

# THE Oklahoma Bar JOURNAL

Volume 85 ♦ No. 2 ♦ Jan. 18, 2014

## Meet Your



*OBA President  
Renée DeMoss*

### **ALSO INSIDE**

What is Required for Gas to be a Marketable Product in Oklahoma?  
Suit Against a John Doe Defendant

# Reimagining the UCC in Your Practice

## A Groundbreaking Approach to Interpreting the UCC

Feb. 7, Oklahoma Bar Center- 1901 N. Lincoln

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### February 7

8 a.m.

Registration and Continental Breakfast

8:30 a.m.

Article 1: General Provisions

9:35 a.m.

Break

9:45 a.m.

Article 2: Sales

10:35 a.m.

Article 2A: Leases

11:05 a.m.

Break

11:15 a.m.

Article 7: Documents of Title

11:55 a.m.

Networking Lunch (included in registration)

12:25 p.m.

Article 9: Secured Transactions

1:25 p.m.

Article 3: Negotiable Instruments

2:05 p.m.

Break

2:15 p.m.

Article 4: Bank Deposits and Collections

2:40 p.m.

Article 5: Letters of Credit

3:10 p.m.

Article 4A: Funds Transfers

3:50 p.m.

Final Thoughts

4:10

Adjourn

### Presenter:

Robert M. LeVine, JD, author of The Uniform Commercial Code Made Easy

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THEME:  
MEET YOUR BAR ASSOCIATION

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# contents

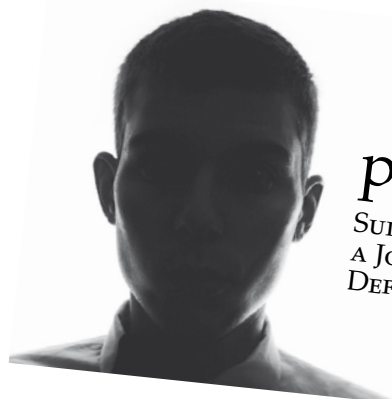
Jan. 18, 2014 • Vol. 85 • No. 2



Cover photo: Office of the General Counsel  
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## FEATURES

- 95 RENÉE DEMOSS TAKES THE LEAD AS  
OBA PRESIDENT  
*By Emily Buchanan*
- 101 OBA OFFICERS AND BOARD OF  
GOVERNORS: VOLUNTEERS WHO  
GUIDE YOUR ASSOCIATION
- 112 OBA DEPARTMENTS AND THE  
MEMBER SERVICES THEY PROVIDE
- 120 MEMBER PERKS: TAKE ADVANTAGE
- 126 CONNECT WITH THE OBA THROUGH  
SOCIAL MEDIA
- 127 A FEW THINGS YOU CAN DO AT  
WWW.OKBAR.ORG
- 128 OBA SECTIONS



pg. 147  
SUIT AGAINST  
A JOHN DOE  
DEFENDANT

## DEPARTMENTS

- 92 FROM THE PRESIDENT
- 154 FROM THE EXECUTIVE DIRECTOR
- 156 LAW PRACTICE TIPS
- 159 ETHICS/PROFESSIONAL RESPONSIBILITY
- 160 OBA BOARD OF GOVERNORS ACTIONS
- 166 OKLAHOMA BAR FOUNDATION NEWS
- 169 YOUNG LAWYERS DIVISION
- 171 FOR YOUR INFORMATION
- 173 BENCH AND BAR BRIEFS
- 176 IN MEMORIAM
- 184 THE BACK PAGE



pg. 139  
WHAT IS REQUIRED  
FOR GAS TO BE  
MARKETABLE?

## PLUS

- 139 WHAT IS REQUIRED FOR GAS TO BE  
A MARKETABLE PRODUCT IN OKLAHOMA?  
*By Richard B. Noulles*
- 147 IS ANYBODY OUT THERE? SUIT AGAINST  
A JOHN DOE DEFENDANT  
*By Mark B. Houts*
- 153 NEW YEAR, NEW ONLINE SERVICES  
PROVIDER FOR OBA/CLE

# An Educated Response to the Changing Face of the Law

By Renée DeMoss

As the Oklahoma Bar Association heads into 2014, it is with the prediction that lawyers and legal institutions will change more rapidly over the next two decades than they have over the last two centuries. Fundamental changes will occur in the way our chosen profession operates and how OBA members practice law:

The legal market is in an unprecedented state of flux. Over the next 20 years, the way in which lawyers work will change radically. Entirely new ways of delivering legal services will emerge, new providers will enter the market, and the workings of our courts will be transformed.<sup>1</sup>

Change brings with it both challenges and opportunities. Consider those that have come with the advent of e-filing, e-discovery and law libraries without books. My goals for the OBA in 2014 are to prepare for the challenges and to embrace the opportunities in the best way possible — through legal education.

A strategic plan put in place by diligent and dedicated past OBA leaders provides a roadmap for the OBA's future, with seven specific goals that provide a solid basis for responding to changes headed our way. Critically, education is the fundamental premise of each goal.

Underlying the strategic plan is the OBA vision that *"...all people shall have access to, and full benefit of, the rule of law and the system of justice in Oklahoma, through innovative and responsive services to our members and the community"* — and the OBA mission statement — *"to enable all OBA members to provide excellent legal services to the community in an ethical, professional and civil manner."*

Preserving the rule of law and our system of justice in Oklahoma may very well be the OBA's biggest challenge in 2014. Attacks on our courts stemming from disagreements with individual case decisions seem to be gaining force. No matter what changes occur in our legal world, however, we must steadfastly protect our unique system of government that provides us with fair and impartial courts and qualified judges. It is our responsibility to help Oklahomans understand how our legal system works, to preserve our democratic system of justice and to promote public confidence in that system.

In 2014 the OBA will activate a broad public education initiative to help meet this responsibility. This will include establishment of a statewide speaker's bureau, composed of OBA volunteer speakers, to ensure that our voices are heard on the importance of our third branch of government. Judicial town halls will be conducted by your Board of Governors and others in courthouses across the state to educate and discuss with our friends and neighbors what

qualities make a good judge, how our judicial selection process works and how we must be vigilant in preserving our democracy. Look for the first one to be held in Canadian County in February and then Custer County in March.

OBA committees and departments will also be contributing to this initiative. The Law Day Committee will be working with the theme of "Democracy and You." The Law-related Education Committee will continue to focus on helping all Oklahoma school children receive necessary civics instruction. The CourtFacts.org website will be expanded. The Day at the Capitol in March will provide OBA members an opportunity to speak with local legislators.

The OBA will also respond to the challenge of providing enhanced legal education opportunities for members. Plans are underway for innovations in CLE, with an emphasis on affordability, availability and technology. I have met with our three law school deans on ways the OBA can help integrate new lawyers into the profession. More programs are planned for senior lawyers as their careers evolve, including possible implementation of a Senior Section and review of Oklahoma rules regarding transitioning attorneys. New educational opportunities will include an Appellate College at the Oklahoma Judicial Center in the spring, a Trial College at the Annual Meeting in the fall and a Professionalism Seminar in December.

As I take on the role of president of this 17,500-member organization, I want to sincerely thank each and every one of you for the honor of serving in this position. I look forward to working with each of you for the OBA in 2014.

1. *Tomorrow's Lawyers*, Richard Susskind, Oxford University Press, 2013.



*Renée DeMoss*  
President DeMoss  
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918-595-4800

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# EVENTS CALENDAR

## JANUARY 2014

- 20 **OBA Closed** – Martin Luther King, Jr. Day observed
- 21 **OBA Bench and Bar Committee meeting**; 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Judge David Lewis 405-556-9611
- OBA Government and Administrative Law Practice Section meeting**; 4 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Scott Boughton 405-717-8957
- 22 **OBA Financial Institutions and Commercial Law Section meeting**; 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Eric Johnson 405-602-3812
- 23 **OBA Work/Life Balance Committee meeting**; 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Sarah Schumacher 405-752-5565
- 24 **Lawyers Helping Lawyers Assistance Program meeting**; 12 p.m.; Office of Hugh Hood, 400 S. Boston Ave., Ste. 1100W, Tulsa; Contact Hugh Hood 918-856-5373
- Oklahoma Bar Foundation Trustee orientation, meeting and luncheon**; 10:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact Nancy Norsworthy 405-416-7070
- 25 **Legislative Reading Day**; 10 a.m.; Oklahoma Bar Center, Oklahoma City; Contact John Morris Williams 405-416-7000
- 27 **OBA Juvenile Law Section meeting**; 4 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Tsinena Thompson 405-232-4453
- 28 **OBA Women in Law Committee meeting**; 12 p.m.; Oklahoma Bar Center, Oklahoma City with OSU Tulsa, Tulsa; Contact Allison Thompson 918-592-2800
- 30 **OBA Law Day contest judging**; 4 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Jennifer Prilliman 405-208-5174
- 31 **OBA Section Leaders Council meeting**; 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Roy Tucker 918-684-6276

**For more events go to [www.okbar.org/calendar](http://www.okbar.org/calendar)**

The Oklahoma Bar Association's official website: **[www.okbar.org](http://www.okbar.org)**

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*Renée with her siblings and parents  
celebrating July family birthdays.*



*Wedding in Maui*

*Renée on vacation in Estes Park,  
Colo. with her girlfriends,  
(from left) Shelley Bradley, Debbie  
Huggins, Renée, Elsie Draper and  
Patty Himes.*





# Meet Your Bar Association

## Renée DeMoss Takes the Lead as OBA President

By Emily Buchanan

**R**enée DeMoss, this year's incoming OBA president, knows the roads of Oklahoma well. Born in Enid, the youngest of five children, Renée and her family moved often. While she was growing up, she lived in eight different towns and attended seven different schools across Oklahoma until her high school graduation in 1976.

She went on to attend Oklahoma City University, majoring in music. She changed majors to history and political science after a year, but can still be caught playing the flute from time to time.

"I learned very quickly how much music majors had to practice!" Renée chuckles.

### THE PATH TO LAW SCHOOL

After graduating *summa cum laude* from OCU, a friend's ambition to begin law school sparked Renée's own interest in the legal field.

"I thought, 'Hey, I could do that!'" she says. "Law school just seemed fascinating. There were so many different areas to concentrate on, and I always loved reading.



OBA 2014 President  
Renée DeMoss

"Plus, what do you do with a history and political science major? You go to law school," she quips.

Aside from the ever-changing laws keeping her on her toes, one thing Renée loves about being an attorney is the natural integration of the profession with community service.

"As a lawyer, I'm never bored, it's always interesting," she says. "I'm always learning new things, having to keep up with new areas of law. And with bar organizations, we provide great public service through the foundation, and provide member

benefits through the association, so I can combine being a lawyer with service activities."

Renée inherited her service-oriented mentality from her parents, who both graduated from high school in Enid and were high school sweethearts. Her father, a Methodist minister

# Presidential Trivia

**Why did you choose the law school you attended?**

*Good value and location*

**What's the name of your pet?**

*Torry, the Border Collie, and Tigger Charles Edward, the Schnoodle (Schnauzer & Poodle mix)*

**Are you named for someone?**

*No, but my great aunt named both my mother and me.*

**What famous person would you like to hang out with?**

*Julia Louis Dreyfus*

**My most ridiculous fear is -**

*I don't like swimming in lakes with squishy muddy bottoms.*

**What's your typical Sunday afternoon activity?**

*Swimming during the summer, watching football in the fall and winter.*

**Favorite news source?**

*NBC, Channel 2 in Tulsa - 10 blocks from my house.*

**What was a pivotal moment in your life?**

*High school graduation.*

**What about the legal profession inspires you?**

*The fact that the ultimate goal is to achieve justice.*

**Most important qualities a lawyer can have?**

*Trustworthiness and persistence*

**How do you most often listen to music?**

*On Sirius radio in my car*



*Young Renée feeding deer at Beaver's Bend State Park.*

and her mother, a talented artist, spent time working in community settings and on volunteer projects.

"My Dad always did things like consistently donate blood to the Red Cross," Renée explains. "I still give blood to this day because of that." She also volunteers with the Animal Rescue Foundation and is an avid animal lover.

She also inherited her voracious travel bug from her parents. She has been to 46 states across the U.S. with her husband Neal Sperry and has also traveled overseas, including a brief stint living in France while in college.

"With my dad's career as a minister and the moving that involved, we never hesitated to just pack up the car and travel. I had been all over the United States by the time I graduated from high school. Even though they were from a small town, my parents didn't let themselves be confined. They liked to get out and see the world."



*Renée and Neal, Christmas at the Rockefeller Center in New York*

Though the world seemed to be at her fingertips, she didn't have to travel far to find a career she fell in love with.

"Almost 30 years. Wow, that's really hard to believe!" she reflects on her time spent at GableGotwals in Tulsa. What started as a clerkship while enrolled at OU Law in 1982 has quickly turned into many years at the firm, where she now serves as shareholder. She remembers the first case she

worked on during her clerkship — a project that evolved from the Penn Square Bank failure of 1982.

“Our firm represented the FDIC in that complex event, and it generated a lot of interesting work very early on,” she says of her internship at the firm. “I learned so much just on the issues and litigation resulting from that.”

Renée graduated law school with honors in June 1984 and started at Gable immediately following. Her current areas of practice include ERISA, commercial litigation, insurance law and general business matters.

It was at GableGots early in her career that she met her long-time friend, mentor and travel partner, Elsie Draper, who has played a significant role and provided much inspiration in Renée’s life throughout the years.

“Elsie is one of my favorite attorneys and was at Gable when I started,” Renée says. “She was a woman litigator at a time when there weren’t many



*Renée on vacation at Long's Peak, Colo.*



*Renée with Neal and her parents celebrating Christmas*

### **What's one thing you wish you could change?**

*I'd like to shorten the driving distance between Tulsa and Oklahoma City.*

### **My best one-word piece of advice (for life in general) is**

*Read.*

### **How do you keep cool under fire?**

*Make lists and prioritize.*

### **Favorite season/why.**

*Fall — so full of anticipation and possibilities. Summer is over, new school year, leaves changing, new football season.*

### **Favorite food -**

*Comfort food and recipes my mother made. And sweet/salty combo, like white chocolate covered pretzels and sea salt.*

### **Best summer getaway -**

*Colorado Rocky mountains*

### **Your best trait -**

*Loyalty, generosity*

### **Biggest temptation -**

*Turning off the alarm in the mornings.*

### **Where did you work during high school?**

*United Grocery Store, J.C. Penney, swimming pool.*

### **What is your favorite volunteer organization?**

*ARF (Animal Rescue Foundation) and American Red Cross. Several in my family have O-blood, always giving blood; also the OBF.*

### **You won't catch me without:**

*A purse, God's gift to womankind.*

### **It is important to me to make time for:**

*Travel*





*Renée with her extended family*

women doing that. She was a well respected, top-notch lawyer who had incredible focus."

### **LIFE IN TULSA**

The job in Tulsa led her to settle permanently in Green Country and, after 30 years, she is proud to call it home.

"I wanted to try Tulsa, so I stayed here, and I love it," Renée says. "It's a beautiful place to live. Our oil pioneers gave generously to our city and provided Tulsa with a wonderful foundation, with the Art Deco architecture, the parks, which are gorgeous in the spring and fall, world-class museums. Our downtown area is becoming revitalized, with all kinds of new restaurants and other venues popping up, and great shows at the BOK Center and Performing Arts Center. It's just a really wonderful place to live.

"Tulsa also has a lot of great outdoor spaces and activities, such as the Route 66 Marathon and the Tulsa Run," she continues. She recently completed the Tulsa Run, which is 9.6 miles.

She shares her mid-town Tulsa home with her beloved travel partner and husband of 17 years and her two dogs, Torry the Border Collie and Tigger the rescue Schnoodle.

### **DEDICATION TO THE BAR**

Not only does she have many years of experienced lawyering under her belt, Renée has served in various capacities on OBA committees, organizations in her community and on the Bar Foundation — all prepping her for this year's challenge of OBA president.



*Three-year-old Renée (bottom right) with her siblings*

"It's been a sort of natural progression," she says. "I served as president of the Tulsa County Bar Association and Foundation, have been involved in several OBA committees, and I ran for the OBA Board of Governors after I served as president of the Oklahoma Bar Foundation.

"I love the bar, love what we do," she continues. "We are dedicated to providing valuable services to our members, making sure they have the information and skills they need to practice competently and professionally, as well as providing information to the public, doing pro bono work. The Oklahoma bar provides so many important legal services to so many people."

### **MOVING FORWARD**

Heading into her year as president, Renée considered the value her family placed on education while growing up. As a result, her top focus in 2014 is an emphasis on legal edu-



*Renée and Neal on vacation in Kauai*

cation in all areas. With Oklahoma's judicial selection process under increasing scrutiny, she is pressing to educate the public on the matter, as well as to provide basic information on the three branches of government.

"Growing up, education was always emphasized in my family, and the general goal of education in the law evolved throughout the past year," she says. "It is important that Oklahomans are educated on how our legal system works and how qualified judges are selected. We will be setting up an OBA speaker's bureau, and meeting with the public in courthouses across the state to discuss our system in town hall-type settings.

Additionally, we will highlight our Law-related Education Committee's focus on civics education for Oklahoma students, as well as our Law Day programs," she continues. "This year's Law Day theme is Democracy and You, and addresses how we must preserve our democracy."

As she stated during her Jan. 10 swearing-in as OBA President, Americans are quick to name three Kardashian sisters or the Three Stooges, but struggle to name three members of the U.S. Supreme Court.

"This lack of knowledge and interest that the public has in our democracy, coupled with the periodic unhappiness that some have with individual court decisions, can be a danger to our system of justice in Oklahoma," she says.

Renée is already moving forward with this year's public education initiative, first with the revamping of the CourtFacts website, [www.CourtFacts.org](http://www.CourtFacts.org), and also planning dates for the town hall meetings, the first being held at the Canadian County Courthouse in El Reno on Feb. 27.

Additional plans are in the works to present an appellate college at the Justice Center, a trial college at this year's Annual Meeting and a December professionalism seminar. Renée is also pushing for the bar association to work with Oklahoma's Promise program, which provides funding for Oklahoma students who would not otherwise be able to complete their higher educations.

With her plan in place and with the dedicated attorneys of the bar association at her side, Renée looks forward to what 2014 will bring.

*Emily Buchanan is an OBA Communications Specialist.*

**“Americans  
are quick to name  
three Kardashian  
sisters or the Three  
Stooges, but struggle  
to name three  
members of the U.S.  
Supreme Court.”**

"SEBASTIAN IS IN  
HIS OWN  
**AMAZING  
RACE.**"

Sebastian wants to be an inventor when he grows up, and he's determined to visit "all of the states, most of the countries, and all of the continents."

His favorite things about Holland Hall so far have been the library, music, gym, and the second grade Alaskan Iditarod unit. "For the Iditarod, we all got a musher to follow and mine was Aliy Zirkle. She got second place in the race that year. I loved all the books we read for the Iditarod because winter's my favorite season. And I really liked learning about the dogs. We don't have any pets. My mom says it's already too much of a zoo at our place!"

What learning adventures await your child? Contact Olivia Martin, Director of Admission, at **(918) 481-1111**.



**HOLLAND HALL**

[www.hollandhall.org](http://www.hollandhall.org)



—Sebastian A.,  
*Holland Hall Third Grader*



# Meet Your Bar Association

## Volunteers Who Guide Your Association



**David Poarch Jr.**  
PRESIDENT-ELECT  
Norman

- ❑ **Background:** I was born in Oklahoma City but moved with my folks at an early age and grew up in a small town in the San Francisco bay area. I returned to Oklahoma to attend college after being discharged from the Army in 1969. Been here since!
- ❑ **Education:** University of Central Oklahoma, B.A. 1973; University of Oklahoma College of Law, J.D. 1977
- ❑ **Why did you choose the law school you attended?** They accepted me! Actually, reputation, cost and location. I was married, had a baby, full-time job with a pharmaceutical company and home when I applied to several law schools, so all that weighed in my ultimate decision.
- ❑ **What's the name of your pet?** Macy, our toy poodle, died several years ago. She's been irreplaceable.
- ❑ **Are you named for someone?** I'm a junior, the oldest of three and named after my father. There are lots of men named David through the generations in my family, from my great-grandfather to my grandson.
- ❑ **What famous person would you like to hang out with?** Historically, Nelson Mandela; currently, Warren Buffet, Jeff Bezos or President Bush 41 (George H.W.)
- ❑ **My most ridiculous fear is...** Well, I'm not a big spelunker, if that tells you anything!
- ❑ **What's your typical Sunday afternoon activity?** Often, it's returning to Norman from our cabin in Medicine Park, where we hike, hang out with friends or just relax.
- ❑ **Favorite news source?** Several. *Wall Street Journal*. *New York Times*. NPR in the car, *PBS News Hour* on TV and the *Oklahoma News Report* with our own, Dick Pryor, on the weekend.
- ❑ **What was a pivotal moment in your life?** My service in Vietnam as a medic at age 18, right out of high school; shaped my perspective on life.
- ❑ **What about the legal profession inspires you?** The seemingly endless number of lawyers, young and old, who selflessly (and quietly) serve others without any expectation of gratitude or remuneration in return; often when others are indifferent or even critical of their service.
- ❑ **What are the most important qualities a lawyer can have?** Honesty and integrity, first and foremost. Competence and compassion, not always in that order. Curiosity, empathy, and the ability and willingness to actually listen to others, not just hear ourselves talk.
- ❑ **How do you most often listen to music?** XM in the car, iPod in the house
- ❑ **What's one thing you wish you could change?** The weather – if only!
- ❑ **My best one-word piece of advice is...** ATTITUDE!
- ❑ **How do you keep cool under fire?** Stay focused and press on. I just challenge myself to keep things in perspective; step back, consider the bigger picture, and not get overly invested in the moment. Remind myself not to take it personally.



**Susan S. Shields**

VICE-PRESIDENT  
Oklahoma City

❑ **Background:** I was born in Bartlesville and was part of the last graduating class of Sooner High School. I went to college and law school in California, and practiced law in San Francisco for several years before moving back to Oklahoma City in 1991. During college, I played alto sax in the Stanford band and was on the field during “the play” (young people will have to look it up). I am a shareholder at McAfee & Taft in Oklahoma City, where I primarily practice wealth transfer planning, trusts and estates, business succession planning and nonprofit law. I have two sons, Sam (17) and Ethan (15).

- ❑ **Education:** B.A. with honors from Stanford University, J.D. from UCLA School of Law
- ❑ **Why did you choose the law school you attended?** It was a top law school — and near the beach as a bonus!
- ❑ **What are the names of your pets?** Grace, Gordon and Jazz – two Australian shepherds and a black lab
- ❑ **Are you named for someone?** My middle name is a family name.
- ❑ **What famous person would you like to hang out with?** John F. Kennedy
- ❑ **My most ridiculous fear is...** Spiders
- ❑ **What’s your typical Sunday afternoon activity?** Doing something outside — usually with some work, cooking and laundry thrown in
- ❑ **Favorite news source?** NPR, *New York Times* and *Wall Street Journal*
- ❑ **What was a pivotal moment in your life?** Nothing will ever surpass the births of my two wonderful sons, Sam and Ethan.
- ❑ **What about the legal profession inspires you?** The privilege of assisting clients with solving problems and helping them make critical decisions impacting their families and businesses

- ❑ **What are the most important qualities a lawyer can have?** Honesty, attention to detail and determination to arrive at the “right” solution combined with a willingness to do the work to get there.
- ❑ **How do you most often listen to music?** iPod
- ❑ **What’s one thing you wish you could change?** Airport security
- ❑ **My best one-word piece of advice is...** Breathe.
- ❑ **How do you keep cool under fire?** Exercise always helps, sometimes chocolate does, too.



**Jim Stuart**

PAST PRESIDENT  
Shawnee

- ❑ **Background:** Born and raised in Shawnee; partner in the 109-year-old law firm of Stuart & Clover.
- ❑ **Education:** Shawnee Public Schools, University of Central Oklahoma and University of Tulsa College of Law.
- ❑ **Why did you choose the law school you attended?** Provided quality education with emphasis on my areas of interest.

- ❑ **What’s the name of your pet?** Bella, our Chihuahua
- ❑ **Are you named for someone?** Yes, my maternal grandfather and my paternal great-grandfather
- ❑ **What famous person would you like to hang out with?** Abraham Lincoln
- ❑ **My most ridiculous fear is...** Heights
- ❑ **What’s your typical Sunday afternoon activity?** Watching television sports and examining abstracts of title
- ❑ **Favorite news source?** Newspapers and CNN
- ❑ **What was a pivotal moment in your life?** Marrying my wife, Kathy
- ❑ **What about the legal profession inspires you?** Helping people improve their lives

- ❑ *What are the most important qualities a lawyer can have?* Honesty and hard work
- ❑ *How do you most often listen to music?* Car radio — SiriusXM
- ❑ *What's one thing you wish you could change?* My mistakes
- ❑ *My best one-word piece of advice is...* Persevere
- ❑ *How do you keep cool under fire?* Think of my family.



**Linda Thomas**  
GOVERNOR -  
DISTRICT NO. ONE  
Bartlesville

- ❑ *Background:* Born in San Antonio, Texas; raised in Stillwater and Tulsa, lived in Arkansas as a teenager and young adult; moved to Bartlesville in 1990; taught public school from 1977 until 1997 when I began practicing law full time. Married to Curt Thomas; children: Brad Daniel and his wife, Christy from Charlotte, NC; Allison Zelinski and her husband, AJ, and my grandchildren, Adam (6) and Abby (4)

from Austin, Texas; Amy Atkins and her husband, Matt also from Austin.

- ❑ *Education:* B.A. in speech pathology, B.A. in elementary education; J.D. from University of Tulsa College of Law, 1994
- ❑ *Why did you choose the law school you attended?* It was within driving distance of the community in which my family lives and I worked.
- ❑ *What's the name of your pet?* I do not have a pet.
- ❑ *Are you named for someone?* My mother
- ❑ *What famous person would you like to hang out with?* Condoleezza Rice
- ❑ *My most ridiculous fear is...* Claustrophobia
- ❑ *What's your typical Sunday afternoon activity?* Relax some and cook for the week
- ❑ *Favorite news source?* Cable news

- ❑ *What was a pivotal moment in your life?* Birth of my children
- ❑ *What are the most important qualities a lawyer can have?* Integrity
- ❑ *How do you most often listen to music?* Radio
- ❑ *What's one thing you wish you could change?* Would like to be a couple of inches taller.
- ❑ *My best one-word piece of advice is...* Give



**Kevin Sain**  
GOVERNOR -  
DISTRICT NO. TWO  
Idabel

- ❑ *Background:* Born in the city of Newport Beach, Calif.; raised on a small farm in Goodwater, Okla.

- ❑ *Education:* Graduated from Oklahoma City University School of Law in 1998.

- ❑ *Why did you choose the law school you attended?* First school that accepted me.

- ❑ *What are the names of your pets?* I had a cat named Tiger and dog

named Junior that I apparently called Ginger as a child.

- ❑ *Are you named for someone?* I have the same middle name as my father.
- ❑ *What famous person would you like to hang out with?* Larry Bird
- ❑ *My most ridiculous fear is...* Dirty door knobs
- ❑ *What's your typical Sunday afternoon activity?* Checking game cameras at the ranch
- ❑ *Favorite news source?* CNN
- ❑ *What was a pivotal moment in your life?* The birth of my two boys.
- ❑ *What about the legal profession inspires you?* The ability to help those who can't afford to hire an attorney
- ❑ *What are the most important qualities a lawyer can have?* Compassion and integrity
- ❑ *How do you most often listen to music?* iPod



- ❑ *What's one thing you wish you could change?* I wish Idabel was closer to Oklahoma City.
- ❑ *My best one-word piece of advice is...* Patience
- ❑ *How do you keep cool under fire?* I try to imagine it being over quickly.



**Robert D.  
Gifford**

GOVERNOR -  
DISTRICT NO. THREE  
*Oklahoma City*

- ❑ *Background:* Born and raised in Mannford (Creek County); began my legal career as an Army JAG living in Fort Knox, Ken., Bosnia and Fort Sill. Left active duty to become an assistant district attorney in Tulsa and remained an Army Reserve JAG as the first military defense counsel assigned in Oklahoma. I joined the U.S. Attorney's Office in Reno, Nev., and eventually came "home" to the U.S. Attorney's Office in

Oklahoma City. As a reservist, I've been a defense counsel, an instructor at the Army JAG School and currently serve as the staff judge advocate to the historic 95th Division (Iron Men of the Metz) at Fort Sill and hold the rank of lieutenant colonel. Tribal member of the Cherokee Nation and serve as the chief judge for the Kaw Nation tribal court and am a justice on the Iowa Nation Supreme Court, as well as serving as an adjunct law professor at the law schools at OU, OCU and Arkansas. Gloria and I have three amazing daughters, Gabriela (15), Olivia (12) and Juliana (7).

- ❑ *Education:* J.D., University of Oklahoma College of Law; B.A. (x 3), Southwestern College in Winfield, Kan., and Mannford High School. Currently pursuing a master's in strategic studies through the U.S. Army War College at Carlisle Barracks, Penn.
- ❑ *Why did you choose the law school you attended?* The real question some may ask is why did any law school choose me?
- ❑ *What are the names of your pets?* The chocolate lab is Norman (because we found him in Norman); the cat is Tahoe (found not far from Lake Tahoe) and the springer spaniel is Louie (calling him "Animal Shelter" didn't flow well, and my other name for him upset the kids).

- ❑ *Are you named for someone?* I am named after my grandfather, Robert Donald Gifford.
- ❑ *What famous person would you like to hang out with?* Depends if the famous person is currently "alive" or deceased. If deceased, I would like to hang out with Elvis. If alive? I would say Elvis again (just in case the tabloids were right).
- ❑ *My most ridiculous fear is...* Reptiles or spiders
- ❑ *What's your typical Sunday afternoon activity?* Depends on the time of year in which I may go for a nice run on a trail, but above all any time with my three daughters is perfect.
- ❑ *Favorite news source?* I am a news junkie, so I get it from everywhere (newspapers, radio, TV, online/social media and other samizdat). My favorite is *The Daily Show* with Jon Stewart to keep it light.
- ❑ *What was a pivotal moment in your life?* Becoming a father and being one every day
- ❑ *What about the legal profession inspires you?* It is without limits, and there are so many in our profession who do so much for so many
- ❑ *What are the most important qualities a lawyer can have?* Integrity, character, a sense of humor and honor
- ❑ *How do you most often listen to music?* With my ears
- ❑ *What's one thing you wish you could change?* If I could change any one thing, I would change the number of things I could change to more than just one. After that, I have a laundry list of things.
- ❑ *My best one-word piece of advice is...* Smile.
- ❑ *How do you keep cool under fire?* Remember to never let them see you sweat, that revenge is best served cold, and above all, forgiveness is most noble.



**Douglas L. Jackson**

GOVERNOR -  
DISTRICT NO. FOUR  
Enid

❑ **Background:** Grew up on a wheat, cotton, alfalfa and cattle farm south of Hobart and graduated from Hobart High School in 1969

❑ **Education:** B.S. in ag econ from OSU in 1973 and J.D. from Washington College of Law (American University) in Washington, D.C. in 1977

❑ **Why did you choose the law school you attended?** I started at the University of Oklahoma, but when I had

the opportunity to work for Sen. Henry Bellmon in Washington, D.C., I transferred to the Washington College of Law, American University

❑ **What are the names of your pets?** Our dog is a collie named Owen, and our cat is Charlie.

❑ **Are you named for someone?** I was named for one of my dad's high school friends, Doug Hutchins.

❑ **What famous person would you like to hang out with?** Winston Churchill

❑ **My most ridiculous fear is...** My sons having long hair or my daughters having pierced ears

❑ **What's your typical Sunday afternoon activity?** In the spring and summer I work in my garden and yard; in the fall I watch pro football.

❑ **Favorite news source?** Bloomberg

❑ **What was a pivotal moment in your life?** I have two pivotal moments — 1) deciding to attend Oklahoma State University and 2) marrying my wife, Beth

❑ **What about the legal profession inspires you?** Helping people work through problems

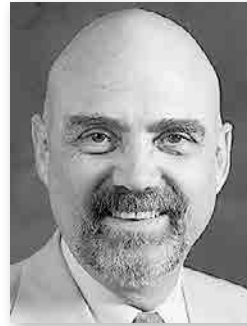
❑ **What are the most important qualities a lawyer can have?** The ability to listen, develop a game plan to meet your clients' needs and having a strong work ethic

❑ **How do you most often listen to music?** I am on the road quite a bit, and I listen to '50s and '60s music on Sirius radio.

❑ **What's one thing you wish you could change?** Coach Sutton substituting Weatherspoon for Lucas in the closing moments of OSU's game with Georgia Tech in the Final Four

❑ **My best one-word piece of advice is...** Listen

❑ **How do you keep cool under fire?** Be prepared



**Jim Drummond**

GOVERNOR -  
DISTRICT NO. FIVE  
Norman

❑ **Background:** I grew up in Madill. My dad was a cattle rancher who served as a cavalry officer in WWI and again as a troop transport commander in WWII. I worked on the ranch and in a sale barn when I was young. My other dad was a journalist and WWII officer in the Pacific Theater. My mother was a newspaper editor early on, and my other mother had a degree in psychology from OSU.

My wife, Deborah, has a degree in psychology from OU. I have done my best to keep up with them all, though of course that goal is an asymptote.

❑ **Education:** Bachelor's in English at Wesleyan U. (Conn.), M.A. in creative writing at CCNY, J.D. from OU

❑ **Why did you choose the law school you attended?** It was cheaper by far than NYU, even with a half scholarship, but mainly it was home, which I somehow longed for while in the Army.

❑ **What are the names of your pets?** Dogs are Gabby, Sophie and Sasha; cat is Samson

❑ **Are you named for someone?** Named after both fathers, James M. Combs and Alfred Alexander Drummond. Yes, I have two sets of parents.

❑ **What famous person would you like to hang out with?** Terry Pratchett, British novelist

❑ **My most ridiculous fear is...** Nothing, because no fear is ridiculous, but I hate moths and love spiders.

- ❑ *What's your typical Sunday afternoon activity?* Anything with Deborah
- ❑ *Favorite news source?* National Public Radio
- ❑ *What was a pivotal moment in your life?* When I decided to return to law school, after leaving as a 3L to go to CCNY for creative writing. Kudos to my cattle rancher dad for never pressuring me even though he was mortified when I said I hated law and would never go back despite my relative success there.
- ❑ *What about the legal profession inspires you?* The incredible generosity and compassion of lawyers
- ❑ *What are the most important qualities a lawyer can have?* Perseverance and absolute ethical integrity
- ❑ *How do you most often listen to music?* iTunes and car CDs
- ❑ *What's one thing you wish you could change?* The attack on habeas corpus by the Anti-Terrorism and Effective Death Penalty Act of 1996
- ❑ *My best one-word piece of advice is...* Meditate
- ❑ *How do you keep cool under fire?* Breathe and defer my reaction till I am calmer
- ❑ *Background:* Born in Tulsa; graduated from Tulsa Memorial High School, Class of 1986; attended OSU and met my husband, Alan Souter, in Eskimo Joe's, and we married in 1993. We have two children — Noelle, age 15 and Parker, age 11; began practicing law in 1993 with my father, James R. Hays, in Tulsa; and after his death in 1994, I joined a firm for a short time and then opened my solo practice in Tulsa in 1998. My legal assistant/friend, Stephanie Pierce, has been with me since 1996. I practice exclusively in the area of family law.
- ❑ *Education:* B.A. Oklahoma State University, 1990; J.D., University of Kansas School of Law, 1993
- ❑ *Why did you choose the law school you attended?* The University of Kansas law school offered a top-notch education and a great basketball team to watch during study breaks. (Rock Chalk Jayhawk!) A bonus was that my future husband, Alan Souter, was also attending KU.
- ❑ *What's the name of your pet?* Lexi, a golden retriever (aka the "Golden Goat" because she will eat almost anything)
- ❑ *Are you named for someone?* No
- ❑ *What famous person would you like to hang out with?* Kenny Chesney or Walt Disney
- ❑ *My most ridiculous fear is...* Sharks (I should have never watched the movie Jaws as a child.)
- ❑ *What's your typical Sunday afternoon activity?* Family time, run a few miles and get everyone ready for the week ahead
- ❑ *Favorite news source?* TV local 10 p.m. newscast and Sunday morning paper
- ❑ *What was a pivotal moment in your life?* Meeting my future husband, Alan Souter, in Eskimo Joe's in Stillwater in 1989
- ❑ *What about the legal profession inspires you?* The challenge of learning the always-changing laws and the opportunity to guide a client through a difficult transition in life
- ❑ *What are the most important qualities a lawyer can have?* Organization, ethical, civility and courteous — a sense of humor is also helpful.
- ❑ *How do you most often listen to music?* XM radio to and from the office or while driving with the kids and iPod when running
- ❑ *What's one thing you wish you could change?* I wish I had a better "math brain."
- ❑ *My best one-word piece of advice is...* Laugh.
- ❑ *How do you keep cool under fire?* Smile and say nothing for at least 10 seconds.



**Kim Hays**  
GOVERNOR -  
DISTRICT NO. SIX  
Tulsa



## **Bret Smith**

GOVERNOR -  
DISTRICT NO. SEVEN  
*Muskogee*

- ❑ **Background:** Born in Kingfisher on Jan. 6, 1964; an Okie from Muskogee since 1968; honorably discharged from the Oklahoma Army National Guard in 1987; was a partner with Bill Haworth and Mike Finerty — Haworth, Finerty & Smith; now president of Bret A. Smith, Attorney at Law, P.C.
- ❑ **Education:** Graduated OU, B.A. political science in 1986; graduated TU law school 1990.

- ❑ **Why did you choose the law school you attended?** It was close to home and had a good reputation.
- ❑ **What are the names of your pets?** Ginger, Magnum and Sandy
- ❑ **Are you named for someone?** No
- ❑ **What famous person would you like to hang out with?** Bill Clinton
- ❑ **My most ridiculous fear is...** Being suffocated
- ❑ **What's your typical Sunday afternoon activity?** Checking cows and drinking beer.
- ❑ **Favorite news source?** CNN
- ❑ **What was a pivotal moment in your life?** Birth of my oldest child
- ❑ **What about the legal profession inspires you?** The ability to help people
- ❑ **What are the most important qualities a lawyer can have?** Ethics and honesty
- ❑ **How do you most often listen to music?** XM radio
- ❑ **What's one thing you wish you could change?** My age
- ❑ **My best one-word piece of advice is...** Honesty
- ❑ **How do you keep cool under fire?** Bite my lip and clinch my fist (LOL)



## **Jim Marshall**

GOVERNOR -  
DISTRICT NO. EIGHT  
*Shawnee*

- ❑ **Background:** Born in Germany to a military family. Father from Monroe, Okla. and mother from Czechoslovakia; raised in three countries and several states
- ❑ **Education:** Graduated Baumholder American High School, Baumholder, Germany; B.A. from OU, M.A. in international relations from Creighton University, Nebraska; J.D. from OU

- ❑ **Why did you choose the law school you attended?** I was in the U.S. Air Force stationed in another state when selected to attend law school; decided to attend law school in my "home state."
- ❑ **What's the name of your pet?** Our most recent addition is a dog, Boomer.
- ❑ **Are you named for someone?** Yes
- ❑ **What famous person would you like to hang out with?** Click and Clack, NPR's "Car Talk" radio show hosts
- ❑ **My most ridiculous fear is...** Not being able to find any more vanilla Tootsie Rolls
- ❑ **What's your typical Sunday afternoon activity?** Pickup truck, chain saw and/or brush hog
- ❑ **Favorite news source?** Wall Street Journal
- ❑ **What about the legal profession inspires you?** The opportunity to "do good" for my clients
- ❑ **What are the most important qualities a lawyer can have?** Their word is their bond.
- ❑ **How do you most often listen to music?** I miss my eight-track.
- ❑ **My best one-word piece of advice is...** Trust
- ❑ **How do you keep cool under fire?** Keep all things in perspective.





**John Kinslow**  
GOVERNOR -  
DISTRICT NO. NINE  
Lawton

❑ **Background:** I was born in Okemah and lived with my maternal grandmother and younger sister in a one-woman telephone exchange in Cromwell until I was 5, when we moved to Wewoka to join my mother. The four of us lived in Shawnee during my junior and senior high school years. I can't imagine a better place and time to be a teenager than Shawnee in the '50s.

- ❑ **Education:** B.A., Oklahoma Baptist University, 1963; J.D., University of Oklahoma, 1965
- ❑ **Why did you choose the law school you attended?** I wanted to practice law in Oklahoma and decided OU would be the best choice and the least expensive of the three state law schools.
- ❑ **What's the name of your pet?** We don't have a pet at this time.
- ❑ **Are you named for someone?** I was named in part for my maternal grandfather, whose first name was Wesley; my mother decided to give me John as my first name.
- ❑ **What famous person would you like to hang out with?** President Barack Obama
- ❑ **My most ridiculous fear is...** Public speaking
- ❑ **What's your typical Sunday afternoon activity?** Taking it easy
- ❑ **Favorite news source?** *New York Times*
- ❑ **What was a pivotal moment in your life?** When Carolyn agreed to marry me
- ❑ **What about the legal profession inspires you?** The fact that we help people
- ❑ **What are the most important qualities a lawyer can have?** An open, inquiring mind, compassion for others and good work ethics
- ❑ **How do you most often listen to music?** XM radio

- ❑ **What's one thing you wish you could change?** That everyone could learn that reasonable people can and do disagree on most issues (which I have to remind myself about from time to time)
- ❑ **My best one-word piece of advice is...** Relax

**How do you keep cool under fire?** I'm not sure I keep cool under fire, but when in difficult situations, I try to focus on what is really important.



**Richard D. Stevens**  
GOVERNOR -  
AT LARGE  
Norman

- ❑ **Background:** I was born at Altus AFB and raised mostly in Sulphur.
- ❑ **Education:** B.A. University of Oklahoma, 1978; J.D. University of Oklahoma, 1982
- ❑ **Why did you choose the law school you attended?** It was the only one that I could afford!
- ❑ **What are the names of your pets?** My dog is Winston Churchill; Peggy's cat is Izze.

- ❑ **Are you named for someone?** No.
- ❑ **What famous person would you like to hang out with?** Theodore Roosevelt, because the man knew how to live a life
- ❑ **My most ridiculous fear is...** We no longer get HBO
- ❑ **What's your typical Sunday afternoon activity?** Drinking coffee and recycling with my dog
- ❑ **Favorite news source?** *The Daily Show*
- ❑ **What was a pivotal moment in your life?** When I chose between being an actor or a lawyer.
- ❑ **What about the legal profession inspires you?** The Rule of Law
- ❑ **What are the most important qualities a lawyer can have?** Integrity

- ❑ *How do you most often listen to music?* Car radio
- ❑ *What's one thing you wish you could change?* I would have been born rich instead of so good looking.
- ❑ *My best one-word piece of advice is...* Chill
- ❑ *How do you keep cool under fire?* Sometimes, I don't



**Nancy Parrott**

GOVERNOR -  
AT LARGE  
Oklahoma City

❑ *Background:* Born and raised in Atoka; Atoka High School Wampus Cat. Taught high school English before going to OCU law school at night and running commercial interior decorating business. Was in private law practice, then marshal of the Oklahoma Supreme Court for 25 years. Two grown daughters, six grandsons and one granddaughter

- ❑ *Education:* B.A. in English, speech and French from OU; M.A. in family counseling from North Texas University, J.D. from OCU
- ❑ *Why did you choose the law school you attended?* I chose OCU because I was a single mom working full time and needed night school.
- ❑ *What famous person would you like to hang out with?* If Jesus is not an option, I'd pick Burns Hargis and Mike Turpen — smart, funny, mentally stimulating men of integrity.
- ❑ *My most ridiculous fear is...* An elevator door that will not open
- ❑ *What's your typical Sunday afternoon activity?* Sunday afternoon is for family, doing almost anything or nothing.
- ❑ *Favorite news source?* Early morning newspaper with coffee
- ❑ *What about the legal profession inspires you?* The lawyers in the legal profession inspire me; best folks I know.
- ❑ *What are the most important qualities a lawyer can have?* Honesty

- ❑ *How do you most often listen to music?* On my iPhone but prefer my precious collection of CDs
- ❑ *What's one thing you wish you could change?* My age, so I could do it all again.
- ❑ *My best one-word piece of advice is...* Love
- ❑ *How do you keep cool under fire?* I try to think, plan ahead, work hard and avoid fires!



**Deirdre O'Neil Dexter**

GOVERNOR -  
AT LARGE  
Tulsa

❑ *Background:* Born and raised in Stillwater; moved to Enid in 1977 after Terry and I married; moved to Norman in 1981 to start law school and moved to Tulsa in 1984 and to Sand Springs in 1985 — I love Oklahoma! I've worked in private practice, as a trial judge and as city attorney for the city of Tulsa. I've been married to my husband, Terry, since 1977; we have two sons, a beautiful daughter-in-law and granddaughter — and another grandbaby on the way!

- ❑ *Education:* OSU for three years and then graduated *cum laude* from Phillips University in 1981; J.D. from OU with highest honors in 1984
- ❑ *Why did you choose the law school you attended?* Terry and I were trying to start our family when I decided to apply to law school so we made the decision to stay in Oklahoma to be near both sets of grandparents. I found out I was accepted to OU and TU the same week I found out I was pregnant with our oldest son. OU had the best tuition rate for our young family.
- ❑ *What's the name of your pet?* Bailey is our 15-year-old border collie, Sorcha is our 3-year-old border collie and Shylah is our younger son's 8-year-old border collie mix (aka Bailey's boo-boo) who is currently staying with us.
- ❑ *Are you named for someone?* Yes, Deirdre of the Sorrows, a Celtic legend of whom there are a variety of books and plays written.

- ❑ **What famous person would you like to hang out with?** Living: Sean Connery (a crush from my youth); deceased: Rev. Martin Luther King Jr.
- ❑ **My most ridiculous fear is...** Grasshoppers. Although it's not so much fear as just hating the fact you never know where they might jump — women in skirts and men in kilts understand what I mean. So maybe it isn't really ridiculous.
- ❑ **What's your typical Sunday afternoon activity?** Hanging out at the lake or, if Addie is with us, playing with her in her fort, coloring, reading books or any other activity in which she wants to engage. I also can be found doing laundry, ironing and getting ready for the week ahead.
- ❑ **Favorite news source?** *Tulsa World* — I read it online nearly every morning.
- ❑ **What was a pivotal moment in your life?** When I started work as a legal secretary in Enid. That was what convinced me that the law was something about which I could be passionate and enjoy doing, in one form or another, for the rest of my life.
- ❑ **What about the legal profession inspires you?** Being a lawyer gives me the opportunity to help others and the community — I love working to make a difference. The vast majority of lawyers are wonderful people, and it's an honor to be part of the legal profession.
- ❑ **What are the most important qualities a lawyer can have?** To be respectful to others, even if they don't deserve it; a good sense of humor; a strong work ethic; a willingness to look at all sides of an issue.
- ❑ **How do you most often listen to music?** Sirius-XM in my car
- ❑ **What's one thing you wish you could change?** The all-too-prevalent "scorched earth" attitude that it's better to win at all costs than consider the long-term ramifications, which may mean that a compromise is the better approach.
- ❑ **My best one-word piece of advice is...** Faith — it has so many different applications in so many different situations.
- ❑ **How do you keep cool under fire?** I do my utmost to remain professional and try to stay composed. If I can concentrate on remaining

professional, it helps me maintain my composure and focus.



**Kaleb Hennigh**

GOVERNOR -  
YLD CHAIR  
*Enid*

- ❑ **Background:** I was born and raised in northwest Oklahoma, graduating from Laverne High School in 1996 with strong rural and agricultural roots and interests. My wife, Jennifer, and I returned to Enid in 2007 following the birth of our first son, where I have been practicing ever since. My wife and I have two sons, Karsen (6) and Jase (4).
- ❑ **Education:** B.S. Agricultural Communications, Oklahoma State University, 2000; J.D. University of Oklahoma College of Law, 2003; L.L.M. University of Arkansas College of law, 2005.
- ❑ **Why did you choose the law school you attended?** I wanted to obtain my J.D. within the state of Oklahoma, and albeit my love for my Oklahoma State Cowboys I headed south to Norman with several other OSU alumni and friends.
- ❑ **What's the name of your pet?** My wife has a yorkie named Bentley; I'll only claim the hunting dog though, named Rambo.
- ❑ **Are you named for someone?** My father named me after an outlaw in an old Western movie he loved (I don't recall the name of the movie).
- ❑ **What famous person would you like to hang out with?** Will Rogers
- ❑ **My most ridiculous fear is...** I don't believe I slow down long enough to have one.
- ❑ **What's your typical Sunday afternoon activity?** Finding ways to enjoy time with my sons, trying to harness all the energy that God blessed these ornery boys with!!
- ❑ **Favorite news source?** Local community and state newspapers
- ❑ **What was a pivotal moment in your life?** The summer following my sophomore year at OSU, when making the decision to serve as an

intern with the Oklahoma Department of Agriculture. It was during this internship that my interest in policy and law was born and ultimately led me to attend law school. Although I was headed to law school to gain insight and requisite knowledge to assist me in pursuing my “dream job” as a state/federal lobbyist (not to practice law), things changed I guess.

- ❑ *What about the legal profession inspires you?* Quality and commitment of the individuals involved in the practice of law
- ❑ *What are the most important qualities a lawyer can have?* Civility

- ❑ *How do you most often listen to music?* Radio
- ❑ *What’s one thing you wish you could change?* Where to begin...
- ❑ *My best one-word piece of advice is...* Always maintain a positive attitude
- ❑ *How do you keep cool under fire?* Focusing on the big picture regardless of any small problems or controversies immediately facing me

**OETA**   
**FESTIVAL 2014**

*Call for Volunteers*

**TUESDAY, MARCH 11**  
**5:45 P.M. - 10:30 P.M.**  
**OETA STATION**  
**OKLAHOMA CITY**  
**RSVP BY FRIDAY, FEB. 28 TO**  
**EMILYB@OKBAR.ORG**





# Meet Your Bar Association

## OBA Departments and the Member Services They Provide

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

### *Executive Director*

OBA Bylaws, Article IV, Section 4:

(a). The Executive Director shall keep the roster of the members of the Association and of the House of Delegates entitled to vote therein. He or she shall record and be the custodian of the minutes, journal and records of the Association and of the House of Delegates and of the Board of Governors.

(b). The Executive Director shall act as Treasurer, and be the custodian of the funds of the Association. No funds shall be withdrawn except in the manner approved by the Board of Governors.

(1) The expenditures of the Association shall be in accordance with the provisions of the Rules Creating and Controlling the Oklahoma Bar Association as promulgated by the Oklahoma Supreme Court.

(2) The Executive Director shall maintain at all times a fidelity bond executed by a surety company as surety, the amount thereof and the surety to be approved by the Board of Governors.

(c). He shall supervise the office of the Association and its personnel and shall see that the work of the Association is properly performed. He or she shall also perform such other duties



*Executive Director John Morris Williams and  
Executive Assistant Debbie Brink*

as the House of Delegates, the Board of Governors or the President of the Association may direct.

Rules Creating and Controlling the OBA, Article VI, Section 4:

The Executive Director shall perform such duties and services as may be required by these Rules or the Bylaws and as may be directed by the Board of Governors or the President of the Association. He shall also keep a complete and accurate list of the members of the Association; notify delinquent members and certify the names of delinquent members to the Supreme

Court as required by these Rules; certify to the Supreme Court records and other matters as provided by these rules.

**Phone: 405-416-7014**



*ADMINISTRATION – Durrel “Doc” Lattimore, Wanda F. Reece, Director Craig Combs, Tracy Sanders, Suzi Hendrix and Roberta Yarbrough*

## Administration

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

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

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

**Phone: 405-416-7000**

**Membership: 405-416-7080**

## Communications

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

- ❑ publishing 34 issues of the *Oklahoma Bar Journal* every year
- ❑ managing social media such as the OBA’s official Facebook page and Twitter account
- ❑ contributing stories and information for the OBA website to keep members current
- ❑ assisting the Law Day Committee in accomplishing extensive Law Day statewide activities and community service projects that generate significant positive public recognition for the legal profession



*COMMUNICATIONS – Jarrod Beckstrom, Director Carol Manning, Emily Buchanan, Assistant Director Lori Rasmussen*

- ❑ publishing the OBA Annual Meeting program and House of Delegates book and

promoting award winners, the meeting itself and election results

- ❑ developing and implementing a communications strategy utilizing the medium of videography to inform bar members and the public

More specific duties that benefit members are:

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

The department serves as a liaison for one board and several committees and assists in accomplishing their goals. Responsibilities include:

- ❑ working with the 10-member Board of Editors that reviews articles submitted and plans for future theme-related *Oklahoma Bar Journal* issues; once articles are approved for publication, the staff has charge of editing, proofreading and layout
- ❑ assisting the Communications Committee in its projects including overseeing the publication of 16 brochures on such topics as divorce, landlord/tenant rights and estate planning. Brochures are distributed free as a community service to individuals, libraries, nonprofit organizations, etc.; and staff handles the continuous demand for those materials to be mailed across the state
- ❑ working with the Law Day Committee to conduct statewide contests for Oklahoma students, provide county Law Day chairpersons with both event and promotion ideas for county celebrations, coordinate the

statewide Ask A Lawyer community service project in which volunteer attorneys give free legal advice to people who call in, implement marketing strategies to promote the Ask A Lawyer free legal advice and produce a one-hour, interview-style TV program, in cooperation with OETA (the state's PBS affiliate) that shows how lawyers work to improve the lives of all Oklahomans

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

**Phone: 405-416-7004**



*CLE – Director Susan Damron Krug, Renee Montgomery, Mark Schneidewent, Assistant Director Heidi McComb and Susan Carey*

## ***Continuing Legal Education***

OBA/CLE is the state's leading CLE provider. The staff works hard to provide innovative, timely and entertaining programs to meet all our members' needs. Call Director of Educational Programs Susan Damron Krug at 405-416-7028 with your program ideas.

Department services include:

- ❑ developing and producing hundreds of quality live seminars and webcasts
- ❑ offering video replays of the live seminars
- ❑ developing and producing on-demand and audio seminars, including webcast encores
- ❑ offering recent seminar publications in hard copy or electronic format
- ❑ developing and producing CLE at the OBA Annual Meeting

- ❑ coordinating with the Management Assistance Program to plan and facilitate the annual Solo and Small Firm Conference
- ❑ assisting the Women in Law, Diversity and Professionalism committees with conferences
- ❑ working with OBA officers to plan leadership training for OBA members
- ❑ coordinating with various OBA sections in the planning of OBA/CLE section cosponsored CLE seminars
- ❑ securing local and nationally recognized experts to present continuing legal education programming in Oklahoma
- ❑ creating electronic forms to assist members in various areas of law practice
- ❑ providing online OBA/CLE registration
- ❑ timely application of attendance credit to enable members to have an up-to-date view of accumulated OBA/CLE credit on my.okbar.org

**Phone: 405-416-7029**

**Email: cle@okbar.org**

### ***Ethics Counsel***

The Office of Ethics Counsel is a membership service available only to OBA members. It was created to assist members with conflict dilemmas, confidentiality questions, communication concerns and other ethical inquiries unique to the profession. The Office of Ethics Counsel is autonomous from and independent of the Office of the General Counsel. Members seeking assistance with ethical questions are afforded an "attorney/client" relationship with the full expectation of confidentiality. Through the Office of Ethics Counsel, Oklahoma Bar Association members can obtain informal guidance and advisory interpretations of the rules of professional conduct. The office is staffed by Ethics Counsel Travis Pickens and his assistant, Nickie Day. Responsibilities of the Ethics Counsel include:

- ❑ answering ethics questions from members of the Oklahoma Bar Association
- ❑ researching and writing ethics materials for the OBA website, CLE publications, seminars and the *Oklahoma Bar Journal*



***ETHICS COUNSEL – Ethics Counsel***  
***Travis Pickens***

- ❑ preparing and presenting CLE programs on the topics of ethics and professionalism
- ❑ acting as a liaison to the Bench and Bar, Professionalism and Lawyers Helping Lawyers committees and the Legal Ethics Advisory Panel
- ❑ monitoring the OBA diversion program and teaching related classes

**Phone: 405-416-7055**

**Email: travisp@okbar.org**





*GENERAL COUNSEL – (Seated) Debbie Maddox, General Counsel Gina Hendryx, Loraine Dillinder Farabow; (back row) Tommy Humphries, Steve Sullins and Katherine Ogden*

## **General Counsel**

The Office of the General Counsel is charged with the responsibility of:

- ❑ reviewing and investigating allegations of lawyer misconduct or incapacity
- ❑ reviewing and investigating allegations of the unauthorized practice of law
- ❑ prosecuting violations of the Oklahoma Rules of Professional Conduct
- ❑ administering the Clients' Security Fund

In addition to these enumerated duties, the Office of the General Counsel:

- ❑ serves as liaison to the OBA Board of Governors advising the governing group on legal matters



*SUPPORT STAFF — Dieadra Goss, Misty Hill, Laura Willis and (seated) Manni Arzola*



*INVESTIGATORS — (Front row) Tommy Butler, Bill Thames, Sharon Orth; (back row) Tanner Condley and Krystal Willis*

- ❑ processes and approves the registration for attorneys from other jurisdictions
- ❑ administers the trust account overdraft notification program

**Phone: 405-416-7007**

## **Information Technology**

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

- ❑ providing a mailing list for each committee and section through the list servers to communicate with members easily and in a cost effective manner
- ❑ maintaining a committee chairperson list and a section chairperson list serve to allow communication between the association and the chairs, as well as between the chairs themselves
- ❑ providing a website to include a members-only section where members can update



**INFORMATION TECHNOLOGY** – (Front row)  
Director Robbin Watson, Brandon Haynie; (back row)  
Larry Quinn, Matt Gayle

roster information, pay dues, register for CLE, review MCLE credits, etc.

- ❑ promoting the association's online presence through the OBA website and various social media outlets
- ❑ providing free sign-up for the [www.okbar.org/findalawyer.com](http://www.okbar.org/findalawyer.com) lawyer referral service

**Phone: 405-416-7045**

**Email: [web@okbar.org](mailto:web@okbar.org)**

## ***Law-related Education***

The Law-related Education (LRE) Department of the Oklahoma Bar Association was established in 1989 to further the OBA's goals of increasing public service and enhancing public understanding of the law and the legal system. To that end, LRE, now in its 25th year, endeavors to educate citizens in a constitutional democracy and to create an active, responsible citizenry.

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

LRE aims to join the education and law communities in its mission of fostering civic-mindedness. Understanding of law's role in society is essential for democracies. We are now training teachers to engage students in active, participa-

tory citizenship through digital media. LRE is under the direction of Jane McConnell, Law-related Education coordinator and Debra Jenkins, administrative assistant. Information about specific LRE programs and resources is available on the OBA website at [www.okbar.org/public/lre](http://www.okbar.org/public/lre).

**Phone: 405-416-7024**

**Email: [janem@okbar.org](mailto:janem@okbar.org)**



**LRE** — Coordinator Jane McConnell and Debra Jenkins

## ***Management Assistance Program***

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

- ❑ **Free Telephone Hotline** — The OBA-MAP staff attempts to answer brief questions about management and technology issues. Our number is 405-416-7008. The toll-free number is 800-522-8065. Advice provided is confidential.
- ❑ **OBA Solo and Small Firm Conference** — Attend great CLE programs with nationally recognized experts, network with other small firm lawyers from across the state and meet



*MAP — Director Jim Calloway*

with small-firm friendly vendors. Join us for the Solo and Small Firm Conference June 19-21, 2014, at the Hard Rock Hotel and Casino in Tulsa.

- ❑ OBA-MAP Lending Library — Attorneys can borrow books on law practice management and technology from the OBA-MAP Lending Library.
- ❑ Discounts on practice management books (and other ABA titles) – If you prefer to own a book rather than borrow it, your OBA membership entitles you to 15 percent off the list price of any of the ABA's more than 300 titles. Simply enter PAB9EOKB in the Discount Code Number field when placing your order on the ABA website.
- ❑ OBA-NET — This is an online community for the legal profession. Oklahoma lawyers post questions and brainstorm with other lawyers online. There are many files and forms available that have been uploaded by other OBA members.
- ❑ Jim Calloway's Law Practice Tips Blog – This blog has just recently been updated with a launch date in early 2014! Regular postings of Internet tips, law practice tips and hot news in law office management and technology are available by visiting the blog website, subscribing to the email alerts or subscribing to the RSS news feed. Visit the blog at <http://jimcalloway.typepad.com>
- ❑ Office "Health Checks" — These consultations take place in the lawyer's office on a fee for services basis. A wide range of management issues can be covered. Typically all staff and attorneys will be involved both in group and individual interviews.
- ❑ Free consultations at the bar center — Any lawyer who is setting up a new practice or has encountered a difficult issue that cannot be comfortably handled over the telephone is welcome to schedule a free 45-minute appointment with the OBA-MAP director.
- ❑ Opening Your Law Practice — This innovative program consists of a one-day seminar, scheduled in Oklahoma City twice a year (spring and fall) and in Tulsa in the fall, to assist attorneys setting up new solo practices. A companion project is the "Starting a Law Practice Web Directory" which is available to any attorney at [www.okbar.org/members/map/StartingALawPractice](http://www.okbar.org/members/map/StartingALawPractice).



*MAP Administrative Assistant Nickie Day, who also assists Ethics Counsel Travis Pickens*

- ❑ Oklahoma Bar Journal articles — Each theme issue of the *Oklahoma Bar Journal* contains the regular column "Law Practice Tips" by OBA-MAP Director Jim Calloway.
- ❑ Local Bar Presentations — The OBA-MAP director is available to speak at your county bar meetings or other organized lawyer groups at no charge.

**Phone: 405-416-7008**



**MANDATORY CONTINUING LEGAL EDUCATION**  
*– Jan Thompson, Director Beverly Petry Lewis and  
 Johnny Floyd*

## **Mandatory Continuing Legal Education**

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

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

Member services include:

- ☐ review of seminars for accreditation
- ☐ accreditation of teaching activities
- ☐ responding to requests for clarification of the Rules of the Oklahoma Supreme Court for Mandatory Continuing Legal Education
- ☐ processing the annual reports of compliance
- ☐ helping members receive all the credit to which they are entitled
- ☐ keeping a record of the Oklahoma approved seminars attended by members

**Phone: 405-416-7009**

**Email: [mcle@okbar.org](mailto:mcle@okbar.org)**

## **Don't Know Whom to Contact?**

If you need more information about which employee in a department to contact, check out the staff list at [www.okbar.org/members/OBAstaff](http://www.okbar.org/members/OBAstaff). You will find a list of OBA staff members, a summary of their responsibilities and their email address.



## **IMMIGRATION LAWYERS**

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# Meet Your Bar Association

## Member Perks: Take Advantage

**E**nhance your practice, save money and get the most out of your OBA membership. OBA member perks include discounted services and programs, and some free stuff too.

### ONLINE SERVICES

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



**Fastcase** — The OBA offers online legal research software as a free benefit to all OBA members. The OBA has contracted with Fastcase to provide national coverage, unlimited usage, unlimited customer service, and unlimited free printing at no cost to bar members as a part of their existing bar membership. Mobile Sync makes the Fastcase Legal Research member benefit even more powerful. It gives you the option to link your Fastcase for the iPhone or iPad app with your desktop account. Mobile Sync automatically syncs your activity history and saved favorites on any of the Fastcase applications, so no work is ever lost. When you log in through [www.okbar.org](http://www.okbar.org), you will see the favorites saved on your iPhone or iPad. To use Fastcase, sign in with your MyOKBar username (OBA number) and password on the OBA website.

**[www.okbar.org](http://www.okbar.org)** — Main website of the OBA with links to all other OBA web presences.

Information is primarily geared for members, but contains a great deal of information for the public.

**MyOKBar** — Password-protected portion of the OBA's website. Easy to do everything from changing your official address, enrolling in a CLE course, checking your MCLE credits, paying your annual dues, joining a section to listing your practice areas on the Internet so potential clients can find you. You can also receive electronic communications from the bar by adding your email address to the roster. Plus, a new feature allows you to print a temporary bar card and print receipts from previous dues and CLE payments.



**OBA-NET** — OBA-NET is a message board and file sharing service that allows members to help each other through online participation. You must register for OBA-NET, and your password will be different from [www.okbar.org](http://www.okbar.org).

**Online CLE** — Quality audio, live seminar and encore webcasts for unlimited MCLE credit as well as on-demand programs to watch at your convenience (limited to 6 hours MCLE credit).

**Oklahoma Find A Lawyer** — The OBA's official lawyer listing service is free. It is also a useful tool for OBA members to identify other attorneys practice area of expertise.

**Online research links** — A one-page resource to quickly find the Oklahoma Supreme Court website, look up Oklahoma cases and statutes online. Can be used to find the online site of the Court of Criminal Appeals or any of Oklahoma's district courts, locate a state or federal agency, locate a federal court site, find a municipal ordinance, rules from local or federal courts or the current judicial pictorial directory. As a bonus there are many other links to assist in your legal and factual research.

**Prepared speeches for community/civic groups** — Speeches, outlines and handouts prepared by the OBA's Bench and Bar Committee on selected topics for presentation to public groups can be found online.

## PUBLICATIONS

**Oklahoma Bar Journal** — 34 issues of the Oklahoma Bar Journal are published annually, contains articles, court opinions, substantive law, state bar news, professional changes, member news (moves, kudos, additions to firms, etc.), master calendar of judicial and bar events, free to active members, \$60 annual subscription, discounted rate for senior members and Oklahoma law students. Specially printed binders to keep bar journals organized on a shelf are available at \$15.95 each by contacting the Communications Department.

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

**Consumer information brochures** — Pamphlets on 15 topics covering commonly asked questions to give to clients, are sold to OBA members at a minimal cost of \$16 for 100. Brochure topics are: wills, probate, joint tenancy,



home buying, tenant rights and duties, landlord rights, divorce, small claims court, employee rights, bankruptcy, trial juror information, lawyers & legal fees, living wills (brochure and form), criminal law and resolving conflicts and disputes. As a community service, the OBA distributes the brochures free to courthouses and libraries throughout the state. There's an order form online.

## PRACTICE MANAGEMENT/ PROFESSIONALISM

**Young Lawyers Division** — The YLD is a professional service network offering the chance to participate in community and bar-related programs. Lawyers of any age who have been in practice less than 10 years are automatically members. No dues are required. There are many YLD programs to become involved in and connect with members on Facebook at [www.facebook.com/obayld](http://www.facebook.com/obayld).

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

**Practice management/ technology hotline service** — OBA members may inquire via email or by phone to the Management Assistance Program (MAP) staff and the OBA director of technology for brief answers about practical management and technology issues, such as law office software, understanding computer jargon, staff and personnel problems, software training opportunities, time management and trust account management. Call 405-416-7008.



**Office “health checks”** — In-depth personal or group consultations that take place in the lawyer’s office, consultations may focus on technology, office procedures or other areas agreed upon by attorney and MAP director. The fee is \$500 per day for small law firms (five attorneys or less) or \$750 per day for medium or larger firms (more than five attorneys). Call 405-416-7008 to schedule.

**Book purchasing program** — OBA members can receive a discount on American Bar Association books through the OBA Management Assistance Program. Contact us for details at 405-416-7008.



**Lending library** — Law practice management books, video and audio tapes available for lawyers to check out and review. While there is no fee for checking out materials to take home, there is a \$5 charge to mail the materials to you. The complete list of materials is online.

**Ethics Counsel** — Assists members with ethical questions and inquiries on subjects such as conflicts, confidentiality and client concerns. The ethics counsel also presents continuing

education programs on the topics of ethics and professionalism. Call 405-416-7055.



**Crisis Counseling Services** — Need help with stress, depression or addiction? Call the Lawyers Helping Lawyers Assistance Program toll-free at 800-364-7886. It’s strictly confidential and available 24 hours a day. The OBA offers all bar members up to six hours of free crisis counseling. Plus, members can take advantage of free lawyer discussion groups that meet monthly in Tulsa and Oklahoma City. Details about the groups that have a different topic every month are online.

**OBA sections** — 24 substantive law sections that offer professional development and interaction. Experience professional growth by learning from colleagues in your practice area and develop new contacts. Benefits vary by section with a growing number of sections holding midyear or quarterly meetings that offer free or discount CLE to section members, some sections publish member newsletters. You’ll find a list of sections, their annual dues and membership registration form online.

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

**Leadership opportunities** — Boards, committees, sections and commissions are some of the volunteer opportunities that offer career development and ways to interact with other attorneys and judges. Members may volunteer to serve on a committee at any time during the year.

**Annual Meeting** — Participate in CLE programs, section and committee meetings, have a

voice in determining the OBA's legislative program and electing future state bar leaders, take advantage of networking opportunities with attorneys and judges from throughout the state. The 2014 Annual Meeting will be Nov. 13-14 at the Hyatt Regency in Tulsa.

**Solo & Small Firm Conference/YLD Mid-year Meeting** — Lawyers have the opportunity to get to know one another and to take advantage of a CLE seminar in a relaxed family setting. Mark your calendar for June 19-21, 2014, at the Hard Rock Hotel & Casino in Tulsa.

## OTHER SERVICES

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

**Video conferencing** — Available at OSU Tulsa in downtown Tulsa so that committee and section members can join in on meetings without traveling to Oklahoma City.

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

**Meeting rooms at Bar Center** — Many size rooms to choose from to accommodate small and large group meetings, client conferences and depositions. Free to members during weekday business hours, nominal fee for evenings.

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

## OPTIONAL MEMBER PURCHASE

**ABA Retirement Funds** — The ABA Retirement Funds program is designed to provide unique, full service 401(k) plans to the legal community, and ABA membership is not required. It was created over 45 years ago by the American Bar Association. By leveraging the size of the ABA Retirement Funds Program which brings together nearly 4,000 firms, the program offers a fund lineup and services traditionally only available to the largest corporate plans. These services are offered at no out-of-pocket expense to law firms of all sizes with institutionally priced funds for their participants. Contact a program representative at 800-826-8901 for a program prospectus or visit [www.abaretirement.com](http://www.abaretirement.com) for more information.



**OBA-sponsored insurance programs** — Keep rates low through group buying power. For information about OBA programs for life, health (employer-group and individual), individual disability, personal umbrella liability, long-term care and other insurance plans, contact **Beale Professional Services** 405-521-1600, 800-530-4863. For professional liability, **Oklahoma Attorneys Mutual Insurance Co.** is the only insurer owned by OBA members, OAMIC can be reached at 405-471-5380 or 800-318-7505. They also offer a broad range of court bonds with more information at [www.oklahoma.onlinecourtbonds.com](http://www.oklahoma.onlinecourtbonds.com).

**Oklahoma Legal Directory** — Official directory of OBA members with addresses and phone numbers, roster alphabetical and by county, includes guide to county, state and federal offices plus departments of the U.S. and

Oklahoma government, complete digest of courts, professional associations including OBA officers, committees and sections. Published by Legal Directories Publishing Co. in both hard bound and electronic editions; \$60 + shipping and sales tax. Call 800-447-5375 ext. 2 to request order form or visit their [www.legal-directories.com](http://www.legal-directories.com).

**Title Examination Standards** — Contains all the presently effective Oklahoma Title Examination Standards and reflects all revisions, produced by the OBA Real Property Law Section, \$5 per copy, free to section members. To be mailed a copy, email Wanda Reece ([wandar@okbar.org](mailto:wandar@okbar.org)) for the exact shipping cost.

## MEMBER DISCOUNTS

**Avis Car Rental** — The Oklahoma Bar Association can offer you the use of its Avis car rental discount rates if you use the reference code A674000. Contact Avis toll-free at 800-831-8000 or [www.avis.com](http://www.avis.com).

**Colcord Hotel** — A boutique hotel near Bricktown in downtown Oklahoma City, the Colcord Hotel offers OBA members a discounted rate of \$149 per night for a deluxe king or deluxe double room \$179 per night for a superior corner king and \$279 per night for the Colcord Suite. Call the hotel at 866-781-3800 to make your reservation and mention that you are an OBA member for the special discount or make your reservation online at [www.colcordhotel.com](http://www.colcordhotel.com) utilizing the corporate rate; access code is OKBR.



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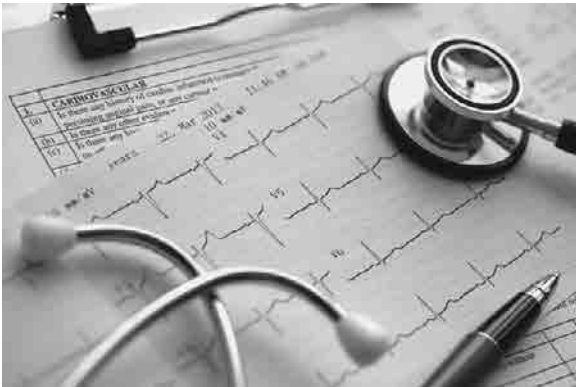
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# What is Required for Gas to be a Marketable Product in Oklahoma?

By Richard B. Noulles

This article discusses 1) the case law in Oklahoma giving rise to the question of what is required for gas to be a marketable product, 2) the differing view of royalty owners and producers on that question, 3) the uncertainties under the case law, 4) recent changes in the gas industry relevant to the question and 5) other authorities applicable to the question. The author also proposes a standard to be applied in determining whether gas is a marketable product.

## GENESIS OF THE ISSUE

Over 20 years ago, in the 1992 case of *Wood v. TXO Production Corp.*,<sup>1</sup> the Oklahoma Supreme Court held that a lessee's implied duty to market under an oil and gas lease "involves obtaining a marketable product."<sup>2</sup> The issue in *Wood* was whether the lessee could charge its royalty owners for their proportionate share of the costs incurred by the lessee in compressing gas on the leased premises so as to enable the gas to be delivered into the buyer's line, also located on the leased premises.<sup>3</sup> The court held that cost could not be charged to the lessors under the implied duty to market.<sup>4</sup>

Two years after *Wood*, the court decided *TXO Production Corp. v. State ex rel. Comm'rs of the Land Office (CLO)*.<sup>5</sup> In *CLO*, the court decided that post-production costs for on-lease compression, dehydration and gathering expenses were not chargeable to the CLO under the producer's lease with TXO. The court based its decision on the fact the CLO lease provided the lessee was to deliver to the CLO one-eighth of the gas produced "without cost into pipelines ... or in lieu thereof, pay to the lessor the market value thereof,"<sup>6</sup> but also said the costs in question were incurred to "prepare the product for market"<sup>7</sup> and "prior to the product being placed

into the purchaser's pipeline,"<sup>8</sup> so were "necessary to make the product marketable"<sup>9</sup> and therefore not chargeable to the royalty owner.

Four years later, in *Mittelstaedt v. Santa Fe Minerals, Inc.*,<sup>10</sup> the court addressed, for the first time, whether off-lease post-production costs could be charged to royalty owners. The court made it clear that the fact the costs were for off-lease operations "does not mean the costs are necessarily shared by the lessors,"<sup>11</sup> but also made it clear that such costs "must be examined on an individual basis to determine if they are within the class of costs shared by royalty interests."<sup>12</sup> The court then addressed the specific costs involved in the case, beginning with dehydration. The court said that dehydration costs "necessary to make a product marketable, or dehydration within the custom and usage of the lessee's duty to create a marketable product, without provision for cost to lessors in the lease," are not payable from the royalty interest, but that "excess dehydration to an already marketable product is to be allocated proportionately to the royalty interest when such costs are reasonable, and when actual royalty revenues are increased in proportion to the costs assessed against the royalty interest."<sup>13</sup> The court likewise explained that blending



costs “necessary to make a marketable product” are not allocated to royalty owners, but blending costs for “an already marketable product” may be so allocated if the costs are reasonable and royalty revenues increase in proportion to them.<sup>14</sup> A similar rule was given for off-lease compression costs.<sup>15</sup> The court concluded that:

In sum, a royalty interest may bear post-production costs of transporting, blending, compression, and dehydration, when the costs are reasonable, when actual royalty revenues increase in proportion to the costs assessed against the royalty interest, when the costs are associated with transforming an already marketable product into an enhanced product, and when the lessee meets its burden of showing these facts.<sup>16</sup>

### DIFFERING VIEWS ON WHEN GAS IS A MARKETABLE PRODUCT

Subsequent to the decisions in *Wood*, *CLO* and *Mittelstaedt*, a number of cases have been filed by royalty owners — generally seeking to represent a large number of other royalty owners on a class basis — claiming that producers have underpaid royalties by effectively charging the royalty owner for off-lease post-production costs allegedly incurred to make the producer’s gas a marketable product. Typically these cases have involved one of the following two scenarios:

1) In the first scenario, the lessee/producer typically sells the gas at the well or a nearby central delivery point to a midstream company such as DCP, Enogex, ONEOK Field Services or various others. Such sales are often on a “percent of proceeds” (POP) basis whereby the purchaser pays the producer — typically in exchange for 100 percent of the MMBtus of gas delivered at the delivery point — a stated percentage of the proceeds ultimately received by the purchaser upon resale, after the purchaser moves the gas to a downstream processing plant (which may be located dozens of miles or more from the lease), processes the gas for the extraction of natural gas liquids (NGLs), and sells the residue gas and NGLs at the plant tailgate or further down the distribution chain. The POP contracts also will frequently provide that a portion of the gas being sold to the midstream company may be used for fuel in transporting, compressing and/or processing the gas, with the percentage of proceeds paid for the NGLs and residue gas also constituting the

consideration for the gas used for fuel. In some instances, the POP contract also may provide for a reduction in the proceeds otherwise payable to the producer to offset the purchaser’s costs of off-lease transportation, compression or treating of the gas, usually on the basis of “X¢ per unit” of gas purchased.

2) In the second scenario, the lessee/producer itself (or an affiliate of the lessee/producer) typically pays the midstream company to move the gas from the lease to the downstream processing plant, pays the costs of compressing and processing the gas to extract NGLs — including bearing the loss of any gas used as fuel for transporting, compressing and/or processing the gas — and either sells the residue gas and extracted NGLs at the plant tailgate or moves them further down the distribution chain for sale.

In both of these scenarios, the residue gas remaining after extraction of the NGLs typically is delivered into a mainline interstate or intrastate transmission line at the tailgate of the processing plant, where it can be transmitted to an ultimate end user or local distribution company at any downstream pipeline interconnect point, which may be hundreds or thousands of miles away.

In the first scenario, the producer typically pays royalties on the proceeds it receives under the POP contract for the wellhead sale to the midstream purchaser. In the second scenario, the producer typically pays royalties on the “netback” value at the well after deducting the downstream costs of the off-lease transportation, compression and processing from the downstream proceeds ultimately received for the sale of the residue gas and NGLs. In both scenarios, the lessee/producer may incur costs for treating, dehydrating, separating, compressing or other operations undertaken on the lease, before either selling the gas (in the first scenario) or delivering it to the midstream company (in the second scenario), and those on-lease costs are not allocated to the royalty owners, based on the decisions in *Wood* and *CLO*. The producer’s contention typically is that in either scenario the gas is a marketable product at the lease when it is either sold (in the first scenario) or delivered (in the second scenario) into the midstream company’s pipeline.<sup>17</sup>

The royalty owners, however, typically argue that gas is not a marketable product until it is acceptable for delivery into the mainline inter-

**“...there is no Oklahoma appellate decision addressing the issue of what is required for gas to be a ‘marketable product.’”**

state or intrastate transmission line at the tailgate of the processing plant, and further argue that little or no gas is acceptable into such a mainline transmission line until it has been processed for extraction of NGLs, dehydrated to a “dry” condition (generally 7 pounds of water per 1 million cubic feet or less), and compressed to the high pressure required for entry into a mainline transmission line. Thus, the royalty owners typically argue that all costs incurred prior to delivery into the mainline transmission line are being incurred to produce a marketable product.<sup>18</sup> Therefore, the royalty owners argue, in the first scenario royalties are payable on the value of 100 percent of the residue gas and NGLs produced at the processing plant (*i.e.*, not just the lessee/producer’s share under the POP contract), irrespective of the values actually received under the POP contract, plus 100 percent of the value of any gas consumed for fuel and 100 percent of any hydrocarbons that may have condensed and been removed from the pipeline as “drip liquids” en route to the plant. Similarly, in the second scenario, the royalty owners argue royalties are due on the same 100 percent of the residue gas and NGLs produced at the processing plant, plus 100 percent of the value of any gas consumed as fuel in transporting, compressing and/or processing the gas, and 100 percent of any “drip liquids” removed en route to the plant, without deduction of any off-lease costs incurred by the lessee/producer in transporting, compressing or processing the gas in order to achieve those values.

#### UNCERTAINTIES UNDER THE CASE LAW

Surprisingly, despite the numerous cases filed since *Mittelstaedt* raising this marketable product issue, there is no Oklahoma appellate decision addressing the issue of what is required for gas to be a “marketable product.” The reason for this is the royalty cases raising the issue uniformly have been settled, almost always without a trial even being held.<sup>19</sup> As a result,

the issue of exactly what is required for gas to be a marketable product in Oklahoma has not been addressed by an Oklahoma appellate court. In *Foster v. Merit Energy Co.*,<sup>20</sup> the United States District Court for the Western District of Oklahoma discussed the uncertainty regarding this and several other related and still undecided issues under *Mittelstaedt*:

- “Having left marketability to be determined as a question of fact, ‘the [*Mittelstaedt*] court did not attempt to define either the term ‘marketable’ or the term ‘product.’”
- “The [*Mittelstaedt*] Court . . . had no occasion to discuss how the principles articulated in *Mittelstaedt* might apply to a POP contract.”<sup>22</sup>
- “What, exactly, are the physical attributes of a product that is ‘marketable’ in the sense required to qualify as an ‘already marketable product’ so as to trigger possible cost sharing under the *Mittelstaedt* formulation? What, exactly, is the difference between ‘dehydration’ (all on the lessee) and ‘excess dehydration to an already marketable product’ [citation omitted] for purposes of the *Mittelstaedt* formulation? Does this differentiation imply that . . . gas can be dehydrated to the extent necessary to qualify as ‘marketable’ in the sense discussed in *Mittelstaedt*, but still not be of interstate pipeline quality?”<sup>23</sup>
- “[T]he [Oklahoma] Supreme Court’s royalty cases leave a considerable amount of uncertainty as to the relative roles played by lease language, on the one hand, and the implied covenant to market, on the other, in bringing about the results reached in those cases.”<sup>24</sup>

All of these issues remain undecided by an Oklahoma appellate court.<sup>25</sup>

#### THE IMPACT OF RECENT CHANGES IN THE GAS INDUSTRY

In order to properly analyze this “marketable product” issue, some historical context also is necessary. Prior to the latter 1980s and early 1990s, almost all gas produced in the United States was sold at the lease by the lessee/producer to an interstate or intrastate pipeline company. The pipeline company served both a merchant role — buying the raw gas from the lessee/producer and selling the processed resi-

due gas to end users or local distribution companies — and a transportation role — moving the gas from the producer to the end user/local distribution company. As part of its transportation function, the pipeline company typically also either processed the gas at a company-owned plant or had it processed at a third-party plant. The interstate/intrastate pipeline company bore all the costs of transporting, compressing and processing the gas and, at the same time, received all the increased value attributable to the transportation, compressing and processing of the gas, while the lessee/producer did not bear any of the costs or share in any of the increased value. Thus, during this time period, there were almost no “off-lease post-production costs” incurred by a lessee/producer.<sup>26</sup> Because the gas was generally sold at the well to the pipeline company buyer, gas was generally considered to be marketable as long as it was acceptable by the pipeline company buyer when delivered at the lease, before the additional off-lease processes were performed by the buyer.<sup>27</sup>

Beginning in the latter 1980s and continuing through the early 1990s, the Federal Energy Regulatory Commission (FERC) issued a number of orders having the purpose and effect of making the pipeline companies pure transporters of gas, rather than both merchants and transporters.<sup>28</sup> As a result, the pipeline companies spun off the portions of their pipeline systems and processing plants upstream of their high-pressure mainline transmission lines. Those spun-off companies, or other newly created companies, became the merchant purchasers and resellers of gas, referred to as “mid-stream companies,” who now either purchase gas at the lease, or transport it for a fee to a processing plant, where the gas is processed and compressed for delivery into the pipeline company’s high-pressure mainline transmission line for ultimate sale and delivery to the end user or local distribution company purchaser.<sup>29</sup>

From a lessee/producer’s perspective, gas today is no different than it was prior to the FERC’s restructuring of the pipeline industry and, since gas today is often being sold or delivered into the same pipelines at the lease — for delivery to and processing at the same processing plants — as it was before the restructuring of the industry, it is just as much a marketable product at the lease as it was before the industry was restructured, when almost all gas was sold to an interstate or intrastate pipeline

**“From a lessee/producer’s perspective, gas today is no different than it was prior to the FERC’s restructuring of the pipeline industry...”**

company at the lease. However, the royalty owner’s perspective is just the opposite. They contend that following the restructure of the pipeline industry gas is no longer marketable at the wellhead, and that no gas can be marketable now until it has been transported to and processed at a downstream processing plant where NGLs are extracted and the residue can be delivered into an interstate or intrastate pipeline company’s mainline transmission line.

#### **OTHER AUTHORITIES CONSIDERED**

Sooner or later, in the author’s opinion, a case presenting the marketable product issue is going to be tried and either a jury will have to be instructed as to what is required for gas to be a marketable product or the court will have to make a finding on that issue. Despite the uncertainties under *Mittelstaedt*, the Oklahoma Supreme Court did make it clear that determining whether gas is a marketable product is a fact intensive question dependent in large part on the custom and usage in the industry.<sup>30</sup> However, as the court discussed in *Foster*, exactly what is required for gas to be marketable under *Mittelstaedt* remains unclear. Notwithstanding that uncertainty, the author believes there are several Oklahoma cases and other authorities that provide guidance for arriving at the appropriate standard to be applied in determining what is required for gas to be a marketable product. These are discussed below.

In *Replogle v. Indian Territory Illuminating Oil Co.*,<sup>31</sup> the plaintiffs/royalty owners had agreed with the lessee/producer that the producer could use gas being produced from a certain oil well for the producer’s other operations in Oklahoma City, free of cost to the royalty owners “until such time as there is a market for said gas.”<sup>32</sup> Oklahoma Natural Gas Company later attempted to make use of the gas and made a few purchases from the lessee/producer for a short time but determined it was unable to use

the gas and quit buying it.<sup>33</sup> Plaintiffs argued there was a market for the gas based on the few discontinued sales to ONG, but the court rejected that argument, saying:

[M]arket . . . alludes to the opportunity for selling the commodity (gas) . . . that is, the existence of a commercial demand for same.<sup>34</sup>

In *Johnson v. Jernigan*,<sup>35</sup> the plaintiff's lease called for royalties to be paid on gas based on the "gross proceeds at the prevailing market rate."<sup>36</sup> The parties agreed there was no market for the gas at the lease, and the lessee moved the gas ten miles off the lease to the point of sale and deducted \$.02 per 1,000 cubic feet from the proceeds for that cost in calculating royalties. The royalty owner sued, alleging the deduction was not allowed under the lease, but the court ruled in favor of the lessee/producer, saying:

Market rate is the rate at which the gas is commonly sold in the vicinity of the well. It is market rate at the wellhead or in the field that determines the sale price, and not the market rate at the purchaser's location which may be some distance away from the leased premises.<sup>37</sup>

Most recently, in the 2004 case of *Howell v. Texaco Inc.*,<sup>38</sup> the court said this about a lease provision calling for payment of royalties based on market value:

Market value is the price negotiated by a willing buyer, not obligated to buy, and a willing seller, not obligated to sell, in a free and open market.<sup>39</sup>

The writings of Professors Eugene Kuntz and Owen Anderson also have addressed the issue of when gas is a marketable product. For example, Professor Kuntz's treatise on oil and gas law states:

It is not always easy to determine, however, when the first marketable product has been obtained. Marketability of the product may be affected because the quality of the raw gas is impaired by the presence of impurities. In this instance, it should be necessary to determine if there is a commercial market for the raw gas. If there is a commercial market, then a marketable product has been produced and further processing to improve the product should be treated as refining to increase the value of the marketable product.<sup>40</sup>

Thus, similar to the *Replogle* court's "commercial demand" analysis, Professor Kuntz would look to whether there is a "commercial market" for the gas. Although the author is not aware of any Oklahoma case specifically defining the term "commercial demand" or "commercial market," in *Allenberg v. Bentley Hedges Travel Service*,<sup>41</sup> the Oklahoma Supreme Court said that "the term 'commercial seller' refers to a seller who is in the business of selling" the goods in question.<sup>42</sup> Similarly, a "commercial demand" or "commercial market" for gas should only require the existence of buyers who are in the business of buying the type of gas at issue or who buy it in the regular course of their business.

Finally, Professor Anderson has advocated a similar approach to determining when gas is marketable, based on what he refers to as the "market realities" as to whether the gas is "marketable in fact":

While sweet, dry gas is in marketable condition (but not necessarily in a marketable location) at the wellhead, sour or water-saturated gas, depending on market realities, may not be in a marketable condition (or a marketable location) at the wellhead.

\* \* \*

Of course, in many instances, gas in fact may be in a first-marketable condition at the wellhead. In other instances, gas, such as sour gas, may not be marketable until it is treated. I hesitate to offer a list of specific examples, because the question of when a product first becomes marketable is a question of fact, not law. . . . [I]f wet gas is marketable in fact, the location of a gasoline extraction plant on the leased premises should not trigger royalty on the gross value of the extracted liquids and residue gas because gasoline extraction would be beyond the exploration and production segment of the industry.

[I]n today's gas markets, gas may be first sold at a point and in a condition that is well beyond the point and condition where it becomes a first-marketable product. And the point at which gas becomes a first-marketable product may also vary from area-to-area and perhaps from well-to-well.<sup>43</sup>

While Professor Anderson does not expand on what is sufficient to show the gas is "mar-

ketable in fact," it seems clear the "market realities" he relies on would be satisfied by evidence establishing that there is in fact a "commercial market" of willing buyers in the business of buying gas of the type produced or who buy it in the regular course of their business.

### THE PROPOSED STANDARD

Based on *Replogle, Johnson, Howell, Allenberg*, and the writings of Professors Kuntz and Anderson, the author believes the following formulation constitutes an appropriate standard for determining what is required for gas to be a marketable product:

Gas is a marketable product when there is a commercial market for it. This means the gas is of a type capable of being sold to willing buyers in the business of buying such gas, or who buy such gas in the regular course of their business, and who are not otherwise obligated to buy it, in a free and open market. Gas can be marketable at the well if the gas is of a type commonly sold in the vicinity of a well, even though the gas is moved some distance from the well before being sold.<sup>44</sup>

In accordance with *Mittelstaedt*, all of the foregoing should be able to be shown (or challenged) by evidence of the custom and usage in the industry with respect to such gas.

This proposed standard is consistent with the holdings in *Replogle, Johnson, Howell*, and *Allenberg*, and also is consistent with the writings of Professors Kuntz and Anderson.<sup>45</sup> The proposed standard allows the jury or factfinder to determine whether the gas at issue is a marketable product based on the realities of the market place for the gas in question and the facts that may be presented as to whether there is a commercial market of buyers for gas in that physical condition. However, the standard is not dependent on whether the gas is marketable to midstream companies versus end users (or others in the distribution chain); on whether the gas can be transported on an interstate or intrastate mainline transmission line; or on whether it is further treated or processed after the sale for ultimate resale to end users. This is because the standard depends on whether there is in fact a commercial market for gas of that type, regardless of whether the market consists of end users or other buyers; whether the gas can be transported on a mainline interstate or intrastate transmission line; and whether the gas is further treated or processed after

the sale for ultimate resale to end users.<sup>46</sup> Nor is the standard dependent on whether the gas is sold under a POP contract versus some other type of contract, since the type of contract entered into is not a factor in determining whether the gas is or is not a marketable product. As Professor Anderson has said regarding the common practice of selling "wet gas" (meaning gas saturated with NGLs<sup>47</sup>) to gasoline plants on a POP basis, "Such a real and established market presumably makes the wet gas marketable in fact even though the purchase price is unknown until the next sale occurs."<sup>48</sup>

### CONCLUSION

For over fifteen years, since the promulgation of the *Mittelstaedt* decision, producers and royalty owners alike have had to deal with the uncertainty of not knowing the standard that will be applied in determining whether gas is a marketable product in Oklahoma. Although the promulgation of a more definitive standard for answering this question will still leave uncertainty as to what a fact finder may determine under any given state of facts, it would be a clear improvement over the present status in which producers and royalty owners do not even know what standard will apply in determining whether gas is a marketable product. The author hopes a case raising this question reaches an appellate court in Oklahoma in the near future so that both producers and royalty owners can have a better understanding of what is required for gas to be a marketable product in Oklahoma, and believes the standard proposed herein should be adopted if and when that occurs.

1. 1992 OK 100, 854 P.2d 880.

2. *Id.* at ¶ 12, 854 P.2d at 883.

3. *Id.* at ¶ 9, 854 P.2d at 882. The fact that the costs were incurred on the lease is significant. Leases cover a specific location, and a producer's production activities are generally undertaken on a specific area within the lease. Producers typically deliver gas to a third party purchaser or transporter through a meter located on the lease and near the wellhead, and the meter measures the quantity of gas being delivered into the third party's line. Operations undertaken on the lease and prior to delivery of gas into the meter (for example, use of a separator to separate liquids from gas prior to delivery of the gas into the meter) generally have been viewed by the industry as production activities that are not chargeable to royalty owners. On the other hand, off-lease operations typically are not undertaken by a producer (and cannot be done without acquiring the right to do so on the landowner's property), and generally have been viewed by the industry as post-production costs to an already marketable product that can be charged to royalty owners. (As discussed in note 26, *infra*, the primary circumstance in which "off lease" activities are undertaken by a producer is for the collection and delivery of gas from several nearby wells to a nearby central delivery point.)

4. *Wood* and other cases have made it clear this implied duty to market can be negated by appropriate language in the lease. *Id.* at ¶ 11, 854 P.2d at 883 ("If a lessee wants royalty owners to share in compression costs, that can be spelled out in the lease.") *Accord Rogers v. Heston*



*Oil Co.*, 1984 OK 75, ¶ 19, 735 P.2d 542, 546 (an implied covenant in an oil and gas lease “is a covenant implied in fact to carry out what the parties must have intended” and “becomes a part of the lease only where its inclusion in the lease is not inconsistent with other terms of the lease.”) The issue of precisely what language is sufficient to negate the implied covenant is beyond the scope of this article. However, compare *Emery Res. Holdings, LLC v. Coastal Plains Energy, Inc.*, 2012 WL 1085718, at \*8 (D. Utah Mar. 30, 2012) (“[T]he majority of courts to consider the topic have found ‘at the well’ royalty clauses to mean the natural gas is valued for royalty purposes at its wellhead location and condition”) and *Elliott Indus. v. BP Am. Prod. Co.*, 407 F.3d 1091, 1109 (10th Cir. 2005) (“[M]arket value at the well” should reflect “the value of the gas in its unprocessed state as it comes to the surface at the mouth of the well before it is transported and processed.”) (citation omitted) with *Hill v. Kaiser-Francis Oil Co.*, No. CIV-09-07-R (W.D. Okla. Aug. 16, 2012) (lease provisions calling for royalties to be paid on the value or proceeds “at the well” or “at the mouth of the well” are not sufficient to negate the implied covenant, but provisions for royalties to be based on the value or proceeds for “raw gas” are sufficient to do so) and *Fankhauser v. XTO Energy, Inc.*, 2012 WL 601415 (W.D. Okla. Feb. 23, 2012) (lease provisions calling for royalties to be based on value or proceeds of “raw gas” or of gas “at the well” are not sufficient to negate the implied covenant).

5. 1994 OK 131, 903 P.2d 259.

6. *Id.* at ¶¶ 7-8, 903 P.2d at 260-61.

7. *Id.* at ¶ 12, 903 P.2d at 262.

8. *Id.* at ¶ 15, 903 P.2d at 262.

9. *Id.* at ¶ 12, 903 P.2d at 263.

10. 1998 OK 7, 954 P.2d 1203.

11. *Id.* at ¶ 19, 954 P.2d at 1208.

12. *Id.*

13. *Id.* at ¶ 26, 954 P.2d at 1209.

14. *Id.* at ¶ 27, 954 P.2d at 1209-10.

15. *Id.* at ¶ 29, 954 P.2d at 1210.

16. *Id.* at ¶ 30, 954 P.2d at 1210 (emphasis added).

17. Producers also contend that natural gas produced at the well is comparable to crude oil produced at the well, which is universally considered to be a marketable product when produced at the well. Both natural gas and crude oil contain mixtures of hydrocarbons and other chemicals, and both typically undergo downstream processes (refining for crude oil and processing for gas) before being sold to end users. A similar process applies to a myriad of other products that are processed or refined before being sold to end users. Examples include corn, cattle, and iron ore.

18. In support of this argument, royalty owners often refer to midstream company marketing materials saying the midstream company is producing marketable products by processing the gas. However, those materials refer to making the gas and extracted NGLs marketable to end users, and marketability to end users should not be the test of marketability for gas any more than it is for crude oil, corn, cattle, iron ore, or other commodities that are typically sold to refiners, processors, or other midstream companies in a distribution chain and also undergo a myriad of processes and changes before being marketable to end users.

19. See, e.g., *Brumley v. Conoco Phillips*, Case No. CJ-2001-5, D. Ct. Texas Cty.; *Robertson v. Sanguine*, Case No. CJ-02-140, D. Ct. Caddo Cty.; *Velma-Alma v. Chesapeake Energy Corp.*, Case No. CJ-02-331E, D. Ct. Stephens Cty.; *Velma-Alma v. Texaco*, Case No. CJ-02-304E, D. Ct. Stephens Cty.; *Mitchusson v. EXCO Resources, Inc.*, Case No. CJ-2010-32, D. Ct. Caddo County. These cases typically alleged fraud and breach of fiduciary duty also, and sought to recover alleged royalty underpayments going back to the 1980s. Because the Oklahoma Production Revenue Standards Act provides that unpaid royalties bear interest at 12 percent compounded annually, 52 O.S. §570.10.D, the potential exposure for principal and interest alone generally ranged from tens of millions of dollars to middle or upper eight figure amounts, and sometimes exceeded one hundred million dollars. Given the uncertainty in the law and the huge dollars at stake, it is perhaps not surprising that the producers and royalty owners would reach a settlement rather than risk a complete loss to one side or the other.

20. 282 F.R.D. 541 (W.D. Okla. 2012).

21. *Id.* at 548-49, quoting from Byron C. Keeling and Carolyn K. Gillespie, *The First Marketable Product Doctrine: Just What is the “Product,”* 37 St. Mary L.J. 1, at 65 (2005).

22. *Id.* at 550.

23. *Id.* at 550, fn. 8.

24. *Id.* at 550, fn. 9.

25. In *Hill v. Marathon Oil Co.*, No. CIV-08-37 (W.D. Okla.), Judge Russell sought to obtain clarification of the marketable product issue by certifying three questions to the Oklahoma Supreme Court, including the question of:

When is gas “marketable” or how is the term “marketable” defined for purposes of determining when gas becomes a “marketable product” and whether production and post-production costs were incurred to make the gas “marketable” or were incurred to enhance the value of an already marketable product?

*Id.* at doc. No. 118. However, the Oklahoma Supreme Court declined to answer the certified question, stating that:

[S]ufficient direction existed in Oklahoma case law to allow the instruction of fact finders . . . . *Mittelstaedt* . . . and the cases cited and analyzed therein provide guidance sufficient to the federal court to address the questions presented.

*Hill v. Marathon Oil Co.*, No. 108098 (Okla. Sup. Ct.), Order dated May 11, 2010. Given the uncertainties on this question, it is unfortunate that the court declined this opportunity to clarify the law. Interestingly, Judge Russell later stated in *Naylor Farms, Inc. Anadarko Oil & Gas Co.*, 2011 WL 7053789 (W.D. Okla., July 14, 2011) that making gas marketable “by inference means of interstate or intrastate pipeline quality” *id.* at n. 2, but subsequently modified that ruling, stating “there is no Oklahoma authority holding that extraction of NGLs is necessary to put gas in a marketable form and that the costs of such extraction must be borne by the lessee”). *Naylor Farms, Inc. Anadarko Oil & Gas Co.*, 2011 WL 7053794 (W.D. Okla., Oct. 14, 2011) (granting in part and denying in part Defendant’s motion to reconsider the court’s July 14, 2011 Order). Two other judges in the Western District of Oklahoma have rejected the contention that gas must be of mainline pipeline quality to be marketable, stating that such an argument is “inconsistent with Oklahoma law.” *Foster v. Apache Corp.*, 285 F.R.D. 632, 642 (W.D. Okla. 2012); *Foster v. Merit Energy Co.*, 2012 W.L. 6161939, at \*4 (W.D. Okla. Nov. 21, 2012).

26. The principal exception to this would be where a lessee/producer gathered gas from several nearby leases and moved it to a nearby central delivery point for sale to the interstate/intrastate pipeline. In such a case, the lessee/producer would incur the cost of moving the gas to the central delivery point and potentially could incur off-lease compression, dehydration and/or treating costs if the gas needed to be compressed, dehydrated and/or otherwise treated in order to be delivered into the purchaser’s line at the central delivery point. In the author’s opinion, those “near the lease” activities are what the court was referring to in *Mittelstaedt* as off-lease post-production “field processes” that might be necessary to make gas marketable. 1998 OK 7 at ¶ 21, 954 P.2d at 1208. The author believes it is unlikely the *Mittelstaedt* court intended that phrase to refer to the distant off-lease activities of transporting the gas dozens of miles or more through a midstream company pipeline to a processing plant, and then processing/compressing the gas at the plant, as contended by the royalty owners’ attorneys in the royalty class action lawsuits. Such distant off-lease activities were undertaken by producers infrequently, if at all, at the time *Mittelstaedt* was decided. Had the court in *Mittelstaedt* intended to rule that such distant off-lease activities were necessary to make gas a marketable product by making it acceptable into a mainline transmission line, it seems likely the court would have explicitly said that acceptability into a mainline transmission line was required for gas to be a marketable product, rather than emphasizing the factual nature of the question, *id.* at ¶ 26, 954 P.2d at 1209, the need to examine any costs “on an individual basis,” *id.* at ¶ 19, 954 P.2d at 1208, and the importance of custom and usage in the industry in determining what activities were necessary to make a marketable product, *id.* at ¶¶ 20, 23, 26, 954 P.2d at 1208-09. Further, there would have been no need for the court to discuss the concept of “excess dehydration to an already marketable product,” *id.* at ¶ 26, since gas acceptable to a mainline transmission line already is “dry” and not subject to further dehydration.

27. See *Wood and TXO, supra*, and *Johnson v. Jernigan, infra* at n. 35.

28. See *Associated Gas Distributors v. F.E.R.C.*, 824 F.2d 981, 993-96 (D.C. Cir. 1987) (describing FERC’s efforts to accomplish a “complete restructuring of the natural gas industry” through Order 436’s unbundling of the pipeline companies’ transportation and merchant roles); *Transwestern Pipeline Co. v. F.E.R.C.*, 897 F.2d 570, 573 (to same effect); *American Gas Ass’n v. F.E.R.C.*, 912 F.2d 1496, 1503 (D.C. Cir. 1990) (to same effect); see also *Foster v. Merit Energy Co., supra* at 547 (referring to the “radical changes in the business of natural gas production, processing and distribution in the last three decades”).

29. See, e.g., Owen L. Anderson, *Royalty Valuation: Should Royalty Obligations Be Determined Intrinsically, Theoretically, or Realistically?* Part 2, 37 Natural Resources J. 611 at 634, n. 104 (hereafter, “Anderson”).

Until recently, gas was customarily sold at the well or in the vicinity of the field to pipelines who acted as merchants of gas. . . . Today, because pipelines are now regulated as common carriers, gas may be sold at the well, in the vicinity of the field, or at some distant market. In other words, there are potentially multiple markets for gas produced from a single field.

30. 1998 OK 7 at ¶¶ 20, 23 and 26, 954 P.2d at 1208-09.

31. 1943 OK 417, 143 P.2d 1002.
32. 1943 OK 417, at ¶ 6, 143 P.2d at \_\_\_\_.
33. *Id.* at ¶¶ 34-36, 143 P.2d at \_\_\_\_.
34. *Id.* at ¶¶ 37, 143 P.2d at \_\_\_\_ (emphasis added).
35. 1970 OK 180, 475 P.2d 396.
36. 1970 OK 180 at ¶ 4, 475 P.2d at \_\_\_\_.
37. *Id.* at ¶ 5, 475 P.2d at \_\_\_\_ (emphasis added).
38. 2004 OK 92, 112 P.3d 1154.
39. 2004 OK 92 at ¶ 17, 112 P.3d at \_\_\_\_ (emphasis added).
40. 3 Eugene Kuntz, LAW OF OIL AND GAS, §40.5(b) (1989) (emphasis added).
40. 2001 OK 22, 22 P.3d 223.
42. *Id.* at n. 1.
43. Anderson, *supra* at 634, 642-43, 645 (emphasis added).
44. The last sentence, and the phrase "of a type" in the last two sentences, make it clear that gas from a particular well can be a marketable product even though potential buyers may not be willing to extend a line to the particular well because, for example, of the well's location or other reasons unrelated to the quality of the gas (such as an oversupply of gas). As shown by *Johnson v. Jernigan* and *Mittelstaedt*, gas can be a marketable product even though there is no market available at the well.
45. Additionally, the proposed standard is consistent with what Justice Opala proposed in his partial dissent in *Mittelstaedt* as the test for determining whether a producer had obtained a "first marketable product," namely that the fact finder determine "the point of production at which there are both willing sellers and buyers." *Mittelstaedt*, 1998 OK 7, ¶ 24 (Opala, J., dissenting in part). The proposed standard also is consistent with the decisions of Justices Taylor and Reif in a case in which Justice Taylor was the District Judge and Justice Reif was on the Court of Civil Appeals. See *Watts v. Amoco Prod'n. Co.*, Case No. C-2001-73 (D. Ct. Pittsburgh County, Order dated Dec. 10, 2002, at 5-6) (finding that gas in the counties at issue "was marketable at the well-head" based on wellhead sales to midstream companies), *aff'd.*, Case No. 98,782 (Okla. Ct. Civ. App., Order dated Sept. 14, 2004, at 3) ("gas produced by the wells in question was marketable at the wellhead").
46. Of course, if such activities are undertaken by a non-commercial buyer, the gas may or may not be a marketable product, depending

on all the facts. For example, in some areas sour gas containing excessive hydrogen sulfide is not acceptable to commercial buyers. In those areas, if a producer were to convince someone who was not in the business of buying gas to purchase his gas, treat it so as to make it acceptable to commercial buyers, and then resell it to a commercial buyer at a price sufficient to recoup the treating cost, the sale to such a non-commercial buyer would not mean the gas was a marketable product. However, in other areas where such gas was routinely purchased by commercial buyers in the business of buying gas of that type, that gas would be a marketable product. As discussed by Professors Kuntz and Anderson, these results are exactly what an analysis based on the market realities of a commercial market call for.

47. Anderson, *supra* at 634, n. 104.

48. *Id.* at 637, n. 138.

## ABOUT THE AUTHOR



Richard B. Noulles is a shareholder in the Tulsa office of GableGotwals. He is a 1970 graduate of Rice University and a 1975 graduate of the University of TU College of Law. He has represented a number of producers in several gas royalty class action lawsuits throughout Oklahoma. The opinions in this article are his alone and do not necessarily reflect those of other GableGotwals attorneys or clients of the firm.



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# Is There Anybody Out There?

## Suit Against a John Doe Defendant

By Mark B. Houts

**T**his article addresses two issues: 1) whether the plaintiff in a tort action may proceed against an unidentified driver, *i.e.*, a “John Doe” defendant, specifically through service by publication and default judgment and 2) if the first issue is answered in the affirmative, whether a default judgment granted against a “John Doe” defendant may be enforceable against a liability insurer that provided coverage for the vehicle driven by the John Doe defendant at the time of the accident.

Obviously, this issue will arise only in rare circumstances. Frequently, however, the rare circumstance leads to litigation. Such a circumstance might arise out of a night of drinking wherein a “new friend” testifies *ipse dixit* to his or her expertise in driving under the influence. Then, when such testimony fails the *Daubert* standard when faced with a roadside telephone pole, this new friend evaporates leaving nothing but the residue of a few fingerprints on the steering wheel. In such a case, the phantom driver may be insured under the owner’s policy as a permissive user. Barring unusually effective detective work, however, this permissive user will likely never be identified. Thus, a passenger in the vehicle will be left in the unenviable position of attempting to maintain a claim against an unknown driver with a known insurer.

Oklahoma law is not settled on the first issue. Federal courts, however, generally agree that, where a plaintiff cannot ascertain the name of a known defendant, the plaintiff may use a fictitious name solely for purposes of conducting discovery to learn the identity of such a defendant. Regarding the second issue, an insurer must usually answer any judgment against its insured for which coverage applies. Thus, if a

court answers the first question in the affirmative, the court would likely require an insurer to pay damages up to policy limits. However, “John Doe’s” failure to make his identity known could be viewed as a breach of the cooperation clause. Thus, a court would probably find that the insurer should indemnify a John Doe up to the compulsory liability limits.

### FILING, SERVING AND DEFAULTING AGAINST ‘JOHN DOE’

Many states have implemented statutes governing the use of a fictitious name. Oklahoma formerly had such a statute, which has since been repealed. That statute, formerly codified as 12 O.S. §320, provided as follows:

When the plaintiffs shall be ignorant of the name of a defendant such defendant may be designated, in any pleading or proceeding, by any name or description, and when his true name is discovered, the pleading or proceeding may be amended accordingly. The plaintiff, in such case, must state in his petition that he could not ascertain the true name; and the summons must contain the words, ‘real name unknown.’ And a copy thereof must be served personally upon the defendant.<sup>1</sup>

Although the Oklahoma courts have not addressed the specific issue of a plaintiff's ability to pursue judgment against a John Doe defendant since the repeal of §320, the courts have addressed related issues.

For instance, in *Gonzales v. Combined Insurance Company of America*,<sup>2</sup> the Court of Civil Appeals addressed a situation wherein the district court entered default judgment against a negligent driver. The district court then denied a motion to vacate default judgment filed by the driver's employer and entered partial summary judgment against the employer. The appellate court held that the trial court "abused its discretion in denying the petition to vacate the default judgment because there was no notice given to [employer] despite the fact that [it] was an interested party and had filed an answer." The court further held that the employer would not be bound by default judgment against a co-defendant when the employer had no opportunity to be heard on the issue.<sup>3</sup>

The *Gonzales* opinion sheds some light on issues presented in this article, due largely to the distinctions between *Gonzales* and the fact pattern assumed here. Under the facts assumed in this article, the insurer would have actual notice of the litigation, but would not be a party to the litigation. On the other hand, the employer in *Gonzales* lacked the ability to control the defense of the allegedly-negligent employee, whereas an insurer would have the opportunity to control the defense of John Doe (at least from a contractual standpoint), even though the insurer would lack any helpful information regarding John Doe's true identity.

A number of courts have expressed disdain for naming a "John Doe" defendant.

John Doe is a mere figment of the law's imagination, with no more existence as a real suitor than Mercury has as a real god. Only during high poetic transport does the law regard him as a true, objective personality. Though born of the muse, he is dry and commonplace enough to be engaged in the extensive real estate business which he pretends to carry on, but in very truth, he is a phantom — a legal will-o'-the-wisp, an ingenious conceit of the law in its rapt poetic moods.<sup>4</sup>

**“...a fictitious name serves little purpose aside from acting as a placeholder to allow a plaintiff to determine the identity of a proper party defendant.”**

Thus, to say the least, an insurer contesting a garnishment arising out of a default judgment against a John Doe insured would not lack support for its position that, as a fictitious construct, the John Doe defendant lacked sufficient basis in reality to permit a garnishor to proceed against the insurer.

The majority of cases addressing suit filed against a John Doe deal with the "relation back" doctrine, *i.e.*, whether an amended pleading will relate back to the date of filing the initial pleading for statute-of-limitations purposes.<sup>5</sup> It is widely recognized, however, that a fictitious name serves little purpose aside from acting as a placeholder to allow a plaintiff to determine the identity of a proper party defendant.<sup>6</sup> In other words, allowing a plaintiff to use a fictitious name for a defendant will serve the dual purposes of: 1) preventing any prejudice to the plaintiff when the plaintiff cannot ascertain the identity of a proper defendant within the statute of limitations, and 2) allowing the plaintiff to utilize discovery in order to determine the identity of the proper defendant.

Upon designating an unidentified defendant by using a fictitious name, a due-diligence obligation is imposed upon a plaintiff to bring the real defendant into the litigation and to subject that defendant to the jurisdiction of the particular court by proper reasonable notice and diligent service. For the fictitious-party practice rule to operate, a specific claim must be filed against a described, though unnamed, party within the statute of limitations, and the plaintiff must diligently seek to identify the fictitiously named defendant. The identification of fictitious defendants joined in an action pursuant to a procedural rule must be made within a reasonable time after the expiration of a period of time specified under another rule for the filing of plaintiff's statement of readiness. In federal court, "John Doe" defendants must be identified and served within 120 days of commencement of an action against them. John Doe defendants who are never identified or served are never made parties to the action.<sup>7</sup>

No statute or rule governs this issue in federal courts.<sup>8</sup> However, there seems to be consensus among federal courts that a plaintiff may give a fictitious name for a defendant only for purposes of ascertaining the true identity of the proper defendant, as discussed above. Federal courts generally dismiss any defendant identified by a fictitious name if the plaintiff is unable to ascertain that defendant's proper identity within a reasonable period of time.<sup>9</sup>

In *Newdow v. Robert*, the DC Circuit recognized that courts will entertain suit against a John Doe defendant, "but only in situations where the otherwise unavailable identity of the defendant will eventually be made known through discovery."<sup>10</sup> The Western District of Pennsylvania has recognized "conflicting authority on the question of whether fictitiously named Defendants must be dismissed."<sup>11</sup> Under the circumstances presented in that case, the court allowed "the Doe defendants to stand in for the alleged real parties until discovery permits the intended defendants to be installed."<sup>12</sup>

Although state courts — particularly those with controlling statutes in place — seem to be more lax in their handling of John Doe defendants, federal courts allow plaintiffs to name a John Doe defendant only for the purposes of conducting discovery directed toward learning the true identity of the proper party defendant. Because Oklahoma does not have any controlling statute in place, Oklahoma courts should follow the federal courts on this issue.<sup>13</sup>

Regarding default judgment, courts should look to Rule 16 of the Oklahoma Rules for District Courts. That rule provides a list of criteria a district court should consider in determining whether to permit default judgment to be taken against a defendant served solely by publication. Tellingly, the rule presupposes knowledge of the identity of the anticipated opponent in that the rule focuses on whether the plaintiff has attempted to ascertain the whereabouts of that party and whether the person is living. Thus, the lack of discussion regarding the *identity* of the person, as opposed to ability to locate the person, could serve as evidence that the Supreme Court intended for service by publication only against an ascertainable defendant. Of course one could also argue the opposite conclusion, that the Supreme Court did not mention "identity" of an individual defendant because this was assumed to fall within the other factors.

## JURISDICTION

Attempted service on a John Doe defendant raises jurisdictional issues as well.

*In personam* jurisdiction is the power to deal with the person of the defendant and to render a binding judgment against the defendant. Jurisdiction of the person is acquired by service of process or by voluntary appearance before the court.<sup>14</sup>

In other words, effective service is a necessary element of personal jurisdiction. The Oklahoma statute governing service of process further provides that "[a] court of this state may exercise jurisdiction on any basis consistent with the Constitution of this state and the Constitution of the United States."<sup>15</sup> Thus, federal law discussing invocation of personal jurisdiction over a John Doe defendant is instructive.

The Western District of Washington addressed a situation wherein a prisoner sued a John Doe defendant whom the prisoner alleged had wrongfully designated him as "gang affiliated," resulting in his segregation from the general prison population and subsequent assault.<sup>16</sup> The District Court found insufficient information identifying the John Doe defendant and dismissed for lack of jurisdiction.

It is clear at this juncture that plaintiff is unable to identify defendant John Doe I with sufficient specificity to allow the Court to effectuate service. Because the Court is unable to serve John Doe I, the Court has no personal jurisdiction over this defendant. Accordingly, plaintiff's claims against John Doe I must be dismissed pursuant to Fed.R.Civ.P. 12(b)(2) for lack of personal jurisdiction.<sup>17</sup>

The United States District Court for the District of Columbia addressed claims of Internet piracy brought against a number of John Doe defendants. The court ultimately allowed the case to proceed for purposes of jurisdictional discovery.

[A]t this juncture when no putative defendant has been named, the Court has limited information to assess whether any putative defendant has a viable defense of lack of personal jurisdiction or to evaluate possible alternate bases to establish jurisdiction. . . . When the defendants are named, they will have the opportunity to file appropriate motions challenging the Court's jurisdic-



tion and that will be the appropriate time to consider this issue.<sup>18</sup>

The Supreme Court of Bronx County New York recognized a statute that allowed a plaintiff to proceed against defendant whose name is unknown. "However, jurisdiction is not acquired over such a 'John' or 'Jane Doe' unless the process is served in such a manner as to give that unidentified person notice that he or she is being summoned to court."<sup>19</sup>

Because Oklahoma has no equivalent statute, it seems doubtful that an Oklahoma Court would have "the power to deal with the person of the defendant and to render a binding judgment against the defendant" when that court does not even know the identity of the defendant. Given the lack of such a governing statute and extant Oklahoma law regarding personal jurisdiction, an Oklahoma court would likely be disinclined to permit pursuit of recovery against a defendant whose identity cannot be ascertained. However, an Oklahoma court might allow a plaintiff to pursue limited discovery for purposes of determining the true identity of the potential defendant.

#### **LIABILITY OF INSURER FOR "JOHN DOE" FOLLOWING DEFAULT**

##### *Garnishment in General*

Garnishment in Oklahoma is governed by statute.<sup>20</sup> "A post-judgment garnishment proceeding 'is a special and extraordinary remedy given only by statute,' which allows a judgment creditor to secure payment of a judgment through enforcing a liability owed to the judgment debtor by a third party."<sup>21</sup>

Any creditor shall be entitled to proceed by garnishment in any court having jurisdiction against any person who shall be indebted to the creditor's debtor or has any property in his possession or under his control belonging to such creditor's debtor, in the cases, upon the conditions, and in the manner described by law.<sup>22</sup>

Through garnishment, a judgment creditor may recover from an insurer that is obligated to answer for a judgment debtor. A judgment creditor's right to recover from an insurer "is defined by the language of the Policy and the obligations of law imposed by the Legislature on those who provide coverage."<sup>23</sup>

As against an insurer, the remedy is "in aid of and ancillary to the main action" against

**"...an Oklahoma court would likely be disinclined to permit pursuit of recovery against a defendant whose identity cannot be ascertained."**

the insured and has nothing to do with the merits. The judgment creditor may claim no greater rights against the garnishee than the judgment debtor possesses. An insurer's liability to the insured can be neither created nor enlarged in a garnishment proceeding.<sup>24</sup>

The garnishment begins with the filing of a garnishment affidavit, which must be served upon the garnishee. Furthermore, "a garnishment lien attaches at the time the garnishment summons is served upon the garnishee," and at that time, "the debtor's property in the possession or control of the garnishee is placed in *custodia legis* or in the custody of the court."<sup>25</sup> Title to the subject property does not, however, automatically transfer to the judgment creditor.<sup>26</sup>

A garnishee must answer the garnishment affidavit within 10 days of service.<sup>27</sup> The answer must set forth whether the garnishee believes it is liable and, if the garnishee denies any liability, the reasons for the denial.<sup>28</sup> A garnishment answer will be held sufficient, however, even if the answer merely denies any liability.<sup>28</sup> Furthermore, if the judgment debtor fails to contest the garnishee's denial of liability, the court will deem the garnishee's denial of liability as "conclusive as to the truth of the facts asserted therein."<sup>30</sup>

A judgment creditor must also give the judgment debtor notice of the garnishment proceedings.

In all cases of garnishment before judgment, the defendant in the principal action shall be given notice of the issuance in said action of any garnishee summons, the date of issuance of said summons, and the name of the garnishee.<sup>31</sup>

Failure to give proper notice of garnishment proceedings to the defendant will preclude the plaintiff from prevailing in the garnishment action, as the court will lack jurisdiction over the garnishment proceeding.<sup>32</sup>

The entry of default judgment against an insured does not unequivocally resolve the issue of an insurer's liability to satisfy that judgment.<sup>33</sup> Thus, an insurer has standing to contest certain issues in a garnishment action brought against it as a result of judgment against its insured.

Importantly, an insurer may deny coverage based upon the insured's failure or refusal to cooperate with the insurer in the defense of claims against the insured. "An insured . . . has an obligation to cooperate with the insurer, which is both contractual and implied in law."<sup>34</sup> Interestingly, the duty to cooperate has been held to continue even after the insurer denies coverage. "[A]n insured's failure to keep an insurer informed of critical post-denial developments may modify, excuse or provide a defense to the performance of an insurer's contractual duties."<sup>35</sup> Courts have recognized that an insured's failure to communicate with defense counsel may constitute a violation of the cooperation clause warranting denial of coverage.<sup>36</sup> Regardless, an insurer denying a claim on a liability policy for failure to cooperate must prove prejudice as a result thereof.<sup>37</sup>

Where an insurer asserts lack of coverage as a defense to garnishment, Oklahoma courts will, in many instances, require an insurer to compensate the injured third party up to the compulsory minimum limits, so long as there was a policy in place.<sup>38</sup> The courts have applied this point of law in cases involving default judgment.<sup>39</sup> Thus, although the Oklahoma courts have not thoroughly addressed the issue of an insured's failure to cooperate as a defense to a garnishment action, courts will probably hold that coverage exists to the minimum limits.

## CONCLUSION

Because the Oklahoma courts have not recently addressed the issue of a plaintiff's suit against a John Doe defendant, it is difficult to predict precisely how a court will rule. However, federal case law on this issue should be persuasive, considering neither Oklahoma nor federal courts have a rule in place addressing the naming of fictitious defendants. In this regard, federal courts allow a plaintiff to name fictitious defendants, but require the plaintiff to diligently seek to ascertain the identity and proper naming of such defendant. Then, if the

plaintiff is unable to do so, federal courts will dismiss the John Doe defendant.

If, however, an Oklahoma court finds otherwise and allows service upon and default judgment against a John Doe defendant, then the judgment will probably be enforceable against an insurer, at least up to the minimum liability limits. Oklahoma public policy favors insurance coverage for an innocent third party. Thus, in circumstances similar to those addressed here, the Oklahoma appellate courts have required an insurer to indemnify a defendant when the insurer might otherwise have correctly denied coverage, though the insurer was liable only in the amount of Oklahoma's minimum compulsory liability limits.

From a practical standpoint, Oklahoma plaintiff lawyers should name "John Doe" defendants any time the identity of a defendant is unknown or uncertain. The plaintiff should diligently attempt to discover the identity of any such John Doe defendant and substitute the proper defendant when and if the proper party is identified. If the proper party cannot be identified, the plaintiff should essentially ignore the issue and allow any named defendant and/or concerned insurer to raise the issue with the court.

Due to uncertainty in this area, an insurer should intervene in the action against John Doe, seeking declaratory judgment on how the insurer should proceed.

An insurer who disputes the insured's demand to defend has three options. It can (1) seek declaratory relief that would define the insurer's rights and obligations; (2) defend the insured under a reservation of rights, or (3) refuse to take any action at the peril of being later found in breach of its duty to defend.<sup>40</sup>

Under the facts presumed here, an insurer should consider intervening in the underlying action and asking the court to determine whether the insurer owes a duty to defend a John Doe defendant. If so, then the court should determine whether it has personal jurisdiction over a defendant of unknown identity. If the court determines it does have jurisdiction, then the insurer should seek declaratory judgment regarding the insurer's duty to indemnify an unidentified defendant.

1. *High v. Southwestern Ins. Co.*, 1974 OK 35, 520 P.2d 662, 664.  
2. 2002 OK CIV APP 101, 57 P.3d 109.

3. *Id.* at ¶18.

4. *Walker v. Huddleston*, 261 S.W.2d 502, 506 (Mo.App.1953) (quoting *Rutherford v. Hobbs*, 1879 WL 2494, 2 (Ga. 1879)).

5. See, e.g., 63B Am.Jur. 2d Products Liability §1561 (“Some states permit John Doe complaints, and in some cases, such complaints toll the applicable statute of limitations, while in other instances, the substitution of the real party relates back”).

6. See, e.g., 59 Am.Jur. 2d, Parties §17 (recognizing the necessity of a “subsequent substitution of the person’s true name when it is discovered” and further recognizing the purpose of fictitious naming as enabling the plaintiff to ascertain the identity of a proper defendant “through the use of judicial mechanisms such as discovery”).

7. 59 Am.Jur. 2d Parties §20.

8. 139 A.L.R. Fed. 553.

9. *Redd v. Dougherty*, 578 F. Supp. 2d 1042, 1049 (N.D. Ill. 2008) aff’d sub nom. *Redd v. Nolan*, 663 F.3d 287 (7th Cir. 2011) (dismissing John Doe defendant following the passage of “120 days [of] the filing of Plaintiff’s complaint, and the unknown defendants have not been identified or served”). See also *Greczyn v. Colgate-Palmolive*, 869 A.2d 866, 869-70 (N.J. 2005) (“Plaintiff shall on motion, prior to judgment, amend the complaint to state defendant’s true name, such motion to be accompanied by an affidavit stating the manner in which that information was obtained”).

10. 603 F.3d 1002, 1010-11 (D.C. Cir. 2010).

11. *Johnson v. City of Erie, PA*, 834 F. Supp. 873, 878 (W.D. PA 1993).

12. *Id.* (citing *Scheetz v. Morning Call, Inc.*, 130 F.R.D. 34 (E.D.Pa. 1990)).

13. See, e.g., *Brill v. Walt Disney Co.*, 2010 OK CIV APP 132, ¶9, 246 P.3d 1099, 1103 (citing *Johnson v. Ford Motor Co.*, 2002 OK 24, ¶26, 45 P.3d 86, 95) (“While a federal court decision is not binding or controlling on an Oklahoma court construing Oklahoma law, it is persuasive in the absence of authoritative state law”).

14. *Conoco, Inc. v. Agrico Chem. Co.*, 2004 OK 83, ¶16, 115 P.3d 829, 834 (citations omitted).

15. 12 O.S. §2004 (F).

16. *Driggers v. Doe I*, C11-1630-JCC-MAT, 2012 WL 3763537 (W.D. Wash. July 13, 2012) **report and recommendation adopted**, C11-1630-JCC, 2012 WL 3762743 (W.D. Wash. Aug. 29, 2012).

17. *Id.* at \*4 (footnote and citations omitted).

18. *Call of the Wild Movie, LLC v. Does 1-1,062*, 770 F. Supp. 2d 332, 347 (D.D.C. 2011).

19. *Harak v. Lydig Superette, Inc.*, 1994, 161 Misc.2d 445, 613 N.Y.S.2d 582 (Sup.Ct.Bronx Co.).

20. 12 O.S. §1170 *et seq.*

21. *Sisk v. Gaines*, 2006 OK CIV APP 117, 144 P.3d 204, 207-08 (citation omitted).

22. 12 O.S. §1171 (A).

23. *Sisk*, at 208.

24. *Id.* at 207 (citation omitted).

25. *DPW Employees Credit Union v. Tinker Federal Credit Union*, 1996 OK CIV APP 106, 925 P.2d 93, 95 (citations omitted). See also 12 O.S. §1185.

26. *Id.*

27. 12 O.S. §1173.3 (E).

28. *Id.* at (E)(1).

29. *Miller v. American Trust Ins. Co., Ltd.*, 931 F.2d 703, 704 (10th Cir. (Okla.) 1991).

30. *Id.* at 704-05.

31. 12 O.S. §1174 (A). *Harrison v. Williams*, 1922 OK 351, 218 P. 305, 306 (affirming trial court’s dismissal of garnishment action where “the record fail[ed] to disclose that the principal defendants, necessary parties to the garnishment proceeding, were made parties in the trial court”).

32. *Harrison v. Williams*, 1922 OK 351, 218 P. 305, 306. See also *State Nat. Bank of Shawnee v. Wood & Co.*, 1922 OK 122, 212 P. 1002 (syllabus by the court) (recognizing mandatory nature of service upon judgment debtor).

33. *Alea London Ltd. v. Canal Club, Inc.*, 2010 OK CIV APP 33, ¶14, 231 P.3d 157, 160 (“Jumping analytically from the fact a judgment exists to

imposing liability for the judgment under an insurance policy ignores the required intermediate step, a determination of coverage”); *Baldridge v. Kirkpatrick*, 2003 OK CIV APP 9, 63 P.3d 568, 572 (“It would be fundamentally unfair to hold GuideOne responsible at this point when it received no notice or opportunity to defend until after the fact”).

34. *First Bank of Turley v. Fidelity and Deposit Ins. Co. of Maryland*, 1996 OK 105, 928 P.2d 298, 304 (citations omitted).

35. *Alea London Ltd. v. Canal Club, Inc.*, 2010 OK CIV APP 33, ¶14, 231 P.3d 157, 160.

36. *Vaughan v. ACCC Ins. Co.*, 725 S.E.2d 855, 858-59 (Ga.App. 2012) (Insured asserted she failed to communicate with attorney hired by insurer because she had moved but did not update her contact information and did not have a “stable phone number;” court deemed these excuses insufficient to justify her failure to cooperate, such that insurer was entitled to withdraw coverage based on that noncooperation); *Assurance Co. of America v. MDF Framing, Inc.*, 338 Fed.Appx. 625, 627, 2009 WL 2013512, 2 (9th Cir. 2009) (failure to cooperate resulting in default judgment deemed sufficient to warrant grant of summary judgment insurer’s “action seeking a declaration that Assurance has no obligation to defend and indemnify its insured); *American Transit Ins. Co. v. Fuentes*, 771 N.Y.S.2d 295, 297 (N.Y.Sup. 2003) (insured’s refusal to communicate with insurer and counsel deemed “willful lack of cooperation warranting a disclaimer of insurance coverage”); *Travelers Indem. Co. of America v. Pullini Water Services, Inc.*, 35 A.D.3d 846, 847, 828 N.Y.S.2d 130, 131 (N.Y.A.D. 2 Dept. 2006) (insurer demonstrated “through affidavits of its employee and of private investigators, as well as written correspondence, that it made diligent efforts to secure [insured’s] cooperation, that the efforts were reasonably calculated to obtain that cooperation, and that [insured] willfully obstructed the [insurer’s] defense of the underlying action” in such a way as to implicate the cooperation clause). But see, *Wausau Ins. Co. v. Home Indem. Co.*, 151 Misc.2d 302, 306, 573 N.Y.S.2d 247, 250 (N.Y.City Civ. Ct.,1991) (“An insurer which has timely notice of an accident, attempts to arbitrate a claim arising out of that accident and has notice of a default judgment — and does nothing — may not deny coverage on the ground that its insureds ‘failed to cooperate’”).

37. *O’Neill v. Long*, 2002 OK 63, ¶25, n. 11, 54 P.3d 109, 115-16 (“To prevail on its affirmative defense of failure to cooperate, State Farm must demonstrate that the absence of the insured was prejudicial to its interest”).

38. *Tapp v. Perciful*, 2005 OK 49, 120 P.3d 480, 483-84 (“the automobile business exclusion in Harmon’s liability insurance policy is contrary, to the extent of the minimum amount required by the statute, to the public policy inherent in the Compulsory Liability Insurance law”).

39. *Mulford v. Neal*, 2011 OK 20, 264 P.3d 1173, 1186 (“plaintiffs were entitled to summary judgment against the garnishee on the . . . policy up to the minimum amount of liability insurance mandated for the protection of the general public, as a matter of law”); *Sisk v. Gaines*, 2006 OK CIV APP 117, 144 P.3d 204, 210.

40. *First Bank of Turley v. Fidelity and Deposit Ins. Co. of Maryland*, 1996 OK 105, 928 P.2d 298, 304-05 (citations omitted). Worth noting, *Turley* involved a “claims-made policy” wherein the insured actually tendered a demand for defense.

## ABOUT THE AUTHOR



Mark B. Houts is an associate with the Edmonds Cole Law Firm in Oklahoma City. Mr. Houts graduated from the University of Oklahoma College of Law in 2006, where he served as articles editor on the *Oklahoma Law Review*.

# New Year, New Online Services Provider for OBA/CLE

The OBA/CLE Department has switched to a new online learning platform through Peach New Media. We are excited about the opportunities that lie ahead for online continuing legal education, and we think you will be too. We know you will be impressed by the ease of use, quality of the video and audio streaming, extra features and especially their 24/7 customer service and technical support.

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# 2014

By John Morris Williams

Yes, change your calendars, pay attention to how you date things for a few days and ponder on the beginnings of a new year. For some reason we seem to like a lot of anniversaries in our lives. New Year's just happens to be the anniversary of the earth making a rotation around the sun. Funny, that one particular day is set out as the day of new beginnings — the day of starting new traditions and ending bad habits. Resolutions we call them. Those high-minded, going to lose 20 pounds, start going to church or stop smoking — ideas that sometimes stick and often don't.

So, I propose no specific resolutions this year. Simply, live well, love often and give more than you take. Now, I know that in the grand scheme of the practice of law this does not seem germane. However, I want to argue my case a bit.

Living well means not only material wealth but also physical and mental well being. Being "healthy, wealthy and wise" has been a long-standing standard for living well. So this year resolve to live well as you may define that term. You will find that upping the ante on living well will probably up the ante on time spent and labor expended to increase your living well index. In the

end you will form new habits that will positively affect everything else in your life.

Love often. If you have the good fortune to love your work, your family and your friends, you are among the luckiest people in the world. As lawyers, it is rare that work does not include people. Often strangers coming through the door with troubles and anxieties appear before your desk seeking solutions and solace. Some of these folks are easier to love than others.

**“ In 2014, live well, love often and give more than you take. ”**

Lawyers are among the rare professions that at times have people appointed to us. That is, you have no choice; the court says "here is your client." These are often the poorest, least capable and oftentimes most despised people in the community. If anyone needs to be loved, it is these folks. I hope that sometime in 2014 you have the good fortune to take under your wing



someone who needs your care and compassion and that you have the rich reward of doing the thing that most drove you to be a lawyer — helping other people.

Giving more than you take is an old adage. It is sort of like leaving the campsite in better shape than you found it. Good advice, but not the whole enchilada. Giving more than you take is good business. It is the act of protecting and nurturing the systems that sustain us. It is the essence of the continuation of species, both in the bigger sense and in the professional sense. If we as lawyers do not give back and protect the systems that sustain us, there will not long be any system that is worth sustaining.

As we begin this new year, be mindful that we inherited a great legal system that was created and defended by the blood, sweat and tears of those



who gave more than they got. Some paid the ultimate sacrifice. Besides being selfish, failing to give back and help sustain our legal system will certainly in the long run affect how well each of us lives. In 2014, pay attention to attacks on the legal system, pay attention to needs of those who cannot afford legal counsel and lastly, do something so that the system is better than when you found it.

Okay, that was a bit of a sermon. However, 2014 (like every other year) holds potential for both good and disaster. I just am hopeful this year that you resolve to live well, love often and give back. Each of these categories requires a healthy body, mind and soul to unite to get the best result. Those are the same attributes that sustain us during times of disaster as well.

In 2014, live well, love often and give more than you take. If we each promise to do that professionally and personally, I am certain 2014 will be the best year ever.



To contact Executive Director Williams, email him at [johnw@okbar.org](mailto:johnw@okbar.org).



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Michael Shanbour grew up in Oklahoma City, where he attended Putnam City West. He graduated with distinction from the University of Oklahoma College of Journalism and Mass Communications and worked as a television producer in Dallas for a couple of years before returning to OU to earn his law degree.

Since graduation, he has worked as a private practice attorney and as title attorney and counsel for several Oklahoma City title insurance companies. Most recently, he worked for Chesapeake Energy Corporation. He will continue to specialize in oil and gas and real estate title law and is licensed to practice in the state of North Dakota as well as Oklahoma.

Michael lives in Edmond, where he enjoys spending time with his wife and their three-year-old daughter.

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# Adopting Mobile Technology

## What Does that Mean for Today's Lawyers?

By Jim Calloway

Two friends are having lunch. One is a former client. The other mentions a need to retain a lawyer. Your satisfied former client says that she used you and recommends you as a lawyer. Then she picks up her phone, does a quick search, locates your website and texts the site to the friend. The friend looks at the information on her phone for a moment and then they go back to lunch. The text message with the link remains on her phone.

Someone has had to bail a relative out of jail. As they leave the bondsman's office, they are told there will be a court appearance in a few days and they will need to hire a lawyer. They sit in the car, discussing the situation. Neither of them has ever retained a lawyer before, nor can they think of anyone that they know who has. What happens next? One of them pulls out their phone, but not to make a phone call — at least not initially.

Those two scenarios illustrate how life works today — not at some future time. The ubiquity of Internet connected smart phones has changed the way we act and think about things. How many former clients would actually still be carrying your business card months after the representation? And how many business cards given out are retained

and carried by the recipient anyway? It has been a long time since two people sitting in a car needing to find a local lawyer (or any local business) have thought that they need to go locate a public telephone that will hopefully have a telephone book.

According to a 2013 Nielsen report, 94 percent of consumers in the U.S. have a mobile phone, and the majority of those phones are smartphones. Tablets have not reached that level of market saturation, but one market research firm estimates that tablet shipments will grow from 121 million units in 2012 to 416 million units by 2017. (Those statistics come courtesy of Robert Ambrogi's article "As the World Goes Mobile Is Your Marketing up to Speed?" in *Law Practice Magazine*.<sup>1</sup> It is recommended reading as a companion piece.)

The Internet has changed our world. We have all developed an appetite for information on demand whether it is street addresses, restaurant reviews or in-depth research. We are experiencing even more changes because now all of this wealth of information is available at all times through a mobile device. Wondering about the exact text of the Gettysburg Address or the Fourth Amendment to the United States Constitution? Just ask your phone.

The Internet has had a major impact on business, creating dot-com millionaires and wrecking entire industries. Mobile Internet access changes things even more. Lawyers in private practice are in business and cannot afford to ignore these trends.

### WHAT DOES THIS MEAN?

It has been true for several years now that, with a very few exceptions, any lawyer in private practice or law firm should have a website and would want to visit it periodically, just to make certain it is still working correctly. It's also true that the smart lawyer will enter her name (and law firm name) into Google and/or other search engines several times a year just to see what people looking for her will find. In addition, trying a few sample searches that someone might use to find a lawyer like you in your area could be useful.

But now you need to try those searches with your phone (and tablet) to see what the result is — and ask some friends and employers who use different phones to do the same. Unless you have made some conscious effort and investment, you will likely find that your website is not very "mobile friendly."

As the two opening illustrations point out, your website does need to be mobile friend-

ly. Surely by now all of us have had the experience of opening a website on our phone that is not mobile friendly. The text will be very tiny and sometimes you cannot even zoom in on the text to make it readable on your phone. A consumer who is shopping for a law firm or any other business on their phone will quickly move on to another website if this is the case.

This is obviously an area that is outside of the expertise of most lawyers so the law firm will have to get professional help. The balance of this column will contain a brief discussion of what you need to know to have an intelligent conversation about this topic with your website designer.

## **MOBILE FRIENDLY WEBSITES**

Mobile friendly can mean a lot of different things. First of all, your site should be coded using HTML5, the latest version of the HTML website design language. HTML5 will automatically adjust to the browser and device. This is one way of creating what web designers call a responsive website. The site recognizes the screen size of the device accessing it and adjusts accordingly.

The challenge is that firms really do not just want a smaller version of the website to appear on the phone. If you look at any website you will see that there are typically buttons and navigation elements. But when these are all displayed on a mobile device in the exact same proportions as on the website, it may be impossible for a user on the smart phone to easily use the

“shrunk” navigation elements. Designing a website where the buttons are bigger could make it look like it was designed by a preschooler when viewed on a computer, with huge oversized buttons dominating the design and little room for content. That may be OK. See Readwrite.com “On Mobile, Nobody Knows You’re A Dog -Stop designing separate experiences for mobile and desktop. Bring them together — and let mobile win.”<sup>3</sup>

The next level of sophistication would be to have a separate mobile site. When a mobile device is detected, the user is forwarded to the mobile site with a separate address. Often this will be identified with the letter “m,” as in m.nytimes.com. This is the best and, of course, most expensive solution. Larger businesses have done this and we will continue to see a lot more sites handling mobile traffic in this way.

## **WHAT ABOUT THE LAW FIRM APP?**

Should your law firm just create an app?

It is a logical question. If there’s going to be time, money and effort spent to create a “mobile friendly” site, why not just go all out and create a law firm app? We’ve all heard a lot about apps and it would certainly be cool to be able to tell your friends and relatives that your law firm has an app. But let’s face facts. After you show off that app, it would be challenging to get those same friends and relatives to download and install your app on their devices. If you are interested in new client development, you want them to become aware of you

and contact you for help with their legal problems. Attempting to persuade a “shopper” to install an app for more information seems more cumbersome than helpful.

To persuade people to install even a free app, it has to provide some benefit to them. An app to share information with existing clients might make sense, but that will entail significant effort. An app that performs the Oklahoma child support calculations might generate a lot of goodwill for a family law firm. But wouldn’t this be best done as part of the law firm’s website rather than as an app? (North Carolina attorney Lee Rosen has done this.)<sup>3</sup> It would not be wise for solo or small firm lawyers to invest the financial resources to create an app. So for the vast majority of law firms, an app does not seem to make sense for marketing purposes. For those with an interest, there is a good discussion of apps in the previously cited article by Robert Ambrogi.

## **ONE INTERESTING APP**

The Litigation Resource App from Suffolk University Law School’s Institute on Law Practice Technology and Innovation is online at <http://www.masslitapp.com>. This is an app that is not really an app in that you do not have to install it on your mobile device. But for a visual example of the topic of this column, just open that site up on your computer and then on your smart phone to see. Some readers may want to bookmark the site on their mobile device. The links to local materials are Massachusetts materials, but this app would give your phone quick access to Federal Rules of Civil Procedure, Federal Rules of Criminal Procedure, Federal

Rules of Evidence, Federal Sentencing Guidelines and Federal Rules of Bankruptcy Procedure.

It is certainly no surprise that Suffolk's Institute is on the leading edge with products such as this. I have interviewed its director, Andrew M. Perlman, on my podcast and Professor Marc Lauritsen has long been regarded as an expert in document assembly and law office automation. The Institute recently announced a new "major" in legal technology and innovation.

### CONCLUSION

It is easy for the busy lawyer to become frustrated by all of the technology issues associated with running a law practice. Practice management software is needed. Software seems to be too frequently

upgraded. Both the lawyers and law firm staff likely need more training on the tools they currently use and it is difficult to find time for training.

But it is also very clear that we all are accessing the Internet more frequently via mobile devices. So as the Yellow Pages and other traditional marketing tools fade from lack of use, it is very important to make certain that people who are trying to locate a lawyer via their smart phones and other mobile devices are able to do so. When they find your law firm, you want them to be able to view and use your website.

A simple starting point is to visit the law firm's website on various mobile devices and see if the home page should be designed more simply.

Google did just fine with a very simple interface. What is the most important element that would help with mobile marketing? A row of oversized buttons might not look right, but one large button to place a phone call to the law firm is probably the best simple first step in making a law firm website more mobile friendly.

*Mr. Calloway is director of the OBA Management Assistance Program. 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!*

1. [http://www.americanbar.org/publications/law\\_practice\\_magazine/2013/july-august/as-the-world-goes-mobile-is-your-marketing-up-to-speed.html](http://www.americanbar.org/publications/law_practice_magazine/2013/july-august/as-the-world-goes-mobile-is-your-marketing-up-to-speed.html)
2. <http://www.rosen.com/childcalculator/>
3. <http://readwrite.com/2013/12/20/mobile-desktop-divide-end-user-centric-design>



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# What's the Clients' Security Fund?

By Gina Hendryx

Did you know that all 50 states, the District of Columbia and several Canadian bar associations have funds similar to Oklahoma's Clients' Security Fund (CSF)? The rationale for these funds as stated in the ABA's *Model Rules for Lawyers' Funds for Client Protection* is: "Despite the best attempts of the legal profession to establish high standards of ethics and severe disciplinary sanction for their breach, it is a fact that some lawyers misappropriate money from their clients. Typically, those lawyers lack the financial wherewithal to make restitution to their victims."

The organized bar associations throughout the country have responded by creating funds to provide reimbursement to these harmed clients. In Oklahoma, the CSF was established in 1965 by court rules of the Oklahoma Supreme Court.

Yearly, the OBA budget includes \$100,000 earmarked for the CSF and paid from member's annual bar dues. The purpose of the fund is to promote public confidence in the administration of justice and the integrity of the legal profession by reimbursing losses caused by the dishonest conduct of persons practicing law in the state of Oklahoma. Claims are submitted to and reviewed by the OBA Clients' Security Fund Committee.

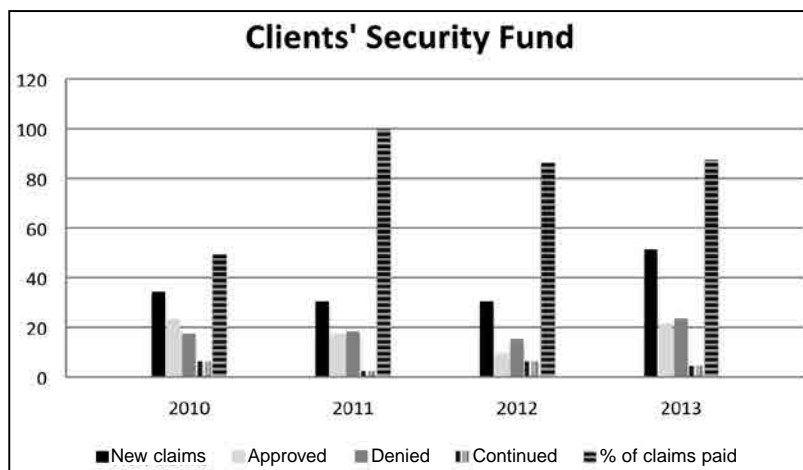
The committee meets quarterly, considers the pending claims and makes a recommendation for reimbursement at the end of the calendar year to the OBA Board of Governors. Reimbursements are a matter of grace, not right, and payment is based upon an equitable allocation related to the amount of claims approved to funds available for distribution. The CSF is a fund of last resort for clients who cannot recover money from other sources, such as insurance, a bonding company, the attorney involved or as a creditor in a probate proceeding.

In 2013, \$100,450.01 was paid to 21 clients. The chart details the claims received, approved, denied or continued and the percent of approved claim amounts paid for the past four years.

The committee is comprised of 15 persons including non-lawyers. It has been chaired for many years by attorney Micheal Salem of Norman. Mr. Salem, as well as the other committee members, volunteer countless hours reviewing and investigating the submitted claims. The committee's work is supported by the Office of the General Counsel. Staff members dedicate effort and time substantiating the claims by reviewing client files, court dockets, pleadings, bank records and witness statements.

If you know someone you believe may have a loss that would be covered by the CSF, you may review FAQs and the complete rules at <http://goo.gl/Bq7xeb> or contact the Office of the General Counsel at 405-416-7007.

*Ms. Hendryx is the OBA general counsel.*





# Meeting Summaries

*The Oklahoma Bar Association Board of Governors met at the Sheraton Hotel in Oklahoma City as part of the OBA Annual Meeting on Wednesday, Nov. 13, 2013.*

## REPORT OF THE PRESIDENT

President Stuart reported he attended the October board meeting in Oklahoma City, Southern Conference of Bar Presidents, OBA Diversity Committee luncheon and awards ceremony, 2014 budget meeting, Annual Meeting planning, Oklahoma House of Representatives Judiciary Committee Interim Study on Judicial Reform meeting, Oklahoma Fellows of the American Bar Foundation dinner in Oklahoma City and Pottawatomie and Lincoln County House of Delegate selection.

## REPORT OF THE VICE PRESIDENT

Vice President Caudle reported he attended or participated in the Clients' Security Fund Committee meeting, October board luncheon and meeting, Comanche County Bar Association CLE/luncheon, Oklahoma Fellows of the American Bar Foundation dinner in Oklahoma City, phone conference with board Christmas party subcommittee members and Board of Editors meeting. He reported invitations to the party are being handed out at the board meeting, and he thanked subcom-

mittee members for their planning assistance.

## REPORT OF THE PRESIDENT-ELECT

President-Elect DeMoss reported she attended or participated in the Diversity Committee CLE seminar, luncheon and awards ceremony, meetings on 2014 budget, Southern Conference of Bar Presidents, Audit Committee meeting, Technology Committee meeting, Law Schools Committee planning sessions, Litigation Section planning sessions, Tulsa County Bar Association delegates meeting and 2014 events and programs planning. She said the Diversity Committee event was well attended and made a profit.

## REPORT OF THE PAST PRESIDENT

Past President Christensen reported she participated in an honor flight from Oklahoma City to Washington, D.C., prepared and presented at the Oklahoma House of Representatives Judiciary Committee Interim Study on Judicial Reform meeting, worked on a law-related education flier addressing judicial reform and made a presentation at the Annual Meeting to the OBA Leadership Academy. She attended the Southern Conference of Bar Presidents, Budget Committee meeting, Lawyers Helping Lawyers Committee meeting and foundation meeting, swearing in of Judge Thad Balkman, Least Understood

Branch Campaign training scheduled by President-Elect DeMoss and Oklahoma Fellows of the American Bar Foundation reception and dinner.

## REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he participated in the Southern Conference of Bar Presidents meeting in Oklahoma City and presented a 50-year membership pin in Guymon. He attended Sovereign Citizen Training in Woodward, staff meeting for Annual Meeting, directors meeting, Investment Committee meeting, Technology Committee meeting, Lawyers Helping Lawyers Assistance Program Committee meeting, meetings with President-Elect DeMoss, Diversity Committee luncheon, ABA IOLTA luncheon, Oklahoma House of Representatives Judiciary Committee Interim Study on Judicial Reform meeting and pre-convention meeting at the hotel for Annual Meeting.

## BOARD MEMBER REPORTS

**Governor Drummond** reported he attended the October board meeting and has been busy preparing to chair the Legal Ethics Advisory Panel special meeting on cloud computing. **Governor Farris** reported he attended the Tulsa County Bar Association long-range planning meeting, TCBA/OBA delegate meeting, TCBA Mentor Committee

meeting and TCBA judicial reception at the TU law school. **Governor Gifford** reported he attended the October Board of Governors luncheon and meeting and Oklahoma County Bar Association board of directors meeting. He presented a CLE as a part of Judge Gary Lumpkin's panel at "Movie Night with the Justices: *A Few Good Men*." **Governor Hays** reported she participated in OBA Family Law Section Annual Meeting planning, Board of Governors Christmas party planning and conducted the Women in Law Committee meeting. She attended the October Board of Governors meeting in Oklahoma City, OBA Family Law Section monthly meeting for which she prepared and presented the budget report, OBA Professionalism Committee meeting for which she prepared the minutes, Tulsa County Bar Association board of directors meeting at which she presented a report on Board of Governors activities, TCBA delegate/alternate meeting and TCBA judicial/legislative reception at TU. **Governor Meyers** reported he attended the October Board of Governors meeting, Investment Committee meeting, Budget Committee meeting for 2014 and Comanche County Bar Association meeting. **Governor Pappas** reported she attended the October Board of Governors meeting and worked on the board's Christmas party. **Governor Parrott** reported she attended the Oklahoma County Bar Association delegate meeting to hear a presentation for the House of Delegates and the training session for the Least Understood Branch Campaign regarding proposed changes in judicial selection and term limits. **Governor Smith** reported

he attended the October Board of Governors meeting. **Governor Stevens** reported he attended the October Board of Governors meeting, November Cleveland County Bar Association meeting and board Christmas party subcommittee meeting. **Governor Thomas** reported she attended the October board meeting, October Washington County Bar Association meeting and judicial reform training at the Oklahoma Bar Center. She also participated in the Budget Committee meeting by telephone.

#### **OKLAHOMA HOUSE OF REPRESENTATIVES JUDICIARY COMMITTEE INTERIM STUDY ON JUDICIAL REFORM MEETING**

President Stuart reported a hearing regarding a study on judicial reform was held Oct. 31 at the State Capitol, which he attended along with Executive Director Williams and Past President Christensen, who made a presentation. President Stuart and Past President Christensen shared details about what took place at the hearing. Executive Director Williams reviewed the history of the OBA's support of The Missouri Plan in 1967. President-Elect DeMoss shared her plans for next year. The Communications Department was asked to send a newspaper clipping report on articles about the Judicial Nominating Committee to the Board of Governors each week.

#### **REPORT OF THE SUPREME COURT LIAISON**

Justice Kauger reported Past President Christensen gave a wonderful presentation at the judicial reform hearing. She

reported a new judicial brochure titled "Oklahoma Judicial Review" is now online at [www.oscn.net](http://www.oscn.net) and is currently at the printer. She said 124 people attended the movie night CLE showing of *A Few Good Men*, and Judge Lewis will be moderating the panel discussion following *A Miracle on 34th Street* on Dec. 10. She also reported the Supreme Court recently issued an order exempting members of the OBA Board of Governors, Professional Responsibility Tribunal and Professional Responsibility Commission from MCLE requirements.

#### **COMMITTEE LIAISON REPORTS**

Governor Hays reported the Family Law Section invites board members to its hospitality suite at Annual Meeting. She said the Women in Law Committee is holding meet-and-greet events in Oklahoma City and Tulsa as a way to engage younger women. She reported the Law Day Committee is already working on the TV show for 2014, and the Professionalism Committee has started planning a symposium for next year.

#### **REPORT OF THE GENERAL COUNSEL**

General Counsel Hendryx reported written status reports of the PRC and OBA disciplinary matters for October 2013 were submitted for the board's review.

#### **OBA 2014 BUDGET**

Copies of the proposed budget were handed out. President-Elect DeMoss reported expenses were projected to be about \$200,000 below 2013. She said departments worked hard to reduce their budgets. She reviewed plans for her

presidential initiative. Discussion followed. The board voted to amend the proposed budget initiative line item with an increase to \$40,000. It was pointed out that the change to the new membership database system will increase significantly annual licensing expenses. Administration Director Combs has put together a reference guide with details about budget items to better educate board members about OBA finances. The board approved the proposed 2014 budget as amended.

#### **MEMBER BENEFIT: UPS**

Executive Director Williams briefed board members that OBA members have received FedEx postage/freight discounts offered by broker Meridian One. FedEx recently terminated its agreement with Meridian One, which has switched to a partnership with UPS and offers OBA members similar discounts. The board ratified its email vote to approve the agreement with Meridian One for member discounts on UPS services.

#### **SOUTHERN CONFERENCE OF BAR PRESIDENTS**

President Stuart reviewed the programming and events that took place at the conference hosted by the OBA that was held Oct. 17-19 in Oklahoma City. He and Executive Director Williams received rave reviews from attendees on its success.

#### **EXECUTIVE SESSION**

The board voted to go into executive session, met and voted to come out of executive session.

#### **SUPPLEMENTAL PAYMENT**

The board approved a one-time supplemental payment to OBA employee Debbie Brink.

###

*The Oklahoma Bar Association Board of Governors met at the Oklahoma Bar Center in Oklahoma City on Friday, Dec. 13, 2013.*

#### **REPORT OF THE PRESIDENT**

President Stuart reported he helped plan Annual Meeting events, presided over the General Assembly, presented at the TU alumni luncheon, presided at the OBA annual luncheon and worked on various OBA matters including transition and judicial independence.

#### **REPORT OF THE VICE PRESIDENT**

Vice President Caudle reported he attended the annual November OBA convention, November Board of Governors meeting, November Board of Editors meeting and monthly Comanche County Bar Association CLE and luncheon. He coordinated the board's Christmas party with assistance from subcommittee members and Administration Director Craig Combs, prepared the Oklahoma Bar Foundation article for the January 2014 *Oklahoma Bar Journal* and presented the Oklahoma Bar Foundation scholarships at the annual OCU School of Law luncheon.

#### **REPORT OF THE PRESIDENT-ELECT**

President-Elect DeMoss reported she attended the OBA Annual Meeting, November board meeting, Tulsa County Bar Association holiday party, Section Leaders Council meeting, Litigation Section meeting and OBF reception. She served as a TCBA delegate at the OBA House of Delegates meeting, presided over the House of

Delegates meeting, presented an OBA award at the OU College of Law luncheon, presented the OBA 2014 budget to the Supreme Court, participated in 2014 planning meetings and made OBA appointments.

#### **REPORT OF THE PAST PRESIDENT**

Past President Christensen, unable to attend the meeting, reported via email that she attended the OBA Annual Meeting, November board meeting, Oklahoma County Bar Association holiday party, Federalist Society meeting in Tulsa and 2014 planning with President-Elect DeMoss. She presented an OBA award at the OCU School of Law luncheon, made a presentation to the Leadership Class, researched legislative efforts for changes in judicial selection in Oklahoma and other states and planned the has beens dinner.

#### **REPORT OF THE EXECUTIVE DIRECTOR**

Executive Director Williams reported he attended the Annual Meeting, Federalist Society meeting in Tulsa, staff holiday lunch, staff directors meetings, budget hearing at the Supreme Court, staff planning meeting on the website and planning conferences with President-Elect DeMoss.

#### **BOARD MEMBER REPORTS**

**Governor Drummond** reported he attended the Annual Meeting, Criminal Law Section luncheon and awards ceremony, and Military and Veterans Law Section meeting. He chaired the Legal Ethics Advisory Panel meeting and presented a one-hour ethics CLE to the Cleveland County Bar Association. **Governor Farris** reported he

attended the OBA Annual Meeting, November board meeting, TU Law School luncheon at the OBA Annual Meeting, Tulsa County Bar Association board meeting and TCBA holiday dinner party. He served as a TCBA delegate at the OBA House of Delegates meeting. **Governor Gifford**, unable to attend the meeting, reported via email that he attended the OBA Annual Meeting, November board meeting, OBA Criminal Law Section meeting, ABA training on the Least Understood Branch, Criminal Law Section luncheon and awards ceremony and Federal Bar Association's Holloway lecture. He also chaired the Military and Veterans Law Section meeting and was the keynote speaker for the ABA's Oklahoma Fellows dinner. **Governor Hays** reported she attended the OBA Annual Meeting at which she participated in CLE and events. She also attended the November board meeting, OBA Family Law Section annual meeting, OBF reception and ABA Least Understood Branch training. She assisted with the FLS meeting and hospitality suite, served as Tulsa County Bar Association delegate at the OBA House of Delegates meeting, assisted with the Board of Governors Christmas party planning and communicated with OBA FLS leadership regarding end-of-year activities and planning for 2014. **Governor Jackson** reported he attended the Garfield County Bar Association meeting and county bar Christmas party. **Governor Meyers** reported he attended the OBA Annual Meeting, November board meeting, Comanche County Bar Association meeting, OU Law School luncheon and Reimbursement

Policy Recommendation Committee meeting. **Governor Pappas** reported she attended the November board meeting, OBA Annual Meeting, Section Leaders Council meeting and Family Law Section meeting. She made Board of Governors Christmas party invitations and worked on Christmas decorations for the party. **Governor Parrott** reported she attended OBA Annual Meeting events, including the November board meeting, Law Schools Committee meeting, OCU Law School annual luncheon, OBA annual luncheon, evening social events, president's breakfast, OBF reception and the ABA training for the Least Understood Branch Campaign. She served as an Oklahoma County Bar Association delegate to the OBA House of Delegates. **Governor Smith** reported he attended the OBA Annual Meeting, November board meeting and House of Delegates. **Governor Stevens** reported he attended the November board meeting, OBA Annual Meeting, House of Delegates and ABA judicial independence training. He also volunteered at a Yellow Ribbon event for the Oklahoma Lawyers for America's Heroes program. **Governor Thomas** reported she attended judicial independence training and the November Board of Governors meeting. At the OBA Annual Meeting, she served on the Credential Committee, chaired the Tellers Committee, attended the TU Law School luncheon, General Assembly and House of Delegates, serving as the delegate from Washington County.

## COMMITTEE LIAISON REPORTS

Governor Hays reported the Women in Law Committee held meet-and-greet events in Oklahoma City and Tulsa and the Family Law Section met at the bar center during Annual Meeting. The section meeting was well attended, and 25 new members joined the section. Governor Drummond reported the Legal Ethics Advisory Panel met during Annual Meeting and said the panel has decided to stay with the old numbering system for opinions and the cloud computing opinion should be out early in 2014. He noted Ethics Counsel Travis Pickens has helped make ethics opinions more accessible to bar members via the website. Executive Director Williams reported the Section Leaders Council met at Annual Meeting and representatives were excited about their sponsored Thursday evening event. The new event was well attended and worth repeating. He said one section wants to invest more money in the event next year.

## REPORT OF THE YOUNG LAWYERS DIVISION

Governor Vorndran reported the division devoted a great deal of its energy to the statewide Day of Service project, had a great Annual Meeting and was looking forward to next year.

## CLIENTS' SECURITY FUND

Clients' Security Fund Committee Chairperson Micheal Salem reported the committee considered 41 claims and recommends 21 be paid for a pro-rated total of \$100,449.99, which is the annual allocation of \$100,000 plus interest available for disbursement. Mr.

Salem reported the fund did receive some payments of restitution this year. The board approved the committee's recommendation for payments and approved the distribution of a news release approved by President Stuart and Chairperson Salem. Mr. Salem praised General Counsel Hendryx and General Counsel staff member Manni Arzola for their assistance in aiding the committee in its work.

## **REPORT OF THE GENERAL COUNSEL**

Written status reports of the PRC and OBA disciplinary matters for November 2013 were submitted for the board's review. In the absence of General Counsel Hendryx, who was attending the PRC meeting, Executive Director Williams reported the department had been interviewing candidates for an investigator position, which should be filled soon.

## **PROPOSED AMENDMENTS TO THE OBA REIMBURSEMENT POLICY**

President-Elect DeMoss reported the subcommittee had reviewed many state bar association reimbursement policies as part of its research. The subcommittee recommends the policy be amended to allow Board of Governors officers traveling to out-of-state meetings to be allowed a \$200 per diem to be reimbursed for expenses. Reimbursement for spouse expenses would be eliminated. Staff travel to out-of-state meetings would be changed to allow up to \$90/day per diem with receipts required. The board approved the amendments recommended by the Reimbursement Policy Subcommittee.

## **CARRYOVER OF FUNDS**

Executive Director Williams reported the Law-related Education Department has \$1,500 in iCivics program funds that it requests be carried over to 2014. The board approved the carryover of funds. Executive Director Williams said the Communications Committee already has a revolving account established and is requesting that excess funds from this year be carried over to 2014. The board approved the carryover of funds. Executive Director Williams reported the Diversity Committee has excess funds from its CLE seminar/awards luncheon and asks for permission to carry over its excess funds. The board approved the carryover of the committee funds.

## **SECTION LEADERS COUNCIL BYLAWS AMENDMENT**

Governor Hays explained the council is requesting the addition of an Oklahoma Bar Foundation liaison, who would not be a voting member. The board approved the bylaws amendment.

## **APPOINTMENTS**

The board approved the following appointments as recommended by President-Elect DeMoss:

Professional Responsibility Commission – Reappoint Angela Ailes Bahm, Oklahoma City and William R. Grimm, Tulsa, terms expire 12/31/16.

Oklahoma Indian Legal Services – Reappoint Diane Hammons, Tahlequah, term expires 12/31/16.

Board of Editors – Reappoint Melissa DeLacerda, Stillwater, as chairperson, term expires

12/31/14; reappoint Judge Allen Welch, Oklahoma City, District 3, and appoint Leslie Taylor, Ada, District 8, as associate editors, terms expire 12/31/16.

Clients' Security Fund – Reappoint Micheal Salem, Norman, as chairperson, and William Brett Willis, Oklahoma City, as vice chairperson, terms expire 12/31/14. Attorney members – Reappoint Robbie Emery Burke, Tulsa, and Peggy Stockwell, Norman; appoint Cesar Tavares, Tulsa, terms expire 12/31/16. Reappoint Robert H. Sunday, CPA, Eufaula, as a lay member, term expires 12/31/16.

MCLE Commission – Reappoint Jack Brown, Tulsa, as chairperson, term expires 12/31/14; reappoint Dan Sprouse, Pauls Valley, Molly Aspan, Tulsa, and W. Mark Hixson, Yukon, as members, terms expire 12/31/16.

## **OBA 2014 STANDING COMMITTEE CHAIRS AND VICE CHAIRS**

President-Elect DeMoss presented a list of bar members she has appointed to committee leadership positions.

## **YLD LIAISONS TO OBA STANDING COMMITTEES**

YLD Chair-Elect Kaleb Henigh presented a list of YLD members he has appointed to serve as liaisons to OBA committees.

## **APPOINTMENTS**

President-Elect DeMoss announced the following appointments:

Audit Committee – Appoint Doug Jackson, Enid, as chairperson, term expires 12/31/14. Appoint as members Jim Stuart, Shawnee, and Susan

Shields, Oklahoma City, terms expire 12/31/14; Richard Stevens, Norman, and Renée DeMoss, Tulsa, terms expire 12/31/15; and John Kinslow, Lawton, term expires 12/31/16.

Board of Medicolegal Investigations – Reappoint Thomas A. Mortensen, Tulsa, term expires 12/31/14.

Investment Committee – Reappoint Joe Crosthwait, Midwest City, as chairperson, and appoint Kendra Robben,

Oklahoma City, as vice chairperson, terms expire 12/31/14; reappoint Joe Crosthwait, Midwest City; Bob Farris, Tulsa; Susan Shields, Oklahoma City; and Kendra Robben, Oklahoma City, as members, terms expire 12/31/16.

Legal Ethics Advisory Panel – Appoint Steven Balman, Tulsa, as panel coordinator, term expires 12/31/14; reappoint Jim Drummond, Norman, and James R. Waldo, Oklahoma City, as Oklahoma City panel members, terms

expire 12/31/16; and reappoint Jon Prather, Tulsa; Steve Balman, Tulsa; and David Butler, Enid, as Tulsa panel members, terms expire 12/31/16.

### NEXT MEETING

The Board of Governors met on Saturday, Jan. 11, 2014, at the Sheraton Hotel in Oklahoma City. A summary of those actions will be published after the minutes are approved. The next board meeting will be at 10 a.m. Friday, Feb. 28, at the Oklahoma Bar Center.



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**Presents  
Ben Bowers**



**www.GungollJackson.com**

Ben Bowers grew up in Enid, where he attended Oklahoma Bible Academy while both of his parents worked for Emmanuel Baptist Church. He went on to earn his undergraduate degree in business administration from Northwestern Oklahoma State University's Enid campus and spent the following three years working at Central National Bank of Enid, most recently as a branch manager.

He credits a business law professor at NWOSU with first inspiring his interest in financial law. Working at the bank handling wills, trusts and other legal documents re-ignited his interest, which led him to enroll at Oklahoma City University School of Law, where he was a merit scholar and graduated fourth in his class.

He lives in Enid. In his free time, he enjoys running and spending time outdoors with his border collie. He is also an active member of Emmanuel Baptist Church.

Ben can be reached at the firm's Enid office.

**Gungoll, Jackson, Box and Devoll, P.C.**

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# Hurdles Your Oklahoma Bar Foundation Faces in 2014 and Beyond

By Dietmar K. Caudle

The Oklahoma Bar Foundation is a nonprofit 501(c)(3) founded in 1946 by lawyer members of the Oklahoma Bar Association. **The OBF mission is to provide annual support for the promotion of justice, fund critical legal services and provide advancement and better understanding of the law for all Oklahomans.** The OBF is the charitable arm of the Oklahoma Bar Association. The OBF's offices are located on the second floor of the Oklahoma Bar Center. Over the years, the OBF has granted awards in excess of \$10 million. At least 100,000 Oklahomans were affected by OBF grant awards in 2013 alone.

The OBF consists of a 26-member Board of Trustees. Of these, 21 are trustees from around the state elected to three-year staggered terms. The five remaining trustees are the

foundation's immediate past president, OBA president, OBA president-elect, OBA executive director and a representative of the Young Lawyers Division.

Your 2014 OBF Trustees represent all 77 counties across our great state. Their experience and energy will be severely tested to guide the OBF through a most difficult financial year. The past two years, specifically, reminded us that the anemic economy directly affects donations, which directly affect law-related services we are able to fund. The economic decline has resulted in deep cuts in IOLTA receipts and fewer *cy pres* awards. The OBF grant funding was cut back by more than \$125,000 in 2012 and again in 2013.

(continued on next page)

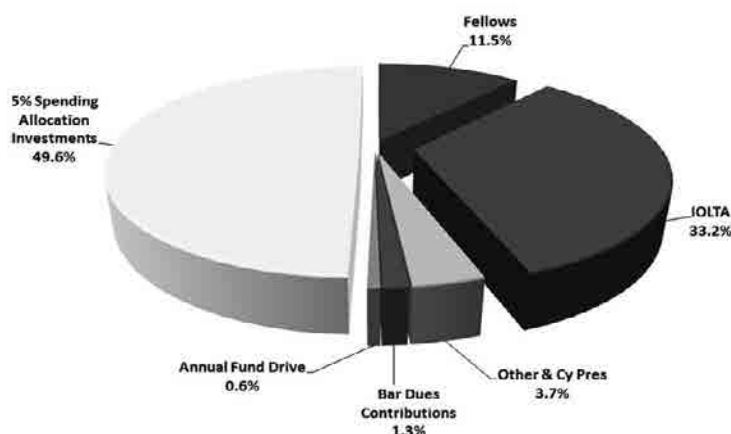
## Meet the 2014 OBF President

Dietmar K. Caudle will lead the Oklahoma Bar Foundation in a most critical year for the third oldest state bar foundation in the nation.

Mr. Caudle practices law as a sole practitioner in Lawton. His original staff has been assisting him since he first opened his law office in 1980. His practice has an emphasis on domestic relations, criminal and civil litigation. He is currently an associate editor of the *Oklahoma Bar Journal*, a longtime member of the OBA Clients' Security Fund Committee and served as the 2013 Oklahoma Bar Association vice president. He was the Comanche County Bar president in 2004 and received the county bar's Professionalism Award in 2011. He has served on the OBA Professional Responsibility Tribunal and Professionalism Committee, and has chaired the Military Assistance Committee and Lawyer Referral Tasks Force. He is a an OBF Benefactor Fellow and a member of the American Bar Foundation Oklahoma Fellows. His knowledge of nonprofit organizations and financial background has been enhanced by previous service to local community boards and coordination of fundraising campaigns, which will all serve to enrich his leadership role with the Oklahoma Bar Foundation as president during 2014.



OBF Income Sources - 2013



The good news is that there is an answer and a positive response for this decline. The answer can be made very simple. There is a saying that “you cannot give until you are asked.” A proposed strategic plan will be reimplemented to reverse the recent disturbing trends:

- We must increase the number of individual OBF Fellows (*our OBA membership exceeds 17,000 and the current number of OBF fellows is 1,665*).
- We must upgrade the current giving level of Fellows where applicable. (*620 paid Fellows are currently available for upgrade to Sustaining or Benefactor Fellows*)
- Increase the number of Community Fellows from organizations and groups (*current members are the OBA Family Law Section and The Garrett Law Center of Tulsa*).

The above-stated goals should easily be ascertainable since it involves fellow practitioners. Our OBF product is marketable and every lawyer’s pride is on the line. I ask you, “Is there a better way to promote our legal profession than to show our lawyers’ generosity which transforms lives for the better?”

The more difficult reimplementation of the proposed 2014 Strategic Plan assuring continued OBF revenue must come in the following areas:

- **IOLTA ACCOUNTS:** Oklahoma was the first state in the nation to implement mandatory IOLTA accounts during 2004 after many years without change to national IOLTA programs. Interest rates banks pay are not regulated and are sub-



ject to change at any time. This revenue source is critical to your OBF and its endeavor to honor grant awards each year. Your Board of Trustees will attempt to enlist the assistance of the ABA IOLTA Commission, the OBA, Legal Aid and others to reverse this trend of shifting IOLTA interest rates payable on lawyers’ trust accounts. Your assistance with your bank rates is needed.

- **CY PRES AWARDS:** The OBF must again become a major player in the enlistment of *cy pres* awards and champion access to justice for all Oklahomans. The OBF message should be enhanced by virtue of our previous court grant fund awards and the good work being accomplished.
- **COMMUNITY FELLOWS:** The OBF has made tremendous recent strides to get the new program going. Community Fellows can be IOLTA banks, businesses, corporations, law firms, county bar associations, OBA sections and committees and other friends and supporters of justice. The

OBA Family Law Section and The Garrett Law Center of Tulsa are the most recent Community Fellows at the Patron level, the highest level of support.

- **STATEWIDE CHARITABLE FOUNDATIONS:** Recruitment of other charitable foundations that will make the OBF their charitable choice of giving shall be pursued. All Oklahoma lawyers are encouraged to deliver our OBF mission, “Lawyers Transforming Lives.”
- **THE FUTURE OF OBF COMMUNICATION:** We are a video-addicted society. Two-thirds of us would prefer to receive information via video as opposed to reading. YouTube averages four billion views per day — the message here is clear. The OBF must continue to use social media to broadcast its message. Our mission remains as it always had been, to be the charitable heart of the OBA and of all Oklahoma lawyers. In 2014, the OBF will initiate and present a video story which will allow lawyers and law firms, Fellows, our Community Fellows and the public to readily view how the OBF has and will continue to transform lives by the stories of its grantees. Peer-to-peer communication is a tried-and-true method that never fails and we encourage all lawyers to help by telling our story.

I submit that these strategies are not all new. Reimplementation, commitment and dedication are old school, but essential for our OBF to survive. We cannot receive if we don’t ask.

In closing, it is important to recognize the 2014 Board of Trustees. These lawyers dedicate their time, energy and talents to keep our OBF viable. The Executive Committee consists of President Dietmar K. Caudle, Lawton; President-Elect Jack L. Brown, Tulsa; Vice President Judge Millie E. Otey, Tulsa; Secretary/Treasurer Kevin R. Donelson, Oklahoma City; and Past President Susan B. Shields, Oklahoma City.

Other members of the 2014 Board of Trustees are: Steven L. Barghols, Oklahoma City; A. Gabriel Bass, Oklahoma City; Stephen D. Beam, Weatherford; Tanya A. Bryant, Oklahoma City; Brett D. Cable, McAlester; Jennifer M. Castillo, Oklahoma City; Guy P. Clark, Ponca City; Dean Valerie Couch, Oklahoma City; OBA President Renée DeMoss, Tulsa; Amber Peckio Garrett, Tulsa; Deanna Hartley Kelso, Ada; Brandon P. Long, Oklahoma City; G. Patrick O'Hara Jr., Edmond; David A. Poarch Jr., Norman; Briana J. Ross, Tulsa; Kara I. Smith, Oklahoma City; Donna L. Smith, Vinita; Alan Souter, Tulsa; Jeffrey D. Trevillion, Oklahoma City; Roy D. Tucker, Muskogee and John Morris Williams, Oklahoma City.

The OBF staff consists of our 29-year tenured Executive Director Nancy Norsworthy, executive assistant Jessi Hesami and OBF and IOLTA administrative assistant Deb Holt.

*Mr. Caudle can be reached at [d.caudle@sbcglobal.net](mailto:d.caudle@sbcglobal.net).*

Please join the OBF.



*Oklahoma Bar Foundation staff members are available to answer any OBF-related questions at 405-416-7070 or [www.okbarfoundation.org](http://www.okbarfoundation.org). (From left): Executive assistant Jessi Hesami, Executive Director Nancy Norsworthy and OBF and IOLTA administrative assistant Deb Holt.*

## OBF Staff Duties

OBF staff duties are multi-faceted with a wide variety of duties, which include:

- Responsible for the daily operation of the foundation
- Administers and maintains IOLTA membership and financial records
- Works directly with IOLTA banks and the OBA membership
- Maintains Fellow membership records and pledge payments, including the new Community Fellow program
- Provides reports and support to the 26-member Board of Trustees and works directly with the executive committee
- Coordinates meetings and board and committee materials
- Provides support to the board in fundraising efforts
- Maintains expenditure and income records of the foundation
- Maintains investment and books of account
- Compiles reports and works with auditors and other financial representatives
- Coordinates grant applications, meetings, payments, grant reporting and follow up as well as help and support to grantee organizations throughout the year
- Works with other nonprofit groups and outside organizations; represents OBF at various outside events
- Responsible for OBF website updates and communication efforts
- Provides help and support to the OBA membership wherever needed

# Community Service and Public Education to be YLD Goals

By Kaleb Hennigh

In any business, association or program it is important that the leadership of the organization maintain and create a vision to work toward and set tangible goals to ensure that success is accomplished. The OBA Young Lawyers Division maintains a vision of commitment to serve not only the Oklahoma Bar Association, but also the communities that attorneys throughout this state live and work. Service is something that the OBA YLD commits itself to every year. It is my goal to focus the incoming leadership within the YLD on continuing this commitment to community service and public education.

President DeMoss has made it a priority and has committed herself and the Board of Governors to protecting the integrity of our court system during her time at the helm of our organization. The YLD will work side by side with President DeMoss throughout this year in assisting with increasing the public's understanding of the unique role Oklahoma's court system plays and the importance of a fair and impartial judiciary. As young lawyers we understand the importance of the judicial branch of our democratic governing system in interpreting and applying our laws and know that a fair and

impartial judiciary is essential to democracy.

The YLD Board of Directors, who have committed themselves to serving the YLD this upcoming year, are a fine group of professionals that I am looking forward to working with as we maintain the vision of community service and our commitment to public education. *(continued on next page)*



Kaleb Hennigh

## 2014 YLD OFFICERS AND BOARD OF DIRECTORS

### Chair

Kaleb Hennigh, Enid

### Chair Elect

LeAnne McGill, Edmond

### Treasurer

Bryon Will, Oklahoma City

### Secretary

Matt Mickle, Durant

### Immediate Past Chair

Joe Vorndran, Shawnee

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Bartlesville

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Lane Neal, Oklahoma City  
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Amber Garrett, Tulsa  
Tim Rogers, Tulsa

### District 7

OPEN

### District 8

Brandi Nowakowski,  
Shawnee

### District 9

Grant Sheperd, Lawton

### At Large

Christa Evans, Oklahoma City  
Sarah Stewart, Oklahoma City  
Eric A. Davis, Oklahoma City  
Justin Meek, Oklahoma City

### At Large Rural

Matt Mickle, Durant  
Nathan Richter, Mustang

## GET INVOLVED

Most importantly, I want to encourage all young lawyers to get active and involved this year. Most of you know this, but any member of the OBA who has been first admitted to the practice of law in the past 10 years is automatically considered a YLD member, regardless of age.

I want to personally encourage all members of this division to find a way to get involved with the bar association this year. Whether you

can volunteer time to assist in preparing and distributing bar exam survival kits to those taking the bar exam, finding time to speak to a classroom of high school seniors to inform them of the legal ramifications of turning 18 years old, volunteering to serve on a committee or making it to any of our monthly board meetings to contribute your thoughts or ideas, I want you to know that you are more than welcome and encouraged to get involved. Learn more about the division and all of its proj-

ects by visiting the YLD webpage on [www.okbar.org](http://www.okbar.org). Also, be sure to like us on [www.facebook.com/obayld](http://www.facebook.com/obayld).

I look forward to representing the YLD this year, and I appreciate the opportunity to serve this division throughout 2014. The YLD will continue our commitment to service and education.

*Mr. Hennigh practices in Enid and serves as the YLD chairperson. He can be contacted at [hennigh@northwestoklaw.com](mailto:hennigh@northwestoklaw.com).*

## Fighting for The Forgotten

**David Humphreys and Luke Wallace  
Seek your referrals of:**

- Wrongful Foreclosure
- Debt Collection Abuse
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Fax: 918-747-5311

Global IP is pleased to announce  
Esther Roberts Bell  
has received certification as a  
Rule 31 Listed General Civil Mediator.

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### **Jan. 25, 2014 - OBA Legislative Reading Day**

The Oklahoma Legislature reconvenes next month, and hundreds of bills have been pre-filed. Much of that proposed legislation could affect the administration of justice, and some will undoubtedly affect your practice. Join us at 10 a.m. on Saturday, Jan. 25, 2014 at the Oklahoma Bar Center as we identify top bills of interest to the OBA and your practice area. Lunch will be provided. RSVP to OBA Executive Director John Morris Williams, [johnw@okbar.org](mailto:johnw@okbar.org), if you'd like to attend.

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### **Save the Date - OBA Day at the Capitol March 25**

Oklahoma lawyers, let your voices be heard! OBA will host its annual Day at the Capitol on Tuesday, March 25. Registration begins at 10 a.m. at the Oklahoma Bar Center, 1901 N. Lincoln Blvd., and the agenda will feature speakers commenting on legislation affecting various practice areas. We also will have remarks from the judiciary and bar leaders and lunch will be provided before we go over to the capitol for the afternoon. Check [www.okbar.org](http://www.okbar.org) for more updates.

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### **Community Service Kudos**

*Crowe & Dunlevy attorneys and staff in the firm's Tulsa office recently assembled 30 baskets and 20 stockings full of donations for Tulsa Court Appointed Special Advocates (CASA). Tulsa CASA is a nonprofit organization that recruits, trains and supervises quality volunteer advocates to speak for the best interests of abused and neglected children in the dependency court system. The group serves Tulsa and Pawnee Counties. Participating are (from left) Brett Liles, associate; Julie Balman, secretary; Gary McSpadden, director; and Ann Ashley, secretary.*

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### **New Member Benefit - Discounted UPS Shipping**

The OBA announces the UPS Savings Program for our members. This member benefit helps our members improve their bottom line with some of the most competitive rates available on shipping services with UPS. Enroll and save up to 34 percent on a broad portfolio of shipping services. Whether you need your documents or packages to arrive the next day or are looking for the most affordable shipping option, UPS understands how important reliability, speed and cost are to meeting your business goals and your customers' needs. To enroll and start saving today, visit [savewithups.com/oba](http://savewithups.com/oba) or call 1-800-MEMBERS (1-800-636-2377), M-F, 7 a.m. – 5 p.m. Existing accounts may also benefit from this program.







## Free Discussion Groups Available to OBA Members

“Compassion Fatigue” will be the topic of the Feb. 6 meetings of the Lawyers Helping Lawyers discussion groups in Oklahoma City and Tulsa. Each meeting, always the first Thursday of each month, is facilitated by committee members and a licensed mental health professional. In Oklahoma City, the group meets from 6 – 7:30 p.m. at the office of Tom Cummings, 701 N.W. 13th Street. The Tulsa meeting time is 7 – 8:30 p.m. at the TU

College of Law, John Rogers Hall, 3120 E. 4th Place, Room 206. There is no cost to attend and snacks will be provided. RSVPs to Kim Reber, kimreber@cabainc.com, are encouraged to ensure there is food for all.

## OBA Member Resignations

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

Marni Lefkowitz Ahram  
OBA No. 22424  
American Red Cross Office of  
General Counsel  
2025 E. Street, N.W., NE9-049  
Washington, DC 20006

Cathy Jean Arrowsmith  
OBA No. 18009  
2612 E. 88th St., Apt. 6  
Tulsa, OK 74137

Christopher Loran Coyle  
OBA No. 1979  
501 Wooden Deer Road  
Carbondale, CO 81623

Marni Lefkowitz Ahram  
OBA No. 22424  
American Red Cross Office  
of General Counsel  
2025 E. Street, N.W., NE9-049  
Washington, DC 20006

## Aspiring Writers Take Note

We want to feature your work on “The Back Page.” Submit articles related to the practice of law, or send us something humorous, transforming or intriguing. Poetry is an option too. Send submissions no more than two double-spaced pages (or 1 1/4 single-spaced pages) to OBA Communications Director Carol Manning, carolm@okbar.org.



Cathy Jean Arrowsmith  
OBA No. 18009  
2612 E. 88th St., Apt. 6  
Tulsa, OK 74137

Christopher Loran Coyle  
OBA No. 1979  
501 Wooden Deer Road  
Carbondale, CO 81623

Andrew David  
Schwartzkopf  
OBA No. 17900  
12639 Old Tesson Rd.,  
Ste. 115  
St. Louis, MO 63128

# Kudos

**J** Patrick Pickerill has been appointed by Gov. Mary Fallin as associate district judge for Pawnee County, replacing Judge Matthew Henry who resigned. Judge Pickerill began his service as judge in December.

The National Judicial College awarded a certificate in Judicial Development for General Jurisdiction to **Judge Richard D. Osburn**. Judge Osburn is the district judge for the Mille Lacs Band of Ojibwe located in Onamia, Minn. Judge Osburn graduated from the OU College of Law in 2000.

**W**alter Jenny of Edmond has been elected president of the Edmond Neighborhood Alliance for 2014.

**Emily D. Campbell** of Dunlap Coddling has been named to The University of Oklahoma's College of Engineering Industrial & Systems Engineering Advisory Board.

# On The Move

**C**rowe & Dunlevy recently named director **Kent Meyers** as chair of the firm's alternative dispute resolution business and litigation practice group. Attorneys in the

practice group focus on class action matters, intellectual property and family practice dispute resolutions.

**D**. Kevin Ikenberry recently became chief legal officer for Independent Opportunities Inc., a provider of community-based residential support services for persons with developmental disabilities. He can be reached at IOI's corporate offices at 6202 S. Lewis Ave., Suite P, Tulsa, 74136 or by phone at 918-744-5067.

**M**att Panach has joined Fuller, Tubb, Bickford and Krahll PLLC as a partner. Mr. Panach's civil litigation practice focuses on labor and employment, agricultural, construction, oil and gas and commercial law as well as personal injury. He also assists clients with workplace investigations, policy review and management training. He graduated from the University of Arkansas School of Law and joined the Oklahoma bar in 2008.

**J**anna Dunagan Gau announces the relocation of The Gau Law Firm to 101 East Hurd, Suite A in Edmond. Ms. Gau is a 1997 graduate of the TU College of Law. She will continue to practice in the areas of commercial litigation, construction defect litigation and general business and corporate law. In addition, Ms. Gau will continue to provide mediation services in commercial and employment law matters. The firm's mailing address is P.O. Box 183, Edmond, 73083. The firm's telephone number

is 405-705-0002 and fax number is 405-705-0004.

The law firm of Norman Wohlgemuth Chandler & Jeter announces that **Ryan A. Ray** has been named a shareholder and director in the firm. Mr. Ray joined the firm in 2008, and his practice consists of litigation in state and federal courts.

**P**hillips Murrah announces **Rodney L. Cook** has joined the firm as an counsel attorney. Mr. Cook's practice focuses on tort litigation with an emphasis on product liability, warranty, insurance and fraternity law. Prior to joining the firm, he was director of the Jennings Cook & Teague law firm in Oklahoma City and adjunct law professor at the OU College of Law. He received his undergraduate and law degrees from OU.

**M**cAfee & Taft announce that trial lawyers **Todd Woolery** and **Jodi C. Cole** have joined the firm. Mr. Woolery's practice includes matters affecting the energy industry including disputes involving oilfield and industrial pollution, bodily injury, property damage, surface damages and class actions. He holds two degrees from OU, a J.D. and an undergraduate degree in environmental geography. Ms. Cole's practice includes the representation of oil and gas exploration and production companies in class action royalty lawsuits as well as disputes involving surface damages, pollution and other environmental issues, quiet title, lease cancellation, bodily injury,

property damage and materialmen's and mechanic's liens. She holds a bachelor's degree in business administration from Henderson State University and a J.D. from OCU.

**Tracy W. Robinett, Charles R. Swartz and Jacob W. Aycock** announce the establishment of Robinett Law Firm. Mr. Robinett and Mr. Swartz will continue their work in commercial litigation and business transactions. Mr. Aycock will continue his work in domestic relation matters. The firm will office at 624 S. Boston Ave., Suite 900, Tulsa, 74119 and can be contacted at 918-592-3699.

**Doerner, Saunders, Daniel & Anderson** has named **Kristen Brightmire** to the firm's executive committee. Ms. Brightmire's practice includes employment and labor law, litigation and arbitration and mediation. The firm also announces **Matthew Christensen** has been named partner in the firm. He practices primarily in the areas of real estate and corporate/securities.

**Conner & Winters** announces **Crystal A. Johnson, Heidi M. Nichols, David S. Randolph and Elizabeth G. Zeiders** have become partners at the firm. Ms. Johnson concentrates her practice on commercial litigation and graduated from the University of Arkansas School of Law in 2007. Ms. Nichols focuses her practice on litigation and holds a J.D. from St. Louis University. Mr. Randolph practices in the firm's corporate group in Tulsa with an emphasis on banking and finance and mergers and acquisitions. He holds a J.D. from TU. Ms. Zeiders practices in the areas of commercial

real estate transactions, mergers and acquisitions, corporate services and banking. She earned a J.D. from TU.

**Johnson & Jones PC** announces three attorneys, **Whitney Mackey Eschenheimer, Stephanie Dinsmore Phipps and Gauri D. Nautiyal** have new positions in the firm. Ms. Eschenheimer has been made a shareholder in the firm's litigation group. Her practice focuses on catastrophic injury, transportation and business litigation and bad faith and insurance disputes. Ms. Phipps is of counsel with the firm. She focuses her practice on insurance defense, nursing home defense, products liability, employment and labor law, business litigation, corporate law and appellate advocacy. Ms. Nautiyal has joined the firm as an associate in the litigation group. She graduated from the OU College of Law in 2013 and was named outstanding law student by the National Association of Women Lawyers.

**The Kennedy Law Firm** announces the opening of its new offices located at 1107 NW 26th St., Oklahoma City, 73106. The firm will continue to offer a broad range of services, with a focus on civil litigation. The firm can be reached by phone at 405-778-8820, fax at 405-778-8822 or e-mail at [bkennedy@kennedylawfirm.net](mailto:bkennedy@kennedylawfirm.net).

**McAfee & Taft** have named eight new shareholders in the firm; **Mark H. Allen, Jody Warmbrod Dishman, J. Barrett Ellis, Roberta Browning Fields, Maria E. Gonzalez, Alison Patel, Keith E. Peters and Sharolyn C. Whiting-Ralston**. Mr.

Allen's practice focuses on mergers, acquisitions, divestitures, corporate structuring, tax planning, financing and other complex business transactions. Ms. Warmbrod Dishman is a trial attorney whose practice spans numerous industries, including energy and oil and gas, hospitals and health care systems, waste management, insurance and financial, sports and retail. Mr. Ellis is a banking and corporate attorney who advises corporate and financial institution clients, with a particular emphasis on finance transactions and regulatory compliance. Ms. Fields is a trial attorney who practice focuses on representation of employers in all areas of employment law. Ms. Gonzalez is an aviation attorney whose practice primarily focuses on aircraft transactions and aircraft title and registration matters. Ms. Patel is an ERISA attorney with experience in a range of employee benefits and executive compensation matters, including in corporate mergers and acquisitions. Mr. Peters is a tax attorney whose practice focuses on general tax planning, structuring business transactions, estate planning and federal and state tax disputes. Ms. Whiting-Ralston is a trial lawyer whose practice focuses on labor and employment law as well as general civil and business litigation.

**GableGotwals** announces **Paul Rossler and Greg Metcalfe** have been named shareholders in the firm. Mr. Rossler's practice focuses on intellectual property and engineering. Prior to joining the firm, Mr. Metcalfe served eight years as assistant attorney general and focuses his

practice on litigation and appeals.

**Michael L. Mullins, Tracy D. Martinez, Jamie K. Sexton and Ryan J. Reaves** announce the formation and opening of their law firm, Mullins Martinez Sexton & Reaves PC. The attorneys formerly practiced with the law firm of Mullins, Hirsch, Edwards, Heath, White & Martinez PC. The group will continue to focus its practice in the area of family law with an emphasis on matters involving valuation and division of substantial marital estates, complex business evaluation, high income support issues, custody litigation, appellate work and preparation of prenuptial agreements. The new firm is located in the Waterford Complex at 6307 Waterford Blvd., Suite 215, Oklahoma City, 73118 and can be reached at 405-235-2335 or on the web at [www.mmsrlaw.com](http://www.mmsrlaw.com).

**Crowe & Dunlevy** announced that **Vicki Behenna**, a former federal prosecutor, has joined the firm's Oklahoma City office as a director. Behenna's practice will focus on white collar compliance, government relations and healthcare. Ms. Behenna was a federal prosecutor in the U.S. Attorney's Office for the Western District of Oklahoma for over 25 years before she joined the firm.

**Dunlap Coddling** announced that former legal intern **Elizabeth E. Lauderback** has been named an associate at the firm. Ms. Lauderback practices in the areas of patent prosecution, trade-

marks, copyrights, entertainment law and Internet law as well as licensing, transactional and litigation matters. She recently graduated from Oklahoma City University School of Law.

## At The Podium

**G. Calvin Sharpe** of Phillips Murrah presented "Civility Matters" along with **Judge Patricia Parrish, Bill Grimm, Dan Fulluo and James Jennings**. The presentation was part of the OBA Annual Meeting and aimed at educating lawyers on the ethics of civility in a courtroom setting.

**H. Wayne Cooper** of the firm Doerner, Saunders, Daniel & Anderson LLP spoke on engineering business law at a seminar on engineering law held in Tulsa recently.

**T. Douglas Stump** presented "Advanced Practice Tips for Provisional Waivers and Traditional Unlawful Presence Waivers" and "Hot Topics, Legislative and Administrative Updates" at the American Immigration Lawyers Association Conference in Anaheim, Calif., recently. Mr. Stump also spoke on legislative developments and presented an article on processing I-601 waivers at the December 2013 New York Annual Conference on Immigration Law.

**Kelli Stump** presented "Navigating the Immigration Law Waters" and "Ensuring a Smooth Course: Review of Best Practices Before the Immigration Court" at the 16th Annual American Immigration Lawyers Association New York Chapter Immigration Law Symposium in December.

**Garvin A. Isaacs** spoke on closing arguments at the Bob Chaloupka Trial Skills Seminar held in Scottsbluff, Neb., on Nov. 15, 2013.

**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 selected for publication is printed at no cost, subject to editing, and printed as space permits.

Submit news items via email to:

Jarrold Beckstrom  
Communications Dept.  
Oklahoma Bar Association  
405-416-7084  
[barbriefs@okbar.org](mailto:barbriefs@okbar.org)

*Articles for the Feb. 15 issue must be received by Jan. 21.*

**Ruth Ann Box** of Aurora, Colo., died Jan. 2, 2014. She was born Jan. 24, 1953, she earned an OU journalism degree in 1976 and graduated from the OU College of Law in 1982 after working as a journalist for a number of years in Oklahoma City. She focused her practice on real estate law before moving to Dallas where she worked for Lawyers Title Insurance. She was general counsel for two nutrition companies before selling her interest and moving to Colorado where she worked for American Title Insurance until her retirement.

**George Warren Flippo** of Tulsa died Nov. 27, 2013. He was born Aug. 5, 1945, and graduated from the TU College of Law in 1972.

**Joseph C. Jennings** of Tulsa died Dec. 8, 2013. He was born Nov. 3, 1930, in Whizbang in Osage County. He graduated with a degree in banking and finance from Oklahoma A&M College in 1951. **He served in the U.S. Army during the Korean conflict.** After receiving his discharge he received his J.D. from TU in 1958. After practicing law in Tulsa he was elected in 1967 as a district judge, serving Tulsa County for 28 years. He was a 33rd Degree Mason, receiving a 50-year recognition in 2010 and member of the supreme council in Washington, D.C. He was an adjunct professor at TU and served on the administrative board of Boston Avenue Methodist Church. Memorial contributions may be made to Boston Avenue Television Ministry, 1301 S. Boston Ave, Tulsa, OK 74119.

**Wayne Lowell Johnson** of Edmond died June 28, 2012. Born March 28, 1934, in Marysville, Calif., he earned his J.D. from the University of Denver after serving in the U.S. Army during the Korean conflict. He was an Oklahoma assistant attorney general until his retirement in early 2012.

**C.D. "Dale" McDoulett Jr.** of Tulsa died Nov. 28, 2013. He graduated from Duncan High School in 1963 and went to OU to earn his B.B.A. and J.D. degrees, attaining the latter in 1970. Upon graduation, he moved to Tulsa and joined the law firm of Holliman, Langholz, Runnels and Dorwart and became a partner in 1975. In 1976 he joined Falcon Coal Co. in Lexington, Ky., as vice president. Diamond Shamrock Oil Co. merged with Falcon and Dale was moved to Dallas in 1981 first as director of planning and development, then as the president of their new international oil unit. In 1992 he became president and CEO of North American Platinum and Palladium Mining Co. He retired in 1996. In his retirement he was CFO of a small cement testing equipment business. He served as a trustee of the University of Oklahoma Foundation and he also served on the Bank of Oklahoma Board of Directors. Memorial contributions can be made to the University of Oklahoma Foundation, 100 Timberdell Rd., Norman, OK 73019 or Yellowstone Association.org.

**Monica E. McKnight** of Vienna, Va., died Sept. 3, 2013. Born May 17, 1942, she graduated from the OU Col-

lege of Law in 1976. Memorial contributions can be made to the American Cancer Society.

**Marianne Holland Michel** of Wilmette, Ill., died Aug. 1, 2012. She was born Sept. 30, 1941, in Leland, Iowa. She graduated from Forest City High School in 1959 and went on to earn a B.S. in chemistry from Iowa State University in 1962. She was a researcher at the Ames Lab, Penick & Ford, Washington University and Minnesota Valley Testing Labs. She earned her J.D. from the University of Iowa at age 49. She then worked as a patent attorney for Phillips Petroleum Co., Chevron and Pioneer Hi-Bred International. She was an avid traveler and visited all seven continents. Memorial contributions can be made to the Marianne Michel Holland Fund, Chase Bank, Attn: Brian Kolb, 1200 Central Ave., Wilmette, IL 60091.

**Hiram Keith Myers Jr.** of Edmond died July 9, 2013. He was born Sept. 10, 1931, in Utica, Mo. **He joined the U.S. Navy at the age of 16** and after his service, earned a bachelor's degree from Central Michigan University and a law degree from TU. He was admitted to the Oklahoma bar in 1964. During his 35-year career as a trial lawyer, he practiced from his firms in Hollis and Altus. He also ran on the Democratic ticket as a candidate for the U. S. Congress. He served on the boards of Western Oklahoma State College in Altus, the American Civil Liberties Union of Oklahoma and the Channing Unitarian Church



in Edmond. Upon his retirement from law, he began his career as an author. He published *In Pursuit of the Speckled Gumball* and *Corkscrewed*, two of three volumes of his memoirs. His other books include *Malachi's Child* and *The Baptism of Vincent Scarlotti*. Memorial contributions can be made to the ACLU of Oklahoma or the Channing Unitarian Church of Edmond.

**Curtis Allan Parks** of Tulsa died Dec. 18, 2013. He was born Sep. 6, 1942, in Tulsa. He received a degree in business administration and his J.D. from TU in 1967. While at TU he was a member of the Sigma Chi fraternity. He founded the Parks & Beard Law Firm along with his friend Michael Beard. Mr. Parks was an avid sportsman and enjoyed hunting and fishing with friends and his dogs.

**David "Dave" Roberts** of Oklahoma City died Jan. 6, 2014. He was born Sep. 26, 1946, in Bartlesville. He received his undergraduate degree in 1968 from OU and his J.D. from the OU College of Law in 1971. During all three years of law school he worked for the law firm Rinehart, Cooper and Stewart in Oklahoma City. Two years later he formed his own practice with a lifelong friend, and the two practiced law for 25 years. Mr. Roberts then worked as a solo practitioner until his death. He served as chairman of the Oklahoma Board of Bar Examiners. He was a past president of the Quail Creek Golf and Country Club and a member of the Oklahoma City Golf and Country Club. He also served on the vestry of All Souls' Episcopal Church and on the board of the American Heart

Association and other civic organizations. Memorial contributions may be made to the Bone Marrow Transplant Research Fund, Washington University Division of Oncology, Box 8007, Attention: Robert Barczewski, 660 Euclid Avenue, St. Louis, MO 63110.

**Michael Edward Schmidt** of Dallas died Jan. 2, 2014. He was born April 8, 1966, and attended Highland Park High School in Dallas before receiving a B.A. from Southern Methodist University. He earned an M.B.A. and J.D. from OCU in 1992 and joined his father at the Schmidt Firm LLP. He served on the Texas Trial Lawyers Association board. He was a member of the Highland Park Presbyterian Church, the American Association for Justice and the International Society of Barristers. Memorial contributions can be made in Mr. Schmidt's name to the Baylor Health Care System Foundation, Gift of Life Fund for Celebrating Women, 3600 Gaston Ave., Suite 100, Dallas, TX 75246 or the Highland Park Presbyterian Church.

**Robert Sterling Settles** of Antlers died Dec. 17, 2013. He was born Nov. 26, 1947, in Big Springs, Texas. He graduated with a degree in industrial engineering from OSU in 1971. He was honored as the top ROTC cadet. **After graduation he did a tour of duty as an officer with the U.S. Army, including airborne ranger training and a brief period of service under Gen. Colin Powell. He was a member of the U.S. Army for 30 years and retired from the U.S. Army Reserves as a colonel.** He received his J.D. from OU in 1977. He began practicing law in 1978 in

Antlers. He was active in his community as a member of the Chamber of Commerce, Lion's Club, Pushmata Bar Association and school board. He was a member of the First United Methodist Church.

**Houston Shirley** of Glenpool died Dec. 12, 2013. He was born Jan. 8, 1946, in Tulsa, where he attended Tulsa Central High School. He received his B.A. from OU in 1968. **He served in the U.S. Army as a first lieutenant, information officer for the 1st and 4th Armored Division.** He earned his J.D. from TU in 1974. He was an attorney for 39 years, practicing in Houston before owning his own practice in Bixby and Glenpool. He served as a Supreme Court of Muscogee (Creek) Nation justice for 13 years, including service as chief justice. He was a member of Bixby First United Methodist Church, the Bixby Historical Society and a 32nd degree Mason. Memorial contributions may be made to the Texas Scottish Rite Hospital for Children, 2222 Welborn St., Dallas, TX 75219.

**John Romig Smith** of Shawnee died Feb. 19, 2013. Born May 15, 1930, he graduated from Classen High School in 1948 and served in the U.S. Navy during the Korean conflict before attending OU where he graduated in 1956. He earned his J.D. from the OU College of Law in 1959. He was a founding member and president of the Oklahoma Criminal Defense Lawyers Association and served as a prosecutor in the City of Valley Brook. He coached little league, loved to play golf and, an Eagle Scout himself, was also a scout leader.



**Dewey Witt Stark Jr.** of Dallas died July 22, 2013. Born Oct. 19, 1928, in Bearden, Ark., he graduated from Ouachita Baptist University in 1950. **He served as first lieutenant in the U.S. Army for two years in Germany.** He returned home and graduated from the University of Arkansas School of Law in 1956. Following that, he moved to Tulsa where he served as assistant city attorney and had a private law practice. In 1975, he was appointed as an administrative law judge and served in that capacity in Dallas until his retirement in 2005. He served for many years as a Bible teacher and deacon at the First Baptist Church of Tulsa and the First Baptist Church of Dallas. Memorial contributions can be made to the Chinese Ministry at First Baptist Church, Dallas; Young Life, North Central Texas; or the Covenant School of Dallas.

**Stan Twardy** of Edmond died July 20, 2012. He was born Dec. 27, 1927. **He served in the armed corps in Italy during World War II.** He served as an intelligence analyst and interpreter in the office of the U.S. special representative in Europe before becoming a journalist for several newspapers and managing editor of the Oklahoma Courier, a statewide diocesan newspaper. Later, he became chief of information for the nuclear energy division of General Electric in San Jose, Calif., and speech writer for top management of Standard Oil (Amoco) in Chicago. Stan earned his J.D. and master's degree in law from John Marshall Law School in Chicago. He served as assistant U.S.

attorney for the Western District of Oklahoma, and later went into private practice focusing on civil law. Stan also represented Tinker Air Force Base and received the U.S. Air Force medal "For Selfless Sacrifice." Stan's hobbies were keeping informed of world affairs and animal photography. Memorial gifts may be sent to Sister Barbara Joseph's Pantry, 819 NW 4th, Oklahoma City, OK 73103.

**William Aciel Wilbanks** of Independence, Kan., died Nov. 20, 2013. Born Jan. 14, 1935, in Tulsa, he earned his B.A. and J.D. from TU, graduating law school in 1965. He was also a graduate of the FBI National Academy. He was captain of the Tulsa Police Department and became head of the police academy. In his retirement, he taught criminal law at TU and Tulsa Community College.

**Linda Brackins Willett** of Pasadena, Calif., died July 29, 2013. She was born March 4, 1945, in Tulsa. She earned her undergraduate degree at TU, her J.D. from TU in 1976 and an M.A. from the University of Nebraska. She taught at the University of Arkansas and Ohio Northern University law schools and at Southwestern Law School in Los Angeles. She served as president of the Women Lawyers Association of Los Angeles. She served on the women's committee for the Pasadena Symphony and was a board member of Hathaway Sycamores, an organization that helps children and families in need. She was also a founding member of the legal support network for Amnesty International. She enjoyed music, including the opera and sym-

phony, hiking in Rocky Mountain National Park and traveling to new places. Memorial contributions may be made to the Pasadena Symphony, 2 N. Lake Ave, Pasadena, CA 91101 or Hathaway Sycamores, 210 S. De Lacey Ave., Pasadena, CA 91105.

**Burton Clark Wood** of Washington, D.C., died May 9, 2010. He was born Dec. 27, 1923, in Oklahoma City. He attended OU and after his junior year, **he joined the U.S. Army, graduated officer candidate school and became a 2nd lieutenant in the infantry serving during World War II and after as part of the occupation.** He returned to OU and finished his B.A. and proceeded to attend Harvard Law School, graduating in 1950. After a stint with the Oklahoma City law firm of Embry, Johnson, Crowe & Tolbert, he became chief of staff for Oklahoma Congressman John Jarman in Washington, D.C. After leaving the congressman's office he worked for the National Association of Homebuilders and the Federal Housing Administration. His final job was with the Mortgage Bankers Association. For many years he was a senior vice-president in charge of legislative affairs. He remained with the MBA for 33 years until his death. He was an active participant in civic affairs, was a supporter of the arts in the district and a generous contributor to charitable organizations. Memorial contributions may be made to the Washington Home, The Washington National Opera or to an entity of the donors choice.

## OBA 1995 President James Duke Logan

James Duke Logan, 82, attorney and longtime resident of Vinita, died Dec. 22, 2013, at Heartsworth Center for Nursing and Rehabilitation. An accomplished trial lawyer for more than 50 years, Duke Logan was founding partner of the Vinita law firm, Logan and Lowry LLP. Among professionals, family and friends, he was known for his tenacious work ethic, caustic wit and skilled command of the English language. This was evident in the courtroom, at the dinner table, and in his professional and personal correspondence, which he often illustrated with caricatures of himself and others.

Mr. Logan was born on Feb. 4, 1931, in Norman and attended school there until his high school graduation. In 1949, he attended OU and joined the Sigma Chi fraternity. After graduating from OU with a B.A. degree, he earned his J.D. from the OU College of Law, while working nights as a policeman for the Norman Police Department. At OU, he met the love of his life, Dorothy Darrough. The couple married in 1953. They soon moved to Vinita where Mr. Logan established his law practice in 1955.

There, he served on the board of directors of First National Bank & Trust of Vinita, First National Bank of Chelsea and the Vinita School Board. For many years he acted as attorney for the City of Vinita, and as general counsel for the Grand River Dam Authority and Northeast Oklahoma Electric Cooperative. He was a member and former president of the Craig County Bar Association and a founding member and director of Cattlemen's Life Insurance Company.

In 1995, Mr. Logan was elected Oklahoma Bar Association president. Following his term of office, Gov. Brad Henry appointed him as chairman and member of the Oklahoma Council on Judicial Complaints. He served in this capacity for 10 years and as general



counsel for the state agency for six years. He was a fellow of the American College of Trial Lawyers, American Bar Foundation, and the Oklahoma Bar Foundation. He also served on the board of the Oklahoma Historical Society.

A multi-talented individual, he took pleasure in painting, sculpting, woodcarving and furniture making. For a time, he owned a private plane, and was known to "buzz" the homes of neighbors and friends. A proud yellow dog Democrat, he relished political discourse and jokes, often at the expense of his Republican family and friends. He was a diehard Sooner fan, avid quail hunter and trout fisherman who enjoyed spending many wonderful summers with his wife at their cabin in Colorado. In his later years, he enjoyed long drives on his ranch west of Vinita.

He is preceded in death by wife, Dorothy Darrough Logan; parents, Dr. and Mrs. Leonard M. Logan Jr.; and brother Leonard M. Logan III. He is survived by his brother, Kuyk Logan of Houston; children, Elizabeth "Liz" Logan, Leonard M. Logan IV, and Mary Logan Wolf of Vinita, and James "Jay" Duke Logan II of Ozark, Ark.; grandsons John Seidenberger and James Seidenberger of Vinita; and many loving nieces and nephews.

Memorial contributions may be sent to Craig County Salvation Army, 224 W. Sequoyah Ave., Vinita, OK, 74301.

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**INSURANCE EXPERT** - Michael Sapourn has been qualified in federal and state courts as an expert in the Insurance Agent's Standard of Care, policy interpretation and claims administration. An active member of the Florida Bar, he spent 30 years as an Insurance agent and adjuster. He is a member of the National Alliance faculty, a leading provider of education to agents. Call 321-537-3175. CV at [InsuranceExpertWitnessUS.com](http://InsuranceExpertWitnessUS.com).

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**THE OKLAHOMA WORKERS' COMPENSATION COMMISSION** is in need of two attorneys to serve as law clerks to the Commissioners. These are full time paid positions with state benefits. This is an ideal opportunity for a recent graduate or lawyer with 0-2 years experience. Submit résumé and writing sample to Robert.Gilliland@wcc.ok.gov, or mail to 1915 N. Stiles Ave, Oklahoma City, 73105. Positions close Jan. 31, 2014.

## POSITIONS AVAILABLE

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CHILD SUPPORT SERVICES is seeking a full-time attorney for our Tulsa West CSS Office located at 440 S Houston, STE 401, Tulsa, OK 74127. The position involves negotiation with other attorneys and customers as well as preparation and trial of cases in child support hearings in district and administrative courts and the direction of staff in the preparation of legal documents. In addition, the successful candidate will help establish partnership networks and participate in community outreach activities within the service area in an effort to educate others regarding our services and their beneficial impact on families. Position will provide recommendations and advice on policies and programs in furtherance of strategic goals. In depth knowledge of family law related to paternity establishment, child support, and medical support matters is preferred. Preference may also be given to candidates who live in or are willing to relocate to the service area.

Active membership in the Oklahoma Bar Association is required. This position has alternate hiring levels. The beginning salary is at least \$40,255.08 annually with an outstanding benefits package including health & dental insurance, paid leave & retirement. Interested individuals must send a cover letter noting announcement number **14-M001U**, a DHS Application (Form 11PE012E), résumé, three reference letters, and a copy of current OBA card to: Department of Human Services, Human Resource Management Division, Box 25352, Oklahoma City, OK 73125 or email the same to jobs@okdhs.org. OKDHS Application (Form 11PE012E) may found at <http://www.okdhs.org/library/forms/hrmd>. Applications must be received no earlier than 8:00 am on January 17, 2014, and no later than 5:00 pm on February 6, 2014. For additional information about this job opportunity, please email Marian.Amoah@okdhs.org.

### **THE STATE OF OKLAHOMA IS AN EQUAL OPPORTUNITY EMPLOYER**

**THE OKLAHOMA WORKERS' COMPENSATION COMMISSION** is accepting applications from interested persons to serve as Administrative Law Judges. Candidates must have been licensed to practice law for at least three years and have at least three years experience in workers' compensation prior to appointment. Applications will be accepted until 5:00p Friday, January 24, 2014, for positions to begin on or after February 1, 2014. ALJs are full time employees with state benefits. Some travel will be required. Application forms may be downloaded from [www.owcc.state.ok.us](http://www.owcc.state.ok.us). Submit application form, résumé, and writing sample to Robert.Gilliland@wcc.ok.gov, or mail to 1915 N. Stiles Ave, Oklahoma City, 73105.

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# Father William is Deposed

By James Drummond (With apologies to Lewis Carroll)

"You are old, Mr. William," the young deposer said,  
"And your answers are evasive and vague,  
And you insist that it's due to poisoning by lead  
As your lawyer's objections spread like The Plague."

"If I'm responsive," said William, "it will spoil the fun,  
And I fear it might injure my claim —  
And since you're perfectly sure I have none,  
I'll confine my answers to stating my name."

"You are rude," said the deposer,  
"and this is becoming a bore,  
And your claims are stupid at that;  
If lead paint made you sick in an unpainted brick  
Then I'll fly to the moon on my cat!"

"In my youth," said the sage, "for 700 weeks,  
I sucked on the point of my pencil  
And stored my lead sinkers in my cheeks  
And my brain is shredded to tinsel!"

"You lie," said the deposer, "you were never in school  
And you said you only noodled and fished with a net;  
Though you think your claims clever,  
succeed will they never,  
I request you admit you're all wet!"

"In my youth," said the plaintiff, "I took to the law,  
And argued each case with my wife;  
And the muscular strength, which it gave to my jaw,  
Has lasted the rest of my life."

"Now I have answered thirty questions,  
and that is enough,  
so please do not give yourself airs!  
Do you think I can listen all day to such stupid stuff?  
Be off, or I'll kick you downstairs!"

Editor's Note: This poem is inspired by a poem  
recited by Alice in Lewis Carroll's  
*Alice's Adventures in Wonderland*.

Mr. Drummond practices in Norman, but will soon relocate to Round Rock, Texas.



## Thursday, Feb. 6

**Oklahoma City Location**  
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