

# THE Oklahoma Bar JOURNAL

Volume 86 ♦ No. 24 ♦ Sept. 12, 2015



**OBA ANNUAL MEETING 2015**  
NOV. 4-6 • SHERATON HOTEL • OKLAHOMA CITY



**ERIC LIU**

**CEO, Citizen University**  
**Annual Luncheon Keynote Speaker**

AWARDS • BAR BUSINESS • CLE • SOCIAL EVENTS



## 2015 Women in Law Conference

# FEARLESS LEADERSHIP

Presented by OBA/CLE and the OBA Women in Law Committee

## SEPTEMBER 18, 2015

Embassy Suites Downtown/Medical Center  
741 North Phillips Avenue, Oklahoma City

### Program Planners/Moderators:

Kimberly Hays, OBA Women in Law Chair, Tulsa  
Briana Ross, OBA Women in Law Vice-Chair, Tulsa

There will be an informal reception from 5 – 7 p.m. at the Embassy Suites in the Everest Ballroom on Thursday, September 17. Room reservations may be made by calling the Embassy Suites, (405) 239-3900.

**This course has been approved by the Oklahoma Bar Association Mandatory Continuing Legal Education Commission for 6 hours of mandatory CLE credit, including 1 hour of ethics.**

**8:30 a.m. Registration**

**9:00 a.m. Leading from the Bar**  
Renee DeMoss, Tulsa  
Linda Thomas, Bartlesville  
Jennifer Castillo, Oklahoma City

**10:30 a.m. Break**

**10:00 a.m. Women, the Legislature & the Law**  
Emily Virgin,  
Oklahoma House of Representatives  
Kaye Floyd, Oklahoma Senate

**10:50 a.m. Leading Within Our Communities**  
Gail Stricklin, Oklahoma City  
Cindy Goble, LASO  
Karen Rieger, Oklahoma City  
Kathy Taylor, Tulsa

**11:40 a.m. Lunch and Mona Salyer Lambird  
Spotlight Awards Presentation**  
Keynote: Fearless Leadership  
Carey Lohrenz, First Female  
Tomcat F-14 Fighter Pilot

**1:30 p.m. Leading Oneself**  
Carey Lohrenz  
Jari Askins, former Special District  
Judge, State Representative,  
Lt. Governor  
Valerie Couch, Dean,  
Oklahoma City University School of Law

**2:20 p.m. Break**

**2:30 p.m. Leading from the Bench**  
Moderator: Sonja Porter, Oklahoma City  
and Board of Governors member  
Retired Justice Reta Strubhar, Yukon  
Judge Robin Cauthron, United States  
District Court of the Western District  
Deborah Barnes, Civil Court of Appeals  
Patricia Parrish, District Court Judge,  
Oklahoma County

**3:20 p.m. Ethical Leadership**  
Debbie Maddox, Assistant General  
Counsel, OBA

**4:10 p.m. Adjourn**

**CLE CREDIT:** This course has been approved by the Oklahoma Bar Association Mandatory Continuing Legal Education Commission for 6 hours of mandatory CLE credit, including 1 hour of ethics.

**TUITION:** \$140 for CLE and luncheon early-bird registrations with payment received at least four full business days prior to the seminar date; \$40 for luncheon only. A fee of \$25 will be assessed for registrations within four full business days; \$50 for walk-ins. To receive a \$10 program discount (available for the full-day program only), register online at [www.okbar.org/members/cle](http://www.okbar.org/members/cle).

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

**REGISTER ONLINE AT [WWW.OKBAR.ORG/MEMBERS/CLE](http://WWW.OKBAR.ORG/MEMBERS/CLE)**





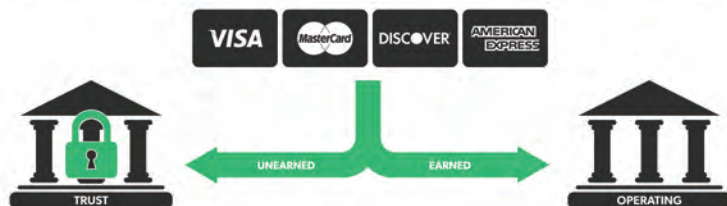
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## 32nd Herbert M. Graves Annual Basic Bankruptcy Seminar

### Bankruptcy Basics: Chapter 13 Revisited

**SEPTEMBER 17, 2015**

Oklahoma Bar Center  
1901 N. Lincoln Blvd.  
Oklahoma City, OK

#### Program Planners/Moderators:

Herbert M. Graves, Graves Legal Group

The Basics of Bankruptcy seminar is designed for the new and relatively inexperienced practitioner. Information pertaining to the Bankruptcy Code, valuation, treatment of mortgages, automatic stay, confirmation of the chapter 13 plan, forms, and interaction with the chapter 13 trustees and the bankruptcy court will be discussed. These topics are timely in light of the 2005 amendments to the Bankruptcy Code requiring debtors to complete a means test for admission to all chapters of the Code, and the current state of the oil and gas economy in the southwest.

oba ♦ cle  
continuing legal education

**8:30 a.m.**

Registration and Continental Breakfast

**8:55 a.m.**

Introduction: Herbert M. Graves, Moderator

**9:00 a.m.**

Overview of Chapter 13

Jack E. Williams, Georgia State University  
College of Law

**10:30 a.m.** Break

**10:40 a.m.**

Preparing the Petition, Schedules, Statement of  
Financial Affairs and Other Required Documentation  
Clifton O. Gooding, Gooding Law Firm

**11:30 a.m.**

Networking lunch (included in registration)

**Noon**

Chapter 13 Means Testing

John H. Graves, Law Office of John H. Graves

**12:50 p.m.** Break

**1:00 p.m.**

Chapter 13 Trustee Panel

John Hardeman, Chapter 13 Trustee,  
Western District of Oklahoma

Lonnie D. Eck, Chapter 13 Trustee,  
Northern District of Oklahoma

William Mark Bonney, Chapter 13 Trustee,  
Eastern District of Oklahoma

**1:50 p.m.**

Ethics

Joseph P. Balkenbush, OBA Ethics Counsel

**2:40 p.m.** Break

**3:00 p.m.**

Impression from the Bench of a New Bankruptcy Judge

Honorable Janice D. Loyd, United States Bankruptcy  
Judge Western District of Oklahoma

**3:50 p.m.** Adjourn

**CLE CREDIT:** This course has been approved by the Oklahoma Bar Association Mandatory Continuing Legal Education Commission for 6 hours of mandatory CLE credit, including 1 hour of ethics.

**TUITION:** \$150 for early-bird registrations received with payment at least four, full business days prior to the first seminar date; \$175 for registrations received with payment within four, full business days of the first seminar date. Walk-ins \$200. To receive a \$10 discount for the live onsite program, register online at <http://www.okbar.org/members/CLE>. YLD (2 years or less) may register for \$75. You may also register for the live webcast but no discount is available.

**REGISTER ONLINE AT [WWW.OKBAR.ORG/MEMBERS/CLE](http://WWW.OKBAR.ORG/MEMBERS/CLE)**

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THEME:  
OBA ANNUAL MEETING

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# Leadership to be Annual Meeting Focus

By David Poarch

**Among our peers**, and even among nonlawyers, it is widely acknowledged that service and leadership are core values of the legal profession. Many of us can relate to the notion that service beyond self and a willingness to contribute to the greater good in some way pointed us in the direction of law school. As a result, the legal profession is well represented at all levels of leadership. In Oklahoma from the beginning, lawyers have served as governors, state legislators, judges, prosecutors, general counsel, law firm managing partners, heads of corporate, energy, banking, government and nonprofit organizations. And we continue to do so.

Likewise, at the national level, of our 44 U.S. presidents, 26 have been lawyers, not to mention the many lawyers who have served in Congress and throughout the halls of government over the years — perhaps more than from any other profession. But as noted by Stanford law professor Deborah L. Rhode in her book, *Lawyers as Leaders*, published by Oxford University Press, “The legal profession attracts a large number of individuals with the ambition and analytic capabilities to be leaders, but frequently fails to develop other qualities that are essential to effectiveness.” Developing these “other qualities” requires actually *doing* something.

With all that in mind, the theme for this year’s annual meeting to be held in Oklahoma City, Nov. 4-6, 2015, will be *leadership*. You may have noticed that in several of my columns in the bar journal this year I have again and again touched on the role lawyers play as leaders in society, particularly as leaders in preserving the rule of law in our American way of life, as mentors in our respective communities and as citizens with specialized knowledge and training who can make a positive contribution to the legislative process at the State Capitol. Our Annual Meeting will continue with that overall theme: Leadership U.

In that vein, this year’s Thursday luncheon speaker will be Eric Liu, a Harvard-educated lawyer, professor and author, and the founder of Citizen University, a nonprofit initiative encompassing projects aimed at the work of community-

building and teaching leadership in civic life. He brings an interesting perspective that will challenge us all to look at the morality of our individual politics *on all sides* and examine what it means to be a true American patriot. I invite you to hear him on Thursday at noon! I am confident you will find his message thought provoking.

Of course, as always, the first challenge for each of us is to actually attend the OBA Annual Meeting in November. As my physics professor once observed, momentum favors stasis. Applied to the world you and I live in that translates roughly like this: To experience something different, you have to *do* something different. So, my challenge to you is to do something different this year.

Be a leader! Begin by leading yourself! Sign yourself up for the Annual Meeting. Then actually lead yourself out of the office, away from what you do every day and go to the Annual Meeting! Meet other lawyers whom you may not know — *face to face* — not by email, text or on Twitter! Renew old friendships. Reacquaint yourself with your profession and other professionals! Get some CLE before December! Or just get away for a day or two and think about something other than the rule in Shelly’s case!

We all know that if we don’t get up and *do* something different, nothing about our professional life will change of its own accord. No doubt about it. But if you are looking for something new or different, start by attending the OBA Annual Meeting in Oklahoma City this year! You’ll be glad you did. I promise.

I look forward to seeing you there!

*To experience something different, you have to do something different.*



*Signature of David Poarch*

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# Leadership U HIGHLIGHTS

OBA ANNUAL MEETING 2015  
NOV. 4-6 • SHERATON HOTEL • OKLAHOMA CITY

## President's Reception

This year's President's Reception is set for Wednesday, Nov. 4. Mingle with your friends and colleagues while listening to the Chris Hicks Jazz Trio. Enjoy hors d'oeuvres and cash bar. Reception is from 7 – 9 p.m., and attendance is included in registration fee. Guests attend at no additional cost. Each person attending receives two beverage tickets.



*Chris Hicks Jazz Trio*

## Annual Luncheon

Civics proponent and author Eric Liu, founder of Citizen University, has been selected to deliver the keynote address during the Annual Luncheon set for Thursday, Nov. 5.

He will speak on the topic of "The True Meaning of Patriotism." The OBA will recognize its outstanding lawyers when annual awards are presented.

Award recipients will be announced the week of Sept. 28. Cost is \$35 with Annual Meeting registration, \$55 for those who do not wish to register for the full two-day event. Seating is limited, so be sure to register early for this event.



*Eric Liu*

## 'It's Five O'Clock Somewhere'

Change your latitude and your attitude at our Thursday evening social event! Find your lost shaker of salt from 5 – 6:30 p.m. when complimentary margaritas flow courtesy of the OBA sections. Cheeseburgers (and other hors d'oeuvres) along with a full bar will also be available in this paradise. Annual Meeting registration not required. Use your best judgment with regard to flip-flops. Sponsor: OBA Sections.







## President's Breakfast

The final day of Annual Meeting begins at 8 a.m. with the President's Breakfast, an Annual Meeting tradition. In keeping with this year's leadership theme, the programming will feature a topic of the president's choice. Cost: \$25.

## General Assembly and House of Delegates

The important business of the association will be conducted Friday, Nov. 6, beginning at 9:30 a.m. Resolutions will be voted upon, leaders will be elected and awards will be presented. Do not miss your chance to participate in the governance of your professional association. County bar associations need to submit the names of their delegates ASAP to Executive Director John Morris Williams, and resolutions to the House of Delegates must be received by Mr. Williams by Sept. 29 to be published in the official House of Delegates book. Email Executive Secretary Debbie Brink at [debbieb@okbar.org](mailto:debbieb@okbar.org) for more information.



## Leadership Academy

During Annual Meeting, the 21 participants of the fifth biannual OBA Leadership Academy will attend a session aimed at developing the association's future leaders. On Thursday, Nov. 5 from 2 – 5 p.m., attendees will learn about how the OBA works, listen to insight from former academy participants and find out more about the Lawyers for Heroes program, Wills for Heroes, Law Day and the ABA. Social events are also planned for Wednesday and Thursday evening. On Friday morning, several members of the Leadership Class will serve as tellers for the Board of Governors elections during the House of Delegates. Annual Meeting registration is encouraged, but not required for Leadership Academy participants.



### What does my Annual Meeting registration fee include?

Annual Meeting registration includes Wednesday and Thursday continental breakfast in the hospitality area, President's Reception, OBA Sections "It's Five O'Clock Somewhere" Thursday reception, convention gift and access to the Vendors Expo. OBA hospitality will be provided to attendees throughout the day Wednesday, Thursday and Friday morning. Hospitality includes coffee, tea, soft drinks and a variety of treats and snacks.

### How do I register?

Register for all events using the Annual Meeting registration form found on page 1832 or online at [www.amokbar.org](http://www.amokbar.org). Send paper forms with payment by mail to OBA Annual Meeting, PO Box 53036, Oklahoma City, OK 73152 or fax with credit card information to 405-416-7092. Phone and email are also options: call Mark at 405-416-7026 or 800-522-8065 or email [marks@okbar.org](mailto:marks@okbar.org). For the best price, register by Oct. 13. Questions? Contact Mark Schneidewent at 405-416-7026, 800-522-8065 or [marks@okbar.org](mailto:marks@okbar.org).

## ERIC LIU PRESENTS THE TRUE MEANING OF PATRIOTISM

Author, educator, civic entrepreneur and Harvard Law School graduate Eric Liu (pronounced loo) will present “The True Meaning of Patriotism” during the Annual Luncheon on Thursday, Nov. 5 at noon as part of the OBA Annual Meeting.

Patriotism is one of the most used and abused ideas in American political life. But what does patriotism truly mean? In this rich and provocative talk, Mr. Liu will take both the left and the right to task for forgetting the moral principles that give real meaning to love of country — and will remind us all to live out the American idea in our everyday choices.

“You may have noticed that in several of my columns in the bar journal this year, I have again and again touched on the role lawyers play as leaders in society, particularly as leaders in preserving the rule of law in our American way of life,” said OBA President David Poarch. “In that vein, I believe Mr. Liu will bring an interesting perspective that will challenge us all to look at the morality of our individual politics on all sides and examine what it means to be a true American patriot.”

Mr. Liu is the founder of Citizen University, which promotes and teaches the art of creative citizenship, and the executive director of the Aspen Institute Citizenship & American Identity Program. He has spoken in settings ranging from the World Economic Forum to the Seeds of Compassion event with the Dalai Lama to college campuses and corporate boardrooms.

He is hailed by the *New York Times* and *The Washington Post* as a leading voice of his generation and has served as a White House speechwriter for President Bill Clinton, legislative assistant and speechwriter for Senator David L. Boren, as President Clinton’s deputy domestic policy advisor, columnist for CNN.com and correspondent for TheAtlantic.com. He has written several books including *Guiding Lights: The People Who Lead Us Toward Our Purpose in Life*, *The Gardens of Democracy* and *A Chinaman’s Chance*.

He connects his wide-ranging work to what he speaks about by asking the question “Who is us?” He challenges his listeners and readers to be a part of something greater than themselves and to think and act outside of their small circles of identity.

To view one of his presentations, visit [goo.gl/cQzQDY](http://goo.gl/cQzQDY).

The cost to attend the event is discounted to \$35 with Annual Meeting registration or \$55 for the luncheon only. Space for this event will fill up quickly, so make sure to reserve your spot today!





## PROGRAM OF EVENTS

*All events will be held at the Sheraton Hotel unless otherwise specified.  
Submit meeting room and hospitality suite request to Craig Combs at [craigc@okbar.org](mailto:craigc@okbar.org).  
Submit meeting program information to Lori Rasmussen at [lorir@okbar.org](mailto:lorir@okbar.org)*

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**WED.  
NOV. 4**

- ▶ Meeting registration opens at 8 a.m.
- ▶ OBA CLE:  
Legal Tips & Trends to Keep You at the Top of the Class • Elder Investment Fraud and Financial Exploitation • Rock n' Roll Law • Preserving and Prosecuting Your Oklahoma Appeals
- ▶ OCU School of Law Alumni Reception and Luncheon
- ▶ OU College of Law Alumni Reception and Luncheon
- ▶ TU College of Law Alumni Reception and Luncheon
- ▶ Committee and Section Meetings
- ▶ President's Reception

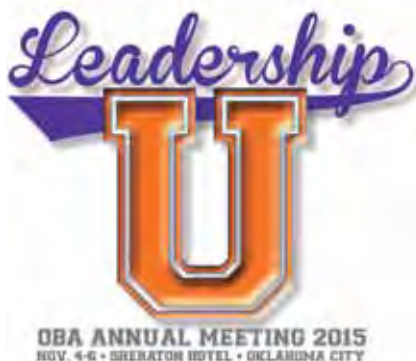
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- ▶ OBA CLE: Plenary Session (including panel discussion with Eric Liu)
  - ▶ Committee and Section Meetings
  - ▶ Annual Meeting Luncheon featuring Eric Liu
  - ▶ Eric Liu Book Signing
  - ▶ County Bar Presidents Meeting
  - ▶ OBA Sections "It's Five O'Clock Somewhere" Reception – You're invited!
  - ▶ Past Presidents Dinner

**THURS.  
NOV. 5**

**FRI.  
NOV. 6**

- ▶ President's Breakfast
- ▶ General Assembly
- ▶ House of Delegates





# STAND UP AND CHEER FOR THESE OBA CLE OFFERINGS

By Susan Damron Krug

Give me a "C" ... Give me an "L" ... Give me an "E" ... What's that spell? CLE! I know, CLE isn't an actual word, but the point is that CLE at Annual Meeting is something to cheer about and all about "U!" There are various electives to choose from designed for substantive, informative, inspiring and even entertaining learning to give you an edge on being leaders in the law. On Wednesday, we have an all-day program, a morning program, as well as two afternoon programs to choose from. Additionally, on Thursday morning, we will have a three-hour morning plenary session. Keep reading to see what we have planned.

## WEDNESDAY, NOV. 4

***Legal Tips & Trends to Keep You at the Top of the Class*** has been developed by S. Rachel Pappy, one of the 2015-2016 admittees to the OBA Leadership Academy. The program offers six hours of MCLE credit including one hour of ethics. This diverse group of practitioners will gather from their wealth of experience and practical knowledge to deliver a compelling and informative seminar regardless of your area of practice. Topics include, "What You Need to Know About Employment Law to Manage Your Firm," Professor Spector's, "Family Law Updates for All Attorneys," "Best Practices in Social Media Marketing Made Easy," "Tax Tips for Attorneys" and the ethics hour will be taught by Ms. Pappy herself in discussing "Unique Cases Before the IRS."

If a morning-only program works better for your schedule, I invite you to attend ***Elder Investment Fraud and Financial Exploitation: Ethical Traps for Lawyers and How to Best Navigate the Challenges of Diminished Financial Capacity*** cosponsored by the Master Lawyers Section.

Thank you to Jennifer Shaw and Irving Faught with the Oklahoma Department of Securities for coordinating this presentation which is accredited for three hours of MCLE including one hour of ethics. As demonstrated by the sensational Brooke Astor case and other less notorious examples, a lawyer who is ignorant of elder investment fraud and financial exploitation (EIFFE) may fail to protect the client from harm or unwittingly participate in the client's victimization.

Such lawyers may face professional discipline, liability for malpractice or even criminal charges. On a broader scale, EIFFE costs victims, families, governments and businesses more than \$2.9 billion annually and affects millions of older persons. Every lawyer needs to understand how the growing epidemic of EIFFE may affect them professionally and personally. Oklahoma is one of six states in which the American Bar Association is piloting this new initiative to raise awareness among lawyers.

This CLE program will 1) present the demographic and physiologic changes occurring in the U.S. population that increase the likelihood that lawyers will deal with diminished financial capacity and EIFFE in their work and in their families; 2) pose ethical and practical dilemmas that challenge lawyers and provide tips for addressing those dilemmas.



mas; and 3) teach indicators of fraud and exploitation and suggest options for assisting victims. Presenters will be national and Oklahoma experts including Vivian Lee Thoreen, one of the attorneys on the Mickey Rooney case and Lori A. Stiegel with the ABA Commission on Law and Aging.

Registration for this program is **free** to Master Lawyers Section members.

If you prefer afternoon learning, we have you covered. Broaden your horizons and have some fun by attending ***Rock n' Roll Law: It's Only Rock N' Roll . . . and Some Law.*** This program, accredited for three hours MCLE including one hour ethics, has been praised as "The BEST Seminar You'll Ever Attend!" Hear the songs and stories from the most famous music copyright cases. Hear music from the Stones, George Harrison, John Fogerty, Queen, Leonard Cohen and so much more. Learn the exclusive rights you get with each song and how to protect an artist's rights. Get your ethics hour through the Beatles case study and learn about organizational representation and issues relating to representing a band/artist. This seminar is for all attorneys who need CLE and don't want to be bored. Jim Jesse has been an attorney for more than 20 years. He is former general counsel for Cool Music Network LLC (THECOOLTV), which is a 24-hours-a-day music video television network. He is now in private practice. His passion is spreading music and media law through his seminars.



***Preserving and Prosecuting Your Oklahoma Appeals*** cosponsored by the Appellate Practice Section will also be offered on Wednesday afternoon and provides three hours of MCLE including .5 hours of ethics presented by our Supreme Court Chief Justice John Reif. Susan Huntsman, chair of the Appellate Practice Section, has put together an excellent program that will also include presentations by Oklahoma Supreme Court Referee Greg Albert, Court of Criminal Appeals Presiding Judge Clancy Smith and Andrea Miller, the Appellate Division chief with the Oklahoma County Public Defender's Office. Participants will focus on the essentials necessary for Oklahoma attorneys to preserve and successfully pursue their appeals in the state's courts, whether civil or criminal. Also included will be advice on both actions to take before judgment and what to do once an appealable order is entered. This CLE is **free** to Appellate Practice Section members.

## THURSDAY, NOV. 5

On Thursday morning, we will offer a three-hour CLE plenary session that will include a panel discussion with Eric Liu, our Annual Luncheon keynote speaker, as well as programming from members of the Professionalism Committee and an ethics hour provided by Oklahoma members of the American Board of Trial Advocates on why "Civility Matters."

There you have it! Please visit [www.amokbar.org](http://www.amokbar.org) for further details and to register for one or more of these programs and rest assured you will stay in the lead with OBA/CLE.

*Susan Damron Krug is the OBA educational programs director.*



### Wednesday, Nov. 4

#### ***Elder Investment Fraud and Financial Exploitation***

Cosponsored by the Master Lawyers Section  
3 hours MCLE/1 Ethics

#### ***Legal Tips & Trends***

6 hours MCLE/1 Ethics

#### ***Preserving and Prosecuting Your Appeal***

Cosponsored by the Appellate Practice Section  
3 hours MCLE/.5 Ethics

#### ***Rock n' Roll Law***

3 hours MCLE/1 Ethics



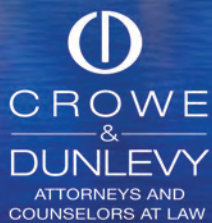
### Thursday, Nov. 5

#### ***Plenary Session***

3 hours MCLE/1 Ethics

# 25

For 25 years, Crowe & Dunlevy's Tulsa office has provided innovative, effective and comprehensive legal services at home and across the globe. We look forward to serving our clients and communities with integrity, passion and expertise for the next quarter of a century.



[crowedunlevy.com](http://crowedunlevy.com)





# HOUSE OF DELEGATES

## Dear County Bar Presidents:

Thank you to the County Bar Presidents of:

Adair, Beaver, Blaine, Bryan, Canadian, Carter, Choctaw, Cimarron, \*\*Cleveland, Coal, Comanche, Cotton, Creek, Ellis, Garfield, Garvin, Grady, Grant, Greer, Jackson, Johnston, Kay, Kingfisher, Latimer, LeFlore, Lincoln, Logan, Love, McClain, McCurtain, McIntosh, Muskogee, Oklahoma, Osage, Ottawa, Payne, Pontotoc, Pottawatomie, Pushmataha, Roger Mills, Rogers, Seminole, Stephens, Texas, Tulsa, Washita, Woods and Woodward for submitting your delegate and alternate selections for the upcoming OBA Annual Meeting.

(\*\*Reported, awaiting election)

Listed below are the counties that have not sent their delegate and alternate selections to the offices of the Oklahoma Bar Association as of Sept. 1, 2015. Please help us by sending the names of your delegates and alternates now. *In order to have your delegates/alternates certified, mail or fax delegate certifications to OBA Executive Director John Morris Williams, P. O. Box 53036, Oklahoma City, OK 73152-3036 or fax to 405-416-7001.*

Alfalfa	Harper	Nowata
Atoka	Haskell	Okfuskee
Beckham	Hughes	Okmulgee
Caddo	Jefferson	Pawnee
Cherokee	Kiowa	Pittsburg
Craig	Major	Sequoyah
Custer	Marshall	Tillman
Delaware	Mayes	Wagoner
Dewey	Murray	Washington
Harmon	Noble	

In accordance with the bylaws of the Oklahoma Bar Association (5 OS, Ch. 1, App. 2), "The House of Delegates shall be composed of one delegate or alternate from each County of the State, who shall be an active or senior member of the Bar of such County, as certified by the Executive Director at the opening of the annual meeting; providing that each County where the active or senior resident members of the Bar exceed fifty shall be entitled to one additional delegate or alternate for each additional fifty active or senior members or major fraction thereof. In the absence of the elected delegate(s), the alternate(s) shall be certified to vote in the stead of the delegate. In no event shall any County elect more than thirty (30) members to the House of Delegates."

"A member shall be deemed to be a resident, ... of the County in which is located his or her mailing address for the Journal of the Association."

## RESOLUTION DEADLINE

*Notice: Proposed resolutions are one of many bar business items discussed during the OBA Annual Meeting. Pursuant to OBA Bylaws, proposed resolutions must meet publication guidelines before the Annual Meeting. A proposal relating to the Legislative Program must be sent in bill format to Executive Director John Morris Williams by Monday, Sept. 21, for publication in the Oklahoma Bar Journal Oct. 17, issue. For any resolution to receive a potential recommendation from the Board of Governors, the proposal must be received by Sept. 14. In order for a resolution to be published in the official General Assembly and House of Delegates publication, it must be received by Sept. 29.*



# 2015 RESOLUTION

Notice: Proposed resolutions are one of many bar business items discussed during the OBA Annual Meeting. Pursuant to OBA Bylaws, proposed resolutions must meet publication guidelines before the Annual Meeting. **A proposal relating to the Legislative Program must be sent in bill format** to Executive Director John Morris Williams by **Monday, Sept. 21**, for publication in the Oklahoma Bar Journal Oct. 17, issue. **For any resolution to receive a potential recommendation from the Board of Governors**, the proposal must be received by **Sept. 14**. In order for a **resolution to be published in the official General Assembly and House of Delegates publication**, it must be received by **Sept. 29**.

The following resolution will be submitted to the House of Delegates at the 111th Oklahoma Bar Association Annual Meeting at 10:30 a.m. Friday, Nov. 6, 2015, at the Sheraton Hotel in Oklahoma City.

## RESOLUTION NO. 1: CLIENTS' SECURITY FUND RULES

BE IT RESOLVED by the House of Delegates of the Oklahoma Bar Association that the amendments to the Clients' Security Fund Rules, as published in the *Oklahoma Bar Journal* and posted on the OBA website at [www.amokbar.org](http://www.amokbar.org), be approved and adopted by the Supreme Court. (Requires a majority vote for passage. OBA Bylaws Art. VIII Sec. 5) *(Submitted by the Clients' Security Fund Task Force and OBA Board of Governors.)*

### CLIENTS' SECURITY FUND RULES

(Originally adopted by the Executive Council (Board of Governors) on November 12, 1964, and approved by the Oklahoma Supreme Court, as amended).

All lawyers take a solemn oath at their admission to practice before the Supreme Court of the State of Oklahoma. To preserve the integrity and reputation of the legal profession, members of the Oklahoma Bar Association desire, to the extent found proper and feasible by the Clients' Security Fund Commit-

tee and Board of Governors in their discretion, to reimburse clients' losses caused by dishonest conduct or acts of the very few lawyers who violate their oath.

It is the desire of the members of the Oklahoma Bar Association, for the purpose of reimbursing losses to clients to the extent deemed proper and feasible by the Clients' Security Fund Committee and the Board of Governors, which losses occur on very infrequent occasions through the dishonest conduct of persons practicing law in the State of Oklahoma and which conduct is in violation of their oath as members of our honorable profession, solemnly taken at the time of their admission to practice before the Supreme Court of the State of Oklahoma; that thereby the integrity and good name of the legal profession as a whole shall not be affected by such dishonest acts of the few.

### I. CLIENTS' SECURITY FUND POLICY RULES

- A. There is hereby established a Clients' Security Fund Committee of The Oklahoma Bar Association (hereafter called the Committee).
- B. The Committee shall consist of fifteen persons appointed by the President with the approval of the Board of Governors, for the terms as follows: five for one year, five for two years, five for three years. After the initial appointments, each subsequent appointment shall be for a term of three years. At least one appointee each year shall be a person who is not a lawyer. Vacancies shall be filled by appointment by the President for the unexpired term.
- C. The Committee is authorized to consider claims for reimbursement of losses arising after the effective date of the original resolution and caused by the dishonest conduct of a lawyer, acting as a lawyer, where said lawyer is a practicing member of the Bar of Oklahoma, maintains

- an office for the practice of law in the State of Oklahoma and has died, has been adjudged mentally ill, appropriate disciplinary action has been completed or he or she shall have resigned or permitted his or her license to practice to lapse after disciplinary proceedings shall have been commenced against him the lawyer.
- D. The Board of Governors, upon consideration of the Committee's recommendations shall be authorized and empowered to honor, pay, or reject such claims in whole or in part to the extent that funds are available. All reimbursements shall be a matter of grace, not right, and no client and no member of the public shall have any right in the Clients' Security Fund as third-party beneficiary or otherwise. If the plan is self-insured, the payment of the claims will be determined at one time or at about the end of each year of operation so that available funds may be equitably allocated within any one year.
  - E. All Petitions for Relief must be filed within five years of the loss caused by the dishonest conduct of the attorney.
  - F. The Committee is authorized to prescribe rules and procedures for the management of its funds and affairs, for the presentation of claims and the processing and payment thereof.
  - G. All sums appropriated by the Board of Governors for the use of the Committee shall be held and invested by the Treasurer of the Association in a separate fund known as the Clients' Security Fund subject to the written directions of the Committee under Committee rules.
  - H. The Committee subject to the final determination of the Board of Governors may use or employ the Clients' Security Fund for all or any of the following purposes within the scope of the Committee's objectives, as heretofore outlined:
    1. To make reimbursements to clients.
    2. At its discretion, to purchase insurance to insure the integrity of the Clients' Security Fund, provided that such insurance is obtainable at reasonable costs and is deemed appropriate.
  - I. The expenses of this Committee shall be paid out of the general fund of the Oklahoma Bar Association.
  - J. The Committee shall provide a full written report of its activities, ~~at least quarterly~~ annually to the Board of Governors of the Association, and it shall make such other reports of its activities and give only such further publicity to same as the Board of Governors may deem advisable.
  - K. The Committee may be abolished at any time upon the recommendation of the Board of Governors and approval of the Oklahoma Supreme Court. In the event of such abolition, all assets of the Clients' Security Fund shall be and remain the property of the Oklahoma Bar Association and usable for its general purposes by action of the Board of Governors.
  - L. The President shall be authorized to make the appointments to the Committee with the approval of the Board of Governors.
  - M. Given the nature and purpose of the Fund, it is expected that members of the Association will assist claimants ~~Petitioners~~ for relief without charge, deeming their service to be pro bono publico. Where an unusual amount of time and effort is expended by an attorney who assists a claimant ~~Petitioner~~, he or she may be awarded a modest fee out of the award. No attorney shall be compensated for presenting a petition except as authorized by the Clients' Security Fund Committee and the Board of Governors.
  - N. The Oklahoma Bar Association, members of its Board of Governors, members of the Committee, employees and agents of the Oklahoma Bar Association, claimants and lawyers who assist claimants are absolutely immune from civil liability for all acts of omission or commission in the course of their official duties.
  - O. The Purposes of the Clients' Security Fund are:
    1. To furnish a means of protecting the reputation of lawyers in general from the consequences of dishonest acts of a very few.



2. To furnish a means of reimbursement to clients for financial losses occasioned by dishonest acts of lawyers:
  - (a) To the extent that the Fund is capable of making reimbursements; and
  - (b) If in the opinion of the Board of Governors upon consideration of the Committee's recommendation, the client is entitled to reimbursement.
  - (c) In such amount as the Board of Governors, in its sole discretion, shall deem reasonable and proper, with the consideration of the Committee's recommendation.

P. In establishing the Clients' Security Fund, the Oklahoma Bar Association did not create, or acknowledge, any legal responsibility for the acts of individual lawyers in their practice of law. Therefore, all reimbursements of losses by the Clients' Security Fund shall be made solely at the discretion of the Board of Governors upon the recommendation of the Committee and not as a matter of legal right capable of enforcement by any claimant.

## II. RULES OF PROCEDURE

A. **Definitions.** For the purpose of these rules of procedure, the following definitions shall apply:

1. The "Committee" shall mean the Clients' Security Fund Committee.
  2. The "Fund" shall mean the Clients' Security Fund.
  3. "Lawyers" shall include only those lawyers admitted to practice law within the State of Oklahoma, domiciled and actively practicing law within said State.
  4. "Reimbursable Losses" shall include only those losses of money or other property of clients of lawyers which meet the following tests:
    - (a) That the loss shall have been caused by the dishonest act of a lawyer while acting as a lawyer for the client.
    - (b) That the lawyer shall have died, shall have been adjudged mentally ill, appropriate disciplinary action has been completed, or he or she shall have resigned or permitted his or her license to practice to lapse after disciplinary proceedings shall have been commenced against him the lawyer.
    - (c) That the dishonest act shall have been committed within the State of Oklahoma, or as a part of a contract of employment, the major portion of which was to be performed within said State.
5. The following shall be excluded from "Reimbursable Losses":
- (a) Losses of wives spouses and other close relatives, partners, servants and employees of lawyers; ~~and~~
  - (b) Losses the proof of which, either as to factual existence or amount, is dependent upon inventory computation or profit and loss computation;
  - (c) Losses covered by any bond, surety agreement, or insurance contract, to the extent covered thereby;
  - (d) Losses for which the client has received reimbursement from any source.
6. As used in these rules "Dishonest Conduct or Acts" means any of the following:
- (a) Wrongful acts committed by a lawyer in the nature of theft, or embezzlement of money or the wrongful taking or conversion of money, property or other things of value; or
  - (b) Refusal to refund unearned fees received in advance where the lawyer performed no services or such an insignificant portion of the service that the refusal to refund the unearned fee constitutes a wrongful taking or conversion of money.

### III. MANNER OF MAKING APPLICATION FOR REIMBURSEMENT

Applications to the Fund for reimbursement for loss suffered by clients as the result of dishonest acts of lawyers shall be in writing and shall be addressed and delivered to the Director of the Oklahoma Bar Association for transmission to the ~~Chairman~~ Chairperson of the Committee. Said applications shall be in such form as the Committee may prescribe, and shall contain the following minimum information:

- A. The name of the "Lawyer".
- B. The amount of the "Reimbursable Loss", ~~and~~
- C. The date or period of time during which the loss was incurred, together with a sufficient statement of facts to show that the loss is in fact a "Reimbursable Loss" as hereinbefore defined.
- D. All applications shall be supported by submission of such documentary evidence as may be available and shall be signed by the claimant ~~applicant~~.
- E. ~~D.~~ A copy of the application submitted to the Committee shall be mailed or served on the affected former attorney at his or her last known address by the Office of the General Counsel. Included with the application shall be a notice that the claim has been received and will be considered by the Committee and that the former attorney is invited to submit any statement or documentary evidence either in favor or against said claim. The notice shall also state that if the claim is paid, the Committee may be entitled to subrogation of the claim against the attorney and that reimbursement of the Clients' Security Fund will be a condition of any application for reinstatement.

### IV. PROCESSING AND ALLOWANCE OF APPLICATIONS

- A. Applications submitted to the Committee shall be referred by the ~~Chairman~~ Chairperson to the General Counsel or other Staff of the Oklahoma Bar Association for investigation and recommendation as to the validity of the claim includ-

ed in the application. The reports of investigation and the recommendations thus made shall be submitted to the Committee as a whole. The Committee, during ~~the month of December~~ of each calendar year, in its sole discretion shall determine the amount of loss for which any client shall be reimbursed and in making such determination the Committee shall consider, *inter alia*, the following:

- 1. The conduct, if any, of the client which contributed to the loss,
- 2. The comparative hardship the client has suffered by the loss,
- 3. The total amount of applications for reimbursement which have been submitted by the clients of any one lawyer or association of lawyers, and
- 4. All claims against the Clients' Security Fund shall be presented to the Clients' Security Fund Committee for its consideration. In December of each year, the Clients' Security Fund Committee shall make a written report to the Board of Governors of the Oklahoma Bar Association setting forth the Committee's recommendations with regard to all claims considered by the Committee during the preceding year. The Board of Governors shall consider the recommendations of the Clients' Security Fund Committee and make a final determination of approval or rejection of each claim. After the Board of Governors has made a final decision regarding all the claims for the preceding year, the Executive Director shall compute the total dollar amount of all claims approved by the Board of Governors. If the total dollar amount of the approved claims does not exceed the annual aggregate amount of reimbursement as specified in paragraph 6 of this section, the Executive Director shall promptly pay all the approved claims. If the total dollar amount of the approved claims exceeds the annual aggregate amount of reimbursement, the Executive Director shall pay all approved claims on a prorated basis so that the same percentage of each approved claim is paid and the total dollar

amount of the prorated claims paid equals the annual aggregate amount of reimbursement. The Board of Governors may increase the amount available for reimbursement by appropriating an amount from the Permanent Fund not to exceed 10% of the total of the Permanent Fund as determined on November 1 of each year. Nothing herein shall create any obligation on the part of the Board of Governors to any such increase under any circumstances.

5. The President of the Association and the Budget Committee shall budget for the benefit of the Clients' Security Fund sufficient money from the annual budget so that the Clients' Security Fund shall have in it as of January 1 of each year the sum of ~~\$100,000.00~~ \$175,000.00. The Association shall also establish a Clients' Security Permanent Fund, the income of which shall be used to increase the annual aggregate amount available for reimbursement of claimant losses. The Permanent Fund shall be funded in the following manner: In the event that the total dollar amount of the approved claims in any one year does not exceed the annual budgeted ~~\$100,000.00~~ \$175,000.00 amount plus any earned income from that amount, the remaining balance of the budgeted amount and earned income shall be added to the Clients' Security Permanent Fund; The Permanent Fund shall also include other funds received by the Board relating to Client Security including voluntary contributions or subrogation or restitution received for claims paid. The appropriated annual funds and the other funds of the Clients' Security Permanent Fund shall be invested at the direction of the Board of Governors and the income from such investment shall be added to the Clients' Security Fund to be used in the manner prescribed herein. Nothing herein shall create any obligation on the part of the Association to fund or pay all approved claims.
6. The annual aggregate amount of reimbursement for any calendar year that is payable by the Clients' Security

Fund is hereby set as the total of the budgeted amount, ~~\$100,000.00~~ \$175,000.00, plus any current income from the Permanent Fund and the budgeted ~~\$100,000.00~~ \$175,000.00. In the event that it is determined to purchase insurance to insure the integrity of the Fund in making payments of reimbursement in accordance with Section II(H)(2), principal and income of the annual budgeted amount and the Permanent Fund may be used for any such purpose.

7. The Board of Governors, subject to approval by the Oklahoma Supreme Court, may from time to time change or modify the maximum amount of reimbursement payable by the Clients' Security Fund. (As amended by Supreme Court Order 52298).
8. Claimant shall be reimbursed for losses in amounts to be determined in the sole discretion and approval of the Board of Governors at the recommendation of the Committee. Reimbursement, if any, shall not include interest, incidental consequential and out of pocket expenses.
9. If the claimant is a minor or an incompetent, the reimbursement may be made to any person or entity for the benefit of the claimant.
10. Although the rules set forth herein establish procedures for the processing of the claims seeking reimbursement from the Fund, they are not intended to nor do they create a substantive right to reimbursement, compensation, damages or restitution for a lawyer's dishonest act.
11. The Oklahoma Bar Association, members of its Board of Governors, members of the Committee and the agents and employees of the Oklahoma Bar Association are not guarantors of honesty or integrity in the practice of law. Dishonest conduct by a member of the Bar imposes no separate legal obligation on the profession collectively, or on the Clients' Security Fund, to compensate for a lawyer's misconduct. The Fund is a Bar-financed public service of the Bar Association with the intent to



promote public confidence in the administration of justice and the integrity of the legal profession, and therefore payment of reimbursement of losses is a matter of grace and discretion by the Board of Governors.

12. The recommendations made by the Clients' Security Fund Committee or the decisions made by the Board of Governors of the Oklahoma Bar Association pursuant to these rules shall be final.

## V. SUBROGATION FOR REIMBURSEMENTS MADE

A. In the event reimbursement is made to a client, the Fund shall be subrogated in said amount and may bring such action as it deems advisable against the lawyer, his or her assets or ~~his~~ estate, either in the name of the client or in the name of the Oklahoma Bar Association. The client shall be required to execute a subrogation agreement in said regard.

B. The client shall be entitled to bring an action for recovery of losses directly against the lawyer, his or her assets or ~~his~~ estate if the Committee has not done so within six months of execution of the subrogation agreement. Any amounts recovered from the lawyer, either by the Committee or the client, in excess of the amount to which the fund is subrogated, less the Committee's actual costs of such recovery, shall be paid to or retained by the client as the case may be.

## VI. MEETINGS OF THE COMMITTEE

The Committee shall meet from time to time upon call of the ~~Chairman~~ Chairperson, provided that the ~~Chairman~~ Chairperson shall call a meeting at any reasonable time at the written request of at least two members of the Committee.

## VII. GENERAL PROVISIONS

A. No publicity shall be given to the rules of procedure, to applications for reimbursement, payments made by the Committee or to any action of the Committee without the express prior approval of the Board of Governors of the Oklahoma Bar Association. Subject to such express prior approval:

1. The Committee is authorized to prepare, use and distribute an informational brochure detailing the rules of procedure and activities of the Committee for the purpose of assisting fund claimants in the preparation of their applications and informing the general public of the purpose and aims of the Committee. Copies of the informational brochure shall also be made available to the general public. The contents of the brochure shall be reviewed and approved by the Board of Governors; and

2. Annually, after review and consideration of claims by the Board of Governors, the Committee shall prepare and distribute a summary of activities containing information regarding the purpose and aims of the Committee, the number of claims submitted, the number of claims paid, the amount of such payments and the name of the successful claimant and affected attorney. The summary may only be published by the Board of Governors. The Committee shall not include specific information regarding claims which were not paid or any claim application against an attorney who was not involved in a "reimbursable loss" as defined under Rule II(A)(4).

B. These rules may be changed at any time by a majority vote of the Committee if said changes are approved by the Board of Governors of the Oklahoma Bar Association and the Oklahoma Supreme Court.



OBA ANNUAL MEETING 2015  
NOV. 4-6 • ORIGINATOR HOTEL • OKLAHOMA CITY

# TOP 5 REASONS TO ATTEND OBA ANNUAL MEETING

1

## Meet new people and build your reputation in the legal community

Introduce yourself and let other attorneys know what you're all about. You may make some lifelong friends, beneficial connections or even get some referrals!

"I go to the bar meeting every year to keep informed about the issues facing the bar and to catch up with colleagues from around the state. For younger attorneys, the Annual Meeting is a great opportunity to network and gain valuable perspective on the work the bar does."

- John Nobles, Tulsa

2

## Reconnect with colleagues

Spend time at Annual Meeting catching up with attorneys you haven't seen in a while. Annual Meeting may be your only chance during the entire year to see these people face to face!

"I look forward to Annual Meeting every year to catch up with friends and colleagues. The relationships I have built through the OBA have not only been invaluable to my practice, but also to my work-life balance."

- Faye Rodgers, Edmond

3

## Learn new things

Get all your CLE for the year; be inspired by the Annual Luncheon keynote speaker, Eric Liu; and catch up on bar business at the General Assembly and House of Delegates meeting.

OBA Annual Meeting is one the few opportunities that lawyers have to get a up-close, realistic glimpse of the workings of the OBA and meet lawyers from all over our great state and even possibly across state lines. I recall very clearly my first Annual Meeting. I felt overwhelmed, but I also recall leaving feeling a sense of urgency to get more involved. Afterward, there was no looking back, and I began to find ways to serve.

- Kara Smith, Oklahoma City

4

## Connect with vendors

While you're at Annual Meeting, make sure to stop by and visit with the vendors. These companies offer services and products that will enhance your practice, and many of them offer OBA member benefits.

5

## Have fun!

Believe it or not, the Annual Meeting isn't all business! Wednesday evening's President's Reception and The OBA Sections' "It's Five O'Clock Somewhere" event on Thursday evening will both be a blast (as well as good networking opportunities). And afterward, mingle with friends in the Hospitality Suites.

I began attending Oklahoma Bar Conventions my first year of law school and haven't missed many since. I always greet friends, meet new people and learn something new.

- Kent Ryals, Vinita

## Check out the perks of being an OBA member

- E-news
- Fastcase
- OBA-NET
- Continuing Legal Education
- Research links
- Speakers Bureau
- *Oklahoma Bar Journal*
- Consumer information brochures
- Young Lawyers Division
- Office “health checks”
- Title Exam Standards
- Lending Library
- Ethics Counsel
- Lawyers Helping Lawyers
- Insurance
- Multiple member discounts



And that's not all! For more member perks, visit  
[www.okbar.org/members/members/benefits](http://www.okbar.org/members/members/benefits)



# 2016 OBA BOARD OF GOVERNORS VACANCIES

**Nominating Petition deadline was 5 p.m. Friday, Sept. 4, 2015**

## OFFICERS

### President-Elect

Current: Garvin Isaacs Jr., Oklahoma City  
Mr. Isaacs automatically becomes OBA president Jan. 1 2016  
(One-year term: 2016)

Nominees: **Linda S. Thomas, Bartlesville**  
**Thomas W. Walker, Ardmore**

### Vice President

Current: Glenn A. Devoll, Enid  
(One-year term: 2016)  
Nominee: **Paul D. Brunton, Tulsa**

## BOARD OF GOVERNORS

### Supreme Court Judicial District Three

Current: Robert D. Gifford II, Oklahoma City  
Oklahoma County  
(Three-year term: 2016-2018)  
Nominee: Vacant

### Supreme Court Judicial District Four

Current: Douglas L. Jackson, Enid  
Alfalfa, Beaver, Beckham, Blaine, Cimarron,  
Custer, Dewey, Ellis, Garfield, Harper, Kingfisher,  
Major, Roger Mills, Texas, Washita, Woods and  
Woodward  
(Three-year term: 2016-2018)  
Nominee: Vacant

### Supreme Court Judicial District Five

Current: Rickey Joe Knighton II, Norman  
Carter, Cleveland, Garvin, Grady, Jefferson,  
Love, McClain, Murray and Stephens  
(Three-year term: 2016-2018)  
Nominee: **James L. Kee, Duncan**

### Member At Large

Current: Richard Stevens, Norman  
(Three-year term: 2016-2018)  
Nominee: **Alissa Hutter, Norman**

### Summary of Nomination Rules

Not less than 60 days prior to the annual meeting, 25 or more voting members of the OBA within the Supreme Court Judicial District from which the member of the Board of Governors is to be elect-

ed that year, shall file with the executive director, a signed petition (which may be in parts) nominating a candidate for the office of member of the Board of Governors for and from such judicial district, or one or more county bar associations within the judicial district may file a nominating resolution nominating such a candidate.

Not less than 60 days prior to the annual meeting, 50 or more voting members of the OBA from any or all judicial districts shall file with the executive director, a signed petition nominating a candidate to the office of member at-large on the Board of Governors, or three or more county bars may file appropriate resolutions nominating a candidate for this office.

Not less than 60 days before the opening of the annual meeting, 50 or more voting members of the association may file with the executive director a signed petition nominating a candidate for the office of president-elect or vice president or three or more county bar associations may file appropriate resolutions nominating a candidate for the office.

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

See Article II and Article III of OBA Bylaws for complete information regarding offices, positions, nominations and election procedure. Elections for contested positions will be held at the House of Delegates meeting Nov. 6, during the Nov. 4-6 OBA Annual Meeting. Terms of the present OBA officers and governors will terminate Dec. 31, 2015.

Nomination and resolution forms can be found at [www.okbar.org/members/BOG/BOGvacancies](http://www.okbar.org/members/BOG/BOGvacancies).

## NOTICE

The nominating petition deadline was 5 p.m., Sept. 4, 2015. This issue went to press before the deadline, and the list of nominees may not be complete. See [www.amokbar.org](http://www.amokbar.org) for updates.

# OBA NOMINATING PETITIONS

(See Article II and Article III of the OBA Bylaws)

## OFFICERS

### PRESIDENT-ELECT

**LINDA S. THOMAS, BARTLESVILLE**

A total of 262 signatures appear on the petitions. Nominating Resolutions have been received from the following counties: Cleveland and Washington

**THOMAS S. WALKER, ARDMORE**

A total of 242 signatures appear on the petitions. Nominating Resolutions have been received from the following counties: Carter and Sequoyah

### VICE PRESIDENT

**PAUL D. BRUNTON, TULSA**

Nominating Petitions have been filed nominating Paul D. Brunton for Vice President of the Oklahoma Bar Association Board of Governors for a one-year term beginning January 1, 2016. Fifty of the names thereon are set forth below:

Garvin Isaacs, Renée DeMoss, William R. Grimm, Allen Smallwood, Robert B. Sartin, John Gaberino, James M. Sturdivant, Adam Marshall, Gerald G. Stamper, Thomas D. Robertson, Bradley Beasley, Amelia Fogleman, Kent Siegrist, Mary Bundren, Cana Wilson, Justin B. Munn, Matthew Lyons, Ron Gore, Christian Barnard, Kelly Smakal, Brad Cunningham, James Hicks, Brad Heckenkemper, Allen E. Barrow Jr., David A. Johnson, David A. Sturdivant, Nicholas M. Jones, Kilian Bryce, Joseph Allen, Christopher Barrow, Timothy Rogers, Anne S. Maguire, Caitlin Murphy, Melissa Sartin, Steven Glenn Heinen, Paul Rossler, Ronald Ricketts, Tammy Barrett, Tina Soin, Mark S. Thetford, Mitchell O'Donnell, Jonathan Neff, Kurt G. Arras, Timothy E. Houchin, Kenneth L. Brune, Jack E. Gordon, R. Brent Blackstock, Robert Durbin, Rob Ridenour and Thomas M. Affeldt.

A total of 61 signatures appear on the petitions.

## SUPREME COURT JUDICIAL DISTRICT FIVE

**JAMES L. KEE, DUNCAN**

Nominating Petitions have been filed nominating James L. Kee, Duncan, for election of Supreme Court Judicial District No. 5 of the Oklahoma Bar Association Board of Governors for a three-year term beginning January 1, 2015. Twenty-five of the names thereon are set forth below:

Joshua A. Creekmore, Jason M. Hicks, Carl LaMar, Jamie Phipps, Hal H. Pennington, Clinton D. Russell, Arlan Bullard; Robert Rennie, Keith Readnour, Dean Hart Jr., R. Lindsey Bailey, Clifton D. Naifeh, Joe B. Lawter, Gregory T. Tontz; Ryland Rivas, Cortnie Cain, April Chasteen; Phillip R. Scott; William W. Eakin; E. J. Buckholts, John R. Alexander, Henry C. Bonney, Kent P. Sullivan, Joe Kyle White, and Scott W. Stone

A total of 52 signatures appear on the petitions.

Nominating Resolutions have been received from the following counties: Stephens

### MEMBER AT LARGE

**ALISSA HUTTER, NORMAN**

Nominating Petitions have been filed nominating Alissa Hutter, Norman, Oklahoma for election of Member at Large of the Oklahoma Bar Association Board of Governors for a three-year term beginning January 1, 2016. Fifty of the names thereon are set forth below:

David Poarch, Renée DeMoss, Peggy Stockwell, Linda S. Thomas, Kimberly Hayes, Joe Vorndran, Richard Stevens, Robert D. Gifford, Rick Knighton, Richard Vreeland, Jeff Bryant, Gary Rife, Don Pope, John Sparks, Rod Ring, Jan Meadows, Allison Dow, Jama Pecore, Dave Batton, Kristina Bell, Eileen Echols, Dave Stockwell, Kurt Pfenning, Debra Loeffelholz, Amelia S. Pepper, Brenda A. Barnes, Richard Sitzman, Sharon Sitzman, John Hancock, E. Joe Lankford, Sam Talley, Christopher Lind, Scott Anderson, Stephen Box, Seth Hendrick, Don Jackson, Patrick Quillian, Kristen Hartman, Kent Bridge, Cesar Armenta, Ed Blau, Lance Phillips, Karen Thomas, Elise Hayes, Tara S. Jones, Elizabeth Sparks, Taos Smith, Rebekah Taylor, LeAnne McGill and Kathryn Flood.

A total of 83 signatures appear on the petitions.

Nominating Resolutions have been received from the following counties: Cleveland



OBA ANNUAL MEETING 2015  
NOV. 4-6 • SHERATON HOTEL • OKLAHOMA CITY

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OBA Annual Meeting, PO Box 53036, Okla. City, OK 73152



## FAX FORM

405-416-7092



## PHONE/EMAIL

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or email [marks@okbar.org](mailto:marks@okbar.org)

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ity area, President's Reception, afternoon snacks in hospitality area, OBA Sections  
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No refunds will be issued  
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Association rate of \$109 per night.

*For online reservations, go to  
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Book/OBA2015*

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Downtown Hotel, One N. Broad-  
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accommodation.

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Name \_\_\_\_\_

Email \_\_\_\_\_

Badge Name (if different from roster) \_\_\_\_\_ Bar No. \_\_\_\_\_

Address \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_ Phone \_\_\_\_\_

Name of Non-Attorney Guest \_\_\_\_\_

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

**Check all that apply:** ☐ Judiciary ☐ Delegate ☐ Alternate

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☐ NEW MEMBER (Admitted after Jan. 1, 2015): Free through Oct. 13; \$30 after Oct. 13 ..... \$ \_\_\_\_\_

## **I will attend the following ticketed events in addition to my registration fee:**

☐ Elder Fraud (\$75 through Oct. 13; \$100 after Oct. 13)  
Wednesday morning  
3 hours MCLE/1 Ethics  
free for Master Lawyers Section members  
\$25 for new members through Oct. 13; \$50 after Oct. 13 ..... \$ \_\_\_\_\_

☐ Legal Tips (\$150 through Oct. 13; \$175 after Oct. 13)  
Wednesday all day  
6 hours MCLE/1 Ethics  
\$50 for new members through Oct. 13; \$75 after Oct. 13 ..... \$ \_\_\_\_\_

☐ Appeals (\$75 through Oct. 13; \$100 after Oct. 13)  
Wednesday afternoon  
3 hours MCLE/.5 Ethics  
(free for Appellate Practice Section members)  
\$25 for new members through Oct. 13; \$50 after Oct. 13 ..... \$ \_\_\_\_\_

☐ Rock n' Roll Law (\$75 through Oct. 13; \$100 after Oct. 13)  
Wednesday afternoon  
3 hours MCLE/1 Ethics  
\$25 for new members through Oct. 13; \$50 after Oct. 13 ..... \$ \_\_\_\_\_

☐ Plenary (\$75 through Oct. 13; \$100 after Oct. 13)  
Thursday morning  
3 hours MCLE/1 Ethics  
\$25 for new members through Oct. 13; \$50 after Oct. 13 ..... \$ \_\_\_\_\_

☐ Annual Luncheon (\_\_\_ number of tickets @ \$35 each) ..... \$ \_\_\_\_\_  
Thursday  
*Price includes meeting registration discount*

☐ President's Breakfast (\_\_\_ number of tickets @ \$25 each) ..... \$ \_\_\_\_\_  
Friday

## **I will attend the following ticketed events that do NOT require Annual Meeting registration:**

☐ Wednesday: Law School Luncheon ☐ OCU \$40 ☐ OU \$35 ☐ TU \$40  
(\_\_\_ number of tickets @ \$35 or \$40 each) ..... \$ \_\_\_\_\_

☐ Thursday: Annual Luncheon (\_\_\_ number of tickets @ \$55 each) ..... \$ \_\_\_\_\_

**TOTAL COST** \$ \_\_\_\_\_

## **PAYMENT OPTIONS:**

☐ Check enclosed: Payable to Oklahoma Bar Association

Credit card: ☐ VISA ☐ Mastercard ☐ American Express ☐ Discover

Card # \_\_\_\_\_ CVV# \_\_\_\_\_ Exp. Date \_\_\_\_\_

Authorized Signature \_\_\_\_\_

# Initiative Petitions in Oklahoma

## Existing Process and Possible Revisions

*By D. Kent Meyers and Elizabeth LaBauve*

In the United States, the political mechanisms of direct democracy generally, and of the initiative process specifically, were enacted to give voters a greater voice in their government, to promote citizen participation and knowledge, and to permit the popular will to prevail over special interests — i.e., to allow “ordinary citizens” to “take control of the agenda” and “to vote directly on laws rather than candidates for office.”<sup>1</sup> An initiative, also known as a popular or citizens’ initiative, is a means by which voters can propose a legislative measure (statutory initiative) or a constitutional amendment (constitutional initiative) by filing a petition signed by the required number of citizens.<sup>2</sup> Through the direct initiative process, Oklahoma has reserved to its citizens the right to propose, enact or reject both statutes and constitutional amendments for over a century.<sup>3</sup> Certain characteristics of the state’s initiative scheme, however, arguably defeat rather than promote these underlying goals. This article examines these features of the Oklahoma initiative process.

### THE INITIATIVE PROCESS IN THE UNITED STATES

Twenty-four states currently have the initiative process available to their citizens. Of these, 18 states allow initiatives to propose constitutional amendments, and 21 states allow initiatives to propose statutory measures (with some overlap between these two categories).<sup>4</sup> The statutory initiative and referendum, offspring of the populist movement of the 1880s and 1890s, first were adopted by South Dakota in 1898, and the constitutional initiative was introduced by Oregon in 1902.<sup>5</sup> The use of the initiative process is becoming more widespread, and

no state has ever voted to discontinue its use. States have continued to adopt the process at the rate of about one state per decade since the end of World War II.<sup>6</sup>

### THE INITIATIVE PROCESS IN OKLAHOMA

Oklahoma has provided for both statutory and constitutional statewide initiative process since statehood — first in the original Oklahoma Constitution, and soon thereafter in the 1910 compilation of the Oklahoma laws as well.<sup>7</sup> The specific procedure to be followed in proposing a statewide initiative petition (including specific filing, binding, verbiage,

numbering and typeface requirements) is outlined in Title 34 of the Oklahoma Statutes. Very generally speaking, a proponent of such a petition first files the proposed petition with the secretary of state and the attorney general; the secretary of state designates the applicable state question number and petition number.<sup>8</sup> The secretary of state publishes a notice of filing and of apparent sufficiency or insufficiency of the petition, which commences a 10-day period for protests regarding the legal/constitutional sufficiency of the petition.<sup>9</sup> Any such protests are resolved by the Oklahoma Supreme Court.<sup>10</sup> As soon as “all appeals, protests and rehearings have been resolved or the period for such has expired, the Secretary of State shall set the date for circulation of signatures for the petition to begin”; “in no event shall the date be less than fifteen (15) days nor more than thirty (30) days from the date when all appeals, protests and rehearings have been resolved or have expired.”<sup>11</sup>

Pursuant to recent statutory amendments, persons circulating the petition for signature no longer must be “qualified elector[s]” of Oklahoma: circulators need only verify through a sworn affidavit that they are at least 18 years old, all signatures were signed in their presence, and they believe each signer to be a legal voter of the state of Oklahoma.<sup>12</sup> Within 90 days of the date set by the secretary of state, the proponent must have gathered the requisite number of verified signatures and filed the signed copies with the secretary of state.<sup>13</sup> Currently, an initiative to propose legislation must be signed by “eight per centum of the legal voters,” and an initiative to propose amendments to the state constitution must be signed by “fifteen per centum of the legal voters.”<sup>14</sup> As of 2010, “[t]he ratio and per centum of legal voters . . . shall be based upon the total number of votes cast at the last general election of the office of governor.”<sup>15</sup>

As of April 2015, the proposed ballot title for the petition, which is separately submitted to the secretary of state, is no longer published with the initial notice of the filing of the petition. Instead, “[w]hen the signed copies of a petition are timely filed” with the secretary of state, “the Secretary of State shall file a copy of the proponent’s ballot title with the Attorney General.”<sup>16</sup> The suggested ballot title must not exceed 200 words, cannot “reflect partiality in its composition,” and must be worded so that a “yes” vote is a vote in favor of the proposition

and a “no” vote is a vote against the proposition.<sup>17</sup> Within five business days of receipt, “the Attorney General shall, in writing, notify the Secretary of State whether or not the proposed ballot title complies with applicable laws.”<sup>18</sup> If the attorney general finds that proposed ballot title is defective, he or she shall draft and file a ballot title that complies with the law within 10 business days of making that finding.<sup>19</sup>

The secretary of state will conduct a signature count and issue a report to the Supreme Court, which issues an order regarding the signatures’ numerical sufficiency or insufficiency.<sup>20</sup> Following publication of and opportunity for objection to the signed petitions and the official ballot title (as reviewed by the attorney general), if the number of signatures ultimately is deemed sufficient and the ballot title is determined to be in compliance with statutory criteria, then the secretary of state notifies the governor, the governor sets the election date, and the official ballot title and state question are submitted to the State Election Board for placement on the ballot.<sup>21</sup>

Since 1965, 113 initiatives have been filed with the secretary of state. Of those, only 21 petitions withstood the requisite scrutiny to obtain placement upon the ballot. Ten of those 21 questions were passed by the majority of the voters.<sup>22</sup> The most recent initiative to go before the voters was State Question Number 744, which proposed a new article to the state constitution requiring the state to spend an amount of money per common school pupil each year that was equal or greater to the average amounts spent per pupil by surrounding states. This constitutional initiative failed to pass in the election of November 2010.<sup>23</sup> Other recent ballot questions have included: SQ 723 (constitutional initiative regarding funds for bridges and highways; failed to pass in 2005); SQ 687 (statutory initiative banning cockfighting; passed in 2002); and SQ 672 (constitutional initiative regarding casino gaming; failed in 1998).<sup>24</sup>

## OBSTACLES TO USING THE STATE’S INITIATIVE PROCESS

Oklahoma’s initiative scheme has several features that can be viewed as promoting use of the statewide initiative by “ordinary citizens,” as compared to the scheme available in some states. For example, citizens may propose constitutional as well as statutory measures by petition.<sup>25</sup> In addition, Oklahoma does not

require geographical distribution of signatures from across the state.<sup>26</sup> Finally, Oklahoma's initiative-to-ballot route is a "direct" one; in some states, an initiative reaches the ballot only after going from the people through certification by the Legislature.<sup>27</sup>

Despite these features, spearheading an initiative campaign with a reasonable likelihood of withstanding challenge and gaining placement on the ballot requires a significant financial outlay, as well as a substantial time commitment. "Money is, other things being equal, the single most important factor determining direct legislation outcomes. Well-financed measures enjoy a significantly greater chance of winning than do those that are poorly financed."<sup>28</sup> For this article, the authors contacted an initiative campaign consultant with experience both circulating and challenging initiative petitions. This consultant estimates that the cost for filing and circulating a typical petition — not including attorney's fees and handling any appeals or challenges — would be \$456,610.<sup>29</sup> This figure includes: office space and supplies; printing and notarization; recruiting, training and paying circulators for 161,200 valid signatures (124,000 required for a constitutional initiative plus a 30 percent "buffer" to allow for invalid signatures); and other necessary expenses over a 120-day period (comprising 30 days of preparation and the 90-day circulation for signatures).<sup>30</sup> Relatedly, the same consultant estimates that lodging a realistic, 60-day challenge to such an initiative petition, not including attorney's fees, would incur costs of approximately \$353,975 to the challenger.<sup>31</sup>

The bulk of the cost incurred in presenting an initiative lies in the required collection of signatures within 90 days of the date set forth by the secretary of state.<sup>32</sup> Assuming the petition reaches this stage, the proponent quickly faces two Oklahoma statutory requirements for which compliance is quite costly: 1) this 90-day circulation period for signatures; and 2) the 8 percent/15 percent minimums of legal voters' signatures that are required to obtain placement onto the ballot.<sup>33</sup>

The 90-day requirement has been in effect since 1911; the 8 percent/15 percent voter percentage minimums were included in the initial constitutional language authorizing initiatives and have remained unchanged to date.<sup>34</sup> Although 90 days may not appear overly circumscribed — it is, after all, a full three months — of the 24 states that provide initiative process, only one state has a shorter signature deadline (Massachusetts, with 64 days).<sup>35</sup> All other initiative states allow 150 days or more, with 16 of those states allowing one year or more (including four states with no time limit for signatures).<sup>36</sup> Oklahoma's 90-day deadline has drawn criticism and has been referred to as the requirement that "dooms most initiative petition drives."<sup>37</sup>

**“The bulk of the cost incurred in presenting an initiative lies in the required collection of signatures within 90 days of the date set forth by the secretary of state.”**

The brevity of a 90-day circulation period is underscored when considered together with the actual number of valid signatures that must be obtained during that period. According to the petition signature requirements currently published by the Oklahoma secretary of state, from Nov. 10, 2010, until Nov. 12, 2012, an initiative for statutory change (8 percent) was required to have 82,782 valid signatures, and an initiative for constitutional change (15 percent) was required to have 155,216 valid signatures.<sup>38</sup> Because fewer people voted in the most recent governor's race, the requirements have dropped a bit in the last year. Based upon the 824,831 total votes cast in the last general election for governor on Nov. 17, 2014,<sup>39</sup> the authors have calculated that an initiative for statutory change today would need 65,987 valid signatures, and an initiative for constitutional change today would need 123,725 valid signatures.<sup>40</sup> In other words, a current proponent of a constitutional initiative must collect valid signatures at an average rate of 1,374 signatures per day, each day, for the entire 90-day time period.

The 15 percent minimum percentage required for constitutional initiatives, in particular, is significantly higher than other states' requirements. Of the 12 states both providing for constitutional initiative petitions and tying their signature percentage minimum to the number of voters in the most recent gubernatorial race,



Oklahoma is tied with only Arizona for the highest requirement at 15 percent. The other 10 states require 3 percent to 12 percent, with half (five states) requiring 10 percent.<sup>41</sup> Oklahoma's 15 percent minimum for constitutional initiatives therefore exceeds what one leading scholar recommends as reasonable: "It should be neither easy nor nearly impossible to obtain the number of signatures necessary to get measures on the ballot. Six to 8 percent of the last vote for governor seems an appropriate requirement for statutory measures, 8 to 10 percent for constitutional measures."<sup>42</sup> Oklahoma's 8 percent requirement for statutory initiatives is more closely in line with, but still on the high end of, the minimums required in those 14 states that permit such initiatives and rely upon gubernatorial election turnout; these states' minimums range from 3.5 percent to 10 percent of gubernatorial votes cast.<sup>43</sup>

Scholars characterize the collection of signatures across the jurisdictions as both a sprint and a marathon: "Even when a group plays by the rules, an incentive exists to get as many people to sign as fast as possible. The circulation of petitions seldom educates voters; rather, it is a marathon of endurance."<sup>44</sup> In Oklahoma, the burdensome nature of the circulation period and 8/15 percent initiative requirement, combined with the other procedural criteria applicable to all initiatives, realistically means that an individual or group who undertakes an initiative campaign must rely upon professional signature collectors. Because the voters' signatures must be gathered within such a condensed time frame, and each signature must meet specific statutory requirements, it is impractical to rely upon volunteer signature collectors for such a large-scale project. Circulation costs (\$285,610) therefore are nearly two-thirds of the estimated \$456,610 budget required to file and circulate a proposed constitutional initiative petition.<sup>45</sup> Moreover, this budget figure does not include attorney's fees, which may range from \$500,000 to \$750,000, and does not include the potential \$1-2 million that will be spent on voter education and on advertising after the issue is approved for placement on the ballot. These enormous costs have led to concerns that the process is becoming inaccessible to all but those with extraordinary financial resources at their disposal.<sup>46</sup>

## CONCLUSION

Oklahoma's 90-day circulation period and 8 percent/15 percent voter signature require-

ment for initiatives have not been revised in over a century. During this time period, however, the population of the state has more than doubled, making it possible for only those with access to hundreds of thousands, if not millions, of dollars to meet both of these requirements and thereby obtain a place on the ballot.<sup>47</sup> Reforms to these aspects of the current initiative process should be examined in light of the state's public policy, long reflected in both the Oklahoma Constitution and the Oklahoma Statutes, favoring direct democracy and participation of "ordinary citizens." Absent legislative action, however, no such reforms will be presented to citizens except through use of the process itself — i.e., any changes to the initiative-petition process depend upon a proponent who successfully wends his or her way through the constitutional and statutory requirements outlined above.

1. John G. Matsusaka, "Direct Democracy Works," 19 *J. Econ. Persp.* 185, 187 (2005). See generally John Dinan, "The Original Intent and Current Operations of Direct Democratic Institutions," 70 *Alb. L. Rev.* 1035 (2007); Thomas E. Cronin, *Direct Democracy: The Politics of Initiative, Referendum, and Recall* 38-60 (1999).

2. Cronin, *supra* note 1, at 2.

3. See Okla. Const. art. V, §§1-8; Okla. Stat. tit. 34, §§1-27.

4. Initiative & Referendum Institute (IRI), *State I&R*, [www.iandri.org/statewide\\_i%26r.htm](http://www.iandri.org/statewide_i%26r.htm) (last visited Jan. 19, 2015).

5. Dinan, *supra* note 1, at 1036-37. The referendum is a process by which proposed or existing statutory or constitutional measure is submitted to the voters for approval or rejection. Cronin, *supra* note 1, at 2. Oklahoma law provides for: a legislative referendum, where the Legislature submits proposed measures to the voters; a constitutional referendum, where the Legislature submits proposed constitutional amendments to the voters; and a "referendum petition," where the voters propose changes to legislation enacted in the current legislative session through filing a petition with the secretary of state. See Okla. Sec'y of State, State Questions, [www.sos.ok.gov/gov/state\\_questions.aspx](http://www.sos.ok.gov/gov/state_questions.aspx) (last visited Jan. 19, 2015); Okla. Const. art. V, §§1-8; *id.* art. XXIV §§1, 3; Okla. Stat. tit. 34, §§1-27. This article focuses on the initiative rather than referendum process, although many of the same policy considerations apply.

6. Matsusaka, *supra* note 1, at 186.

7. See Okla. Const. art. V, §§1-5, 6-8; 1910 Okla. Rev. Laws, §§3368-3372, 3374-3379, 338, 3386-3387, 3392-3394 (now codified as Okla. Stat. tit. 34, §§1-3, 4-5, 7-12, 17, 21-25). Oklahoma provides for initiative and referendum process on local levels as well, although these processes are outside the scope of this article. See, e.g., Okla. Const. art. V, §5 (reserving powers of the initiative and referendum "to the legal voters of every county and district").

8. See Okla. Stat. tit. 34, §§2, 7, 8, 9. The secretary of state also provides an overview of the entire statewide initiative process on its website; see Okla. Sec'y of State, Brief of the Petition Process for State Questions, [www.sos.ok.gov/gov/petition\\_process.aspx](http://www.sos.ok.gov/gov/petition_process.aspx).

9. Okla. Stat. tit. 34, §8(B).

10. *Id.* §8(C)-(D).

11. *Id.* §8(E).

12. *Id.* §6. House Bill 1484, which amended several initiative-related provisions of Title 34, was signed into law on April 28, 2015. See H.B. 1484, 55th Leg., 1st Sess. (Okla. 2015).

13. Okla. Stat. tit. 34, §§4, 8(E).

14. Okla. Const. art. V, §2.

15. *Id.*

16. Okla. Stat. tit. 34, §8(A), (H).

17. *Id.* §9(B).

18. *Id.* §9(D)(1).

19. *Id.*

20. *Id.* §8(H).

21. *Id.* §§3-5, 8(I)-(K), 9(D)(2), 10, 11, 12, 17.

22. Okla. Stat. tit. 34 app. (2011 & 2014 supp.)

23. *Id.*; Okla. Sec'y of State, Search State Questions, [www.sos.ok.gov/gov/questions.aspx](http://www.sos.ok.gov/gov/questions.aspx).
24. Okla. Stat. tit. 34 app.; Okla. Sec'y of State, Search State Questions, *supra* note 23; see Editorial, "Oklahoma Initiative Process Needs to Change," *Oklahoman*, Oct. 26, 2014.
25. See *supra* notes 4, 7.
26. "About half of the states permitting the initiative and referendum require some form of geographic distribution for petition signature – e.g., a requirement that only a certain percentage of signatures may come from any one county or that a minimum percentage must come from a certain number of counties or congressional districts. Cronin, *supra* note 1, at 235-36.
27. *Id.* at 192, 241-42.
28. *Id.* at 215.
29. See "Typical Petition Circulation Budget," Larry Wood (Nov. 12, 2014) (on file with authors).
30. See *id.*
31. See "Typical Budget: 60 Day IP Challenge," Larry Wood (Nov. 18, 2014) (on file with authors).
32. See Okla. Stat. tit. 34, §8(E).
33. *Id.*; Okla. Const. art. V, §2.
34. See Act of March 18, 1911, ch. 107, §2, 1911 Okla. Sess. Laws 235, 236; Okla. Const. art. V, §2.
35. IRI, "Signature, Geographic Distribution and Single Subject (SS) Requirements for Initiative Petitions" [hereinafter IP Requirements], <http://goo.gl/112NHL>.
36. *Id.*
37. See, e.g., Arnold Goldman, Op-Ed, "Good Ideas Don't Survive the Grinder," *Okla. Observer*, Oct. 30, 2014; Editorial, *supra* note 24.
38. Okla. Sec'y of State, Initiative and Referendum Process for Filing a State Question, [www.sos.ok.gov/gov/signature.aspx](http://www.sos.ok.gov/gov/signature.aspx).
39. Okla. State Election Bd., Official Results: Federal State, Legislative and Judicial Races: General Election – Nov. 4, 2014 (Nov. 17, 2014), [www.ok.gov/elections/support/ok\\_results\\_seb.html](http://www.ok.gov/elections/support/ok_results_seb.html).
40. IRI, IP Requirements, *supra* note 35.
41. *Id.*
42. Cronin, *supra* note 1, at 235.
43. IRI, IP Requirements, *supra* note 35.
44. Cronin, *supra* note 1, at 63. The bulk of information dissemination and citizen education takes place later in the initiative process, after the petition has been accepted but before the ballot issue is decided by the voters. See *id.* at 79-87.
45. Wood, *supra* note 29.
46. See *supra* note 37 and accompanying text.
47. U.S. Census Bureau, Resident Population and Apportionment of the U.S. House of Representatives: Oklahoma, [www.census.gov/dmd/www/resapport/states/oklahoma.pdf](http://www.census.gov/dmd/www/resapport/states/oklahoma.pdf) (last visited Jan. 19, 2015) (reporting that Oklahoma's population was 1,657,155 in 1910; U.S. Census Bureau, State & County QuickFacts: Oklahoma (Dec. 4, 2014), <http://quickfacts.census.gov/qfd/states/40000.html> (reporting that Oklahoma's population was 3,751,351 in 2010).

## ABOUT THE AUTHORS



D. Kent Meyers of Oklahoma City is a director with Crowe & Dunlevy whose practice focuses on litigation and antitrust law. He is a frequent lecturer and adjunct law professor at the state's three law schools. He was a distinguished lecturer in law at Brasenose College, Oxford University. He is a co-founder of Oklahoma Lawyers for Children, a nonprofit group providing volunteer lawyers to represent deprived children in juvenile court.



Elizabeth LaBauve is a judicial law clerk to United States Magistrate Judge Charles B. Goodwin. Formerly in private practice, she graduated with honors from the OU College of Law. She currently serves as treasurer of the Oklahoma City Chapter of the Federal Bar Association and is a barrister in the William J. Holloway Jr. Inn of Court.

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# Tribal Hunting and Fishing Regulatory Authority Within Oklahoma

By Ralph Keen II

## GENESIS OF AUTHORITY

**H**unting and fishing have always been time-honored traditions with Oklahoma Indian tribes. Being crucial to their economic and cultural welfare, as well as their very subsistence, hunting, fishing and gather rights were jealously protected by most tribes in their treaty negotiations and agreements with federal authorities.<sup>1</sup>

When the treaty or agreement is silent with respect to hunting and fishing rights, the rights are implied. The Supreme Court created the doctrine of reserved hunting and fishing rights in the 1968 case of *Menominee Tribe of Indians v. United States* which held the establishment of a reservation by treaty, statute or agreement includes an implied right of Indians to hunt and fish on that reservation free of regulation by the state.<sup>2</sup> Such rights are deemed property rights which cannot be divested without just compensation.<sup>3</sup> Yet, the exact scope of hunting and fishing rights can differ with each federally recognized tribe, and thus must be analyzed against the unique backdrop of the tribe's treaty history, and its subsequent government-to-government relationship with the United States. The numerous treaties between the United States and the Cherokee Nation offer an excellent framework to examine the application of the doctrine in Indian Country, to nonrestricted lands within Cherokee Nation, and to hunting and fishing rights extending beyond Cherokee Nation treaty boundaries.

## CHEROKEE RESERVED TREATY RIGHTS

Dating back to its earliest pre-removal treaties the Cherokee were always mindful of protecting their hunting and fishing rights. The

1785 Treaty of Hopewell set aside significant tracts of land to the Cherokees for their "hunting grounds."<sup>4</sup> In the 1791 Treaty of Peace and Friendship, the United States covenanted to preserve and protect the Cherokee hunting rights by excluding noncitizens from Cherokee lands. Article 9 provided: "no citizen or inhabitant of the United States shall attempt to hunt or destroy the game on the lands of the Cherokees."<sup>5</sup> Even as westward expansion brought about large cessions of tribal lands, the Cherokee bargained to ensure their continued ability to hunt and fish on lands being ceded to the United States.<sup>6</sup> With the advent of federal Indian removal policies, the hunter life and the scarcity of game continued to be of paramount concern to Indian tribes as they were removed from their aboriginal homelands.<sup>7</sup> Sweeping treaty covenants were made to the Cherokee to ensure they would be able to set up a new nation, free from nonIndian trespass and encroachment they had repeatedly suffered in the east. The Treaty of May 6, 1828, exemplified this and held as its primary object to establish: "[A] permanent home, and which shall, under the most solemn guarantee of the United States, be, and remain, theirs forever — a home that shall never, in all future time, be embarrassed by having extended around it the lines, or

placed over it the jurisdiction of a territory or state, nor be pressed upon by the extension, in any way, of any of the limits of any existing territory or state; . . . ”.<sup>8</sup>

The Cherokees negotiated for 7 million acres to be conveyed to them by federal patent grant in fee simple absolute. This set up the political jurisdiction boundaries of the modern Cherokee Nation that exist to this day and have never been disestablished.<sup>9</sup> The Cherokee further negotiated for general use rights of lands lying west of its political territory, which are analogous to the “off-reservation” rights upheld in many supreme court cases and still survive.

Article 2 provides:

*In addition to the seven millions of acres thus provided for, and bounded, the United States further guarantee to the Cherokee Nation a perpetual outlet, West, and a free and unmolested use of all the Country lying West of the Western boundary of the above described limits, and as far West as the sovereignty of the United States, and their right of soil extend.*<sup>10</sup>

This same “free and unmolested use” covenant also appears in the Treaty of February 14, 1833;<sup>11</sup> the Treaty of March 14, 1835;<sup>12</sup> and the Treaty of December 29, 1835.<sup>13</sup> In circa 1835 United States sovereignty extended to lands inclusive of all of western Oklahoma up to the panhandle region.

Although the treaties do not detail the specific rights being granted, the broad scope of the plain language suggests an all-encompassing intent that would necessarily include the use and enjoyment of the natural bounties of the land to a native society traditionally dependant on hunting, fishing and gathering as an inseparable part of its culture and existence.<sup>14</sup>

Perhaps the best illustration of this intent is the Treaty of August 24, 1835, in which the United States specifically granted hunting and trapping rights in the western regions of Oklahoma to a number of plains tribes and several members of the Five Civilized Tribes, including the Cherokee. This treaty between the United States and the Comanche, the Wichita [sic], the Cherokee, the Muskogee, the Choctaw, the Osage, the Seneca and the Quapaw ended hostilities and established peace and friendship between the United States and the various tribes.

Article 4 of the treaty dealt directly with shared hunting and trapping rights, and provided:

*“It is understood and agreed by all nations or tribes of Indians parties to this treaty, that each and all of said nations or tribes have free permission to hunt and trap in the Great Prairie west of the Cross Timber, to the western limits of the United States.”*<sup>15</sup>

The Western Cross Timbers, as it existed in circa 1835 was a geographic designation which took in all of modern Cherokee Nation. Thus, for the treaty to grant the Cherokee and other tribes permission to hunt and trap in the “Great Prairie” west of the “Cross Timbers” to the western limits of the United States would necessarily take in most, if not all, of western Oklahoma up to the panhandle region. This treaty, when read in conjunction with the four Cherokee removal treaties, not only establish exclusive hunting and fishing rights as part of its “permanent home” within its treaty boundaries, but further establish extended rights to hunt, trap and fish west of its territorial boundaries in virtually all of western Oklahoma, exclusive of the panhandle.

## OVERVIEW OF REGULATORY AUTHORITY

### *Cherokee Authority Over Tribal Citizens in Cherokee Indian Country*

It is well-settled that aboriginal title, along with its component hunting and fishing rights, remains vested in the tribe unless abrogated by treaty, abandoned or extinguished by statute.<sup>16</sup> These rights are viewed as unique and exclusive to the tribe and attach from the establishment of a reservation for its exclusive use whether the reservation was set aside by executive order, statute, agreement or treaty.<sup>17</sup> It follows as an attribute of inherent sovereignty that tribes retain the power of self-government, including regulatory authority over their citizens, when those powers have not been diminished by treaties or acts of Congress. “By virtue of their retained power of self-government, tribes holding on-reservation hunting, fishing, and gather rights also retain the power to regulate their members in the exercise of those rights.”<sup>18</sup>

This was confirmed in Oklahoma by the 10th Circuit in *Cheyenne-Arapaho Tribes v. Oklahoma* which held: “[S]tate hunting and fishing laws do not apply, directly or indirectly, to hunting and fishing by members of the Cheyenne-



Arapaho Tribes on lands held as Indian allotments and on lands held in trust by the United States for the Tribes.”<sup>19</sup> The *Cheyenne-Arapaho* court centered its analysis on the federal definition of Indian Country found in 18 U.S.C. §1151, which in the case of the Cherokee would further include original tribal patent lands, the Arkansas riverbed<sup>20</sup> and all dependant Indian communities situated within its territorial jurisdiction.

*Cherokee Authority Over Noncitizens In Cherokee Indian Country*

Indian tribes have the authority to exclude noncitizens from their trust lands and other tribal lands as well as to attach conditions on the right of entry or to engage in particular activities within Indian Country.<sup>21</sup> “Indian tribes retain the broad power, exclusive of the states, to regulate the conduct of nonmembers on trust and tribal land in Indian Country. Tribes can enact game codes applicable to nonmembers who hunt, fish and gather on tribal lands, as well as charge licensing and permit fees.”<sup>22</sup> The authority to regulate necessarily includes the authority to enforce its regulations through arrest and equipment seizures.<sup>23</sup> This authority over noncitizens in Indian Country is not by virtue of federal law or treaty, but an attribute of retained inherent sovereignty.

*Cherokee Authority Over Tribal Citizens on Fee Lands Situated Within The Cherokee Nation*<sup>24</sup>

As stated, tribes may regulate the conduct of their citizens in Indian Country. This authority extends to tribal citizens who may choose to exercise the treaty-reserved hunting, fishing and gathering rights of the tribe on fee lands within its original treaty boundaries, but are no longer classified as Indian Country.<sup>25</sup> Yet tribal jurisdiction in this setting is not exclusive. Indian tribes and states ordinarily share concurrent authority to regulate in this area in the interest of conservation.<sup>26</sup> However, effective tribal regulation of its citizens’ hunting, fishing and gathering activities on fee lands within political boundaries will ordinarily preclude concurrent state regulation.<sup>27</sup>

Preclusive concurrent jurisdiction is applicable in the case of Cherokee Nation because it has enacted a comprehensive hunting and fishing regulatory code that sets up seasons, bag limits and legal means of taking fish and game by individual hunters, but prohibits any form of commercial hunting, fishing or trapping activities.<sup>28</sup> Under preclusive concurrent jurisdiction, Oklahoma may impose nondiscriminatory regulations for hunting, fishing and gathering rights of Cherokee citizens on fee lands situated inside the territorial jurisdiction of the Cherokee Nation, but for the purposes of conservation only.<sup>29</sup> Oklahoma may not condition the exercise of tribal citizens’ hunting, fishing and gathering rights within the Cherokee Nation on obtaining a state hunting or fishing license.<sup>30</sup>

*Cherokee Authority Over Noncitizens On Fee Lands Situated Within The Cherokee Nation*

The Supreme Court has determined that exclusive tribal regulation of noncitizens on fee lands within political boundaries to be “inconsistent with the dependent status of the tribes” unless specifically authorized under federal law, or where one of two exceptions can be shown to exist.<sup>31</sup> Under the *Montana* test, tribes may qualify to regulate noncitizen hunting and fishing on fee lands within its boundaries only if 1) the noncitizen has entered into a consensual relationship with the tribe or its members; or 2), the noncitizen’s conduct “threatens

or has some direct affect on the political integrity, the economic security, or the health and welfare of the tribe.”<sup>32</sup> While *Montana* has been applied to deny northern reservation tribes regulatory authority over noncitizens,<sup>33</sup> it should be noted that neither *Montana* nor its progeny involved tribes that possess treaty rights both within and beyond their treaty boundaries, as do many Oklahoma tribes.

*Cherokee Authority West Of The Cherokee Nation*

Considering regulation of tribal citizens in the exercise of Cherokee Nation’s extended hunting and fishing rights on lands west of the Cherokee Nation, the same jurisdictional analy-

“Indian tribes have the authority to exclude noncitizens from their trust lands and other tribal lands as well as to attach conditions on the right of entry or to engage in particular activities within Indian Country.”

sis and policy considerations discussed under preclusive concurrent jurisdiction would presumably apply to fee lands situated both within, and west of, Cherokee territorial boundaries. Conversely, there is no precedence to suggest that Cherokee Nation would have any basis for regulatory authority over noncitizens outside of its territory boundaries, and such authority would thus be vested exclusively in the state of Oklahoma.

To summarize, the full spectrum of tribal and state hunting and fishing regulatory authority over Cherokee citizens and noncitizens vis-à-vis Cherokee retained treaty rights can be summarized as seen in the chart below.

### RECENT COMPACTING EFFORTS

Historically, complex tribal/state jurisdictional confrontations have proven to take many years to resolve in the courts, oftentimes with one or both entities being less than satisfied with the results. By far the more pragmatic solution is for tribes and the state to work together to develop carefully crafted governmental compacts that facilitate the responsible exercise of treaty rights, while respecting and preserving the sovereign rights of both without protracted litigation.

On May 29, 2015, Oklahoma Gov. Mary Fallin and Cherokee Nation Principle Chief Bill John Baker entered into an innovative new compact which, if successful, could prove to usher in a new paradigm in the exercise of reserved hunting and fishing treaty rights, while simultaneously navigating the jurisdictional labyrinth, benefiting both sovereigns, and avoiding litigious uncertainty. Under the compact the Cherokee Nation, in conjunction with the Oklahoma Department of Wildlife Conservation, will begin issuing “dual” annual hunting and fishing licenses to tribal citizens that will be recognized by both sovereigns in their respective jurisdictions. The tribe will pay

a small sum to the state for each license issued, which in turn will qualify the state to receive extensive federal grant dollars earmarked for the states which can only be used for future wildlife management and conservation. Every Cherokee citizen above the age of 16 will be eligible to receive a dual license, plus one deer tag and one turkey tag annually, all at no cost to the citizen. Each sovereign will continue to enforce its conservation laws within its jurisdiction. Hunting seasons and bag limits will continue to be observed and enforced by both governments.

If the pilot compact performs as expected, the benefits will be four-fold. Cherokee citizens will enjoy hunting and fishing rights in both jurisdictions as promised by the treaty covenants. Cherokee Nation will benefit by utilizing the state’s existing wildlife conservation infrastructure on a statewide basis at a reasonable cost. Oklahoma will benefit by the inflow of millions of additional federal dollars for enhanced wildlife conservation and management. Finally, native wildlife will benefit and flourish through increased conservation programs and responsible regulation by both sovereigns. The compact is presently scheduled for implementation by Jan. 1, 2016.

### CONCLUSION

The reserved hunting and fishing treaty rights of Oklahoma tribes are undeniable and significant. Tribal efforts to protect and conserve natural wildlife resources within their respective jurisdictions through responsible regulation are no less legitimate than state efforts; yet, the overlapping areas of preclusive, limited and qualifying concurrent jurisdiction pose unique challenges. Compacting has been successfully employed in the past in similarly complex areas such as motor vehicle tags, motor fuels tax and tobacco tax, and it stands to reason that it could be equally successful in

	<b>Cherokee Citizens &amp; Non- citizens within Cherokee Indian Country</b>	<b>Cherokee Citizens on Fee Lands within Cherokee Nation</b>	<b>Noncitizens on Fee Lands within Cherokee Nation</b>	<b>Cherokee Citizens West of Cherokee Nation</b>	<b>Noncitizens West of Cherokee Nation</b>
<b>Cherokee Nation</b>	Exclusive	Preclusive Concurrent	Qualifying Concurrent	Preclusive Concurrent	—
<b>State of Oklahoma</b>	—	Limited Concurrent	Presumptive Concurrent	Limited Concurrent	Exclusive

this arena. Through careful government-to-government negotiation, compacting respects the rights of both sovereigns, while creating a logistically workable and mutually beneficial platform to protect and conserve these shared natural resources, as good stewards of the land should.

1. See e.g., *Mitchell v. United States*, 34 U.S. 711, 746 (1835) (Indian possession or occupation was considered with reference to their habits and modes of life; their hunting grounds were as much in their actual possession as the cleared fields of the whites; and their rights to its exclusive enjoyment in their own way and for their own purposes were as much respected . . .).

2. *Menominee Tribe of Indians v. United States*, 391 U.S. 404, 406 (1968) (reservation of lands "to be held as Indian Lands are held" necessarily included rights to hunt and fish on those lands).

3. *Id.* at 413.

4. *Treaty of November 28, 1785*, (Treaty of Hopewell), 1785, art. 4, 7 Stat.18.

5. *Treaty of July 2, 1791*, (Treaty of Holston), 1791, art. 9, 7 Stat. 39.

6. See, e.g., *Treaty of October 2, 1798*, (Treaty of the Cherokee), 1798, art. 7, 7 Stat. 62, (Providing that until settlements made it improper, "the Cherokee hunter shall be at liberty to hunt and take game upon the lands relinquished and ceded by this treaty.").

7. See, e.g., *Treaty of July 8, 1817*, (Treaty with the Cherokees), 1817, Preamble, 7 Stat. 156, (the deputies from the lower towns to make known their desire to continue the hunter-life, and also the scarcity of game where they then lived, . . . their wish to remove across the Mississippi river, on some vacant lands of the United States.).

8. *Treaty of May 6, 1828*, (Treaty of Washington II), 1828, preamble, 7 Stat. 311.

9. The territorial jurisdiction of the Cherokee Nation is articulated in Article II of the 2003 Cherokee Constitution, which provides: "The boundaries of the Cherokee Nation territory shall be those described by the patents of 1838 and 1846 diminished only by the Treaty of July 19, 1866, and the Act of March 3, 1893."

10. *Id.*, art 2 (emphasis added).

11. *Treaty of February 14, 1833*, (Articles of Agreement and Convention), 1833, preamble, 7 Stat. 414.

12. *Treaty of March 14, 1835*, (Agreement with the Cherokee), 1835, art. 3, 1 CNCA 257 (unratified).

13. *Treaty of December 29, 1835*, (The Treaty of New Echota) art. 2, 7 Stat. 478.

14. When treaty terms are vague or ambiguous, the language is to be construed as the tribes would have understood them. *Minnesota v. Mille Lacs Band of Chippewa Indians*, 526 U.S. 172 (1999); see also *Cohen's*, *infra* note 16 at § 2.02.

15. *Treaty of August 24, 1835*, (Treaty with the Comanche, etc., a/k/a Treaty of Camp Holmes), 1835, art. 4, 7 Stat. 474.

16. *Cohen's Handbook of Federal Indian Law* ("Cohen's"), §18.01 (2012 ed.) citing *United States v. Santa Fe Pac. R.R. Co.*, 314 U.S. 339, 347 (1941); *Sac & Fox Tribe v. Licklider*, 576 F.2d 145 (8th Cir. 1978).

17. *Supra* note 2.

18. *Cohen's* at §18.03[2][a] citing *New Mexico v. Mescalero Apache Tribe*, 462 U.S. 324, 330 (1983); *State v. McClure*, 268 P.2d 629,635 (Mont. 1954); *Pioneer Packing Co. v. Winslow*, 294 P. 557, 560 (Wash. 1930).

19. *Cheyenne-Arapaho Tribes v. Oklahoma*, 618 F.2d 665, ¶ 24 (10th Cir. 1980).

20. The Cherokee Nation enjoys exclusive jurisdiction over the portion of the bed and banks of the Arkansas river running through or

adjoining its territory, subject only to the navigational servitude of the United States. *Choctaw Nation v. Oklahoma*, 397 U.S. 620 (1970).

21. *Marrion v. Jicarilla Apache Tribe*, 455 U.S. 130, 144 (1982); *Montana v. United States*, 450 U.S. 544, 557 (1981).

22. *Cohen's* at §18.06[1] (citations omitted).

23. *Settler v. Lameer*, 507 F.2d 231, 233, 238 (9th Cir. 1974); *Lac Courte Oreilles Band of Lake Superior Chippewa Indians v. Wisconsin*, 668 F. Supp. 1233, 1241 (W.D. Wis. 1987).

24. For the purposes of this discussion the term "fee lands" is used in its broadest sense to include any lands *not* meeting the federal definition of Indian Country.

25. *Cohen's* at §18.04[3][b] citing *Settler v. Lameer*, 507 F.2d 231, 236 (9th Cir. 1974); *Lac Courte Oreilles Band of Lake Superior Chippewa Indians v. Wisconsin*, 668 F. Supp. 1233, 1241 (W.D. Wis. 1987); *United States v. Michigan*, 471 F. Supp. 192, 274 (W.D. Mich. 1979), *aff'd as modified*, 653 F.2d 277 (6th Cir. 1981).

26. *United States v. Washington*, 520 F.2d 676, 686 n.4 (9th Cir. 1975).

27. *Cohen's* at §18.04[3][a] citing *United States v. Washington*, 520 F.2d 676, 686 n.4 (9th Cir. 1975); *Lac Courte Oreilles Band of Lake Superior Chippewa Indians v. Wisconsin*, 668 F. Supp. 1233, 1241-1242 (W. D. Wis. 1987) (preliminarily defining effective tribal regulations as including adequate provision for conservation, effective enforcement, form of official tribal identification, and full tribal-state exchange of relevant information); *United States v. Michigan*, 471 F. Supp. 192, 274 (W.D. Mich. 1979), *aff'd as modified*, 653 F.2d 277 (6th Cir. 1981); see also *Lac Courte Oreilles Band of Lake Superior Chippewa Indians v. Wisconsin*, 707 F. Supp. 1034, 1055 (W.D. Wis. 1989) (despite "inadequacies" in tribal plan, tribes entitled to exclusive regulations of members' off-reservation muskellunge and walleye fishing if tribes "enact plans that correct the defects").

28. Cherokee Nation Legislative Act LA-36-06 (2006).

29. *Cohen's* at §18.04[3][a] citing *Puyallup Tribe v. Dep't of Game*, 391 U.S. 392, 398 (1968).

30. *Tulee v. Washington*, 315 U.S. 681, 684 (1942).

31. *Montana v. United States*, 450 U.S. 544, 564 - 565 (1981); *South Dakota v. Bourland*, 508 U.S. 679 (1993).

32. *Montana* at 565-66.

33. See, e.g., *South Dakota v. Bourland*, 508 U.S. 679 (1993); *South Dakota v. Bourland*, 39 F.3d 868, 869 - 870 (8th Cir. 1994); *Lower Brule Sioux Tribe v. South Dakota*, 104 F.3d 1017, 1023 - 1024 (8th Cir. 1997).

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Ralph Keen is a solo practitioner of 19 years in Stilwell. His fields of practice include real property, title examination, Indian law, tribal constitutional reform, municipal law and general civil practice. His experience includes municipal judge, assistant district attorney, A.L.J., adjunct professor and municipal attorney. He is currently of counsel to the Cherokee Nation Attorney General's Office and serves on the Title Examination Standards Committee of the OBA Real Property Law Section. He can be reached at [keenlaw@windstream.net](mailto:keenlaw@windstream.net).

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- 11:00 **Break**
- 11:10 **How to Manage-Everything!**  
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- 12:00 p.m. **Lunch provided by Oklahoma Attorneys Mutual Insurance Company**
- 12:30 **Malpractice Insurance and Other Risk Management Issues**  
Phil Fraim, President, Oklahoma Attorneys Mutual Insurance Company
- 1:00 **Professional in the Practice of Law**  
Judge David Lewis, Presiding Judge, Oklahoma Court of Criminal Appeals
- 1:30 **Break**
- 1:40 **Trust Accounting and Legal Ethics**  
Gina Hendryx, OBA General Counsel
- 2:40 **Break**
- 2:50 **Equipping the Law Office**  
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- 4:30 **Adjourn**

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# New Discovery Master Law Takes Effect on Nov. 1, 2015

By James C. Milton

**E**ffective on Nov. 1, 2015, the Oklahoma Discovery Code will include a new statute that provides for discovery masters in civil litigation.<sup>1</sup> The new statute will be codified as Section 3225.1 of the Discovery Code.

Section 3225.1 is based in large part on Rule 53 of the Federal Rules of Civil Procedure.<sup>2</sup> Rule 53 allows for federal courts to appoint “judicial masters” to address complex issues in exceptional cases. Judicial masters are typically private attorneys, CPAs or other professionals who are appointed by courts to address complex issues in specific cases.

The goal of judicial masters, such as discovery masters, is to ensure efficiency in the court system. As stated in the comments to the 2003 amendment to Rule 53, “[t]he appointment of masters to participate in pretrial proceedings has developed extensively over the last two decades as some district courts have felt the need for additional help in managing complex litigation.”<sup>3</sup> The use of masters in complex matters will help allow judges to address other matters on their dockets. As one commentator noted, “[t]he presence of complex cases directly affects a court’s average case resolution time.”<sup>4</sup> “The objective of some state courts is to alleviate some of the caseload problems. The sheer magnitude of a complex case may overwhelm the time available to a judge who has other cases on their docket. Conducting a camera review of documents to review claims of privilege might take weeks or months of time, and many judges cannot fairly absent themselves from their other cases to devote this amount of time to a single case. Other courts appoint special masters to preside over dis-

covery motions involving highly specialized issues.”<sup>5</sup>

Prior to the enactment of Section 3225.1, Oklahoma statutes provided for referees, but only in cases of accountings or with the consent of the parties.<sup>6</sup> Some state court judges have used the Oklahoma referee statutes for the appointment of discovery masters, but in these cases the judge would need the parties’ consent. In some cases, a litigant who is engaged in aggressive discovery tactics or otherwise causing delay or expense to the litigation process may refuse to consent to the appointment of a discovery master. In other instances, one or more litigants may believe they benefit from delays in litigation and withhold their consent on this basis. The new statute will remove the ability of litigants to withhold their consent from the appointment of a discovery master, and at the same time will impose restrictions and requirements on the use of discovery masters.

Section 3225.1 implements a number of protections designed to prevent overuse or abuse of the discovery master tool. For example, before a discovery master can be appointed in the face of objection (or lack of consent) from the litigants, the judge must make special findings that the case is complex or otherwise exceptional and the benefit of appointment of a discovery master will outweigh the cost.<sup>7</sup> The statute also allows the judge to allocate the cost

“...the trial court must find that the appointment will not improperly burden the rights of the parties to access the courts.”

of the discovery master based, among other things, on the litigants' means to pay the costs and their responsibility for the discovery dispute requiring appointment of the discovery master.<sup>8</sup>

The following is a summary of the important components of the new statute:

**Appointment on motion by party or the court's own motion.** The trial court can appoint a discovery master either on a party's motion or on its own motion.<sup>9</sup>

**Hearing must be held on appointment, unless waived.** The court must give notice and hold a hearing on the appointment of a discovery master, unless the hearing is waived.<sup>10</sup>

**Scope of a discovery master's appointment.** If the parties consent to the appointment of a discovery master, the discovery master can perform any duties related to discovery.<sup>11</sup> In the absence of the parties' consent, the discovery master may be appointed to address pretrial and post-trial discovery matters to facilitate an effective and timely resolution.<sup>12</sup>

**Scope of a discovery master's authority.** Unless otherwise stated in the order of appointment, the discovery master may:

- Regulate all proceedings and respond to all discovery motions of the parties within the scope of appointment, including resolving all discovery disputes between the parties.<sup>13</sup>
- Call discovery conferences under District Court Rule 5, either on a party's motion or the discovery master's own motion.<sup>14</sup>
- Set procedures for the timing and orderly presentation of discovery disputes for resolution.<sup>15</sup>
- Take all appropriate measures to perform the assigned duties fairly and efficiently.<sup>16</sup>

- Exercise the trial court's power to take and record evidence, including compelling appearances of witnesses or production of documents in connection with these duties.<sup>17</sup>
- Recommend sanctions.<sup>18</sup>

**Required findings for order of appointment in the absence of consent.** In the absence of the parties' consent, the order appointing discovery master must contain the following findings:

- First, the trial court must find the appointment and referral are necessary in the administration of justice due to the nature, complexity or volume of the materials involved or for other exceptional circumstances.<sup>19</sup>
- Second, the trial court must find that the likely benefit of the appointment of a discovery master outweighs its burden or expense, considering the needs of the case, the amount in controversy, the parties' resources, the importance of the issues at stake in the action and the importance of the referred issues in resolving the matter or proceeding in which the appointment is made.<sup>20</sup>
- Third, the trial court must find that the appointment will not improperly burden the rights of the parties to access the courts.<sup>21</sup>

In making these findings, the trial court must consider the fairness of imposing the likely expenses on the parties and shall protect against unreasonable expense or delay.<sup>22</sup>

**Required contents of the order of appointment.** Regardless of whether the parties consent, the order appointing a discovery master must contain the following:

- The order must require the discovery master to proceed with all reasonable diligence.<sup>23</sup>
- The order must state the discovery master's duties, including any investigation or enforcement.<sup>24</sup>
- The order must state the circumstances, if any, in which the discovery master may engage in ex parte communications with the parties.<sup>25</sup> For example, the trial court's order may state that the discovery master must observe the same restrictions on ex

parte communication as are applicable to judicial officers under Rule 2.9 of the Code of Judicial Conduct.

- The order must state any limitations on the discovery master's communications with the court.<sup>26</sup> By way of example, the trial court's order may require that the discovery master must file with the court all reports or other communications with the court.
- The order must state the nature of the materials to be preserved and filed as the record of the discovery master's activities.<sup>27</sup> The order should require the discovery master to file a report, as well as any status reports that the trial court may wish to see. In addition, the order can be drafted in a manner that protects the discovery master's draft reports. For example, the order of appointment might contain the following language: "It is the court's intention that the discovery master shall perform her duties without concern for the potential disclosure of her drafts or work product. Accordingly, the court rules that the discovery master's drafts and work product shall be protected from disclosure in the same manner as provided by Okla. Stat. tit. 12, §3226(B)(3) (2015)."
- The order must state the time limits, methods of filing the record, other procedures and standards for reviewing the discovery master's orders, findings and recommendations.<sup>28</sup>
- The order must state the basis, terms and procedure for fixing the discovery master's compensation.<sup>29</sup>

**Preparing and amending the order of appointment.** The trial court can prepare the order of appointment, or direct the discovery master to prepare and circulate the order.<sup>30</sup> The order of appointment can be amended at any time after notice and hearing.<sup>31</sup>

**Discovery master's oath.** The discovery master must execute and file an oath.<sup>32</sup>

**Filing and review of discovery master's orders, reports and recommendations.** All orders, reports and recommendations issued by a discovery master must be filed with the court and promptly served on all parties.<sup>33</sup> Once the discovery master's order, report or

recommendation is filed, the following rules apply:

- Unless otherwise ordered by the trial court, the parties have 14 days to object to a discovery master's order, report or recommendation.<sup>34</sup>
- If an objection is filed, the other parties have 15 days to respond.<sup>35</sup>
- If the parties do not object to the discovery master's order, report or recommendation, the trial court can approve the order, report or recommendation without further notice or hearing.<sup>36</sup>
- The trial court is to engage in *de novo* review of all objections to the discovery master's conclusions of law.<sup>37</sup>
- The trial court is to review the discovery master's procedural rulings on an abuse of discretion standard.<sup>38</sup> The trial court can modify this standard of review for the discovery master's procedural rulings, by setting forth the applicable standard of review in the order of appointment.<sup>39</sup>
- The trial court is to engage in *de novo* review of all objections to the discovery master's findings of fact.<sup>40</sup> If the parties stipulate, the trial court can modify the standard of review for the discovery master's findings of fact.<sup>41</sup> In this manner, the trial court can allow the discovery master's findings of fact to become final without review, or provide for review of the discovery master's findings of fact for clear error.
- In acting on a discovery master's order, report or recommendations, the court may receive evidence, adopt or affirm, modify, wholly or partly reject or reverse or resubmit to the discovery master with instructions.<sup>42</sup>

**Discovery master's compensation.** The trial court sets the basis and terms of the discovery master's compensation.<sup>43</sup> This information is to appear in the order of appointment.<sup>44</sup> The trial court can change the basis and terms of the discovery master's compensation, after notice and hearing.<sup>45</sup> The trial court can order the discovery master's compensation to be paid 1) by a party or parties or 2) from a fund that is the subject of the pending proceeding.<sup>46</sup> If payment comes from a fund, the trial court must have jurisdiction over that fund.<sup>47</sup> The new

statute expressly provides that the discovery master's compensation cannot be paid from the court fund.<sup>48</sup>

The trial court can allocate the discovery master's compensation between and among the parties. This allocation can be done on an interim basis, and adjusted at the end of the proceeding. In making this allocation, the court must consider 1) the amount in controversy, 2) the parties' means and 3) the extent to which any party is more responsible than the others for the need for a discovery master.<sup>49</sup>

**Conflict of interest and disqualification.** Discovery masters are subject to the same conflict-of-interest standards as judges.<sup>50</sup> Any possible conflicts must be disclosed within 14 days of the appointment.<sup>51</sup> Section 3225.1(B) provides a disqualification procedure that is based substantially on District Court Rule 15.<sup>52</sup>

**Immunity.** Discovery masters receive the same immunity provided to judicial officers.<sup>53</sup>

*Authors note: By way of disclosure, the author was substantially involved in drafting this new law while serving as the OBA Civil Procedure and Evidence Committee chair. The author wishes to acknowledge the hard work of Sens. Anthony Sykes and Brian Crain, Reps. Jon Echols and John Paul Jordan, and Judge Linda Morrissey, among many others, for tireless work on the discovery-master proposal.*

1. 2015 Okla. Sess. Laws c. 309, §1 (H.B. 1920). Gov. Fallin signed H.B. 1920 on May 12, 2015. The new statute will appear at Okla. Stat. tit. 12, §3225.1. The discovery master statute is derived from a proposal that was drafted by the Oklahoma Bar Association Civil Procedure & Evidence Committee and approved by the OBA House of Delegates in 2013.

2. Fed. R. Civ. P. 53.

3. Fed. R. Civ. P. 53, 2003 advisory note.

4. Lynn Jokela & David F. Herr, *Special Masters in State Court Complex Litigation: An Available and Underused Case Management Tool*, 31 William Mitchell L. Rev. 1299, 1320 (2005).

5. *Id.* at 1302.

6. Okla. Stat. tit. 12, §§612-624 (2011). Under these existing statutes, state court judges can only appoint referees 1) in cases of accountings or 2) with the consent of all parties. *Id.* §§612, 613.

7. Okla. Stat. tit. 12, §3225.1(A)(2) (effective Nov. 1, 2015).

8. *Id.* §3225.1(G)(3).

9. *Id.* §3225.1(A)(1).

10. *Id.* §3225.1(A)(1), (C)(1).

11. *Id.* §3225.1(A)(1)(a).

12. *Id.* §3225.1(A)(1)(b).

13. *Id.* §3225.1(D)(1)(a).

14. *Id.* §3225.1(D)(1)(b).

15. *Id.* §3225.1(D)(1)(c).

16. *Id.* §3225.1(D)(1)(d).

17. *Id.* §3225.1(D)(1)(e).

18. *Id.* §3225.1(D)(2). These sanctions can be based upon Okla. Stat. tit. 12, §§2004.1, 3226.1, 3237 (2015).

19. Okla. Stat. tit. 12, §3225.1(A)(2)(a) (effective Nov. 1, 2015).

20. *Id.* §3225.1(A)(2)(b).

21. *Id.* §3225.1(A)(2)(c).

22. *Id.* §3225.1(A)(3).

23. *Id.* §3225.1(C)(2).

24. *Id.* §3225.1(C)(2)(a).

25. *Id.* §3225.1(C)(2)(b).

26. *Id.* §3225.1(C)(2)(c).

27. *Id.* §3225.1(C)(2)(d).

28. *Id.* §3225.1(C)(2)(e).

29. *Id.* §3225.1(C)(2)(f).

30. *Id.* §3225.1(C)(2).

31. *Id.* §3225.1(C)(3).

32. *Id.* §3225.1(C)(4).

33. *Id.* §3225.1(E).

34. *Id.* §3225.1(F)(1).

35. *Id.* §3225.1(F)(2).

36. *Id.* §3225.1(F)(1).

37. *Id.* §3225.1(F)(4).

38. *Id.* §3225.1(F)(5).

39. *Id.*

40. *Id.* §3225.1(F)(3).

41. *Id.*

42. *Id.* §3225.1(F)(2).

43. *Id.* §3225.1(G)(1).

44. *Id.* §3225.1(C)(2)(f).

45. *Id.* §3225.1(G)(1).

46. *Id.* §3225.1(G)(2).

47. *Id.* §3225.1(G)(2)(b).

48. *Id.*

49. *Id.* §3225.1(G)(3).

50. *Id.* §3225.1(B)(1).

51. *Id.* §3225.1(B)(2).

52. *Id.* §3225.1(B)(3)-(6).

53. *Id.* §3225.1(I).

## ABOUT THE AUTHOR



Jim Milton is a shareholder at Hall Estill. He graduated with honors from the University of Texas School of Law in 1995.



# Diversity Committee to Hold Ada Lois Sipuel Fisher Diversity Awards Dinner

By Tiece L. Dempsey

**Thursday, Oct. 15, 2015 • 6 p.m. to 8 p.m.**  
**Oklahoma Judicial Center, 2100 N. Lincoln Blvd, Oklahoma City**

*Tickets can be purchased at [goo.gl/8xVp5i](http://goo.gl/8xVp5i) for \$40*

The OBA Diversity Committee is set to host its Ada Lois Sipuel Fisher Diversity Awards Dinner on Oct. 15, 2015, in Oklahoma City. The event will feature a keynote address from Jabar Shumate, University of Oklahoma University Community vice president. Vice President Shumate assumed his position at OU in July. In his newly appointed role, he will have oversight over all diversity programs within the university, including admissions. He will also be kept completely informed by the Office of Student Affairs of all activities aimed at making campus life more inclusive and will work directly with President Boren and with the deans of the university to broaden the pool of applicants for faculty and staff positions.

Prior to taking on his new role at OU, he served in the Oklahoma Legislature, serving four terms in the House of Representatives before being elected to serve in the Senate in 2012. Vice President Shumate is an alumnus of OU and of Booker T. Washington High School in Tulsa. While a stu-

dent at OU, he served as student body president and upon his graduation from the university, served as the OU president's press secretary.

Also during the dinner, six individuals and organizations will be honored with the Ada Lois Sipuel Fisher Diversity Awards in recognition of their efforts in promoting diversity in Oklahoma. The Diversity Committee, with the support of OBA President David Poarch, will recognize the following individuals and organizations that have outwardly demonstrated that "diversity matters in Oklahoma." Tickets for the dinner are \$40 and can be purchased online at [goo.gl/8xVp5i](http://goo.gl/8xVp5i).

## ADA LOIS SIPUEL FISHER DIVERSITY AWARD RECIPIENTS

### *Member of the Judiciary*

#### **Judge Jerome Holmes**

Since August 2006, Jerome A. Holmes has served as a circuit judge on the United States Court of Appeals for the 10th Circuit. He was nominated for this position by President George W. Bush and con-



firmed by the United States Senate. Judge Holmes is the first African-American to serve on the 10th Circuit.

Judge Holmes received his law degree from Georgetown University Law Center, where he served as the *Georgetown Immigration Law Journal* editor-in-chief. He received a Bachelor of Arts degree in history from Wake Forest University, graduating *cum laude*. Judge Holmes also earned a master's degree in public administration from Harvard University's John F. Kennedy School of Government, where he was a John B. Picket Fellow in criminal justice policy and management.

Judge Holmes has been a committed volunteer and leader in community affairs. He currently serves on the governing boards of several nonprofits, including the Oklahoma City Museum of Art, where he serves as chair, the Rotary Club of Oklahoma City (Club 29), where he serves as immediate past president and the Oklahoma Medical Research Foundation, where he serves on a number of committees, including the Executive Committee. Judge Holmes formerly served as the Make-A-Wish Foundation of Oklahoma board of directors vice-chair. He is a graduate of Leadership Oklahoma City (Class XX) and Leadership Oklahoma (Class XVIII).

#### *Attorneys*

#### **Damario Solomon-Simmons, Riggs Abney**



Damario Solomon-Simmons was born and raised in Tulsa in a low-income, single-mother household. He attended the University of Oklahoma, at which he played for the famed Sooners football team. In 1999 he earned his Bachelor of Arts degree in African & African-American studies. He completed a master's degree in adult and higher education and received the Black Graduate Student of the Year award in

2001. He graduated from the OU College of Law in 2004 as the first African-American winner of the prestigious Joel Jankowski Award which honors the most outstanding OU law graduate.

Mr. Solomon-Simmons started his law firm, Solomon-SimmonsSharrock, right out of law school as a solo practice in which he provided legal services to low-income community members in exchange for office space. His firm grew into one of the largest African-American majority-owned law firms in Oklahoma history, and allowed him to successfully represent hundreds of clients in federal, state, tribal and administrative proceedings and legal transactions. After the retirement of his long-time law partner, Susan R. Sharrock, he joined Riggs Abney on March 9, 2015, where he focuses his practice on civil litigation, civil rights, employment, government relations and sports and entertainment.

He served as a member of the national legal team — including famed attorney Johnnie Cochrane and distinguished scholar Dr. John Hope Franklin — that fought to obtain reparations for the survivors of the 1921 Tulsa Race Riot in *Alexander et al. v. Oklahoma*. His work on the 1921 case earned him an invitation to testify before the Congressional Black Caucus in Washington D.C.

#### **Valery Giebel, PrayWalker**

Valery Giebel was admitted to practice law in Oklahoma in 2013. She is also admitted to practice before the Cherokee Nation and the United States District Courts for the Northern, Eastern and Western Districts of Oklahoma. She is also



a member of the American Bar Association, the Native American Bar Association and serves as the Tulsa County Bar Association's director-at-large.

Ms. Giebel is an associate at PrayWalker in Tulsa. She has legal certifications in sustainable energy and resource law, Native American law and entrepreneurial law. She serves as officer in the OBA Indian Law Section where she is credited, along with the other officers, for reviving the previously inactive section. She is also an officer in the Energy Law Section and an OBA Diversity Committee member.

As a citizen of the Cherokee Nation, she is involved in community and social activities within the nation and occasionally volunteers at the Eastern Oklahoma Food Bank and assists with making home repairs in low-income communities with her husband. She makes it a priority to promote Indian law issues and advance the interest of female and young lawyers in all organizations she is a part of.

## Organizations

### The Education and Employment Ministry (TEEM)



TEEM is an interfaith 501(c)3 nonprofit organization that exists to break cycles of incarceration and poverty through education, character development and work readiness training.

TEEM's objectives include: reducing recidivism rates, strengthening families, and improving quality of life in greater Oklahoma City and its surrounding areas; providing effective, evidence-based pre- and post-release re-entry services to nonviolent offenders transitioning into society; building positive relationships and effective support systems with participants to obtain successful outcomes; removing barriers to employment through occupational skills training, financial literacy instruction, cognitive behavioral courses, legal assistance, effective case management and job placement assistance; promoting public awareness of the benefits of effective re-entry programming; giving a hand up to re-entering adults impacted by providing the tools needed to refine skills, achieve goals, and obtain self-sufficiency; holistically prepare participants for employment and successful reintegration into society by incorporating mentoring, character building, life skills training, and confidence building; empowering participants to be productive,

contributing members of the community; and breaking the generational cycles of incarceration and poverty.

TEEM has been recognized by several media outlets for its work in assisting and preparing some of Oklahoma City's most vulnerable citizens to become active and productive members of the community.

### Unheard



Unheard is an alliance of black students from the University of Oklahoma organizing for change within the campus administration and atmosphere at the university. Its primary areas of focus revolve around the lack of representation and continuous support on campus. Some of the issues Unheard seeks to address at OU, include, but are not limited to, the lack of black faculty beyond the African-American studies department, retention rates among black students, financial assistance/scholarships received by black students, supportive programs for black students, "The Sooner Experience," lack of a presence within executive hierarchy and equitable funding for black student organizations.

Through their steadfast and diligent work, the students of Unheard, were able to make some very necessary changes on the OU campus. The students admit that when they started their journey no one could have imagined the out-

come and the impact that has already occurred. Inspired by the words of Dr. Martin Luther King Jr., "Injustice anywhere is a threat to justice everywhere." Unheard's desire to push for equality is filled with the courage of the past, the present state of our current society and the future for all to be equal. While this journey has not been easy, Unheard is grateful for the support along the way.

### VOICE



VOICE is a coalition of congregations and other civic institutions that have come together out of a deep sense of mission and concern for families. Together, they are learning to build relationships across the lines that divide people in our community, in order to stand together to challenge some of the decisions that are made that impact families. VOICE has taken on increasing utility rates and high-stakes testing, and currently, it is working on a campaign to challenge the fines and fees placed on those who have been incarcerated.

### ABOUT THE AUTHOR



Tiece Dempsey chairs the OBA Diversity Committee. She is a judicial law clerk for Chief Judge Vicki Miles-LaGrange, United States District

Court for the Western District of Oklahoma.

# Changes Proposed to the Rules Governing Disciplinary Proceedings

## Member Comments Requested

*The following are proposed changes to the Rules Governing Disciplinary Proceedings as proposed by the Professional Responsibility Commission. These changes are currently under consideration by the OBA Board of Governors. The proposed changes would give the Commission more discretion in the action it might take.*

*Members of the OBA are encouraged to review the proposed changes and **submit any comments by Oct. 23, 2015**, 1) via email to [RGDPRule3.3comments@okbar.org](mailto:RGDPRule3.3comments@okbar.org) or 2) mail hard copy comments to RGDP Rule 3.3 Comments, OBA, P.O. Box 53036, Oklahoma City, OK 73152.*

Rules Governing Disciplinary Proceedings.  
Chapter 1, App. 1-A

Rule 3. General Counsel.

§3.3. Grievances Against the General Counsel of the Association.

(a) Whenever a grievance ~~is filed~~, or information is received by the Commission which could lead to the filing of a formal complaint against the General Counsel of the Association, the members of the Commission, and the President and the Executive Director of the Association shall immediately be notified.

(b) If a disciplinary grievance is made against:

(1) The General Counsel or member of General Counsel's staff alleging grounds for the imposition of discipline pursuant to these Rules, the Professional Responsibility Commission (PRC) shall consider the matter on the basis of the grievance. After

review and consideration, the PRC may take any of the following actions or any combination thereof: (1) Require the General Counsel to make a response; (2) Appoint an Investigator; (3) Appoint a special counsel to investigate and present the case; or (4) Take such other steps as are necessary to facilitate the prompt resolution of the grievance. ~~the Professional Responsibility Commission shall appoint a special counsel to investigate and present the case;~~

(2) A member of the Professional Responsibility Commission, the President of the Oklahoma Bar Association with concurrence of the Board of Governors, shall appoint a special three (3) member Commission to act on the grievance in conformance with these Rules;

(3) A member of the Professional Responsibility Tribunal, all procedures mandated by these Rules shall be followed, except the Supreme Court shall appoint a special Tribunal Panel to hear the case in the event formal charges are filed.

(4) A member of the Supreme Court, the matter shall be referred to the Oklahoma Council on Judicial Complaints.

(c) The President and the Executive Director of the Association shall be kept fully informed of all action taken by the Commission in the matter.

# I'm Confused

By John Morris Williams

This is not a new message from me or other staff members here at the OBA. The practice of law is changing drastically. So is the business of bar associations. Out-of-state online companies and organizations are increasingly marketing and selling legal services. In Washington state, nonlawyers have been allowed to have a limited license to practice law. The world is changing, and I am still a bit confused on a few things.

I am confused on just what is really meant by limited-scope representation or unbundled legal services. I recently attended a session at a conference and heard a presentation on limited-scope representation. I know the Oklahoma Rules of Professional Conduct Rule 1.2 (c) allow a lawyer to limit the scope of representation if the limitation is reasonable under the circumstances and the client gives informed consent. My confusion surrounds what is "reasonable" and what types of services are encompassed in this rule. One of the presenters at the conference was talking about limited-scope representation in a child custody matter. I simply could not wrap my head around that.

For at least 10 years the futurists have been predicting a major shift in what lawyers do and how legal services are provided.

**“ I have questions about the role of lawyers and bar associations as we enter into a world where ‘I got it off the Internet’ is applying to everything from apple pie recipes to bankruptcy filings. ”**

The Internet with a multitude of selections makes many legal forms available. Deeds, wills, trusts and divorces are but a sampling of the forms available. DIY (Do It Yourself) seems to apply to more than home improvement. It appears DIY is moving quickly into the legal services arena. When the public is seeking limited-scope legal services off the Internet, I am confused about how informed consent is achieved and how the "reasonableness" test is met. Does buying a form from a website that does not in some fashion question the purchaser to determine if the form is appropriate, meet the reasonable test? Then, there is that whole notion

of how does informed consent work in this situation?

I have questions about the role of lawyers and bar associations as we enter into a world where "I got it off the Internet" is applying to everything from apple pie recipes to bankruptcy filings. I am a little confused on how the public is going to be protected. One of the primary functions of mandatory bar associations is to protect the public from unqualified and incompetent practitioners. If the practitioner is licensed by a state court, then most likely the Rules of Professional Conduct apply. If the person supplying the services is a nonlawyer, then this is probably the unauthorized practice of law. Enforcement of public protection becomes almost impossible when the nonlawyer providing services is hundreds of miles away providing services off the Internet. Thus, I can imagine a situation where suppliers of legal services can be unlicensed and outside the jurisdiction of any court in the United States.

I am confused on how there can be quality control in multi-state or offshore Internet-based legal service providers who never appear in court nor physically are present in the state where services are being provided. If the provider is a licensed



attorney in another state, there could be some chance of discipline by the state of licensure for unauthorized practice. If the provider is within the United States and not licensed by any court, there is probably little chance, absent federal regulation, that any real consequence would occur. Perhaps a scam of some size might get state and federal criminal law enforcement involved. If the providers are offshore, I am even more confused as to how do we protect the public?

I am confused how it is that an Oklahoma attorney who gives bad advice, does not check conflicts and otherwise is in vio-

lation of the Rules of Professional Conduct will suffer discipline by the Oklahoma Supreme Court; while a legal provider on a site hosted in India or China who is equally in violation of the rules will never face any consequences because not even the U.S. government seems to be able to police this kind of international activity.

One of the greatest challenges for bar associations will be to warn the public of the risks when using a nonlicensed in-person or Internet-based legal service provider. I am pondering how to educate the public on these risks without appearing disingenuous and self-serving.

One thing I am not confused about is that these issues are here and happening now. Every lawyer should seek to understand the consequences of how the delivery of legal services is changing. Together, as we seek the answers to these new challenges, we must develop systems that address the realities of the marketplace and protect the public.



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

## 18 Hartzog Conger Cason & Neville Attorneys Named to 2016 Best Lawyers List

OKLAHOMA CITY (August 21, 2015) Eighteen attorneys from Hartzog Conger Cason & Neville were selected for inclusion in the 2016 edition of *The Best Lawyers in America*®.

2016 *Best Lawyers* from Hartzog Conger Cason & Neville are: **Len Cason** (Corporate Law, Tax Law, Trusts and Estates); **Steven C. Davis** (Non-Profit/Charities Law, Tax Law, Trusts and Estates); **David A. Elder** (Litigation – Environmental, Oil and Gas Law); **Charles E. Geister III** (Bet-the-Company Litigation, Commercial Litigation, Insurance Law, Litigation – Antitrust, Litigation – Labor and Employment, Litigation – Securities); **John J. Griffin III** (Corporate Law, Mergers and Acquisitions Law); **J. Christian Guzy** (Corporate Law); **Joseph P. Hogsett** (Litigation – Real Estate, Real Estate Law); William A. Johnson (Commercial Litigation, Litigation – Real Estate); **James D. Kallstrom** (Real Estate Law); **J. Leslie LaReau** (Tax Law, Trusts and Estates); **Laura McConnell-Corbyn** (Family Law); **Drew Neville, Jr.** (Bet-the-Company Litigation, Commercial Litigation, Criminal Defense: White Collar, Litigation – Antitrust, Litigation – Securities); **Armand Paliotta** (Corporate Governance Law, Corporate Law, Mergers and Acquisitions Law, Securities/Capital Markets Law); David E. Pepper (Natural Resources Law, Oil and Gas Law); **John D. Robertson** (Corporate Law, Mergers and Acquisitions Law, Securities/Capital Markets Law); **Kurt M. Rupert** (Commercial Litigation); **Amy J. Sine** (Litigation – Trusts and Estates, Non-Profit/Charities Law, Trusts and Estates); **Jon H. Trudgeon** (Employee Benefits (ERISA) Law, Non-Profit/Charities Law, Trusts and Estates).

Since it was first published in 1983, *Best Lawyers* has become universally regarded as the definitive guide to legal excellence. *Best Lawyers* lists are compiled based on an exhaustive peer-review evaluation. For the 2016 Edition of *The Best Lawyers in America*®, 6.7 million votes were analyzed, which resulted in more than 55,000 leading lawyers being included in the new edition. Lawyers are not required or allowed to pay a fee to be listed; therefore inclusion in *Best Lawyers* is considered a singular honor. *Corporate Counsel* magazine has called *Best Lawyers* “the most respected referral list of attorneys in practice.”

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### About Hartzog Conger Cason & Neville

Hartzog Conger Cason & Neville's experienced legal teams serve businesses, high net worth families, individuals and charitable organizations. Principal practice areas include litigation, business and financial transactions, tax controversies, trust and estate planning, family law, oil and gas law, and real estate. Additional information about the firm is available at: [www.hartzoglaw.com](http://www.hartzoglaw.com).

# ‘Paperless’ Office Doesn’t Really Mean Paperless

## It Does Mean New Processes and Procedures

*By Jim Calloway*

“Let’s just go paperless. We can free up all that space in the file room and quit paying so much for outside file storage.”

“What a great idea! We’ve already got those big, expensive printer-scanner-document senders in the hallways on every floor. So, let’s send out a memo! Effective Monday, we’re going paperless. We’re going to scan everything. Tell the mail room people to start scanning all the mail instead of delivering it to everyone.”

Thus begins the perfect storm of a paperless law firm make-over absolutely destined to fail.

It is destined to fail because they are going paperless for the wrong reasons, with the wrong equipment, without proper planning, without feedback, without buy-in from the other lawyers and staff who will be affected by the changes, without budgeting for new equipment and training, and without any professional assistance.

Make no mistake. Law firms need to convert to paperless office processes and digital file management. Lawyers need to incorporate digital workflows for several reasons. Here are the two primary reasons:

- 1) Law firm backup procedures should protect the firm’s information and allow it to reconstitute its operations in the event of a digital or physical disaster. Those law firms that continue to exclusively rely on paper files will find their backup may not include a number of items such as attorney file notes, hand-delivered documents or correspondence from opposing counsel. In the event of a fire or flood, items contained only on paper may be lost with little hope of recovery.
- 2) Digital workflows allow you to operate much more quickly and effectively. Not only can you find all of your notes on a particular client file quickly without having to flip through pages of paper in a brad-ded traditional lawyer’s file, but also others who are assisting you (or perhaps stepping in for you in the event of an emergency) can also quickly review those notes. Practice management software allows a lawyer to quickly open a client file on the computer when a client calls without having to

track down the physical paper file folder.

Last month I communicated to you that “Practice Management Shootout at the OK Bar” materials were available for OBA members to download at MyOKBar.

This month we are going to go more in depth about the procedures associated with implementing (or improving) your digital workflow. I was assigned to speak with Illinois lawyer Bryan Sims at ABA TECHSHOW 2015 on the topic “Beyond the Scanner — Paperless Workflows That Work.” (Some of you met Bryan Sims when he was a guest speaker at our 2014 OBA Solo & Small Firm Conference.) He contributed significant parts of his own office procedures manual for our TECHSHOW materials. He has used paperless workflow for a long time.

It was interesting that we agreed on 90 percent of the general procedures, but we disagreed on some of the nuts and bolts. As a hands-on solo practitioner who designed all of his digital workflow, he wants to personally review the incoming mail before it is processed into his system. I feel that for most

## OFFICE MAIL PROCEDURES

### *Incoming mail*

► Mail is delivered by the post office to the firm's mailbox once a day at approximately \_\_\_\_\_. The assistant should pick up the mail after it has been delivered. Incoming mail should be immediately stamped with our received stamp in red which notes the date that mail was received.

► Saturday's mail should be picked up first thing Monday morning.

► Mail marked Personal or Personal and Confidential shall be opened only by the person to whom it was directed.

### *Scanning and Processing*

► The incoming mail should be immediately opened and reviewed by the assistant. There may be items that should be brought to the immediate attention of the attorney.

► The mail should be sorted into two categories: 1) Client Matters and 2) Lower priority. Checks and other matters related to payment and billing should be immediately delivered to the billing department.

► As designated by the lawyer, the term Client Matters may include nonbillable matters for which the lawyer wishes to maintain a digital file in the practice management system (e.g. bar association activities).

► The assistant should scan each document.

► The assistant should use Adobe Acrobat to perform OCR on each document.

► The documents should then be saved in the appropriate client file location in *our practice management software system* (insert the name of your system here.) An email shall be sent to the lawyer noting the receipt of the correspondence and any enclosures and that it is ready for the lawyer to immediately review it. Unless the attorney has specifically instructed otherwise, once the assistant has verified that the document has been saved in the appropriate location, the document should be stamped "For Your File. No Response Required" and the original mailed to the client.

ALTERNATIVE PROVISION: After scanning, the document shall be saved in the Attorney Incoming Mail folder on the lawyer's desktop. An email is sent to the attorney notifying them of the incoming mail stored in the folder. It is the lawyer's responsibility to clear their Attorney Incoming Mail folder as soon as possible each day by filing the documents as appropriate in *our practice management software system* (insert the name of your system here.)

► Correspondence shall be filed and bradded into the appropriate physical file by the close of business each day. The physical client files are to remain in the file cabinet

law firms, especially those with more than one lawyer, it is better for the mail to be immediately processed, scanned and filed in the system's practice management software before it is handed off to the attorney. Good staff training can allow for identification of any emergencies in my opinion and perhaps even more speedily than piling unsorted mail on a lawyer's desk.

This points out that the most important part of converting to a digital workflow is building written documentation for how the workflow operates. This will also necessarily mean that there will be compromises between different points of view and every law firm cannot incorporate the same digital workflow. The procedures will differ based on everything from personal preferences to the types of legal matters handled by the lawyers.

The mailroom and the reception area have traditionally been thought to be low-level positions within law firm hierarchy and have sometimes received inadequate training. Digital workflow mandates that a smart and well trained employee opens and processes the mail, no matter what the particulars of your system. The necessity of standardization and documentation for law firm procedures is one reason why it seems that I mention Atul Gawande's bestseller *The Checklist Manifesto* in this space at least once a year.

Since "how do we handle the mail?" is one of the most common questions associated with moving to a digital workflow, I have included some sample procedures on that topic in the accompanying sidebar.

## CONCLUSION

This article is intended to provide a good starting point for your new and improved digital, so-called paperless workflow.

Your attention is also directed to the book *Paperless in One Hour for Lawyers* by Sheila Blackford and Donna Neff, which is available from the American Bar Association for \$49.95 or less, depending on your ABA membership status or state bar discount codes.

I strongly believe that using practice management software or services is the only way to do this effectively. Sure you can store documents in Windows folders that are given client names, but you won't have the billing tools and records immediately available. You can share a document with someone via a Dropbox link, but that is not the same as your client being able to log into the online document repository and see every document you have shared with them arranged in order. And if one of the other lawyers in your office needs to work on the file, how will they quickly and easily see all of your notes from every conference and phone call, all arranged in reverse chronological order?

Resistance is futile. Download the "Practice Management Shoot-out at the OK Bar" materials and start shopping for the best tool you have ever purchased for your law office and your future.

*Author's note: I appreciate Bryan Sims allowing me to use (and edit) his office procedures manual for this column.*

*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!*

unless "checked out" by a lawyer to take with them to a court or to an out of office meeting. All work done on client files within the office will be accomplished on the client's digital file in our *practice management software system* (insert the name of your system here.) (Author's note: Someday the physical client files will no longer exist, but we don't have to think about that today.)

ALTERNATIVE PROVISION: The physical copies of all incoming correspondence are stored loosely and chronologically in the Firm Correspondence weekly files. These are available in case it is thought that some correspondence has been misfiled or someone wishes to review a Received stamp. These files shall be saved indefinitely for the time being. The firm will adopt a uniform destruction data for Firm Correspondence weekly files after we determine how long these are useful.

► Lower priority mail shall be physically delivered to the attorneys only after the Client Matters mail is fully processed.

► The above process also applies when documents are received via FedEx, UPS, courier or when dropped off by a client.

### *Outgoing Mail*

► Any outgoing mail that is ready before \_\_ p.m. should be deposited in the building's outgoing mail receptacle before \_\_ p.m.

► The remaining outgoing mail should be deposited in the building's outgoing mail receptacle when the assistant leaves for the day.

### *Stamps and Postage Charges*

► The firm does not bill back to clients the costs of ordinary mail.

► Any mail sent in a special method such as certified, registered, priority or express should be billed to the client at the actual cost charged to the firm.

### *Overnight Delivery or Similar Services*

► The firm has an account with both FedEx and UPS in order to send overnight delivery packages. The preferred vendor is \_\_\_\_, as the firm receives the most favorable rates from that vendor.

► All overnight delivery labels should be prepared on the Internet via the vendor's website.

► A copy of the overnight delivery label in PDF format shall be saved in the client's digital file.

► All overnight delivery charges should be billed to the client.



Indian Law Section of the OBA presents

# **The Legal Power of Indian Tribes**

Presenting the essentials needed to practice law in Indian Country, including the history of tribal courts, tribal jurisdiction, sovereign immunity, contracting with tribal nations, land use and natural resource development, and hot topics this year in Indian country: Indian Child Welfare Act, the Department of Justice Memo on cannabis enforcement, and FY 2015-2016 tribal appropriations.

**October 2, 2016**

**Oklahoma City University, School of Law,  
800 N. Harvey Ave, Oklahoma City, OK**

CLE Credit: 6.5 hours, including 1 hour of ethics

Cost: \$30 (lunch and refreshments included)  
Free for members of the Indian Law Section and  
the Government and Administrative Law Section

**REGISTRATION OPEN NOW!**

## **AGENDA**

8:30 a.m.  
*Registration*

9:00 a.m.  
*Welcome*

9:15 a.m.  
*Respect and Power of the Tribal Court  
System*

11:05 a.m.  
*Break*

11:15 a.m.  
*Changes and Challenges of the  
Indian Child Welfare Act*

12:15 p.m.  
*Lunch: Hot Topics*  
*Cannabis in Indian Country*  
*2016 Tribal Appropriations*

1:30 p.m.  
*Land Use and Resource Development  
in Indian Country*

2:40 p.m.  
*Break*

2:50 p.m.  
*Governmental Power of Tribes and Self  
Determination*

4:00 p.m.  
*Adjourn*

**For information email: [OBAIndianLaw@gmail.com](mailto:OBAIndianLaw@gmail.com)**



# Meeting Summary

*The Oklahoma Bar Association Board of Governors met via conference call on July 15, 2015.*

## REPORT OF THE PRESIDENT

President Poarch reported he attended the Solo & Small Firm Conference and the Federal Bar Association's "Vietnam Remembered" program.

## REPORT OF THE VICE PRESIDENT

Vice President Devoll reported he attended the Solo & Small Firm Conference.

## REPORT OF THE PRESIDENT-ELECT

President-Elect Isaacs reported he spoke at three events — OBA Solo & Small Firm Conference on the "Fundamentals of Advocacy in Criminal Cases," OCDLA Institute on "Ethics in Criminal Cases" and Luther Bohanon Inn of Court lecture on "Candor with the Court."

## REPORT OF THE PAST PRESIDENT

Past President DeMoss reported she attended the Solo & Small Firm Conference and wrote a section article for the bar journal.

## REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he attended the Solo & Small Firm Conference, monthly staff celebration, Clients' Security Fund Task Force meeting, meeting to finalize plans for the Oklahoma Bar Center HVAC, training on new associ-

ation management software, OBF luncheon and conference on new MCLE software. He counted Judicial Nominating Commission ballots and organized the Sept. 24 lawyers in leadership CLE seminar called "From the Schoolhouse to the Whitehouse." He shared details about the seminar.

## BOARD MEMBER REPORTS

**Governor Gifford** reported he attended the Oklahoma County Bar Association board of directors meeting and the Federal Bar Association's "Vietnam Remembered" program. **Governor Gotwals** reported he attended the Tulsa Central High School Foundation quarterly meeting, OBA Solo & Small Firm Conference, Knights of Columbus Past Grand Knights dinner, Tulsa County Bar Association-sponsored reception for Judge Carlos Chappelle and TCBA board of directors meeting. **Governor Hicks** reported he attended the Tulsa County Bar Association executive committee meeting and board of directors meeting. He also helped review applications for the OBA Leadership Academy. **Governor Kinslow** reported he continues to work on the Clients' Security Fund Task Force. **Governor Knighton** reported he attended the Solo & Small Firm Conference. **Governor Marshall** reported he attended the Solo & Small Firm Conference. **Governor Porter**, unable to attend the meeting, reported via email she attended the OBA Solo & Small Firm Conference, General Practice/

Solo Section annual meeting, Women in Law Committee meeting and Oklahoma Board of Tests for Alcohol and Drug Influence regular meeting. **Governor Sain** reported he attended the Solo & Small Firm Conference and the McCurtain County Bar Association meeting. **Governor Stevens** reported he attended the Solo & Small Firm Conference and the July Cleveland County Bar Association meeting. **Governor Tucker** reported he attended the Muskogee County Bar Association meeting, Solo & Small Firm Conference and OBA Law Day Committee meeting. He also coordinated the CLE presentation by OCU law professor Casey Ross-Petherick held in Muskogee County. **Governor Weedn** reported he attended the Solo & Small Firm Conference and Ottawa County Bar Association meeting. He accepted the appointment to the Budget Committee.

## YOUNG LAWYERS DIVISION REPORT

Governor McGill reported she chaired the YLD board meeting and attended two Kick It Forward planning meetings.

## BOARD LIAISON REPORTS

Governor Tucker reported the Law Day Committee reviewed the success of its 2015 events. The committee is considering themes for next year. The ABA Law Day 2016 theme will focus on Miranda rights, and OBA President-Elect Isaacs has suggested a topic related to jury trials. The committee is work-

ing on identifying segments for next year's *Ask A Lawyer* TV show. Governor Gotwals reported the Professionalism Committee has approved its mission statement and professional pledge. They have discussed symposium speakers and are working on determining a location for the symposium. The committee wants to offer speakers through the OBA speakers bureau and has discussed writing articles for the bar journal. Governor Hicks reported the Access to Justice Committee received 34 applications for the Leadership Academy and is reviewing them. July 21 is the deadline for submitting the list of participants. Governor Knighton reported a Law-related Education subcommittee is reviewing current law that might require changes to the young adult guide.

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

General Counsel Hendryx reported the Professional Responsibility Commission did not meet in June and will meet next Friday. She said the OBA is not involved in any litigation.

#### **ABA RETIREMENT FUNDS**

ABA Retirement Funds Program representative Mike Moniz, via telephone conference call, shared information about Voya Retirement Insurance and Annuity Co., which administers the ABA Retirement Funds Program. He reported 34 Oklahoma firms take part in the program and

asked for a renewal of the three-year agreement. Executive Director Williams explained the OBA has had a long-standing relationship with this company. It was noted the current agreement is an automatic renewal. The board approved the agreement with changes: 1) changing the controlling law provision to Oklahoma, 2) removing the exclusivity provision, 3) correcting reference to IPS and 4) in paragraph 2 striking the description of the OBA as "licensing and regulatory agency for Oklahoma-licensed attorneys."

#### **COMMENTS REGARDING AMENDMENTS TO THE RULES OF PROFESSIONAL CONDUCT**

General Counsel Hendryx reported one comment was received that disagreed with the minority report for 1.1 Comment 6, which essentially agreed with the committee. Board members were provided a copy of the complete comment. She recommended since the changes were not substantive and related more to changes in technology that they be submitted to the Supreme Court. The board approved the changes and voted to send the proposed amendments to the Supreme Court for its consideration.

#### **BOARD OF EDITORS APPOINTMENT**

The board voted to approve President Poarch's appointment of P. Luke Adams, Clinton, to

complete the unexpired term of Megan Simpson, representing District 4 on the Board of Editors. The term will expire Dec. 31, 2015.

#### **LEGAL INTERN COMMITTEE ANNUAL REPORT**

Governor Marshall reviewed the annual report the committee prepares for the Supreme Court. The report noted the development of an introductory letter for new supervising attorneys and the creation of a webpage on [www.okbar.org](http://www.okbar.org) that allows interns and applicants easy access to program forms, rules and regulations. The board approved the report.

#### **KICK IT FORWARD KICKBALL TOURNAMENT**

Governor McGill briefed board members on the first-time event that will be held Aug. 29 at Wiley Post Park in Oklahoma City to raise money for the Kick It Forward program, which helps financially struggling bar members pay their OBA dues. She reported the OBA Communications Department is assisting with the promotion. Board members were asked for their support.

#### **NEXT MEETING**

The Board of Governors met Aug. 21, 2015, at the Oklahoma Bar Center in Oklahoma City. A summary of those actions will be published after the minutes are approved. The next board meeting will be at 10 a.m. Friday, Sept. 25, 2015, in Norman.

# OBF Announces 2015 Grant Awards

The Oklahoma Bar Foundation announced 16 law-related charities will receive funds totaling \$310,266 to assist communities all across the state. With this year's awards, the foundation is celebrating a major landmark in grants made since its inception in 1946.

"We have a lot to celebrate," says OBF President Jack Brown. "This year we passed \$12 million in grant funding and scholarships and we have put a solid fund development plan in place to create sustainable funding for our grantees."

The OBF is dedicated to the agencies they fund because of the important work they do in communities all over Oklahoma. Interest on lawyers' trust accounts (IOLTA) is the primary



*2015 Oklahoma Bar Foundation programs in place*

funding source for programming at this time.

"The current grantees, through their programs, help meet the legal needs of Oklahomans throughout our state," said Judge Millie Otey, OBF

Grants and Awards Committee chairperson. "What if this help wasn't possible for the people these agencies serve? It would leave many children, families, seniors and veterans in unsafe circumstances."

The foundation is focused on fund development efforts more now than ever due to the record-low IOLTA rates. The foundation will be asking the legal community for support this fall and in years to come to ensure these programs stay in place to help those in need.

## 2015 OBF GRANT WINNERS

**Center for Children & Families** – Cleveland County  
*Divorce Visitation Arbitration program*

**Community Crisis Center** – Ottawa County  
*County court advocate*



*The OBA Real Property Law Section joins the OBF Community Fellows Program. A plaque was presented at the Aug. 20 Board of Trustees meeting. (From left: Nancy Norsworthy, Dietmar Caudle, Judge Millie Otey, Jack Brown, Lucas Munson, Alan Souter, Candice Jones)*

**Domestic Violence Intervention Services – Tulsa**  
*County court advocate*

**Family & Children's Services – Tulsa**  
*Family court program*

**Legal Aid Services of Oklahoma – Statewide**  
*Civil legal services for low-income individuals, families and seniors*

**Low Income Taxpayer Legal Clinic (OILS) – Statewide**  
*Support with legal tax issues for low-income individuals*

**Marie Detty Youth & Family Services – Comanche County**  
*County Court Advocate assisting victims of domestic violence & sexual assault*

**Mock Trial program – Statewide**  
*OBA program for high school students*

**OCU Law School - American Indian Wills Clinic – Statewide**  
*Educating student interns to solve complicated land trust issues*

**Oklahoma Lawyers for Children – Oklahoma County**  
*Pro bono legal services for children*



OBA and OBF leadership at a joint dinner celebration on Aug. 20.  
(From left: Garvin Isaacs, Dietmar Caudle, Judge Millie Otey, Jack Brown, Renée DeMoss, David Poarch)

**Teen Court – Comanche County**  
*Court of peers and educational outreach for first-time juvenile offenders*

**Tulsa Lawyers for Children – Tulsa County**  
*Pro bono legal services for children*

**TU Boesche Legal Clinic – Statewide**  
*Educating student interns to help solve immigrant rights cases*

**William W. Barnes Children's Advocacy Center – Rogers, Mayes and Craig Counties**  
*Child abuse prevention and training*

**YMCA Youth in Government – Statewide**  
*Youth Model Legislative Day & National Judicial Competition*

**Youth Services of Tulsa – Tulsa County**  
*Youth court and counseling services for first time juvenile offenders*

# Kick It Forward Tournament Raises \$14,000+ for Program

By LeAnne McGill

The YLD hosted the Kick It Forward Kickball Tournament on Saturday, Aug. 29, at Wiley Post Park in Oklahoma City. The event was a great success, raising more than \$14,000 for the Kick It Forward program, which helps financially struggling bar members pay their bar dues. Seventeen teams competed for various prizes, including 1st and 2nd place, winner of the consolation bracket and the most spirited team. Teams were recruited from each of the law schools, local law firms across the state and county bar associations. In all, 173 players



showed up to play in 24 games of kickball over the course of the day.

Spectators, volunteers and players were well fed by Pitchfork food truck in the morning and Galley Soul, Sugar Shack and Kona Ice in the afternoon. Ultimately, Oklahoma Kickball Club took home the grand

prize award of \$240 for winning the entire event. One Kick Wonders were the runners-up and generously donated their award money back to the Kick It Forward program. 1L of a Team was the winner of the consolation bracket taking away \$60 in prize money. The most spirited team was Team Ramrod, which also donated its award money back to the program.

This event would not have been possible without the generosity of our many sponsors. A complete list of sponsors can be found on page 1865. Special thanks to Hall Estill for their Grand Slam sponsorship. Also, a special thank you to Stuart & Clover for not only having a Grand Slam sponsorship but also fielding a team and showing up in costumes that garnered the most spirited team award. And finally, thank you to the current OBA Board of Governors for having 100 percent participation in sponsoring this program.

And most importantly, I want to give unending thanks and appreciation to my best friend and law partner, Faye Rodgers, who put in countless hours of her valuable time to not only



*A member of 1L of a Team attempts to kick a homerun in their first game of the day.*





*The Oklahoma Kickball Club team poses in front of their flag to celebrate their first place victory.*

make sure this event happened but also for making it a huge success. I could not have pulled this off without you.

For a look at all the fun and action that took place at this event, check out the photos at [www.okbar.org/members/photogallery](http://www.okbar.org/members/photogallery).

#### **GET INVOLVED IN YLD LEADERSHIP**

If you have been a lawyer less than 10 years and are interested in becoming more involved in the OBA Young Lawyers Division, consider running for a position on the YLD board of directors. The board holds monthly meetings usually held on Saturday mornings in Tulsa and/or Oklahoma City.

Submit nominating petitions containing no less than 10 signatures no later than 5 p.m. on Tuesday, Sept. 22, to me at [LeAnne@McGillRodgers.com](mailto:LeAnne@McGillRodgers.com).

Positions available are: District 2, District 3 (2 seats), District 4, District 6, District 8, At Large (2 seats) and At Large Rural. You'll find the petition and a list of the counties in these districts at [www.okbar.org/members/YLD/NominatingInfo](http://www.okbar.org/members/YLD/NominatingInfo).



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## **KICKBALL TEAMS**

**COAPAD**

**New Kicks on the Block  
Oklahoma Kickball Club**

**The Pitts**

**Amazeballs**

**The Honorable  
Learned Foot**

**Motion to Strike**

**Avengers**

**1L of a Team**

**Team Ramrod**

**Brews on First**

**Miyagi-Do**

**Resumes Available  
Upon Request**

**Cobra Kai**

**One Kick Wonders**

**I'm Kick James, Pitch**

**18 and Legal**

#### **ABOUT THE AUTHOR**



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



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## September

**15 OBA Bench and Bar Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Judge David B. Lewis 405-556-9611

**OBA Diversity Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Tiece I. Dempsey 405-524-6395

**16 OBA Indian Law Section meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Trisha Archer 918-619-9191

**OBA Law Day Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Richard Vreeland 405-360-6631

**18 OBA Professional Responsibility Commission meeting;** 9:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact Gina Hendryx 405-416-7007

**OBA Board of Editors meeting;** 9:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact Melissa DeLacerda 405-624-8383



**19 OBA Real Property Law Section meeting;** 9:30 a.m.; Tulsa County Bar Center, Tulsa; Contact Lucas J. Munson 405-513-7707

**23 OBA Financial Institutions and Commercial Law Section meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Eric L. Johnson 405-602-3812

**OBA Solo and Small Firm Committee meeting;** 3 p.m.; Oklahoma Bar City, Oklahoma City; Contact Ronald Paul Lander 918-931-2681

**24 OBA Professionalism Committee meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Patricia Podolec 405-760-3358

**25 OBA Board of Governors meeting;** 10 a.m.; Norman; Contact John Morris Williams 405-416-7000

**OBA Lawyers Helping Lawyers Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Jeanne Snider 405-366-5423

**30 OBA Clients' Security Fund Committee meeting;** 2 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Micheal C. Salem 405-366-1234

## October

**1 Lawyers Helping Lawyers discussion group;** 6 p.m.; 701 NW 13th St., Office of Tom Cummings, Oklahoma City; Contact Jeanne Snider 405-366-5423

**2 OBA Alternative Dispute Resolution Section meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Ken Morgan Stoner 405-705-2910

**6 OBA Government and Administrative Law Section meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City; Contact John E. Miley 405-557-7146

**9 OBA Law-related Education Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Suzanne Heggy 405-556-9615

**13 OBA Diversity Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Tiece I. Dempsey 405-524-6395

**14 OBA Women in Law Committee meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Kimberly Hays 918-592-2800

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

**20 OBA Bench and Bar Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Judge David B. Lewis 405-556-9611

**OBA Diversity Committee meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Tiece I. Dempsey 405-524-6395

**21 OBA Indian Law Section meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Trisha Archer 918-619-9191

**23 OBA Board of Governors meeting;** 10 a.m.; Ardmore; Contact John Morris Williams 405-416-7000

**OBA Rules of Professional Conduct Committee meeting;** 3 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Paul B. Middleton 405-235-7600

**29 OBA Professionalism Committee meeting;** 4 p.m.; Oklahoma Bar Center, Oklahoma City; Contact Patricia Podolec 405-760-3358

**30 OBA Professional Responsibility Commission meeting;** 9:30 a.m.; Oklahoma Bar Center, Oklahoma City; Contact Gina Hendryx 405-416-7007

## November

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

**4-6 OBA Annual Meeting** – Oklahoma City

**4 OBA Board of Governors Meeting;** 10 a.m.; Oklahoma City Annual Meeting; Contact John Morris Williams 405-416-7000



**5 OBA Family Law Section meeting;** 8 a.m.; Oklahoma Bar City, Oklahoma City; Contact Michelle K. Smith 405-759-2333

**Lawyers Helping Lawyers discussion group;** 6 p.m.; 701 NW 13th St., Office of Tom Cummings, Oklahoma City; Contact Jeanne Snider 405-366-5423

**6 OBA Alternative Dispute Resolution Section meeting;** 12 p.m.; Oklahoma Bar Center, Oklahoma City with teleconference; Contact Ken Morgan Stoner 405-705-2910





### Lawyers Needed to Coach High School Mock Trial Teams

Have you considered working with students to increase their self-confidence and knowledge about our justice system? The time commitment is flexible and lasts about two months. The OBA's Mock Trial Program is seeking attorney coaches, who will be assisted by teacher coaches in participating schools. Schools are still registering, so the list is not final yet. If you have questions or are interested, contact Mock Trial Coordinator Judy Spencer: [mtjudy02@aol.com](mailto:mtjudy02@aol.com); 405-755-1066.



*Moore High School students prepare for the final round of competition during the 2015 Oklahoma High School Mock Trial Championship.*

### Share An LRE Opportunity!

Sept. 17 is Constitution Day! The OBA Law-related Education department is challenging fifth graders across Oklahoma to recite the "Bill of Rights Rap" at 10 a.m. to celebrate the anniversary of the day in 1787 that delegates to the Constitutional Convention signed the document in Philadelphia. Check out [www.okbar.org/public/LRE/LREConstitutionDay](http://www.okbar.org/public/LRE/LREConstitutionDay) to register a school, see videos of the rap and find additional classroom resources for teachers.



### LHL Discussion Groups

"Maintaining Self Care" will be the topic of the Oct. 1 Lawyers Helping Lawyers monthly discussion group. 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 to 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](mailto: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.**

### 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).





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## Kudos

**James M. Sturdivant**, of GableGotwals was inducted into the International Academy of Trial Lawyers at its mid-year meeting. The International Academy of Trial Lawyers limits membership to 500 fellows in the United States. They seek out, identify, acknowledge and honor those who have achieved a career of excellence through demonstrated skill and ability in jury trials, trials before the court and appellate practice. He graduated from the OU College of Law in 1964.

The National Black Lawyers -Top 100 honored Crowe & Dunlevy attorney **Christopher M. Staine** as a Top 100 attorney practicing in the areas of banking and finance. This invitation-only professional honorary organization is composed of the top 100 black attorneys or non-black attorneys who promote diversity and serve clients. Mr. Staine is the only Oklahoma attorney to receive this distinction. He graduated from the OU College of Law in 2010.

**B. Lynn Driver**, a partner with the Floyd Law Firm, celebrated her 25th year as a member of the firm. She joined the firm as a paralegal and then as a new associate lawyer in 1994. She graduated from the OU College of Law

in 1993 and holds an LL.M with distinction from Southern Methodist University.

The Oklahoma County Bar Association Nominations and Election Committee announced the results of this year's election. **Judge Barbara Swinton** will serve as president-elect and **David A. Cheek** was elected as vice president. **Sonya L. Patterson** will serve as law library trustee. **Judge Don Andrews**, **Timothy J. Bomhoff**, **Judge Richard C. Ogden**, **Sheila D. Stinson**, **Judge Cassandra Williams** and **Ray Zschiesche** were elected as 2018 directors. **Adam C. Hall** and **Elisabeth E. Muckala** will each serve a one-year term as 2017 directors to replace two vacancies.

## On The Move

**M**ulinix Edwards Rosell & Goerke PLLC announces the addition of **David T. McKenzie** as of counsel with the firm and **Gregory P. Chansolme**, **Dylan Charles Edwards** and **Paul B. Cason** as associates with the firm. Mr. McKenzie is an adjunct professor of law at the OCU School of Law and is the legal analyst for the KFOR television news station. He graduated from the OU College of Law in 1988. Mr. Chansolme

has a background in real estate, business organization, commercial litigation and estate planning. He graduated from the OU College of Law in 2009. Mr. Edwards represents businesses and individuals in general civil litigation and transactional matters. He graduated from the OU College of Law in 2013. Mr. Cason focuses his practice on civil and business litigation, wealth and business planning and government relations. He received his J.D. from the OCU School of Law in 2012.

**R. Gavin Littles** has been appointed and sworn in as administrative appeals judge with the Social Security Administration's Appeals Council. The appeals council is the final level of administrative review under the Administrative Procedure Act for claims filed under Titles II and XCI of the Social Security Act. He graduated from the TU College of Law in 2003.

The shareholders of McAfee & Taft have elected real estate and business attorney **Joe C. Lewallen Jr.** as a fellow shareholder. He is a veteran real estate and business attorney whose practice focuses on commercial real estate development, including land acquisition, financing with debt and equity components and development and construction of retail shopping centers, office buildings, hotels and mixed-use projects. He graduated from the OU College of Law in 1985.

**Ken Spears** is back in practice focusing in the area of bankruptcies. His office is located at 210 N.W. 10th St., Oklahoma City, Oklahoma 73103 and he can be reached at 405-236-1503.



**Kelly Basey** made a presentation on "Immigration Issues & Criminal Defense" at the 2015 Criminal Defense Institute sponsored by the Oklahoma Criminal Defense Lawyers Association.

**Graydon D. Luthey Jr.** has spoken to several

Indian associations regarding gaming and the state of Oklahoma compact with the sovereign nations. At the Oklahoma Indian Gaming Association Annual Conference he presented in two separate sessions on "The Statutes of the Tribal State Gaming Compact" and "The Future of Internet Gaming." The topic for the Oklahoma Tribal Gaming Regulators Association was "Tribal Gaming Regulators Authority Under the State Compact."

**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:

Mackenzie McDaniel  
Communications Dept.  
Oklahoma Bar Association  
405-416-7084  
barbriefs@okbar.org

*Articles for the Nov. 21 issue must be received by Oct. 19.*

## IN MEMORIAM

**John M. Slater Sr.** of Strawberry Plains, Tennessee, died July 17, 2015. He was born Oct. 2, 1925, and graduated high school from the Oklahoma Military Academy in Claremore. **He served in the U.S. Army in World War II and was called to serve again in the 45th Infantry Division in Korea.** He received his J.D. from the TU College of Law in 1952. He served his country for 45 years in the Department of Interior as a field solicitor to the Osage Nation from 1957-1970, and the Social Security Administration as a hearings and appeals judge in the Nashville and Tulsa offices. He was a devoted, caring, loving father of four, grandfather of 12 and great-grandfather of eight.

**Donald K. Funnell** of Oklahoma City died April 28, 2015. He was born Dec. 19, 1955, and graduated from the OU College of Law in 1984 where he was an editor of the *Oklahoma Law Review*. He spent his career practicing at Lytle Soule & Curlee where he began as a law clerk in 1982. He became a shareholder of the firm in 1989. He was a natural leader and vital to the management of the firm for many years. He loved music and played the drums for many local rock, blues and bluegrass bands, including Mountain Smoke. As the drummer for Mountain Smoke, he performed on the White House lawn with President and First Lady Jimmy and Rosalynn Carter.

**Robert L. Barr III** of Kingfisher died July 16, 2015. He was born Oct. 8, 1939, and graduated from Hennessey High School in 1957 and from the OCU School of Law in 1968. He served in the Oklahoma Legislature from 1964-1968 and as the Oklahoma State Board of Agriculture president and chief executive officer from 1976-1977. Along with practicing family law, he was a business entrepreneur, a philanthropist and a farmer at heart. A few of his notable companies included Barr Seed, Pioneer Trucking and Barr Energy. He belonged to a number of service organizations including Hennessey Coronado Masonic Lodge #56, where he was a Scottish Rite 32 degree Mason. He served as director of the dental clinic at REST, on the World Neigh-

bors board of trustees, founded the Barr Foundation and served on many other boards of directors. Memorial donations may be made in his name to the Regional Food Bank of Oklahoma, Kingfisher County Food Bank or Hennessey Good Samaritan Food Bank.

**E**dward Trattner of Bethany died July 20, 2015. He was born Sept. 25, 1955, and graduated from the OCU School of Law in 1992. For many years he practiced law with his father, Henry Trattner, the two working closely together on a daily basis. He was passionate about his country, a dedicated

patriot and was proud to support honorable military personnel. He was also an exceptional marksman and a NRA lifetime member. He was gifted with a dry sense of humor and brought intelligence and laughter to any situation. He is survived by his father and OBA member Henry Trattner.

## OKLAHOMA BAR JOURNAL EDITORIAL CALENDAR

### 2015 Issues

- October  
**Family Law**  
Editor: Leslie Taylor  
leslietaylorjd@gmail.com  
Deadline: May 1, 2015
- November  
**Lawyers in Leadership**  
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

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

### 2016 Issues

- January  
**Meet Your OBA**  
Editor: Carol Manning
- February  
**Probate**  
Editor: Judge Allen Welch  
allen.welch@oscn.net  
Deadline: Oct. 1, 2015
- March  
**Criminal Law**  
Editor: Melissa DeLacerda  
melissde@aol.com  
Deadline: Oct. 1, 2015
- April  
**Law Day**  
Editor: Carol Manning
- May  
**Indian Law**  
Editor: Leslie Taylor  
leslietaylorjd@gmail.com  
Deadline: Jan. 1, 2016
- August  
**Bankruptcy**  
Editor: Amanda Grant  
Amanda@spiro-law.com  
Deadline: May 1, 2016
- September  
**Bar Convention**  
Editor: Carol Manning
- October  
**Real Property**  
Editor: Shannon Prescott  
shanlpres@yahoo.com  
Deadline: May 1, 2016
- November  
**President's Topic**  
Editor: Melissa DeLacerda  
melissde@aol.com  
Deadline: Aug. 1, 2016
- December  
**Ethics & Professional Responsibility**  
Editor: Renée DeMoss  
rdemoss@gablelaw.com  
Deadline: Aug. 1, 2016



## 1991 OBA President R. Forney Sandlin 1934-2015

**R**obert Forney Sandlin of Muskogee died Saturday, Aug. 15, 2015. He was born Jan. 20, 1934, in Ft. Smith, Arkansas. He graduated from OU in 1956 with a degree in finance and received his LL.B. from the OU College of Law in 1958.

**During World War II and the Korean Conflict he was called upon to play "Taps" at graveside rites for many fallen soldiers and later served for eight years in the U.S. Army Reserves.**

Upon being admitted to the Oklahoma Bar in 1958, he entered private law practice in Muskogee. From 1964-1969 he served as part-time city prosecutor for the city of Muskogee. His general practice focused on corporate law, banking law, employment law, estates, trusts and real estate law.

He was a member of the team who obtained the federal grant to develop the Muskogee Industrial Park as well as incorporating the Greater Muskogee Development Corporation for the purpose of promoting industry. He served as the municipal court judge for the city of Hulbert for 28 years and as general counsel for the Oklahoma State Council on Judicial Complaints for one year.

He was an active member of the Muskogee County Bar, the Oklahoma Bar Association

and the American Bar Association for 57 years. During that time he held many positions including Muskogee County Bar Association president, Oklahoma Board of Bar Examiners associate member, Board of Governors member, Oklahoma Bar Association president, Judicial Nominating Committee chairman and American Bar Association House of Delegates member.

He was also actively involved in many civic organizations having served on the Muskogee Chamber of Commerce board of directors, Salvation Army board of directors, Bacone College board of trustees, Muskogee Community Nursing Service board of directors and past president, Bone and Joint Hospital board of directors, City Bank board of directors and the Muskogee Regional Medical Center board of directors. After the sale of Muskogee Regional Medical Center he was instrumental in establishing the City of Muskogee Foundation.

He was a lifelong member of the St. Paul United Methodist Church and served several terms on the administrative board.

Memorial donations may be made in his name to the St. Paul United Methodist Church, 2130 W. Okmulgee, Muskogee, OK 74401.



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## NOTICE OF JUDICIAL VACANCY

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

**Associate District Judge  
Twenty-third Judicial District  
Pottawatomie County, Oklahoma**

This vacancy is due to the retirement of the Honorable John Gardner on Aug. 1, 2015.

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

Application forms can be obtained on line at [www.oscn.net](http://www.oscn.net) by following the link to the Oklahoma Judicial Nominating Commission or by contacting Tammy Reaves, Administrative Office of the Courts, 2100 North Lincoln, Suite 3, Oklahoma City, OK 73105, (405) 556-9300, and should be submitted to the Chairman of the Commission at the same address **no later than 5 p.m., Friday, Oct. 2, 2015. If applications are mailed, they must be postmarked by midnight, Oct. 2, 2015.**

Stephen D. Beam, Chairman  
Oklahoma Judicial Nominating Commission

## Get smarter

Here are seven hobbies that science says may make you smarter.



[goo.gl/OHXO22](http://goo.gl/OHXO22)

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## Feel awesome

Here are 25 ways to feel awesome and stay positive all day.



[goo.gl/kPBsj7](http://goo.gl/kPBsj7)

## Write a guest blog

Interested in writing a guest blog, or even creating your own, but have no clue where to start? Here are five tips.



[goo.gl/KeWOQr](http://goo.gl/KeWOQr)

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## Break the ice

Do you get nervous when you think about networking? With Annual Meeting coming up, you may be able to use some of these tips on conquering social anxiety and breaking the ice during professional networking events.



[goo.gl/1ms79K](http://goo.gl/1ms79K)

## SERVICES

### CPA Support for Tax Audits & Litigation

CPA with tax representation experience in 207 tax audits and Appeals, plus IRS audit experience, seeks tax audit & litigation support clients. Let us handle the details for your cases. Our services include: 1. Reconstructing income and expenses from credit cards and bank statements, 2. Reconstructing mileage logs from alternative documents, 3. Preparing Reasonable Compensation Reports for corporate tax audits, and 4. Preparing Appeals and Tax Court exhibits and supporting documents. Also, if you don't want to be bothered with Office Audits, refer them to us! Call 405-821-4768 or go to [www.rescuemytaxaudit.com](http://www.rescuemytaxaudit.com).

**BUSINESS VALUATIONS:** Marital Dissolution \* Estate, Gift and Income Tax \* Family Limited Partnerships \* Buy-Sell Agreements \* Mergers, Acquisitions, Reorganization and Bankruptcy \* SBA/Bank required. Dual Certified by NACVA and IBA, experienced, reliable, established in 1982. Travel engagements accepted. Connally & Associates PC 918-743-8181 or [bconnally@connallypc.com](mailto:bconnally@connallypc.com).

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**INTERESTED IN PURCHASING PRODUCING & NON-PRODUCING Minerals; ORRI; O & G Interests.** Please contact: Patrick Cowan, CPL, CSW Corporation, P.O. Box 21655, Oklahoma City, OK 73156-1655; 405-755-7200; Fax 405-755-5555; email: [pcowan@cox.net](mailto:pcowan@cox.net).

## SERVICES

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## OFFICE SPACE

**OFFICE SPACE FOR LEASE IN ESTABLISHED FIRM.** Space located in Boulder Towers at 1437 S. Boulder Ave, Suite 1080, Tulsa, OK. Space includes two conference rooms, kitchen, reception area, security and free parking. \$1,000 per month. Contact Robert Williams at 918-749-5566 or [rwilliams@trsvlaw.com](mailto:rwilliams@trsvlaw.com).

**LUXURY OFFICE SPACE -** Three offices for lease, \$670, \$690 furnished and \$870 in the Esperanza Office Park near NW 150th and May in OKC. Lease includes: Fully furnished reception area; receptionist; conference room; complete kitchen; fax; high-speed internet; building security; and, free parking. Please contact Gregg Renegar at 405-285-8118.

### OFFICE SPACE – MIDTOWN LAW CENTER

Space available - Easy walk to multiple Midtown restaurants. Turn-key arrangement includes phone and LD, Internet, nearby parking, kitchen, storage, 2 conference rooms and receptionist. Share space with 7 attorneys, some referrals.

**405-229-1476 or 405-204-0404**

**LUXURY OFFICE SPACE –** Large office space available for lease in the Esperanza Office Park near NW 150th and May in OKC. Fully furnished reception area, receptionist available, large conference room, complete kitchen, building security, free parking, \$700 month. Call John Shears 405-200-1911.

**PREMIUM OFFICE SPACE FOR LEASE.** South Oklahoma City established law firm has space available to lease effective October 1, 2015. Send inquiries to "Box AB," Oklahoma Bar Association; PO Box 53036; Oklahoma City, OK 73152.

## OFFICE SPACE

TAKE CONTROL of the growth of your law firm! EXPAND your real estate law practice into an untapped and underserved county! We have newly remodeled office space available in Antlers, OK to perfectly fit your needs. Contact Jim at 580-298-3001 to set up a viewing.

## POSITIONS AVAILABLE

EDMOND LAW FIRM seeks associate attorney for civil litigation. Self-starter with strong work ethic, research and writing skills, interpersonal skills, ability to work in a team environment and manage a diverse caseload. Prefer 5-10 years of relevant experience. Benefits offered. Compensation based on experience and existing business. Please submit salary requirements, résumé and writing sample to edmondfirm@gmail.com.

NORMAN LAW FIRM IS SEEKING sharp, motivated attorneys for fast-paced transactional work. Members of our growing firm enjoy a team atmosphere and an energetic environment. Attorneys will be part of a creative process in solving tax cases, handle an assigned caseload, and will be assisted by an experienced support staff. Our firm offers health insurance benefits, paid vacation, paid personal days, and a 401K matching program. Applicants need to be admitted to practice law in Oklahoma. No tax experience necessary. Submit cover letter and résumé to Justin@irshelpok.com.

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IN-HOUSE LEGAL COUNSEL. Love's Travel Stops & Country Stores, Inc. seeks full-time attorney for OKC generalist position. 4 to 8 years of substantive litigation experience REQUIRED, as well as corporate and/or transactional experience. Must have significant experience and skills in litigation, contract review, drafting and negotiation and be comfortable managing a large number of projects. Experience with IP licensing and service contracts a plus. Salary commensurate with qualifications and experience. Eligible for full benefits package and long-term incentive plan. Qualified candidates are urged to act quickly and apply online for the "Corporate Attorney" position at [www.loves.com/jobs](http://www.loves.com/jobs).

SOUTH OKC FIRM WITH A VERY BUSY AND DIVERSE PRACTICE seeks an attorney that is motivated and has expertise to practice in family law, estate planning, wills, trusts, and bankruptcy. Other opportunities within the firm include, briefing, general litigation work (depositions, client prep), and assisting with employment related discrimination cases. If interested please send a résumé: Attention Office Manager to PO Box 890420 OKC, OK 73189.

## POSITIONS AVAILABLE

FULL SERVICE, AV-RATED, DOWNTOWN TULSA LAW FIRM seeks associate attorney with 3 - 6 years' commercial litigation experience. Solid deposition and trial experience is a must. Our firm offers a competitive salary and benefits, with bonus opportunity. Submit résumé and references to "Box P," Oklahoma Bar Association; PO Box 53036; Oklahoma City, OK 73152.

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).

SW OKC LAW FIRM SEEKS COMPETENT ATTORNEY to take on our existing, full caseload of family law cases and for someone to continue to grow with our firm. Candidate must be motivated and willing to maximize the benefits of the firm's marketing of the family law division. Great opportunity for a new or solo attorney to take on existing, litigated caseload and to obtain trial experience. Interested candidates must possess excellent listening, fact-finding, and logical reasoning skills as well as have the determination to excel and grow in their area of practice. Applicants MUST have some working knowledge of the process of handling family law matters and must be willing to learn new skills. Competitive salary, plus bonus opportunity. Position available immediately. Please email your cover letter, résumé and references to [kim@joshleelaw.com](mailto:kim@joshleelaw.com).

LITIGATION ATTORNEY. Immediate opening for a litigation attorney with 5+ years litigation/bankruptcy experience. Only energetic, positive attorneys with an ability to multitask should apply. Salary commensurate with experience, plus benefits, including 100% individual health insurance provided. Send confidential résumé and salary expectations to NLLG at [resume@nationlit.com](mailto:resume@nationlit.com). All emails will be answered.

FAMILY LAW FIRM SEEKS ATTORNEY with minimum one year's experience. Résumé; writing sample and two references required. Mail to "Box CD," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

MITCHEL, GASTON, RIFFEL AND RIFFEL, PLLC invites associates with 3+ years' experience to join our team. We are looking for a candidate who is knowledgeable in multiple practice areas, including litigation, family law and/or title opinions. Candidates must have excellent research skills, analytical thinking skills, and writing skills. Location to work in could include working from home or from a satellite office. Send résumé to Mitchel, Gaston, Riffel & Riffel, PLLC, Attn: Jessica Walker, 3517 W. Owen K. Garriott, Suite One, Enid, OK 73703 or email to [jwalker@westoklaw.com](mailto:jwalker@westoklaw.com).



## POSITIONS AVAILABLE

AV RATED DOWNTOWN TULSA LAW FIRM seeks an attorney with 3-5 years of experience in family law. Compensation DOE. Great benefits and friendly atmosphere. Submit confidential résumé, references, writing sample and salary requirements to TulsaLawFirm Contact@gmail.com.

LITIGATION ATTORNEY NEEDED WITH 3+ YEARS OF EXPERIENCE for AV-rated mid-sized NW OKC law firm to help with litigation concerning oil & gas titles and real property titles, and probates. Send cover letter and résumé to "Box S," Oklahoma Bar Association; PO Box 53036; Oklahoma City, OK 73152.

OKLAHOMA BASED, MULTI-STATE FIRM seeks associates for Oklahoma office, Northeast Oklahoma area. Emphasis on Family Law, Child Support Enforcement, and Native American law. Strong work ethic and self motivation skills required. All replies considered confidential. Send résumé and salary requirements to: "Box B," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

THE OKLAHOMA TAX COMMISSION is accepting applications for the position of General Counsel. The primary responsibility of the position is to provide leadership and ensure efficient and effective management of staff and resources in the Legal Division. The position oversees the legal services provided by approximately 20 attorney positions in Oklahoma City and Tulsa. Applicants must be licensed to practice law in Oklahoma. The ideal candidate should have at least 5 years of relevant experience, including the management of attorneys and supervising support staff, and strong communications skills. Submit cover letter, résumé, and writing sample to applicants@oktax.state.ok.us. The OTC is an equal opportunity employer.

ESTABLISHED LAW OFFICE AND CPA FIRM in South Central Oklahoma, looking for an experienced legal assistant or newly admitted attorney with tax background. Compensation and benefits negotiable based upon experience. Please email résumé to: cindy@cajohnsonenterprises.com.

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## LOOKING FOR WILL

LOOKING FOR THE WILL OF Wendell Edward Miles of Oklahoma City, OK, who passed away on August 10, 2015. CONTACT: Jennifer Wright, 405-848-4848, 3717 N.W. 63rd Street, Ste 100, Oklahoma City, OK 73116, jennifer@dimicklaw.com.

LOOKING FOR THE WILL OF Dorothy Cleo Walker, of Lindsay, Oklahoma, Garvin County, who passed away on August 2, 2015. CONTACT: Lacey Egbert 405-285-6858, lacey@helawedmond.com or 307 E Danforth Rd. Suite 130, Edmond OK 73034.

## CLASSIFIED INFORMATION

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# Back to School After 30+ Years

By Margaret Travis

Two years ago I decided to return to school full-time. At 50. Take a minute to let that sink in. Upon investigation, I found the Masters of Health Administration program. I paid my money and applied. Lo and behold, in May of 2012 I got a letter saying I'd been accepted. I went to the College of Public Health to enroll.

At about that point, doubt crept in. It had been two decades since I'd been a student in a classroom. Quantitative methods, a sneaky way of saying statistics; managerial epidemiology; financial management; all things that kept me out of business school, were on the agenda. I called and set up appointments with my professors. In one meeting, the professor asked what I was worried about and I responded, "Math. I haven't been in a math class in more than 30 years." She leaned over her desk, picked up a business card-sized calculator and said, "You can use a calculator, right?" Yes, they are funny at the College of Public Health.

It's been interesting. One day a professor inquired, "Who remembers the Bhopal Disaster?" Mine was the only hand raised. Another asked, "Who remembers Chernobyl?" Again, mine was the only hand. In one class a guest speaker said, "Who's the oldest person here?" Again I raised my hand. This time others did as well. He questioned everyone. I won!

One day I wore to class a tee shirt from my daughter's days at Villa Teresa School. A classmate asked if I'd gone to VTS. I said no, my daughter had. We discussed when he was there and as near as I can tell my daughter was in first grade when he was in 4th grade. On further discussion, we learned we had gone to the same high



school. He was a nice young man, trying to establish common ground and began quizzing me about the teachers who were there when I was there. The professor was eavesdropping on our conversation. When my classmate asked me, "When did you graduate high school?" my professor said, "Son, you don't want to go there." I looked him in the eye and told him. He was silent for a few seconds and said softly, "I wasn't born then." We went for a beer after class.

One day we were in a room at the college working on a project. One of the young men said his mother's birthday was coming. He dreaded it because he remembered when she turned 40 as an awful time, and he wasn't looking forward to her turning 49; I was 51 at the time.

My first exam came in law and ethics. I'd studied, prepared a study guide and thought I was ready. I did okay until I got to class. Then things went south. I looked at the exam and began to sweat. I wanted to vomit. I thought I would hyperventilate. My vision blurred. I looked around. Everyone else (head lowered) was scribbling on the exam. I tamped down my anxiety and

began to work. And thus began my first mid-term exams in over 20 years. At the end of the semester when I turned in the final, that same professor noted, "You seem much more relaxed this time." And I was.

I'd gone to the bathroom, got water and written and pondered. At that first exam, if I'd left my seat, I probably wouldn't have come back.

I try to be a good example to my kids. I never miss class. During my last two years, I missed class three times: twice for school activities and once when my son had a doctor's appointment. I talk about my grades. I do extra credit assignments because I'm always telling my kids, "Always take extra credit when they offer it because you never know when you might need it!" I had a struggle with myself in epidemiology about this. I had a 97.4 average in the class. Several people complained they needed additional points and the professors offered an extra credit assignment. I clearly didn't "need" the extra credit. I certainly didn't want to do the extra work. But I did want to say to my kids, "See, I take extra credit when it's offered, whether I need it or not."

It has, all in all, been a good experience. I've learned a lot. I can say ACO, PCMH and other acronyms without fear of being called out for not knowing what I'm talking about. And I hope I'm sending a message to my kids, and even the kids I was in school with. It's never too late to make a change, learn something new and do something different.

*Ms. Travis practices law part time and continues her journey in higher education at the OU Health Sciences Center in Oklahoma City.*



# Doing Your Job as a Trial Lawyer: Experts and Trial Tactics

**SEPTEMBER 25, 2015**

Oklahoma Bar Center  
1901 N. Lincoln Blvd.  
Oklahoma City, OK

**Program Planners/Moderator:**  
M. Shane Henry, Fry & Elder

This seminar will focus on working with and cross examining psychological experts as well as opening statements, trial tactics and cross examination.

## **CANCELLATIONS:**

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

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## **8:30 a.m.**

Registration and Continental Breakfast

## **9:00 a.m.**

*Psychologists at Trial; Working with and cross examining psychological experts:*

M. Shane Henry, Aaron Bundy and  
Dr. Eric Nelson, Ph.D.

1. Qualifications
2. Consulting vs. Testifying
3. Credibility of the Hired Gun
4. Retaining & Working with your Expert
5. Understanding the Psychological Tests
6. Collateral Sources
7. Daubert Analysis
8. Recommendations

## **Noon**

Networking lunch with Big Truck Tacos  
(included in registration)

## **1:00 p.m.**

*Opening Statements, Trial Tactics and Cross Examination*

M. Shane Henry and Aaron Bundy

1. Credibility
2. Storytelling
3. Trilogies
4. Primacy and Recency
5. Body Movement
6. Sequencing
7. Control Techniques
8. Goals at Trial

## **3:00 p.m.**

Adjourn

This course has been approved by the Oklahoma Bar Association Mandatory Continuing Legal Education Commission for 6 hours of mandatory CLE credit, including 0 hours of ethics.

**TUITION:** \$150 for early-bird registrations with payment received at least four full business days prior to the seminar date; \$175 for registrations with payment received within four full business days of the seminar date. \$200 walk-ins. To receive a \$10 live program discount register online at [www.okbar.org/members/cle](http://www.okbar.org/members/cle). The program will also be webcast at a non-discounted price.

\*\*Printed materials will not be available the day of the seminar; however, you can order a copy to be mailed to you at a later date for \$25.

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