SPONSOR: *OBA Family Law Section*

Frank DeFord and Bob Burke

Book Signing..... 1:45 – 2:30 p.m.
(Books available for purchase)

Kiamichi Room

Fastcase Training

Free - NO MCLE Credit 2 – 2:30 p.m.
Red Carpet Room

OBF Executive Committee 2 – 3 p.m.
Green Country Room

OBA Law School Schools Committee..... 2 – 3 p.m.
Frontier Room

OBA Legal Ethics Committee 2 – 3 p.m.
Boardroom

OBA Real Property Law Section..... 2 – 4 p.m.
Cox Center, Ballroom E

OBA Law Day Committee 2 – 3:30 p.m.
Great Plains Room

OBA Bankruptcy and Reorganization
Section 2 – 4 p.m.
Cox Center, Room 9

Speakers:

**Janice D. Loyd
Bellingham & Loyd
Oklahoma City**

**Sidney K. Swinson,
GableGotwals
Tulsa**

**Paul R. Thomas,
Office of the
United States Trustee
Tulsa**

**Karen Carden Walsh,
Riggs, Abney, Neal,
Turpen & Orbison, P.C.
Tulsa**

OBA Law Office Management
and Technology Section..... 2 – 4 p.m.
Plaza South Ballroom

Speakers:



**Jim Calloway
Oklahoma
Bar Association
Oklahoma City**

**Deborah Letz
Fastcase
Washington, D.C.**



TOPIC: *iPad Tips and Tricks and iPad Fastcase Tips*

Oklahoma Criminal Defense
Lawyers Association 2 – 4:30 p.m.
Cox Center, Ballroom D

OBA Military and Veterans
Law Section 2:30 – 3:30 p.m.
Plaza North Ballroom

OBA Women In Law Committee 3 – 5 p.m.
Room 131
Oklahoma Bar Center
1901 N. Lincoln Blvd.

Oklahoma Bar Foundation
Board of Trustees 3 – 5 p.m.
Green Country Room

Oklahoma Bar Foundation
Board of Trustees 3 – 5 p.m.
Green Country Room

County Law Day Chairperson
Reception 3:30 – 4 p.m.

OBA Military Assistance Committee
with Military and Veterans
Law Section 3:30 – 4:30 p.m.
Plaza North Ballroom

Speaker:



**Retired Rear Admiral
Greg Slavonic
Oklahoma City**

TOPIC: *"In The Courtroom with Saddam Hussein"*

Fastcase Training
Free - NO MCLE Credit 4 – 4:30 p.m.
Red Carpet Room

OBA Litigation Section 4 – 5 p.m.
Frontier Room

OBA Energy and Natural Resources
Law Section 4 – 5:30 p.m.
Cox Center, Room 10

OBA Financial Institutions and
Commercial Law Section 4 – 6 p.m.
Cox Center, Room 11

OBA Labor and Employment
Law Section 4 – 6 p.m.
Cox Center, Room 12

OBA Taxation Law Section 4 – 6 p.m.
Cox Center, Room 4

Speaker:

**Delphine Hensley
IRS Taxpayer Advocate
Oklahoma City**

Friends of Bill W. 5 – 6 p.m.
Great Plains Room

OBA Health Law Section 5:30 p.m.
Cox Center, Room 9

Speaker:

**Bob Troester
U.S. Attorney's Office, Western
District of Oklahoma
Oklahoma City**

OBF Fellows Reception 5:30 – 7 p.m.
McAfee & Taft
15 E. 5th St. - 10th Floor
Leadership Square
Transportation Provided

Oklahoma Attorneys Mutual
Insurance Company Pre-party 6:30 – 7 p.m.
Century Ballroom

At the Hop including
YLD Rockin' Recognition 7 – 11:30 p.m.
Century Ballroom

Entertainment: *Dave and the Wavetones*



SPONSORS: *OBA Young Lawyers Division*
Oklahoma Attorneys Mutual
Insurance Company

FRIDAY, NOV. 16

President's Leadership

Breakfast.....7:30 – 8:45 a.m.
Red Carpet Room

**(\$25 with meeting
registration)**

Speaker:



Justice Noma Gurich
Oklahoma Supreme
Court

TOPIC: "Judicial Selection: The Power and
Privilege of Serving on the Judicial
Nominating Commission"

SPONSOR: OBA Litigation Section

OBA Registration8 a.m. – Noon
Century Ballroom Foyer

"Timeout" Hospitality8 a.m. – Noon
Century Ballroom Foyer

Oklahoma Bar Association
General Assembly.....9 – 10 a.m.
Century Ballroom

Outstanding County Bar Association Award

Pittsburg County Bar Association
Tulsa County Bar Association

Hicks Epton Law Day Award

Ottawa County Bar Association

Golden Gavel Award

OBA Young Lawyers Division

Outstanding Young Lawyer Award

Roy D. Tucker, Muskogee

Outstanding Service to the Public Award

Cleveland County Bar Association

Award for Outstanding Pro Bono Service

Clark O. Brewster, Tulsa

Paul B. Naylor, Tulsa

Cindy Sooter Goble, Laurie Jones

and G. Gail Stricklin, Oklahoma City

Maurice Merrill Golden Quill Award

Gary C. Clark, Stillwater

Renée DeMoss and Melissa Taylor, Tulsa

General Assembly Speakers:



Chief Justice Steven
W. Taylor
Oklahoma Supreme
Court

Presiding Judge
Arlene Johnson
Oklahoma Court
of Criminal Appeals



Cathy Christensen,
President
Oklahoma Bar
Association



OBA Tech9 a.m. – 3:20 p.m.
Plaza Ballroom

SPONSOR: OBA Law Office Management
and Technology Section

Oklahoma Bar Association
House of Delegates10 a.m. – Noon
Century Ballroom

Election of Officers & Members
of the Board of Governors
Approval of Title Examination Standards
Resolutions



James Stuart
President-Elect
Presiding

Tellers Committee10:30 a.m. – Noon
Boardroom

2012 OBA Annual Awards

OBA Awards:

Individuals for Whom Awards are Named

NEIL E. BOGAN — Neil Bogan, an attorney from Tulsa, died unexpectedly on May 5, 1990 while serving his term as president of the Oklahoma Bar Association. Mr. Bogan was known for his professional, courteous treatment of everyone he came into contact with and was also considered to uphold high standards of honesty and integrity in the legal profession. The OBA's Professionalism Award is named for him as a permanent reminder of the example he set.

HICKS EPTON — While working as a country lawyer in Wewoka, attorney Hicks Epton decided that lawyers should go out and educate the public about the law in general, and the rights and liberties provided under the law to American citizens. Through the efforts of Mr. Epton, who served as OBA president in 1953, and other bar members, the roots of Law Day were established. In 1961 the first of May became an annual special day of celebration nationwide designated by a joint resolution of Congress. The OBA's Law Day Award recognizing outstanding Law Day activities is named in his honor.

MAURICE MERRILL — Dr. Maurice Merrill served as a professor at the University of Oklahoma College of Law from 1936 until his retirement in 1968. He was held in high regard by his colleagues, his former students and the bar for his nationally distinguished work as a writer, scholar and teacher. Many words have been used to describe Dr. Merrill over the years, including brilliant, wise, talented and dedicated. Named in his honor is the Golden Quill Award that is given to the author of the best written article published in the *Oklahoma Bar Journal*. The recipient is selected by the OBA Board of Editors.

JOHN E. SHIPP — John E. Shipp, an attorney from Idabel, served as 1985 OBA president and became the executive director of the association in 1998. Unfortunately his tenure was cut short when his life was tragically taken that year in a plane crash. Mr. Shipp was

(cont'd on page 2400)

Law School Luncheons

Wednesday, Nov. 14

These awards will be presented at these events.

OUTSTANDING LAW SCHOOL SENIOR STUDENT AWARD

Rachel Jones, University of Tulsa College of Law

Rachel Jones chose to study law at the TU College of Law because of its strength in energy and resources law and its strategic partnership with the *Energy Law Journal*. She ranked first in her class and has participated in Moot Court competitions as well as serving on the law school's Admissions Committee.



She currently serves as editor of Executive Notes & Comments section of the *Energy Law Journal* and previously served as executive editor of the ABA Environment, Energy and Resources Law Section's "Year in Review." She is a student member of the Council Oak/Johnson-Sontag Inn of Court, the Association of International Petroleum Negotiators and Phi Delta Phi international legal honors society.

Her note, "Exxon Shrugged: How a 200-Year-Old Statue Torments the Titans," will be published in Volume 33 of the *Energy Law Journal*. She has also received the George and Jean Price Award for legal reasoning, authorities and writing, and CALI Awards in administrative law, constitutional law, contracts law,

criminal law, Native American natural resources law, legal reasoning, and analysis and writing I and II.

She has worked for both the largest law firm in Oklahoma and a boutique firm concentrating in corporate law. This summer, she worked on Capitol Hill as a legal specialist for the U.S. Senate Committee on Environment and Public Works.

After graduation, she will continue developing an experience in energy, environmental and international law. She plans to become involved in state and national policy making from a corporate platform and in the civic area.

She grew up in Virginia and Wyoming. She received her Bachelor of Science *summa cum laude* from Oklahoma Baptist University and attained distinction through the National Strength and Conditioning Association as a certified strength and conditioning specialist.

OUTSTANDING LAW SCHOOL SENIOR STUDENT AWARD

**Ashley L. Powell, University of Oklahoma
College of Law**

Ashley Powell currently serves as assistant articles editor for the *Oklahoma Law Review*. She also serves as director of the Dean's Council, 3L class representative to the Student Bar Association and is a member of the Ruth Bader Ginsburg American Inn of Court. She has been on the dean's honor roll for four semesters, and for the past two years she has competed on the New York Bar Association's National Moot Court team. She has received American Jurisprudence Awards in criminal law, torts, civil procedure, and legal research and writing.



She has worked as a teaching assistant for Professor Rick Tepker, research assistant for Professor Steve Gensler and as a summer associate for the firm of Hartzog, Conger, Cason & Neville.

She is from Oklahoma City and earned her Bachelor of Science from OSU where she served as secretary for the Student Government Association.

OUTSTANDING LAW SCHOOL SENIOR STUDENT AWARD

**Joshua A. Rummel, Oklahoma City
University School of Law**

Joshua Rummel currently serves as the editor in chief of the *Oklahoma City University Law Review*. His note, "When Warrants Uncover Digital Evidence: The Tenth Circuit's Ruling in *United States v. Burke*," received the Outstanding Law Review Comment award and was published in Volume 36 of the *Oklahoma City University Law Review*. During law school, he has interned with the Oklahoma County Public Defender's Office, helping to launch a pretrial diversion program for veterans.



Originally from Missoula, Mont., he enlisted in the U.S. Air Force shortly after Sept. 11, 2001. He was stationed at Tinker Air Force Base for five years, where he managed more than \$12 million worth of radar equipment and supervised a \$10 million modernization program. He was awarded both an Air Force Commendation Medal and an Air Force Achievement Medal. He has also worked with the National Weather Service and the Sam Noble Oklahoma Museum of Natural History.

He earned his bachelor's and master's degrees from OU.

Annual Luncheon **Thursday, Nov. 15**

These awards will be presented at this event.

EARL SNEED CONTINUING LEGAL EDUCATION AWARD

**Donita Bourns Douglas,
Oklahoma City**

Donita Bourns Douglas has promoted continuing legal education through multiple channels. She served 12 years as OBA educational programs director. During her tenure with the OBA, she planned hundreds of CLE programs, imple-



mented an online registration system, initiated webcasts, webinars, on-demand programming and developed other online tools and delivery systems.

In 2012, Ms. Douglas accepted a position as vice president of professional services for InReach, a leader in providing online continuing education management solutions. As vice president, she works with a vast majority of state bar associations, county and city bar associations and many other professional associations on every aspect of their continuing education initiatives to assist them in meeting or exceeding their program objectives.

She currently serves as president-elect of the Association of Continuing Legal Education (ACLEA), a worldwide organization devoted to improving the performance of CLE professions. She has served as co-chair of the organization's State and Provincial Bar Special Interest Group and is a frequent speaker for the organization. Her material, "Creating the Gold Standard for Speaker Presentations," was included in the publications, *The Best of ACLEA 2003* and *ACLEA Gold*.

In 2012, she and the OBA received the InReach Partners in Excellence Award, recognizing the exceptional work in the area of online legal education. She was awarded the Mona Salyer Lambird Spotlight Award in 2007 for distinguishing herself in the legal profession and lighting the way for women in the legal community. In 2003, Ms. Douglas received the OBA President's Award and she is a Fellow of the OBA YLD. She served on the OBA Civil Procedure Committee, which drafted the Oklahoma Supreme Court Settlement Conference Procedures, and she is an emeritus member of the Ruth Bader Ginsburg Inn of Court.

She received her Bachelor of Fine Arts, *cum laude*, in journalism from Southern Methodist University and her law degree from the OU College of Law.

AWARD OF JUDICIAL EXCELLENCE

Judge Stephen Friot, Oklahoma City

Judge Stephen Friot, who serves as U.S. district judge for the Western District of Oklahoma, was chosen as the recipient of this year's Judicial Excellence Award because of his efforts to strengthen the rule of the law in the United States and in Russia.

Working closely with the Federal Judicial Center and the Open World Leadership Center, Judge Friot is deeply involved in assisting the



Russian judiciary by welcoming Russian judicial officers who come to the United States to learn more about the U. S. judicial system. In his seven trips to Russia since 2007, he has met with judges, legal academics and practicing lawyers, has provided on-site guidance to policy makers and has collaborated with judges in Ulyanovsk, Nizhny Novgorod and St. Petersburg in grassroots rule of law exchanges between legal professionals. While in Russia, he has lectured at bar association meetings, three Russian law schools and at a conference of the Academy of Justice of the Russian Federation. He has worked with law students, attorneys, court employees and judges on a variety of issues relating to the Russian judicial system and has written four articles, published in Russian in a Russian law review, on legal subjects of interest to Russian judges, lawyers and legal academics.

Judge Friot has hosted five visiting Russian delegations through the Open World Leadership Center since 2006. The award nomination remarks, "Oklahomans jump at the chance to be part of the program" and through these exchanges, Judge Friot "has not only enhanced the Russian judiciary's legal experiences but he has also increased countless Oklahomans' awareness and understanding." The nomination also points out that "Russian judiciary looks to the American system as its model for securing the rule of law."

Judge Friot has been at the forefront of this effort by establishing rapport with jurists, practitioners and academics to have a lasting impact on Russia's efforts to achieve judicial reform and independence. He is a graduate of the OU College of Law.

LIBERTY BELL AWARD

Ginnie Graham, The Tulsa World

Tulsa World staff writer Ginnie Graham is recognized as the winner of the Liberty Bell Award for her outstanding series of investigative articles titled "Oklahoma Crisis: Child Abuse and Neglect" documenting Oklahoma's efforts to prevent, identify and treat Oklahoma's abused and neglected children. The series appeared in the publication between



April and August of 2012 and addressed all aspects of the state's child protection system. Ms. Graham interviewed previous foster children, sat in with hotline workers as the reports came in, talked with foster parents, researched the concerns of babies whose mothers were incarcerated, met with legislators and Oklahoma Department of Human Services policy mak-

ers, and observed courtroom proceedings affecting abused and neglected children who are current wards of the court.

Ms. Graham is recognized for writing with respect and honesty of the fears displayed by parents, mental illnesses that were presented in the courtroom, tears shed by exhausted OKDHS workers searching for runaway children, the strength of the attorneys representing the children and parents, and the reality of the end results derived in these cases.

She is praised because, as the nomination points out, "she quickly understood the issues as well as innately comprehending the responsibilities of each player in the child welfare protection system." She is also commended for her fair reporting and high quality of work, leading her to give the public an accurate eye into the world of abused and neglected children in Oklahoma.

Ms. Graham is a Perry High School graduate and received her bachelor's and master's degrees from the University of Oklahoma.

JOE STAMPER DISTINGUISHED SERVICE AWARD

Melissa G. DeLacerda, Stillwater

Melissa G. DeLacerda is recognized as the winner of the Joe Stamper Distinguished Service Award for her service to the legal profession at local, state and national levels throughout her career. She has invested significant time and effort to the OBA and its programs over the years.



She served as OBA president in 2003, making her the second woman president in OBA history. During her presidential year, she accomplished her goal of adding the OBA Office of Ethics Counsel to respond to member inquiries on subjects of ethics and professionalism. Her leadership was also instrumental in the creation of the Discipline Diversion Program to provide awareness of ethical obligations and remedial education to those attorneys whose actions constitute certain types of misconduct.

She served on the OBAYLD Board of Directors from 1983-1986, OBA Board of Governors from 1996-1998 and 2002-2004. She served as Payne County Bar Association president in 2001 and is a two-term member of the ABA's Standing Committee on Client Protection from 1999-2006.

Her leadership positions in the OBA are numerous. She currently chairs the OBA Professional Responsibility Commission and *Oklahoma Bar Journal* Board of Editors. She served as a member of the OBA Clients' Security Fund Committee for 20 years, serving six of those years as chair. Throughout some of this same time, she has served on the ABA Standing Committee on Client Protection, and she brought changes at both levels. She has co-chaired different committees such as the Long-Range Planning Committee, Annual Meeting Task Force and Administration of Justice Task Force.

As chair of the OBA Women in Law Committee in 2001, she brought Erin Brockovich to speak to the OBA the same year Julia Roberts won the Academy Award for the movie. She co-chaired the OBA Centennial and orchestrated 13 monthly events to celebrate the association's 100 years including editing a commemorative issue of the bar journal recording the history of law in the state. She chaired the committee that completed the coffee table book *Leading the Way – A Look at Oklahoma's Pioneering Women Lawyers*.

She is a two-time winner of the OBA President's Award; in 1999 for her service in the creation of a five-year strategic plan for the OBA and in 2001 for revamping the Annual Meeting format. In 2003, she received the Solo Practitioner of the Year award from the OBA Solo and Small Firm Committee, and she was awarded the Annual Bar Leader of the Year award by the ABA General Practice, Solo and Small Firm Section. She was one of 50 Oklahoma women selected by *The Journal Record* as Woman of the Year in 2003.

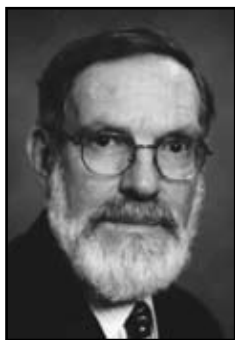
She has published numerous articles appearing in the *Oklahoma Bar Journal*. As a member of the Board of Editors, she led the effort to overhaul the bar journal to include subject-specific issues to aid practitioners.

She is a solo practitioner in Stillwater who has spoken at seminars around the country on ethics and client protection. She received her J.D. with honors from the TU College of Law in 1979.

ALMA WILSON AWARD

Frederic Dorwart, Tulsa

Frederic Dorwart spent countless hours providing pro bono work as lead Oklahoma attorney in the foster care reform lawsuit *D.G. v. Yarbrough*. Mr. Dorwart and his firm played an important and active role in this case from beginning to end. He fought tirelessly to prove that children in Oklahoma were being harmed in the state's foster care system that was called one of the most damaging in the country. He accomplished this by gathering evidence both of the harm to children, the systemic problems with the child welfare system, and the lack of oversight by the Oklahoma Commission for Human Services.



His contributions to the case have set forth the restructuring of the Oklahoma Department of Human Services and significantly improving agency practices and care of deprived children in state custody through what is known as "The Pinnacle Plan."

He is commended for his commitment to bettering the lives of deprived children in state custody and improving the way Oklahoma treats the most voiceless, powerless and vulnerable citizens of the state.

He practices with his firm, Frederic Dorwart Lawyers of Tulsa, and he is a 1966 graduate of Harvard Law School.

NEIL E. BOGAN PROFESSIONALISM AWARD

Robert S. Farris, Tulsa

Tulsa lawyer Robert S. Farris is recognized as the recipient of the Neil E. Bogan Professionalism Award because in his numerous years of service to the bar, he exhibits the highest ideals of the legal profession. He is courteous, conscientious and holds unfailingly business-like manners in his daily interactions, whether they are lawyers, clients or members of the public.



He is an attorney in private practice with the firm of Rogers and Bell. Since 1991, he has been an adjunct professor at TU College of Law, where he teaches courses on wills, trusts and elder law as well

as serving as supervising law students working with the Boesche Legal Clinic. He has twice received the honor of Outstanding Adjunct Professor.

His community involvement consists of serving on the boards of St. John Medical Center, Tulsa Psychiatric Center, Parkside Psychiatric Hospital, Texas Presbyterian Children's Homes and Services and the Tulsa Historical Society.

He is a member of the National College of Probate Judges and a Fellow in the American College of Trust and Estate Council. He is a member of the Tulsa County Bar Association and serves as the TCBA Delegate to the ABA House of Delegates. He has served as president of the TCBA, a member of the Tulsa Estate Planning Forum and Tulsa Probate and Title Lawyers Association and is a member of the Real Property, Probate and Trust Law Section of the ABA.

After beginning his career in private practice, he was appointed special judge for the Tulsa County District Court Probate Division and served from 1981-1990. He served as vice president of the Oklahoma Judicial Conference during his term on the bench. He received his J.D. from the TU College of Law in 1975.

JOHN E. SHIPP AWARD FOR ETHICS

Rex Travis, Oklahoma City

Rex Travis, who recently received his OBA 50-year pin, has practiced law with distinction in Oklahoma City for many years, and is probably best known for his continuous contributions to the body of insurance law in Oklahoma.



With the Oklahoma County Bar Association, he is a current member of the *Briefcase* Committee and a monthly "Quote of the Month" contributor. He is active in the Luther Bohannon Inn of Court and has served as its president. He has chaired the Bench and Bar Committee, Prepaid Legal Services Committee, and the Continuing Legal Education Committee. He has been a recipient of the OCBA's Bobby G. Knapp Award. He served as OCBA general counsel from 1979 to 1982. He was president in 2004-2005 and was twice elected vice president, serving from 1978-1979 and again in 2002-2003.

Known as "Mr. Insurance," he has taught classes at OCU and OU. He also teaches every day at the courthouse, on the street and in legal publications. In fact, the list of his legal publications and articles

is 10 pages long and covers scholarly writings and lectures given all over Oklahoma from 1979 to the present day.

He is always willing to serve his profession, and he makes time to do so. He exhibits sincere concern that justice is administered fairly and the law is clear. He is known for his commitment to ethics and exemplifies the type of lawyer that all members should aspire to be.

Mr. Travis is an attorney in private practice with the Travis Law Office. He is a 1962 graduate of the OU College of Law.

TRAILBLAZER AWARD

**Retired Judge Charles L. Owens,
Oklahoma City**

Judge Charles L. Owens is honored with the Trailblazer Award because he has demonstrated remarkable leadership and has made a direct and lasting impact on many of Oklahoma's current attorneys, judges and African-American leaders. He made history as Oklahoma's first African-American district court judge and assistant attorney general. He is recognized for achieving the highest standards of personal integrity, ethics and dedication to public service. His professional and community involvement have enhanced the reputation of both the state and the bar association.



Despite being raised in humble beginnings during the segregation era, Judge Owens has been called an "awe-inspiring individual who has touched the lives of many generations." Throughout his 52-year career, he has been the consummate trailblazer by breaking down barriers and leading a trail of optimism and opportunity for those young lawyers who came behind him. Several current members of the Oklahoma judiciary have cited Judge Owens' example as a factor in their own decisions to pursue a career on the bench.

He began his legal career in private practice, and in 1963, made history when he was appointed assistant attorney general by Oklahoma Attorney General Charles Nesbitt. Five years later, he broke the color barrier again when he was appointed district judge for the Seventh Judicial District, a seat he held for more than three decades. To date, he is the only African-American judge in Oklahoma to successfully run for countywide re-election. In that capacity, he handled many challenging cases, including presiding over the murder trial of Roger Dale Stafford.

He was born and raised in Tulsa and graduated from Booker T. Washington High School. He earned a bachelor's degree in business administration and a minor in economics from Lincoln University in Jefferson City, Mo. He served two years in the U.S. Army receiving an honorable discharge in 1954. He returned to Tulsa and became a police officer, while attending the TU College of Law, earning his J.D. in 1960.

General Assembly **Friday, Nov. 16**

These awards will be presented at this event.

OUTSTANDING COUNTY BAR ASSOCIATION AWARD

Pittsburg County Bar Association

The Pittsburg County Bar Association is recognized for demonstrating how leadership and involvement of attorneys in their local community can bolster the public view of the legal profession. Though a small association, participation is high among lawyers in the county; there are more than 30 members, and monthly meetings are supplemented by frequent informal events.

The PCBA contributes thousands of dollars annually to local charities. The donations go to programs that provide after-school and summer lunches to children, gifts for underprivileged children at Christmas, health-care for uninsured families, the Red Cross, local school activities and more.

In addition to monetary donations and contributions, PCBA members also donate their time to activities held within the county. Bar members sponsor two state Mock Trial teams by coaching, holding practices, donating money to the program and judging the state tournaments. PCBA also assists the Quinton High School speech and debate team by volunteering their time to coach, and judge the team in addition to offering financial support. The PCBA's dedication to these two events has produced semifinalists and state champions.

The PCBA participated in the Oklahoma Lawyers for America's Heroes program that provides legal services to veterans and active duty servicemembers in Oklahoma. Their 2012 Law Day event included a bowling tournament to help raise money in honor of a local bar member who died this year. Other Pittsburg County Law Day activities included a banquet and participation in the annual Ask A Lawyer call-in event.

The PAWS 5k-9 is an event coordinated by PCBA members. The race, now in its third year, has raised several thousand dollars for the People for Animal Welfare Society chapters in Pittsburg and Latimer counties. The PCBA encourages participants to run with their pets or adopt a pet at the event. For 2012, 20 percent of the proceeds from the event will be donated to the McAlester branch of the Community Food Bank of Eastern Oklahoma in memory of the late Judge Donnita Weinkauf Wynn, a PCBA member.

OUTSTANDING COUNTY BAR ASSOCIATION AWARD

Tulsa County Bar Association

The Tulsa County Bar Association continues to serve its 2,200 members and the Tulsa community by creating and implementing innovative service and educational programs.

Among the many initiatives for which the TCBA is recognized is the new Military/Veterans Committee. The committee identified and formulated plans to address the legal needs of veterans and active returning military. The committee focused on assisting the VA's existing homeless program and the Veteran's Court. The TCBA also hosted a military/veterans reception honoring all those who served, while the TCBA's CLE committee pitched in to present a seminar on the Soldiers and Sailors Relief Act and other veterans issues.

The TCBA Diversity Committee focused on community service by participating in an outreach program aimed at educating high school students about the path toward careers in the law. This gave students a better understanding of the legal profession, the contributions made by legal professionals to the community, and the academic and other requirements for becoming legal professionals. TCBA committee members visited at least one Tulsa public school each month. Another area of focus within this committee was on Rogers High School and its existing Streetlaw class. Their presence at Rogers High School resulted in student improvements and a marked interest in the law, community awareness and politics. TCBA committee members want to continue this program and recruit more volunteers so the mentorship program can expand to more TPS schools.

TCBA members also extend their mentorship abilities to students at the TU College of Law. The partnership between the law school and TCBA resulted in mentoring exercises like the speed networking event, mock interviews and providing information about how the TCBA will benefit them in the future.

The TCBA made a concentrated effort to provide services and educational programs to the community. Programs aimed at this objective include participation in annual statewide Law Day activities including Ask A Lawyer and Lawyers in the Library, where TCBA members volunteered their time to cover different areas of law. The TCBA also held a Community Law Fair and invited the general public to attend to learn more information about the services and resources local organizations have to offer. The TCBA teamed up with Oklahoma City and Norman lawyers to raise money and distribute Thanksgiving turkeys and food for those in need. The Tulsa bar was joined by TU law students to support the friendly competition between the cities in support of "Lawyers Against Hunger." The TCBA also held its 12th annual Santa Brings a Law-suit, a professional clothing drive aimed at providing appropriate work attire for those in need.

HICKS EPTON LAW DAY AWARD

Ottawa County Bar Association

The Ottawa County Bar Association was selected for this award because the local bar has been increasing community activity and growing in membership since 2010. Nearly 90 percent of active bar members participated in at least one Law Day activity, and the association coordinated several Law Day events this year, some for the first time.

In an effort to increase local participation in Law Day activities, bar members offered a local contest aimed at school children. The association received more than 100 entries in four different categories and awarded a total of \$200 in prizes to eight winners. Bar members also participated in the annual statewide Ask A Lawyer event in which callers are offered free legal advice.

A new activity was initiated this year involving the presentation of a mock trial involving the Big Bad Wolf's civil lawsuit against the third little pig. The event was held in the Ottawa County Courthouse with local Special District Judge Bill Culver presiding while local attorneys played the parts. The jurors were chosen from third through fifth graders from Wilson Elementary School who attended the presentation. While the jury was in deliberation, a discussion about the roles of courtroom participants took place.

The association also made a donation of \$2,000 to fully fund a program aimed at distributing holiday toys to about 100 children in foster care in Ottawa County after the state program was threatened by budget cuts. The association also sent a modest donation to the Woodward County Bar Association to aid in relief efforts after tornadoes devastated the area in spring 2012.

The nomination for the award recognized that although small in number, the Ottawa County Bar Association "has demonstrated a commitment to interact with the public in a manner which serves the public by informing them."

GOLDEN GAVEL AWARD

OBA Young Lawyers Division

The OBA Young Lawyers Division is honored for its participation in several service projects and events this year. In addition to the Golden Gavel award, the OBA YLD was recognized with an ABA YLD first place comprehensive Award of Achievement for its outstanding activities and accomplishments during the 2011-2012 bar year. They also received a second place ABA YLD Outstanding Service to the Public Award.

The projects that earned the YLD these honors include:

- Serving military servicemembers and veterans by producing a resource guide for Oklahoma Lawyers for America's Heroes project volunteers, producing a legal resource guide for veterans, and assembling and sending desert survival kits to Oklahoma military personnel deployed overseas.

- Young Adult Guide project – members updated the guide and made presentations to more than 2,000 high school juniors and seniors across the state. The lawyers who volunteered delivered presentations aimed at seniors explaining how their legal obligations change when they turn 18. YLD members highlighted the basics of contract law, criminal law, family law, domestic abuse, voter registration and social media use. The YLD is honored for recognizing that these areas of law are particularly vital for young adults to understand so they can be aware of the serious consequences for their actions.

- Assembling bar exam survival kits twice each year for distribution to applicants taking the bar examinations in both Oklahoma City and Tulsa. Each kit includes ear plugs, water, snacks, pencils, erasers and stress balls for candidates to use while taking the exam.

- Welcoming the state's newest lawyers by hosting new admittee receptions in Oklahoma City and Tulsa after the swearing-in ceremonies in the spring and fall. The social events are also designed to encourage all young lawyers to become active YLD members.

- Providing basic estate planning services through the Wills for Heroes and Serving Our Seniors projects.

The Young Lawyers Division was organized in 1966 to provide an avenue for Oklahoma's young lawyers to work on bar-related and public service-

related projects. Since that time the OBA/YLD has taken an aggressive leadership role in all bar committees and activities.

The work of the OBA/YLD is carried out through the combined efforts of the officers, board of directors and committee chairpersons and members. The various committees are the vehicles through which the division implements its programs and projects and from which new ideas are developed.

OUTSTANDING YOUNG LAWYER AWARD

Roy D. Tucker, Muskogee

Roy D. Tucker was selected as this year's outstanding young lawyer because of his professionalism, skills and commitment to the profession and his community. He is recognized for his service as an active and tireless leader for young lawyers, not only with the OBA but also with the Muskogee County Bar Association. He is also praised for inspiring and challenging other young lawyers to become better, more effective leaders. He is currently serving as OBA YLD immediate past chair after chairing the division in 2011. In that capacity he maintained the YLD's public service projects and instituted several undertakings.



He began his year as YLD chair by initiating the Serving Our Seniors (S.O.S.) project designed to serve low-income seniors in Oklahoma with free basic estate planning documents. OBA YLD members held walk-in clinics at public libraries and senior centers in Muskogee and Tulsa. In addition to S.O.S., the division also produced a legal handbook for seniors, which is provided to the public at no charge.

In conjunction with Oklahoma Lawyers for America's Heroes project, Mr. Tucker oversaw the OBA YLD production of two important documents that help support this initiative. The documents include the *Resource Guide for Lawyers Assisting Veterans* and the *Resource Manual for Veterans*. In addition, the OBA YLD assembled desert survival kits that were sent to Oklahomans serving overseas.

Mr. Tucker continued programs set before him, such as bar exam survival kits for bar applicants, YLD Community Day of Service to help update, beautify and restore homeless shelters in Oklahoma and active participation in Law Day activities. He commissioned a rewrite of the volunteer handbook and continued the

practice of hosting new admittee receptions and socials following the new lawyer swearing-in ceremonies.

His leadership was instrumental in securing the ABA YLD First Place Award of Achievement for the significant activities and accomplishments of the OBA YLD for 2011-2012.

He served as an Oklahoma delegate to the ABA House of Delegates and has served as a delegate and alternate delegate to the OBA House of Delegates.

He is a 2003 graduate of the TU College of Law. For the last several years, he has been employed as an attorney for the City of Muskogee. He was named city attorney in 2011.

OUTSTANDING SERVICE TO THE PUBLIC AWARD

Cleveland County Bar Association

The Cleveland County Bar Association is recognized with this year's Outstanding Service to the Public Award for their involvement in the Oklahoma Lawyers for America's Heroes program. There are currently 26 members of the CCBA who have volunteered to take a case through the OBA's military legal assistance program. So far, they have collectively donated more than 130 hours of their time providing pro bono work to current servicemembers and veterans in need of legal services.

This summer, more than 3,000 members of the Oklahoma National Guard 45th Infantry Battalion returned home after a one-year deployment in Afghanistan. All returning servicemembers were required to attend one of several post-deployment Yellow Ribbon reintegration meetings, each taking place in Norman. During Yellow Ribbon events, servicemembers have the opportunity to visit informally with a volunteer attorney about any legal questions they may have. During those consultations, it may be determined the servicemember needs an attorney to formally take his or her case, and in those cases, referrals to the statewide Heroes Program are made. CCBA members stepped up — giving up their weekends over the summer to ensure each Yellow Ribbon event was fully staffed and that returning service members got the help they needed.

AWARD FOR OUTSTANDING PRO BONO SERVICE

Clark O. Brewster, Tulsa

Tulsa attorney Clark Brewster receives the Outstanding Pro Bono Service award for his work in both civil and criminal courts, garnering a national reputation among trial lawyers. It is estimated that he and his firm, Brewster & DeAngelis PLLC, have donated more than \$1 million dollars in funds and legal services to the City of Tulsa and numerous other individual clients.



Many of his efforts have been high-profile criminal cases resulting in numerous not-guilty verdicts. He has also worked quietly and for no charge for many others without notoriety.

In the civil arena, he is actively involved in the ongoing defense of the City of Tulsa in federal court related to civil rights cases arising from police corruption prosecutions. Over several years he and his firm have garnered multimillion dollar verdicts and settlements for injured clients and families whose loved ones lost their lives due to the negligence of others.

He graduated in 1977 *cum laude* from Central Michigan with a Bachelor of Science degree. He received his J.D. in 1980 from TU College of Law. He is a member of the ABA and the Tulsa County Bar Association. He is also a member of the American Association for Justice and the Oklahoma Trial Lawyers Association, serving as its president in 1998.

AWARD FOR OUTSTANDING PRO BONO SERVICE

Paul B. Naylor, Tulsa

Tulsa lawyer Paul Naylor has volunteered with Tulsa Lawyers for Children for seven years. As a volunteer, he has provided pro bono representation for children in deprived cases in which a child's parent or other legal guardian is alleged to have abused, abandoned or neglected the child.



Over the course of his service, Mr. Naylor has represented dozens of children and visited more than 300 at the children's shelter in Tulsa.

One of his cases especially stands out. In November 2010, he was making his weekly visit to interview children at the Laura Dester Children's Center, a DHS emergency shelter. That evening, he met with two young boys whose 15 year-old brother had killed their father the night before. Mr. Naylor immediately recognized the scope of the situation.

He acted fast to get the full story from the oldest brother and worked hard to have him certified and tried as a juvenile. Even though witnesses and the police report described the 15-year-old's actions as self-defense, the state refused to dismiss the charges. This led to struggles for the teen, and his behavior began to deteriorate. He became depressed and attempted suicide. Mr. Naylor decided he was not going to watch a child die and personally contacted the Tulsa County district attorney. As a result of this intervention, the charges against the young man were dropped.

Justice was served and the young man is alive today due to Mr. Naylor's efforts. This particular case demonstrates he is an attorney who goes beyond the call of duty in representing his vulnerable clients and often does so without financial reward.

He is an attorney in private practice with the firm of Naylor, Williams & Tracy Inc. He is a member of the Tulsa County Bar Association, Oklahoma Association for Justice and American Association for Justice. He is a 1967 graduate of the TU College of Law.

AWARD FOR OUTSTANDING PRO BONO SERVICE

Cindy Sooter Goble, Laurie Jones and G. Gail Stricklin, Oklahoma City

Cindy Sooter Goble, Laurie Jones and G. Gail Stricklin are joint recipients of the Award for Outstanding Pro Bono Service for their combined efforts to develop the Oklahoma County Courthouse *Pro Se* Waiver Divorce Docket Project. The project seeks to improve access to justice for Oklahoma County residents, support the Oklahoma County Domestic Court Docket, educate law students and foster a pro bono ethic in them, and provide pro bono service and mentoring opportunities for volunteer lawyers. The project is designed to maintain the nature of the *pro se* waiver divorce docket while providing limited assistance to litigants who have been referred during the docket by the presiding judge due to minor errors in their divorce documents.

The effort began in March 2010 and has served approximately 500 people since then. Through the initiative, law students gain understanding of courthouse procedure, proper conduct in court and dealing

with clients. They also learn more about civil procedure as well as the importance of screening for domestic violence and referral for safety planning.

Ms. Goble, who coordinates volunteers for the project, currently serves as the interim managing attorney for the Oklahoma City office of Legal Aid Services of Oklahoma Inc., which provides the umbrella liability coverage for the project. She is a 1993 graduate of the OU College of Law.



Professor Jones is the associate dean for admissions and a professor of legal research and writing at OCU School of Law. She was the school's pro bono and public interest law coordinator from 2006-2012. She brings students into the project as well as volunteers her legal services as often as her law school duties permit. She is a 1984 graduate of the OU College of Law.

Ms. Stricklin, an attorney in private practice in Oklahoma City, developed the project through discussions with OBA leadership. She also worked with judges to ensure the project was feasible and coordinated efforts with other attorneys. This is the second time she has received the Award for Outstanding Pro Bono Service; she was also honored in 2001 for her work in launching a Legal Aid program and shelter for victims of domestic violence. She is a 1979 graduate of the TU College of Law.



MAURICE MERRILL GOLDEN QUILL AWARD

Gary C. Clark, Stillwater

Gary Clark receives the Maurice Merrill Golden Quill Award for his article titled "Oklahoma Nonprofit Corporations: A Basic Primer on Starting up 501 (c)(3) Charitable Organizations," which appeared in the May 19, 2012, issue of *The Oklahoma Bar Journal*.



Mr. Clark serves as vice president and general counsel for OSU, having previously served as vice president and general counsel of the OSU Foundation. Prior to that, he practiced law in Tulsa for almost 30 years.

He is a member of the Payne County Bar Association and the Tulsa County Bar Association, where he served as president. He served as OBA president in 2002, held two terms on the Board of Governors and has been a member of the House of Delegates since 1980. He was selected as the Outstanding Senior Lawyer of the Tulsa County Bar Association in 1996. Other honors include the 1999 John Shipp Award for Ethics and the 2003 Maurice Merrill Golden Quill Award. He chaired the OBA Tech Task Force, which received the Golden Gavel Award in 2000.

While in private practice in Tulsa, his practice focused on areas such as estate planning, probate, commercial law, oil and gas law, bankruptcy, commercial real estate and property. He has served as a frequent presenter on continuing legal education topics. He is an OSU graduate, earning his B.S. and M.S. in 1969 and 1972, respectively. He received his J.D. with honors from the University of Texas School of Law in 1975.

(continued on next page)

OBA Awards:

Individuals for Whom Awards are Named

(cont'd from page 2390)

known for his integrity, professionalism and high ethical standards. He had served two terms on the OBA Professional Responsibility Commission, serving as chairman for one year, and served two years on the Professional Responsibility Tribunal, serving as chiefmaster. The OBA's Award for Ethics bears his name.

EARL SNEED — Earl Sneed served the University of Oklahoma College of Law as a distinguished teacher and dean. Mr. Sneed came to OU as a faculty member in 1945 and was praised for his enthusiastic teaching ability. When Mr. Sneed was appointed in 1950 to lead the law school as dean, he was just 37 years old and one of the youngest deans in the nation. After his retirement from academia in 1965, he played a major role in fundraising efforts for the law center. The OBA's Continuing Legal Education Award is named in his honor.

JOE STAMPER — Joe Stamper of Antlers retired in 2003 after 68 years of practicing law. He is credited with being a personal motivating force behind the creation of OUJI and the Oklahoma Civil Uniform Jury Instructions Committee. Mr. Stamper was also instrumental in creating the position of OBA general counsel to handle attorney discipline. He served on both the ABA and OBA Board of Governors and represented Oklahoma at the ABA House of Delegates for 17 years. His eloquent remarks were legendary, and he is credited with giving Oklahoma a voice and a face at the national level. The OBA's Distinguished Service Award is named to honor him.

ALMA WILSON — Alma Wilson was the first woman to be appointed as a justice to the Supreme Court of Oklahoma in 1982 and became its first female chief justice in 1995. She first practiced law in Pauls Valley, where she grew up. Her first judicial appointment was as special judge sitting in Garvin and McClain Counties, later district judge for Cleveland County and served for six years on the Court of Tax Review. She was known for her contributions to the educational needs of juveniles and children at risk, and she was a leader in proposing an alternative school project in Oklahoma City, which is now named the Alma Wilson SeeWorth Academy. The OBA's Alma Wilson Award honors a bar member who has made a significant contribution to improving the lives of Oklahoma children.

MAURICE MERRILL GOLDEN QUILL AWARD

**Renée DeMoss, Tulsa and
Melissa Taylor, Tulsa**

Renée DeMoss and Melissa Taylor receive the Maurice Merrill Golden Quill Award for an article they co-authored titled "Oklahoma Lawyers Serving on Nonprofit Boards: Recognizing and Managing the Risk," which appeared in the May 19, 2012, issue of *The Oklahoma Bar Journal*.

Renée DeMoss is a shareholder in the law firm of Gable-Gotwals in Tulsa. She practices in the areas of civil litigation and general commercial law, including insurance and ERISA matters. She obtained her undergraduate degree from OCU and graduated from the OU College of Law.




She has served the OBA in various capacities since her admission in 1984. She received the Mona Salyer Lambird Spotlight Award in 2006 and the OBA Alma

Wilson Award in 2008. She is past president of the Oklahoma Bar Foundation, the Tulsa County Bar Association and the Tulsa County Bar Foundation. She currently serves on the OBA Board of Governors and chairs the OBA Litigation Section.


Ms. DeMoss has served on the Oklahoma Attorneys Mutual Insurance Company Board of Directors, and has been very involved in a variety of community organizations, including serving on the Operation Aware Board of Directors as well as Leadership Tulsa, Big Brothers and Big Sisters of Green Country, United Way and The Nature Conservancy.

Melissa Taylor is an associate at GableGotwals in Tulsa whose practice includes tax law, probate administration, trust and estate planning, and employee benefits, including executive compensation. She graduated from OU in 1999. In 2009 she earned her J.D. from the TU College of Law, followed by her LL.M in Taxation from the University of Alabama College of Law in August 2011.





**Smartphone User:
Use the QR app and snap the
barcode for quick Annual Meeting
information and registration**



Mark Your Calendar and Register Today

ANNUAL CRIMINAL LAW SECTION LUNCHEON

Oklahoma City Petroleum Club

Wednesday, November 14, 2012, Noon to 1:30 p.m.

REGISTER NOW for The Annual Luncheon and Professional Advocacy Awards presentation of the Criminal Law Section of the Oklahoma Bar Association, to be held at the Petroleum Club, 35th Floor, Chase Bank Building, on Wednesday, November 14, 2012, during the OBA Annual Meeting.



Noted child advocate attorney and New York Times best-selling novelist Andrew Vachss will deliver the keynote address. Vachss is among the foremost national advocates for children and youths. He serves as a New York state law guardian, appointed to represent the interests of the minor in child abuse or neglect cases. He has written numerous articles on child protection and a book on juvenile criminology, *The Life Style of the Violent Juvenile*. He is the author of 25 novels and two short story collections, as well as poetry, plays, song lyrics, and graphic novels.

Among his latest works is *That's How I Roll*, released in March 2012, concerning the death-row narrative of a hired killer's secrets of his past.

A gourmet luncheon will be served. The luncheon is open to all OBA members and guests, whether or not members of the Section. **PLEASE register on or before November 7, 2012, so that we may ensure adequate luncheon plates are provided.**

~~~Door Prizes~~~

Eight pairs of tickets to that evening's NBA *OKC Thunder-Memphis Grizzlies* game will be given as door prizes. The seats are in a lower section behind the goal, and include access to the pregame room on the Club Level (buffet and non-alcoholic beverages are included). **Must be present to win!**

Registration Form (Due November 7, 2012)

First Name _____ Last Name _____
Address _____
City _____ State _____ Zip _____
E-mail _____
Phone (____) _____ Fax (____) _____
OBA Number _____

Registration (Check Appropriate Boxes)

☐ \$10 - Pre-Registered Criminal Law Section member attending luncheon
☐ \$20 - Walk-in Registration for Section members and Guests of Section members;
☐ \$25 - non-section member of OBA (includes \$15 section dues for 2013)
\$ _____ Total Encl.

Payment (Select One):

Check ____ Visa ____ Mastercard ____ Card # _____ Expiration Date _____

Signature required: _____

Remit form and payment to Tracy Sanders, Membership Coordinator
OBA, P.O. Box 53036, Oklahoma City, OK 73152 or fax to (405)416-7001

2013 OBA Board of Governors Vacancies

Nominating Petition Deadline was: 5 p.m. Friday, Sept. 14, 2012

OFFICERS

President-Elect

Current: James T. Stuart, Shawnee
Mr. Stuart automatically becomes OBA president Jan. 1, 2013
(One-year term: 2013)
Nominee: **Renée DeMoss, Tulsa**

Vice President

Current: Peggy Stockwell, Norman
(One-year term: 2013)
Nominee: **Dietmar Caudle, Lawton**

BOARD OF GOVERNORS

Supreme Court Judicial District Three

Current: Susan Shields, Oklahoma City
Oklahoma County
(Three-year term: 2013-2015)
Nominees: **Sonja R. Porter, Oklahoma City**
Robert D. Gifford II, Oklahoma City

Supreme Court Judicial District Four

Current: Glenn Devoll, Enid
Alfalfa, Beaver, Beckham, Blaine, Cimarron, Custer, Dewey, Ellis, Garfield, Harper, Kingfisher, Major, Roger Mills, Texas, Washita, Woods and Woodward counties
(Three-year term: 2013-2015)
Nominee: **Douglas L. Jackson, Enid**

Supreme Court Judicial District Five

Current: Ryland Rivas, Chickasha
Carter, Cleveland, Garvin, Grady, Jefferson, Love, McClain, Murray and Stephens counties
(Three-year term: 2013-2015)
Nominee: **Sandee Coogan, Norman**

Member-At-Large

Current: David Poarch, Norman
(Three-year term: 2013-2015)
Nominee: **Richard Stevens, Norman**

Summary of Nominations Rules

Not less than 60 days prior to the Annual Meeting, 25 or more voting members of the OBA within the Supreme Court Judicial District from which the member of the Board of Governors is to be elected that year, shall file with the Executive Director, a signed petition (which may be in parts) nominating a candidate for the office of member of the Board of Governors for and from such Judicial District, or one or more County Bar Associations within the Judicial District may file a nominating resolution nominating such a candidate.

Not less than 60 days prior to the Annual Meeting, 50 or more voting members of the OBA from any or all Judicial Districts shall file with the Executive Director, a signed petition nominating a candidate to the office of Member-At-Large on the Board of Governors, or three or more County Bars may file appropriate resolutions nominating a candidate for this office.

Not less than 60 days before the opening of the Annual Meeting, 50 or more voting members of the Association may file with the Executive Director a signed petition nominating a candidate for the office of President-Elect or Vice President or three or more County Bar Associations may file appropriate resolutions nominating a candidate for the office.

If no one has filed for one of the vacancies, nominations to any of the above offices shall be received from the House of Delegates on a petition signed by not less than 30 delegates certified to and in attendance at the session at which the election is held.

See Article II and Article III of OBA Bylaws for complete information regarding offices, positions, nominations and election procedure.

Vacant positions will be filled at the OBA Annual Meeting Nov. 14-16. Terms of the present OBA officers and governors listed will terminate Dec. 31, 2012. Nomination and resolution forms can be found at www.okbar.org.



2012 House of Delegates

Delegate certification should be sent to OBA Executive Director John Morris Williams in order for names to appear in print in the bar journal and to be included in the House of Delegates agenda book.

COUNTY	DELEGATE	ALTERNATE
Adair Co.	Judge Jeff Payton	Ralph Keen
Alfalfa Co.	Marcus Jungman.....	Kyle Hadwiger
Atoka Co.	R. Doug Lewis	Shannon Reasor
Beaver Co.	Todd Trippet	Jamie Kee
Beckham Co.	Avery "Chip" Eeds.....	Dan Jacobsma
Blaine Co.		
Bryan Co.		
Caddo Co.	Jason Glidewell	Kyle Eastwood
Canadian Co.	Chris Arledge	Kevin Cunningham
	Jack Dawson	Nathan Richter
	W. Mark Hixson	Roger Rinehart
	Sandy Steffen	
Carter Co.	Judge Dennis Morris.....	Judge Thomas Baldwin
	(Ret.) Judge Thomas Walker	Mike Mordy
Cherokee Co.	Janice Walters-Purcell	Maci Hamilton-Jessie
Choctaw Co.	J. Frank Wolf III	Billy Baze
Cimarron Co.	Stanley Ed Manske	Judge Ronald L. Kincannon
Cleveland Co.	Don Pope.....	Amy Pepper
	Alissa Hutter	John Sparks
	Tyson Stanek	Beth Stanley
	Peggy Stockwell.....	Blake Virgin
	Judge Lori Walkley.....	Cindee Pichot
	Henry Herbst.....	David Swank
	Micheal Salem	Rebekah Taylor
	Judge Steve Bonner.....	Rooney Virgin
	Richard Stevens	Jacob Benedict
	Holly Iker	Debra Loeffelholz
	Dave Stockwell	Weldon Nesbitt
	Gary Rife	Matt Eckstein
	Sandee Coogan	Christal Adair
	Mike Johnson	Lisa Howard
	Jan Grant Johnson	Jamie McGraw
	Jan Meadows.....	Tina Peot
	Ben Odom	Ann Harcourt

	Craig Sutter.....	Cheryl Farnsworth
	David Poarch	Jeanne Miller
	Jama Pecore.....	Aaron Stiles
Coal Co.	Trae Gray	(Ret.) Judge Richard Branam
Comanche Co.	Dietmar Caudle	Jared Ellis
	Grant Sheperd.....	Kate McClure
	Mark Stoneman	Robin Rochelle
Cotton Co.	Judge Michael C. Flanagan	Kathleen Flanagan
Craig Co.	Kent Ryals	Leonard M. Logan IV
Creek Co.	Judge Richard A. Woolery	Mike Loeffler
	Chuck Watson.....	William C. Sellers Jr.
Custer Co.	Richard Phillips.....	Anthony Seth Adams
Delaware Co.		
Dewey Co.	Judge Rick Bozarth	
Ellis Co.	Saundra F. Lapsley	Laurie E. Hays
Garfield Co.	Tim E. DeClerck	
	J. David Ezzell	
	Amber McLaughlin Gill	
Garvin Co.	Daniel Sprouse	John A. Blake
Grady Co.	Judge Richard Van Dyck	Dan Williams
	Ryland Rivas	
Grant Co.	Judge Jack D. Hammontree Jr.	Steven A. Young
Greer Co.	Judge Danny R. Deaver	Eric Yarborough
Harmon Co.	Judge W. Mike Warren	David L. Cummins
Harper Co.	Judge Megan L. Simpson	Abby M. Cash
Haskell Co.		
Hughes Co.	Trisha D. Smith	Linda Evans
Jackson Co.	Tal Oden.....	Ryan Howard
Jefferson Co.	Phillip Scott	
Johnston Co.	Judge Wallace Coppedge	
Kay Co.	Brian Hermanson	Guy Clark
	Will Oldfield	Rick Johnson
Kingfisher Co.	Edd Pritchett	Kurtis Ward
Kiowa Co.	Anthony G. Mitchell	Thomas W. Talley
Latimer Co.	F. Nils Raunikaar	Jill Welch
LeFlore Co.	Dru Waren	Vicki Hamel
Lincoln Co.		
Logan Co.		
Love Co.	Kenneth L. Delashaw Jr.	Richard A. Cochran Jr.
Major Co.		
Marshall Co.	D. Michael Haggerty II.....	Judge Gregory L. Johnson
Mayes Co.	Gary J. Dean	Jacqueline Rhodes
McClain Co.	James Dee Graves	Suzanne Snell
McCurtain Co.	Judge Michael D. DeBerry	Jerry L. McCombs
McIntosh Co.	Samuel S. Barnes.....	Carman Rainbolt
Murray Co.	Phil S. Hurst	John H. Scaggs
Muskogee Co.	Jami Fenner.....	Martha Cherbini
	Roy D. Tucker	Jared DeSilvey
	Betty Williams	Lenora Gulley
Noble Co.		
Nowata Co.		

Okfuskee Co.**Oklahoma Co.**

John Heatly
James R. Webb.....
Judge Patricia Parrish
Judge Timothy D. DeGiusti
Mack Martin
Judge Geary L. Walke.....
Judge Glenn Jones
Howard K. Berry III.....
Larry Spears.....
Jim Kirk.....
Robert McCampbell
Ben Butts.....
John Oldfield.....
Judge Bryan Dixon.....
John W. Coyle.....
Judge Barbara Swinton.....
Judge Lisa Hammond
Judge Lisa Tipping Davis.....
Robert C. Margo
David Donchin.....
Judge Thomas E. Prince
Judge Lynne McGuire.....
Nancy Parrott.....
John Gile
Michael Mullins
Robert N. Sheets.....
Gary Derrick
LeAnne Burnett.....
Leslie Lynch
Mark Folger

Gary Chilton
Michael Rubenstein
David Kisner
Susan Shields
Michael Brewer
Phillip G. Whaley
Kieran Maye
Judge Bay Mitchell
Charles Alden
David Ogle
W. Todd Blasdel
Angela Ailles Bahm
M. Courtney Briggs
Judge Page Morgan
Tim Rhodes
Evan Gatewood
Daniel Couch
Richard Rose
Robert Black
Sheila D. Stinson
Keith Givens
Lawrence Schneiter
Juston Givens
Regan Beatty
Cherish Ralls
Jennifer Kirkpatrick
Justin Hiersche
Jeremy Rowland
John Barbush
Brandon Long
Lou Ann Moudy
Amanda Proctor
John M. Weedn

Okmulgee Co.**Osage Co.****Ottawa Co.****Pawnee Co.****Payne Co.**

Luke Gaither.....
Jesse Worten
Charles W. Chesnut

Catherine Seagraves
Monika Turek

Pittsburg Co.**Pontotoc Co.****Pottawatomie Co.****Pushmataha Co.****Roger Mills Co.****Rogers Co.**






David Bryan
Brandon Meyer
James Von Murray
Mindy Beare
Ellen Quinton
T. Walter Newmaster.....
Jenna Owens
Brandi Nowakowski.....
Mat Thomas
James T. Branam.....
Thomas B. Goodwin.....
Justin Greer.....
Noah Sears.....
R. Victor Kennemer III.....

Kim Adams
Michael Hogan
Jason Christopher
Erik Johnson
Bill Haselwood
Karen Henson
Charlie Rowland
Julia O'Neal
Kathy Lahmeyer
Melinda Wantland
William D. Huser

Seminole Co.**Sequoyah Co.****Stephens Co.**

Jamie Phipps

	(Ret.) Judge William B. Buxton	
Texas Co.	Cory B. Hicks	Douglas D. Dale
Tillman Co.	Clyde H. Amyx II	Kelly Tice
Tulsa Co.	Judge Millie Otey	Robert P. Redemann
	Deirdre Dexter	Julie A. Evans
	Judge Martha Rupp Carter	E. Zach Smith
	Robert S. "Bob" Farris	Trisha Archer
	James R. "Jim" Gotwals	Moura A. J. Robertson
	Paul Brunton	Tamera A. Childers
	Steven K. Balman	Melissa F. Cornell
	D. Faith Orlowski	James C. Milton
	John R. Woodard III	Mary M. Barcus
	Robert B. Sartin	Keith A. Jones
	Phil Frazier	Georgenia Van Tuyl
	Ronald Main	Amber Peckio Garrett
	Gerald L. Hilsher	Vijay Madduri
	Judge Mark Barcus	Bruce A. McKenna
	Kimberly K. Hays	Jack L. Brown
	Judge William C. Kellough	Catherine M. Cullem
	Judge Charles R. Hogshead	Tony W. Haynie
	Bill LaSorsa	Theodore P. Gibson
	Renee DeMoss	Michael S. Ashworth
	Kenneth L. Brune	Kimberly K. Moore-Waite
	Larry D. Leonard	Jay Dunham
	Leonard Pataki	David "Mike" Thornton Jr.
	Hugh Rineer	Ryan C. Harper
	C. Michael Zacharias	Bill Sanders
	Ken Williams	
	Molly Aspan	
	Paul B. Naylor	
	N. Kay Bridger-Riley	
Wagoner Co.	Richard L. Gray Jr.	
	Judge Douglas Kirkley	
Washington Co.	Amy K. Hart	Anthony R. Behar
	Kinder Shamhart	Linda Thomas
Washita Co.	Judge Christopher S. Kelly	
Woods Co.	Jesse D. Kline	Westline Ritter
Woodward Co.	Bryce Hodgden	Erin Kirksey
Oklahoma Judicial Conference		
	Judge M. John Kane IV	Judge Mary Fitzgerald
	Judge Mickey J. Hadwiger	Judge Mark Moore

	Family Law Track  MODERATOR: Ron Little	Criminal Law Track  MODERATOR: Ben Brown	Sports Law Track  MODERATOR: Kelli Masters	Recent Developments  MODERATOR: Travis Pickens
9-9:50	Commingling and Transmutation: Property Division Issues in Divorce Megan Beck	What Am I Supposed to DO With This Kid? The Oklahoma Youthful and Juvenile Delinquency Systems Shena Burgess Adam Barnett	Thunder in the Court: Exploring the Legal Issues Behind Oklahoma City's Rise to a "Big League City" Senator David Holt	Criminal Law Update Barry Derryberry Andrea Miller
10-10:50	Tips for the Family Law Practitioner Donelle Ratheal	Tips for Representing Persons Charged in Sex Offense Cases Cindy Viol	OU and Georgia vs. NCAA: We Let the Tiger Loose! Andrew M. Coats	Family Law Update Professor Robert G. Spector
11-11:50	The Use of Collaborative Law by Family Law Practitioners David Tracy	Drug Cases Are Different: Turning Tricks in the Trade of the Drug War Chad Moody	The World of Sports Agency Kelli Masters	Employment Law Update Professor David Strecker
	Nuts and Bolts  MODERATORS: Jennifer Kirkpatrick Byron Will			
2-2:50	Joint Session Andrew Vachss on Family Law and Criminal Law Andrew Vachss		Nuts and Bolts of Probate Donna Jackson	Insurance Law Update Rex Travis
3-3:50	Joint Session Follow up session re: Andrew Vachss presentation		Medicaid Eligibility for Long Term Care Travis Smith	Estate Planning and Probate Update Stephanie Chapman
4-4:50	Joint Session Civility Matters (Ethics) Bill Grimm		Employment Law Nathaniel Haskins	Health Law Update Karen Rieger

Plenary Session

Go For the Gold: How We Select Our Judges

Thursday, Nov. 15

Sheraton Hotel, Oklahoma City
3 MCLE Hours

8:30 a.m. Registration

9:00 Justice Commission Recommendations
W.A. Drew Edmondson, Former Oklahoma Attorney General; Gable Gotwals, Oklahoma City

9:15 A Historical Look at Court Reform of the 1960s

Bob Burke, Attorney, Author, Historian, Oklahoma City



9:50 Break

10 Panel Discussion with the Judicial Nominating Commission and the Oklahoma Council on Judicial Complaints

Moderator: Deborah Reheard, 2011 OBA President, Eufaula

Terry West, General Counsel, Oklahoma Council on Judicial Complaints

Members of the Judicial Nominating Commission

10:50 Break

11 With Justice for All

Morris Dees, Civil Rights Attorney, Southern Poverty Law Center, Montgomery Alabama

11:50 Adjourn

This course has been approved by the Oklahoma Bar Association Mandatory Continuing Legal Education Commission for 3 hours of mandatory CLE credit, including 0 hours of ethics.

To Register: use the Annual Meeting registration form in print or online at www.amokbar.org. Annual Meeting registration is required.



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OBA Annual Meeting Registration

Please complete a separate form for each registrant.

Name _____ Phone _____

Badge Name (if different from roster) _____

Bar no. _____ Email _____

Address _____

City _____ State _____ Zip _____

Name of Non-Attorney Guest _____

Please change my OBA roster information to the information above. ☐ Yes ☐ No

Check all that apply:

- ☐ Judiciary ☐ OBF Past President ☐ OBA Past President ☐ YLD Officer
☐ YLD Board Member ☐ YLD Past President ☐ Board Bar Examiner ☐ OBF Fellow
☐ 2012 OBA Award Winner ☐ Heroes Program volunteer ☐ Delegate ☐ Alternate
☐ County Bar President: County _____

☐ **YES!** Register me for the 2012 Annual Meeting, Nov. 14-16, in OKC.

Events will be held at the Sheraton Hotel. Registration fee includes Wednesday continental breakfast in hospitality area, President's Tailgate Party, "At the Hop" reception featuring Dave and the Wavetones and a 50s-style sock hop dance, book signing by Frank Deford, convention gifts and Vendors Expo.

☐ MEMBER:

☐ \$60 through Oct. 22; ☐ \$85 after Oct. 22\$ _____

☐ NEW MEMBER (Admitted after Jan. 1, 2012):

☐ Free through Oct. 22; ☐ \$25 after Oct. 22\$ _____

☐ LAW STUDENT DIVISION:

☐ \$35 through Oct. 22; ☐ \$45 after Oct. 22\$ _____

Continued on reverse

Register

BY MAIL
with payment or credit card
info to:
OBA Annual Meeting
P.O. Box 53036
Oklahoma City, OK 73152

BY FAX
with credit card information
to: 405-416-7092

ONLINE
www.amokbar.org

CANCELLATION POLICY
Full refunds will be given
through Nov. 7, 2012. No
refunds will be issued after
that date.

Hotel

Fees do not include hotel
accommodations. For
reservations call Sheraton
Hotel at 405-235-2780.
Call by Oct. 22 and mention
"Oklahoma Bar Association
2012" for a special room
rate of \$98 per night. To
make reservations online,
visit www.starwoodmeeting.com/Book/okbarassociation.
For hospitality suites,
contact Craig Combs at
405-416-7040 or email
craigc@okbar.org.

I will be attending the free event(s) included in my registration fee:

- ☐ Wednesday President's Tailgate Reception
- ☐ Thursday 'At the Hop' reception



I will be attending the following ticketed events in addition to my registration fee:

- ☐ Wednesday: CLE Multitrack only, 6 MCLE hours
 - ☐ \$125 through Oct. 22 ☐ \$150 after Oct. 22;
 - ☐ \$25 for new members through Oct. 22 ☐ \$50 for new members after Oct. 22\$ _____
- ☐ Wednesday and Thursday: CLE Multitrack and Plenary, 9 MCLE hours
 - ☐ \$175 through Oct. 22 ☐ \$200 after Oct. 22;
 - ☐ \$50 for new members through Oct. 22 ☐ \$75 for new members after Oct. 22\$ _____
- ☐ Thursday: CLE Plenary only, 3 MCLE hours
 - ☐ \$75 through Oct. 22; ☐ \$100 after Oct. 22;
 - ☐ \$25 for new members through Oct. 22 ☐ \$50 for new members after Oct. 22\$ _____
- ☐ Thursday: Annual Luncheon (_____ number of tickets @ \$35 each) \$ _____
- ☐ Friday: President's Leadership Breakfast (_____ number of tickets @ \$25 each) \$ _____

I will be attending the following ticketed events that do NOT require Annual Meeting registration:

- ☐ Wednesday Law School Luncheon:
 - ☐ OCU ☐ OU ☐ TU (_____ number of tickets @ \$35 each) \$ _____
- ☐ Friday: OBA CLE: OBA Tech, 6 MCLE hours (including OBA Tech Luncheon with Fastcase training)
 - ☐ \$75 through Oct. 22; ☐ \$100 after Oct. 22;
 - ☐ \$60 for Law Office Mgmt. and Tech. Section members through Oct. 22; ☐ \$85 after Oct. 22;
 - ☐ \$25 for new members through Oct. 22; ☐ \$50 for new members after Oct. 22.....\$ _____
- ☐ Friday: OBA Tech Luncheon (with Fastcase Training) ONLY, 0 MCLE hours; \$25.....\$ _____

TOTAL COST (including front and back page of Registration Form)\$ _____

Payment Options

- ☐ Check enclosed: Payable to Oklahoma Bar Association
- Credit Card: ☐ VISA ☐ MasterCard ☐ Discover ☐ American Express
- Card # _____ Exp. _____
- Authorized Signature _____

Questions?

Contact Mark Schneidewent at
405-416-7026, 800-522-8065 or
marks@okbar.org.

To All the Lawyers I Have Loved

By John Morris Williams

The passing of retired Supreme Court Justice Hardy Summers brought grief to countless lawyers and judges who loved and respected his gifts as a jurist, wisdom as a judge and his goodness as a human being. He served as liaison to the Board of Governors that allowed me an extra special opportunity to get to know him and his wife, Marilyn. He was definitely a lawyer I loved.

In looking back, as I am approaching that time when 60 becomes closer than 50, the realization is that my peers and I are becoming the "old timers." I regret that there are so many things that I have learned from the lawyers who I have loved that I may have failed to pass along.

There are still some giants among us. However, we all know that we have seen the passing of some legends. I hope some of them knew how much they shaped us and taught us. I certainly hope that we said enough "thanks yous" and showed them proper respect. My fear is that we may have not, expecting them to be with us forever.

So to all the lawyers I have loved, those who taught me, humored me, inspired me and at times brought critical atten-

tion to my shortcomings, "Thank you!" I regret I did not say that more to those like Justice Summers. Often my coin of happiness is shined up just a bit in being in the presence of such lawyers and judges.

Being in the bar association business I have had the good fortune to know and work with an exceptional group of lawyer-leaders. Some are on the bench, some work for corporations, some teach, some litigate and some do a little bit of everything. There is an unselfish and pure strain that runs through them still wanting to make the world just a little bit better place. Those are the folks who live what they wrote on their law school application, "I want to be a lawyer to help people."

THINGS I HAVE LEARNED

Also, some of the best senses of humor I have known have come from lawyers I have loved. While in a reflective mood, I will try and share some of the things I have learned from lawyers I have loved:

1) Always remember where you park. You never know when you may have to leave quickly.

2) I have seen a case just like this. This will get worse before it gets better.

3) Never let them see you sweat. Always keep your coat on.

4) When you have time, go on vacation.

5) I told you two days ago we ought to be able to try this case in half a day.

With all sincerity, to all the lawyers I have loved and who have loved the profession and helping people, "Thank you!" To those who shared wisdom, good humor and great friendships, may we who move closer to the end of the line live up to the legacy you have left in an honorable profession.

In closing, I want you to take the time this year to come to the Annual Meeting. Come and be with the lawyers you love and take the time to just be in the company of good lawyers. The truth is an overwhelming number of the lawyers I have loved always attended the OBA Annual Meeting. Seems there is a theme there.



To contact Executive Director Williams, email him at johnw@okbar.org.

Unexpected Uses of Tools and Unintended Consequences

By Jim Calloway

“To the man who only has a hammer, everything he encounters begins to look like a nail.”

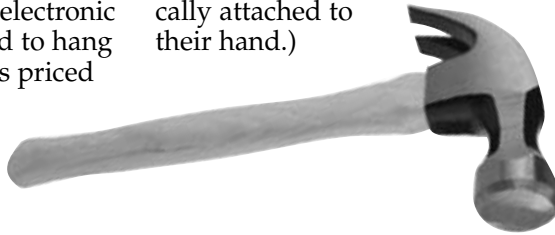
— Abraham H. Maslow

We have an array of tools at our disposal today. A walk down the aisles of a mega-home improvement store will introduce many of us to new tools or variations of tools that we have never used or maybe never seen before. One of my favorite tool purchases in the last few years was an electronic stud finder when I had to hang a lot of pictures. It was priced well over what I thought I should spend and was purchased a bit out of frustration. But it is now a tool I use with surprising frequency that will certainly be replaced at the end of its life span.

New or improved technology tools are announced at a dizzying pace. In just the last several weeks we have seen the launch of the iPad Mini, a “new, new” iPad, a redesigned Macbook Pro, Windows 8 and the Microsoft Surface tablet.

When I was younger and read a lot of science fiction, a common theme was that in the future many people would have surgically implanted devices that would wirelessly connection them to a vast computer network with huge amounts of information quick-

ly available. Few would have guessed how quickly that would come true for most of us even though the device is firmly clutched in our hands rather than surgically implanted. (Although with some people today the smartphone does seem to be surgically attached to their hand.)



The impact of so much information on demand is profound. Not only can you come up with the answer to many factual questions almost instantly with Internet searching, but you can also be instantly connected to anyone who will accept the connection via a phone call, email or social media. But the unintended consequences are equally profound, and we may not fully understand the ultimate changes in society we are creating now. Many are already so captivated by a stream of constant information that they cannot go long without checking their phone. We’ve all seen groups of people dining or together for some other reason who are all

enthralled with the small screens in their hands and ignoring the people sitting around them. Jurors see nothing wrong with live-tweeting or doing some quick additional research during their jury service while judges and lawyers see that as a danger to the right of trial by an impartial jury.

One thing is certainly clear at this point. Mobile technology changes most everything, our work life and our personal life. There is some new way of using technology tools that we have not considered yet which will become almost universal in the near future.

So this month, I have decided to discuss some examples of tools that can be used in ways you may not have considered or that have unintended consequences because of their use.

CLOUD COMPUTING

Cloud computing is one of those ideas we have talked about for years now. Yet a surprising number of lawyers still dismiss it as something that must be too complicated for them to use or something that lacks proper security.

What is cloud computing?
“Cloud computing is a fancy

way of saying stuff's not on your computer," according to Quinn Norton in her "Byte Rights" article in the September 2010 issue of *MaximumPC* magazine. My colleague, Neri-no Petro, who works for the State Bar of Wisconsin and blogs at *Compujurist.com*, brought that succinct definition to the attention of the legal community.

Keeping files in the cloud makes it much less likely that they will be lost or destroyed accidentally rather than keeping them only on your mobile device. Many reading this no doubt have photographs or something else significant that they would hate losing on their mobile devices. But the files may not be backed up anywhere else. It does not take long to set up a solution, particularly if you are an iPhone user and can use the iCloud. But it is also fairly simple to set up an account with Dropbox, Box.com, SpiderOak or one of the other cloud providers. Most offer a limited storage amount for free and five gigabytes (the typical amount) is actually quite a bit of space, especially for documents.

If you use the cloud for online storage, there is another benefit, too, as many of these services will allow you to access the file from your phone or tablet if you unexpectedly need it. I've written in this space several times about how much I appreciate that Dropbox lets me pull up information on my iPhone or iPad that I had not anticipated needing to access away from my workstation.

Even if you do not want to use the cloud for client matters, there are still other benefits. For example, on the home front, if one spouse or partner

“...many of these services will allow you to access the file from your phone or tablet if you unexpectedly need it.”

thinks that most household bills should be trashed after payment and another thinks that paid bills should be retained, a compromise of sorts can be achieved by scanning the paid bills to the cloud and then trashing them. If after several years, the allotment of free space is reached, then maybe throwing away five-year-old paid household bills will be less painful for “the filer” or they could be saved from the cloud back to a flash drive.

The iPad is one of those technology innovations that is so versatile it is now used in thousands of different ways. Many litigators use TrialPad (www.trialpad.com) for courtroom presentations, but TranscriptPad (www.transcriptpad.com) for reviewing and coding depositions is receiving a lot of attention as a huge timesaver.

I recall Tom Mighell (author of *The iPad for Lawyers in One Hour* and other books for lawyers about the iPad available through the ABA) holding the iPad 2 in front of his face and saying, “Do you really think people will want to take pictures like this very often?”

But then I met Karl Folkens, principal of the Folkens law firm in Florence, S.C. Karl regularly uses his iPad to create videos for client matters. He demonstrated several videos he made for insurance adjusters to view in personal injury cases. Friends of the injured are recorded, and they make simple recorded statements like, “Bob used to enjoy hunting with me, but since the accident he cannot because...” A few years ago, it would have required professional help and a lot of time to achieve the professional result that Karl now obtains with a few minutes working on his iPad. He uses the iMount systems tripod mount to hold the iPad firmly with anti-shock mounting. This allows one to attach the iPad and iMount to any camera tripod stand.

Attorney Folkens then uses an Audio-Technica ATR-3350 lavalier omnidirectional condenser microphone to get high quality sound. A final purchase to connect the microphone is the 1/8 inch microphone and headphone adapter — 3.5mm 4 conductor TRRS male to 3.5mm TRS jacks available at www.kvconnection.com. (Karl says to get the dual jack version so you can plug in earphones to monitor the sound.) The total cost on all of these items, excluding tax, shipping and the tripod, was around \$125 when we last checked.

But what makes this set up “magic” is the iMovie app, a \$4.99 purchase. This allows one to edit and assemble the video clips into a movie right on the iPad without having to transfer the video file to another computer for editing. That is where the huge benefit happens. Record the video on the

iPad, edit it on the iPad, and you are done.

Noteshelf for iPad by Ramki (\$5.99) is one of the apps I talk to lawyers about when we discuss how to use iPads. This lets you make handwritten notes on various topics that you can save for later reference. The nice thing about this program is you store your note collections in virtual notebooks on a shelf in the app, like an ebook reader stores ebooks. You can export your notebooks to iCloud, Dropbox and Evernote, export as a PDF document or send them to someone via email.

I was pleasantly surprised to hear OBA President-Elect Jim Stuart say to a small group of lawyers recently, "Hey, let me show you what Jim Calloway taught me." He is using the Noteshelf app to keep all of his notes organized about OBA projects and plans. He has created several notebooks about various projects. These notes were written on the iPad using the included virtual keyboard. But you could also use a stylus to handwrite the notes. This is such a simple way to maintain

this information and yet have it instantly available for reference.

It is ironic that so many now use a stylus for note taking on the iPad because the late Steve Jobs was very opposed to the idea of using a stylus with his devices.

Long before there were tablets, smart phones or personal digital assistants, many people carried small Moleskin® notebooks (www.moleskineus.com) with them to jot down ideas, notes and reminders. Now many people use the utility Evernote (<http://evernote.com>) to keep track of notes, along with web clips and many other information items. One would think the physical Moleskin notebooks might become an endangered species in this digital age. But people still like to quickly take short notes with pen and paper. The problem is they are easy to lose.

So those smart folks at Moleskin and Evernote recognized that they could join forces and have the best of both worlds for their customers. The Evernote Smart Notebook by Moleskine was created. One can take handwritten notes in the

notebook, but then with the help of the specially designed paper, take photos of the notes with a phone, and the notes will be automatically stored in Evernote. Small stickers are included that can be affixed to the page before the photo is taken so they will automatically be filed in the appropriate Evernote subfile. So now you can have a little notepad in your pocket with an easy process that lets you file the notes in the cloud where they can be kept forever and can be quickly accessed by all of your devices, including the computer at the office.

One thing is certain. We are in a time of continuing change. If Moleskin can update its legendary paper products to seemly sync with the cloud, we legal professionals can learn to update our methods of operations as well.

Mr. Calloway is OBA Management Assistance Program director. Need a quick answer to a tech problem or help resolving a management dilemma? Contact him at 405-416-7008, 800-522-8065 or jimc@okbar.org. It's a free member benefit!



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Meeting Summary

The Oklahoma Bar Association Board of Governors met at Boiling Springs State Park in Woodward County on Tuesday, Sept. 18, 2012

REPORT OF THE PRESIDENT

President Christensen reported she attended the August board meeting, Tulsa County Bar Association annual luncheon and TU College of Law luncheon for incoming 1L students. She was involved with planning regarding the Committee on Judicial Elections, OBA Annual Meeting, 2013 Southern Conference of Bar Presidents and met with LRE Chair Suzanne Heggy and LRE Coordinator Jane McConnell. She attended meetings of the Technology Committee, Budget Committee, Awards Committee and Law-related Education Committee. She met with staff and the executive director to discuss the Heroes Program and met with the IT director to work on the CourtFacts.org website.

REPORT OF THE PRESIDENT-ELECT

President-Elect Stuart reported he attended the August board meeting and planning meetings for Annual Meeting, Southern Conference of Bar Presidents and the OBA member survey. He also attended the Budget Committee and Award Committee meetings in addition to making House of Delegates appointments.

REPORT OF THE PAST PRESIDENT

Past President Reheard reported on behalf of the OBA and Pros 4 Vets she addressed members of the Oklahoma National Guard who are preparing for deployment to Afghanistan, staffed a legal advice clinic with members of the Cleveland County Bar Association and Military Assistance Committee at a Yellow Ribbon pre-deployment event in Norman and staffed a legal advice clinic with Pittsburg County Bar Association members at a Yellow Ribbon post-deployment event in McAlester. She attended a 2013 Southern Conference of Bar Presidents planning meeting and a Heroes Program 2013 CLE planning meeting. She met with staff and President Christensen regarding the Heroes Program via teleconference, met with the Arkansas bar president and military committee chair to discuss starting a legal assistance to military program in Arkansas and worked with staff to update, upgrade and revamp the Heroes Program website. She also worked with Military and Veterans Law Section Chair Robert Don Gifford to plan a joint meeting of the section and Military Assistance Committee at Annual Meeting.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he attended a budget meeting with directors and

department heads, Tulsa County Bar Association annual luncheon, meeting with President-Elect Stuart on budget preparation, 2013 Southern Conference of Bar Presidents planning meeting, Young Lawyers Division board meeting, Annual Meeting planning meetings, staff and leadership meeting about the Heroes Program, Lawyers Helping Lawyers Assistance Program meeting, monthly staff celebration, Bar Association Technology Committee meeting, Budget Committee meeting, directors meeting, conference call meeting with ABA regarding membership survey, Section Leaders Council meeting and Boiling Springs Legal Institute.

BOARD MEMBER REPORTS

Governor DeMoss reported she participated in planning a Women in Law Conference seminar segment. She attended the August board meeting, OBA Budget Committee meeting, Tulsa County Bar Association/Tulsa County Bar Foundation Capital Campaign Committee meeting, TCBA/TCBF annual meeting and luncheon, Section Leaders Council meeting and Law Schools Committee meeting at the OU law school that included a site visit, tour, program and lunch with Dean Harroz, faculty and students. **Governor Devoll** reported he attended the August board meeting and September Garfield County Bar Association meeting. He also worked on county bar

matters. **Governor Hays** reported she attended the board meeting in Oklahoma City, OBA Family Law Section monthly meeting for which she prepared and presented the budget report, joint Law Day Committee and Communications Committee meeting, OBA Family Law Section executive planning meeting, TCBA/TCBF annual luncheon, TCBA Family Law Section meeting and OBA FLS Leadership Retreat weekend. She participated in the OBA FLS leadership planning meeting. **Governor Meyers** reported he attended the August board meeting and Comanche County Bar Association meeting. He also participated in a committee meeting to plan a Board of Governors meeting in Lawton next year. **Governor Parrott** reported she attended the OBA Awards Committee meeting, 2013 OBA Budget Committee meeting, Oklahoma County Bar Association board meeting and dinner, OCBA annual dinner, plus the Law Schools Committee meeting that included a site visit, tour, lunch and program with Dean Harroz, faculty and students at the OU law school. **Governor Poarch** reported he attended the August Board of Governors meeting. **Governor Shields**, unable to attend the meeting, reported via email that she attended the August Board of Governors meeting, Oklahoma County Bar Association board meeting and OCBA annual dinner and dance. She also worked on LHL Foundation tax matters. **Governor Thomas** reported she attended the August Board of Governors meeting and presented a CLE program called "Family Law: 2012 Case Law Update" at the Boiling Springs Institute.

REPORT OF THE YOUNG LAWYERS DIVISION

Governor Kirkpatrick reported she attended the August board meeting, OBA ethics musical planning meeting and OBA Budget Committee meeting. She conducted the August OBA YLD board meeting, prepared for an OBA YLD CLE entitled "Taking Care of Business," participated in an ABA YLD Public Utility, Communications and Transportation Law Committee teleconference, planned presentations of the YLD "Vote America" project and drafted revised OBA YLD bylaws.

COMMITTEE LIAISON REPORTS

Past President Reheard reported that 500 volunteer lawyers in the Heroes Program have now helped more than 1,500 people by providing nearly \$2 million in free legal services. The 45th infantry is back from deployment and the number of soldiers needing help has increased. The program coordinator has resigned, and the program is behind on case assignments. She explained that the military husband of a full-time employee has been hired on a temporary, part-time basis to assist with the backlog. He also will be doing contract work for an OBA vendor. Board members did not see a conflict with the relationships that might prevent utilizing the part-time employee. Governor Hays reported the Law Day and Communications Committees had a joint meeting and identified five areas to highlight as possible segments in the Ask A Lawyer TV show. President Christensen reported the Bench and Bar Committee will meet today and is work-

ing with the Professionalism Committee, which is looking at the Oath of Attorney and considering whether to recommend adding civility to the oath. The Professionalism Committee will also be offering a symposium in December. Vice President Stockwell reported the LHL Foundation is continuing its work.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported a written status report of OBA disciplinary matters for August 2012 has been submitted for the board's review.

2011 CLE ANNUAL REPORT

Board members reviewed the report of the Continuing Legal Education Department, which showed that net revenue for 2011 was about \$40,000 down from 2010. President Christensen asked questions about revenue and projections for this year. Marketing efforts and a question of how much email to members from the OBA would be considered spam were discussed. President-Elect Stuart announced a CLE cruise to Alaska is planned for July 2013, and neighboring bar associations are being invited to join the OBA.

NEW MEMBER BENEFIT PROPOSED

On behalf of the Member Services Committee, Management Assistance Director Calloway reported the committee recommends the OBA enter into a vendor relationship with Ruby Receptionists, a virtual receptionist service. Director Calloway said this service would be especially beneficial for solo and small firms. The

people who answer the phone are located in Oregon. He has heard good reports from their clients in other states. Members will receive a six percent discount off all plans, a free 14-day trial and the \$95 setup fee will be waived. The OBA will receive a \$150 commission per member sign-up. The board authorized staff to execute a contract.

MANAGEMENT ASSISTANCE PROGRAM REPORT

MAP Director Calloway shared a copy of a blog post by the ABA Division for Bar Services, which at the bottom includes mention of the program's new series of video law practice tips. A page on YouTube was set up, and the videos are posted on the OBA's website. A third video is com-

ing. Director Calloway also reported that he is working with the YLD on a new lawyer training program, which will be videotaped and archived.

AWARDS COMMITTEE RECOMMENDATIONS

As an Awards Committee member, Governor Parrott reported the committee met to review nominations for OBA awards and now presents to the board its recommendations for award recipients. The board approved the awards winners as recommended by the committee.

TECHNOLOGY UPDATES

IT Director Watson reported the Bar Association Technology Committee met last week and decided to go with Avectra as the provider of membership data software. A case

management system for the Office of the General Counsel separate from Avectra is under consideration. The conversion of membership data is projected to start in January 2013 with staff training to begin in May. The technology committee also agreed with the network consultant's recommendation to spend \$60,000 to reconfigure the network infrastructure.

NEXT MEETING

The Board of Governors met at the Kerr Conference Center in Poteau on Friday, Oct. 26, 2012. A summary of those actions will be published after the minutes are approved. The next board meeting will be held Wednesday, Nov. 14, 2012, at the Sheraton Hotel in Oklahoma City as part of the OBA Annual Meeting.

NOTICE OF JUDICIAL VACANCY

The Judicial Nominating Commission seeks applicants to fill the following judicial office:

Associate District Judge Seventeenth Judicial District McCurtain County, Oklahoma

This vacancy is created by the appointment of the Honorable Michael D. DeBerry as District Judge for McCurtain County effective October 1, 2012.

To be appointed an Associate District Judge, an individual must be a registered voter of the applicable judicial district at the time (s)he takes the oath of office and assumes the duties of office. Additionally, prior to appointment, the appointee must have had a minimum of two years experience as a licensed practicing attorney, or as a judge of a court of record, or combination thereof, within the State of Oklahoma.

Application forms can be obtained on line at www.oscn.net by following the link to the Oklahoma Judicial Nominating Commission or by contacting Tammy Reaves, Administrative Office of the Courts, 2100 North Lincoln, Suite 3, Oklahoma City, OK 73105, (405) 556-9300, and should be submitted to the Chairman of the Commission at the same address **no later than 5:00 p.m., Friday, November 30, 2012. If applications are mailed, they must be postmarked by midnight, November 30, 2012.**

Heather Burrage, Chairman
Oklahoma Judicial Nominating Commission

Putting the FUN Back in Fundraising

By Shon T. Erwin

I hate fundraising. Asking people for donations is painful and embarrassing, especially when they say no. Even if the donor says yes, you know the other shoe will fall — when the donor asks you for a donation, you must reciprocate. If you are a skilled fundraiser and actually enjoy fundraising, stop reading this now.

Last month the Oklahoma Bar Foundation and the OBA jointly sponsored a workshop on fundraising for nonprofit organizations. The workshop was led by Andy Robinson, consultant and trainer for nonprofits. Mr. Robinson is also the author of several books and articles on fundraising. He shared his fresh perspectives on successful fundraising. With Mr. Robinson's permission, I will share some of my favorites with you in hopes of making you better, or at least better informed, fundraisers. You may never enjoy fundraising, but the information that follows will likely improve your performance as a fundraiser.

IDENTIFY YOUR PROSPECTS

In general, prospective donors must meet at least two of the following three qualifications:

- Ability: Do they have any available money to give?
 - Belief: Do they care about your issues, programs, etc.? Do they have relationships with any of your board members, staff or major donors? Recognize that 75 percent of all giving comes from individual donors with bequests generating 7 percent and corporate gifts only 5 percent.
 - The paradox of giving: The poorest states per capita give the most to charity.
- THE CLOSER YOU GET, THE MORE YOU RAISE**
- People give money to people, not organizations. There-



OBF President Shon Erwin (right) and Trustee Alan Souter discuss strategy learned at the workshop.

fore, you must want as much human contact with the donor as is reasonably possible. In terms of solicitation strategies, the following list descends from most effective to least effective:

- Personal face-to-face; team of two preferred over one
- Personal letter on personal stationery; telephone follow-up will improve results



Andy Robinson leads the group in personal face-to-face exercises.

- Personal phone call; follow-up letter will improve results

- Personalized letter
- Impersonal letter (direct mail)
- Impersonal telephone (telemarketing)
- Fundraising benefit/special event
- Door-to-door canvassing
- Media/advertising

GIFT RANGES

In a typical annual campaign, the money that organizations raise each year for general support follows the following pattern:

- 10 percent of the donors yield 60 percent of the money
- 20 percent of the donors yield 20 percent of the money
- 70 percent of the donors yield 20 percent of the money

In other words, most organizations rely on a handful of major donors to generate the majority of their unrestricted income. Using this principle, you can set your goal and then calculate how many donations at each level you'll need to meet that goal.

What is the No. 1 reason people give to charity?

Because it feels good.

What is the No. 1 reason people do not give?

Because no one asked.

THE ASK

When asking for money you should listen more and talk less. If you want money, you should ask for advice. If you want advice, you should ask for money. The point is that a fundraiser should ask why the potential donor gives. Get that person to tell you what charitable organizations they feel passionate about and why

Know your organization, be prepared to identify what makes your group unique. More importantly, have a heartwarming story you can tell which describes the work of your organization. Statistics may raise eyebrows, but emotions raise money, so go easy

on the data and jargon. For law-related nonprofit organizations, the fundraiser should transform the abstraction of justice into concrete examples of various legal service providers helping vulnerable adults and children find shelter, safety and assistance.

PLEASE AND THANK YOU

Most of you don't need a purple dinosaur to remind you that please and thank are truly magic words. Many fundraisers lack the discipline to write a personal thank you note to a donor. There is power in personal correspondence and even more power in offering an in-person thank you.

I still hate fundraising, but what I hate more is that every day, equal justice under the law is being denied Oklahomans. Equal justice under the law means nothing without equal access to justice.

As the nation with the most lawyers, it is both shameful and ironic that so many of our citizens are without meaningful access to legal counsel; and that so many of our citizens are woefully ignorant of their basic legal rights and responsibilities. This is a cause to which we, as lawyers, are all called. Let's do some fundraising.

Shon T. Erwin is president of the Oklahoma Bar Foundation and may be reached at Judge_Shon_T_Erwin@okwd.uscourts.gov.



Andy Robinson discusses some of the many reasons attorneys should give to a good cause.





Oklahoma Bar Foundation and Oklahoma Bar Association leaders at a fundraising for nonprofits workshop led by Andy Robinson, consultant and trainer. Participants: Deb Holt and Nancy Norsworthy of OBF, Jennyfer Guebert of Fellers Snider, Trustees Jeff Trevillion, Brett Cable, Will Farrior, John Morris Williams, OBF President Elect Susan Shields, OBA President Cathy Christensen, OBA Governor and Past OBF President Renée DeMoss, Trustees Alan Souter, Kara Smith, President Shon Erwin, Trustee Stephen Beam, Kevin Cousins of Tulsa County Bar Association, Presenter Andy Robinson and Trustee Tanya Bryant.

New YLD Leadership Set to Take Office in 2013

By Roy D. Tucker

The nominating petitions have been filed, and the results are in. There were no contested elections this year, so the new OBA Young Lawyers Division leaders stand ready to take the reins in 2013. Nominating petitions were due Oct. 2 at 5 p.m.

The following individuals automatically hold the office for their respective positions for the 2013 OBA Young Lawyers Division.



Joe Vorndran
2013 Chairperson

Joe Vorndran is a partner with the Shawnee law firm of Stuart, Clover, Duran, Thomas & Vorndran LLP. His practice is focused on general civil and commercial litigation, corporate law and municipal law. He and his wife, Carissa, and their two sons, Jude and Conner, reside in Shawnee.

He received his B.A. from OU in May of 2003, where he

was a member of the OU Scholars program, Order of Omega honor fraternity and numerous other campus committees. He received his J.D. from the OU College of Law in May 2006, where he was a class representative, on the dean's council, and a member of the SBA Board of Governors. He was admitted to practice before all Oklahoma state courts in September 2006.

He has served as the District 8 representative for the YLD Board of Directors from 2006 until 2012. He is also a member of the Community Service Committee and chairperson of the Children and the Law Committee. He served as treasurer of the YLD in 2011 and chairperson-elect of the YLD in 2012. He attended the 2007 OBA Leadership Conference, and was a delegate to the 2009-2010 OBA Leadership Academy. He also serves on the *Oklahoma Bar Journal* Board of Editors, and he is a member of the Pottawatomie County Bar Association, serving as president from 2007-2009. He is a member of the ABA, and a Fellow of the Oklahoma Bar Foundation. In 2008 he received the District 5 Child Abuse Prevention Task Force "Child Advocate of the Year" award. He is also a board member for Gateway to Prevention and Recovery as well as the Shawnee Dropout Retention Foundation.



Jennifer Kirkpatrick
Immediate Past Chair

Ms. Kirkpatrick is an attorney in the Oklahoma City office of Hall Estill and focuses her practice in the areas of administrative law, bankruptcy and civil litigation. She is admitted to practice before all Oklahoma state courts, as well as the U. S. District Courts for the Western, Northern and Eastern Districts of Oklahoma and the 10th Circuit Court of Appeals. Her educational credentials include a B.A. from Cameron University (1996), an M.A. from OU (1999) and a J.D. from OCU School of Law (2002).

She is a member of the Oklahoma County Bar Association and the ABA. She has served on the OBA Young Lawyers Division Board of Directors since 2008 and is currently serving as OBA YLD chairperson. She is also serving as the young lawyer liaison to the

ABA Public Utility, Communications and Transportation Law Committee and has been selected as a young lawyer fellow to the ABA GPSolo Division for 2012-2013.

She lives in Edmond with her two sons.

UNCONTESTED ELECTIONS

The following persons have been nominated. They are running uncontested and will be declared elected at the Annual Meeting of the OBA Young Lawyers Division.



Kaleb Hennigh
Chairperson-Elect

Kaleb Hennigh, is a partner in the law offices of Ewbank, Hennigh and McVay PLLC, a regional law firm with offices in Enid, Fairview and Laverne, focused on serving clientele throughout northwest Oklahoma. Kaleb has remained active throughout the OBA and the YLD for the past five years serving in various roles and committees. His roles include serving as treasurer for the YLD for the past year.

Kaleb obtained his J.D. from the OU College of Law, and

then moved to northwest Arkansas where he obtained his LL.M. in agricultural law from the University of Arkansas School of Law. During his studies at OU, he was awarded the Kelly Beardslee Award for his work with the OU Criminal Law Clinic. While working to obtain his LL.M., he served as a graduate assistant at the National Agricultural Law Center, where he conducted extensive research on multiple issues within agricultural law. Upon completing his LL.M. degree, he remained in northwest Arkansas, working as an associate attorney in an intellectual property law firm where he worked with several agricultural corporations regarding intellectual property protection. He also helped establish an agricultural bankruptcy practice which received regional recognition for its efforts in assisting immigrant farmers. He and his family returned to Enid in early 2007 where he served as an associate attorney and later a partner in a regional law firm where he expanded his practice and focus on estate planning, asset protection, and bankruptcy liquidation and reorganization. He continues his practice with in his new partnership focusing on asset protection, estate planning, real estate transactions, bankruptcy, corporations, wind energy and leases, and other issues within the agricultural industry.

He and his wife, Jennifer, and their two sons, Karsen and Jase, reside in Enid.



LeAnne McGill
Treasurer & District 3

LeAnne McGill is a partner with the Edmond law firm of McGill & Rodgers, where her practice focuses on all areas of family law. She has been active in the OBA YLD since 2006, currently serving as the secretary and is in her third term as a director for District 3. She is the chair of the New Attorney Orientation Committee, which is responsible for preparing and passing out bar exam survival kits to those taking the bar exam each February and July. This committee is also responsible for the refreshments at the swearing-in ceremonies and planning the "Welcome to the Bar" celebrations each April and September. In addition, she has served as the Publications and Website Committee Chair, participated in Wills for Heroes, Serving our Seniors, and "Done in a Day" community service projects, and has provided pro bono time to service members through the Military Assistance Program.

She has also served on the Oklahoma County YLD Board of Directors for the last six years. As a director for the OCBA YLD, she has held numerous positions, including serving as the chair for the Harvest Food Drive Committee

and the Chili Cook-off Committee. These two committees work together to donate in excess of \$20,000 to the Regional Food Bank each fall.

Aside from her participation in the YLD, she is active in the OBA Family Law Section and has served on several OBA committees, including the Mentoring Task Force, Law Day Committee, and Women in Law Committee. She is a graduate of the inaugural 2008-2009 OBA Leadership Academy, the 2007 OBA Leadership Conference, is an Oklahoma Bar Foundation Fellow, and served as the first chair of the OBA Law Student Division.

She has been active in the ABA, having held several positions within the organization, including two terms as the ABA Law Student Division national secretary/treasurer and one term as the National Pro Bono Committee co-chair for the Law Student Division. She has served on the ABA YLD Programming Team and as chair of the ABA YLD Access to Justice Committee.

She received her B.A. in English and political science from OSU in 2003 and her J.D. from OCU School of Law in 2006. In addition to bar activities, She has served on the OCU Law Alumni Association Board of Directors and is an active member of the Ginsburg Inn of Court, EWF International, Edmond Women's Club, and Edmond Family Counseling Board of Directors. She has been honored as a Top 20 under 40 by the *Edmond Sun* and a Top 40 under 40 by *OKCBiz*. She is also a graduate of Class XXVI of Leadership Edmond and volunteers with the American Cancer Society and the Salvation Army.



Bryon J. Will
Secretary

Bryon Will is a solo practitioner in The Law Office of Bryon J. Will PLLC. He is a third-generation Oklahoman born and raised in Morrison. He graduated from OSU with a bachelor's degree in animal science and began his career as a sales representative for an animal health supply company and a broadband Internet vendor. He later worked for Bank of Oklahoma. He earned his M.B.A. at UCO and his J.D. at OCU School of Law. During law school, He earned his Oklahoma legal intern's license and worked for the Oklahoma County District Attorney's Office, then later took an internship with Haupt Brooks Vandruff Clor. He currently practices in estate planning, probate, real estate, elder law and long-term care planning, business transactions and bankruptcy.

He is admitted to practice before the Supreme Court of Oklahoma and the U.S. District Court for the Western District of Oklahoma. He is a member of the Oklahoma County Bar Association, ABA, National Academy of Elder Law Attorneys, and a Fellow of the Oklahoma Bar Foundation.

He is currently an associate with the Ruth Bader Ginsburg American Inn of Court and was formerly an associate member of the William J. Holloway American Inn of Court. He is currently serving as an at large member of the OBA YLD Board of Directors, where he also served as chairman of the Seniors Committee and is currently serving as co-chairman of the CLE Committee. He was a graduate of the OBA Leadership Academy class of 2011-2012.



Aaron Pembleton
District 1

Aaron F. Pembleton is an assistant district attorney in Washington County. His primary docket duties include misdemeanor, juvenile delinquent and juvenile deprived cases. He lives in Bartlesville and is a mentor for the Run the Streets program.

He received his B.S. in agricultural and applied economics from Texas Tech University, where he graduated *cum laude* in December 2006. He received his J.D. from the OU College of Law in May 2010. He was admitted to the practice of law before Oklahoma state courts in September 2010.



Amber Peckio Garrett
District 6

Amber Peckio Garrett is a partner with the Tulsa law firm of Garrett Law Center PLLC. She received dual bachelor's degrees in economics and political science from Southeastern Oklahoma State University. She received her J.D. degree from the TU College Of Law, where she served as articles editor for the *Tulsa Journal of Comparative and International Law* and as the Student Bar Association speaker of the house. She was admitted to practice in Oklahoma in 2003, and she practices in the areas of consumer protection, insurance disputes, product liability, family law and criminal defense.

She is admitted to practice in all courts in the state of Oklahoma and before the U.S. District Court for the Eastern District of Oklahoma and the U.S. District Court for the Northern District of Oklahoma. She is an active member of the ABA, American Association of Justice, Oklahoma Association for Justice and the Tulsa County Bar Association.

She currently serves as OBA YLD board director, at-large (2010) District 6 for Tulsa (2007, 2009). She is also a member of the MCLE Commission (2009-2012), Professionalism Commit-

tee (2007, 2009) and Women in Law Committee (2007, 2009), of which she is a past chairperson. She was a member of the OBA Lawyer Advertising Task Force (2007). She is a graduate of the inaugural 2008-2009 OBA Leadership Academy. She was named Young Lawyer Fellow of the ABA Law Practice Management Section for 2010-2011.

She is a frequent moderator and presenter of continuing legal education for the OBA and other professional organizations. In addition to her work with the OBA, she also serves on the pro bono attorney panel for Legal Aid of Oklahoma for Tulsa and surrounding counties working with at-risk women and families.



Tim Rogers
District 6

Tim Rogers is a member of the Tulsa law firm Barrow & Grimm PC. His practice is focused primarily on business and commercial litigation, construction litigation and surety law.

He graduated from OSU where he received his Bachelor of Science in business administration in economics and a minor in finance in 2005. He was a member of the Beta

Theta Pi fraternity, Phi Alpha Delta legal fraternity, Delta Sigma Pi business fraternity, Economics Society and Phi Eta Sigma honor fraternity.

He received his J.D. *with honors* from the TU College of Law in 2008. He was an editor for the *Tulsa Law Review* and a member of the Phi Delta Phi legal honor fraternity and Phi Kappa Phi honor fraternity. He received the CALI "Excellence for the Future" Award for outstanding achievement in the study of constitutional law II.

Since 2011, he has served on the OBA YLD Board of Directors representing District 6 and co-chaired the New Attorney Orientation Committee. He also serves on the OBA Communications Committee and is a recent graduate of the OBA Leadership Academy for 2011-2012. Additionally, he is an Oklahoma Bar Foundation Fellow and provides pro bono service to the Oklahoma Lawyers for America's Heroes program and the OBA Disaster Relief Committee.

As a member of the Tulsa County Bar Association, he is currently a member of the Bench & Bar Committee. In the past, he served as chair of the Public Relations Committee (2011-2012) and Young Lawyers Division (2010-2011). He was named the Tulsa County Bar Association's Outstanding Young Lawyer for 2010-2011 and received the President's Award for Distinguished Service for 2010-2011. He also serves on the Tulsa County Bar Foundation's Steering Committee for its capital campaign and is an associate in the Council Oak/Johnson-Sontag Chapter of the American Inns of Court.



Grant Sheperd
District 9

Grant Sheperd practices in Lawton with the firm of Goza, Washington and Company. His practice focuses primarily on family law, criminal law and real estate law. He is a 2007 graduate of OU with a journalism degree and a 2010 graduate of the OU College of Law. In addition to serving as a director for the OBA YLD, he is currently a member of the OBA Work/Life Balance Committee and a member of the Comanche County Teen Court Board. In his spare time, he enjoys hunting and fishing on family land in southwest Oklahoma and spending time with his wife and newborn daughter, Ava.



Sarah C. Stewart
At-Large

Sarah C. Stewart is a native of Oklahoma City. She has served on OBA YLD Board since 2011 as an at-large director. She is admitted to practice before all state courts and the Western District of Oklahoma. She graduated from Putnam City High School and received her undergraduate degree at OSU. She graduated from OCU School of Law, *summa cum laude*, in 2009. While in law school, she was a member of the Philip C. Jessup International Law Moot Court Competition and the *OCU Law Review*. She became the executive director of the Senior Law Resource Center in Oklahoma City earlier this year. She has worked at the organization for more than one year and began her career there as senior managing attorney. As executive director, she continues to practice law and focuses her practice on adult and minor guardianships, probate, estate planning, and probate avoidance. Prior to entering the non-profit sector, she practiced law with the firm of McLendon and Murphy. She focused on family law, probates, estate planning and foreclosure defense. She is an Oklahoma Bar Foundation Fellow. She is a member of the OBA Bench and Bar committee,

OBA Access to Justice Committee and Oklahoma Aging Advocates Leadership Academy.



Christa Evans
At-Large

Christa Evans hails from Cherokee. She received her undergraduate degree from Oklahoma Baptist University in 2006, and her J.D. from the OU College of Law in 2011. In 2010 she received the OBA Outstanding Senior Law Student Award. She is a certified mediator for the Oklahoma Supreme Court Early Settlement Program. She is employed with Continental Resources Inc., a top 10 petroleum liquids producer in the United States with offices in Oklahoma City.

continued on next page



Erin Means
At-Large Rural

Erin Means is an assistant professor of legal research and writing at the OU College of

Law. She joined the faculty in 2012 after serving as an associate attorney at Gungoll, Jackson, Collins, Box & Devoll PC in Enid. She received Outstanding Young Lawyer award from the Garfield County Bar Association in 2011.

She earned her J.D. degree with honors from OU, where she served as a note editor for the *Oklahoma Law Review* and was a member of the Order of the Coif. She has also served as a research and editorial assistant for the Federal Judicial Center, where she assisted with case law citation verification

and editorial work for the *Reference Manual on Scientific Evidence, Third Edition*.

She has served as a member of the *Oklahoma Bar Journal* Board of Editors and a director for the OBA YLD. She was a member of the OBA Leadership Academy class of 2012 and is a past member of the Luther Bohanan American Inn of Court.

Mr. Tucker is the city attorney in Muskogee and serves as OBA YLD Nominating Committee chairperson.

Federal Law Clerk Vacancy

United States District Court, Western District of Oklahoma

Applications are now being accepted for the position of one-year term law clerk to United States Magistrate Judge Robert E. Bacharach. A law degree is required, together with a strong academic record and demonstrated skills in legal research and writing. Salary will depend upon academic background, skills and experience. For full employment notice, go to www.okwd.uscourts.gov.

To apply, submit two copies of a resume with one copy of a writing sample to the address below by **November 16, 2012**.

Vacancy No. 12-04
United States District Court Clerk
United States Courthouse
200 N.W. 4th Street, Rm 1210
Oklahoma City, OK 73102

AN EQUAL OPPORTUNITY EMPLOYER

November

- 6 OBA Law Related Education Committee meeting;** 12 p.m. Oklahoma Bar Center, Oklahoma City with teleconference; Contact Suzanne Heggy 405-556-9612
- 7 OBA Appellate Practice Section meeting;** 11:30 a.m.; Oklahoma Bar Center, Oklahoma City and Dean's Conference Room, John Rogers Hall, Tulsa University Law School, Tulsa; Contact Greg Eddington 405-208-5973
- OBA Government and Administrative Law Practice Section meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Tamar Scott 405-521-2635



- 12 OBA closed** – Veterans Day observed
- 13 OBA Professional Responsibility Commission meeting;** 2 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Dieadra Goss 405-416-7063
- 14-16 OBA Annual Meeting;** Sheraton Hotel, Oklahoma City; Contact Craig Combs 800-522-8065
- 15 OBA Family Law Section meeting;** 8:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact Tamera Childers 918-581-8200
- Oklahoma Justice Commission meeting;** 2 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Drew Edmondson 405-235-5563
- OBA Women In Law Committee meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City with Tulsa County Bar Center, Tulsa; Contact Deirdre Dexter 918-584-1600
- 16 OBA Family Law Section Collaborative Law Division;** 1 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Tamera Childers 918-581-8200
- 22-23 OBA closed** – Thanksgiving observed

- 26 OBA Alternative Dispute Resolution Section meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact Michael O'Neil 405-232-2020
- 27 OBA Communications Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact Dick Pryor 405-740-2944
- 28 OBA Clients' Security Fund Committee meeting;** 2 p.m.; Oklahoma Bar Center, Oklahoma City and Tulsa County Bar Center, Tulsa; Contact Michael Salem 405-366-1234
- Ruth Bader Ginsburg American Inn of Court;** 5 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Donald Lynn Babb 405-235-1611

December

- 4 OBA Law Related Education Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Suzanne Heggy 405-556-9612
- OBA Government and Administrative Law Practice Section meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Tamar Scott 405-521-2635
- 5 OBA Law Day Committee meeting;** 2:30 p.m.; Oklahoma Bar Center, Oklahoma City with Tulsa County Bar Center, Tulsa; Contact Richard Vreeland 405-360-6631
- 6 OBA Environmental Law Section meeting;** 11:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact Michael Wofford 405-319-3504
- OBA Lawyers Helping Lawyers discussion group meeting;** 7 p.m.; Office of Tom Cummings, 701 NW 13th St., Oklahoma City; RSVP to Kim Reber kimreber@cabainc.com
- OBA Lawyers Helping Lawyers discussion group meeting;** 7 p.m.; The Street Law Firm, 400 S. Boston Ave, Ste. 1100 W., Tulsa; RSVP to Kim Reber kimreber@cabainc.com
- 7 OBA Appellate Practice Section meeting;** 11:30 a.m.; Oklahoma Bar Center, Oklahoma City and TU Dean's Conference Room, John Rogers Hall, 3120 E. 4th Place, Tulsa; Contact Greg Eddington 405-208-5973

New Member Benefit: Call Ruby



Looking for a full-time receptionist for your law practice but worried about the expense? Call Ruby may be the answer. Call Ruby is a virtual reception service based in Portland, Ore. You can use their services full-time, or you can get temporary help a few hours a day when you want to close for lunch or need someone to fill in when someone is out sick. It's a great solution for solo and small firms; the service will screen, announce and transfer calls, take messages, place outgoing calls, and more. To learn more, contact Ashley Fisher at 866-611-7829 or visit www.callruby.com/okbar. Mention your OBA membership and receive a free 14-day trial, free activation, and special pricing on your monthly plan.

Many Thanks to Our Heroes Volunteers

The OBA celebrated National Pro Bono Week in October by commending our Oklahoma Lawyers for America's Heroes volunteers. These lawyers have spent countless hours providing no-cost legal assistance to military servicemembers and veterans. The program started on Veterans Day in 2010; since then about 500 volunteer lawyers have donated their time, adding up to nearly \$2 million in free legal services.

Since this past April, 23 new attorneys have signed up to serve those who have so courageously served us. These volunteers are:

Kevin Calvey, Oklahoma City
Sheri Eastham, Sapulpa
James Fatigante, Tulsa
Michael Ford, Oklahoma City
Jennifer Henshaw-McBee, Edmond
Bryan Irons, Tulsa
James L. Kee, Duncan
Pete Knowles, Tulsa
Angela Mauch, Tulsa
Kevin McCray, Oklahoma City
Lauren McConnell-Corbyn, Oklahoma City
Andrew Messer, Norman

Michael Mullins, Oklahoma City
Dawn Pratt, Tulsa
Elizabeth Price, Oklahoma City
Rod Ring, Norman
Harry Rouse, Tulsa
Stone Sanders, Vian
Kinder Shamhart, Bartlesville
Robert Thompson, Oklahoma City
Jeff Trevillion, Oklahoma City
Russell Walker, Oklahoma City
Glenn White, Oklahoma City



Holiday Hours

The Oklahoma Bar Center will be closed Nov. 22-23 in observance of the Thanksgiving holiday.

OBA Member Resignation

The following member has resigned as a member of the association and notice is hereby given of such resignation:

T. Jay Thompson
OBA No. 8989
10 Spring Vlg.
Ponca City, OK 74604-5135

Kudos

Chief Judge Vicki Miles-LaGrange of the Western District of Oklahoma was presented with the Sarah T. Hughes Civil Rights Award during the Federal Bar Association's recent National Convention in San Diego. The award is presented annually to a person who has accomplished ground-breaking achievement or a body of sustained and dedicated work in the area of civil rights, due process and equal protection. Judge Miles-LaGrange was recognized for her role in promoting the advancement of civil and human rights, and for exemplifying Judge Hughes' spirit and legacy of devoted service and leadership in the cause of equality. During the convention, the Oklahoma City chapter of the Federal Bar Association was one of a handful of chapters to receive the Presidential Excellence Award. The award recognizes chapters that excel in all areas and perform above and beyond the minimum requirements of chapters in the association.

Four OBA members have been added to the Order of the Owl Hall of Fame, paying tribute to the OU College of Law graduates who demonstrate leadership and service through outstanding accomplishments in their legal careers. Being honored are Retired U.S. District Court Judge **Thomas R. Brett**, Tulsa, class of 1957; **James T. Com-**

fort, Richardson, Texas, class of 1957; **J. Hugh Roff Jr.**, Houston, Texas, class of 1955; and **Alma Bell Wilson**, posthumous, class of 1941.

The American College of Environmental Lawyers recently elected Crowe & Dunlevy director **LeAnne Burnett** as a 2012 Fellow. She was selected for her distinguished experience and high standards in the practice of environmental law and will be officially inducted into the college at its annual meeting in October. She is the only Oklahoma attorney to be elected this year.

Edmond attorney **Don Powers** received the George Washington Honor Medal from the Freedoms Foundation of Valley Forge, the highest award presented by the national organization. He is recognized by the organization for his active support of the U.S. Constitution.

Dan S. Folluo of Tulsa inducted as a Fellow of the American College of Trial Lawyers during the college's recent annual meeting in New York City. The college is comprised of outstanding members of the trial bar from the United States and Canada. He is a 1985 graduate of the TU College of Law.

Paul R. Foster of Norman was recently recognized by the Community Bankers Association of Oklahoma during the group's annual convention in Oklahoma City. He was presented with the Chairman's Award which is the association's highest honor and is given to an individual

who has made a significant contribution to the community banking industry. The award noted his longtime support of the community banking industry and years of legal advice to banks and bankers as well as his excellent working relationship with state and federal bank regulators.

The National Academy of Distinguished Neutrals announces the induction of three Oklahoma attorney-mediators to the association's new Oklahoma chapter. Joining the academy are **R. Lyle Clemens** and **Robert C. Margo**, both of Oklahoma City, and **John D. Rothman** of Tulsa. The association's membership consists of alternative dispute resolution professionals distinguished by their hands-on experience in the field of civil and commercial conflict resolution, and by their commitment to the practice of alternative dispute resolution.

The Tulsa County Bar Association has announced the names of its officers for the upcoming year. Elected to the Executive Committee are **Jim Gotwals**, president; **James R. Hicks**, president-elect; **D. Faith Orłowski**, past president; **D. Ken Williams**, vice president; **Kimberly Moore-Waite**, secretary; **Ann Domin**, treasurer; and **Marvin Liza-ma**, budget. Joining the Tulsa County Bar Foundation's Executive Committee are **Deirdre Dexter**, president; **Leonard Pataki**, past president; **Chad McLain**, vice president; **Mike Esmond**, sec-

retary; and **Adam Marshall**, treasurer/budget.

On The Move

Legal Aid Services of Oklahoma Inc. announces the appointment of **Cindy Sooter Goble** as the interim managing attorney for the Oklahoma City office. She has been the Oklahoma City pro bono coordinator since 2004 and was named statewide pro bono coordinator in 2008. She received a B.A. in business management from the OU Price Business College in 1990 and is a 1993 graduate of the OU College of Law.

The Los Angeles-based law firm of Lewis Brisbois announces **Kathleen Bliss** has joined the firm in its white-collar criminal defense and government investigations practice. Ms. Bliss will represent individuals and businesses in a practice primarily devoted to criminal investigations and prosecutions by federal and state authorities, complex civil litigation and criminal appellate practice. She served 22 years as a federal prosecutor and is experienced in the areas of federal Indian law and jurisdictional issues involving Indian tribes. She is a 1989 graduate of the TU College of Law.

Crowe & Dunlevy announces **Mary Snyder** has joined the firm as an of counsel attorney in the Labor and Employment Practice Group in the firm's Oklahoma City office. Before joining

Crowe & Dunlevy, she practiced labor and employment law in San Diego. She has counseled companies and human resource representatives on best employment practices, negotiated collective bargaining agreements and represented clients in discrimination, harassment, retaliation and wage and hour claims. She received her J.D. from Harvard Law School in 1999 and has a bachelor's degree in Spanish with high honors from Portland State University.

Oklahoma-based law firm Fellers Snider welcomes **Ryan Pittman** as an attorney in its Tulsa office. He will focus his practice on energy and natural resources litigation. He worked as a law clerk at Fellers Snider during the summers of his law school education and during his last semester at school. He graduated with highest honors from the TU College of Law in May 2012. While at TU, he earned seven CALI Awards of Excellence and was also a member of the *Energy Law Journal*. He graduated from OSU in May 2009 with a B.S. in political science.

O Joseph Williams announces the opening of his solo practice in the Okmulgee and Tulsa areas. He is experienced in providing general counsel services as well as litigation services in tribal, federal and state courts regarding tribal governmental issues and general civil matters arising out of Indian country affairs. He focuses on the area of federal Indian law and was recently elected to serve as chief justice of the Sac and Fox Nation Supreme Court. He has served as a justice on the Sac

and Fox Nation Supreme Court since 2010.

McAlister & McAlister Law Firm in Edmond welcomes **Cara Nicklas** as an attorney. She has 22 years of experience in employment law and business litigation. She previously worked for the Oklahoma Tax Commission and Oklahoma Employment Security Commission. Her practice will focus on employment law, business litigation, probate and trust litigation and estate planning. She received her bachelor's degree from OU and her J.D. from the OCU School of Law in 1990. The firm also welcomes **Cody Jones** as an associate. She received her undergraduate degree from OSU and graduated from the OU College of Law in 2012. At OU, she was a member of the Philip C. Jessup International Law Moot Court team and was a member of the *Oklahoma Law Review*. Her primary areas of practice will be estate planning, probate and trust law.

The law firm of Norman Wohlgemuth Chandler & Dowdell announces that **Bethany M. Loveless** joins the firm as an associate. She earned her J.D. with highest honors from the TU College of Law in 2012 where she served as editor of the *Tulsa Law Review*. She is a member of the Hudson-Hall-Wheaton American Inns of Court. She graduated with a B.A. from Quachita Baptist University in 2009. Her practice will focus on complex civil litigation.

Jodi Warmbrod Dishman joins the litigation group at McAfee & Taft. She is an experienced trial and appeals lawyer and former law clerk

for the 5th Circuit U.S. Court of Appeals. Her state and federal litigation and arbitration practice is focused on complex business litigation, class actions, insurance litigation, securities litigation and appeals. She has worked at the San Antonio law firm of Akin Gump Strauss Hauer & Feld. The Edmond native graduated *summa cum laude* with a J.D. from OU College of Law in 2005, when she was recognized by the OBA as outstanding senior law student. She graduated *cum laude* with a B.B.A. in 2002 from Southern Methodist University.

David L. Sobel and **Eddie Erwin** announce the formation of the new immigration law firm Sobel & Erwin PLLC. Mr. Sobel brings more than 40 years of legal experience in trials, commercial controversies, and representation of individuals in civil and immigration matters. Mr. Erwin has been practicing law for more than 15 years and has represented clients before state and federal courts in Oklahoma, and before the U.S. Immigration Courts in matters on appeal. Both Mr. Sobel and Mr. Erwin focus primarily on immigration issues and concerns of businesses and individuals. The firm's office is located at 1856 East 15th St., Tulsa, OK 74104. The attorneys can be reached at 918-712-9888 or www.sobelerwinlaw.com.

Greg D. Givens, **Sheila R. Benson** and **Christopher T. Combs** are now with the Givens Law Firm. The firm is located at 136 N.W. 10th St., Suite 100 in Oklahoma City, OK 73103. The lawyers may be contacted at 405-604-6880.

Love, Beal & Nixon PC announces **Nancy Potter** has joined the firm. Her practice has been in civil litigation, with emphases in medical malpractice defense, products liability, and appellate law. She received her M.A. from UCO in 2001 and her J.D. from OCU School of Law in 2006.

Oklahoma City-based law firm Phillips Murrah PC announces **Cody J. Cooper** and **Jeff Riles** have joined the firm. Mr. Cooper is a civil litigator. He is a 2012 graduate of the OU College of Law, where he was a managing editor of the *American Indian Law Review*. He also served as a Dean's Council mentor and earned the American Jurisprudence Award for civil procedure II. Mr. Riles is a transactional lawyer whose primary focus is the alternative energy industry. He is also a 2012 graduate of the OU College of Law, where he was president and community service chair of the Student Bar Association. He served on the *American Indian Law Review* and was a member of Students for Access to Justice.



Mary Ellen Ternes presented "EPA Greenhouse Gas Reporting Rule: Lessons Learned" for a nationally broadcast webinar presented by the American Institute of Chemical Engineers and the Air & Waste Management Association in September. She also presented "Greenhouse Gas Update:

EPA Rule Challenges, Cap and Trade, LCFS, Common Law Litigation and Public Trust," at the 20th Section Fall Meeting: The American Bar Association, Energy, and Resources Law Summit in October in Austin, Texas. She was also a featured speaker for two sessions, "EPA's Clean Air Act Authority to Regulate Greenhouse Gases," and "Technology Forcing with Clean Air Act Best Available Control Technology" at the 2012 annual meeting of American Institutes of Chemical Engineers in October in Pittsburgh, Penn. She practices with the firm of McAfee & Taft.

Chris Paul was a featured speaker for two sessions, "Pipeline Safety 101: Operating to Protect the Public and the Environment," and "Case Study: Managing Pipeline Integrity in PHMSA's New World of Traceable, Verifiable and Complete," at the 2012 Association of Oil Pipe Lines' Annual Business Conference in Savannah, Ga. in September. He also presented "OSHA 101: Knock, Knock – Who's There?" at the Tulsa Area Employer Council in Tulsa in October. In addition, he presented "Recognizing and Managing Environmental Liability" in October at the OSU College of Engineering, Architecture and Technology Continuing Education Program in Tulsa. He practices with the firm of McAfee & Taft.

Frank Polk presented "FAA Proposed Policy Clarification for Non-Citizen Trusts" at the Aircraft & Engine & Finance & Leasing Americas Conference in Las Vegas, Nev. in October. He practices with the firm of McAfee & Taft.

Roberta Fields presented "Social Networking in the Workplace" at the Risk Management Society Central Oklahoma Chapter Meeting in October. She practices with the firm of McAfee & Taft.

Charlie Plumb moderated the opening keynote, "Employment Law Outlook for 2013 and Beyond," at the 17th Annual Advanced Employment Issues Symposium in Nashville, Tenn., and in Las Vegas, Nev. He practices with the firm of McAfee & Taft.

Bill Freudenrich and **Branndon Long** will present "The Affordable Care Act" at the Tulsa Area Human Resources Association Annual Employment Law and Practices Seminar in November. Both attorneys practice with the firm of McAfee & Taft.

Gary Farabough was a featured speaker at the Metropolitan Healthcare Self-Insured Annual Meeting in September at The Greens Country Club in Oklahoma City. His presentation titled "2012 Workers' Compensation Update" focused on the latest development in workers' compensation law since August 2011, when the new workers' compensation statute was enacted.

Garvin Isaacs presented a two-hour lecture on cross examinations to the Wyoming public defenders at their annual training conference, "Speaking for the Voiceless," held in Lander, Wyo. His lecture covered fundamentals of cross examination and how to tell your client's story through cross examination.

John M. Benson was a panelist in the inaugural

"Forum for Ethics and Transparency in the Oil Sector," in Bogota, Colombia, hosted by the office of the president of Colombia and Colombian National Oil Company Ecopetrol. He is based in Rio de Janeiro, Brazil, working with the oilfield service company Schlumberger as the assistant general counsel, compliance for Schlumberger's Latin American operations.

Judge Michael Gasset, **Retired Judge Edward Cunningham**, **Dan Folluo**, **John Woodard** and former OBA President **Bill Grimm** were featured speakers during a presentation titled "Civility Matters" at the TU College of Law. Presenters spoke in the dean's seminar, a required course for incoming law students that offers an overview of various aspects of legal practice in America.

Jay D. Adkisson of Newport Beach, Calif., presented "Which Law Applies? Conflicts-of-Law in Asset Protection Planning" in October at the Delaware Trust Conference sponsored by the Delaware Bankers Association. He also presented "Chasing Judgments" to the Orange County, Calif. Trial Lawyers Association, followed by "Anatomy of a Collection" at the annual meeting of the California Association of Judgment Professionals in Sacramento. In addition, he presented "Practical Aspects of Charging Orders" at the ABA's Annual LLC Institute in Virginia, before presenting "Asset Protection for the Plastic Surgeon" in New Orleans at the annual meeting of the American Society of Plastic Surgeons. He is licensed to practice law in California,

Nevada, Oklahoma and Texas.

Attorney Lee M. Holmes of the firm Holmes, Holmes & Neisent PLLC in Oklahoma City, recently spoke at the Chicago annual meeting of the Elder Law Council of Advanced Practitioners. His topics included mineral interest, how mineral interests affect Medicaid and how to represent clients with mineral interests. He also recently attended the Stetson Law School conference on Special Needs Trust. He is a member of the Special Needs Alliance, a national private membership of attorneys who focus in special need planning for adults and children with disabilities.

David A. Trissell, a 1992 graduate of OU College of Law, recently delivered remarks at a Brussels conference titled "EU Governance of Global Emergencies" which was organized by the University of Ghent and Royal Flemish Academy of Belgium for Science and the Arts. The conference explored the legal aspects of the European Union's authority to respond to global emergencies. He offered a U.S. perspective on the EU system for civil protection and emergency management.

Drew L. Kershen, Earl Sneed Centennial Professor of Law (Emeritus) at the OU College of Law presented "Cool Water: Texas, Tribes and Comprehensive Plans" during the October meeting of the Oklahoma City Real Property Lawyers Association. The presentation addressed the three prominent ongoing disputes about water in Oklahoma and the

current status and implications of each.

How to place an announcement: The *Oklahoma Bar Journal* welcomes short articles or news items about OBA members and upcoming meetings. 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. Sections, committees, and county bar associations are encouraged to submit short stories about upcoming or recent activities. Honors bestowed by other publications (e.g., Super Lawyers, Best Lawyers, etc.) will not be accepted as announcements (Oklahoma-based publications are the exception.) Information select-

ed for publication is printed at no cost, subject to editing, and printed as space permits.

Submit news items via email to:
Lori Rasmussen
Communications Dept.
Oklahoma Bar Association
(405) 416-7017
barbriefs@okbar.org

Articles for the Dec. 8 issue must be received by Nov. 12.

IN MEMORIAM

Johnnie Victor Arney Sr. of Weatherford died Oct. 12. He was born Sept. 24, 1920, near Sikeston, Mo. He grew up on a farm east of Leedey. In 1942, he graduated from the Southwestern Institute of Technology with a B.A. in education/commerce. **He served in the Army from 1942-1946 and was attached to the Army Air Corps as a chemical warfare instructor. At the end of the war, he returned from the European Theatre and taught basic literacy to other returning soldiers.** In 1948, he graduated from the OU College of Law. He served more than 50 years in private practice. He also served several years as city attorney for Weatherford and Corn. In 2008, he was recognized by the OBA for 60 years active membership. Among his survivors are OBA members John Weedn of Miami and son-in-law Larry Naifeh of Norman.

Helen Frances Besly of Tulsa died Oct. 13. She was born Nov. 16, 1920, in Jennings. She attended Pawnee Public Schools and graduated with the class of 1938. She obtained her bachelor's degree at Oklahoma A&M

(now OSU), and received her law degree from OU. She worked for Sinclair Oil Corp. before she started her own law firm in Tulsa. She is a past president of the Tulsa County Bar Association. She was active in the Order of the Amaranth, serving as Royal Matron from 1974-1975, Royal Patron from 1989-1990, and Grand Royal Matron from 1989-1990; Order of the White Shrine of Jerusalem receiving her 50 year pin in August 2006, where she served as Worthy High Priestess on four different occasions; and the Order of the Eastern Star, receiving her 50 year pin in 1996, where she served as Worthy Matron three times. She was active in the First Christian Church.

Robin Lee Burress of Bristow died Oct. 16. He was born Nov. 7, 1960. He was a sole practitioner in the Tulsa area, practicing in the areas of criminal defense and family law. He was a 1998 graduate of the TU College of Law.

John K. Harlin Jr. of Tulsa died Sept. 25. He was born Feb. 5, 1931, in Kansas City, Mo. **He was awarded the Purple Heart medal while serving in combat in the**

Korean Conflict with the 1st Marine Division, 5th Marine Regiment, Weapons Company. After his military service, he earned a Bachelor of Arts degree at Oklahoma A&M. He received his J.D. from the TU College of Law in 1960. He began his law career as an assistant county attorney in Tulsa. In 1964, he went into private practice, practicing both civil and criminal defense work until he retired in 2006. He was a life member of the Tulsa County Bar Association, past member of the Tulsa Young Men's Club, Tulsa Men's Club, Akdar Shrine, Tulsa Consistory, Pilgrim Lodge, American Legion and VFW. He was devoted to his children and grandchildren and enjoyed reading. Memorial contributions may be made to Hospice of Green Country.

David Hudson of Oklahoma City died Oct. 11. He was born Aug. 23, 1935, in Hobart. He graduated as class valedictorian from Sulphur High School in 1953. He earned his B.S. in agriculture from Oklahoma A&M in 1957. He received his law degree from OU in 1960. He began his career as staff attorney for

the Oklahoma Department of Highways. **He served as a member of the active duty and military reserve (U.S. Army, National Guard and Air Force). He was activated in 1962 during the Cuban Missile Crisis and received honorable discharge in 1964 as staff sergeant.** He practiced privately from 1961 to 1979. He served as senior administrative assistant and legal counsel to Gov. George Nigh from 1979 to 1984. He also served as general counsel to the original Horse Racing Commission before returning back to private practice in Oklahoma City. From 1991 to 1995, he served as general counsel to the Oklahoma Tax Commission and served as

first assistant attorney general to Attorney General Drew Edmondson from 1995 until he retired in 1999. He was a loyal and devoted father, grandfather and friend. Memorial contributions may be made to the Regional Food Bank, Pets and People, the American Lung Association or to the OSU Foundation.

Donald F. Marlar of Tulsa died Sept. 12. He was born Jan. 15, 1944, in Little Rock, Ark. He is a graduate of the TU College of Law. **He joined the U.S. Army, serving with the JAG Corps at Fort Meade, Md.** He received his master's in tax law from George Washington University. He practiced with Pray, Walker, Jackman, Williamson

and Marlar, encompassing tax, corporate, oil and gas and estate law. More recently, he was of counsel with Moyers, Martin, Santee and Imel. He also held leadership positions in different community organizations. He was a trustee of the Grace and Franklin Bernsen Foundation, and involved in the Tulsa Historical Society, Tulsa Community College, Gilcrease Museum, Tulsa Ballet Theatre, the Child Abuse Network, Leadership Oklahoma and The Summit Club. He believed wholeheartedly in contributing to community endeavors. He adored his family and friends, and was never happier than when he was at Grand Lake surrounded by his loved ones.

Oklahoma Bar Journal Editorial Calendar

2012

- December
Ethics & Professional Responsibility
Editor: Pandee Ramirez
pandee@sbcglobal.net
Deadline: Aug. 1, 2012

2013

- January
Meet Your OBA
Editor: Carol Manning
- February
Indian Law
Editor: Mark Ramsey
mramsey@soonerlaw.com
Deadline: Oct. 1, 2012

- March
Estate Planning & Probate
Editor: Pandee Ramirez
pandee@sbcglobal.net
Deadline: Oct. 1, 2012

- April
Law Day
Editor: Carol Manning

- May
Technology
Editor: Sandee Coogan
scoogan@coxinet.net
Deadline: Jan. 1, 2013

- August
Criminal Law
Editor: January Windrix
janwindrix@yahoo.com
Deadline: May 1, 2013

- September
Bar Convention
Editor: Carol Manning

- October
Appellate Law
Editor: Emily Duensing
Emily.duensing@oscn.net
Deadline: May 1, 2013

- November
Raising the Bar: Lawyers Who Make a Difference
Editor: Melissa DeLacerda
melissde@aol.com
Deadline: Aug. 1, 2013

- December
Ethics & Professional Responsibility
Editor: Joe Vorndran
joe@scdtlaw.com
Deadline: Aug. 1, 2013

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

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BARBER & BARTZ, A MID-SIZED AV RATED TULSA LAW FIRM is seeking a full time attorney to handle estate planning, including complex high net worth tax planning. At least 10 years experience preferred with strong writing and communication skills. A current/active CPA license, or LLM (tax, or estate planning) or MA (tax) is also preferred. Compensation commensurate with experience, skills and designations. Possible merger with an existing practice would be considered. Please send résumé to Janet Hall, Administrator at jhall@barberbartz.com or 525 S. Main, Ste. 800, Tulsa, OK 74103.



Assistant General Counsel

The responsibilities of this position will include advising company's management on a wide array of issues including: consumer, mortgage and business lending issues, bank operational, deposit, trust and corporate records issues; bank regulatory and compliance matters; litigation including oversight of external counsel; reviewing and drafting complex documents including real estate documents, loan documents and general contracts. This position will also work with other corporate attorneys in all divisions of the Company including retail banking, mortgage servicing and real estate.

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ASSISTANT DISTRICT ATTORNEY: Criminal Division, Tulsa County. Attorney with 1-7 years of experience in the practice of law needed to coordinate White Collar Crimes. Prosecution experience desired. Finance background helpful. Needs to be self-motivated and able to handle large caseload. Excellent communication skills required. Salary commensurate with experience. Send cover letter, résumé, transcript, writing samples and list of references to JDoss@tulsacounty.org. EOE.

THE OKLAHOMA CORPORATION COMMISSION is accepting applications for the position of General Counsel. This is an unclassified position with a salary of \$87,500 annually. Minimum qualifications are OBA membership and 7 years of practice in any of the following areas: transportation, oil and gas, public utilities, environmental, administrative, personnel law or general litigation, including 3 years in a managerial capacity. Send résumé: Oklahoma Corporation Commission, Human Resources Division, P.O. Box 52000, Oklahoma City, Oklahoma, 73152-2000. For inquiries, contact Lori Mize at 405-522-0260 or hr3@occemail.com. Deadline: November 9, 2012.

NOTICE OF POSITION AVAILABLE FOR ETHICS COMMISSION: EXECUTIVE DIRECTOR — The Oklahoma Ethics Commission seeks applicants for the position of Executive Director. Must be an attorney licensed to practice law, with not less than five (5) years experience. Experience with federal, state and local elections laws desirable, as well as excellent communication skills. Go to www.ok.gov/oec/Staff/Employment_Opportunities/index.html and click on position for a list of duties. Annual salary ranges from \$100,000 to \$120,000 depending on experience. Résumés must be received by 12:00 p.m. on November 13, 2012 at the Ethics Commission office, 2300 N. Lincoln Blvd., Room B-5, Oklahoma City, OK 73105, addressed to Marilyn Hughes, Executive Director, or emailed to Marilyn.Hughes@ethics.ok.gov.

BARBER & BARTZ, AN AV RATED TULSA LAW FIRM is seeking an attorney with a minimum of 4 years of business and civil litigation experience. The ideal candidate will have litigation experience and excellent writing and communication skills. The compensation package is commensurate with level of experience and qualifications. An exceptional benefit package includes bonus opportunity, health insurance, life insurance, and 401K with match. Applications will be kept in strict confidence. Please send résumé to Janet Hall at jhall@barberbartz.com or 525 S. Main, Ste 800, Tulsa, OK 74103.

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LAW FIRM SEEKING ASSOCIATE ATTORNEY in downtown Oklahoma City, with experience, and a commitment to representing tribes and tribal organizations. Preference will be given to attorneys with demonstrated experience and/or education in American Indian Law. Applicant must be licensed to practice in at least one jurisdiction; membership in good standing in the Oklahoma Bar is preferred, if not a member of the Oklahoma Bar, the applicant must pass the Oklahoma Bar within 15 months. Applicant should possess excellent analytical, writing and speaking skills, and be self-motivated. Compensation commensurate with experience. Excellent benefits. Please submit the following required documents: a cover letter that illustrates your commitment to promoting tribal government and Indian rights, current résumé, legal writing sample, proof of bar admission, and contact information for three professional references to: dbond@hobbsstrauss.com.

NOTICE OF POSITION AVAILABLE FOR ETHICS COMMISSION: GENERAL COUNSEL — The Oklahoma Ethics Commission seeks applicants for the position of General Counsel. Must be an attorney licensed to practice law, with not less than five (5) years experience. The position requires outstanding legal research and writing skills. Go to www.ok.gov/oec/Staff/Employment_Opportunities/index.html and click on position for a list of duties. Annual salary is \$94,000 to \$114,000, depending on experience. Résumés must be received by 12 p.m. on November 13, 2012 at the Ethics Commission office, 2300 N. Lincoln Blvd., Room B-5, Oklahoma City, OK 73105, addressed to Marilyn Hughes, Executive Director, or emailed to Marilyn.Hughes@ethics.ok.

ASSISTANT DISTRICT ATTORNEY needed in Coal County, Oklahoma. Duties include prosecuting a wide range of criminal cases including traffic citations, misdemeanor, and felony offenses. Salaried position with full state benefits. 0-5 years experience. Submit résumé, references and cover letter to: Emily Redman, District Attorney, 117 N. Third, Durant, OK 74701 or email the same to emily.redman@dac.state.ok.us.

DOWNTOWN OKC AV FIRM has immediate opportunity for 7+ year attorney with experience in real property acquisitions, leasing and related loan transactions. Compensation commensurate with experience. Strong communication skills, academics and writing skills a must. Looking for a motivated self-starter with good organizational and people skills. All replies held in confidence. Resume to Box "O," Oklahoma Bar Association, P.O. Box 53036, OKC, OK 73152.

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I Know Where She Is

By Carolyn Smith

My daughter, Carrie, died in January 2008. I still receive condolences for the loss of my child.

I need to set the record straight. I still have two children. I did not lose my daughter; I know exactly where she is. I also know she is still on the move.

Near the time of Carrie's death, my husband and I were ready to start traveling, but we felt guilty leaving her behind. She wanted so desperately to travel with us, but she had reached the stage of her life where school and work needed to be higher priority.

However, by chance, when Carrie died, our first multi-week overseas trip had already been planned. During the immediacy of her death, it was a blessing to have that trip to look forward to.

The trip went so well, we established a pattern of several multi-week foreign trips per year. We recently completed our tenth trip; and they now stretch to five or six weeks each. Carrie even facilitated our travel by bringing into our lives the wonderful man who would have married her. Travel is much more comfortable knowing that our cats are well-cared for.

We say these trips are our lemonade. Instead of moping, we do something we enjoy that we may not have done — or at

least, not nearly as much — were Carrie alive.

That lemonade is sweet, but it is not escape. If escape were the goal, these trips would be a miserable failure. Remember, I said Carrie is still on the move? She now travels more than she ever did in life.

I saw her recently in a restaurant in Norway. She was tossing her hair out of her eyes as she

often did. She walked right through the lobby of our hostel in Spain. In fact, she must especially like Spain, because I have so often seen her there. She rode the bus with us in Italy. She drove her old taxi-yellow Mercedes Diesel all over Morocco. I saw her face carved into a tree in Helsinki.

She scampers ahead of me on mountain trails and grins as she waits for me to catch up. Her enthusiasm for the outdoors is intoxicating.

Carrie is not just traveling around the world. She spends a lot of time at home, too — especially in my shop. Every time I change the throat plate on my table saw, she asks, "What is that little thingy on the side?" She grins when I smile at the sanding marks she left on my cast iron. I often glance up from my work just in time to see her bouncing down the driveway for a visit.

When I fold clothes, Carrie shows me the trick she learned for folding T-shirts. When I gaze at my monkey grass front yard, she reminds me how important it is to be meticulous with planting. And each night when I gaze at her picture, she smiles back.

No, I did not lose my daughter. I know exactly where she is. My girl is where she began — in my heart.

Ms. Smith is a retired attorney who practiced in Ponca City.



“ I saw her face carved into a tree in Helsinki. ”



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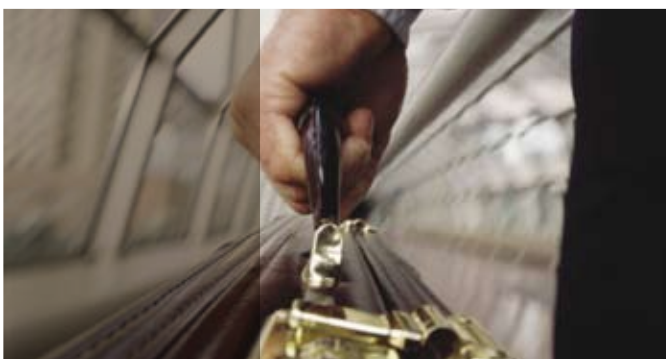
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