

# WIT JOURNAL

Oklahoma Bar

Volume 86 ♦ No. 2 ♦ Jan. 17, 2015

## Meet Your Bar Association

OKLAHOMA BAR CENTER



*OBA President  
David Poarch*

**ALSO INSIDE**

Legal Pitfalls in Health Care Transactions • Interest on Judgments



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*Fred Tansill* practices in McLean, Virginia, co-author of *Asset Protection Trusts and Agreements*.



*Ruth Mattson* practices in Boston, Massachusetts, with Alexander Bove; Bove is the editor of *Asset Protection Strategies* published by the American Bar Association, and author of the recently-released *Trust Protectors: A Practice Manual with Forms*.

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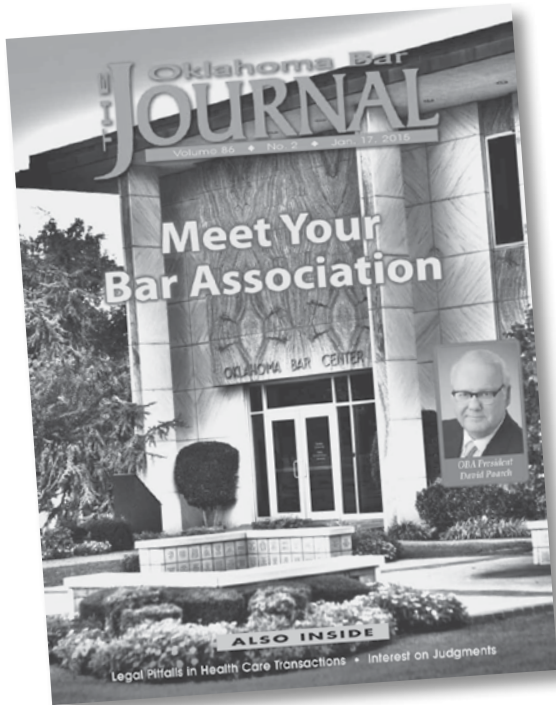
- **Prof. Sam Donaldson**, Georgia State University Law School, Atlanta, GA
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THEME:  
MEET YOUR BAR ASSOCIATION

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# Looking Ahead to 2015

By David Poarch

I have worn many hats in my professional career — federal prosecutor, lawyer, judge, law school assistant dean, professor — but I am most proud of the one I wear now as president of the Oklahoma Bar Association. It is an honor to join the men and women who have served the members of our association over the past 110 years with such distinction.

I intend to do my best to earn your respect and trust as bar president in 2015, following the example of my predecessor, Renée DeMoss, whose tireless efforts, diligence and perseverance yielded extraordinary results during her tenure, including stopping legislative action aimed at politicizing the courts in Oklahoma.

This year will be one of commitment to OBA projects currently underway, rather than one devoted to new programs or initiatives. We will redouble our efforts to educate and promote a broader understanding of the importance of the rule of law and the separation of powers between the judicial, legislative and executive branches. This will include sustained efforts to preserve and defend the independence of the judiciary against pressures brought about by the politics of the moment.

We will continue our Oklahoma Lawyers for America's Heroes program serving Oklahoma's veterans; those among us who have stepped forward to selflessly offer "the last full measure" in defense of our democratic principles, not the least of which is endowing our citizens with equal access to justice. Internally, among other things, we plan to grow the recently established Master Lawyers Section, a new division of the OBA designed to address issues unique to members who have been in practice more than 30 years or are age 60 or above.

During this year we will also share two memorable Oklahoma anniversaries, 50 and 20 years respectively; events in which lawyers played a major role. Fifty years ago this year (1965) the largest judicial corruption scandal the nation has known came to light here in Oklahoma when it was revealed that members of the Oklahoma Supreme Court

had actively taken bribes to influence their decisions. The scandal, chronicled in *Justice for Sale* by William A. Berry and James Edwin Alexander, resulted in our current system of selecting appellate judges through the Judicial Nominating Commission; an endeavor to minimize politics in the state's judicial selection process led by Dean Earl

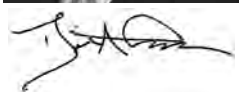
Sneed, a banker, oil man and lawyer who served as dean of the OU College of Law in the 1960s.

And 20 years ago this year (1995), the Oklahoma City bombing occurred. Among the victims were members of the Oklahoma Bar Association. In its aftermath, Oklahoma's lawyers prosecuted and defended the accused, represented victims and their families — and were instrumental in

the eventual creation of the Oklahoma City National Memorial & Museum that today draws visitors from around the world.

I look forward to our year together, honoring the important role all Oklahoma lawyers play in our society, working to ensure that our courts remain fair, impartial and open to everyone; always bearing in mind that the freedoms we enjoy come at a cost. Thank you — each of you — for devoting yourselves to the important work we do as members and representatives of the co-equal third branch of government.

*This year will be one of commitment to OBA projects currently underway, rather than one devoted to new programs or initiatives.*



President Poarch practices in Norman. dpoarch@baileyandporch.com 405-329-6600

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**JOURNAL STAFF**

JOHN MORRIS WILLIAMS,  
Editor-in-Chief  
[johnw@okbar.org](mailto:johnw@okbar.org)

CAROL A. MANNING, Editor  
[carolm@okbar.org](mailto:carolm@okbar.org)

LORI RASMUSSEN,  
Assistant Editor  
[lorig@okbar.org](mailto:lorig@okbar.org)

EMILY BUCHANAN,  
Advertising Manager  
[advertising@okbar.org](mailto:advertising@okbar.org)

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# Meet Your Bar Association

## Poarch to Proudly Serve as 2015 OBA President

By Emily Buchanan

**G**rowing up in Pacheco, Calif., in the San Francisco Bay area during the civil rights era profoundly impacted 2015 OBA President David Poarch, helping mold him into what he is today.

“The inspiration to become a lawyer happened in the context of a larger movement in society, the civil rights movement, awakening something in me,” he said.

David, who grew up with an innate desire to help those in need, has been practicing law now for 38 years, making his debut as an assistant U.S. attorney.

He now practices estate planning, real estate and business-related trial work at Bailey and Poarch Law Firm in Norman. He serves as Norman’s presiding municipal judge and is a member of several legal organizations. He served on the OBA Board of Governors on two separate occasions, and is now proudly serving as 2015 OBA president.

“Being president is important because it’s a way of paying back all the benefits my legal education has afforded me,” he said. “I am fortunate to be a lawyer — it’s an honorable profession. I am proud to call myself a lawyer and to the degree I can help others be proud of the role lawyers play, I am willing and honored.”

David lives with his wife of 17 years, Teana, near the University of Oklahoma campus. They have two kids and four grandchildren whom,



*OBA 2015 President  
David Poarch*

he says, he doesn’t get to see nearly as often as he’d like.

### THE PATH TO SUCCESS

David’s father, who grew up on a farm in Crescent, and his mother, whose parents ran a small grocery store in South Dakota, met and married in California — brought together by World War II. They moved back to Oklahoma City for a short stint, where David was born, and moved back to California when he was three years old.

When he was young, his mother took him to see the movie, *To Kill a Mockingbird*, inspiring him to one day become an attorney.

“The sight of Atticus Finch leaving the courtroom after trying in vain to stop a terrible injustice resonated with me,” David said, “a 13-year-old whose notions of fairness, justice and equality were being shaped by my



*David with his only  
grandson, David Jackson “Jack”*

# Presidential Trivia

**What was your first job after law school?**

*U.S. Attorney's Office*

**What song is your guilty pleasure?**

*"Stardust" by Willie Nelson*

**What is your motto?**

*Before you can live with other folks, you've got to live with yourself. What we see in others depends mainly on what we look for.*

**Why did you become a lawyer?**

*To help. I believed one person could have an impact if they were educated and motivated. I was motivated but that wasn't enough. I needed to be educated.*

**What website do you visit most often?**

*Google! No doubt!*

**Favorite novel or work of fiction?**

*To Kill a Mockingbird*

**Favorite holiday?**

*4th of July*

**What's your #1 rule for work/life balance?**

*They need to be addressed in reverse order.*

**Favorite breakfast food?**

*Oatmeal, coffee with cream, an apple or banana*

**Best advice for a new lawyer?**

*It depends on the attorney! Never underemphasize honesty and integrity, and the idea what you do is more important than YOU as a lawyer.*

**What is your New Year's resolution?**

*Be grateful*

growing awareness of the civil rights movement."

Although, he said, the legal vocation always seemed just a little out of reach.

"It played on in my mind for the next number of years, until it became within reach. No one in my immediate family had gone to college, so college didn't seem achievable for me at the time."

At 18, he joined the Army, including a year-long stint in Vietnam as a medic.



*David and his brother Jeffery at Golden Gate Bridge*

importance of creases, polish, starch and making sure your buttons are buttoned."

In 1970, David's goal of becoming an attorney started to become a reality. After his service, he moved back to Oklahoma to pursue his childhood dream. He was able to attend Central State (now UCO) on the "GI Bill." He graduated in 1973 with his bachelor's in history.

"... Which landed me a job as a pharmaceutical salesman!" he said.



*David and Teana with two of their grandkids*



*David and Teana in Carmel, Calif.*

"That was a pivotal moment in my life," David reflected on his service. I joined the army to find myself (and found myself where I didn't want to be). That experience at 18 shaped my future. I learned discipline, responsibility, accountability, the importance of helping others, meaning what you say, keeping commitments... also the



*David (back row) with his parents and two siblings, 1964*

During college, he found a mentor in a young uncle, a psychiatrist, who resided in Oklahoma.

"My uncle, dad's younger brother, was the first in his family who went to college, and he understood what I was trying to

accomplish. He became my mentor, sort of an older brother.”

David later moved on to law school at the University of Oklahoma. Following his uncle’s example, he also paved a new path by becoming the first and only lawyer in his family.

## LEGAL CAREER

David graduated from OU Law in 1977 and began his career at the U.S. Attorney’s Office in Oklahoma City.

“That job had a profound impact on me, he said.” “I was

the eighth or ninth person in the U.S. Attorney’s Office. It was a small office, but there was lots of responsibility.

“I had great support around me,” he continued. “It shaped my view of the profession and what my obligations are as a lawyer. It was unusual for a new lawyer to be hired in the U.S. Attorney’s Office.”

John Green, the first African American to serve as acting

U.S. attorney, was the one who hired David, giving him a hand up.

“I will forever be grateful and indebted to him,” David said. “John Green was the first lawyer who looked at me and thought I could succeed as a lawyer. I didn’t even know any lawyers at the time. He didn’t know me or owe me anything, but he was kind enough to give me that job and set me on the right path.”

After his position at the U.S. Attorney’s Office, David went

into private practice, and later served as assistant dean at the University of Oklahoma College of Law. He has been practicing law in some capacity his entire career.



David (far right) with his two younger siblings, Lisa and Jeffery



David and Teana on vacation



David with his two sons, Tyler and Nathan



David on a convoy in Vietnam (1968)

## What is your favorite nonprofit?

Pepper’s Ranch - home in Edmond, homes on acreage, couples take in kids and raise as family, what they do and way they go about it is a model to be studied and copied. [www.peppersranch.com](http://www.peppersranch.com)

## Ten years from now I’ll be ...

Enjoying retirement (and a little law practice)

## What are your hobbies?

Travel, friends, fly fishing, play at golf, reading

## What was your most proud moment?

When I finished law school, as we walked down the street, my dad said he was proud of me.

## If I weren’t a lawyer, I’d be a ...

psychiatrist - something in the nature of helping.

## Hidden talent?

Singing. I grew up singing gospel, quartet, sang in high school and college.

## What is your favorite vacation spot?

That’s a hard question. I grew up camping in the redwoods. I’m always at peace and comfortable in that setting, but I’m also not opposed to 72 hours in Vegas!

## Who was your mentor?

I’ve had several. John Green, as well as all the other folks in the U.S. Attorney’s Office — including paralegals who were helpful; Judge Ralph Thompson, Judge Dougherty, Judge Bohannon, all other judges, Magistrate Pat Irvin helped me learn to write briefs, which served me well. Andy Coats, dean of OU Law School modeled the importance of gaining loyalty by being loyal

continued on next page

**What, do you think, is the importance of having a mentor?**

*We need someone we trust and respect to challenge our thinking and judgment, and to help see us through rather than see through us.*

**What is your worst habit?**

*My wife could tell you I tend to leave a bit of a trail behind me!*

**What did you want to be when you were a kid?**

*Minister, doctor, fireman, policeman, teacher... I had great respect for many of my teachers. They greatly influenced my life.*

**Who has made the biggest impact on your life and why?**

*My wife. She has helped me see myself more clearly and realistically.*



*The Poarches in Hawaii*



*David as a young lawyer, 1980*

Even while serving as assistant dean from 1997 to 2012, he had an outside practice.

“I enjoy what I do,” David said. “I enjoy getting up every single day and going to work.”

**WHAT 2015 WILL BRING**

It’s been the tradition that the new OBA president has a special initiative for the year. This year, David is changing things up; instead of bringing forth a new project, he is making cultivation, communication,

involvement and growth of several important OBA programs (most of them implemented late in 2014) his focus.

“We have had a lot of good things put into place,” David said of the Heroes program, the YLD Kick it Forward program, the new Master Lawyers Section, the Speakers Bureau and the continued community education on our third branch of government. “I want to stabilize and grow those programs, build support, strengthen and increase participation.”



*David as US Army Medic, Age 18*

To make growth in these programs successful, David urges Oklahoma attorneys to get involved.

“I recognize lawyers are busy and have lots of responsibility,” David said. “Any service they can provide is voluntary and above and beyond.

“But being a lawyer is a calling,” he continued. It carries with it obligations that transcend the mere delivery of



*David as assistantOU Law dean, Attorney Steve Porch and former OU Law Dean Andy Coats*

**“David, who grew up with an innate desire to help those in need, has been practicing law now for 38 years.”**

services. It's important we help one another as well as our fellow citizens. I would encourage Oklahoma attorneys to think about helping through the bar, however they are able.”



*David as a young boy, circa 1950*

David commends Renée DeMoss on her tireless commitment and dedicated service to the bar in 2014. He plans to carry the torch and make 2015 the OBA's strongest year yet, strengthening our current programs, aiding our communities and ensuring the OBA's voice is heard.

## Programs That Need Your Help

### Oklahoma Lawyers for America's Heroes

“We owe it to those who offer the last full measure — assuring them a justice system that's fair and impartial,” David said.

The OBA Heroes program was created to provide veterans with necessary legal help. Currently, the Heroes program is in dire need of family law practitioners.

[www.okbar.org/heroes/Welcome](http://www.okbar.org/heroes/Welcome)

### YLD Kick it Forward

The YLD Kick it Forward program was developed to help attorneys who are struggling to pay their bar dues. Attorneys may choose to donate by checking the “Kick it Forward” box on their dues statements.

“We as lawyers stick together when we can; help one another,” President Poarch said. “We should, that's what makes this a profession. What we do transcends our individual goals, and helping one another get started is the least we can do. Offering a hand up, not a hand out. I think it's a great program, and I appreciate that the YLD has taken this on. Young lawyers are the ones most affected with the debt burden many of them carry when they leave law school.”

### OBA Master Lawyers Section

The OBA Master Lawyers Section was implemented late in 2014 with the purpose of aiding our aging attorneys.

“I thank Susan Shields and Renée DeMoss for their efforts on this program,” Mr. Poarch said. “With increasing numbers of aging lawyers nationwide, it's important to address the issues that come with the territory — projected retirements, the availability of legal services especially in our outlying areas, transitioning to practicing online. It also sets the stage for an opportunity if new lawyers are willing to relocate.”

Learn more at [www.okbar.org/news/Recent/2014/mastersection](http://www.okbar.org/news/Recent/2014/mastersection)

### Speakers Bureau

The OBA Speakers Bureau connects volunteer attorneys with community organizations, civic groups and schools, allowing attorneys the opportunity to speak to and educate the public on legal matters.

“My goal is getting more lawyers to participate and make themselves more available,” David said.

Sign up at [speakers.okbar.org](http://speakers.okbar.org)

### Community Education and Outreach of Judicial System

Mr. Poarch plans to continue the town hall programs and implement the use of the Speakers Bureau to increase public education on our third branch of government.

“This program is important. Civics education is critical if we hope to preserve our judicial system. Understanding fosters respect in those most affected if the judicial system is undermined or diminished — the ordinary citizens of Oklahoma. A fair and impartial court hearing is the last resort for many folks.”

# Meet Your Bar Association

## Volunteers Who Guide Your Association



**Garvin Isaacs Jr.**  
PRESIDENT-ELECT  
Oklahoma City

■ **Background:** I grew up in Apache. My father, Garvin A. Isaacs, was Apache School District superintendent of schools. My mother, Ellen Isaacs, was a grade school teacher. I have one brother, Philip Isaacs, who is a real estate appraiser and expert witness in real estate cases.

■ **Education:** I graduated from Apache High School in 1963 and attended Texas Christian University on a basket-

ball scholarship. I played four years for the Horned Frogs, graduating in 1967 with a bachelor's degree in government.

I was obsessed with basketball. Cliff Hagan, coach of the Dallas Chaparrals, an ABA team, told me when he cut me from the team, "Do yourself a favor, play for two or three more years and if you don't make it, go to law school like you planned. Don't wind up being a drunk sitting in a bar talking about when you were a basketball player."

I went to Bridgeport, Conn., to play with the Bridgeport Savoy's in the New England Basketball League and to attend the University of Bridgeport seeking a master's degree in English. I finished all course requirements but never finished my master's thesis, which was on Mark Twain and Bram Stoker.

I graduated from OCU Law School in 1974 and during my last year of law school, I worked as a legal intern for the Oklahoma County Public Defender's Office where I was fortunate to be given the opportunity and the experience of trying nine jury trials before I graduated.

■ **First job after law school?** With the Oklahoma County District Attorney's Office under Curtis P. Harris

■ **What song is your guilty pleasure?** Chuck Berry's "Memphis," Woody Guthrie's "Down in Oklahoma" and "Tighten Up" by Archie Bell and the Drells

■ **What is your motto?** Winston Churchill said it best, "Never, never, never, give in." Satchel Paige, "Don't look back. Somebody might be gaining on you."

■ **Why did you become a lawyer?** My grandfather, C.W. Holman, was justice of the peace in the town of Gotebo. He stressed to me how important it was that lawyers uphold the Constitutions of the United States of America and the state of Oklahoma. When he was called as a juror in the District Court of Kiowa County, he took me to court with him. At that time I was 10 years old.

The case was a black man accused of raping a white woman. My grandfather was called as a juror, questioned and excused. I never forgot that experience, and after that I knew I would be a lawyer.

■ **Most frequently visited website?** OSCN.net

■ **Favorite novel or work of fiction?** *The Adventures of Huckleberry Finn* by Mark Twain

■ **Favorite holiday?** Fourth of July

■ **#1 rule for work/life balance?** Clean living and daily prayer

■ **Favorite breakfast food?** Eggs

■ **Best advice for a new lawyer:** Be honest and truthful. Never misrepresent the facts or the law to a judge, jury or your adversaries.



**Glenn A. Devoll**  
VICE PRESIDENT  
*Enid*

- **Background:** Primary practice areas are oil and gas, banking, real property and corporate; have been in private practice in Enid since 1978; shareholder and director at Gungoll, Jackson, Box & Devoll PC since 1996
- **Education:** OSU and Central State University — graduated 1974 with degree in business administration; J.D. from OCU in 1977

- **First job after law school?** Worked as in-house counsel at Liberty National Bank & Trust Co. in Oklahoma City 1977-78
- **What song is your guilty pleasure?** “House of the Rising Sun” by the Animals
- **What is your motto?** Get ‘R Done
- **Why did you become a lawyer?** Thought it would provide a profession that would require me to always keep learning — that keeps us young and informed
- **Most frequently visited website?** Fox News
- **Favorite novel or work of fiction?** *To Kill a Mockingbird*
- **Favorite holiday?** All of them
- **#1 rule for work/life balance?** Work to play
- **Favorite breakfast food?** Coffee, orange juice, sausage and eggs, with a banana — in that order
- **Best advice for a new lawyer:** Listen more than you speak, study hard, be prepared, fight hard but with civility, never lie to the court, your partners or opposing counsel, care about your clients



**Renée DeMoss**  
PAST PRESIDENT  
*Tulsa*

- **Background:** Born and raised in Oklahoma; shareholder with GableGotwals
- **Education:** B.A. *summa cum laude* from OCU, J.D. with honors from OU
- **First job after law school?** I joined Gable Gotwals Rubin Fox Johnson & Baker, a 25-attorney firm in Tulsa, right after law school graduation in

1984. Technically, I am still at the same firm, but after 30 years, mergers, name changes, Tulsa office location change, addition of an Oklahoma City office and 84 total lawyers, it’s debatable.

- **What song is your guilty pleasure?** Currently, it is “Happy” by Pharrell Williams, the singer who wears the big Arby’s hat. What adult can’t like that song and feel a little guilty about it?
- **What is your motto?** It’s not really a motto, but as a lawyer and as an individual, I take comfort in the Shakespearean phrase, “But at the length truth will out.”
- **Why did you become a lawyer?** A history/ political science major and love of reading
- **What website do you visit the most often?** I Google a lot.
- **Favorite novel or work of fiction?** *Gone with the Wind* and John Grisham novels
- **Favorite holiday?** Hands-down Christmas, with its meaning, traditions and trimmings
- **What’s your #1 rule for work/life balance?** Take it one day at a time
- **Favorite breakfast food?** Braum’s breakfast fruit and yogurt — or anything from Merritt’s Bakery in Tulsa
- **Best advice for a new lawyer:** Watch, listen and learn



**John M. Weedn**  
GOVERNOR –  
DISTRICT NO. ONE  
Miami

- **Background:** Grew up on a farm outside of Cyril
- **Education:** Bachelor’s in political science from Missouri Southern, juris doctorate from University of Oklahoma
- **First job after law school?** Worked in my grandfather’s (John Arney) office in Weatherford
- **What song is your guilty pleasure?** “Heaven” by Warrant;

almost any ‘80s hair band music

- **What is your motto?** It’ll be fine
- **Why did you become a lawyer?** To follow in my grandfather’s footsteps. He believed that being a lawyer is one of the few professions that a person can actually help people and make a difference in their lives.
- **Most frequently visited website?** Facebook. It has become as much of a tool for discovery and trial prep as written interrogatories. Often our first advice to clients is to “Keep your business off of Facebook.”
- **Favorite novel or work of fiction?** *Sick Puppy* by Carl Hiaasen
- **Favorite holiday?** Fourth of July
- **#1 rule for work/life balance?** Don’t be afraid to not take a case/client.
- **Favorite breakfast food?** Bacon. It’s the candy bar of meats.
- **Best advice for a new lawyer:** Go to the courtrooms you will practice in and watch, listen and learn.



**Kevin T. 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
- **First job after law school?** Working for attorney Don Shaw doing nothing but title opinions. I repeat NOTHING but title opinions.

- **What song is your guilty pleasure?** “The Battle of New Orleans” by Johnny Horton
- **What is your motto?** Don’t run with scissors
- **Why did you become a lawyer?** Working at the courthouse seemed a lot easier than working in the oil refineries
- **Most frequently visited website?** Yahoo News
- **Favorite novel or work of fiction?** *The Hobbit*
- **Favorite holiday?** Thanksgiving
- **#1 rule for work/life balance?** Never take work home
- **Favorite breakfast food?** Biscuits and gravy. And second to that is biscuits and gravy.
- **Best advice for a new lawyer:** Listen to the elders!



**Robert D. Gifford**  
GOVERNOR –  
DISTRICT NO. THREE  
Oklahoma City

- **Background:** Born and raised in Mannford (Creek County); started my legal career on active duty with the Army JAG Corps; left active duty (but have remained in the Army Reserves) to become an assistant D.A. in Tulsa County; joined the U.S. Attorney’s Office in Reno, Nev., and eventually came “home” to the U.S. Attorney’s Office in Oklahoma City. Member of the Chero-



kee Nation, serve as the chief judge for the Kaw Nation tribal court, and as an adjunct law professor at the law schools at OCU and OCU. Gloria and I have three amazing daughters, Gabriela (16), Olivia (13) and Juliana (8).

- **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.
- **First job after law school?** Once I convinced my family I would not be peeling potatoes, I was commissioned a first lieutenant in the Army JAG Corps. After completing my "salute school" and the JAG Corps' officer basic course, I was assigned to Fort Knox where I began my career as a "legal assistance attorney" doing simple wills, taxes, chasing away creditors, cleaning up credit reports, doing powers of attorney, and being counsel to over 500 soldiers, their spouses and multitude of veterans in less than a year. I once drafted up a quick will for a World War II veteran in the back of his station wagon as he was headed to the hospital for a surgery he didn't know if he would survive.
- **What song is your guilty pleasure?** I would answer, but I know the judges I appear in front of may read my response. I do need to maintain some credibility...
- **What is your motto?** Nothing. What's a motto with you? (stolen from The Lion King)
- **Why did you become a lawyer?** Because I can't sing or dance. Seriously, the sound-bite reason would almost be considered cliché — and would probably mirror most of the bar association — of course, with my own personal variations of tilting at windmills.
- **Most frequently visited website?** For serious news, I tend to go to The Onion, The Lost Ogle, Twitter and Reddit. For legal websites OBA-Net, How Appealing, CAAflog and Jim Calloway's Law Practice Tips. Of course, never during business hours.
- **Favorite novel or work of fiction?** *Lonesome Dove* by Larry McMurtry and *A Time to Kill* by John Grisham
- **Favorite holiday?** Hands down it is Christmas; a reminder as I walk through my own "Bedford Falls" that it is indeed A Wonderful Life.

- **#1 rule for work/life balance?** No such thing as balance. The scale is always tipped heavily one way or the other. Just make sure you keep it tipped to the fun and relaxed side from time to time (and that you can still smell the roses if you run with them in your hand).

- **Favorite breakfast food?** Cold fried chicken

- **Best advice for a new lawyer:** You will find occasion to write a letter, email or response to a motion that will be filled with your vitriol to that opposing counsel. Sit on it for a day. Share it with your mentor to take pride in your wit, sarcasm and brilliance. Then delete it. No matter how difficult opposing counsel can be, take it in stride. To quote Churchill, "I like a man who grins when he fights."



**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

**First job after law school?** I was a legislative assistant to U.S. Sen. Henry Bellmon.

- **What song is your guilty pleasure?** "My Girl" by the Temptations
- **What is your motto?** If you have to swallow a frog, don't look at him too long.
- **Why did you become a lawyer?** My dad was a farmer, and I wanted to go into a business in which I could be my own boss, as my dad had been. President Nixon ended the draft and law school as opposed to Vietnam became an option. I wanted to be able to help clients solve problems in a favorable and timely manner.
- **Most frequently visited website?** Cattle market
- **Favorite novel or work of fiction?** *Gone with the Wind*
- **Favorite holiday?** Christmas

- **#1 rule for work/life balance?** Family comes first
- **Favorite breakfast food?** Spanish omelet
- **Best advice for a new lawyer:** Work hard and provide a quality product on time to your client



**Ricky J. Knighton**  
GOVERNOR –  
DISTRICT NO. FIVE  
Norman

- **Background:** I was born in Oklahoma City and raised by my paternal grandparents, David and Lorene Knighton, in Holdenville. I moved to Norman in 1984 to attend OU football games (I mean go to school) and never left.
- **Education:** B.A. in sociology from the University of Oklahoma, 1989; J.D. from the University of Oklahoma, 1996
- **First job after law school?** Assistant city attorney I, City of Norman
- **What song is your guilty pleasure?** “Adagio for Strings”
- **What is your motto?** Your reputation really does precede you.
- **Why did you become a lawyer?** I have a B.A. in sociology.
- **Most frequently visited website?** YouTube
- **Favorite novel or work of fiction?** Any of the Harry Potter literary series
- **Favorite holiday?** Fourth of July before the bottle rocket ban
- **#1 rule for work/life balance?** Fish
- **Favorite breakfast food?** Eggs
- **Best advice for a new lawyer:** Your reputation really does precede you.



**James R. Gotwals**  
GOVERNOR –  
DISTRICT NO. SIX  
Tulsa

- **Background:** I am a life-long Tulsan. I have been married to my wife, Janet Gotwals, for 33 years, and we have three kids together, who are now all adults.
- **Education:** I graduated from Tulsa Central High School in 1968; BBA in finance from Oklahoma University in 1972; and law degree from Oklahoma University in 1975
- **First job after law school?** I was an associate attorney for GableGotwals in Tulsa for three years.
- **What song is your guilty pleasure?** The “Rocky” theme song
- **What is your motto?** Yesterday really ended last night, and tomorrow is a new day. Don’t waste time and energy worrying about things you can’t impact, such as the past.
- **Why did you become a lawyer?** I wanted to help people.
- **Most frequently visited website?** Google
- **Favorite novel or work of fiction?** James Patterson novels
- **Favorite holiday?** Christmas
- **#1 rule for work/life balance?** Be prepared
- **Favorite breakfast food?** Eggs Benedict
- **Best advice for a new lawyer:** Integrity and good preparation are your strongest virtues



**Roy D. Tucker**  
GOVERNOR –  
DISTRICT NO. SEVEN  
*Muskogee*

■ **Background:** I was born and raised in Lexington and graduated high school in 1994.

■ **Education:** University of Central Oklahoma, B.A. in English, 1998; University of Tulsa College of Law, J.D. 2003.

■ **First job after law school?** Associate at Bridger-Riley & Associates PC in Tulsa

■ **What song is your guilty pleasure?** "Geronimo" by the Oz Indie band, Sheppard

■ **What is your motto?** Always be a first-rate version of yourself, instead of a second-rate version of somebody else. — Judy Garland

■ **Why did you become a lawyer?** I always thought the law was fascinating and that being a lawyer was the best profession of all.

■ **Most frequently visited website?** Amazon.com

■ **Favorite novel or work of fiction?** *The Catcher in the Rye* by Salinger

■ **Favorite holiday?** Halloween

■ **#1 rule for work/life balance?** Alone time is very important

■ **Favorite breakfast food?** Brunch

■ **Best advice for a new lawyer:** Get involved in the bar and your community



**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

■ **First job after law school?** An Air Force judge advocate stationed at Andrews Air Force Base, Washington, D.C.

■ **What song is your guilty pleasure?** "In My Life" by the Beatles

■ **What is your motto?** Be prepared

■ **Why did you become a lawyer?** An opportunity to serve the Air Force in a different capacity

■ **Most frequently visited website?** OSCN.net

■ **Favorite novel or work of fiction?** *From Here to Eternity*

■ **Favorite holiday?** Thanksgiving

■ **#1 rule for work/life balance?** Enjoy your work

■ **Favorite breakfast food?** Steel cut oats

■ **Best advice for a new lawyer:** Be a person of your word



**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

■ **First job after law school?** Taught law at Baylor Law School

■ **What song is your guilty pleasure?** "Baby's Got Her Blue Jeans On"

■ **What is your motto?** Treat everyone you love as if this is the last day you'll ever see them; treat everyone else as if you will see them every day the rest of your life. (Easier said than done)

- **Why did you become a lawyer?** To help people and go into politics (second reason didn't work out)
- **Most frequently visited website?** Gmail or Facebook; it's a toss-up.
- **Favorite novel or work of fiction?** *To Kill a Mockingbird*
- **Favorite holiday?** Christmas
- **#1 rule for work/life balance?** Work consumes too much of life; don't let it burden all.
- **Favorite breakfast food?** Most common is oats (hearty oatmeal or homemade granola), but I'd like to be able to eat Belgian waffles.
- **Best advice for a new lawyer:** Stay focused and don't procrastinate



**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
- **First job after law school?** Assistant district attorney in Hughes County
- **What song is your guilty pleasure?** Anything by the Spice Girls

- **What is your motto?** Get down, get funky and get back up again
- **Why did you become a lawyer?** It seemed like an interesting way to make a living.
- **Most frequently visited website?** OSCN.net, unfortunately
- **Favorite novel or work of fiction?** *The Deer-slayer*. I sincerely believe that James Fenimore Cooper is the greatest American author.
- **Favorite holiday?** Statehood Day (there's not a lot of preparation or expense)

- **#1 rule for work/life balance?** Don't bring your work home with you.
- **Favorite breakfast food?** Breakfast burrito from Fancy That (a Norman restaurant)
- **Best advice for a new lawyer:** Your reputation for honesty and integrity is easy to destroy and hard to build back.



**Sonja R. Porter**

GOVERNOR –  
AT LARGE  
Oklahoma City

- **Background:** I was born and raised in the small blue-collar town of Kingsport, Tenn. (that's in the far northeast corner), where most foods are deep fried in fat and smothered in gravy. Kingsport is the headquarters for the Eastman Chemical Manufacturing plant, where my dad worked for almost 30 years before he retired, and where I spent two summers working before going to law school. I moved to Oklahoma City upon being accepted to OCU

Law School in 1996, fully intending to return to Tennessee after I finished. But while here, I reunited with a college friend, who convinced me to marry him in 1997. So I've been a transplanted Okie ever since. We currently live in Yukon with our three children, Jozef (14), Sean (10) and Mikayla (6), plus two cats and a dog.

- **Education:** 1995 BA in pre-law from Bob Jones University (Greenville, SC); 1999 J.D. from Oklahoma City University School of Law
- **First job after law school?** I continued as a legal intern in the Oklahoma County DA's office while preparing for the bar exam. After admission, I had to wait two to three months until an ADA position opened up. While I waited, I helped out a solo attorney.
- **What song is your guilty pleasure?** "Rocky Top (Tennessee)"
- **What is your motto?** You don't know until you try.
- **Why did you become a lawyer?** I loved criminal law and wanted to be a detective. However, because I loved to argue, several people suggested I go to law school instead. What sealed it for me was spending one month volunteering

in my local DA's office in Tennessee, where I got to shadow everyone involved. I knew then that the courtroom was where I belonged.

- **Most frequently visited website?** [www.viki.com](http://www.viki.com) (a site for watching Korean and Taiwan shows)
- **Favorite novel or work of fiction?** I rarely read a book for fun once, let alone more than once to call it a favorite. My favorite work of fiction would have to be *Doctor Who*.
- **Favorite holiday?** Thanksgiving
- **#1 rule for work/life balance?** Schedule time for both and stick to the schedule
- **Favorite breakfast food?** Coffee. I really can't single out anything. I rarely eat breakfast, but when I do, I prefer to have several items that go together, preferably fried and smothered in syrup or gravy.
- **Best advice for a new lawyer:** Don't take it personally, don't make it personal — but be personable.



**Dierdre 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. In October 2014, I joined the Oklahoma Attorney General's Office of Civil Rights Enforcement in Tulsa. I've been married to my husband, Terry,

since 1977; we have two sons, a beautiful daughter-in-law and granddaughter — and our newest addition, a grandson, born in July.

- **Education:** OSU for three years and then graduated *cum laude* from Phillips University in 1981; J.D. from OU with highest honors in 1984
- **First job after law school?** Conner & Winters, in Tulsa (which at the time I joined in 1984 was the only C&W location)

- **What song is your guilty pleasure?** My song choices depend on my mood and range from baroque classical to classic rock. My "guilty" pleasure, if you mean what's almost (or maybe is) embarrassing to admit is I love some of the more classic disco songs (thank you Sirius-XM channel 7) such as "You Should be Dancing" by the Bee Gees, "Last Dance" by Donna Summer and (probably most embarrassing) "Play that Funky Music White Boy" by Wild Cherry. I can't believe I've actually admitted that in writing!
- **What is your motto?** Hmmmm...I don't really have one. Perhaps something I have thought to myself a few times (maybe more) over the years is "What goes around comes around," probably better known as "karma."
- **Why did you become a lawyer?** After Terry and I were married, I worked for several years as a legal secretary. I decided the law would be something I could do and feel that I was making a difference while never being bored — turns out I was correct!
- **Most frequently visited website?** OSCN.net
- **Favorite novel or work of fiction?** Frank Baum's *Wizard of Oz* books and anything by Stephen King
- **Favorite holiday?** Christmas, followed closely by Halloween (although not technically a holiday). I love decorating the house (although I haven't done it for several years now).
- **#1 rule for work/life balance?** I'm not sure I really have that down yet, perhaps because I haven't identified a #1 rule?
- **Favorite breakfast food?** If I'm eating at breakfast, it's yogurt (Greek with fruit on the bottom) and toast or an English muffin. If I'm eating at brunch (my preference but not one I get to enjoy very often), it's scrambled eggs, bacon and biscuits and gravy (I know it's not just one thing, but who eats just one thing for breakfast? Although I guess many mornings my "breakfast" is a piece of string cheese). If I'm held to just one thing — coffee.
- **Best advice for a new lawyer:** Find a good mentor and know the Rules of Professional Conduct. Be professional in all your dealings, especially when it's most difficult. Communicate with your clients, even if it's just to say, "Hey, there's nothing really going on right now, but I wanted to touch base with you." Give back to your community and to the less fortunate,

whether through volunteer work or money (depending on your circumstances); we can change the world, one person at a time.



**LeAnne McGill**

GOVERNOR –  
YLD CHAIR  
Edmond

■ **Background:** I was born and raised in Oklahoma City. I moved to Edmond during law school and have lived there since.

■ **Education:** B.A. in English and political science from Oklahoma State University and Oklahoma City University School of Law

■ **First job after law school?** Associate at Miller Dollarhide

■ **What song is your guilty pleasure?** "Gangsta's Paradise"

■ **What is your motto?** You only live once; but if you do it right, once is enough.

■ **Why did you become a lawyer?** It's been my dream since I was 4 years old. I used to watch LA Law with my mom and tell her that would be my job someday.

■ **Most frequently visited website?** Nordstrom.com

■ **Favorite novel or work of fiction?** Anything by my talented assistant who moonlights as the author, Alicia Dean

■ **Favorite holiday?** Christmas

■ **#1 rule for work/life balance?** Take time away from the office, do things you enjoy, live your life and don't let your office be your life

■ **Favorite breakfast food?** Sausage, scrambled egg and cheese McMuffin with the folded egg instead of the round egg (which is very important)

■ **Best advice for a new lawyer:** Find a mentor and ask lots of questions. Sit in courtrooms and watch experienced lawyers to learn what to do and what not to do. Take constructive criticism to heart and use it to make you a better lawyer. Remember that you will always have more to learn no matter how long you practice.

**OKLAHOMA BAR JOURNAL EDITORIAL CALENDAR**

**2015 Issues**

■ February  
**Legal Research Writing**  
Editor: Erin L. Means  
erin.l.means@gmail.com  
Deadline: Oct. 1, 2014

■ March  
**Municipal Law**  
Editor: Mark Ramsey  
mramsey@soonerlaw.com  
Deadline: Oct. 1, 2014

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

■ April  
**Law Day**  
Editor: Carol Manning

■ May  
**Education Law**  
Editor: Judge Megan Simpson  
megan.simpson@oscn.net  
Deadline: Jan. 1, 2015

■ August  
**Opening a Law Office**  
Editor: Dietmar Caudle  
d.caudle@sbcglobal.net  
Deadline: May 1, 2015

■ September  
**Bar Convention**  
Editor: Carol Manning

■ October  
**Family Law**  
Editor: Leslie Taylor  
leslietaylorjd@gmail.com  
Deadline: May 1, 2015

■ November  
**President's Topic**  
Editor: Melissa DeLacerda  
melissde@aol.com  
Deadline: Aug. 1, 2015

■ December  
**Ethics & Professional Responsibility**  
Editor: Shannon L. Prescott  
shanlpres@yahoo.com  
Deadline: Aug. 1, 2015

# 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 - Debra Jenkins, Suzi Hendrix, Director Craig Combs, Durrel Doc Lattimore, Roberta Yarbrough and Tracy Sanders*

## **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
- staffing bar center reception area
- selling bar cards
- processing incoming and outgoing mail

**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



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

- assisting the Law Day Committee in accomplishing extensive Law Day statewide activities and community service projects that generate significant positive public recognition for the legal profession



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



*CONTINUING LEGAL EDUCATION - (seated) Director Susan Damron Krug, (standing) Marley Harris, Mark Schneidewent and Renee Montgomery*

### **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. 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*
- ❑ 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**



*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 - (seated) Ben Douglas, Dieadra Goss; (standing) Laura Brown and Misty Hill*

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



*INVESTIGATORS - (front row) Sharon Orth and Bill Thames; (back row) Manni Arzola, Krystal Willis and Tanner Condley*

**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



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

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 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)**



*LRE — Coordinator Jane McConnell and Wanda Reece*

### ***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. LRE, now in its 26th 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, participatory citizenship through digital media. LRE is under the direction of Jane McConnell, Law-related Education coordinator and Wanda Reece, 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)***



*MAP — Director Jim Calloway*

### ***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 & Small Firm Conference** — Attend great CLE programs with nationally recognized experts, network with other small firm lawyers from across the state and meet with small-firm friendly vendors. Join us for the Solo & Small Firm Conference June 18-20, 2015, 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.



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

- ❑ 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 — 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).
- ❑ *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, Administrator 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 require-

ments 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.



**Want the latest  
OBA news?**

Follow the OBA on Twitter  
**@OklahomaBar** and **@OBACLE**

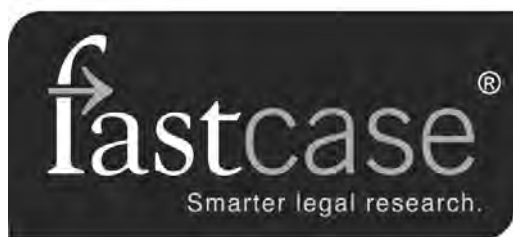
# Meet Your Bar Association

## 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.

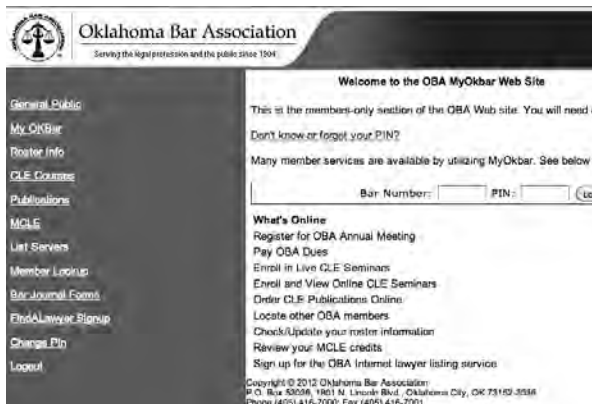


**Fastcase** — The OBA offers online legal research software as a free benefit to all OBA members. The OBA has contracted with Fastcase to provide national coverage, unlimited usage, unlimited customer service, and unlimited free printing at no cost to bar members as a part of their existing bar membership. 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.myokbar.org](http://www.myokbar.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.

**OBA Speakers Bureau** – A new, one-of-a-kind, automated online service that connects schools and civic clubs with lawyers who can speak on a number of important topics and issues. Lawyers may indicate the county or counties where they are willing to make presentations. Go to [speakers.okbar.org](http://speakers.okbar.org) to sign up.

**new!**

## 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. An archive of issues from 2005 to present can be found at [www.okbar.org/members/BarJournal/archive2015](http://www.okbar.org/members/BarJournal/archive2015).

**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** — Pam-



phlets 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.

**Title Examination Standards** — Contains all the presently effective Oklahoma Title Examination Standards and reflects all revisions, produced by the OBA Real Property Law Section, \$8 per copy, free to section members. To be mailed a copy, email Debbie Jenkins ([debraj@okbar.org](mailto:debraj@okbar.org)) for the exact shipping cost.

## 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 at [www.okbar.org/members/Map](http://www.okbar.org/members/Map).

**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 Oklahoma City. Details about the groups that have a different topic every month are online. Interested in forming a discussion group in Tulsa? Contact Hugh Hood: 918-747-4357.

**OBA sections** — 25 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. You can sign up for a committee at MyOKBar.

**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 2015 Annual Meeting will be Nov. 4-6 at the Sheraton Hotel in Oklahoma City.

**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 18-20, 2015, 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; \$61 + 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).

## 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.

**Hertz Car Rental** — The OBA's discount number for Hertz car rental is CDP 0164851. Hertz toll-free is 800-654-3131 or [www.hertz.com](http://www.hertz.com).

**International Travel** — Go Next has been in business for 39 years. They provide high quality, recreational travel to destinations around the globe. Group rates on trips are available to you, your family and your friends. All trips include airfare from either Oklahoma City or Tulsa, accommodations, transfers, breakfast buffet and other amenities. See highlights of the current trip offerings at [www.GoNext.com](http://www.GoNext.com). Call Go Next toll-free at 800-842-9023 for more information and/or reservations.



**IT & Cloud Services** — Dobson Technologies offers an extensive portfolio of professional IT services, including cloud backup & recovery, hosting, disaster recovery and managed services, all of which cater specifically to business and enterprise needs. Customers enjoy solutions that make their lives simpler by ensuring their business operates more securely and efficiently. Dobson's certified personnel, privately owned and geographically separate data centers, industry ranking services and partnerships with top technology leaders allow them to help Oklahoma businesses improve business continuity, reduce costs and minimize risks. Call 405-242-1000 or toll free 888-356-2707 or visit them at [www.dobsontechnologies.com/memberbenefit](http://www.dobsontechnologies.com/memberbenefit). Special member pricing for all of their services.

**LawPay** — The OBA endorses the LawPay credit card processing services programs designed for attorneys. Funds from each client credit card transaction may be either deposited into client trust or operating account as the lawyer designates. All transaction fees are deducted from the law firm operating account to simplify the trust account record-keeping. Credit cards attract clients, win business, improve cash flow and reduce collections. To learn more call 866-376-0950 or visit [www.lawpay.com/oba](http://www.lawpay.com/oba).

**LawWare** — Bar members may subscribe to the document assembly, document management and client management software program at a discounted group rate. Created by Oklahoma attorneys in 1991, LawWare streamlines the process of organizing and generating legal forms and related documents for law offices of any size. With the OBA endorsement, members may subscribe to LawWare at a discounted rate of \$49 per month for the first copy and \$10 per month for each additional office copy. To inquire about LawWare or to order a subscription, call 866-LAW-WARE or visit [www.LawWare.com](http://www.LawWare.com).

**Mobile Dictation Service** — Mobile Assistant is designed to document your critical client meeting information through on-the-go transcription over the phone. It's an easy, fast, secure and accurate way of documenting client interaction, drafting letters and capturing important meeting details. OBA members are eligible for a 25 percent discount by using the coupon code OKBAR. OBA member cost is \$54.37 a month for up to 500 lines (line equals 65 characters including spaces). Exceed that limit and pay 12 cents per line above 500 lines. Using Mobile Assistant is easy: 1) call the service from any phone, 2) dictate your notes (no time limit) and 3) your notes are emailed to you the same day after being transcribed by a real, live person located within the U.S. Instead of email, notes can also be made available through secure download. Mobile Assistant promises privacy, confidentiality and complete security. If your phone number is registered with them, the service recognizes the number and lets you start dictating immediately without you having to remember your log-in information. The service offers a free trial. Sign up at [www.mobileassistant.us](http://www.mobileassistant.us).

**Ruby Receptionists** Virtual Reception Service — Looking for a full-time receptionist for your law practice but worried about the expense? Ruby Receptionists may be the answer. Ruby Receptionists is a virtual reception service based in Portland, Ore. You can use their services full-time, or you can get temporary help a few hours a day when you want to close for lunch or need someone to fill in when someone is out sick. It's a great solution for solo and small firms; the service will screen, announce and transfer calls, take messages, place outgoing calls and more. To learn more, contact Ashley Fisher at 866-611-7829 or visit [www.callruby.com/okbar](http://www.callruby.com/okbar). Mention your OBA

membership and receive a free 14-day trial, free activation and special pricing on your monthly plan.

**Shipping** – OBA members can use the UPS® Savings Program. Make the most out of your membership and take advantage of some of the most competitive rates available on shipping services with UPS. Whether you need your documents or packages to arrive the next day or are looking for the most affordable shipping option, UPS understands the importance of reliability, speed and cost. See how UPS discounts can help your bottom line:

- Up to 34 percent on UPS Air letters including UPS Next Day Air®\*
- Up to 30 percent on UPS Air packages (1 lb.+)\*
- Up to 32 percent on UPS International imports and exports
- Up to 16 percent on UPS Ground shipments
- Savings begin at 70 percent on UPS Freight® shipments over 150 lbs.



You can receive these discounts even if you already have a UPS account. Plus, the more you ship, the more you can save with UPS. To enroll and start saving, visit [savewithups.com/oba](http://savewithups.com/oba).

*\*Discounts exclude UPS Express Critical® and UPS Next Day Air® Early A.M.®*



**Skirvin Hotel** – The beautiful, historic Skirvin Hilton located in downtown Oklahoma City and steps away from Bricktown Entertainment District offers OBA members a discounted rate of \$169 per night for a deluxe king or deluxe double room. Members can call the hotel at 405-272-3040 to make a reservation and request the “Law Firm

**new!**

Rate,” or make your reservation online at [www.skirvinhilton.com](http://www.skirvinhilton.com) using the corporate code 5910406. Members may also utilize the following direct online reservation link: <http://goo.gl/X49CyU>.

**Thomson Reuters Westlaw Discounts** — Thomson Reuters offers OBA members a variety of discounts on its products and services. For information on other offers available call 405-308-0320.

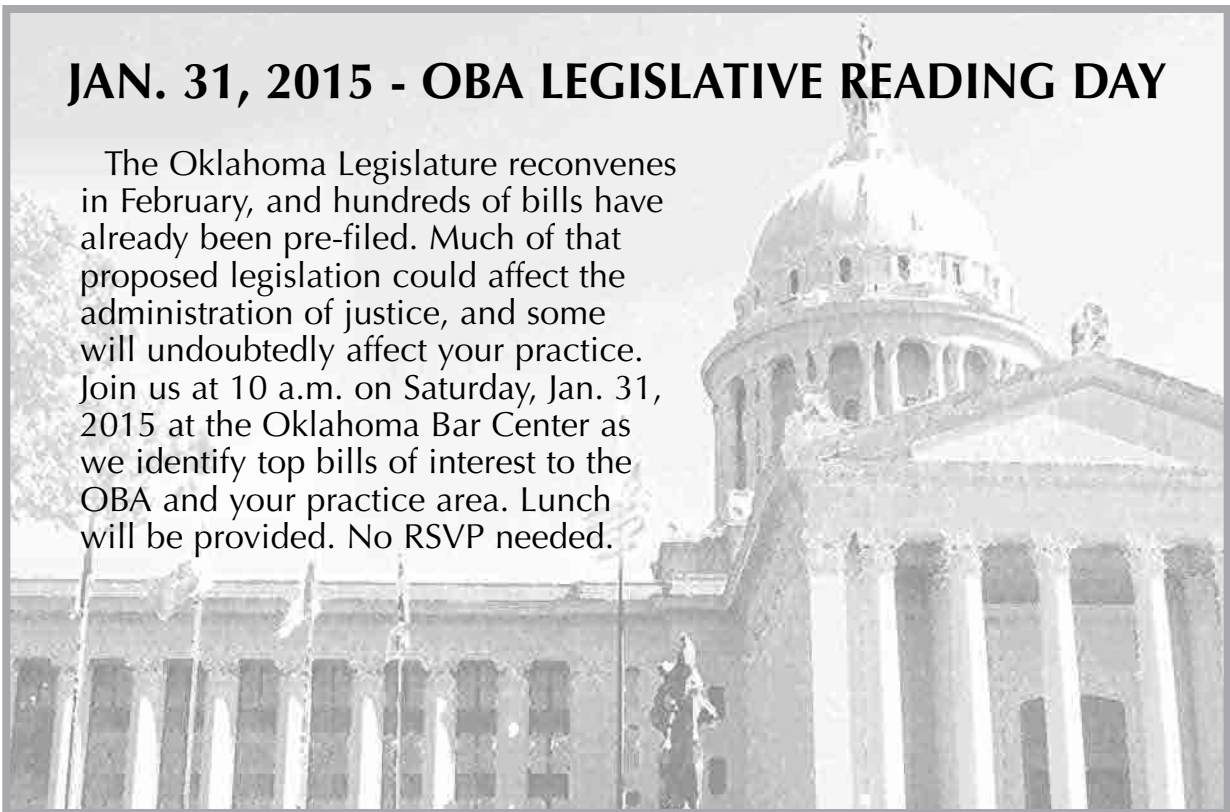
**WordPerfect Licensing Program** — OBA members can purchase licenses of Corel and WordPerfect products such as Perfect Authority, PDF Fusion, WordPerfect Office X6, WinDVD and WinZip 16 Pro at substantially reduced prices. To place an order, go to [www.corel.com/barassociation](http://www.corel.com/barassociation).

## WORDRAKE.

**WordRake** — Is your writing too “wordy” or reliant on “legalese?” Word-Rake may be the solution for you. Developed for lawyers, the software provides editing suggestions for clarity and brevity. WordRake instantly edits documents right in Microsoft Word, suggesting changes that eliminate unnecessary words and phrases. OBA members receive a 10 percent discount on the product. Download a free three-day trial to check it out. The MS Word add-in is easy to install, and annual licensing plans offer increased saving based on subscription duration. When you purchase, enter coupon code OKBAR on the final purchase page to receive the special OBA member discount.

## JAN. 31, 2015 - OBA LEGISLATIVE READING DAY

The Oklahoma Legislature reconvenes in February, and hundreds of bills have already 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. 31, 2015 at the Oklahoma Bar Center as we identify top bills of interest to the OBA and your practice area. Lunch will be provided. No RSVP needed.



# Grow your network.



# Grow your law practice.

**Connect** with the OBA through social media.



**Like** us on Facebook

[www.facebook.com/oklahomabarassociation](http://www.facebook.com/oklahomabarassociation)  
[www.facebook.com/obacle](http://www.facebook.com/obacle)  
[www.facebook.com/obalre](http://www.facebook.com/obalre)  
[www.facebook.com/obayld](http://www.facebook.com/obayld)



**Follow** us on Twitter

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[www.twitter.com/obacle](http://www.twitter.com/obacle)

# Meet Your Bar Association

## Resources on [www.okbar.org](http://www.okbar.org)

### CONTINUING LEGAL EDUCATION

Choose from a variety of archived programs, live webcasts and CLE presentations at the bar center.



[www.okbar.org/members/CLE](http://www.okbar.org/members/CLE)

### OKLAHOMA BAR JOURNAL

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Ken Morgan Stoner, Chairperson  
1233 E. 33rd Street  
Edmond, OK 73013  
405-705-2910  
kmstoner@me.com

A. Daniel Woska, Vice Chairperson  
2409 Brookhaven Drive  
Edmond, OK 73034  
405-657-2271  
awoska@woskalawfirm.com

John H. Graves, Secretary  
2119 Riverwalk Drive, Suite 161  
Moore, OK 73160  
405-684-6735  
john@johnhgraves.com

Jeffrey Love, Immediate Past Chairperson  
Cheek & Falcone PLLC  
6301 Waterford Boulevard, Suite 320  
Oklahoma City, OK 73118  
405-286-9191  
jlove@cheekfalcone.com



### **Appellate Practice Section**

Susan Huntsman, Chairperson  
500 Kennedy Building  
321 S. Boston Avenue  
Tulsa, OK 74103  
918-592-9800  
susan.huntsman@crowedunlevy.com

Mark Koss, Chairperson-Elect  
P.O. Box 720804  
Oklahoma City, OK 73172-0804  
405-720-6868  
mark-okc@msn.com



Alison Verret, Secretary  
McAfee & Taft  
1717 S. Boulder, Suite 900  
Tulsa, OK 74119  
918-574-3089  
alison.verret@mcafeetaft.com

Margaret Myers, Treasurer  
6206 Waterford Blvd., Suite 55  
Oklahoma City, OK 73118  
405-826-9849  
maggiekm@yahoo.com

Michael F. Smith, Immediate Past Chairperson  
McAfee & Taft  
1717 S. Boulder, Suite 900  
Tulsa, OK 74119  
918-574-3078  
michael.smith@mcafeetaft.com

### **Bankruptcy and Reorganization Section**

Judge Sarah A. Hall, Chairperson  
U.S. Bankruptcy Court  
215 Dean A. McGee, 9th Floor  
Oklahoma City, OK 73102  
405-609-5660  
sarah\_hall@okwb.uscourts.gov

Charles Greenough, Chairperson-Elect  
McAfee & Taft  
1717 S. Boulder Avenue, Suite 900  
Tulsa, OK 74119  
918-587-0000  
charles.greenough@mcafeetaft.com

John B. Jarboe, Co-Treasurer  
401 S. Boston, Suite 1810  
Tulsa, OK 74103-4018  
918-582-6131  
jjarboe@jarboelaw.com

Therese Buthod, Co-Treasurer  
111 W. 4th Street  
P.O. Box 1347  
Okmulgee, OK 74447-1347  
918-549-7221  
therese\_buthod@okeb.uscourts.gov

Timothy D. Kline, Secretary and Immediate Past Chairperson  
Corporate Tower, 13th Floor  
101 N. Robinson Avenue  
Oklahoma City, OK 73102  
405-235-4100  
tdkline@phillipsmurrah.com



### **Business and Corporate Law Section**

H. Wayne Cooper, Chairperson  
Doerner, Saunders, Daniel & Anderson  
Two W. 2nd Street, Suite 700  
Tulsa, OK 74103-3725  
918-591-5228  
hwcooper@dnda.com

Armand Paliotta, Chairperson-Elect  
Hartzog, Conger, Cason & Neville  
201 Robert S. Kerr Avenue, Suite 1600  
Oklahoma City, OK 73102-4216  
405-235-7000  
apaliotta@hartzoglaw.com

Jeanette C. Timmons, Immediate Past Chairperson  
Conner & Winters  
1700 One Leadership Square  
211 N. Robinson  
Oklahoma City, OK 73102-7101  
jtimmons@cwlaw.com

### **Criminal Law Section**

Russ Cochran, Chairperson  
District Attorney's Office  
331 N. Broadway  
Shawnee, OK 74801  
405-275-6800  
russ.cochran@dac.state.ok.us

David McKenzie, Chairperson-Elect  
320 Robert S. Kerr, Suite 611  
Oklahoma City, OK 73102  
405-406-2771  
dmckenzie47@aol.com

Virginia Sanders, Secretary  
OIDS – General Appeals Division  
P.O. Box 926  
Norman, OK 73070  
405-801-2727  
virginia.sanders@oids.ok.gov

Megan Tilly, Treasurer  
1811 N.W. 19th St.  
Oklahoma City, OK 73106  
405-323-9372  
megan.tilly@oag.ok.gov

Board Members:

Kathryn LaFortune, Immediate  
Past Chairperson  
423 S. Boulder Ave., Suite 300  
Tulsa, OK 74103-3508  
918-770-3962  
kalphd2000@cox.net

Cindy Danner, Past Chairperson  
P.O. Box 926  
Norman, OK 73070-0926  
405-801-2727  
cindy.danner@oids.ok.gov

Mike Wilds, Past Chairperson  
BALA  
3100 E. New Orleans St.  
Broken Arrow, OK 74014  
918-449-6532  
wilds@nsuok.edu

Ben Brown  
5905 N. Classen Court  
Oklahoma City, OK 73118  
405-713-6770  
bbrown2@oklahomacounty.org

Trent H. Baggett  
511 Chautauqua  
Norman, OK 73069  
405-264-5000  
slamminsammy@cox.net

Mike Wilds, Questions and Answers  
3100 E. New Orleans St.  
Broken Arrow, OK 74014  
918-449-6532  
wilds@nsuok.edu

## **Energy and Natural Resources Law Section**

Eric L. Huddleston, Chairperson  
211 N. Robinson Ave., Suite 1300  
Oklahoma City, OK 73102  
405-232-3722  
ehuddleston@eliasbooks.com

Heather Cupp, Chairperson-Elect  
320 S. Boston Ave., Suite 200  
Tulsa, OK 74103-3708  
918-594-0400  
hcupp@hallestill.com



L. Mark Walker, Secretary/Treasurer  
Braniff Building  
324 N. Robinson Avenue, Suite 100  
Oklahoma City, OK 73102  
405-235-7700  
walker@crowedunlevy.com

Eric Money, Budget Director  
101 Park Ave., Suite 1400  
Oklahoma City, OK 73102  
405-272-4710  
money@gungolljackson.com

Valerie O. Giebel, Membership Director  
100 W. 5th Street, Suite 900  
Tulsa, OK 74103  
918-581-5500  
vgiebel@praywalker.com

Brad Gungoll, Immediate Past Chairperson  
101 Park Ave., Suite 1400  
Oklahoma City, OK 73102  
405-272-4710  
gungoll@gungolljackson.com

## **Environmental Law Section**

Betsey Streuli, Chairperson  
P.O. Box 1677  
Oklahoma City, OK 73101  
405-702-7147  
betsey.streuli@deq.ok.gov

Matthew A. Caves, Chairperson-Elect  
P.O. Box 429  
Anadarko, OK 73005-0429  
405-247-4486  
matt.caves@wfec.com

Stephen F. Baldrige, Secretary  
2400 N.W. 30th Street, #631  
Oklahoma City, OK 73112  
405-702-7189  
stephen.baldrige@deq.ok.gov

Sara D. Gibson, Treasurer  
Oklahoma Water Resources Board  
3800 N. Classen Blvd.  
Oklahoma City, OK 73118  
405-530-8800  
sara.gibson@owrb.ok.gov

## **Estate Planning, Probate and Trust Section**

Donna J. Jackson, Chairperson  
Donna J. Jackson & Associates PLLC  
10404 Vineyard Blvd., Suite E  
Oklahoma City, OK 73120  
405-840-1874  
donna@okcestatelawyer.com

Dawn Hallman, Chairperson-Elect  
Hallman & Associates PC  
2230 McKown Drive  
Norman, OK 73072  
405-447-9455  
dhallman@hallmanlawoffice.com

Emily Crain, Secretary  
The Allison Firm PLLC  
4812 E. 81st Street, Suite 301  
Tulsa, OK 74137  
918-492-4500  
ecrain@theallisonfirm.com



H. Terrell Monks, Treasurer  
Law Offices of Terrell Monks  
1840 S. Douglas Blvd.  
Midwest City, OK 73130  
405-733-8686  
terrell@terrellmonks.com

### Co-Legislative Liaisons:

Lauren A. Pierce  
Pray Walker PC  
100 W. 5th Street, Suite 900  
Tulsa, OK 74103  
918-581-5571  
lpierce@praywalker.com

A. Daniel Woska  
Woska Law Firm LLC  
722 N. Broadway  
Mezzanine  
Oklahoma City, OK 73102  
405-657-2271  
awoska@woskalawfirm.com

Web-Based Application Committee:  
Kara Greuel  
Greuel Law Firm PLLC  
5100 E. Skelly Dr., Suite 1040A  
Tulsa, OK 74135  
918-728-2699  
kara@greuellawfirm.com

Dustin Compton  
Bass Law  
201 Robert S. Kerr, 7th Floor  
Oklahoma City, OK 73102  
405-262-4040  
dustin@basslaw.net

Practice Manual Sub-Committee:  
Alisha Thomson  
Donna J. Jackson & Associates PLLC  
10404 Vineyard Blvd., Suite E  
Oklahoma City, OK 73120  
405-840-1874  
alisha@okcestatelawyer.com

Jamie M. O'Shields, Vice-President  
Trust Company of Oklahoma  
6307 Waterford Blvd., Suite 160  
Oklahoma City, OK 73118  
405-840-8401  
joshields@trustcompanyofoklahoma.com

Gale Allison  
The Allison Firm PLLC  
P.O. Box 700116  
Tulsa, OK 74170  
918-492-4500  
gale.allison@theallisonfirm.com

Keith Peters, Immediate Past Chairperson  
McAfee & Taft  
Two Leadership Square, 10th Floor  
211 N. Robinson  
Oklahoma City, OK 73102-7103  
405-552-2338  
keith.peters@mcafeetaft.com



## Family Law Section

Michelle K. Smith, Chairperson  
228 Robert S. Kerr Ave., Suite 715  
Oklahoma City, OK 73102  
405-759-2333  
msmithatty@att.net

Luke Barteaux, Chairperson-Elect  
906 S. Cheyenne  
Tulsa, OK 74119  
918-585-1107  
luke@fryelder.com

Monica Dionisio, Secretary  
16311 Sonoma Park Drive  
Edmond, OK 73013  
405-705-5900  
mdionisio@hesterlaw.net

Kimberly K. Hays, Budget Chair  
248 W. 16th Street  
Tulsa, OK 74119  
918-592-2800  
kimberlyhayslaw@aol.com

M. Shane Henry, Immediate Past Chairperson  
906 S. Cheyenne  
Tulsa, OK 74119  
918-585-1107  
shane@fryelder.com

Gary J. Dean, Past Chair Emeritus  
208 S. Vann Street  
Pryor, OK 74361-5216  
918-825-1676  
gary@garyjdean.com

Doug Loudenback, Past Chair Emeritus  
525 N.W. 19th Street  
Oklahoma City, OK 73103  
405-830-1467  
loudenbk@swbell.net

Luke Barteaux, CLE Co-Chair (Tulsa)  
906 S. Cheyenne  
Tulsa, OK 74119  
918-585-1107  
luke@fryelder.com

Allyson Dow, CLE Co-Chair (Oklahoma City)  
P.O. Box 1243  
Norman, OK 73070  
405-329-3307  
allyson@phmlaw.net

Monica Dionisio, CLE Co-Chair Elect  
16311 Sonoma Park Drive  
Edmond, OK 73013  
405-705-5900  
mdionisio@hesterlaw.net

Brad Cunningham, Membership Chair  
320 S. Boston, Suite 725  
Tulsa, OK 74103  
918-779-3800  
bcunningham@cordelllaw.com

Rees Evans, Historian  
501 N.W. 13th Street  
Oklahoma City, OK 73103-2203  
405-232-4311  
rees.evans@sbcglobal.net

Phillip J. Tucker, Legislative Chair  
P.O. Box 601  
Edmond, OK 73083-0601  
405-348-1789  
pjtlaw@juno.com

Ginny Henson, Legislative Vice Chair  
314 E. Comanche, Suite 102  
P.O. Box 1243  
Norman, OK 73070-1243  
405-310-3956  
virginia@phmlaw.net

Jon R. Ford, Practice Manual Co-Chair  
One Grand Center  
201 N. Grand, Suite 400  
Enid, OK 73701-4341  
580-234-0253  
jon@jfordlaw.com

Keith A. Jones, Practice Manual Co-Chair  
5801 E. 41st St., Suite 300  
Tulsa, OK 74135-5628  
918-770-4890  
keith@kajoneslaw.com

Phillip J. Tucker, Practice Manual Co-Chair  
P.O. Box 601  
Edmond, OK 73083-0601  
405-348-1789  
pjtlaw@juno.com

Phillip J. Tucker, Trial Advocacy  
Institute Chair  
P.O. Box 601  
Edmond, OK 73083-0601  
405-348-1789  
pjtlaw@juno.com

Monica Dionisio, Awards & Nominations  
Chair  
16311 Sonoma Park Drive  
Edmond, OK 73013  
405-705-5900  
mdionisio@hesterlaw.net

David A. Tracy, Bylaws  
320 S. Boston Ave., Suite 1130  
Tulsa, OK 74103-4700  
918-582-8001  
dtracy@tulsafic.com

Kimberly K. Hays, Policies & Procedures  
Manual Chair  
248 W. 16th Street  
Tulsa, OK 74119  
918-592-2800  
kimberlyhayslaw@aol.com

M. Shane Henry, Section Leaders Council  
Liaison  
906 South Cheyenne  
Tulsa, OK 74119  
918-585-1107  
shane@fryelder.com

Kimberly K. Hays, Section Leaders Council  
Liaison  
248 W. 16th Street  
Tulsa, OK 74119  
918-592-2800  
kimberlyhayslaw@aol.com

Judge Mary Fitzgerald, Judicial Liaison  
Co-Chair  
2729 E. 22nd Street  
Tulsa, OK 74114  
918-596-5000  
mary.fitzgerald@oscn.net

Judge Barry Hafar, Judicial Liaison Co-Chair  
321 Park Avenue  
Oklahoma City, OK 73102-3604  
405-713-1166  
barry.hafar@oscn.net

Long Range Planning – all officers  
M. Shane Henry, ABA Liaison Chair  
906 South Cheyenne  
Tulsa, OK 74119  
918-585-1107  
shane@fryelder.com

Kimberly K. Hays, Annual Meeting Commit-  
tee Chair  
248 W. 16th Street  
Tulsa, OK 74119  
918-592-2800  
kimberlyhayslaw@aol.com

Michelle Smith, Communications Committee  
Chair  
228 Robert S. Kerr Ave., Suite 715  
Oklahoma City, OK 73102  
405-759-2333  
msmithatty@att.net

Amy Page, Suites Chair  
3840 S. 103rd East Ave., Suite 109  
Tulsa, OK 74146  
918-439-2424  
amy.page@okdhs.org

Allyson Dow, Social Committee Chair  
(Oklahoma City)  
P.O. Box 1243  
Norman, OK 73070  
405-329-3307  
allyson@phmlaw.net

Keith Jones, Social Committee Chair (Tulsa)  
5801 E. 41st St., Suite 300  
Tulsa, OK 74135-5628  
918-770-4890  
keith@kajoneslaw.com

## **Financial Institutions and Commercial Law Section**

Eric Johnson, Chairperson  
8524 S. Western, Suite 114  
Oklahoma City, OK 73139  
405-602-3812  
ejohnson@hudco.com

Jesse Sumner Jr., Vice Chairperson  
7120 S. Lewis  
Tulsa, OK 74145  
sumnerlawok@gmail.com



Alexa Mangum, Secretary/Treasurer  
1039 N.W. 63rd Street  
Oklahoma City, OK 73116  
405-810-7225  
alexa.mangum@bank7.com

Miles Pringle, Program Officer  
P.O. Box 21844  
Oklahoma City, OK 73156  
405-848-4810  
miles.pringle@pringleandpringle.com

Bob Luttrell, Listserv Liaison  
McAfee & Taft  
211 N. Robinson Ave., 10th Floor  
Oklahoma City, OK 73102-7103  
405-552-2291  
bob.luttrell@mcafeetaft.com

Roy John Martin, Chair of Legislative  
Subcommittee  
3613 N.W. 56th Street, Suite 240  
Oklahoma City, OK 73112-4512  
405-522-4665  
rmartin@okdocc.ok.gov



### **General Practice/Solo and Small Firm Section**

Jeff Taylor, Chairperson  
2525 N.W. Expressway, No. 620  
Oklahoma City, OK 73112  
405-748-0318  
jeffrey@absolutelawfirm.com

Greg Wilson, Chairperson-Elect  
Wilson Law Firm PLLC  
502 N. Broadway  
Shawnee, OK 74801  
405-275-9994  
greg@shawneelaw.com

Sonja Porter, Vice Chairperson  
620 N. Robinson Ave., Suite 203  
Oklahoma City, OK 73102  
405-650-4753  
sonja\_porter@hotmail.com

Remona Colson, Secretary  
511 1/2 S. Cherokee Ave.  
Bartlesville, OK 74003-3626  
918-336-1605  
rkcesquire@colsonlawoffice.com

Ron Lander, Treasurer  
P.O. Box 126  
Tahlequah, OK 74465  
918-931-2681  
hotomyplane@hotmail.com

Keren McLendon, Immediate Past  
Chairperson  
3808 N. Billen Ave.  
Oklahoma City, OK 73112-7352  
405-601-1212  
kmclendon@mclendonlaw.com

### **Government and Administrative Law Practice Section**

John Edward Miley, Chairperson  
2900 N. Robinson Ave.  
Oklahoma City, OK 73103-4123  
405-557-7146  
john.miley@oesc.state.ok.us

Michael Mannes, Chairperson-Elect  
538 N.W. 43rd Street  
Oklahoma City, OK 73118  
405-473-0352  
michael.mannes@att.net

Yasodhara Mitty Means, Treasurer  
120 N. Robinson, Suite 1000W  
Oklahoma City, OK 73102  
405-521-4076  
yasodhara.means@clo.ok.gov

Tamar Scott, Secretary  
Oklahoma Dept. of Transportation  
200 N.E. 21st Street  
Oklahoma City, OK 73105  
405-521-2635  
tscott@odot.org

Scott Boughton, Immediate Past Chairperson  
3545 N.W. 58th Street, Suite 1000  
Oklahoma City, OK 73112  
405-717-8957  
scott.boughton@omes.ok.gov

## Health Law Section

Karen Rieger, Chairperson  
Braniff Building  
324 N. Robinson Ave.  
Oklahoma City, OK 73102  
405-235-7788  
riegerk@crowedunlevy.com

Mary Holloway Richard, Vice Chair  
3030 N.W. Expressway, Suite 1700  
Oklahoma City, OK 73112  
405-951-4788  
mary.richard@integrisok.com

Aletheia F. Lawry, Secretary  
Integrus Health  
3030 N.W. Expressway, Suite 1700  
Oklahoma City, OK 73112  
405-951-4781  
aletheia.lawry@integrisok.com

Susan E. Walker, Budget Officer  
McAfee & Taft  
1717 S. Boulder Ave., Suite 900  
Tulsa, OK 74119  
918-587-0000  
susan.walker@mcafeetaft.com

Elizabeth D. Tyrrell, Immediate Past  
Chairperson  
Two Leadership Square, 10th Floor  
211 N. Robinson Avenue  
Oklahoma City, OK 73102  
405-235-9621  
elizabeth.tyrrell@mcafeetaft.com

## Indian Law Section

Trisha L. Archer, Chairperson  
9242 S. Sheridan Road, Suite K  
Tulsa, OK 74133  
918-619-9191  
trisha@archer-law.com

Deborah Reed, Chairperson-Elect  
Greuel Law Firm  
5100 E. Skelly Drive, Suite 1040  
Tulsa, OK 74135  
918-728-1604  
deborah@greuelawfirm.com

Chris Tytanic, Secretary  
10401 Highview Drive  
Oklahoma City, OK 73151  
405-406-1394  
christytanic@gmail.com

Valerie Giebel, Budget Officer  
100 West 5th Street, Suite 900  
Tulsa, OK 74103  
918-581-5500  
vgiebel@praywalker.com



## Insurance Law Section

Jon Starr, Chairperson  
McGivern & Gilliard  
P.O. Box 2619  
Tulsa, OK 74101  
918-584-3391  
jstarr@mcgivernlaw.com

Ryan C. Harper, Vice Chairperson  
P.O. Box 3647  
Tulsa, OK 74101  
918-599-7088  
harperlaw@cox.net

J. M. Scott Ryan, Treasurer  
Taylor, Ryan, Schmidt & Van Dalsem PC  
850 Boulder Towers  
1437 S. Boulder Avenue  
Tulsa, OK 74119  
918-749-5566  
jryan@kingtaylorryan.com

Jeffrey A. Curran, Secretary  
GableGotwals  
One Leadership Square  
211 N. Robinson Avenue, Suite N1500  
Oklahoma City, OK 73102  
405-235-5500  
jcurran@gablelaw.com

Matthew B. Wade, OBA Liaison  
Abel Law Firm  
900 N.E. 63rd Street  
Oklahoma City, OK 73105  
405-239-7046  
mwade@abellawfirm.com

Michael L. Chitwood, Membership Liaison  
Angela D. Ailles and Associates  
9400 Broadway Extension, Suite 500  
Oklahoma City, OK 73114  
405-419-2654  
michael.chitwood.cgcd@statefarm.com

## **Intellectual Property Section**

David Sullivan, President  
Crowe & Dunlevy  
Braniff Building  
324 N. Robinson Avenue, Suite 100  
Oklahoma City, OK 73102  
405-234-3236  
david.sullivan@crowedunlevy.com

Derrick W. Harvey, Vice President  
Harvey Law  
100 W. Main Street, Suite 300  
Ardmore, OK 73401  
580-220-9374  
derrick@harveyip.com



Paul Rossler, Secretary/Treasurer  
GableGotwals  
1100 OneOk Plaza, 10th Floor  
100 W. Fifth Street  
Tulsa, OK 74103-4217  
918-595-4872  
prossler@gablelaw.com

Michael H. Smith, District 2 Director  
Hall Estill  
100 N. Broadway, Suite 2900  
Oklahoma City, OK 73102-8865  
405-553-2828  
mhsmith@hallestill.com

Shawn M. Dellegar, District 1 Director  
Head, Johnson & Kachigan P.C.  
Moore Manor  
228 W. 17th Place  
Tulsa, OK 74119  
918-587-2000  
sdellegar@hjkllaw.com

Barbara Krebs Yuill, Director-at-Large/  
Immediate Past President  
Dunlap & Coddling P.C.  
609 W. Sheridan Avenue  
Oklahoma City, OK 73102  
405-607-8600  
byuill@dunlapcoddling.com

## **Juvenile Law Section**

Ben C. Brown, Chairperson  
Oklahoma County Public Defender's Office  
5905 N. Classen Court, Suite 204  
Oklahoma City, OK 73118  
405-713-6770  
bbrown2@oklahomacounty.org

Valerie L. Baker, Chairperson-Elect  
Canadian County District Attorney's Office  
7905 E. Highway 66  
El Reno, OK 73036  
405-264-5535  
valerie.baker@dac.state.ok.us

William McKinney, Treasurer  
Oklahoma County Public Defender's Office  
5905 N. Classen Court, Suite 204  
Oklahoma City, OK 73118  
405-713-6770  
wilmck@oklahomacounty.org

Courtney Bucklin, Secretary  
Oklahoma County Public Defender's Office  
5905 N. Classen Court, Suite 204  
Oklahoma City, OK 73118  
405-713-6770  
courtney.e.bucklin@gmail.com

Tsinena Bruno Thompson, Immediate Past  
Chairperson  
Oklahoma Lawyers for Children  
4901 Richmond Square, Suite 101  
Oklahoma City, OK 73118  
405-232-4453  
tthompson@olfc.org

## **Labor and Employment Law Section**

Nicole M. Longwell, Chairperson  
Senior Attorney  
Magellan Midstream Partners L.P.  
One Williams Center, MD 2800  
Tulsa, OK 74103  
918-574-7259  
nicole.longwell@magellanlp.com



Abby Dillsaver, Vice-Chairperson  
Deputy General Counsel  
Oklahoma Tax Commission  
120 N. Robinson, Suite 2000W  
Oklahoma City, OK 73102  
405-319-8550  
adillsaver@tax.ok.gov

Erin K. Dailey, Treasurer  
GableGotwals  
1100 ONEOK Plaza  
100 W. 5th Street  
Tulsa, OK 74103  
918-595-4863  
edailey@gablelaw.com

Kelsie M. Sullivan, Secretary  
Fellers Snider  
100 N. Broadway, Suite 1700  
Oklahoma City, OK 73102  
405-232-0621  
ksullivan@fellerssnider.com

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Oklahoma City, OK 73102  
405-235-6100  
amber@hammonslaw.com

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Noble, OK 73068  
405-872-9216  
cclayton@sbcglobal.net

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P.O. Box 601  
Edmond, OK 73083-0601  
405-348-1789  
nktlaw@juno.com

Jody R. Nathan, Secretary/Treasurer  
P.O. Box 702860  
Tulsa, OK 74170-2860  
918-592-7070  
jnathan@staufferlaw.com

Michael D. Johnson, Immediate Past  
Chairperson  
623 N. Porter, Suite 400  
Norman OK 73071  
405-579-9692  
junson@flash.net

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Van Meter Law Firm PLC  
600 N. Walker Ave., Ste. 101  
Oklahoma City, OK 73102  
405-228-4949  
david@vanmeterlawfirm.com

Jake Krattiger, Budget Officer/Treasurer  
GableGotwals  
One Leadership Square  
211 N. Robinson Ave., Suite N1500  
Oklahoma City, OK 73102-7144  
405-235-5500  
jkrattiger@gablelaw.com

Renée DeMoss, Section Leaders Council  
Liaison  
GableGotwals  
100 W. 5th Street, Suite 1100  
Tulsa, OK 74103-4217  
918-595-4800  
rdemoss@gablelaw.com



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Ronald Main, Chairperson  
2815 E. Skelly Dr., Suite 821  
Tulsa, OK 74105  
918-742-1990  
rmainbt@aol.com

Renée DeMoss, Chairperson-Elect  
GableGotwals  
100 W. 5th St., Suite 1100  
Tulsa, OK 74103-4217  
918-595-4800  
rdemoss@gablelaw.com

Jan Grant-Johnson, Secretary  
623 N. Porter, Suite 400  
Norman, OK 73071  
405-579-9692  
jgjlw@sbcglobal.net

Judge Charles Hogshead, Treasurer  
4112 S. New Haven Place  
Tulsa, OK 74135  
918-960-0304  
chogshead@gmail.com



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11017 Old River Trail  
Edmond, OK 73013  
405-204-6082  
brent@dishmanmilitaryadvocates.com

Stanley L. Evans, Chairperson-Elect  
4108 N. Harvey Parkway  
Oklahoma City, OK 73118-8432  
405-521-0323  
stanevans@ou.edu

Tommy Klepper, Immediate Past-Chairperson  
702 Wall Street, Suite 100  
P.O. Box 721980  
Norman, OK 73070  
405-928-5055  
tommyklepper@tommyklepperlaw.com

Kathryn "Kate" McClure, Secretary  
P. O. Box 561  
Lawton, OK 73502  
580-442-8618  
kathryn.mcclure@us.army.mil

Kevin Knightly, Budget Officer  
801 S.W. 89th St., Suite A4  
Oklahoma City, OK 73139  
405-602-0126  
kevin@knightlylawfirm.com

Amy Hart, CLE Chairperson  
P.O. Box 4040  
Bartlesville, OK 74006  
918-336-5100  
ahart@hartlawpc.net

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Lucas J. Munson, Chairperson  
247 N. Broadway  
Edmond, OK 73034  
405-513-7707  
lmunson@munsonfirm.com

Jared Harrison, Chairperson-Elect  
P. O. Box 658  
202 N. 6th Street  
Kingfisher, OK 73750-2705  
405-375-6484  
jared@hmlawoffice.com

Charis Ward, Budget Officer  
133 N.W. 8th Street  
Oklahoma City, OK 73102  
405-552-7711  
chward@firstam.com

Michael J. McMillin, Secretary  
247 N. Broadway  
Edmond, OK 74034  
405-513-7707  
mmcmillin@munsonritter.com

J. Brandon Harvey, Member at Large  
P. O. Box 5676  
Enid, OK 73701  
580-233-4625  
brandon@nwoklaw.com

Zachary T. Ball, Member at Large  
111 N. Peters Avenue, Suite 440  
Norman, OK 73069  
405-701-5355  
zball@ballandmorse.com

Kraettli Epperson, TES Chairperson  
50 Penn Place  
1900 N.W. Expressway, Suite 1400  
Oklahoma City, OK 73118  
405-848-9100  
kqe@meehoge.com

John Wimbish, TES Editor-in-Chief  
5314 S. Yale, Suite 200  
Tulsa, OK 74135  
918-494-3770  
jwimbish@riddlewimbish.com

Jason Soper, Legislative Liaison Committee  
Chairperson  
P.O. Box 1292  
Oklahoma City, OK 73101  
405-552-7721  
jsoper@firstam.com

Chris J. Smith, Immediate Past Chairperson  
1000 W. Wilshire, Suite 428  
Oklahoma City, OK 73116  
405-919-6876  
chris.smith.ok@gmail.com



## Taxation Law Section

Ralph "Ted" Blodgett, Chairperson  
629 24th Avenue Southwest  
Norman, OK 73069  
405-360-5533  
tedb@cpagray.com

W. Todd Holman, Vice Chairperson  
525 S. Main, Suite 800  
Tulsa, OK 74103  
918-599-7755  
tholman@barberbartz.com

Jesse C. Chapel, Secretary  
100 N. Broadway Ave., Suite 3300  
Oklahoma City, OK 73102  
405-272-9241  
jcchapel@andrewsdavis.com

Taylor Henderson, Treasurer  
120 N. Robinson, Suite 2000W  
Oklahoma City, OK 73102  
405-319-8550  
taylor.henderson@tax.ok.gov

Alan G. Holloway, Member at Large (West)  
Two Leadership Square  
211 N. Robinson  
Oklahoma City, OK 73102  
405-552-2344  
alan.holloway@mcafeetaft.com

Sheppard F. "Mike" Miers Jr., Member-at-  
Large (East)  
100 W. 5th St., Suite 1100  
Tulsa, OK 74103  
918-595-4800  
smiers@gablelaw.com

Julie M. Holmes Chapel, IRS Liaison Officer  
55 N. Robinson, Room 830  
Oklahoma City, OK 73102  
405-297-4823  
julie.m.chapel@irscounsel.treas.gov

Marjorie L. Welch, State Liaison Officer  
120 N. Robinson, Suite 2000W  
Oklahoma City, OK 73102  
405-319-8550  
jwelch@tax.ok.gov

Abby Dillsaver, Immediate Past Chairperson  
120 N. Robinson, Suite 2000W  
Oklahoma City, OK 73102  
405-319-8550  
adillsaver@tax.ok.gov

## Workers' Compensation Section

Nichole S. Bryant, Chairman  
2021 South Lewis Avenue, Suite 225  
Tulsa, OK 74104  
918-771-4465  
nbryant@mvplaw.com

Jennifer Jackson, Chairman-Elect  
224 E. Main Street  
Oklahoma City, OK 73104  
405-418-2083  
jackson@berryfirm.com

Nathan Phillips, Treasurer  
3313 N. Classen Blvd.  
Oklahoma City, OK 73118  
405-525-4131  
nathan.phillips@yahoo.com

Danny Talbot, Immediate Past Chairperson  
13901 Quail Pointe Drive  
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# Unique Anti-Referral Laws

## How They Affect Business Arrangements in the Health Care Industry

By Karen S. Rieger

In most industries, it is a common business practice to provide financial incentives to generate business. Discounts, finder's fees, commissions and other payments are routinely provided to keep relationships with customers and vendors strong. In the health care industry, an extremely important business relationship is the one between physicians and entities/facilities that provide health care services, such as hospitals, home health agencies, surgery centers, hospices, physical therapy centers and others. Physicians are the gatekeepers for services provided by these entities and have a significant amount of influence over where their patients receive care. Thus, you would assume this would be a relationship in which financial incentives are commonly used. However, the health care business is unique, since the federal government spends more than \$500 billion annually for services to Medicare beneficiaries, which represents approximately 21 percent of total health care spending in the United States.<sup>1</sup> In order to assure that health care services are truly medically necessary, and to avoid the cost of unnecessary services, several key federal laws have been enacted that restrict the ability of health care entities to provide financial incentives to referral sources such as physicians and others. Oklahoma also has adopted a law that restricts the ability of health care entities to provide financial incentives for the referral of business. These laws are discussed below.

### THE STARK LAW

42 U.S.C. §1395nn, generally known as the Stark Law,<sup>2</sup> prohibits a physician from directly or indirectly making a referral to any entity for the furnishing of a "designated health service" for which payment will be made by a federal health care program<sup>3</sup> if the physician, or an immediate family member of the physician, has a direct or indirect "financial relationship" with such entity. The term "designated health service" includes: 1) clinical laboratory services;

2) physical therapy services; 3) occupational therapy services; 4) radiology, including magnetic resonance imaging, computerized axial tomography scans and ultrasound services; 5) radiation therapy services and supplies; 6) durable medical equipment and supplies; 7) parenteral and enteral nutrients, equipment and supplies; 8) prosthetics, orthotics and prosthetic devices; 9) home health services and supplies; 10) outpatient prescription drugs; and 11) inpatient and outpatient hospital services.<sup>4</sup>

A “financial relationship” for purposes of the Stark Law is either: 1) an ownership or investment interest in an entity (which may be through equity, debt or other means); or 2) a compensation arrangement with the entity.<sup>5</sup> The statute specifies that financial relationships may be either direct or indirect. A “compensation arrangement” is defined as any arrangement involving remuneration between a physician (and a physician’s immediate family member) and an entity.<sup>6</sup> Remuneration may be direct or indirect, overt or covert, in cash or in kind.<sup>7</sup> Investment by physicians or their immediate family members in an entity that provides any “designated health services” prohibits the referral of beneficiaries of federal health care programs to the entity by such physicians for “designated health services,” absent the application of a specific exemption. Unlike the anti-kickback laws discussed below, the Stark Law is not an intent-based statute. If a financial relationship exists that does not fit within a Stark Law exception, the law’s prohibitions apply regardless of whether the parties had any intent to induce the referral of a designated health service.

It is important to note that the Stark Law only applies to referrals from physicians, which is defined under the law to include M.D.s, D.O.s, doctors of podiatric medicine, doctors of dental surgery or medicine, optometrists and chiropractors.<sup>8</sup>

The definition of a “referral” under the Stark Law is broader than the typical concept of a referral, and includes any request by a physician for the ordering of, certifying or recertifying the need for, or the establishment of a plan of care that includes the provision of, a designated health service for which payment may be made under the Medicare program.<sup>9</sup> In order to constitute a referral under the Stark Law, it is not necessary that the physician specifically refer a patient to an entity with which the physician has a financial relationship. If a patient happens to seek a designated health service from such an entity after the physician makes a “referral,” the Stark Law provisions apply.

Fortunately, the Stark Law contains a number of exceptions for specific types of financial arrangements. The exceptions are found in 42 U.S.C. §1395nn(b)-(e), and in regulations at 42 C.F.R. §§411.355 through 411.357. Key exceptions typically relied upon in the health care industry include those for employment relationships, personal or management services,

office and equipment leases, physician recruitment and others. Key requirements of many of these exceptions are that the compensation paid by the entity providing designated health services to a physician does not exceed fair market value and is commercially reasonable.<sup>10</sup> In addition, many of the exceptions require that the financial arrangement be set forth in a written document with a term of at least one year.

To the extent a referral is made by a physician to an entity with which the physician has a financial arrangement that does not come within an exception, the following sanctions may apply in connection with Medicare billing:<sup>11</sup>

- 1) **Denial of Payment** – Medicare payment may not be made for a designated health service that is furnished in violation of the prohibition against improper physician referrals under the Stark Law.
- 2) **Refunds** – Money collected as a result of improper billing must be refunded to the individual or entity from whom the amounts were collected on a timely basis.
- 3) **Civil Money Penalty** – Any person who presents or causes to be presented a bill or claim for a service that the person knows, or should know, is for a service for which payment may not be made under the Stark Law, or for which a refund has not been made, will be subject to a civil money penalty of not more than \$15,000 for each service, plus twice the amount billed.
- 4) **Exclusion** – Any person who violates the Stark Law may be excluded from participation in the Medicare and Medicaid programs.
- 5) **Circumvention Schemes** – Any physician or other entity that enters into an arrangement or scheme (such as a cross-referral arrangement), the principal purpose of which the physician or entity knows, or should know, is to assure referrals by the physician to a particular entity that, if they were made directly by the physician, would be in violation of the prohibition on referrals, will be subject to a civil money penalty of not more than \$100,000 for each arrangement or scheme. A person engaging in such a scheme is also subject to exclusion from participation in the Medicare and Medicaid program.



- 6) **Failure to Report Information** – Any person who is required, but fails, to meet the reporting requirements for ownership arrangements is subject to exclusion and a civil money penalty of not more than \$10,000 for each day for which reporting is required to have been made.

For example, if a compensation arrangement between a physician and a hospital for medical director services does not come within an exception under the Stark Law, the hospital is prohibited from billing for all inpatient and outpatient services “referred” by the physician while the improper compensation arrangement was in place. Obviously, this can have huge economic consequences for hospitals and other entities that provide designated health services.

Fortunately, there is some assistance available health care providers to help assure compliance with the Stark Law. The Centers for Medicare and Medicaid Services (CMS), the federal agency that administers the Medicare program, issues advisory opinions regarding whether a proposed arrangement complies with the Stark Law. To date, approximately 15 advisory opinions have been issued by CMS. More information about the CMS advisory opinion process is available at [www.cms.gov](http://www.cms.gov). This is particularly helpful for proposed financial arrangements that may not clearly fit within an exception under the Stark Law.

In addition, CMS has developed a self-disclosure protocol under which an entity that believes a Stark Law violation exists can self-disclose the issue to CMS, and potentially negotiate a settlement of the matter at a reduced amount.<sup>12</sup> In particular, CMS may consider 1) the nature and extent of the improper or illegal practice; 2) the timeliness of the self-disclosure; 3) the cooperation in providing additional information related to the disclosure; 4) the litigation risks associated with the matter disclosed; and 5) the financial position of the disclosing party in determining whether to reduce amounts otherwise owned. Reported self-disclosure settlements suggest that CMS has settled self-disclosed matters for significantly less than the maximum exposure under the Stark Law.

## ANTI-KICKBACK LAWS

### *Federal Anti-Kickback Law*

42 U.S.C. §1320a-7b(b), referred to in this article as the “federal Anti-Kickback Law,” prohibits the provision of any “remuneration” with the intent to induce the referral of any federal health care program beneficiaries. The federal Anti-Kickback Law prohibits both 1) the solicitation or receipt of prohibited remuneration and 2) the offer or payment of prohibited remuneration.<sup>13</sup> Thus, both the payors and payees of illegal remuneration are subject to penalties. Further, unlike the Stark Law, the federal Anti-Kickback Law is not limited to financial arrangements with physicians, but applies to remuneration paid to any potential referral source for federal health care programs. As used in this law, remuneration is not limited to the payment of cash or cash equivalents to a referral source; it can also include providing free or reduced-cost services or items to the referral source.

Some examples of activities clearly prohibited by the Federal Anti-Kickback Law include 1) paying a physician a fixed amount for each patient referral or 2) providing free office space to a physician or other referral source to induce referrals. It is less clear whether other activities may violate the federal Anti-Kickback Law, such as 1) permitting a physician to invest in a joint venture to which the physician may refer patients; or 2) paying a physician to provide emergency room call coverage.

The Federal Anti-Kickback Law has statutory<sup>14</sup> and regulatory<sup>15</sup> “safe harbors” which exempt certain financial relationships from the illegal remuneration and compensation prohibitions, so long as all of the requirements of a safe harbor are met. Safe harbor regulations exist for joint venture arrangements, employment and personal services arrangements, facility and equipment leases, recruitment arrangements and other typical health care business arrangements. The safe harbor exceptions are generally considered to be narrowly drawn, and many common arrangements do not fit within a safe harbor regulation. Failure to meet all of the requirements of a safe harbor does not necessarily mean the transaction violates the Federal Anti-Kickback Law. However, there would be no absolute protection against prosecution under the Federal Anti-Kickback Law. The closer the parties come to meeting the requirements of a safe harbor regulation, the

less likely the arrangement would be challenged by the government.

To the extent the parties to a proposed arrangement desire absolute protection from prosecution under the Federal Anti-Kickback Law and the arrangement does not meet all requirements of the safe harbor, they can request an advisory opinion from the Office of Inspector General (OIG). Such a request requires an initial filing fee of \$250, with an additional fee based upon the actual costs incurred by the OIG in preparing such opinion. Although the regulations state that such opinions must be rendered within 60 days of the submission of all required information, the OIG typically requests additional information and takes longer than 60 days to render an advisory opinion. To date, more than 100 advisory opinions have been issued by the OIG regarding the federal Anti-Kickback Law. Although only the requesting party is able to directly rely on the advice provided in an advisory opinion, the advisory opinions provide significant guidance to others considering similar arrangements. The OIG advisory opinions, along with information about requesting an advisory opinion, can be accessed on the OIG's webpage, at [www.hhs.oig.gov](http://www.hhs.oig.gov).

The federal Anti-Kickback Law is a criminal statute pursuant to which the following penalties may be imposed:

- 1) **Fine** – A fine of up to \$25,000 per violation may be imposed.
- 2) **Imprisonment** – A person violating the federal Anti-Kickback Law may be imprisoned for up to five years for each violation.
- 3) **Exclusion** – Violators of the federal Anti-Kickback Law also may be excluded from participation in the federal health care programs.<sup>16</sup>
- 4) **Civil Monetary Penalties** – Historically, civil monetary penalties were not an available remedy for violation of the federal Anti-Kickback Law. However, explicit authorization for the recovery of civil penalties in connection with violations of the federal Anti-Kickback Statute was provided in 1997 by §4304(b) of the federal balanced budget legislation.<sup>17</sup> These civil monetary penalties may be imposed in the amount of \$50,000 per violation plus “damages of not more than 3 times the

total amount of remuneration offered, paid, solicited, or received, without regard to whether a portion of such remuneration was offered, paid, solicited, or received for a lawful purpose.”

The OIG also has developed a self-disclosure protocol for situations in which a violation of the Anti-Kickback Statute likely has occurred.<sup>18</sup> The benefits of reporting through the OIG self-disclosure protocol include the fact that the parties may be able to resolve liability for overpayments at a lower amount than may otherwise be the case, and may avoid exclusion from federal health care programs. On the other hand, there is no guarantee of any lenient treatment by the OIG, and self-disclosure may result in collateral legal actions by other payers.

#### *Oklahoma Anti-Kickback Law*

Oklahoma has adopted 63 Okla. Stat. §1-742 (referred to herein as the “Oklahoma Anti-Kickback Law”) which is similar to the federal Anti-Kickback Law but arguably applies to all patients, regardless of their source of payment. In particular, 63 Okla. Stat. §1-742 states:

Any person who intentionally or knowingly pays to or accepts anything of value from **any person, firm, association of persons, partnership, or corporation**, for securing or soliciting patients for any hospital or other entity providing health care services in this state, upon conviction, shall be guilty of a misdemeanor and shall be punished by a fine of not less than Five Hundred Dollars (\$500.00) and not more than Two Thousand Dollars (\$2,000.00). [Emphasis added].

The bolded language appears to include remuneration from any of the sources listed. However, the language in §1-742 (B)(3) provides an exception for “[A]ny payment, business arrangements or payment policies not prohibited by 42 U.S.C. §1320a-7b(b), or any regulations promulgated pursuant there to.” The intent and scope of this exception are unclear, and there is not yet any case law or other interpretation of 63 Okla. Stat. §1-742. The drafters of 63 Okla. Stat. §1 742 likely intended only to except arrangements which fit within one or more of the “safe harbors” available under the federal Anti-Kickback Law. However, because the Federal Anti-Kickback Law only prohibits the payment of remuneration with the intent to induce the referral of services reimbursable under federal health care

programs, arguably such statute does not prohibit payments made with the intent to induce the referral of services reimbursable by other sources (private health insurance, HMOs, PPOs, etc.).

In interpreting 63 Okla. Stat. §1-742, a court should be guided by the fact that it is penal in nature and must be restrictively viewed.<sup>19</sup> This rule of interpretation, however, does not mean the interpretation of 63 Okla. Stat. §1-742 is free from doubt. A court could determine that the statute is unambiguous and interpret it according to its plain language, without employing any rules of interpretation. In any event, it is clear that an arrangement which fits within a safe harbor under the federal Anti-Kickback Law will be protected from prosecution under the Oklahoma Anti-Kickback Law as well.

The penalties under the Oklahoma Anti-Kickback Law are not as severe as under the federal Anti-Kickback Law, but are still quite substantial, as indicated below.

- 1) **Fine** – A fine of not less than \$500 and not more than \$2,000 may be imposed on violators.
- 2) **Disciplinary Action** – A violation of the Oklahoma Anti-Kickback Law shall be grounds for disciplinary action by the Oklahoma State Board of Medical Licensure and Supervision.
- 3) **Injunction** – The Oklahoma State Board of Medical Licensure and Supervision also is permitted to seek an injunction to prevent the continuation of the prohibited financial activity.
- 4) **Misdemeanor** – A violation of the Oklahoma Anti-Kickback Law is classified as a misdemeanor, not a felony.

## CONCLUSION

In light of the catastrophic effects that can result from a violation of these laws, attorneys involved in crafting any financial relationships between health care providers, particularly arrangements with physicians, must be certain that the relationship complies with these laws. Further, a violation of the Stark Law or the Fed-

eral Anti-Kickback law also can result in an alleged violation of the federal False Claims Act,<sup>20</sup> which can result in additional liability, and can be asserted in *qui tam* actions by individuals who can share in any recoveries. With increased federal and state focus on reducing fraud and abuse in the health care industry and bringing down costs, it is more important than ever to understand these key health care laws and assure compliance.

1. "Overview of Medicare Spending," The Kaiser Family Foundation, <http://goo.gl/WzXpN5> (last accessed Dec. 30, 2014).

2. This name derives from Pete Stark, a congressman from California who was a primary author of this legislation.

3. For purposes of this article, federal health care programs include Medicare, Medicaid, CHAMPUS, TRICARE, maternal and child health block grants, social service block grants and other federal and state-funded health care programs.

4. 42 U.S.C. §1395nn(h)(6).

5. 42 U.S.C. §1395nn(a)(2).

6. 42 U.S.C. §1395nn(h)(1)(A).

7. 42 U.S.C. §1395nn(h)(1)(B).

8. 42 C.F.R. §411.351.

9. 42 C.F.R. §411.351.

10. For a detailed discussion of these requirements, see the separate article in this edition by Elizabeth Tyrrell and Patricia Rogers titled "Physician Compensation Arrangements Under the Stark Law."

11. There is some uncertainty whether the Stark Law provisions apply to the referral of Medicaid patients. The statutory language of the Stark Law does not appear broad enough to apply to referrals of Medicaid patients. However, in several recent cases, the federal government has argued that the Stark Law should extend to Medicaid referrals. These cases are still pending, so there is not yet any final ruling on this issue.

12. CMS Voluntary Self-Referral Disclosure Protocol, ORMB Control Number 0938-1106, [www.cms.gov](http://www.cms.gov)

13. The Anti-Kickback Statute contains no exemption for de minimis forms of remuneration. Accordingly, any remuneration, no matter how small, apparently may result in a violation of the statute if it is intended to serve as inducement for referrals of business covered by a federal health care program.

14. 42 U.S.C. §1320a-7(b)(b)(3).

15. 42 C.F.R. §1001.952.

16. 42 U.S.C. §1320a-7(b)(7).

17. 42 U.S.C. §1320a-7a(a)(7).

18. OIG's Provider Self-Disclosure Protocol, notice issued April 17, 2013, [/www.oig.hhs.gov](http://www.oig.hhs.gov)

19. See, e.g., *So-Lo Oil v. Total Petroleum*, 832 P.2d 14, (Okla. 1992); *Sampson Resources v. Cloud*, 812 P.2d 1378 (Okla.App. 1991); *Quinn v. City of Tulsa*, 777 P.2d 1331 (Okla. 1989).

20. 31 U.S.C. §§3729-3733.

## ABOUT THE AUTHOR



Karen Rieger is a shareholder and director at Crowe & Dunlevy, where she serves as chair of the Healthcare Practice Group. She is the current chair of the OBA Health Law Section and is a director of the Oklahoma Health Lawyers Association.

# Physician Compensation Arrangements Under the Stark Law

## Deciphering Fair Market Value, Commercial Reasonableness and the ‘Takes into Account’ Prohibition

By Elizabeth D. Tyrrell and Patricia A. Rogers

**A**t issue in a number of recent *qui tam* cases involving the Stark Law are the concepts of *fair market value*, *commercial reasonableness* and *the volume or value of referrals*. In simple terms, if an entity that performs certain health care services pays a physician who refers Medicare or Medicaid patients to the entity, the compensation arrangement must satisfy a number of requirements. Generally, the compensation must be 1) consistent with fair market value, 2) commercially reasonable even if no referrals were made between the parties and 3) not take into account the volume or value of referrals or other business generated between the parties.

Historically, parties to a physician compensation arrangement have felt comfortable relying on a third-party valuation to determine compliance with Stark Law requirements. However, recent cases have illustrated that an independent fair market value valuation is not bulletproof. In this article, we will briefly describe the statutory and regulatory framework and case law related to physician compensation arrangements and interpretation of fair market value, commercial reasonableness and “taking into account” the volume or value of referrals. We will also provide recommendations for obtaining and scrutinizing valuations.

### STARK PHYSICIAN SELF-REFERRAL PROHIBITION

The Stark Law prohibits a **physician** from referring a Medicare beneficiary or Medicaid recipient to an **entity** for the furnishing of des-

**ignated health services**<sup>1</sup> if the physician (or an immediate family member) has a **financial relationship** with the **entity**, unless all of the conditions of an applicable exception are satisfied.<sup>2</sup> An entity that furnishes designated health services to a Medicare beneficiary or Medicaid recipient who was referred by a physician in violation of the Stark Law may not submit claims for reimbursement to Medicare or to any individual, third party payor, or other entity for the services performed pursuant to the prohibited referral. If the entity receives reimbursement for items or services provided to a Medicare or Medicaid patient who was referred by a physician in violation of the Stark Law, the entity must timely refund all collected payments. Violations of the Stark Law can serve as the basis for *qui tam* actions under the federal False Claims Act and for exclusion from participation in Medicare. By submitting claims

to the Medicare or Medicaid program, an entity is certifying that it has complied with applicable law, including the Stark Law.

The Stark Law and its implementing regulations provide a number of exceptions that apply to physician compensation arrangements. The Stark regulatory exceptions for rental of office space, rental of equipment, bona fide employment relationships, personal service arrangements, fair market value compensation and isolated transactions<sup>3</sup> each generally require that:

- 1) Rent or compensation is consistent with (or does not exceed) fair market value;
- 2) Rent or compensation is not determined in a manner that takes into account the volume or value of referrals of the physician (or other business generated by the parties); and
- 3) Terms of the agreement (or compensation) would be commercially reasonable even if no referrals were made between the parties.<sup>4</sup>

“Fair market value” is defined under the Stark Law as follows:<sup>5</sup>

*Fair market value* means the value in arm’s-length transactions, consistent with the general market value. “General market value” means the price that an asset would bring as the result of *bona fide* bargaining between well-informed buyers and sellers who are not otherwise in a position to generate business for the other party, or **the compensation that would be included in a service agreement as the result of *bona fide* bargaining between well-informed parties to the agreement who are not otherwise in a position to generate business for the other party.** Usually, the fair market price is the . . . compensation that has been included in *bona fide* service agreements with comparable terms at the time of the agreement where the price or compensation **has not been determined in any manner that takes into account the volume or value of anticipated or actual referrals.**

The Centers for Medicare & Medicaid Services has addressed the use of valuations in determining physician compensation:

Reference to multiple, objective, independently published salary surveys remains a prudent practice for evaluating fair market value. Ultimately, the appropriate method

for determining fair market value for the purposes of the physician self-referral law will depend on the nature of the transaction and other factors. . . . although a good faith reliance on an independent valuation (such as an appraisal) may be relevant to a party’s intent, it does not establish the ultimate issue of the accuracy of the valuation figure itself.<sup>6</sup>

The Stark Law is a strict liability statute. If an arrangement is subject to the Stark Law, it must be structured to satisfy an exception or the arrangement is prohibited.

## RECENT CASE LAW

In recent cases the courts have interpreted the Stark Law requirements and found that independent valuations failed to meet the requirements for establishing fair market value under the Stark Law because they took into account anticipated referrals or the volume or value of referrals. As a result, the hospitals and physicians involved will pay millions of dollars in damages and penalties.

In *United States ex rel. Singh v. Bradford Regional Medical Center*,<sup>7</sup> the federal district court held that compensation arrangements between the hospital and certain physicians did not meet the Stark Law definition of fair market value because a valuation report took into account the volume or value of anticipated referrals by the physicians to the hospital. Bradford Regional Medical Center subleased a nuclear camera from two physicians on its staff. The sublease included a payment for a covenant not to compete. Bradford engaged its accountant to prepare a valuation report. In his report, the accountant included a table that compared the payments under the noncompete with the expected revenue stream from the two physicians’ referrals. The court held that “the Report itself indicates that the analysis of whether the non-competition agreement represents a fair market value is based, in part, on anticipated referrals from the doctors.”<sup>8</sup> The court concluded that the compensation arrangement was inflated to compensate the physicians for their referrals and that the compensation arrangement was not “fair market value” under the Stark Law.<sup>9</sup>

There were some problematic facts in the *Bradford* case. The transaction resulted from Bradford’s concern that physicians on its medical staff would compete with the hospital’s outpatient diagnostic services departments,

which was exacerbated by the acquisition of the nuclear camera by the two physicians. In spite of subleasing the nuclear camera, the hospital never relocated the nuclear camera from the physicians' office. In fact, Bradford began paying rent and fees to the physicians for the continued use of the nuclear camera by the physicians' patients (which use was billed and collected by the hospital "under arrangements" with the physicians). The hospital soon purchased a different nuclear camera but paid to release the physicians from their guaranty under the original lease, and the physicians thereafter donated the old equipment to charity. It does not appear that the entire transaction was commercially reasonable for the hospital to undertake if one does not take into account the continued assured referrals.

In *United States ex rel. Drakeford v. Tuomey Healthcare System*,<sup>10</sup> the court entered a judgment against Tuomey Healthcare System for a total of \$237.5 million for violating the Stark Law and the federal False Claims Act. Tuomey Healthcare System hired 18 surgeons as part-time employees to perform their surgeries at Tuomey's outpatient surgery department. Tuomey paid the surgeons based on their professional services and billed and collected for the professional fees. On average, the compensation paid to the surgeons exceeded the collected professional fees by 31 percent. Although the hospital had obtained a valuation report indicating that the compensation was fair market value, the jury found that the compensation arrangement exceeded fair market value, was based on the volume or value of referrals, and was not commercially reasonable.

The *Tuomey* case wound its way through the courts in a tortuous manner, including two jury trials and an appeals court decision. The Fourth Circuit Court of Appeals had this to say about the compensation:

It stands to reason that if a hospital provides fixed compensation to a physician that is not based solely on the value of the services the physician is expected to perform, but also takes into account additional revenue the hospital anticipates will result from the phy-

sician's referrals, that such compensation by necessity takes into account the volume or value of such referrals.<sup>11</sup>

Like the *Bradford* case, the *Tuomey* case involved some problematic facts. The hospital entered into the arrangement in response to concerns that the physicians were going to build a competing ambulatory surgery center. The terms of the employment agreements were for 10 years and involved part-time employment solely for the performance of outpatient surgeries. The physicians received full-time benefits, including reimbursement for professional liability insurance costs, even through they were part-time employees, and agreed not to compete with the hospital. Finally, the compensation included a base salary that fluctuated based on net collections and productivity bonuses, with the result that the practices were conducted at a loss to the hospital unless the facility fee income was considered.<sup>12</sup>

**“The hospital’s employed physicians participated in an incentive pool equal to 15 percent of the oncology program’s ‘operating margin.’”**

In *United States ex rel. Parikh v. Citizens Medical Center*,<sup>13</sup> the federal district court refused to dismiss a *qui tam* action alleging that a hospital's compensation to three cardiologists violated the Stark Law based in part on

the relators' claim that "the cardiologists' office practices have systematically lost money even while [the hospital] has prospered. . . ." The court ruled that the defendants' expert report showing that the cardiologists' salaries were below the national median was insufficient to overcome the inference that the relators' allegations were true in a motion for summary judgment, stating "This inference is particularly strong given that it would make little apparent economic sense for Citizens to employ the cardiologists at a loss unless it were doing so for some ulterior motive — a motive Relators identify as a desire to induce referrals."

Most recently this year, Halifax Hospital Medical Center and an affiliate agreed to pay \$85 million to resolve allegations that Halifax had violated the Stark Law.<sup>14</sup> The hospital's employed physicians participated in an incentive pool equal to 15 percent of the oncology program's "operating margin." The government took the position that the bonus necessarily took into account the volume or value of the

physicians' referrals to the hospital because the operating margin included fees for hospital services, which are designated health services. Even though participation was based on the physicians' personally performed services, the court ruled that it violated the Stark Law.

Prior to implementing its bonus plan, Halifax had obtained an opinion from outside counsel. The hospital's compliance officer disagreed with the opinion and, when the hospital did not agree with her analysis, brought suit. In addition to paying the largest amount to settle a Stark Law claim to date, Halifax was required to enter into a five-year corporate integrity agreement to settle the claims.

### **INSIGHTS FROM TUOMEY, BRADFORD, CITIZENS AND HALIFAX**

Even though the Stark Law has been around since 1992, we have only started to see a significant number of cases in recent years. This is partly due to the nature of *qui tam* lawsuits, which may be sealed for years. However, with this recent spate of cases we see significantly more attention paid to the concepts of commercial reasonableness and "the volume or value of referrals."

The health care industry has criticized the *Tuomey* court's flat pronouncement that a hospital's compensation to a physician at an expected loss to the hospital cannot be consistent with the Stark Law. Hospitals, and in particular those that are organized as charitable organizations, have a mission to serve the health care needs of their communities. Especially in rural areas, a hospital may need to compensate a necessary specialist at a rate that is commensurate with what he or she would earn elsewhere. The *Tuomey* case serves as an example of the old adage that "bad facts make bad law."

These cases have not expressly addressed the valuation of a business. However, it is clear that valuations should not incorporate buyer-specific synergies in forecasts. No consideration should be given to the differing reimbursement rates of the buyer and seller when valuing property for a transaction that is subject to the Stark Law.

The *Bradford* and *Tuomey* cases discuss not only the valuation reports but the processes by which the hospitals approved the transactions when determining that the compensation arrangements improperly took into account the volume or value of referrals. In both, hospi-

tals were reacting to threatened competition from the members of their medical staffs and relied on projections of the impact of that competition when engaging in the relevant transactions. Thus, when engaging in transactions with members of the medical staff, hospital administrations should avoid commingling projections of the impact of a transaction with the valuation process for the subject transaction. Clearly, the courts believed that the projections impacted the compensation that these hospitals paid. Additionally, *Tuomey* demonstrates that employing physicians is not a panacea, and part-time employment arrangements may be particularly suspect.

Although this article does not address the federal Anti-Kickback Statute,<sup>15</sup> an analysis of whether compensation takes into account the volume or value of referrals and whether an arrangement is commercially reasonable can also be helpful in evaluating whether compensation constitutes prohibited remuneration under federal and state law.<sup>16</sup>

### **OBTAINING VALUATIONS**

Generally, the hospital or other entity contracting with a physician will engage the valuation consultant or appraiser. However, legal counsel may engage the consultant when the purpose of the valuation is to provide counsel with the ability to provide legal advice or to aid counsel in providing legal advice to the client. In these circumstances, legal counsel should enter into an engagement agreement that sets forth the terms of the engagement and addresses the following:

- 1) Legal counsel will direct the work of the valuation consultant
- 2) Legal counsel will approve of the work plan with input from the valuation consultant
- 3) Communications and work-product of the consultant are intended to be covered under the attorney-client privilege and attorney work-product doctrine to allow legal counsel to provide legal advice to the client
- 4) All work under the engagement will be kept separate and apart from any other services that the consultant may be otherwise providing to the client
- 5) The consultant will report findings directly to legal counsel, not to the client

- 6) The consultant's work will be kept strictly confidential (and if protected health information will be disclosed, the consultant will enter into a subcontractor business associate agreement with legal counsel)
- 7) Legal counsel will coordinate discussing the findings with the client as part of the rendering of legal advice

Additionally, the engagement agreement should state the valuation consultant may not include the volume or value of past or anticipated referrals (facility or technical fees) in the valuation. The engagement agreement should address the purposes and use of the appraisal, which should be related to compliance with applicable laws and assistance to legal counsel in providing advice to the client. Keep in mind that legal counsel may need the consultant to become involved after the project is completed. For this reason, the engagement agreement should not allow the consultant to disclaim responsibility for future work. The engagement agreement should provide that the consultant will express fair market value in a range.

The consultant should provide a draft of the valuation report to legal counsel to consider and review before it is finalized. Legal counsel should evaluate the following before authorizing the consultant to finalize the valuation report:

- 1) Is there a definitive opinion?
- 2) Is the opinion giving a range of fair market value?
- 3) Do the qualifications and limitations weaken or invalidate the opinion?
- 4) Does it rely on appropriate comparable data?
- 5) Does it address previous or anticipated referrals?
- 6) Does it take into account a hospital's facility fee or a provider's technical fee?
- 7) Are there factors that the consultant should have taken into account?
- 8) Is the opinion defensible? Would it satisfy the Office of Inspector General and the Centers for Medicare & Medicaid Services?

It is not necessary to engage a valuation consultant through counsel. However, if the purpose of the valuation is to assist legal counsel in providing advice to the client and the attor-

ney-client privilege is properly maintained, the client has the best chance of maintaining the confidentiality of the valuation if counsel has engaged the consultant. Of course, once the valuation is shared with third parties, the privilege will be waived.

There are valid reasons a client may wish to disregard an initial valuation, such as concerns about methodology or the consultant's qualifications. However, caution is advised if the client decides to get a second valuation because it considers the first one to be unsatisfactory. The client may be perceived to be "opinion shopping," which happened in the *Tuomey* case.

When selecting a valuation consultant, it is important that the consultant have the right credentials and experience for the relevant transaction. There are a number of good valuation consultants with experience in the health care industry, locally and nationally. However, valuing physician compensation is different than valuing an imaging center, which is different than valuing a hospital. Some consultants' experience is limited to valuing physician practices or minority interests in health care businesses as assets for purposes of divorce or estate planning and may not be adequate for other purposes. Although the goal of obtaining a good valuation is to protect the transaction from future scrutiny, there is great comfort in knowing that the consultant will be able to adequately defend and support the valuation should that be necessary.

1. 42 U.S.C. §1395nn and 42 CFR §§411.350 – 389. "Designated health services" or DHS are: 1) clinical laboratory services; 2) physical therapy, occupational therapy and speech-language pathology services; 3) radiology and certain other imaging services (including ultrasound, MRI, CT and PET); 4) radiation therapy services and supplies; 5) durable medical equipment and supplies; 6) parenteral and enteral nutrients, equipment and supplies; 7) prosthetics, orthotics and prosthetic devices and supplies; 8) home health services; 9) outpatient prescription drugs payable by Medicare Part B and Part D; and 10) inpatient and outpatient hospital services. Many of these types of designated health services are further defined in the Stark Law or other Centers for Medicare & Medicaid Services (CMS) regulations.

2. The Stark Law's application to the referrals of Medicaid recipients is uncertain. Section 1903(s) of the Social Security Act provides as follows: "Federal financial participation is restricted for expenditures under a State plan consisting of designated health services that are furnished to an individual on the basis of a physician referral that would result in the denial of payment under the Medicare program if Medicare covered the service to the same extent and under the same conditions as under a State's Medicaid plan." CMS issued proposed regulations in 1998 to implement this section of the act, but they have never been finalized. In the proposed regulations, CMS stated that the statute does not prohibit a state from paying for the services, but the state cannot receive federal financial participation for such services.

In *United States ex rel. Elin Baklid-Kunz v. Halifax Medical Center*, the hospital submitted claims to Medicare and Medicaid. Defendants argued in motion to dismiss that neither Stark Law nor Medicaid statute prohibited Florida Medicaid from reimbursing them for services and thus their Medicaid claims could not have been false in violation of False Claims Act (FCA). Case. No. 6:09-CV-1002-Orl-31 DAB (Mid.



D. Fla. June 6, 2011). DOJ argued that by engaging in the prohibited relationship and submitting claims to Florida Medicaid, Halifax violated FCA by causing the Florida Medicaid program to submit false claims to the federal government in violation of the FCA. The false claims were the claims submitted by Medicaid to CMS for FFP (not the claims submitted by the hospital to Medicaid). The court held that allegation that Halifax caused Florida Medicaid to submit false claims was sufficient to state a claim under the FCA. The case later settled as noted in this article.

In *United States ex rel. Marc Osheroff v. Tenet Healthcare Corporation*, (DOJ declined to intervene), the *qui tam* plaintiff alleged that Tenet hospitals accepted patient referrals from physicians who leased space from the hospital chain and its subsidiaries at below fair market rates. Case No. 10-24486-CV-SCOLA; 2012 U.S. Dist. LEXIS 139949 (South Dist. Fla. Sept. 28, 2012). Relator claimed that Stark prohibited Tenet from submitting Medicare and Medicaid claims and both constituted false claims under FCA. Court did not address whether submission of Medicaid referrals could constitute a basis for an FCA violation, but in an order granting in part and denying in part a motion to dismiss, the court noted that the United States in a statement of interest brief filed in the case, asserted that the defendants had certified compliance with the Stark Law and that compliance is a condition of the government's payments under Medicare and Medicaid. Court also noted that defendants had conceded that Stark Law violations render claims submitted for payment false under FCA.

3. 42 CFR §411.357 (a), (b), (c), (d), (f) and (l).

4. The personal service arrangement exception requires that "the aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement(s)." §411.357(d)(1)(iii).

5. §411.351 (definition of *fair market value*).

6. 72 Fed. Reg. No. 171 at 51015 (Sept. 5, 2007).

7. 752 F.Supp.2d 602 (W.D. Pa 2010).

8. *Id.* at 623.

9. *Id.* at 633.

10. 2013 WL 5503695 (D.S.C. 2013).

11. No. 3:05-CV-02858-MJP, Appeal from the District Court for the District of South Carolina (4th Cir. 2012) available at <http://goo.gl/oMtnF>.

12. A facility fee is the "facility" reimbursement that a hospital or ambulatory surgery center receives for performing a surgical procedure, which is separate from the professional fee, which is the reimbursement for a surgeon's or physician's professional services.

13. No. 6:10-CV-64, memorandum and order filed Sept. 20, 2013, available at <http://goo.gl/X08lrg>.

14. *United States et al. v. Halifax Hospital Medical Center*, Case No. 6:09-CV-Orl-31TBS (Mid. Dis. Fla. 2013).

15. Social Security Act §1128B(b) codified at 42 U.S.C. §1320a-7b(b) (2006). The anti-kickback prohibitions of the Social Security Act provide that it is unlawful to knowingly and willfully, directly or indirectly, overtly or covertly, in cash or in kind, pay or receive remuneration for referring an individual to a person for the provision of an item or service covered under a federal health care program, or arranging for or recommending that someone purchase, lease or order a good, facility, service or item covered under a federal health care program. Similarly, the Anti-Kickback Statute prohibits payment of remuneration to induce a recipient to refer an individual to the recipient for the provision of an item or service covered under a federal health care program, or arrange for or recommend that someone purchase, lease or order a good, facility, service or item covered under a federal health care program. The federal Anti-kickback Statute is a criminal statute that applies to any type of arrangement or transaction involving the exchange of remuneration and referrals of Medicare beneficiaries, Medicaid recipients, or other federal health care program patients. A "federal health care program" includes Medicare, Medicaid, TRICARE, Indian Health Service, federal workers' compensation and any other plan or program that provides health benefits funded directly, in whole or in part, by the federal government and any federally-funded state health care program.

16. The Anti-Kickback Statute includes specific exceptions to the illegal remuneration provisions. In addition, the Department of Health and Human Services has issued regulations that provide for several safe harbors, 42 C.F.R. §1001.952. Many of the safe harbors contain a requirement that the compensation to be paid to a person in a position to refer federal health care program business must be "consistent with fair market value in arm's-length transactions and is not determined in

a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under Medicare, Medicaid or other Federal health care programs." Compliance with a safe harbor is not mandatory but removes the risk of criminal prosecution or exclusion from participation in Medicare and other federal health care programs under the illegal remuneration provisions.

In addition to federal law, Oklahoma's anti-solicitation statute prohibits the payment or acceptance of anything of value by any person who intentionally or knowingly secures or solicits patients for health care services. 63 Okla. Stat. §1-742. This criminal statute contains several exceptions, including an exception for any payment, business arrangement, or payment practice not prohibited by the federal Anti-Kickback Statute or the federal safe harbor regulations. If a physician is convicted under the statute, he or she is subject to fines up to \$2,000 and disciplinary action by the applicable state licensing body. Under Oklahoma's Medicaid Program Integrity Act, it is unlawful for any person to "willingly and knowingly solicit or accept a benefit, pecuniary benefit, or kickback in connection with goods or services paid or claimed by a provider to be payable by the Oklahoma Medicaid Program." 56 Okla. Stat. §§1001-1008. As used in this act, a provider is any person who participates in the Oklahoma Medicaid Program as a supplier of a good or a service. In addition to criminal penalties, the act includes civil monetary penalties for violations of the act. The act includes an exception for payments not prohibited by the federal Anti-Kickback Statute or the safe harbor regulations. If the proposed arrangement complies with the federal Anti-Kickback Statute, the arrangement should not violate the Medicaid Program Integrity Act.

## ABOUT THE AUTHOR



Elizabeth D. Tyrrell is a transactional attorney with McAfee & Taft in Oklahoma City. Her practice includes corporate, securities and franchise law with emphasis on issues relating to the health-care industry, including regulatory and transactional matters affecting

the healthcare industry, development of facilities, licensing, affiliations and joint ventures, reimbursement, audits and appeals, physician compensation arrangements, antitrust, Stark Law/physician self-referral restrictions, fraud and abuse, and anti-kickback laws.



Patricia A. Rogers is an attorney with McAfee & Taft in Oklahoma City. She concentrates her practice in the area of health law. She advises hospitals, physicians and other healthcare providers on regulatory and compliance matters, including the Stark Law,

fraud and abuse laws, Medicare certification, HIPAA, EMTALA, licensure and permitting, CON requirements and accreditation standards. She also advises physicians and other healthcare professionals regarding formation of legal entities, compensation, professional licensure and Medicare enrollment.

# Health Care M & A Has Unique Rules

By Elise Dunitz Brennan

The United States health care delivery system has experienced seismic changes in the last 20 years. There has been decreasing reimbursement from government and commercial payors for certain types of health care providers and an escalating intensity of competition for health care dollars. Further, the Patient Protection and Affordable Care Act (ACA) champions new delivery systems and payment models such as accountable care organizations, bundled payments, care coordination and medical homes.<sup>1</sup>

The result of these trends is that health care providers are collaborating in record numbers. Health care collaborations and joint ventures take many different forms. Organizations are using both traditional methods (for example, mergers, partnerships, limited liability companies), as well as more creative structures (for example, joint operating agreements, clinical affiliations, co-management agreements.)

The reasons for this are many. The health care providers are seeking 1) economies of scale, 2) reliance on a partner's unique clinical or managerial strengths or 3) geographical strength to better serve patient and community needs. Further, health care providers believe that consolidations will help them control more of the continuum of care, provide opportunities to navigate new payment models and gain greater control over quality.

Throughout this article, all methods of consolidation and joint ventures will be referenced as "transactions." In a health care transaction, it is always necessary to analyze traditional merger and acquisition issues such as due diligence, representations and warranties. But the

purpose of this article is to discuss the unique issues that need to be considered.

## CHOICE OF ENTITY

Concepts such as service line collaborations, non-clinical joint ventures, payor contracting alignment, management contracts, acquisitions, clinical collaboration, co-branding, satellite clinics and merged administrative services arrangements are gaining popularity in the health care arena as a mechanism of assuring alignment among health care providers when a full merger or acquisition is either not desired by the parties or prohibited by law. The goals of the parties and the form of alignment will govern the choice of entity, as it does in any non-health care transaction. However, there are certain limitations in a health care transaction that need to be considered when selecting the entity to use.

*The Oklahoma Corporate Practice of Medicine Prohibition*

This refers to licensing laws that limit ownership of entities that deliver physician and other medical services to those licensed pursuant to

the Oklahoma Professional Entity Act.<sup>2</sup> Oklahoma law prohibits any person from practicing allopathic medicine without a license,<sup>3</sup> because only a natural person and not a corporation can satisfy Oklahoma's license requirements (pass an examination, be physically and morally capable, etc.),<sup>4</sup> Oklahoma's allopathic licensing law suggests that corporations may not engage in the practice of medicine. Concomitant provisions in the Osteopathic Medicine Licensing Act, the State Dental Act and the Oklahoma Chiropractic Practice Act exist.<sup>5</sup> The Oklahoma Sale of Optical Goods and Devices statute contains the state's only unambiguous statement of the Corporate Practice of Medicine Doctrine. This statute specifically forbids eye care practitioners — including physicians — to conduct eye examinations or visual correction as an employee or associate of a person, firm or corporation, unless it is organized or maintained as a professional association of persons so licensed.<sup>6</sup>

In 2007, a group of physicians argued that a management services contract was void as against public policy because it violated the prohibition against the corporate practice of medicine. However, the Oklahoma Supreme Court declined to review the issue under original jurisdiction.<sup>7</sup> A 2002 Oklahoma attorney general opinion addressing speech pathology and audiology licensing suggests that the corporate practice of medicine prohibition may no longer be a concern in our state.<sup>8</sup> The attorney general concluded that the Speech Language Pathology and Audiology Licensing Act does not prohibit a corporation from offering services of a licensed audiologist employed by the corporation even though the audiology licensing act has similar provisions to the allopathic, osteopathic, dental and chiropractic act. Because the audiology licensing act did not specifically prohibit a corporation, in contrast to the optometrist act, from employing an audiologist, it could do so. But until this issue is resolved limitations on who may own a health care provider and the appropriate entity form needs to be considered.

#### *Fee Splitting*

The Board of Medicine prohibits allopathic physicians from “[d]irectly or indirectly giving or receiving any fee, commission, rebate or other compensation for professional services not actually and personally rendered, though this prohibition shall not prohibit the legal function of lawful professional partnerships,

corporations and associations.”<sup>9</sup> The Board of Osteopathic Examiners’ regulations provide a similar provision. Additional support for the prohibition is found in regulations of the State Board of Medical Licensure and Supervision. This specific regulation states that a physician does not engage in fee splitting when practicing through a professional entity form pursuant to Oklahoma’s Professional Entity Act. The State Dental Act also prohibits “[o]ffering to effect or effecting a division of fees, or agreeing to split or divide a fee for dental services with any person, in exchange for the person bringing or referring a patient.”<sup>10</sup> In 1956, the Oklahoma Supreme Court found that a dentist did not violate the fee splitting provision when he paid a laboratory to produce dentures for the dentist’s patients.<sup>11</sup> Although fee splitting prohibitions have not been actively enforced in Oklahoma, they need to be considered when considering entity choice and ownership.

#### *Limits on Ownership of Entity by Physicians*

The Ethics in Patient Referrals Act of 1989, aka “Stark Law,”<sup>12</sup> prohibits physicians from referring Medicare or Medicaid patients for designated health services to an entity with which the physician (or an immediate family member) has a financial relationship, unless an exception applies. In addition, an entity may not present, or cause to be presented, a claim for payment of services provided as a result of a prohibited referral. Consequently, physician ownership in a transaction may be limited if one of the designated health services set forth below is to be provided:

- 1) clinical laboratory services
- 2) physical therapy, occupational therapy and speech language pathology services
- 3) radiology and certain other imaging services
- 4) radiation therapy services and supplies
- 5) durable medical equipment and supplies
- 6) parenteral and enteral nutrients, equipment and supplies
- 7) prosthetics, orthotics and prosthetic devices and supplies
- 8) home health services
- 9) outpatient prescription drugs
- 10) inpatient and outpatient hospital services

11) nuclear medicine

## UNIQUE COMPENSATION ISSUES

Although beyond the scope of this article, there are specific prohibitions under the Medicare Anti-Kickback Statute,<sup>13</sup> the Oklahoma Anti-Kickback Law<sup>14</sup> and the Stark Law that limit the amount that can be paid by one party to the other as part of the transaction. The anti-kickback statutes are violated if a party knowingly and willfully offers, pays, solicits or receives any remuneration overtly or covertly, in cash or in kind, to induce referrals of federal health care program business. Governmental entities and courts tend to assume that consideration paid in excess of fair market value is intended to induce referrals even when a direct correlation cannot be found. As discussed above, the Stark Law places other limitations on physician-owned entities providing certain services. These laws have exceptions and safe harbors that if followed, allow transactions to fall within safety zones. When structuring the consideration exchanged in the transaction these regulatory prohibitions and the safe harbor and exception requirements need to be incorporated into the terms of the transaction.

## COMPLIANCE ISSUES THAT SURFACE DURING DUE DILIGENCE

In this era of increased regulatory review of health care providers, it is hard to find any entity that has not had some form of compliance issue or regulatory inquiry. The discovery of such issues is one of the primary purposes of conducting due diligence and such issues should, if possible, be addressed prior to closing. If the noncompliance requires self-disclosure or repayment, the parties should delineate that responsibility as part of the transaction. Specific thought as to how to disclose any statutory or regulatory noncompliance in the transaction documents should be given because many state and federal agencies will require a copy of any transaction agreements during a change in ownership process.

## LICENSING AND MEDICARE PROVIDER AGREEMENT ISSUES

Depending on the nature of the transaction, various entities may need to consent to or license part or all of the transaction. Typically, Oklahoma State Department of Health requirements will need to be followed. However, other regulatory agencies such as the Oklahoma Health Care Authority and professional licensing agencies may also need to be involved. Pursuant to Medicare regulations, a change of ownership (CHOW) of a provider occurs any time a Medicare provider has a new owner, via through the removal, addition or substitution of a partner in a partnership, the transfer of title to another party in a sole proprietorship, the creation of a new corporation resulting from the merger of a provider corporation into another corporation, or the consolidation of two or more corporations. The lease of all or part of a provider facility also can result in a change of ownership.<sup>15</sup>

When there is a CHOW, the Centers for Medicare and Medicaid Services (CMS) must be notified and the existing Medicare Provider Agreement will be assigned to the new owner. Assignment of the existing Medicare provider agreement results in uninterrupted Medicare billing. However, this also makes the new owner liable for all terms and conditions under which the Medicare provider agreement was issued. Courts are quite clear that the successor entity is liable for all over payments and civil monetary penalties discovered during the successor's ownership of the Medicare provider agreement.<sup>16</sup>

The False Claims Act (FCA) creates liability for any person who "knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval; [or] knowingly makes, uses or causes to be made or used, a false record or statement material to a false or fraudulent claim."<sup>17</sup> It is less clear whether a purchaser can be liable under the FCA when it assumes the Medicare provider agreement.<sup>18</sup> The risk of assuming the liabilities associated with the previous owner's Medicare provider agreement can be minimized by negotiating indemnification provisions in the transaction

**“The False Claims Act (FCA) creates liability for any person who “knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval...”**”

documents and escrowing a portion of the purchase price to pay the liability. However, it is difficult to put a value on the extent of liability that a purchaser may face due to assuming a Medicare provider agreement. Further, liabilities to Medicare can take years to be determined and resolved.

If the new owner elects not to accept a transfer of the previous Medicare provider agreement, the new owner must submit a new application and have an initial survey to determine if it meets participation requirements. The process for obtaining a new Medicare provider agreement can take many months, during which time the new provider cannot receive Medicare payments and stands to lose a large amount of money due to the inability to bill Medicare.

### CONCLUSION

Because of competitive and business forces, health care consolidations and joint ventures are very likely to continue at an increasing rate. Further, new models of reimbursement proposed by the ACA and other payors will exacerbate the need for relationships and affiliations between and among health care providers. The resulting transactions must always consider the unique health care laws discussed as well as other business matters.

1. P.L. 111-148 enacted March 23, 2010.
2. 18 O.S. §801.

3. 59 O.S. §491(A)(1) (2011).
4. 59 O.S. §494.1 (2013).
5. 59 O.S. §622(A) (2011); 59 O.S. §328.21, 59 O.S. §161.2, 161.8, 161.7(B), 161.14.
6. 59 O.S. §944.
7. *Oklahoma Oncology and Hematology, P.C. vs. US Oncology, Inc.*, 2007 OK 12, 160 P.3d 936, 950 (OK, 2007).
8. 2002 OK AG 20.
9. O.A.C. §435:10-7-4(30).
10. 59 O.S. §328.32(A)(19).
11. *Wilson vs. U.S. ex rel. Board of Governors of Registered Dentists*, 1959 OK 49, 337 P.2d 727, 729 (OK, 1959).
12. 42 U.S.C. §1395nn.
13. 42 U.S.C. §1320a-7b.
14. 63 O.S. §1-742.
15. 42 C.F.R. §489.18.
16. See *United States vs. Vernon Home Health, Inc.*, 21 F.3d 693, 696 (5th Cir., 1994) cert denied 513 U.S. 1015 (1994) (overpayments); *Deerbrook Pavilion, LLC vs. Shalala*, 235 F.3d 1100, 1104 (8th Cir., 2000) cert denied 534 U.S. 992 (2001) (CMPs).
17. 31 U.S.C. §3729(a)(1)(A)-(B).
18. See *U.S. ex rel. Fisher vs. Network Software Associates*, 180 F.Supp.2d 192 (195-96) (D.D.C., 2002).

### ABOUT THE AUTHOR



Elise Dunitz Brennan is a partner at Conner & Winters LLP. She has been practicing health care law for nearly 30 years. She is the only Oklahoma lawyer named as a fellow in the American Health Lawyers Association. She provides legal advice to all types of health care providers on compliance with health care laws and assists providers with contracts, joint ventures and business deals. She also serves as an arbitrator for the AAA and the AHLA.

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# NOTICE

## INTEREST ON JUDGMENTS January 5, 2015

**2015 INTEREST RATES:** In accordance with 12 O.S. 2013 Supp. §727.1 (I), the postjudgment interest rate to be charged on judgments for calendar year 2015 shall be 5.25 percent. Also, the prejudgment interest rate for calendar year 2015 shall be 0.03 percent (applicable to actions filed on or after January 1, 2010). These interest rates will be in effect from January 1, 2015, through December 31, 2015.

**INTEREST RATES BY YEAR:** Interest rates from November 1, 1986, through December 31, 2015, are as follows (interest rates listed below were calculated in accordance with the statute in effect for that period).

Date	Postjudgment Interest Rate	Prejudgment Interest Rate
2015	5.25%	0.03%
2014	5.25%	0.05%
November 1, 2013 through first regular business day of January, 2014 <i>(12 O.S. 2013 Supp. §727.1)</i>	5.25%	0.09%
July 1, 2013 through October 31, 2013 <i>(12 O.S. 2004 Supp. §727.1)</i>	5.25%	5.25%
January 1, 2013 through June 30, 2013 <i>(12 O.S. 2009 Supp. §727.1)</i>	5.25%	0.09%
January 1, 2013 through June 30, 2013 <i>(12 O.S. 2009 Supp. §727.1)</i>	5.25%	0.09%
2012	5.25%	0.05%
2011	5.25%	0.13%
2010	5.25%	0.14%
2009	5.25%	5.25%
2008	9.25%	9.25%
2007	10.25%	10.25%
2006	9.25%	9.25%
2005	7.25%	7.25%
2004	5.01%	5.01%
2003	5.63%	5.63%
2002	7.48%	7.48%
2001	9.95%	9.95%
2000	8.73%	8.73%
1999	8.87%	8.87%
1998	9.22%	9.22%
1997	9.15%	9.15%
1996	9.55%	9.55%
1995	8.31%	8.31%
1994	6.99%	6.99%
1993	7.42%	7.42%
1992	9.58%	9.58%
1991	11.71%	11.71%
1990	12.35%	12.35%
1989	10.92%	10.92%
1988	9.95%	9.95%
1987	10.03%	10.03%
1986	11.65%	11.65%

/s/ Michael D. Evans  
Administrative Director of the Courts

PROGRAMS

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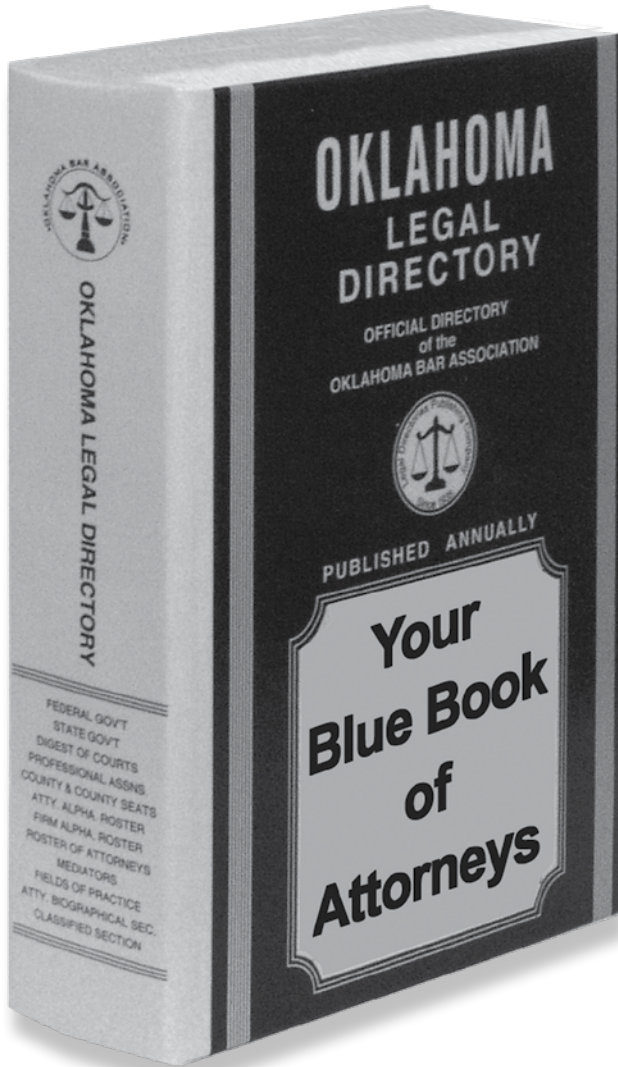
- 1 Recent Developments Impacting Medical Malpractice Claims
- 2 Medical Malpractice 101 for the Plaintiff (incl. .5 ethics)
- 3 Medical Malpractice 101 for Defense (incl. .5 ethics)
- 4 The Medicine Behind Brain Injury
- 5 Winning Tips for Cross Examination of Experts
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# Right Now, Write Now

By John Morris Williams

During the holidays I did a bit of pleasure reading. One of the books I selected was *10 Percent Happier* by Dan Harris of ABC News. I had seen a news piece he had done about the subject matter of the book and thought it an interesting premise. The premise is that meditation can enhance the quality of one's life by helping us live in the minute. I will leave that up to everyone to decide for his or herself. However, another premise of the book is that none of us can really multi-task and that without paying deliberate attention we overlook or fail to meet some important goals. So before you put off or forget, there are some things I want you to write down, right now.

I won't ruin the book, if you choose to read it by telling much more. However, I am going to encourage you to live in the moment to do a bit of planning for 2015. Right now, I want you write now. I want you to docket your calendar no later than Sept. 1 to sign up for CLE and have it all completed by the end of the OBA Annual Meeting. Then, I want you to docket Nov. 4-6 for the OBA Annual Meeting in Oklahoma City. Right now, write it down. Do it.

Also, I would like for you right now to write down Jan. 31, 2015, at 10 a.m. for Legislative Reading Day at the Oklahoma Bar Center and March 24, 2015, for the OBA Day at the Capitol.



**“ Important dates  
you need to docket for  
2015. Right now. ”**

It is essential that every lawyer know the status of the law, and it is your duty as a public citizen to be informed and to help others be informed of the status of pending legislation.

If you have never been to the Solo & Small Firm Conference, I have a secret to share with you. **You don't have to be a solo or**

**small firm lawyer to get a ton out of this conference** and to get some primo CLE. Right now, write now, write down June 18-20 OBA Solo & Small Firm Conference, Hard Rock Hotel, Catoosa, Okla. Seriously, the substance of this conference has grown and developed to the point that the name is almost misleading. Those of you from bigger firms know what I am talking about. The venue is fun, the food is great, the parking is easy and the dress is relaxed. In fact, it is so good I wish I was there, right now!

The OBA Family Law Section is doing another summer trial institute. I have it written down for June 13-18, 2015. This is nationally recognized programming that would cost three to five times more if you were to go out of state to take this training. What I witnessed last summer regarding this institute was incredible. This is world class training right here at the Oklahoma Bar Center. The trial practice training is spectacular. Even if you only do a small amount of family practice, I guarantee the training will aid you in any part of your litigation practice. This is absolutely amazing stuff. If you don't write down to at least check this out, right now, you very well may regret letting this opportunity pass.

Okay, right now, write down March 16-20 as spring break. For Oklahoma City Public Schools,

their break is March 9-20. If you have children, or grandchildren it's important. Also, if you want to do any business, and you don't have children or grandchildren, be mindful that this week can prove to be difficult in getting much done. Regardless of college affiliations, Oct. 10 is the OU vs. Texas game and Bedlam is Nov. 28. As much as I have tried to have meetings or get much done on these days, it is pretty much pointless. Go ahead and write them down. Either enjoy the games or enjoy your tranquility.

Also, I want to encourage you to check the calendar of your county bar association and write

down the meeting and activity dates. Right now, write them down!

Right now, write down three things you are going to do in 2015 and three things you are going to stop doing in 2015. I don't care if it's getting more exercise and stop smoking or start returning every email by the end of the day and stop texting and driving. Just pick up three positives and stop doing three things that might negatively affect you. It's not in the book, just while I had your attention I thought I would try to inspire you to shake things up a bit in 2015. Go ahead, right now; write now the three new things and

the three goners for 2015. I double dog dare you!

Lastly, I want you to write down some time for you to take a break. You know a vacation, something to restore yourself. Because with all the stuff you've got to do now on your calendar you will need to take a rest. HAPPY NEW YEAR!



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

## NOTICE OF JUDICIAL VACANCY

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

**District Judge  
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This vacancy is due to the resignation of the Honorable Greg Dixon, effective January 18, 2015.

**To be appointed to the office of District Judge one must be a registered voter of the respective judicial district at the time (s)he takes the oath of office and assumes the duties of office. Additionally, prior to appointment, such appointee shall have had a minimum of four years experience as a licensed practicing attorney, or as a judge of a court of record, or both, within the State of Oklahoma.**

Application forms can be obtained on line at [www.oscn.net](http://www.oscn.net) under the link to Judicial Nominating Commission, or by contacting Tammy Reaves, Administrative Office of the Courts, 2100 N. Lincoln, Suite 3, Oklahoma City, Oklahoma 73105, (405) 556-9862. Applications must be submitted to the Chairman of the Commission at the same address **no later than 5:00 p.m., Friday, January 30, 2015. If applications are mailed, they must be postmarked by midnight, January 30, 2015.**

Stephen Beam, Chairman  
Oklahoma Judicial Nominating Commission

# New Client Inquiry on Line One

By Jim Calloway

It's the beginning of a new year and most lawyers want to have new clients and new matters to start a new year. And the beginning of a new year is a good time to take stock and make business plans.

We hear and read a lot about lawyer marketing these days. Should lawyers use social media to market their practices? What is the correct marketing budget? Are Yellow Pages advertisements still a worthwhile investment?

But sometimes less attention is given to what happens when the law firm's marketing efforts succeed and a prospective client contacts the law firm for more information about representation.

As noted by many others, the law firm receptionist is the "Manager of Law Firm First Impressions." This is always true whether it is the well-trained and experienced receptionist with a long history with your firm or someone who is "covering the phones" temporarily while the primary receptionist is absent. So perhaps your firm needs to focus on appropriate training for those who only answer the phone part-time or rarely. Many firms are utilizing virtual receptionist services like Ruby Receptionists,<sup>1</sup> an endorsed OBA member benefit. This may be on a full-time basis or just for some hours of coverage.

Much of a telephone receptionist's duties involve taking telephone calls from existing clients or other lawyers and properly routing the calls or taking messages. If they do not handle these duties well, you will likely hear about it from a client at some point.

**“It is important for your law practice that you continue to develop new clients with new matters to handle.”**

But they also handle that extremely important call — the inquiry from a potential new client — and if that is not handled well, you may never hear anything at all. The potential client may simply move on to the next law firm. That is bad for the law firm and could represent a waste of marketing efforts and expenses. Even worse, it could mean that one of your treasured referral sources hears back from that potential client that they were

not treated well or that you were too busy to talk to them. That could result in a referral source drying up without you ever understanding why this happened.

Readers are likely familiar with the late time management guru Stephen Covey and his time management matrix. He assigned four quadrants for determining what tasks are priorities based on their urgency and importance. So quadrant one contained matters that were both urgent and important, while quadrant four included those matters that were both not urgent and not important.

As every experienced lawyer understands, inquiries from new potential clients are quadrant one matters — both urgent and important. It is important for your law practice that you continue to develop new clients with new matters to handle. But it is urgent that the inquiry be handled as promptly as possible because the potential client will probably continue to look for a lawyer while waiting for your return call. Most lawyers who represented individual consumer clients have had the experience of returning an inquiry call within the hour only to find that the person has already talked to and scheduled a meeting with another lawyer and no longer wishes to discuss the legal problem with you.

I should note that this column was inspired by North Carolina lawyer Lee Rosen's post about his attempts to hire a lawyer, "I Needed a Lawyer. Getting One Is Way Harder Than You'd Imagine."<sup>2</sup> Read Lee's post as a companion piece.

So, what are your law firm's policies and procedures about inquiries from new clients, and more importantly, what messages do you convey and what training is done to make sure things are handled accordingly? Left to their own devices, the receptionist may treat these calls like the dozens of other calls received. The potential client may then end up leaving a message on voice mail which is returned after the caller has hired that other lawyer or given up entirely on seeking assistance.

This is where the Covey analysis of urgency is significant and the receptionist should be trained to understand the urgency. Noting that you are on the phone and asking the caller if they want to leave a message or be transferred to voice mail may not be the optimal solution. One would never want to prioritize potential new clients over existing clients. But it is a fact that the existing client who receives their return call in less than an hour is still receiving good service. But the new caller on the phone needs to talk to someone now.

There is no "one size fits all" solution for this. Much depends on the number of lawyers, the available staff and the type of practice. The practitioner who limits his or her practice to anti-trust defense is probably not going to lose a new client if a message is taken and a call returned within an hour or so. Likely the serious caller is



another lawyer working for a corporate client who is seeking that particular lawyer's expertise. But the DUI defense firm or family law firm may have callers who have obtained a list of lawyer's phone numbers and are going down the list calling and saying "No, thanks. No message" if they cannot talk to someone now. So the receptionist's job is to keep them on the phone very briefly and find someone for them to talk to about their legal problem.

So maybe this column will give you some ideas for convening a meeting among the partners to agree on the firm policy and getting that policy in writing. Then the firm can have a training lunch to outline the procedures followed up by regular firm training sessions to fine tune and improve the procedures.

Here is a quick agenda for the meeting.

1) **Who gets the new client inquiry?** Assume all is quiet, everyone is in the office is working at their desks and no one is on the phone when the new potential client calls. Who gets that call? Does the named partner get first refusal on every call? Does the receptionist keep a rotation list so the calls are divided among all of the

lawyers? Does only one lawyer in the office handle bankruptcy inquiries? Does that lawyer who is renting an office from the firm ever get in on the rotation or is he only receiving the inquiries on his separate phone line?

This sounds like a simple administrative matter, but this can generate a huge controversy, especially where a law firm's practice areas may range from misdemeanor defense to wrongful death lawsuits or where the origination of a new matter is a significant factor in lawyer compensation. But this is a matter that must be handled professionally and fairly—unless you want the real office policy to be that the best cases go to the lawyer who the receptionist likes best.

2) **What happens when the lawyer who is supposed to receive the new client inquiry is on the phone?** Again, this depends on many factors, including the law firm culture. For some, it may be that the receptionist has to send someone down the hall to the lawyer's office with a sign saying "new client inquiry on line one" and wait for instructions. For

others, it may be that it goes to the next attorney in the rotation.

3) **Should lawyers be handling these intake initial inquiries at all?** We all know how hard it is to get work done today with a number of distractions and certainly having a policy that the lawyer will drop everything every time a stranger calls may not be the best solution for productivity. Lee Rosen mentioned in his blog post that he has two bright and enthusiastic young people handling all of these initial inquiries until they burn out after about a year. While there are likely downsides to that approach, it certainly allows for in-depth expertise and training even if the more traditional lawyers may become quite uncomfortable when they realize that they have now established a position that would be known in other industries as “sales associate.”

4) **How do we respond to questions?** There should certainly be written guidance for everyone in the law firm (at least the smaller law firm) on this topic because anyone might pick up a ringing call when the receptionist is busy. There should be accurate, but standard, answers to questions like “how much does X cost?” And, because you cannot anticipate every possible off-the-wall question, a little training in legal ethics is required. Even a simple question like “Are your lawyers good lawyers?” or “Will bankruptcy get rid of

my debts?” has significant legal ethics implications if handled by an untrained staff person. Your staff person should know not to guess or to veer from approved language that is given in the training. They should be trained to be positive and helpful, e.g. “I understand that your hearing is set for Friday. How would you like to visit with a lawyer first thing in the morning?”

One surprising thing about doing this type of policy establishment, documentation and review is that some of your more experienced staff may learn something or they may have better information and ideas than the lawyers since they have more experience handling new client inquiries.

Once you have established your protocols for handling new client inquiries over the telephone, you are not yet finished with this topic

Because now you need to institute a similar process for email inquiries, web page inquires or social media inquiries.

My opinion is that most law firms would be best served for only one email address to be used as the “contact us” address and that that email account should be checked by a staff person rather than one of the lawyers. Many law firms use a website form completion tool rather than posting the actual email address. This is thought to cut down on spam caused by the web crawlers that harvest email addresses from sites. Email inquiries are no less urgent than phone calls and we all struggle with keeping up with our inboxes, so assigning the monitoring of this

account to staff is usually the best plan. Generally the staff person’s responsibilities would be limited to either scheduling an appointment or arranging for a lawyer to call or email in response.

A final step after the new client inquiry is completed is documentation of the conversation. Even a brief discussion in general terms implicates client confidentiality and conflict of interest concerns. Therefore it becomes critically important to document who the lawyer talked with, who any opposing party might be and generally what was said. This documentation should be available to everyone in the firm for future conflict checking.

## CONCLUSION

Marketing and client development is an ongoing part of the business of law practice. Some law firms have large marketing budgets while others have very small marketing budgets and depend mainly on referrals. Whatever your law firm’s marketing methods are, everyone wants to take the time to institute systems to make sure that once a potential client contacts your office, their inquiry is handled professionally and promptly. Many of these potential clients will go on to become clients of the firm. The better the first impression that you leave with them, the better it is for your ongoing attorney-client relationship.

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

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# Meeting Summary

*The Oklahoma Bar Association Board of Governors met at the Hyatt Regency Hotel in Tulsa on Nov. 12, 2014, in conjunction with the OBA Annual Meeting.*

## REPORT OF THE PRESIDENT

President DeMoss reported she attended the October board meeting in Lawton and planning meetings for the trial college CLE program, initial Master Lawyers Section meeting and county bar presidents meeting. She presented the CLE at the Comanche County Bar Association October luncheon, prepared the bar journal president's article and worked on Annual Meeting preparation and meetings.

## REPORT OF THE VICE PRESIDENT

Vice President Shields reported she attended the board meeting in Lawton, Comanche County luncheon presentation and Oklahoma County Bar Association meeting. She has also been working with Ethics Counsel Pickens, Executive Director Williams, President DeMoss and the rest of the working group on the lawyer's "Planning Ahead Guide" insert for the dues statement and the online materials.

## REPORT OF THE PRESIDENT-ELECT

President-Elect Poarch reported he attended the board meeting in Lawton and lunch with the Comanche

County Bar Association. He also worked on the 2015 OBA budget memo to the Supreme Court and appointments to committees for next year.

## REPORT OF THE PAST PRESIDENT

Past President Stuart reported he attended the Board of Governors meeting in Lawton and Comanche County Bar Association meeting. He also worked on planning the OBA has been dinner.

## REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he attended a meeting with Sonic Corp. staff to discuss Oklahoma's Promise program and to pick up gift cards. He attended several Annual Meeting preparation meetings. He traveled to Guymon to present a 50-year membership pin to OBA Past President David Petty and finalized the 2015 budget for filing.

## BOARD MEMBER REPORTS

**Governor Dexter** reported she attended the board meeting in Lawton and the Comanche County Bar Association meeting. **Governor Gifford** reported he attended the October board meeting in Lawton, Comanche County Bar Association meeting, Military and Veterans Law Section meeting and the section's Hot Issues in Military and Veterans Law CLE. **Governor Hays**, unable

to attend the meeting, reported via email that she participated in the Wichita Mountains event, October Board of Governors meeting in Lawton and the Family Law Section Annual Meeting planning meeting. **Governor Jackson** reported he attended the October board meeting in Lawton and the November Garfield County Bar Association meeting. **Governor Knighton** reported he attended the Board of Governors meeting in Lawton and Comanche County Bar Association meeting. **Governor Parrott** reported she attended the October board meeting, Fort Sill tour, Comanche County Bar Association meeting and luncheon, in addition to the Law Schools Committee meeting. **Governor Sain** reported he attended the October Board of Governors meeting in Lawton, October Comanche County Bar Association meeting, McCurtain County Bar Association meeting and McCurtain Memorial Foundation board meeting. **Governor Stevens** reported he attended the October Board of Governors meeting, Comanche County Bar Association lunch meeting and CLE. **Governor Thomas** reported she attended the October board meeting and Comanche County Bar Association luncheon.

## YOUNG LAWYERS DIVISION REPORT

Governor Hennigh reported the election of several division board members was held elec-

tronically and that results will be announced at the YLD meeting the following day. He announced the Pittsburg County Bar Association will make a significant donation to the YLD Kick It Forward program. He said several board members attended the national YLD midyear meeting last month.

### **SUPREME COURT LIAISON REPORT**

Justice Winchester, unable to attend the meeting, reported via email that the Supreme Court hosted a luncheon at the Oklahoma Judicial Center honoring U.S. Supreme Court Associate Justice Sonia Sotomayor. Supreme Court justices, Court of Criminal Appeals judges, Court of Civil Appeals judges and tribal leaders had the opportunity to hear her thoughts about serving on our nation's highest court.

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

General Counsel Hendryx reported the update on the single case pending against the OBA is that the Supreme Court has denied a petition for writ of certiorari, and no litigation is pending.

### **BOARD LIAISON REPORTS**

Executive Director Williams reported Lawyers Helping Lawyers will meet tomorrow at breakfast and the CABA

representative has changed. He said the committee has a booth at the Annual Meeting to promote its free member services.

### **CLIENTS' SECURITY FUND**

President DeMoss reported many claims have been submitted and the amounts to be reimbursed are expected to greatly exceed the annual maximum of \$100,000. She said Clients' Security Fund Chair Micheal Salem has asked the Board of Governors to consider options of a one-time appropriation from the CSF permanent fund or an assessment of members. General Counsel Hendryx shared a handout showing the recent history of the percentage of claims paid. She said claims received this year are larger than usual. Executive Director Williams shared the history of the fund set up in the early 1960s. Discussion followed. The board voted to make a one-time, special application to the Supreme Court allowing the OBA to pay 50 percent of each claim recommended by the Clients' Security Fund Committee and approved by the OBA Board of Governors in 2014. The board tabled action until the amount of the payments is determined at the CSF meeting on Nov. 19. The board voted that should the Supreme Court approve additional funding exceeding the annual \$100,000, supplemental

money would come from the CSF permanent fund.

A new task force will review similar permanent funds across the United States and consider whether to submit a recommendation to increase the annual \$100,000 maximum to the House of Delegates.

### **OKLAHOMA'S PROMISE**

Executive Director Williams reported he has talked to Sonic Corp. about funding gift cards as incentives for parents to fill out program applications for free college tuition for students whose parents meet income qualifications. He is still talking to the Thunder basketball team community services manager about putting program paperwork into a Thunder backpack.

### **HAS BEEN PARTY**

It was announced the annual event to honor out-going officers and board members will be held Thursday evening, Jan. 15, 2015.

### **NEXT MEETING**

The Board of Governors met Dec. 12, 2014, at the Oklahoma Bar Center in Oklahoma City and Jan. 15, 2015, via telephone conference call. A summary of those actions will be published after the minutes are approved. The next board meeting will be Friday, Feb. 20, 2015, at the Oklahoma Bar Center.



# A New Beginning

By Jack L. Brown

As I begin my tenure as OBF president, “a new beginning” is a tempting theme — and for the first issue of the new year, its lure, despite the cliché, is hard to resist for this column. We all start each new year with hopes for growth and renewal, along with curiosity at what the new year will bring. As Forrest Gump so famously stated over 20 years ago (yes 20), “Life is like a box of chocolates. You never know what you’re gonna get.” It is with this sense of wonder and excitement that I hope you all bring in 2015.

It’s a new year, and I for one am excited to get this thing started; the holidays were fun, but if I have one more piece of pecan pie or sip of egg nog, I may just have to buy a new belt. In our heads, new beginnings are a little like New Year’s Eve (or our fantasy about New Year’s Eve): glittery, fun and possibly includes a massive celebratory balloon drop; however, the reality is always more complicated than the fantasy. So let’s set aside the warm embrace of holiday sweatpants and jump into new opportunities — there is power in fresh starts, but that power is not in the sparkle of the balloon drop. It’s in the hard work that comes afterward.

The OBF’s planning for this year has embraced the idea of a “new beginning” with new and exciting developments that are designed to take the OBF to that next level, which has yet

to be defined. Your OBF has grown into a more than \$12 million nonprofit organization, with revenues close to \$1 million annually. This success brings new challenges for the OBF, which must be addressed to maintain the upward growth and ability to provide additional and larger grants to public service organizations affecting our justice system and the people we serve.

**Please join the OBF**



To address this growing need, the OBF Board of Trustees has approved the hiring of a development director to work with the board and the executive director in the areas of fundraising and external relations. The development director will work closely with the board development committee and concentrate on increasing IOLTA bank interest rates and recruiting additional fellows to the ranks of the OBF. The development director search committee has been formed and should conclude its work in early March 2015 with a recommendation of a candidate to the board for hire by the OBF.

To assist in this process, the Board of Trustees has hired an experienced consultant, Dennis Dorgan from Minnesota, who will assist the selection committee and work with the board on composing a three- to five-year fundraising plan of action. Mr. Dorgan will conduct a state-wide feasibility study for the fundraising plan of action this month by meeting with numerous fellows and supporters of the OBF.

After the development director has been hired, the board will conduct a planning retreat in late March at Postoak Lodge to work with OBF Trustees and staff in the development of this plan of action. Mr. Dorgan will facilitate the retreat, which will culminate in a written report for use by the OBF and its development director on how to meet and exceed the goals set forth therein as established by the Trustees.

My dreams for this “new beginning” are to see our OBF endowment grow 5 – 10 percent each year. The work of the OBF is so important to so many statewide organizations assisting the poor, the elderly, children and many others through the various nonprofits supported by grant awards from the OBF. OBA members who are also OBF members should consider it their duty to be a Fellow of the Oklahoma Bar Foundation. I truly believe we have an obligation to give back to our state and communities for

the privilege to serve the people and our clients. Let's all be a part of this "new beginning" and embrace the new year by becoming OBF Fellows!

**Meet Your 2015  
OBF President  
Jack L. Brown of Tulsa**

Jack Brown has practiced law for more than 30 years in the areas of corporate trust and



estate litigation, estate planning and corporate transactional law. He has long been active in the Tulsa County Bar Association, having served as a board member and on numerous committees and received the Outstanding Service to the Bar Award in 1989 and the Tulsa's Outstanding Young Lawyer Award in 1990. He served on the Board of Governors for the American Bar Association from 1993-1996, and chaired the Judicial Division in 2009-2010 while continuing to remain active in numerous positions. Mr. Brown currently serves on the Council of the Individual Rights and Responsibilities Section and the ABA Standing Committee on Federal Judicial Improvements. He is an Oklahoma Fellow of the American Bar Foundation, and was a 2008-2010 member of the OBA Board of Governors. Mr. Brown received the OBA Neil E. Bogan Professionalism Award in 2010, and chaired the OBA Bench and Bar Com-

mittee from 2005-2010. He currently serves as chair of the MCLE Commission for the OBA as well as OBF president during 2015.

Mr. Brown has held leadership positions in numerous community organizations. He is a past president of Legal Aid Services of Oklahoma and a 20-year plus member of its board. He is a former chairman of the Tulsa Metropolitan Utility Authority. Mr. Brown was

selected by peers, executives and judges as one of Tulsa's top lawyers for estates and trusts, as published by the *Tulsa Business Journal*. This selection was limited to 30 of Tulsa's lawyers. He is a member of all Oklahoma Federal District Courts, the 10th Circuit U.S. Court of Appeals and the U.S. Supreme Court. He received his bachelor's degree from the University of Oklahoma and his law degree from the University of Tulsa.



*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 Director Nancy Norsworthy, Executive Assistant Jessi Hesami and OBF and IOLTA Administrative Assistant Deb Holt*

**OBF Staff Duties**

Staff duties are multi-faceted with a wide variety of responsibilities, which include:

- Responsibility for the daily operation of the foundation
- Administering and maintaining IOLTA membership and financial records
- Working directly with IOLTA banks and the OBA membership
- Maintaining Fellow membership records and pledge payments, including the new Community Fellow program
- Providing support to the 26-member Board of Trustees and working directly with the executive committee
- Coordinating meetings, as well as board and committee materials
- Providing support to the board in fundraising efforts, including ongoing participation in development plans, implementation and goals
- Maintaining expenditure and income records of the Foundation
- Maintaining investment and books of account
- Compiling reports and working with auditors and other financial representatives
- Coordinating grant applications, meetings, payments, grant reporting and follow-up as well as help and support to grantee organizations throughout the year
- Working with other nonprofit groups and outside organizations; representing OBF at various outside events
- Responsibility for OBF website updates and communication efforts
- Providing help and support to the OBA membership wherever needed



**OBF Fellow and Community Fellow Enrollment Form**

Name, Group name, Firm or other affiliation \_\_\_\_\_

Mailing and Delivery address \_\_\_\_\_

City/State/Zip \_\_\_\_\_

Phone \_\_\_\_\_ Email \_\_\_\_\_

**FELLOW ENROLLMENT ONLY**

Attorney  Non-attorney

- I want to be an OBF Fellow now – Bill me later  \$100 enclosed and bill annually
- Total amount enclosed \$1,000  New lawyer 1st year, \$25 enclosed & bill annually as stated
- New lawyer within 3 years, \$50 enclosed and bill annually as stated  I want to be recognized at the higher level of Sustaining Fellow and will continue my annual gift of \$100 (*initial pledge should be complete*)
- I want to be recognized at the highest Leadership level of Benefactor Fellow and annually contribute at least \$300 (*initial pledge should be complete*)  My charitable contribution to help offset the Grant Program Crisis

**COMMUNITY FELLOW ENROLLMENT ONLY**

OBA Section or Committee  Law firm/office  County Bar Association  IOLTA Bank  
 Corporation/Business  Other Group

Choose from three tiers of OBF Community Fellow support to pledge your group’s help:

- \$\_\_\_\_\_ Patron \$2,500 or more per year
- \$\_\_\_\_\_ Partner \$1,000 - \$2,499 per year
- \$\_\_\_\_\_ Supporter \$250 - \$999 per year

Signature and Date \_\_\_\_\_ OBA Bar # \_\_\_\_\_

Print Name and Title \_\_\_\_\_

OBF Sponsor (If applicable) \_\_\_\_\_

Kindly make checks payable to: Oklahoma Bar Foundation PO Box 53036 Oklahoma City, OK 73152-3036

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THANK YOU FOR YOUR GENEROSITY AND SUPPORT!

# Why Should You Be Involved in the Young Lawyers Division?

By *LeAnne McGill*

As we start the beginning of a new bar year, I am filled with great excitement and anticipation of the projects planned for the coming months. I have been thinking about and preparing for my year as Young Lawyers Division chair for the past three years as I served out my terms in the other executive leadership positions.

I am often asked by my peers why I participate in YLD activities. The answer is simple. Not only it is a lot of fun, it is also rewarding. Almost every year I have been on the board, we have carried out some sort of worthwhile community service project. And in the process of putting in those hours, I have made some life-long friends. Also as the owner of a small firm, I can tell you that my involvement in the YLD has been extremely helpful in building my referral base and helping my firm thrive.

With that said, I encourage you to become active in the YLD. We have a great group of board members and committee chairs and are always looking for new lawyers to bring fresh ideas to the group. If you have any interest in serving on one of our committees or learning more about the YLD, please contact me and I will get you plugged in.

## Sign up for a YLD Committee or Project!

YLD committees are dedicated to service – seniors, veterans, students, disaster victims and even other lawyers in need are just some of those who benefit from our projects! Check out [www.okbar.org/members/YLD/CommitteesProjects](http://www.okbar.org/members/YLD/CommitteesProjects) to see the various ways you can get involved. Email YLD Chair LeAnne McGill, [leanne@mcgillrogers.com](mailto:leanne@mcgillrogers.com), to sign up!

The division has many projects in the works for this year. We will assemble bar exam survival kits as we have in years past, and we will celebrate the new lawyers who join our ranks at the swearing-in ceremonies this spring and fall. We will have our regular social events at the Solo & Small Firm Conference in June and the OBA Annual Meeting in November. We will have a day of service in October to encourage all young lawyers to give back to our communities. We will have a kickball tournament in August to fundraise for our Kick it Forward Program. We would love to see each of you at some or all of these events over the coming year.

The Young Lawyers Division has a long history of talented leaders serving the division. Many have gone on to continue their leadership in the bar association by serving on the Board of Governors, as OBA president or even as executive director. The Young Lawyers Division is a great springboard for future bar leadership opportunities, and it is never too early to start your involvement. I encourage you all to start thinking about running for a position on the board for next year.

Finally, I want to take a moment and specifically thank two of my predecessors without whom I would not hold this position today. Roy Tucker and Jennifer Castillo are two of the best leaders I have ever worked with, and I can only hope to serve this division as well as they did during their tenure.

## ABOUT THE AUTHOR



LeAnne McGill practices in Edmond and serves as the YLD chairperson. She may be contacted at [leanne@mcgillrogers.com](mailto:leanne@mcgillrogers.com).

## January

- 19 OBA Closed** – Martin Luther King Jr. Day Observed
- 20 OBA Law-related Education Legislators Law School;** 9:30 a.m.; Oklahoma Bar Association; Contact Suzanne Heggy 405-556-9612
- 21 Luther Bohanon Inn of Court;** 5:30 p.m.; Oklahoma Bar Center, Oklahoma City; Contact: Mary Roberts 405-943-6472
- 21-22 OBA Law-related Education Legislators Law School;** 9:30 a.m.; Oklahoma Bar Association; Contact Suzanne Heggy 405-556-9612
- 23 OBA Professional Responsibility Commission meeting;** 9:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact Gina Hendryx 405-416-7007
- Oklahoma Bar Foundation Executive Committee meeting;** 10 a.m.; Oklahoma Bar Center, Oklahoma City; Contact Nancy Norsworthy 405-416-7070
- Oklahoma Bar Foundation Trustee orientation, lunch and meeting;** 11 a.m.; Oklahoma Bar Center, Oklahoma City; Contact Nancy Norsworthy 405-416-7070
- 28 Ruth Bader Ginsburg Inn of Court;** 5:30 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Donald Lynn Babb 405-235-1611
- 31 OBA Legislative Reading Day;** 10 a.m.; Oklahoma Bar Center, Oklahoma City; Contact Duchess Bartmess 405-947-3408

## February

- 3 OBA Licensed Legal Intern Committee meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Candace Blalock 405-238-0143
- OBA Government and Administrative Law Practice Section;** 4 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact John Miley 405-557-7146
- 5 OBA Mock Trial Committee meeting;** 5:30 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Judy Spencer 405-755-1066

- 6 OBA Alternative Dispute Resolution Section meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Ken Stoner 405-705-2910
- OBA Board of Editors meeting;** 2 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Carol Manning 405-416-7016
- 13 OBA Law-related Education Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Suzanne Heggy 405-556-9612



- OBA Family Law Section meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City with OSU Tulsa, Tulsa; Contact Michelle Smith 405-759-2333
- 16 OBA Closed** – Presidents Day observed
- 18 OBA Law-related Education Close Up;** 8:30 a.m.; Oklahoma Bar Association; Contact Suzanne Heggy 405-556-9612
- Ruth Bader Ginsburg Inn of Court;** 5:30 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Donald Lynn Babb 405-235-1611
- 19 OBA Law-related Education Close Up;** 8:30 a.m.; Oklahoma Bar Association; Contact Suzanne Heggy 405-556-9612
- OBA Mock Trial Committee meeting;** 5:30 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Judy Spencer 405-755-1066

20 **OBA Board of Governors meeting;** 10 a.m.; Oklahoma Bar Center, Oklahoma City; Contact John Morris Williams 405-416-7000

24-27 **OBA Bar Examinations;** Oklahoma Bar Center, Oklahoma City; Contact Oklahoma Board of Bar Examiners 405-416-7075

## March

3 **OBA Government and Administrative Law Practice Section;** 4 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact John Miley 405-557-7146

6 **OBA Alternative Dispute Resolution Section meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with OSU Tulsa, Tulsa; Contact Jeffrey Love 405-286-9191

11 **Ruth Bader Ginsburg Inn of Court;** 5:30 p.m.; Oklahoma Bar Center; Contact Donald Lynn Babb 405-235-1611



13 **OBA Law-related Education Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Suzanne Heggy 405-556-9612

**OBA Family Law Section meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City with OSU Tulsa, Tulsa; Contact Michelle Smith 405-759-2333

## BEING A MEMBER HAS ITS PERKS

- www.okbar.org** — main site or front door for the OBA with links to all other OBA Web presences and much information for members as well as a great deal of information for the public.
- Online CLE** — quality OBA/CLE online programming, plus online seminar programs from other state bar associations. It's a convenient way to get up to six hours MCLE credit.
- Practice management/ technology hotline service** — free telephone calls to the Management Assistance Program (MAP) staff and the OBA Director of Information Systems for brief answers about practical management and technology issues, such as law office software, understanding computer jargon, staff and personnel problems, software training opportunities, time management and trust account management. Call (405) 416-7008.



## MEMBER BENEFIT

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[www.dobsontechnologies.com/memberbenefit](http://www.dobsontechnologies.com/memberbenefit)

For more member perks, visit [www.okbar.org/members/members/benefits](http://www.okbar.org/members/members/benefits)

**Jan. 31, 2015 -  
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. 31 at the Oklahoma Bar Center as we identify top bills of interest to the OBA and your practice area. Lunch will be provided. No RSVP is needed.

**Save the Date -  
OBA Day at the  
Capitol: March 24**

Oklahoma lawyers, let your voices be heard! The OBA will host its annual Day at the Capitol on Tuesday, March 24. 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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**Master Lawyers Section Invites Members**

The new OBA Master Lawyers Section will concentrate on lawyers in their "second season of service," as they transition from full-time practice to pursue pro bono and other service opportunities, through programs that utilize the knowledge and experience of these lawyers. The section is open to those who are age 60 or older or who have practiced law for at least 30 years. Section dues are \$20 annually.

How to join? Mark the section on your dues statement or mail a \$20 check (payable to the OBA) for 2015 section dues to the OBA, P.O. Box 53036, Oklahoma City, OK 73152.

Questions? Email Section Chair Ron Main, [rmaintl@aol.com](mailto:rmaintl@aol.com), or call him at 918-742-1990.



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**New OBA Board Members Sworn In**

Nine new members of the OBA Board of Governors were sworn in to their positions Jan. 16. Taking the oath were David A. Poarch Jr., Norman, president; Garvin Isaacs Jr., Oklahoma City, president-elect; and Glenn Devoll, Enid, vice president. Sworn into the Board of Governors to represent their judicial districts for three-year terms were James R. Gotwals, Tulsa; Roy D. Tucker, Muskogee; John Weedn, Miami; and Sonja R. Porter, at large, Oklahoma City. Sworn into one-year terms on the board were Renée DeMoss, Tulsa, immediate past president; and LeAnne McGill, Edmond, Young Lawyers Division chairperson.

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**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](mailto:carolm@okbar.org).



## Court of Criminal Appeals

The Oklahoma Court of Criminal Appeals has elected its new leadership for 2015-2016. Judge Clancy Smith will serve as presiding judge, and Judge Gary L. Lumpkin will we serve as vice presiding judge.



*Judge Clancy Smith*

Judge Smith was appointed to the Oklahoma Court of Criminal Appeals in 2010. She is a native of Hugo and attended OSU, receiving a bachelor's degree in English in 1964. She taught high school English in Tulsa and Jacksonville, Fla. She received her J.D. from the TU College of Law in 1980. After graduating law school, she worked in private practice of law from 1980 to 1994. She served on the bench in Tulsa County from 1994 to 2010. Judge Smith is an active member of the Tulsa County Bar Association and also served as president of the Johnson-Sontag Chapter of the America Inns of Court for three years. She received the James Sontag Award for ethics and civility in 2010. She also was a recipient of the 2010 Mona Salyer Lambird Spotlight Award and the 2013 OBA Award of Judicial Excellence.

Judge Lumpkin was appointed to the Court of Criminal Appeals in 1989. He is a native of Sentinel and graduated from Weatherford High School in 1964. He earned a B.S. in business administration from Southwestern State College, now SWOSU, in 1968. He received his J.D. from the OU College of Law in 1974. He served on active duty in the U.S. Marine Corps from 1968-1971, serving 18 months in Vietnam. He retired with 30 years of service in 1998 with the rank of colonel in the Marine Corps Reserve. After serving as district attorney, he was elected associate district judge for Marshall County in 1982 and became district judge for the 20th Judicial District in 1985.



*Judge Gary L. Lumpkin*

## LHL Discussion Group Hosts Upcoming Meeting

The Lawyers Helping Lawyers monthly discussion group will meet Feb. 5 when the topic will be "Practicing While Sick or Injured." Each meeting, always the first Thursday of each month, is facilitated by committee members and a licensed mental health professional. The group meets from 6 – 7:30 p.m. at the office of Tom Cummings, 701 N.W. 13th St. Oklahoma City. 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.

- Interested in forming a discussion group in Tulsa? Contact Hugh Hood: 918-747-4357.

## OBA Member Resignations

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

Frank Phillip Lockhart  
OBA No. 17088  
P.O. Box 14274  
Tumwater, WA 98511-4274

Gary Lynn Newgent  
OBA No. 12426  
16 Crystal Mesa Road  
Santa Fe, NM 87508

Andreas Tasso Pitsiri  
OBA No. 19192  
1212 Ninth Street  
Bremerton, WA 98337

Briana Becker Stolley  
OBA No. 30808  
Holland & Knight  
1600 Tysons Blvd.,  
Ste. 700  
McLean, VA 22102

Richard A. Wieland  
OBA No. 11008  
26 Douglas  
Wichita, KS 67206-2046

## Connect With the OBA Through Social Media

Have you checked out the OBA Facebook page? It's a great way to get updates and information about upcoming events and the Oklahoma legal community. Like our page at [www.facebook.com/OklahomaBarAssociation](http://www.facebook.com/OklahomaBarAssociation). And be sure to follow @OklahomaBar on Twitter!





**Sen. Kay Floyd** of Oklahoma City received the 2014 Legislator of the Year Award at the Oklahoma Association for Justice awards gala in November. Along with her duties as a state senator for District 46, she is an associate attorney at Riggs Abney in Oklahoma City.

**Rep. Randy Grau** of Edmond has been named chair of the Oklahoma House Judiciary Committee for the 55th Legislature. **Rep. Jon Echols** of Oklahoma City will serve as vice-chair.

**Jodi B. Levine**, U.S. administrative law judge in the Social Security Office of Hearings and Appeals in Oklahoma City, was elected a Fellow of the American Bar Foundation. She received the recognition for demonstrating extraordinary leadership in the profession, service to society and commitment to the ideals and objectives of the American Bar Association.

**Toni J. Ellington** of New Orleans, La., has earned the Certified Medicare Secondary Payer certification provided by the Louisiana Association of Self Insured Employees. Candidates must successfully complete a 36-hour course, which includes an exam and written case study.

**Sarah Jane Gillett**, a shareholder with Hall Estill in Tulsa, has been selected to join the College of E-Neutrals as one of its distinguished fellows – the only attorney in Oklahoma associated with the organization. An “e-neutral” is a neutral third-party referee who mediates and facilitates the resolution of discovery disputes involving electronically stored information.



**Sen. Kay Floyd** of Oklahoma City has become associated with the Riggs Abney law firm, focusing in the areas of government law, politics and mediation. Prior to her election to the Oklahoma Legislature, she has served as an assistant Oklahoma attorney general, deputy executive director for the Oklahoma Horse Racing Commission, state administrative law judge and special municipal court judge for Oklahoma City. She is a graduate of the OU College of Law.

**Lee Shilling** of Purcell has been appointed a special judge for McClain County. He has been in private practice since 1996, and he is a 1995 graduate of the OCU School of Law.

**Long-time bankruptcy practitioner Janice Loyd** of Oklahoma City has been

appointed to the bankruptcy bench for the Western District of Oklahoma. With the firm of Bellingham & Loyd PC, Judge Loyd served as a Chapter 7 trustee for 22 years handling more than 25,000 cases. She earned both her bachelor’s degree and J.D. from the University of Oklahoma.

**Doerner, Saunders, Daniel & Anderson** adds two attorneys to the firm. **David Looby** joins the firm’s Oklahoma City office, where he will predominantly work in the transactional and tax, and estates and trusts practices. He is experienced in taxation and tax litigation, estates and trusts, family wealth, and civil and employment litigation. He is a graduate of the TU College of Law and earned an LL.M. in taxation from the University of Florida in 2006. **Anthony Liolios** has joined the firm’s Tulsa office as an associate. He focuses his practice on general litigation, Native American law and bankruptcy-related matters, including restructuring and workout. He began practicing law after several years as a financial advisor and fund accountant for a Fortune 500 company. He is a graduate of TU College of Law with highest honors.

**Hartzog Conger Cason & Neville** of Oklahoma City announces that **Mathew W. Brockman** has been named a partner. He has been associated with the firm since 2008. His practice focuses in the areas of business litigation, and oil and gas law. He

received his J.D. with honors from the OU College of Law in 2008. He holds a B.B.A. in international business, also from OU.

**S Fred Jordan Jr.** recently became of counsel to Tulsa law firm Sherwood, McCormick & Robert. Mr. Jordan's practice areas include civil and business litigation, construction law, personal injury, criminal defense and military law. Additionally, he serves clients as a governmental and legislative affairs consultant and lobbyist. Mr. Jordan served as a member of the Oklahoma House of Representatives from 2006-2014. He graduated from OSU in 1996 and the University of Iowa College of Law in 1999. He can be reached at 918-592-1144 or [fjordan@sm-oklaw.com](mailto:fjordan@sm-oklaw.com).

**John A. Nicholas** of Carthage, Mo., has been elected as associate circuit judge for the 29th Circuit Court in Jasper County, Mo. He is a 1993 graduate of OU and a 1996 graduate of the OU College of Law.

The law firm of Cathy Christensen & Associates announces it has recently relocated to 2929 NW 138th St., Oklahoma City, 73134, where the firm will continue its practice in all areas of family law and general civil litigation. The firm may be reached at 405-752-5565 or by email to [cathy@cathychristensenLaw.com](mailto:cathy@cathychristensenLaw.com) or [sarah@cathychristensenLaw.com](mailto:sarah@cathychristensenLaw.com). **Cathy Christensen** graduated from Oklahoma City School of Law and served as the 2012 OBA president. Sarah Schumacher graduated from the University of Wyoming and has been a member of the Oklahoma Bar Association since 2009.

**C**rowe & Dunlevy recently announced the hiring of **Ruth J. Addison, Stacy A. Schauvliege** and **Benjamin N. Schiller** as associates in the firm's Tulsa office. Ms. Addison serves on the litigation and trial, white collar, compliance and investigations, and labor and employment practice groups. She received her J.D. from the OU College of Law in 2007. Ms. Schauvliege's practice focuses on business law, and she is a member of the firm's aviation/aircraft and Indian law and gaming practice groups. She graduated from the University of Notre Dame Law School. Mr. Schiller primarily practices commercial litigation, serving on the firm's litigation and trial practice group. He earned his J.D. from the University of Pennsylvania Law School.

**E**wbank, Hennigh & McVay PLLC in Enid announces the addition of **Reagan D. Allen, James R. Cox** and **Mara K. Funk** to its legal team. Mr. Allen focuses on business transactions and litigation, oil and gas, and estate planning. He received his J.D. and Master of Laws in intellectual property from the University of New Hampshire School of Law in 2003. Mr. Cox is serving of counsel to the firm and has 50 years of experience within the oil and gas industry representing landowners and small companies. Ms. Funk obtained her J.D. from the OU College of Law in 2012 and practices in areas of real estate, probate and estate litigation, and title examination.

**Samantha Weyrauch Davis** of Tulsa has been elected a shareholder at Hall Estill. Ms. Davis, who is also a C.P.A., joined the firm in 2012 and

focuses on estate planning, taxation and business organization. She received her J.D. from the TU College of Law and her MBA from TU in 2000.

**E**lias, Books, Brown & Nelson PC of Oklahoma City announces that **Eric L. Huddleston** has become a shareholder and **Karolina D. Roberts** has become a member of the firm. Mr. Huddleston practices in the areas of oil and gas litigation, oil and gas conservation practice before the Oklahoma Corporation Commission and commercial litigation. He graduated from the OCU School of Law in 2006. Ms. Roberts focuses on general litigation, oil and gas, ad valorem taxation and commercial litigation. She graduated from the OU College of Law in 2008.

**Jess M. Kane** has been named partner of the Robnett King law firm in Bartlesville and Pawhuska, formerly known as Brewer, Worten, Robinett. Mr. Kane's practice focuses on agricultural law, oil and gas, commercial and real estate transactions, business planning and general civil litigation. The firm recently announced its reorganization and renaming.

**David A. Sturdivant** has been elected as a common shareholder at Barrow & Grimm PC in Tulsa, where he focuses on complex commercial litigation and civil litigation. He graduated from the OU College of Law in 2005.

**S**elby, Connor, Maddux & Janer PLP of Bartlesville announces the addition of **Jesse J. Worten III** to the firm as of counsel. His practice focuses on civil litigation, probate, wills, trusts, real

estate, estate planning, family law, business transactions and Indian law. He received his J.D. from the OCU School of Law in 1976. He will maintain an office in Bartlesville at 416 E. 5th St., 918-336-8114; and in Pawhuska at 537 Leahy Ave., 918-287-2500.



**Keith R. Gibson** of Oklahoma City recently spoke at the National Waste and Recycling Association's annual meeting this year in Tulsa on the topic of "Landfill Land

Use and Zoning Concerns with respect to Environmental Justice."

**Chris A. Paul** of Tulsa recently made a presentation at the annual Pipeline Insurance Manager's Conference in Phoenix, Ariz., on various legal issues in underwriting and pipeline litigation.

**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:

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Communications Dept.  
Oklahoma Bar Association  
405-416-7017  
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*Articles for the March 14 issue must be received by Feb. 9.*

## IN MEMORIAM

**Peter Blomgren Bradford** of Oklahoma City died Dec. 6, 2014. He was born Jan. 23, 1936, in Chicago and grew up in Des Moines, Iowa. He earned a bachelor's degree in history at Grinnell College and his J.D. from the TU College of Law in 1961 before beginning a 53-year career as a litigator, arbitrator and mediator. **He served for three years as an Air Force JAG Officer in Japan.** He joined the McAfee & Taft Law Firm in Oklahoma City in 1968. In 1984, he helped form the Daugherty, Bradford, Fowler and Moss Law Firm. In 1994, Peter joined the Conner & Winters Law Firm, helping to open its Oklahoma City office. In addition, he taught alternative dispute resolution law at the OU College of Law for several years. He was a fellow of the American College of Trial Lawyers and president

of the Oklahoma County Bar Association. In 2006, he was honored to receive the Lifetime Achievement Award from the University of Tulsa, where he helped establish the Charles L. Owens Endowed Scholarship Fund. He volunteered for numerous community and educational service organizations, and he enjoyed art, jazz music, travel and outdoor sports. Memorial donations may be made to Mayflower Community Church Medical Outreach, the Charles L. Owens Endowed Scholarship Fund at the TU College of Law or your favorite charity.

**Harold M. Durall** died April 5, 2012. He was born Nov. 27, 1923, in Pittsburg, Kan. **He was a proud veteran, serving the U.S. Army in World War II.** He was a 1951 graduate of the OCU School of Law. He was a Shriner for 50 years, and also

a member of AMBUCS. Memorial contributions may be made to the Shrine Transportation Fund (NOW acct.), India Shrine Center, 3601 NW 36th St, Oklahoma City 73112.

**William Martin "Bill" Fancher** of Hollis died March 21, 2014. He was born July 16, 1925 in Olustee. **He enlisted in the U.S. Navy during World War II and served in the Philippines.** After returning stateside, he graduated from the OU College of Law and settled in Hollis, moving into private practice for the majority of his career. He also served as district attorney and associate district judge for the area. He was also active in the First Baptist Church until relocating to Olympia Washington near family for the last several years of his life.

**D**onald L. "Don" Fuhrman of Oklahoma City died Dec. 7, 2014. He was born in Arkansas City, Kan., on June 24, 1924, and attended school in Yonkers, N.Y., and Oklahoma City before graduating from Sacred Heart High School in El Reno. He attended St. Benedict's College in Atchison, Kan. **During World War II, he enlisted in the Army Infantry and received a medal for action in the Pacific.** His earned a law degree from the OU College of Law in 1951. He worked as a petroleum landman until his retirement. He was a member of St. Eugene Catholic Church where he was part of the parish when it was established.

**J**ames Colby Hagan of Edmond died Dec. 20, 2014. He was born on Feb. 5, 1947, in Bartlesville and grew up in Tulsa. **He served in the U.S. Army Infantry, earning the Combat Infantry Badge, and he was awarded a Purple Heart and Bronze Star while deployed in Vietnam.** He completed his bachelor's degree at OSU and went on to graduate from OCU School of Law in 1974. After graduation, he served as executive vice president of Oklahoma Mortgage Company. In 1986, he founded and operated the mineral management firm Colby, Hagan Inc. until 1993 when he joined Adfitech Inc., serving as president and general counsel until his retirement in 2005. He was a member of the Men's Dinner Club, Rotary Club of Oklahoma City, Mortgage Bankers Association, Oklahoma City Chamber of Commerce, Edmond Chamber of Commerce, and Northwest Classen High School Booster Club. Memorial donations are sug-

gested for The Wounded Warrior Project.

**W**aldo Emerson Jones II of Tulsa died Dec. 6, 2014. He was born Feb. 8, 1940. A third-generation attorney, he was educated in Tulsa and later at Phillips Academy, of Andover, Mass., class of 1958. He completed his bachelor's degree at Fisk University in 1962 and received his L.L.B. in 1965 from Boston University School of Law. He began practicing law in Tulsa in 1966. He was member of Calvary Messianic Congregation of Tulsa, where he was an ordained minister. His professional affiliations include the Tulsa County Bar Association and Hall-Hudson-Wheaton Chapter of American Inns of Court. He was also dedicated to numerous civic improvement organizations in Tulsa including the NAACP-Tulsa Branch and the board of commissioners for Tulsa Urban Renewal Authority and for the Tulsa Civil Service Commission.

**J**ames Eric Maupin of Tulsa died Nov. 30, 2014. He was born Nov. 27, 1966, in North Kansas City, Mo. He received his bachelor's degree from Northeastern Oklahoma State University and his J.D. from the University of Tulsa in 1992. After serving as a law clerk for U.S. District Court Judge Tom Brett, he practiced law as a partner with Moyers, Martin LLP. Contributions may be made to the James Maupin Memorial Fund in care of Tulsa Federal Credit Union.

**N**eal Edward McNeill Jr. of Tulsa died Dec. 2, 2014. He was born March 21, 1927, in Tulsa and attended Central High School. **He**

**served in the U.S. Army and was a World War II veteran.** He received his law degree from Washington and Lee University School of Law in 1950 and was a past Tulsa city attorney, retiring in 1992. Contributions are suggested to Washington and Lee University in Virginia, Up with Trees or your favorite animal charity.

**R**ichard Studenny of Tulsa died Sept. 13, 2014. He was born Feb. 15, 1946, in Suffern, N.Y. He graduated from the University of Tulsa in 1967. He continued his education there, receiving his J.D. in 1970. He was a member of the Hurricane Club and former president of the TU College of Law Alumni Association. Early in his career he served as trial attorney for the United States Department of Agriculture Trade Regulation Division and later for the Weyerhaeuser Company law department in Hot Springs, Ark. In 1977 he established the law firm of J. Richard Studenny and Associates. In addition, he served as municipal judge for the City of Bixby. He was an adjunct aviation instructor for Oklahoma State University and a business ethics instructor for St. Gregory's University. Donations may be made to Liberty Church Children's Ministry or The Little Light House in Tulsa.

**H**orace Teague of Spring, Texas died Nov. 19, 2014. He was born Aug. 5, 1942. During his career, he worked in the City of Houston Prosecutor's Office and is remembered as a good friend and helpful colleague. He is a graduate of the Thurgood Marshall School of Law at Texas Southern University.

## Office gadgets

Upgrade your office environment with these 20 hip office gadgets. Some of them may help you let off some steam or become more productive! Some of them are just cool.

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AV-RATED TULSA INSURANCE DEFENSE FIRM seeks a RESEARCH AND WRITING ATTORNEY. English undergraduate or similar degree preferred. Send law school transcript, writing sample, and 3 references to "Box T," Oklahoma Bar Association, PO Box 53056, Oklahoma City, OK 73152.

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THE OKLAHOMA BAR ASSOCIATION Heroes program is looking for several volunteer attorneys. The need for FAMILY LAW ATTORNEYS is critical, but attorneys from all practice areas are needed. All ages, all counties. Gain invaluable experience, or mentor a young attorney, while helping someone in need. For more information or to sign up, contact Gisele Perryman, 405-416-7086 or [heroes@okbar.org](mailto:heroes@okbar.org).

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OFFICE OF THE OKLAHOMA ATTORNEY GENERAL UNCLASSIFIED VACANCY ANNOUNCEMENT. Date Open: Immediately. Date Closed: Until filled. Title: Legal Assistant, Litigation. Salary Range: Commensurate with experience and qualifications. Location of Work: Oklahoma City, OK. Job Summary: Provide legal assistance to multiple attorneys with the preparation of pleadings, briefs, exhibits, correspondence, discovery and court filings. Qualifications: Must be proficient in WordPerfect and Word. Excellent spelling and grammar skills, and knowledge of state and federal filing procedures required. Heavy litigation experience preferred with an emphasis on employment law. EOE. The Office of the Attorney General is an equal employment opportunity employer. All individuals are welcome to seek employment with the Office of the Attorney General of Oklahoma regardless of race, color, sex, age, national origin, creed, political affiliation, religion or disability, so long as the disability does not render the person unable to do the work for which employed. Applicants will not be discriminated against before or during their employment. Send résumé to [resumes@oag.ok.gov](mailto:resumes@oag.ok.gov), or mail to Oklahoma Attorney General, 313 NE 21st Street, Oklahoma City, OK 73105.

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POSITION FOR LITIGATION ASSOCIATE ATTORNEY. We are recruiting an experienced partner-track Associate Attorney to handle all phases of civil litigation within a strong team setting that focuses on client service and maximizing outcomes. Our practice includes challenging procedural and technical issues, and the successful candidate will possess strong analytical and advocacy skills. We use the latest technology to maximize efficiency. We are looking for the right attorney to join our team who will take pride in the service we deliver and fit within our friendly, low-key firm environment. Candidates must have at least 5 years experience in civil litigation that reflects highly developed skill in legal research, drafting memoranda, briefs and discovery, taking depositions, managing document production, and oral argument. Candidates must have graduated within the top 25% of their law school class, and law review experience is preferred. Candidates should submit a recent writing sample and CV to [smcdaniel@ok-counsel.com](mailto:smcdaniel@ok-counsel.com).

JENNINGS | TEAGUE, an Oklahoma City based civil litigation defense firm, is seeking attorney candidates with 0 – 5 years experience. Visit the firm's website at [jennings-teague.com](http://jennings-teague.com) for more information about the firm. If interested, send résumés to [sglenn@jennings-teague.com](mailto:sglenn@jennings-teague.com).

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# The Road to Jericho

By Daniel V. Flatten

Korea, January 1969. The sprawling Army complex at Yong-san, just outside Seoul. Headquarters of the U.S. 8th Army and the largest military installation in Korea. My own duty station was the air base at Kwang-ju, 200 miles to the south, but temporary duty had brought me to Yong-san.

A Sunday. Bitter cold. The Manchurian winter had dumped record snowfall on Seoul and its environs, including Yong-san. But cold is not sufficient excuse for missing Sunday mass, so there I was at Chapel No. 2, on the "far" side of the post. To my recollection, the only things there were the hospital and the chapel. The challenge was not mass, but getting "home" to the near side of the base where the headquarters, PX, commissary, the officer and NCO clubs, and most important to me, visiting officers' quarters — all the indicia of military civilization — were located. It was upwards of a mile away, but everyone at mass had the same destination, and since the single road led nowhere else, getting a ride with someone lucky enough to have a motor pool vehicle, or one of the still luckier few on an accompanied tour (and therefore had their own cars), should be easy. The road had been plowed, so the only trick was to be there ahead of them when they passed.



So at the inspiring words of the "last" gospel, I zipped up my Air Force parka, pulled the hood snug over my head, slipped on my fur-lined gloves and discreetly exited.

Snow waist high lined either side of the road, and the north wind still challenged movement. Sure enough, the mass over, I can hear the cars and jeeps starting up in the parking lot behind me. And sure enough, they are "going my way." One...two...three...their exhausts throw silver contrails as they accelerate past me. Four...five...six...surely *some-one*.....but no. The parade continues to its dispiriting end; the parking lot empties, and hope fades to despair.

What had been the scriptural reading that day? The 10 lepers who were cured, but only one returned to give thanks? The Sermon on the Mount? What-

ever it was, its lesson had been lost on this flock. But there was nothing to do but soldier on, cursing the cold and truth be told, my fellow Catholics.

But just as visions of Doctor Zhivago preempt my consciousness, a car can be heard approaching from behind. And yes, it is slowing...stopping. The passenger door opens and a cheerful voice asks, "Could you use a lift, captain?" Entry reveals a 40ish man, a major, in Army Class A winter uniform. I begin exploring his identity. A fellow parishioner detained by a personal devotion? The priest delayed by sacristal duties? No. The Jewish Rabbi! One of only two in country. On his way back from calling on patients — of all faiths — in the hospital. And the only person on that cold day who put what we Christians claim as our bedrock tenet into practice.

I wish I remembered his name. He was from Boston, Mass. I wonder if he continued in the Army or returned to civilian life at the end of his tour of duty. Wherever he served, I'll bet he combined word and deed as he did that morning and that mankind benefited from his example. The road to Jericho ran through Seoul that day, and I am glad he was on it.

*Mr. Flatten is an OBA member who practices in Houston, Texas.*

PROGRAMS

Webcast Encore  
Saturday, Jan. 31st  
9:00 a.m.



# The Essential §1983 Litigation Seminar

Program Planner/Moderator:

David W. Lee, Lee Law Center, P.C., Oklahoma City

Topics Covered

- 1 History, Background, and Recent Developments in §1983 Litigation: §1983 from Years 1871-2014
- 2 Substantive and Procedural Due Process: Fourteenth Amendment Cases and Principles
- 3 The First Amendment and §1983: Retaliation and Current Issues
- 4 Section 1983 Law Enforcement Litigation: Issues in §1983 That Affect Law Enforcement
- 5 Jail and Prison Litigation Under §1983: Current Issues Involving §1983 and Incarceration
- 6 Recent Developments in §1983 Litigation (continued): Recent Cases in Federal Courts

The seminar starts at 9:00 a.m.

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