

THE Oklahoma Bar JOURNAL

Volume 87 ♦ No. 14 ♦ May 21, 2016

Indian Law

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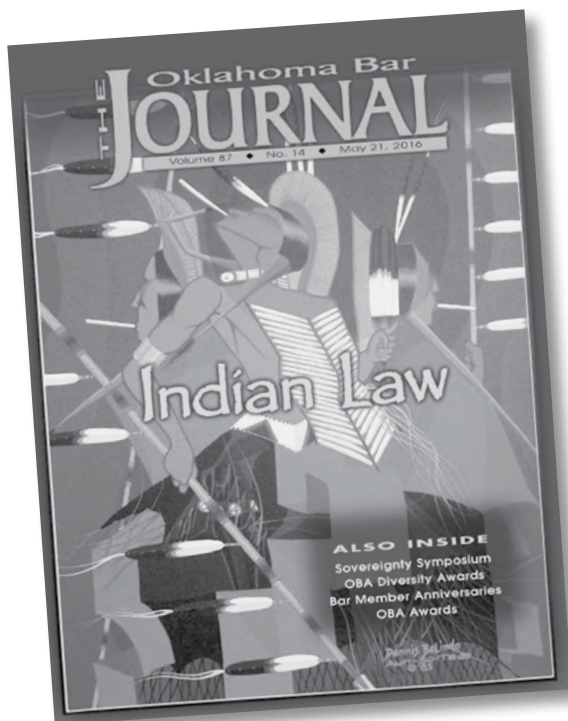
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Explorers Attacked by Polar Bears

By Garvin A. Isaacs

The decisions by the United States Supreme Court in *Citizen's United v. Federal Election Commission*¹ and *McCutcheon v. Federal Election Commission*² have allowed unlimited campaign contributions by political action committees that do not have to identify contributors. These two cases have changed our whole country and have given control of our government to big money.

In Jane Mayer's book, *Dark Money: The Hidden History of the Billionaires Behind the Rise of the Radical Right*, she summarizes the takeover of our government by big money from the oil and gas industry. Oklahoma is discussed several times in the book.

Mayer also outlines global warming and what has happened to our planet with citations to Dr. James Baker, former head of the National Oceanic and Atmospheric Administration (NOAA), who said in 2005 in response to attacks upon scientific research concerning global warming, "There's no better scientific consensus on this than any issue I know..."

Many elected politicians deny global warming. In her book, Mayer outlines how there has been a war on science by the oil and gas industry attempting to attack global warming. She emphasizes how laws have been passed to exempt certain petroleum activities from the Environmental Protection Agency. Mayer also refers to the leadership of former Vice President Al Gore.

Gore stood up for people and the environment in which we live. He was awarded the Nobel Peace Prize and featured in an Academy Award-winning documentary film, *An Inconvenient Truth*, for his position advocating that our environment and climate suffered from a failure of our government to regulate the fossil fuel industry and

to prevent global warming, such as melting of the polar ice cap and polluting the atmosphere. The melting of the polar ice cap has put polar bears in a different environment and raised the question of whether they will be added to the endangered species list.

Mayer goes on to state that the amount of carbon monoxide in the atmosphere is already above the level that scientists say risk causing runaway global warming.

On this page is a picture painted in the 18th century by Ildig, a lesser-known artist, who had traveled from the southern hemisphere near Chile to the polar ice cap around the North Pole. Ildig's painting, "Explorers At-

tacked by Polar Bears" was painted after Ildig had traveled to the North Pole and encountered polar bears. His painting captures the Arctic Circle in its pristine condition before fossil fuel and global warming began its destruction.

Down in Oklahoma not only do we have global warming but also more than 900 earthquakes. We must protect our environment. Oklahoma is in danger. It is time for us as lawyers to stand up for people and stop control of our government by the oil and gas industry.

We must take action now!

1. 558 U.S. 310 (2010).

2. 572 U.S. ___, 134, S. Ct. 1434 (2014).



Explorers Attacked by Polar Bears by Ildig



Garvin A. Isaacs

President Isaacs
practices in Oklahoma City.
apacheoklahoma@gmail.com
405-232-2060

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JOURNAL STAFF

JOHN MORRIS WILLIAMS
Editor-in-Chief
johnw@okbar.org

CAROL A. MANNING, Editor
carolm@okbar.org

LEMITCHEL KING
Communications Specialist
lemitchelk@okbar.org

MACKENZIE MCDANIEL
Advertising Manager
advertising@okbar.org

LAURA STONE
Communications Specialist
lauras@okbar.org

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State Attorney General Argues Against Tribal and State Interests

By William R. Norman and Randi D. Hardin

This spring the landscape of tribal court jurisdiction may change dramatically. If Attorney General Scott Pruitt and the state of Oklahoma have their way, the U.S. Supreme Court will divest tribal courts of civil jurisdiction over nontribal members in the case *Dollar General Corporation v. Mississippi Band of Choctaw Indians*.¹ This case arises out of a tort suit brought by a tribal member against Dollar General for actions occurring on tribal lands. Dollar General disputed tribal court jurisdiction, eventually appealing the matter all the way to the U.S. Supreme Court. The outcome of this case could have enormous ramifications within Oklahoma, home to 38 federally recognized tribes.

Unsurprisingly many interested parties from Oklahoma have submitted amicus briefs in the case, including, as noted above, Mr. Pruitt on behalf of the state of Oklahoma. The state argues for limiting tribal sovereignty over civil tort claims absent a party's express consent and a "close nexus" between that consent and the conduct involved. However, in doing so the state argues against tribal sovereign rights, tribal interests and its own greater interests.

This article first provides a brief summary of tribal civil jurisdiction over nontribal members. Next it goes over the case and the arguments advanced by the parties before analyzing Oklahoma's arguments in favor of limiting tribal court jurisdiction. Lastly it looks broadly at the implications this case could have within Oklahoma, including the impact of native nations within the state, the current reality of tribal civil jurisdiction and how this case affects all Oklahomans.

TRIBAL CIVIL JURISDICTION: A BRIEF OVERVIEW

Native nations and their mechanisms for dispute resolution have existed for far longer than the United States. As settlers came and colonized the lands now known as the United States, these dispute resolution mechanisms have evolved along with native governing structures. Federal law now treats native nations as "domestic dependent nations" — semi-autonomous entities which retain all aspects of their inherent sovereign powers except those divested by federal statute or treaty or which are incompatible with their status within the United States.² Over time the U.S. Supreme Court stripped tribes of their ability to exercise criminal jurisdiction over nonmembers absent congressional authorization.³ However, it has declined to extend a similar blanket prohibition against tribal civil jurisdiction over nonmember defendants.

Generally speaking, tribes lack civil jurisdiction over nonmember defendants with two important exceptions.⁴ First, if a nonmember enters a consensual commercial relationship with a tribe or its members, “a tribe may regulate” the nonmember’s activities “through taxation, licensing, or other means”⁵ if there is a causal nexus between that relationship and the conduct involved.⁶ Second, if the nonmember’s “conduct threatens or has some direct effect on the political integrity, the economic security, or the health or welfare of the tribe,” then the tribe retains civil jurisdiction.⁷ The exercise of civil jurisdiction depends in part on the location of the events giving rise to the suit — if the land is owned by the tribe or its members, Supreme Court precedent supports the exercise of tribal jurisdiction.⁸ This however “is only one factor to consider” in determining whether a tribal court has civil jurisdiction over a nonmember.⁹

Native nations have exercised jurisdiction in what is now Oklahoma for nearly two centuries. By 1840, for example, the Cherokee Nation had a complex court system with evidentiary procedure, jury rules and a printed legal code.¹⁰ As time went on, several factors lead to the divestiture of tribal lands including allotment, which resulted in a “checkerboard” jurisdictional scheme whereby tribal lands became interspersed with state-controlled lands. Even so, the Oklahoma Enabling Act and the Oklahoma Constitution guaranteed the state would never extend control over tribes, reserving this power for the federal government.¹¹

The people inhabiting the State do agree and declare that they forever disclaim all right and title in or to ... all lands ... owned or held by any Indian, tribe, or nation; and that until the title to any such public land shall have been extinguished by the United States, the same shall be and remain subject to the jurisdiction, disposal, and control of the United States.¹²

Even so, tribes have a long-standing practice of working with the state to resolve questions arising out of this complex jurisdictional scheme found within Oklahoma.¹³

Oklahoma has expressly recognized the authority of tribal court judgments since 1994.¹⁴ Under 12 O.S. §728, the Oklahoma Legislature affirmed the Oklahoma Supreme Court’s power to extend full faith and credit to all judicial proceedings “of any court of any federally recognized Indian nation” so long as that tribal court similarly agreed to grant reciprocity to Oklahoma state court judgments. Both sovereigns benefit from having their judgments recognized in the other’s courts.

DOLLAR GENERAL CORPORATION V. MISSISSIPPI BAND OF CHOCTAW INDIANS

In 2003 John Doe, a minor tribal member, worked in a Dollar General store located on tribal lands. Dollar General leased the store building from the Mississippi Band of Choctaw Indians (tribe) and agreed to abide by the tribe’s laws and be subject to its jurisdiction.

During his employment, Doe was allegedly sexually assaulted by the store manager. He and his parents brought a tort suit against Dollar General for vicarious liability and negligence. Dollar General sought to dismiss the suit, but both the tribal court and the Choctaw Supreme Court held that Dollar General had a consensual commercial relationship with the tribe and the suit arose out of that relationship. By leasing the building and benefitting from Doe’s employment at their store, Dollar General had impliedly consented to tribal jurisdiction for actions arising from his employment.

Dollar General appealed the decision to federal district court, and then to the 5th Circuit Court of Appeals. Both upheld tribal court jurisdiction over the suit due to Dollar General’s consensual commercial relationship with the tribe. Dollar General then appealed to the U.S. Supreme Court, arguing for a blanket prohibition on tribal court jurisdiction over nonmembers absent explicit consent. According to Dollar General, tribes were divested of the power to hear all civil claims involving nonmembers as an incident of their status as “domestic dependent nations.” Therefore the only way tribes can hear such claims is if Congress delegates this power to tribes or if a party consents. While Dollar General gave consent to suits *arising from its lease*, it argues

“Generally speaking, tribes lack civil jurisdiction over nonmember defendants with two important exceptions.”

this does not extend to other actions arising from its presence on tribal lands.

The tribe's reply concentrates on Dollar General's consent. Dollar General is not a "stranger[]" to the Tribe's laws or the Tribe's court system," and could reasonably foresee being sued in tribal court as a result of its lease with the tribe, which expressly provided for "exclusive venue and jurisdiction" within the tribe's court system and application of tribal tort law.¹⁵ The tribe cautioned the Supreme Court against overturning settled precedent upholding limited tribal civil jurisdiction over nonmembers in favor of a blanket prohibition.

BRIEF OF THE STATES OF OKLAHOMA, WYOMING, UTAH, MICHIGAN, ARIZONA AND ALABAMA

Attorney General Scott Pruitt, on behalf of the state of Oklahoma and several other states, submitted an amicus brief in support of Dollar General. The brief argues that the U.S. Supreme Court must step in and divest tribes of their authority to litigate civil tort claims against nonmembers based on the fear that states will become "a patchwork of jurisdictions adjudicating tort claims in a disparate manner."¹⁶ It advances numerous arguments in support of stripping tribal courts of authority to hear civil claims involving nonmembers, all of which stem from the assertion that tribes generally are ill-equipped to adjudicate nonmember claims. The arguments essentially boil down to a perceived lack of fairness to nonmembers in permitting tribes to retain jurisdiction over civil claims between tribal members and nonmembers arising from conduct within Indian country.

The state brief highlights Oklahoma's checkerboard jurisdictional scheme created through allotment. It warns that if the Supreme Court does not strip tribes of jurisdiction to hear tort claims involving nonmember conduct on tribal lands, Oklahoma will become an unnavigable jurisdictional maze.¹⁷ It reiterates the problems with permitting a jurisdictional checkerboard especially affect Oklahoma — "citizens of a state like Oklahoma will find themselves suddenly subject to a dizzying array of tribal laws in a dizzying array of tribal courts."¹⁸ But contrary to the brief's assertions, declining to adopt a bright-line civil jurisdictional bar will not result in Oklahoma becoming a "patchwork of jurisdictions," as this is already the status quo in Oklahoma.

Additionally, upholding the 5th Circuit's decision will not interject "significant legal uncertainty" into the picture because it does not change the scope of tribal jurisdiction — tribes already hold jurisdiction over nonmembers when there is a consensual commercial relationship between a tribe or a tribal member, express consent to such jurisdiction and a nexus between the injury which has occurred and the relief requested. Tribes retain civil jurisdiction over claims against nonmembers for torts arising on tribal land as an incident of their inherent sovereignty.¹⁹ For the Supreme Court to divest tribes of this power "would be equivalent to an act of conquest,"²⁰ contrary to the federal government's goals of promoting tribal sovereignty and self-determination.

The state argues that tribes cannot adjudicate tort claims because tribal courts are inherently unfair to nontribal members. This is a three-part argument: first, tribal courts are each unique systems without uniform "tribal law;" second, tribal courts are unsophisticated and lack common legal standards such as discernable legal code and law-trained practitioners; and third, tribal courts are inherently biased against nonmembers and cannot be trusted to fairly adjudicate claims.

The state asserts that because there are numerous native nations within the United States, each of which is its own distinct entity, there is too much variation between tribal court systems for the average American to be able to give valid consent.

[T]ribal court systems vary wildly from tribe to tribe ... each Native American tribe has its own customs and traditions, meaning that a different point of substantive law may be applied ... There is no general code governing tort ... nor is there an established body of tribal case law delineating the contours of tribal common law ...²¹

The brief further disparages tribal courts as being unable to provide "any level of predictability or normalcy" within the area of tort litigation due to each tribe's status as an individual sovereign.

Yet there exists within the United States itself 50 semi-sovereign states, each with its own unique legal system and common law. It seems unlikely that Oklahoma would bemoan its ability to develop its own legal system instead of imposing a blanket federal court system throughout the United States. The brief's argu-

ments decrying tribes for not adopting a one-size-fits-all “tribal law” system, as opposed to each sovereign tribe developing a system that fits its own unique needs and goals, is disingenuous. Tribal systems vary widely, but so do tribes, as do states (and even the counties and municipalities therein).

Many of the brief’s arguments are based on the notion that tribal courts are somehow inferior to other court systems, adopting cryptic and changing legal standards as they see fit, without any basis in law. “Tribal tort law is far too opaque to provide the fair notice and clarity necessary.”²² Even nonmember attorneys are unable to discern what legal standards tribal courts utilize — there is “quite literally ... no way for a nonmember litigant to know in advance what [tribal] tort law encompasses.”²³ The brief utilizes sweeping generalizations (while generally complaining about the diversity of tribal court systems) to emphasize most tribal court systems lack discernable legal codes, use unknown customs and traditions to decide cases and lack appellate procedure.²⁴ Their unsophisticated nature compromises the due process rights of nonmembers. Further, because tribal common law may stem from customs and traditional knowledge held by tribal elders, the independence of tribal judicial systems is compromised.²⁵

This argument amounts to nothing more than general uninformed bias against tribal court systems, many of which have well-established, sophisticated legal systems and others which utilize federally established Courts of Indian Offenses (CFR courts). As pointed out by an amicus brief submitted by several Oklahoma tribes, their court systems (as well as many others) “closely resemble those of the United States and the States” “headed by a Constitutionally established Supreme (or Constitutional) Court” and utilize law-trained judges, rules of judicial conduct and established appellate procedure.²⁶ Their legal opinions, civil procedure and statutory law are easily accessible via an Internet search or *West-law* search.²⁷

Further, the state’s brief fails to recognize that tribes lacking their own established court system rely on federal CFR courts to adjudicate civil claims where at least one party is an Indian. CFR courts are regulated by federal procedure created by federal regulations, and utilize federally employed magistrates to resolve disputes.²⁸ Each CFR court has a trial

and appellate court.²⁹ According to the state’s brief, however, these federally established courts are apparently incapable of resolving disputes involving nonmembers.

Finally, while Oklahoma law grants full faith and credit to tribal court judgments, nothing within that law speaks to the due process concerns espoused by the state’s brief. It is hard to comprehend why the Oklahoma Supreme Court would recognize tribal court judgments if they were issued by inherently unfair courts incapable of protecting a party’s rights of due process.

The state’s brief further asserts that state and federal courts are the proper forums for civil tort claims between tribal members and nonmembers as “State and federal courts have always provided an adequate and fair forum for resolution of tort claims between state citizens who are members of tribes and state citizens who are not.”³⁰ However, again other amicus briefs point out the inconsistency of the state’s position:

The States’ arguments here, including the suggestion that their own courts are somehow superior to tribal courts, conflicts with what their counsel has argued elsewhere ... [I]n *Oklahoma Water Resources Board v. United States*, No. 110375 (Okla.), the Oklahoma Attorney General — counsel of record on the States’ amicus brief — asserted that the trial courts of his own State are *not* an adequate forum for disputes between Indians and non-Indians ... The Attorney General argued that the state high court needed to take original jurisdiction so as to ‘avoid important matters affecting the entire State from being decided by local judges, who are subject to local political pressures.’³¹

It is hard to understand how state courts can provide a neutral and fair forum for some disputes but not for others. The brief’s arguments are undercut by the attorney general’s prior position advocating against local state court jurisdiction based on bias.

Finally, the state’s brief asserts that the 5th Circuit’s decision upholding tribal court has overturned a “longstanding framework” of state and federal jurisdiction over civil actions between tribal members and nonmembers, and interjected “significant legal uncertainty” within this realm. It attempts to distinguish Oklahoma’s resulting situation as disparate from any other worldwide:

It is hard to conceive of any other jurisdiction in the developed world where a citizen of one sovereign could be potentially subject to tort liability in the courts of nearly 40 different sovereigns, applying 40 different bodies of law — but that could be the case in Oklahoma if the decision below is not reversed.³²

However, declining to divest tribes of civil jurisdiction will not result in a unique situation unheard of in the rest of the developed world where a citizen could be subject to the jurisdiction of several different sovereigns. After all, a day's drive from Baltimore to Portland, Maine, could subject a United States citizen to the jurisdiction of at least nine different sovereigns (and dozens of their municipalities), in addition to the federal government — that of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, New Hampshire and Maine. If state jurisdictions, each with diverging court systems, court customs and common law, can assert jurisdiction over a United States citizen traveling through their bounds without issue, one must wonder why tribal jurisdictions would be any different.

While the state's brief declares the Supreme Court will essentially be creating tribal civil jurisdiction over nonmembers, this is simply untrue. Tribal civil jurisdiction over claims such as those arising in this case already exists. There is no evidence the unique nature of a tribe's court system makes it inherently biased or that nonmembers will be subject to potentially egregious court procedure without adequate protection.

THE EFFECT OF TRIBES WITHIN THE STATE OF OKLAHOMA

While the state's brief undermines tribal sovereign rights based on notions of bias and incomprehensible legal standards, one must consider whether this derogation of tribal powers actually benefits the state. As 2016 begins Oklahoma faces not one but two revenue failures and a budgetary shortfall amounting to \$1.3 billion.³³ Additionally as the energy sector has declined, around 12,000 Oklahomans have lost their jobs, resulting in lagging income tax

revenues and an increased strain on Oklahoma's social services. State budgets for the rest of fiscal year 2016 have been cut drastically, affecting many of its most integral departments. The first revenue failure alone reduced budgets for essential services, including the Department of Education (\$46.8 million) and the Oklahoma Health Care Authority (\$27.4 million).³⁴ Oklahoma's outlook for the next several years remains grim without a quick (and unexpected) turnaround in the energy sector.

In the meantime, native nations within Oklahoma are prospering and providing much-needed tax income to the state through gambling compact payments, tobacco compact payments, income taxes, sales taxes and other taxes. Tribal gaming alone generates approximately \$265 million in annual payroll related taxes,³⁵ and tribes paid more than \$128 million in gaming compact fees in 2015 alone.³⁶

Since approval of the tribal gaming compact by statewide referendum in 2004, Oklahoma tribes have contributed more than \$1 billion to the state in exclusivity fees — an average of more than \$100 million annually.³⁷ Tribes make indirect contributions to the state's budget by providing annual funding statewide for education (\$60 million), medical services (\$350 million), social services (\$165 million) and road and bridge repair (\$65 million).³⁸ The state's current budgetary shortfall could easily double without assistance from tribal tax revenues, compact payments and services.

Moreover tribes provide an economic boon in rural Oklahoma, generating approximately \$10.8 billion in statewide economic output annually — nearly one-tenth of Oklahoma's economic output.³⁹ Tribes regularly employ over 50,000 Oklahomans⁴⁰ and approximately 60 percent of tribal gaming employees are non-native.⁴¹ Gaming by far is the largest source of tribal employment, providing for approximately 37,400 jobs and yielding "a total estimated impact on personal income of over \$1.9 billion annually for the State of Oklahoma as a whole."⁴² Tribal gaming is the 19th largest industry employer in the state — providing about one out of every 55 jobs within Oklahoma.⁴³ These employees

“...tribes lacking their own established court system rely on federal CFR courts to adjudicate civil claims where at least one party is an Indian.”

receive healthcare benefits and retirement benefits like many other private sector employees.⁴⁴ Further, even as the state has worked to place a moratorium on local minimum wage hikes, native nations help to ensure working people earn a decent living by setting their own minimum wages — some as high as \$11.50 an hour.⁴⁵

Even as native nations help to boost Oklahoma's governmental revenues and provide services and benefits to all Oklahomans, the state argues against native interests. How is it that tribes sophisticated enough to engage in complex business ventures with international companies (who regularly willingly submit to the jurisdiction of tribal courts) are incapable of fairness and justice in those tribal courts? What benefit does Oklahoma stand to gain by arguing against the continued development of strong tribal governments — the primary goal of the Indian Gaming Regulatory Act by which the state has received more than \$1 billion in direct payments in addition to countless other economic benefits for Oklahomans? Furthermore, what chaos will result in Oklahoma if our current method of adjudicating civil claims and recognizing both tribal and state court judgments through reciprocity is overturned? Could this adversely impact the legal framework established in tribal-state gaming compacts for adjudicating tort and prize claims, thus endangering the state's compact relationship with tribes? Finally, has anyone considered the issue of whether due to the fact that state courts lack jurisdiction over Indian country as espoused in our state constitution, certain individuals may be without an adequate forum to seek relief if tribal courts are likewise divested of jurisdiction to hear these claims?

In reality tribal courts already exercise the sort of jurisdiction complained of in the state's amicus brief. They do so in a fair and unbiased manner and have those tribal court judgments recognized and enforced in state court under state laws. Undermining this already-established system goes against both tribal and state interests and interjects legal uncertainty back into the area of tort claims arising on tribal lands. Native nations have existed in this area (whether originally or after removal) for hundreds of years — they are not going anywhere. The state's brief does nothing to assist in building tribal-state relations and, in fact, damages the state's ability to work with Oklahoma tribes. Instead of working to undermine tribal-

state relations, the state must consider how it is going to work *with* tribal governments for the benefit of *all* Oklahomans.

1. 135 S.Ct. 2833 (No. 13-1496) (2015).
2. Jacob R. Masters, "Off the Beaten Path? The Ninth Circuit's Approach to Tribal Courts' Civil Jurisdiction over Nonmember Defendants," 38 *Am. Indian L. Rev.* 187, 189 (2014).
3. Congress has acted several times to expand tribal criminal jurisdiction abrogated by Supreme Court precedent. After the U.S. Supreme Court abrogated tribal criminal jurisdiction over nonmember Indians in *Duro v. Reina*, 495 U.S. 676 (1990), Congress passed the "Duro-Fix" re-recognizing tribal criminal jurisdiction over all Indians. Congress again expanded tribal criminal jurisdiction in the Tribal Law and Order Act, increasing the sentences that can be imposed in tribal court. Shortly thereafter, Congress partially overturned *Oliphant v. Suquamish Indian Tribe*, 435 U.S. 191 (1978) (holding tribes lack criminal jurisdiction over non-Indians) by reauthorizing the Violence Against Women Act of 2013, which provides for limited tribal criminal jurisdiction over non-Indians committing domestic violence within Indian country. Tribal Court Clearinghouse, "Indian Civil Rights Act," *Tribal Law & Policy Inst.*, www.tribal-institute.org/lists/icra.htm (last visited Jan. 20, 2016).
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12. Okla. Const. art. I §3.
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ABOUT THE AUTHORS



William R. Norman Jr. of Muscogee (Creek) descent, joined Hobbs Straus in 1994. He is a partner in the firm. His efforts as lead negotiator on the Oklahoma tribal gaming compact and the groundbreaking Oklahoma tobacco tax compact have secured a foundation for economic success and stability for Oklahoma tribes. His litigation work at the tribal, state and federal level has resulted in the successful protection of tribal sovereignty and assets against numerous claims.



Randi D. Hardin, a citizen of the Choctaw Nation of Oklahoma and of Comanche descent, joined Hobbs Straus in 2015 after receiving her J.D. with honors from the OU College of Law. While at OU, she also earned a certificate in Native American law and a Master of Arts in

Native American studies. Prior to joining as an associate, she worked at the firm as a law clerk.

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Kirk & Chaney is pleased to announce Amber Brock has joined the firm as an associate. Ms. Brock received a B.S. in Economics from OSU in 2006 and a J.D. from the TU College of

Law in 2009. She has broad experience in civil litigation, including family law, insurance defense, employment, probate, bankruptcy and many other areas.

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Made in Indian Country

Government Contracting Opportunities for Tribes and Tribal Members

By Jennifer N. Lamirand

Banking, viticulture and tourism represent only a handful of the industries tribal nations across the country now occupy in the hope of increasing development in their communities. As the diversification of tribal businesses increases, so too do the opportunities for such businesses to compete for government contracts. Just this January the United States Department of the Interior Bureau of Indian Affairs (BIA) released a national policy memorandum calling for all involved in Indian affairs, including the BIA, the Bureau of Indian Education and the offices of the Assistant Secretary – Indian Affairs, to improve the implementation of the 1970 Buy Indian Act and to maximize acquisitions from Indian enterprises.¹

This act, made to put an Indian preference policy in place, represents one of the many incentives for businesses owned by tribes or tribal members to participate in the government contracting arena and for government agencies and larger contractors to work with them. While not without many limitations and some complicated requirements, with preference policies and incentives in place, government contracting offers yet another possible route to greater economic independence for tribes and their members. This article highlights a few of the important policies and incentives available to assist businesses in Indian Country hoping to enter the federal marketplace.

THE BUY INDIAN ACT

The Buy Indian Act establishes a broad Indian preference policy for all bureaus and offices operating under the Assistant Secretary – Indian Affairs. This policy includes a preference for both the employment of tribal members as workers in

the labor force fulfilling contracts and the purchase of products made by Indian businesses as much as practicable.² Additionally, it serves as the authority for the BIA, and other bureaus and offices within Indian affairs, to specifically set aside contracts for Indian-owned businesses.³ Major requirements in order for a business to compete for these contracts include at least 51 percent Indian ownership, management of the contract by the Indian business, receipt of the majority of the earnings by the Indian owners and control of the daily business operations by the Indian owners.⁴ In this context, “Indian” means a member of any tribe, band, nation or other recognized group or community “that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, including any Alaska Native village or regional or village corporation under the Alaska Native Claims Settlement Act ...”⁵ Ownership by a tribe, band, nation or community also qualifies.⁶

THE INDIAN FINANCE ACT

Section 1544 of the Indian Finance Act establishes an even more tangible bonus to motivate the inclusion of Indian businesses in the contracting process. The Indian Finance Act allows any contractor of a federal agency that subcontracts with an Indian organization or an Indian-owned economic enterprise to receive a bonus equal to 5 percent of the amount of the subcontract awarded.⁷ The act defines an “Indian-owned economic enterprise” as any “Indian-owned ... commercial, industrial, or business activity established or organized for the purpose of profit: Provided, [t]hat such Indian ownership shall constitute not less than 51 per centum of the enterprise.”⁸ An “Indian organization” means the “governing body of any Indian tribe ... or entity established or recognized by the governing body for the purpose of this chapter.”⁹ The definition for “Indian” for the purposes of this act tracks the definition applied in the Buy Indian Act discussed earlier.¹⁰ The Indian Finance Act applies to all U.S. government agencies; however, the Department of Defense primarily takes advantage of this program and appropriates millions of dollars in funds to pay for subcontracting bonuses each year.¹¹ In addition to the bonus, contractors also receive credit toward their small business and small disadvantage business contracting goals for working with tribal businesses.

THE SECTION 8(A) BUSINESS DEVELOPMENT PROGRAM

For businesses in the early stages of formation, the Small Business Act Section 8(a) Business Development Program, administered by the Small Business Administration (SBA), offers mentorship and development assistance as well as a way to gain access to certain sole source and set-aside contracts to increase business growth. Section 8(a) of the Small Business Act authorizes the creation of a minority small business and capital development program (8(a) Program) to assist small, disadvantaged business concerns get off the ground in the government contracting field.¹² At the most basic level, admission to the 8(a) Program requires only unconditional ownership and

control of the small business involved “by one or more socially and economically disadvantaged individuals” of good character with both citizenship and residence in the United States and a demonstration of potential for success.¹³

Looking at the 8(a) Program requirements in more detail shows a distinct advantage for businesses owned by tribal members and/or tribes themselves. Since a presumption of social disadvantage attaches to federally recognized tribes and their members for the purposes of this program (13 C.F.R. §124.103(b) (2015)), small businesses need only show 51 percent ownership by a qualifying tribe or tribal member in order to pass the social disadvantage threshold.¹⁴ As far as economic disadvantage,

“Looking at the 8(a) Program requirements in more detail shows a distinct advantage for businesses owned by tribal members and/or tribes themselves.”

the business must demonstrate this element through various submissions to the SBA.¹⁵ For a tribe, such submissions include information on the number of tribal members, the tribal unemployment rate, per capita income of tribal members, etc.¹⁶ Importantly, tribes seeking qualification for the 8(a) Program for their businesses must demonstrate, among other things, that the official documents of organization or incorporation for the business at issue contain an express waiver of sovereign immunity to suit.¹⁷ After a tribe makes this showing once for an 8(a) Program business, it usually need not do so again for subsequent 8(a) Program busi-

nesses. Economic disadvantage for an individual means his ability “to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business...”¹⁸ For initial eligibility in the 8(a) Program, the net worth of an individual claiming disadvantage must not exceed \$250,000, and continued participation requires a net worth of less than \$750,000.¹⁹ The SBA considers information such as personal income for the previous two years, personal net worth, fair market value of all assets excluding any equity in a personal residence and the financial condition of the applicant as compared to the financial profiles of similar small businesses in the same industry classification when determining economic disadvantage.²⁰

As for the element of control, control of the small business by social and economically disadvantaged individuals refers to control over both management and daily business operations.²¹ However, special requirements for control apply to tribally owned small businesses.²² These requirements allow for management of a tribally owned business by the tribe through one or more disadvantaged individuals or through a committee, team or board of directors controlled by one or more tribal members.²³ As long as a tribe remains in control of management decisions, the federal regulations allow for management of the tribally owned small business by nontribal members.²⁴

Whether owned by a tribe or an individual tribal member, entry into the 8(a) Program also depends on an ability to demonstrate potential for success and the “good character” of the business owners.²⁵ Usually, the SBA measures potential for success by looking for at least two full years of operations in the primary industry classification for the business prior to the submission of an application for the 8(a) Program.²⁶ The SBA may waive the two-year requirement upon the meeting of certain conditions, such as the business management experience of the business owners, technical experience suggesting a likelihood of success, capacity to carry out operations, etc.²⁷ It also relaxes this standard if a tribe vouches for the business and agrees to support it. The “good character” requirement basically defeats all applications by individuals lacking in integrity, as demonstrated by criminal charges, convictions or incarcerations for offenses involving integrity or even civil judgments or settlements for a cause of action based on lack of integrity.²⁸

Lastly on the qualification front, as suggested by its management by the Small Business Administration, the 8(a) Program only takes small businesses. In order to qualify for admission, a business must comply with the size requirements found in the Code of Federal Regulations for small business concerns. Title 13, part 121, section 601 of the Code of Federal Regulations defines a small business for the purposes of admission to the SBA 8(a) Program as a business that does “not exceed the size standard corresponding to its primary industry classification ...” This standard applies to tribally owned businesses.²⁹ The SBA annually publishes a chart of the small business size standards for industry classifications accord-

ing to the North American Industry Classification System (NAICS) at title 13, part 121, section 201 of the Code of Federal Regulations. The size measurement for the SBA 8(a) Program occurs at the time the SBA “certifies it for admission into the program.”³⁰ Thereafter, 8(a) Program businesses must provide self-certifications of size as a part of each bid for a sub-contract verifying compliance with the size requirements according to the NAICS code assigned to *that* contract.³¹ All 8(a) Program businesses must maintain their status as small businesses according to the appropriate primary industry standard, as adjusted from time to time, in order to remain eligible.³²

Once a business qualifies for entry into the 8(a) Program, it receives the opportunity to gain mentoring assistance with the government contracting process, to compete for set-aside contracts for 8(a) Program businesses and to gain sole source contracts for 8(a) Program businesses during its program term, usually nine years. In general, all contracts set aside for the 8(a) Program must enter competition between eligible 8(a) Program participant businesses if they exceed \$4 million for service contracts or \$6.5 million for manufacturing contracts.³³ However, a lull in economic development in Indian Country motivated the U.S. government to approve a fast-track option for the awarding of single-source contracts to tribally owned businesses even if the contracts exceed these competitive thresholds. Thus, tribally owned 8(a) Program businesses maintain the ability to accept single source contracts in excess of the threshold marks without going through the competitive process.³⁴ In order for the SBA to award the contract to a tribally owned business outside of the competition process in accordance with section 124.506(b), the contract must not qualify as a contract accepted by the SBA into the 8(a) Program as a competitive procurement.³⁵ New rules proposed in 2015 open up a similar, sole-source provision for women-owned small businesses.

THE 8(A) MENTOR/PROTÉGÉ PROGRAM

Another sizeable advantage arises out of the 8(a) Program for both businesses starting out in government contracting and the larger contractors who work with them: the mentor/protégé program. The mentor/protégé program allows a business to act as a mentor to an 8(a) Program business and to affiliate with that business in a joint venture for any government procurement.³⁶ Any business can act as a men-

tor, including a business in the transitional stage of the 8(a) Program (the last five years of its term) or a graduate of the program.³⁷ For the purposes of 8(a) Program sole source contracting for a joint venture between a mentor and protégé, the size thresholds for small businesses only apply to the protégé firm, not the mentor firm or the combination of the two.³⁸ The mentor/protégé program requires the entry of a written agreement between the two businesses involved, approval of the arrangement by the SBA and the submission of annual certifications to the SBA about eligibility, contracts received and the benefits the protégé receives from the mentor relationship.³⁹ New rules for the mentor/protégé program intend to change the time limitations on mentor/protégé relationships and to open this program to all small businesses, not just 8(a) Program businesses.

CONCLUSION

Multiple incentives currently motivate agencies and large government contractors to work with businesses owned by tribes or tribal members for their procurement needs. The discussion above highlights a few such incentives and a few of their basic elements. However, acquisition regulations and programs, such as the 8(a) Program, continue to change and evolve over time. Further, many more requirements and regulations restrict government contractors and the way they operate. Tribes and tribal members wanting to grow their businesses in the way of procurement can benefit from both legal advice on government contracting and mentor relationships with other contractors in their specific field. For those willing to navigate through the qualifications and restrictions and to build relationships with mentors, government contracting offers yet one more way for tribal communities to achieve greater independence and economic diversification.

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3. 25 U.S.C. 47; DIAR 1480 (2015).
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11. See Defense Appropriations Act FY 2015, Pub.L.No. 113-235, 128 Stat. 2256, §8020 (2014); 25 U.S.C. 1544.
12. 13 C.F.R. §124.1 (2015).
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17. 13 C.F.R. §124.109(c)(1) (2015).
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ABOUT THE AUTHOR



Jennifer Lamirand is an associate at the Oklahoma City office of Crowe & Dunlevy P.C. She is a member of the Indian Law and Gaming, Insurance and Securities Litigation Practice Groups. Ms. Lamirand received her J.D. from the University of Notre Dame Law School and an LL.M. in international business law from the London School of Economics and Political Science.

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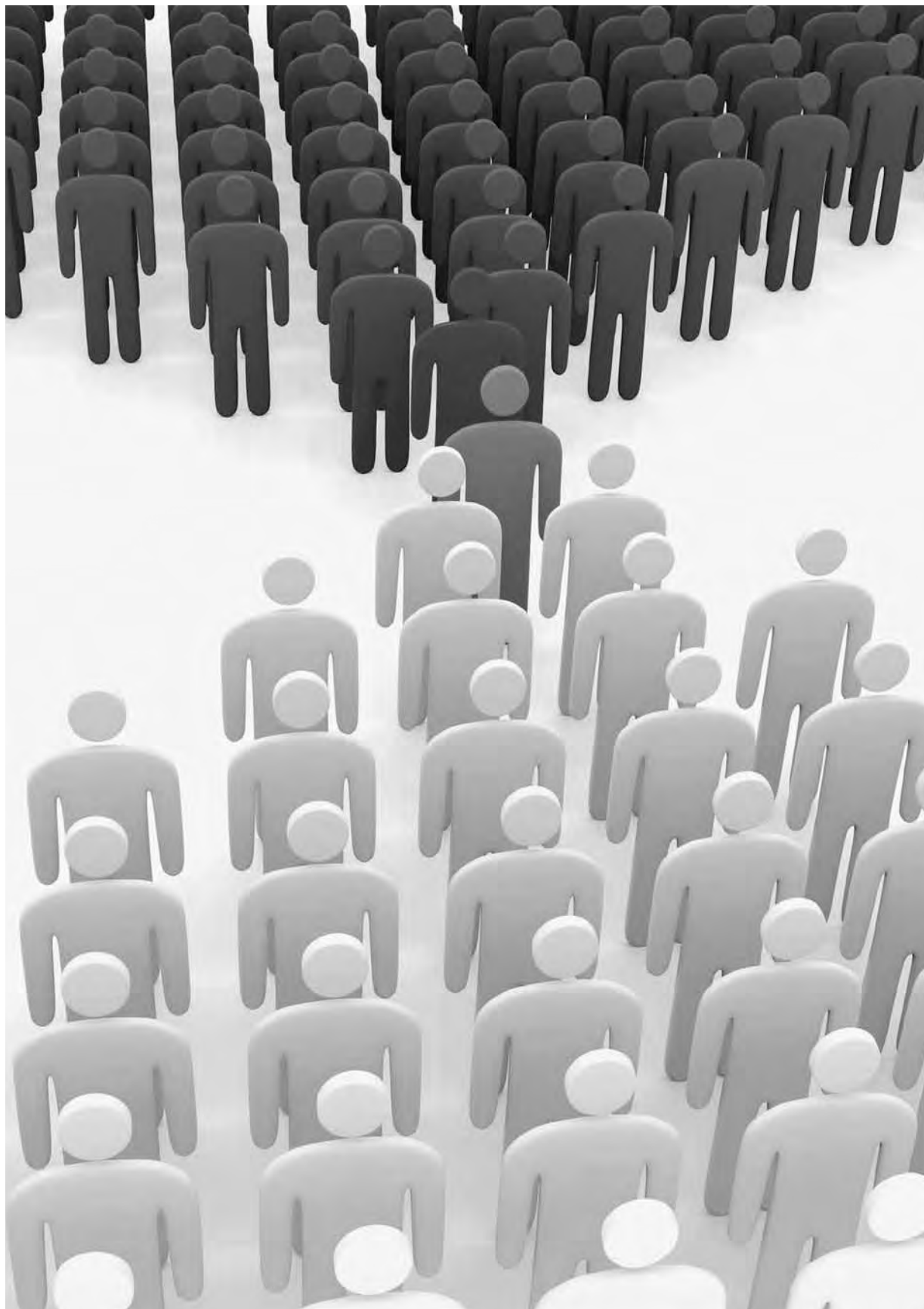
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Tribal Leadership Disputes

By Wilda A. Wahpepah

Widely published news reports of protracted tribal leadership disputes illustrate a basic principle of federal Indian law: a tribe's inherent sovereignty means tribal law controls the resolution of leadership — and membership — disputes. Such disputes also, however, can be intractable and take years to resolve. In extreme cases, a tribe's business enterprises may suffer or even close, and a tribe's commercial partners may be subject to conflicting direction from different leadership factions. Recent leadership disputes, however, can provide legal practitioners with guidance concerning when — and to what extent — federal authorities, and in two examples, state authorities, may get involved. Practitioners can also draw several lessons from such disputes and incorporate contract terms to mitigate disruptions to commercial relations.

INHERENT SOVEREIGNTY AND FEDERAL INVOLVEMENT

As a matter of federal Indian law, the United States has plenary power of tribal affairs.¹ While this power includes the power to recognize and terminate Indian tribes and to legislate with regard to tribal assets and property, federal power is more limited in the sphere of determining leadership of tribes.² A tribe is free to maintain or establish its own form of government, unless Congress has passed a statute dictating the manner of choosing tribal officials or other aspects of a tribe's form of government or a tribe's treaties contain governmental restrictions.³ Similarly, a tribe's decisions on its membership are considered to be purely internal tribal matters.⁴

Federal courts have routinely declined to assert jurisdiction over such disputes because they are viewed as an intrusion into tribal sovereignty.⁵ Moreover, a tribe's sovereign immunity

to suit would prohibit a suit unless the tribe waived its immunity. Federal courts have also found that leadership disputes are not justiciable under the federal Indian Reorganization Act, federal voting rights statutes or other civil rights laws.⁶ The federal Courts of Indian Offenses do not provide a forum for leadership disputes unless the tribe has authorized such jurisdiction.⁷ Federal courts, however, have considered such courts "tribal courts" and have deferred to the Courts of Indian Offenses to determine its own jurisdiction over a leadership dispute.⁸ Thus, internal tribal processes and tribal forums, including tribal courts if available, are the primary arbiters of tribal leadership disputes.

On rare occasions, the U.S. Department of the Interior (DOI) has asserted a role in leadership disputes when, in DOI's view, it has been necessary to identify the representatives of the tribe to carry out a government-to-government relationship with the tribe.⁹ In such cases, DOI may act

to recognize leadership on an interim basis pending final resolution by the tribe.¹⁰ In general, DOI's practice is to recognize "the last undisputed officials."¹¹ DOI may decline to identify the last undisputed leaders if recognition is not needed for a specific government-to-government purpose or may defer to pending matters in tribal court.¹² Action by DOI, however, may be required when failure to do so would jeopardize the continuation of necessary day-to-day services to tribal members.¹³ In exceptional cases, DOI may interpret tribal law to resolve a dispute.¹⁴ DOI's decisions may be challenged through the administrative appeals process and the DOI Board of Indian Appeals (board). Board decisions may be reviewed in federal court under the Administrative Procedure Act¹⁵ where courts are authorized to hold unlawful and set aside agency action, findings and conclusions that are arbitrary, capricious, an abuse of discretion or otherwise not in accordance with law.¹⁶ Courts reviewing such decisions have measured agency action against the competing principle of tribal self-governance.¹⁷

EXTREME LEADERSHIP DISPUTES

Recent examples involving tribes in California illustrate the disruption that can result from leadership disputes. According to news reports and court filings, the Paskenta Band of Nomlaki Indians became embroiled in a dispute when the tribal chairwoman attempted to remove certain family members from the tribe's annual meeting in April and banish them from the reservation near Corning, California.¹⁸ DOI became involved when the state Attorney General's Office and the county Sheriff's Office reported that an armed and uniformed security force had barricaded and surrounded the tribe's casino, several members were openly carrying AR-15 weapons and tribal members were gathering at the site, increasing tensions.¹⁹ In a letter dated June 9, 2014, the Bureau of Indian Affairs (BIA) superintendent noted that the reported conduct violated a number of federal statutes, including the federal Indian Long-Term Leasing Act, the National Environmental Policy Act and Indian Reservation Road regulations requiring such roads be open and available for public use.²⁰ The letter demanded that the tribe cease and desist its operation, remove structures and vehicles and restore the land to prior use. The letter also recognized the last uncontested tribally elected tribal council and identified the five individuals making up the tribal council, stating that

"The BIA will continue to recognize these individuals as the Tribe's elected leadership and Tribal Council until this internal dispute can be resolved by the Tribe, pursuant to the Tribe's own governing documents and processes."²¹

The state of California intervened in the dispute, filing a complaint in U.S. District Court on June 18, 2014, asking for a court order to protect the public health, safety and welfare. The complaint named the tribe as defendant and asserted federal question jurisdiction under the Indian Gaming Regulatory Act²² providing for federal court jurisdiction over "any cause of action initiated by a state or Indian tribe to enjoin a class III gaming activity located on Indian lands and conducted in violation of any tribal-state compact ... that is in effect."²³ The complaint also relied upon the tribe's waiver of its sovereign immunity in its gaming compact and covenants in which the tribe promised to conduct gaming in a manner that does not endanger the public health, safety or welfare and the state and tribe agreed to resort to "judicial process" in the case of imminent threat to the public health or safety.²⁴ The state of California cited the BIA's cease and desist letter and an email from an attorney for one faction stating that the faction intended to physically repossess and close the tribe's casino and feared violence.²⁵ The state alleged that the events at the tribe constituted a breach of the compact and asked the court to enter a temporary restraining order, preliminary and permanent injunctions prohibiting tribal members or their agents or employees from repossessing or taking control of the casino, deploying police officers or armed security to any location within 100 yards of the casino and surrounding tribal properties, possessing or displaying firearms on tribal property, and declare that the tribe had materially breached the compact and that the state may exercise all rights, powers and privileges with respect to the compact, including termination.²⁶

The district court issued a temporary restraining order on June 18, 2014, finding that, pending a hearing for a preliminary injunction, the tribe was engaged in an intra-tribal dispute in which two factions claimed leadership and the right to possess and control the tribe's casino and the dispute "has taxed the resources of the Tehama County Sheriff's Office and thus poses a threat to the public health, safety and welfare."²⁷ The court enjoined the tribe, its officers, agents, employees and all persons acting under

the tribe's control, "including both factions or groups currently claiming to constitute the tribal government."²⁸ The order prohibited the tribe from deploying armed personnel within 100 yards of the casino or tribal properties surrounding the casino, possessing or displaying firearms on the tribal properties, and attempting to disturb, modify or otherwise change the "circumstances currently in effect with respect to operation" of the casino.²⁹ The district court also said in the temporary restraining order it would consider "further argument regarding whether the court should enter a broader injunction preventing any class III gaming activity on Paskenta lands."³⁰

The parties then voluntarily stipulated to entry of a preliminary injunction in substantially the same form as the temporary restraining order and agreed to stay further litigation until October 2014.³¹ Concurrently, according to news reports, the tribal factions agreed to an independent audit, the suspension of disenrollments and a new election to be held in September 2014.³² A new leadership slate was elected and in 2015 brought a suit under the federal racketeering statute against former leaders, two banks, insurance, financial and other business partners of the tribe alleging that certain individuals embezzled from the tribe and the businesses "assisted" in the scheme.³³ Claims against the banks and other business defendants were dismissed because the court found that banks had no "actual knowledge" of wrongdoing to constitute aiding and abetting a scheme of wrongdoing.³⁴

When a leadership dispute arose at the Pica-yune Rancheria of Chukchansi Indians of California (Chukchansi), the BIA acted on Feb. 11, 2014, to recognize the last uncontested tribal council elected in December 2010.³⁵ DOI's action, however, did not end the dispute. Both the state and federal gaming regulators sought closure of the Chukchansi's casino in 2014 until the dispute could be resolved. The National Indian Gaming Commission (NIGC) issued a closure order on Oct. 7, 2014, citing the threat to public health and safety and the tribe's failure to submit required audit and other reports.³⁶

“The complaint also alleged Chukchansi had breached the compact when a tribal faction executed a takeover of the casino using firearms and stun guns...”

The state of California filed a complaint on Oct. 10, 2014, in U.S. District Court seeking a temporary restraining order (TRO), preliminary and permanent injunctions prohibiting "any Chukchansi tribal group" from deploying armed security within 100 yards of the casino and other tribal property in the vicinity, from possessing, carrying and displaying firearms, from endangering the safety of visitors, patrons and employees of the Chukchansi's casino and from operating the casino "until it is established ... that the public health and safety of Casino patrons, employees and tribal members can be adequately protected from the violent confrontations and threats of violent confrontation among the tribal factions disputing leadership of the tribe and control of the Casino."³⁷ The state of California's complaint alleged that the district court had federal question jurisdiction pursuant to the Indian Gaming Regulatory Act and that the tribe had waived its sovereign immunity to suit in its tribal-state gaming compact.³⁸ The complaint also alleged Chukchansi had breached the compact when a tribal faction executed a takeover of the casino using firearms and stun guns, threatening public health and safety and endangering tribal members, casino employees and patrons and the state's citizens and residents, including state law enforcement.³⁹ The district court entered a TRO and converted the TRO to a preliminary injunction on Oct. 29, 2014.⁴⁰

Despite an election in October 2015, some members of Chukchansi continued to dispute the leadership of the tribe, according to news reports.⁴¹ The NIGC, however, announced on Dec. 21, 2015, that it had reached an agreement with Chukchansi to reopen the casino. The agreement, as outlined by the NIGC, would require Chukchansi to pay a fine of \$19.8 million, a portion of which would be suspended by the NIGC if Chukchansi complies with specified operating conditions intended to ensure the health and safety of casino patrons and employees.⁴² If the NIGC finds Chukchansi out of compliance, the casino could be closed again and the suspended portion of the fine imposed.⁴³

IMPACT ON TRIBAL COMMERCIAL DEALINGS

These extraordinary cases demonstrate that leadership disputes can have lasting impacts on a tribe's commercial operations and relationships with the state, federal gaming regulators and business partners. Leadership disputes can put such partners in the position of not knowing which slate of elected leaders can speak for the tribe, bind the tribe to contracts, deposit the tribe's funds, withdraw such funds, execute documents on behalf of the tribe, order equipment and supplies, sign checks to pay the tribe's bills or execute any of the myriad of day-to-day business directives a tribe may need to issue to keep its businesses operating. Even outside the context of a tribal leadership dispute, a tribe's business associates must be aware of the doctrine of apparent authority as applied to tribes. Under this doctrine, courts have found that the authority possessed by a tribal official must be determined as a matter of tribal law.⁴⁴ Consequently, many business entities, particularly financial entities, that seek an enforceable agreement with a tribe already conduct thorough diligence into tribal law and tribal authorizations as part of documenting current transactions. As part of this diligence, parties request core tribal governance documents, such as a constitution or articles of incorporation, the identification of tribal officers and their term dates and tribal laws addressing the scope and authority of such tribal officers.

The existence of or potential for existence of a tribal leadership dispute requires both additional diligence and risk analysis on the part of the nontribal party. In most cases such diligence will reflect no concern that a leadership dispute exists or is likely to arise during the course of the business parties' relationship. If there is cause for concern, however, the parties may need to negotiate additional terms to cover such a contingency and ensure that a tribe's critical commercial dealings may continue. As with any contract negotiation, the specific terms will vary based upon the parties, their relationship, the type of contract (ongoing services versus a one-time purchase of goods) and the tribe's law. There are several options open to the parties in such cases. For example, the parties may wish to include, as part of diligence, written documentation of the tribal leadership slate currently recognized by DOI. The parties may consider drafting provi-

sions in their agreements that authorize the nontribal party, in the event of a dispute, to take interim direction from the last undisputed leadership slate of the tribe recognized by DOI until an ultimate resolution of the dispute is reached. Some parties have included indemnification of costs associated with defending against a dispute-related challenge. Nontribal parties should pay special attention to forum-selection provisions and consider whether it is necessary to negotiate terms requiring their consent before suits against them may proceed in tribal court in order to avoid a circumstance where dual tribal court systems are established by disputing tribal factions.

While leadership disputes are unusual, and in the exceptional case can be protracted and disruptive of a tribe's business affairs, they should be viewed by commercial parties as a risk to be ascertained, evaluated and, if necessary, mitigated in the documentation of a deal.

1. *United States v. Kagama*, 118 U.S. 375, 383-84 (1866); *United States v. Lara*, 541 U.S. 193, 200 (2004).

2. *Cohen's Handbook of Federal Indian Law*, §4.06[1][b] (2012 ed.); *Seminole Nation v. Norton*, 223 F. Supp.2d 122, 140 (D.D.C. 2002) ("[T]he DOI has the authority and responsibility to ensure that the Nation's representatives, with whom it must conduct government-to-government relations, are the valid representatives of the Nation as a whole.").

3. See *Cohen's Handbook of Federal Indian Law* at 282.

4. *Santa Clara Pueblo v. Martinez*, 436 U.S. 49, 72 n.32 (1978).

5. *Sac & Fox Tribe of the Miss. in Iowa v. Bureau of Indian Affairs*, 439 F.3d 832, 835 (8th Cir. 2006) (election disputes between competing tribal councils are nonjusticiable intratribal matters); *Boe v. Ft. Belknap Indian Cmty.*, 642 F.2d 276, 279 (9th Cir. 1981) (tribal election disputes do not raise federal questions).

6. *Boe v. Ft. Belknap Indian Cmty.*, 642 F.2d 276, 278-79 (9th Cir. 1981) (rejecting election dispute claims under Indian Reorganization Act and Indian Civil Rights Act); *Cruz v. Ysleta del Sur Tribal Council*, 842 F. Supp. 934, 935 (W.D. Tex. 1993) (rejecting election dispute claims under Voting Rights Act); *Nero v. Cherokee Nation*, 892 F.2d 1457, 1463 (10th Cir. 1989) (rejecting claims brought under Civil Rights Act).

7. 25 C.F.R. §11.118(b).

8. See Order at 3, *Caddo Nation of Okla. et al. v. Court of Indian Offenses*, Case 5:14-cv-00281-D (Aug. 7, 2014).

9. *Seminole Nation*, 223 F. Supp.2d at 140.

10. *George et al. v. Eastern Reg'l Dir., Bureau of Indian Affairs*, 49 IBIA 164, 186 (May 4, 2009).

11. *Id.* at 186.

12. *Cayuga Nation of New York et al. v. Eastern Reg'l Dir., Bureau of Indian Affairs*, 58 IBIA 171, 178-81 (Jan. 16, 2014).

13. *Goodface v. Grassrope*, 708 F.2d 355, 338-39 (8th Cir. 1983).

14. *Candelaria v. Sacramento Area Dir., Bureau of Indian Affairs*, 27 IBIA 137, 141 (Jan. 24, 1995); *United Keetoowah Band of Cherokee Indians v. Muskogee Area Dir., Bureau of Indian Affairs*, 22 IBIA 75, 80-83 (June 4, 1992) (tribal law disenrolling members violated tribal constitution); *Ransom v. Babbitt*, 69 F. Supp.2d 141, 150-51 (D.D.C. 1999) (secretarial interpretations of tribal law must effect as little disruption as possible of tribal sovereignty and self-determination).

15. 5 U.S.C. §702

16. 5 U.S.C. §706(2)(A).

17. *Goodface*, 708 F.2d at 339.

18. Gail Courey Toensing, "Epic Paskenta Dispute Continues, Despite BIA Cease and Desist Letter," *Indian Country Today*, June 13, 2014.

19. Letter from Troy Burdick, Bureau of Indian Affairs, Central California Agency, to Paskenta Tribal Council dated June 9, 2014.

20. *Id.*

21. *Id.* at 2.

22. 25 U.S.C. §2710(d)(7)(A)(ii)
 23. Compl. at ¶2, *State of California v. Paskenta Band of Nomlaki Indians*, Case No. 2:14-cv-01449-KJM-CMK (June 17, 2014).
 24. *Id.* at ¶4, 6-7.
 25. *Id.* at ¶12-14.
 26. *Id.* at ¶1-4 at 5.
 27. Order Granting Pls.' Mot. for TRO at 2-3, *State of California v. Paskenta Band of Nomlaki Indians*, Case No. 2:14-cv-01449-KJM-CMK (June 18, 2014).
 28. *Id.*
 29. *Id.*
 30. *Id.*
 31. Order Granting Prelim. Inj. at 1, *State of California v. Paskenta Band of Nomlaki Indians*, Case No. 2:14-cv-01449-KJM-CMK (July 7, 2014).
 32. Kate Grissom and Valerie Martinez, "Paskenta Band of Nomlaki Indians Reaches Agreement to Settle Leadership Dispute," *PRnewswire*, July 7, 2014.
 33. Order Granting in Part and Denying in Part Mot. to Dismiss the First Am. Compl. at 2-3, *Paskenta Band of Nomlaki Indians et al. v. Crosby et al.*, Case No. 2:15-cv-00538-GEB-CMK (Aug. 14, 2015).
 34. *Id.*
 35. Letter from Amy Dutschke, regional director of Bureau of Indian Affairs Pacific Regional Office, to tribal factions, dated Feb. 11, 2014, (filed as Exh. 1, Doc. 1 to Compl. in *Bank of the Sierra v. Picayune Rancheria of Chukchansi Indians et al.*, Case No. 1:14-cv-01044-AWI-SAB, U.S. District Court for the Eastern District of California, July 2, 2014).
 36. Temporary Closure Order, TCO-14-01, National Indian Gaming Commission, Oct. 7, 2014.
 37. Compl. ¶1-5 at 5, *State of California v. Picayune Rancheria of Chukchansi Indians of California*, Case No. 1:14-cv-01593-LJO-SAB (Oct. 10, 2014).
 38. *Id.* at ¶2, 9.
 39. *Id.* at ¶12-14.
 40. Order Granting Prelim. Inj., *State of California v. Picayune Rancheria of Chukchansi Indians et al.*, Case No. 1:14-cv-01593-LJO-SAB (Oct. 29, 2014).
 41. Marc Benjamin, "Election Oversight Committee Upholds Chukchansi Election," *Fresno Bee*, Oct. 23, 2015.

42. National Indian Gaming Commission, *NIGC Enters into Agreement with Picayune Rancheria of Chukchansi Indians to Reopen Casino*, Dec. 21, 2015.

43. *Id.*

44. See *Chance v. Coquille Indian Tribe et al.*, 963 P.2d 638, 640-41 (Ore. 1998) (applying tribal law to determine scope of authority possessed by CEO of tribal corporation); *Hydrothermal Energy Corp. v. Fort Bidwell Indian Cmty. Council*, 170 Cal. App.3d 489, 496 (Cal. Ct. App. 1985) (examining tribal articles of incorporation to determine authority of CEO to execute contracts without approval of corporate board of directors); *Rush Creek Solutions, Inc. v. Ute Mountain Ute Tribe*, 107 P.3d 402, 408 (Colo. Ct. App. 2004) (examining tribal constitution, affidavits to determine authority of tribe's CFO to bind tribe in contract); *World Touch Gaming, Inc. v. Massena Management, LLC*, 117 F. Supp.2d 271, 275 (N.D.N.Y. 2000) (examining tribal law and finding casino manager did not have authority to bind tribe to waiver of sovereign immunity because tribal law unequivocally stated only tribal council could do so).

ABOUT THE AUTHOR



Wilda Wahpepah is special counsel at Sheppard Mullin Richter & Hampton LLP, based in the District of Columbia and Norman. Ms. Wahpepah represents tribal governments and entities doing business with tribes across the country. After a career as a print journalist, Ms. Wahpepah graduated with honors from the University of Notre Dame Law School. She is Winnebago-Kickapoo and currently serves as the budget officer of the OBA's Indian Law Section.

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At Home



At Work



And on the Go



Practicing in the Chickasaw Nation Tribal District Court

By Dustin Rowe

In 2001 the Chickasaw Nation Tribal Legislature re-established the tribal District Court of the Chickasaw Nation (district court). On Dec. 17, 2003, the Chickasaw Nation assumed primary responsibility for the operation of the Chickasaw Agency Court of Indian Offenses pursuant to a memorandum of agreement signed by Chickasaw Gov. Bill Anoatubby and the Bureau of Indian Affairs. Effective Jan. 1, 2004, the district court assumed full jurisdiction of the CFR caseload and all future-filed cases. State and CFR courts now recognize all decisions made by the district court.

Prior to the re-establishment of the district court in 2001, Chickasaw citizens within the territorial boundaries of the Chickasaw Nation could file cases in the Chickasaw Agency Court of Indian Offenses (CFR court). CFR courts, named after the U.S. Code of Federal Regulations (which established them), were first used in Indian Territory prior to statehood to allow a form of law enforcement on tribal land. In many ways, after tribal reorganization, the CFR court served as the tribe's tribal court. The re-establishment of the district court, and the ensuing codification of tribal statutory law, brought a new era of jurisdiction — and jurisprudence — to the Chickasaw Nation.

ORGANIZATION AND STRUCTURE

The Chickasaw Nation Supreme Court consists of three justices elected by a vote of the Chickasaw people, as set forth in Article XII of the Chickasaw Nation Constitution. The district court is comprised of a district judge and special judges appointed by the Supreme Court. Appeals from the district court proceed directly to the Supreme Court, the court of last resort.

In organizing the district court, the Chickasaw Legislature passed and Gov. Anoatubby signed

into law, Title 5 "Courts and Procedures" and Title 6 "Domestic Relations and Families," both of which are codified into the Chickasaw Nation Code (CNC) as tribal statutory law. The organization of the district court enhanced the Chickasaw Nation Judicial Department into that of a fully functioning third branch of government and brought tribal sovereignty full circle by allowing the tribe to enforce its own laws.

Among the many benefits of the tribe operating its own district court is the ability of the tribe to prosecute crimes committed on tribal lands. The district court hears all cases concerning crimes committed by Native Americans on tribal property. Furthermore, Title 6 of the code authorizes a number of family law actions including divorce, guardianship, adoption, name change and paternity actions. Most important perhaps, is that the district court offers a venue to hear deprived child actions concerning Chickasaw children and other Native American children residing within the territorial boundaries of the tribe. Additionally, deprived cases are often now transferred from state court to the district court when Chickasaw children — or other Native American children — are the subjects of the state action. This provides multiple benefits to the

parties in the case, including out-of-state parties who need access to tribal services. It also decreases the caseload of state courts and the workload of the state Department of Human Services.

ADMISSION, CHOICE OF LAW AND JURISDICTION

Any member of the Chickasaw Nation Bar Association may practice in the district court. The bar of the Chickasaw Nation “shall be open to any person who is an attorney at law and is admitted to practice before a court and is a member in good standing of such Bar.”¹

Today with admission to the district court, an attorney can practice in two jurisdictions with one license: state and tribal. Not only does this offer an opportunity to expand a client and knowledge base without sitting for another bar exam, it also allows an attorney to offer his or her client a choice of law and venue option, which would otherwise be unavailable. Because the laws of the Chickasaw Nation can vary from those of the state, there are instances that may warrant filing in the district court rather than state court. (The brevity of this article does not allow for an overview of statutory differences between tribal law and state law).

Neither the Code of Federal Regulations nor state law is binding upon the district court. Instead the district court must apply the tribal constitutional law, tribal statutory law and tribal common law respectively.² As the district court is relatively young, without a well-developed progeny of case law, the tribal code also allows the district court to apply “any laws of the United States or any state which would be cognizable in the courts of general jurisdiction therein.”³ Under most circumstances where a void in tribal law exists, the district court applies Oklahoma law.

The district court maintains personal jurisdiction over any Chickasaw citizen, regardless of domicile, and Native Americans residing within the Chickasaw Nation’s boundaries. Non-Indians may consent to the jurisdiction of the district court, which is not uncommon.

BENEFITS OF THE COURT ADVOCATE AND THE FILING FEE

Another benefit to filing an action in the district court is the court advocate. The court

advocate is a licensed attorney who meets with self-represented litigants to prepare pleadings and advise as to court procedure. Though the court advocate does not represent, nor appear in court on behalf of litigants, the court advocate will draft legal pleadings and assist in filing. The services offered by the court advocate make the district court consumer friendly to the self-represented litigant. In fact, in nonadversarial actions, the court advocate makes the process of going to court without retaining an attorney preferable due to the cost savings.

The filing fee for civil actions in the district court is only \$35. This low filing fee, coupled with the services of the court advocate (the services of the court advocate are also available to non-Indians free of charge), make the district court advantageous to Chickasaw citizens, Native Americans residing within the Chickasaw Nation and non-Indians who find themselves in a case involving a Native American on the other side.

CONCLUSION

The Chickasaw Nation District Court was created to meet the needs of the Chickasaw people and others residing within the tribal territory who choose to take their issues before the district court. Working in harmony with state courts, the district court offers Chickasaw citizens, Native Americans and non-Indians by consent, a forum heretofore unavailable; one that attorneys should avail themselves to use.

1. CNC §5-101.5.

2. CNC §5-201.6.

3. *Id.*

ABOUT THE AUTHOR



Dustin P. Rowe has served as the Chickasaw Nation Tribal District Court district judge since January 2011. Prior to that he served as special judge for six years. Judge Rowe is an enrolled member of the Chickasaw Nation and is a lineal descendant of original enrollee Mamie Cravatt Hughes. Judge Rowe serves as Johnston County Bar Association chairman and is a past chair of the Chickasaw Bar Association. He owns Rowe Law Firm in Tishomingo where he maintains a general law practice.

THE SOVEREIGNTY SYMPOSIUM 2016 EVERYTHING CHANGES

JUNE 8 - 9, 2016

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17 hours of CLE credit for lawyers will be awarded, including 3.5 hours of ethics.

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The Sovereignty Symposium was established to provide a forum in which ideas concerning common legal issues could be exchanged in a scholarly, non-adversarial environment. The Supreme Court espouses no view on any of the issues, and the positions taken by the participants are not endorsed by the Supreme Court.

THE SOVEREIGNTY SYMPOSIUM AGENDA

Wednesday, June 8, 2016

a.m. 4 CLE credits / 0 ethics included

p.m. 5.5 CLE credits / 3.5 ethics included

Wednesday Morning

7:30 – 4:30 Registration (Honors Lounge)

8:00 – 8:30 Complimentary Continental Breakfast

10:30 – 10:45 Morning Coffee / Tea Break

12:00 – 1:15 Lunch on your own

8:30 – 12:00 PANEL A: ECONOMIC DEVELOPMENT

(THIS PANEL CONTINUES FROM 2:45- 5:30)

CRYSTAL ROOM

MODERATOR: JAMES C. COLLARD, Director of Planning

and Economic Development, Citizen Potawatomi Nation

KAREN BELL, Her Britannic Majesty's Consul-General

CHRIS BENGE, (*Cherokee*), Oklahoma Secretary of State

BOBBY CLEVELAND, Representative for District Twenty,

Oklahoma House of Representatives

DAN BOREN, President of Corporate Development, Division of

Commerce, Chickasaw Nation

DAVID NIMMO, Chief Executive Officer/President,

Chickasaw Nation Industries

DEREK OSBORN, Legislative Assistant to

Senator James Lankford

8:30 – 12:00 PANEL B: SIGNS, SYMBOLS AND PHOTOGRAPHS:
A CULTURAL VISUAL LANGUAGE

MODERATOR: KEITH RAPP, Judge, Oklahoma Court of
Civil Appeals

CO-MODERATOR: NEIL CHAPMAN, Photographer, Former
Mt. San Antonio College Photography Department Co-Chair and
Professor of Photography

KELLY HANEY, (*Seminole*), Artist, former Oklahoma State Senator,
former Chief of the Seminole Nation

STU OSTLER, Oklahoma State Capitol Photographer

CHESTER COWEN, Oklahoma Historical Society,
Still Photo Archivist

DANIEL BRACKETT, Oklahoma Native American Art
Collection; Chair, Board of Trustees, Oscar Jacobson Foundation

WINSTON SCAMBLER, Student of Native American Art

ERIC TIPPECONNIC, (*Comanche*), Artist and Professor,

California State University, Fullerton

LES BERRYHILL, (*Yuchi/Muscogee*), Artist

KENNETH JOHNSON, (*Muscogee (Creek)/Seminole*),

Contemporary Jewelry Designer

and Metalsmith

8:30 – 12:00 PANEL C: TRUTH AND RECONCILIATION:
GENERATIONAL/HISTORICAL TRAUMA AND HEALING

MODERATOR: NOMA GURICH, Justice, Oklahoma
Supreme Court

DON WHARTON, Attorney, Native American Rights Fund

KATHRYN ENGLAND-AYTES, (*Cherokee descendant*), Professor,

California State University, Monterey Bay

ETHLEEN IRON CLOUD-TWO DOGS, (*Oglala Lakota*),

Tiyospaye Sakowin Education and Healing Center (via Webcam)

ROBERT E. HAYES, JR., Methodist Bishop of Oklahoma

DAVID WILSON, (*Choctaw*), Conference Superintendent,

Oklahoma Indian Missionary Conference

GORDON YELLOWMAN, (*Cheyenne*), Peace Chief, Assistant

Executive Director of Education, Cheyenne and Arapaho Tribes

KRIS LADUSAU, Reverend, Dharma Center of Oklahoma

1:15 – 2:30 OPENING CEREMONY AND KEYNOTE ADDRESS
GRAND BALLROOMS D-F

MASTER OF CEREMONIES – STEVEN TAYLOR, Justice,
Oklahoma Supreme Court

PRESENTATION OF FLAGS

HONOR GUARDS: Kiowa Black Leggings

SINGERS: SOUTHERN NATION

CAMP CALL: GORDON YELLOWMAN

INVOCATION: KRIS LADUSAU, Reverend, Dharma Center of Oklahoma
 WELCOME: MARY FALLIN, Governor of Oklahoma
 WELCOME: GARVIN ISAACS, President, Oklahoma Bar Association
 WELCOME: JAY WILLIAMS, United States Assistant Secretary of Commerce for Economic Development
 WELCOME AND INTRODUCTION OF KEYNOTE SPEAKERS:
 JOHN REIF, Chief Justice, Oklahoma Supreme Court
 SPEAKERS:
 SUZAN SHOWN HARJO, (*Cheyenne and Hodulgee Muscogee*), Morning Star Institute
 KAREN BELL, Her Britannic Majesty's Consul-General
 PRESENTATION OF AWARDS, YVONNE KAUGER, Justice, Oklahoma Supreme Court
 HONOR AND MEMORIAL SONGS: SOUTHERN NATION
 CLOSING PRAYER: ROBERT E. HAYES, Jr., Methodist Bishop of Oklahoma

2:30 – 2:45 Tea / Cookie Break for all Panels

**2:45 – 5:30 PANEL A: ECONOMIC DEVELOPMENT
 A CONTINUATION OF THE MORNING PANEL
 CRYSTAL ROOM**

MODERATOR: JAMES C. COLLARD, Director of Planning and Economic Development, Citizen Potawatomi Nation
 DAVID WALTERS, President, Walters Power International, former Governor of Oklahoma
 ROBERT ANDREW, United States Department Diplomat in Residence, University of Oklahoma
 GAVIN CLARKSON, Associate Professor, College of Business, New Mexico State University
 MICHAEL DAVIS, President, Oklahoma Finance Authority
 BRYAN MITCHELL, (*Chickasaw*)
 LAUREN KING, (*Muscogee (Creek)*), Foster Pepper PLLC, Appellate Judge – Northwest Intertribal Court System
 MICHAEL OGAN, Director of Business Development, Greater Oklahoma City Chamber
 MICHAEL S. NEAL, President and CEO, Tulsa Regional Chamber

2:45 – 5:30 PANEL B: ETHICS

JOHN REIF, Chief Justice, Oklahoma Supreme Court

2:45 – 5:30 PANEL C: EDUCATION

MODERATOR: DEBORAH BARNES, Judge, Oklahoma Court of Civil Appeals
 CO-MODERATOR: QUINTON ROMAN NOSE, (*Cheyenne*), Executive Director, Tribal Education Departments National Assembly
 JOY HOFMEISTER, State Superintendent of Public Instruction
 WILLIAM MENDOZA, United States Department of Education
 MATT CAMPBELL, Native America Rights Fund
 PHILIP GOVER, Managing Director, Sovereign Schools Project, TEDNA
 ALEX RED CORN, Special Coordinator for Indigenous Partnerships, College of Education, Kansas State University
 DWIGHT PICKERING, Director, American Indian Education for Oklahoma
 ROBERT COOK, Director, Native American Alliance, Teach for America
 JOHN HARGRAVE, President, East Central University
 DAN LITTLE, Little Law Firm
 FRANK WANG, President, Oklahoma School of Science and Mathematics

2:45 – 5:30 PANEL C: CRIMINAL LAW

MODERATOR: CLANCY SMITH, Presiding Judge, Oklahoma Court of Criminal Appeals
 CO-MODERATOR: ARVO MIKKANEN, (*Kiowa/Comanche*), Assistant United States Attorney and tribal liaison, Western District of Oklahoma
 MARK YANCEY, Acting United States Attorney for the Western District of Oklahoma
 ED SNOW, Assistant United States Attorney for the Eastern District of Oklahoma
 ROBERT DON GIFFORD, (*Cherokee*), Assistant United States Attorney and Tribal Liaison, Western District of Oklahoma
 RANDY WESLEY, (*Chickasaw*), Chief, Chickasaw Nation Lighthorse Police
 JIM COX, (*Comanche*), Former Executive Director, Oklahoma Association of Chiefs of Police

**6:15 OKLAHOMA JUDICIAL CENTER SHOWING OF THE
 RESTORED SILENT FILM – DAUGHTER OF THE DAWN**

BOB BLACKBURN, Executive Director, Oklahoma Historical Society

7:00 RECEPTION-OKLAHOMA JUDICIAL CENTER

Thursday, June 9, 2016

**a.m. 3.5 CLE credits / 0 ethics included
 p.m. 4 CLE credits / 0 ethics included**

Thursday Morning

7:30 – 4:30 Registration

8:00 – 8:30 Complimentary Continental Breakfast

10:30 – 10:45 Morning Coffee / Tea Break

12:00 – 1:30 Lunch on your own

8:30 – 11:00 JOINT PANELS A AND B

MODERATOR: WILLIAM HETHERINGTON, JR., Judge, Oklahoma Court of Civil Appeals, Former District Judge, Cleveland County, Oklahoma
 CO - MODERATOR: SUE TATE, Court Improvement Project Coordinator, Oklahoma Administrative Office of the Courts
 JUVENILE LAW AND CHILDREN'S ISSUES: CONCERNS OF THE JUDICIARY

In order to engage in a meaningful discussion of issues relating to children, the traditional Symposium panels dealing with Juvenile Law and the Concerns of the Judiciary will be a joint panel for this time period. The panel will deal with the ICWA and P.L., 113-183, preventing the sex trafficking of foster children.

JOHN ROMERO, JR., District Judge Children's Court Division, Albuquerque, New Mexico
 WHITNEY ANDERSON, (*Chickasaw*), Beautiful Dreams Society
 BLAINE PHILLIPS, Oklahoma State Bureau of Narcotics
 ROBERT DON GIFFORD, (*Cherokee*), United States Attorney and Tribal Liaison for the U.S. Attorney's Office for the Western District of Oklahoma

10:45 – 12:00 C. STEVEN HAGER, Director of Litigation, Oklahoma Indian Legal Services

11:00 – 12:00 STATE-TRIBAL-FEDERAL JUDGES MEETING

8:30 – 12:00 PANEL C: DEFENSE

MODERATOR: JERRY GOODMAN, Judge, Oklahoma Court of Civil Appeals
 CO - MODERATOR: CHRISTOPHER C. STRAUB, Vice President, AMAR U.S.
 JEFF KEEL, (*Chickasaw*), CNI Advantage, LLC
 STEVEN BILBY, Cherokee Nation
 STEVEN BENEFIELD, CEO, Choctaw Defense Manufacturing Representative, Contracting, Tinker Air Force Base

WILLIAM P. BOWDEN, Major General (Retired), United States Air Force
 LINDY RITZ, The Ritz Group, Retired Director, Mike Monroney Aeronautical Center
 CHAD KNAPP, Special Agent, Federal Bureau of Investigation
 D.G. SMALLING, (*Choctaw*), Artist
 DAVID CID, former agent, Federal Bureau of Investigation, Former Deputy Director, Memorial Institute for the Prevention of Terrorism
 DAVID N. EDGAR, Senior Fellow, University of Oklahoma Center for Intelligence and National Security

8:30 – 12:00 PANEL D: SACRED SPACES

MODERATOR: NOMA GURICH, Justice, Oklahoma Supreme Court
 CO-MODERATOR: C. BLUE CLARK, (*Muskogee (Creek)*), Professor and David Pendleton Chair of American Indian Law, History, and Religion, Oklahoma City University School of Law
 GEORGE THOMPSON, Chief of the Hickory Ground of Oklahoma, Vice-Chief Justice, Supreme Court of the Muskogee Nation
 JAMES FLOYD, Principal Chief of the Muskogee Nation
 JEFFERSON KEEL, Lieutenant Governor of the Chickasaw Nation

Thursday Afternoon

12:00 – 1:30 WORKING LUNCH FOR FEDERAL, STATE AND TRIBAL JUDICIARY AND SOVEREIGNTY SYMPOSIUM FACULTY

3:30 – 3:45 Tea / Cookie Break for all Panels

1:30 – 5:00 PANEL A: THE CONCERNS OF THE JUDICIARY — A FOCUS ON MUTUAL CONCERNS OF THE TRIBAL — STATE AND FEDERAL BENCH

The panel will consider how to accord full faith and credit to judicial decisions.

MODERATOR: THOMAS S. WALKER, (*Wyandotte/Cherokee*), Appellate Magistrate for the CFR Court, District Judge (retired), Brigadier General, (retired)
 WILLIAM HETHERINGTON, JR., Judge, Oklahoma Court of Civil Appeals, Former District Judge, Cleveland County, Oklahoma
 CASEY ROSS PETHERICK, Professor, Oklahoma City University School of Law
 TRICIA A. TINGLE, (*Choctaw*), Associate Director – Tribal Justice Support, Office of Justice Services, Bureau of Indian Affairs
 DIANNE BARKER HARROLD, (*Cherokee*), Tribal Judge
 GREGORY BIGLER, (*Euclidean, enrolled Muskogee (Creek)*), District Judge, Muskogee (Creek) Nation Tribal Court
 LAUREN KING, (*Muskogee (Creek)*), Attorney – Foster Pepper PLLC, Appellate Judge – Northwest Intertribal Court System
 PATRICK B. MCGUIGAN, Editor, *CapitolBeatOK*, Senior Editor, *The City Sentinel*

1:30 – 5:00 PANEL B: JUVENILE LAW

MODERATOR: BRIAN GOREE, Judge, Oklahoma Court of Civil Appeals
 CO – MODERATORS: JACQUE HENSLEY, (*Kaw*), Indian Affairs Liaison, Oklahoma Department of Human Services and Brian Hendryx, Deputy Assistant for Native American Affairs at OK Secretary of State
 SETH MCINTOSH, *Muskogee (Creek)* Nation Tribal Juvenile Justice Officer
 C. STEVEN HAGER, Director of Litigation, Oklahoma Indian Legal Services
 ELIZABETH BROWN, Associate District Judge, Adair County
 MARK MOORE, Associate District Judge, Blaine County
 BEN LORING, Representative for District 7, Oklahoma House of Representatives
 DEBORA GEE, (*Navajo*), Deputy Attorney General, Chickasaw Nation
 KENDAL MURPHY, Chief of Police, Wyandotte Nation

1:30 – 5:00 PANEL C: NEW VOICES IN NATIVE AMERICAN LITERATURE

MODERATOR: JAMES EDMONDSON, Justice, Oklahoma Supreme Court
 CO-MODERATOR: GAYLEEN RABAKUKK, Author, *Art of the Oklahoma Judicial Center*
 WILEY BARNES, Editor, *Chickasaw Press*
 JEANNE DEVLIN, Publisher, *Roadrunner Press*
 TIM TINGLE, (*Choctaw*), Author
 SANDY THARP-THEE, (*Cherokee*), Author and Library Director of Iowa Tribe
 JOSHUA HINSON, (*Chickasaw*), Director of Chickasaw Language Program

1:30 – 5:00 PANEL D: GAMING

CO-MODERATORS:
 MATTHEW MORGAN, Chickasaw Nation
 NANCY GREEN, ESQ., Green Law Firm, P.C., Ada, Oklahoma
 Opening Remarks:
 JONODEV CHAUDHURI, (*Muskogee (Creek)*), Chairman, National Indian Gaming Commission
 ERNIE L. STEVENS, JR., (*Oneida*), Chairman, National Indian Gaming Association
 MICHAEL HOENIG, NIGC, Office of General Counsel
 KYLE DEAN, Director, Center for Native American and Urban Studies, Oklahoma City University, Meinders School of Business
 SHEILA MORAGO, Oklahoma Indian Gaming Association
 G. DEAN LUTHEY, JR., Gable Gotwals
 MICHAEL D. MCBRIDE, III, Crowe & Dunlevy
 ELIZABETH HOMER, (*Osage*), Homer Law Chartered
 WILLIAM NORMAN, Hobbs, Strauss, Dean & Walker
 RICHARD GRELLNER, RJG Law, PLLC



NOTICE

Oklahoma State, Tribal and Federal Judges, will meet at the Sovereignty Symposium on June 9, 2016, at 11:00 a.m. The meeting will be held at the Skirvin Hotel, 1 Park Ave, Oklahoma City, Oklahoma.

EVERYTHING CHANGES THE SOVEREIGNTY SYMPOSIUM XXIX

**JUNE 8-9, 2016
OKLAHOMA CITY, OKLAHOMA**

REGISTRATION FORM

Name: _____ Occupation: _____

Address: _____

City _____ State _____ Zip Code _____

Billing Address if different from above:

City _____ State _____ Zip Code _____

Nametag should read: _____ Other: _____

Email Address *and/or* website: _____

Telephone: Office: _____ Cell: _____ Fax: _____

Tribal Affiliation (if applicable) _____

If Bar Association Member: Bar# _____ State _____

17 hours of CLE credit for lawyers will be awarded, including 3.5 hours of ethics.

# of Persons		Registration Fee	Amount Enclosed
	\$275.00	June 8 & 9 (\$300 if postmarked after May 23, 2016)	
	\$175.00	June 9, 2016 Only (\$200 if postmarked after May 23, 2016)	
		Total Amount	

We ask that you register online at www.thesovereigntysymposium.com. This site also provides hotel registration information and a detailed agenda. For hotel registration please contact the Skirvin-Hilton Hotel at 1-405-272-3040. If you wish to register by paper, please mail this form to:

THE SOVEREIGNTY SYMPOSIUM, INC.

THE OKLAHOMA JUDICIAL CENTER SUITE 1

2100 NORTH LINCOLN BOULEVARD

OKLAHOMA CITY, OKLAHOMA 73105-4914

WWW.THESOVEREIGNTYSYMPOSIUM.COM

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THE OKLAHOMA SUPREME COURT

The Oklahoma Bar Association
Indian Law Section
The University of Tulsa College of Law

The University of Oklahoma College of Law
Oklahoma City University School of Law
The Sovereignty Symposium, Inc.

Milestone Bar Membership Anniversaries

The Oklahoma Bar Association congratulates its members who celebrate milestone membership anniversaries in 2016.



CANADIAN COUNTY

Roger Dean Rinehart
El Reno

CLEVELAND COUNTY

Turner Odies Primrose
Norman

CREEK COUNTY

Jesse Dan Swift
Mannford

OKLAHOMA COUNTY

Patricia L. Carroll
Oklahoma City

James M. Little
Oklahoma City

Robert B. Milsten
Oklahoma City

Lewis Groves Mosburg Jr.
Oklahoma City

Kenneth A. Nash
Oklahoma City

William George Paul
Oklahoma City

William Dale Reneau
Oklahoma City

Lee Roy West
Oklahoma City

OSAGE COUNTY

H.T. Hendren
Sand Springs

PITTSBURG COUNTY

John A. Allford
McAlester

POTTAWATOMIE COUNTY

Robert Howard Jones
Shawnee

TULSA COUNTY

John Leslie Arrington Jr.
Tulsa

Hubert Hale Bryant
Tulsa

Edward John Eagleton
Tulsa

William Arthur Goff
Tulsa

Robert Bowman Manke
Tulsa

John H. Santee
Tulsa

Mickey Dan Wilson
Tulsa

WASHINGTON COUNTY

Thomas Wilson Brown
Bartlesville

OUT OF STATE

Charles M. Blackard
Brevard, NC

Jack Dabner
Pasadena, CA

Lawrence Eugene Hoecker
Payson, AZ

Gerald Kenneth Hornung II
Shelburne, VT

Ruben Lee Jenkins
Wellington, FL

William James Joyce
San Antonio, TX

Pete Marianos
Houston, TX

News Headlines 60 Years Ago:

- The DNA molecule was first photographed
- *The Wizard of Oz* had its first airing on TV
- Martin Luther King Jr.'s home was bombed
- Heavyweight champ, Rocky Marciano, retired undefeated from boxing
- *The Nat King Cole Show* debuted on NBC, the first variety program to be hosted by an African-American
- Nelson Mandela and 156 others arrested for political activities in South Africa

Charles Jefferson Powell
Houston, TX

Mortimer Donald Schwartz
Davis, CA

William Carroll Shirey
Estes Park, CO

Donald Dempsey Winn
Rancho Santa Fe, CA



ATOKA COUNTY

Reid K. Mayfield
Atoka

BECKHAM COUNTY

Gary Phillip McGinn
Elk City

CADDO COUNTY
John William Garland
Anadarko

CHEROKEE COUNTY
Elton L Johnson Jr.
Tahlequah

CLEVELAND COUNTY
Edward E. Campbell
Norman

Gary M. Jarmon
Norman

Stanley Monroe Ward
Norman

Gayle Welcher
Norman

COMANCHE COUNTY
Jerry Clay Cude
Lawton

Ernest F. Godlove
Lawton

Charles W. Stratton Jr.
Lawton

COTTON COUNTY
Hegel Branch Jr.
Walters

CRAIG COUNTY
O.B. Johnston III
Vinita

CUSTER COUNTY
C. B. Graft
Clinton

GARFIELD COUNTY
Timothy Jeremiah Crowley
Enid

Ronald Gene Franklin
Enid

Stephen Jones
Enid

John L. Proctor
Enid

KAY COUNTY
Dave A. Jacobs
Ponca City

Daniel C. McClung
Blackwell

MAYES COUNTY
Gary Johnston Dean
Pryor

MCCLAIN COUNTY
Charles B. Grethen
Purcell

L. Dee Oliphant
Purcell

MUSKOGEE COUNTY
Edwin L. Gage
Muskogee

James Hardy Payne
Muskogee

Wm. John Earle Settle
Muskogee

OKLAHOMA COUNTY
Edwin D. Abel
Oklahoma City

J. Steve Anderson III
Oklahoma City

Joe Mack Anthis
Oklahoma City

Duchess Bartmess
Oklahoma City

John Morton Coffey
Oklahoma City

John T. Elliott
Oklahoma City

James T. Farha
Oklahoma City

Jerry R. Fent
Oklahoma City

Paul F. Fernald
Oklahoma City

Robt Hamilton Gilliland Jr.
Oklahoma City

Robert Lake Grove
Oklahoma City

Jeff L. Hartmann
Oklahoma City

Lester Anthony Klaus
Oklahoma City

Joseph Willard Maxey Jr.
Edmond

Stanley Ell Niece
Oklahoma City

Donald R. Philbin
Oklahoma City

L. David Pomeroy
Oklahoma City

Mark Harold Price
Oklahoma City

Gary C. Rawlinson
Oklahoma City

Robert Allen Ridle
Bethany

Jimmie J. Schnorr
Bethany

Daniel W Seitsinger
Oklahoma City

William H. Sullivan
Oklahoma City

Arthur L. Thorp
Oklahoma City

Donald J. Timberlake
Oklahoma City

William O. West
Edmond

E. Vance Winningham Jr.
Oklahoma City

Duane A. Woodliff
Edmond

Edward R. Zschesche
Oklahoma City

PAWNEE COUNTY
William Joseph Perry
Pawnee

PAYNE COUNTY
J. Stewart Arthurs
Cushing

Charles Edwards Drake
Stillwater

Joe Wiley Fowler
Stillwater

PITTSBURG COUNTY
Richard Pool Cornish
McAlester

Gary L. McKnight
McAlester

Don R. Roberts
McAlester

POTTAWATOMIE COUNTY
Terry W. West
Shawnee

SEMINOLE COUNTY
William Donald Huser
Wewoka

SEQUOYAH COUNTY

Steve Daniel George
Sallisaw

STEPHENS COUNTY

James L. Kee
Duncan

TEXAS COUNTY

Bryan Lee Wright Sr.
Guymon

TULSA COUNTY

William Carl Anderson
Tulsa

Gerald Hugh Barnes
Tulsa

Robert Byers Case
Tulsa

Gordon Boyd Cecil
Tulsa

Harold H. Cooper Jr.
Tulsa

Ed R. Crockett
Tulsa

William Soland Doenges
Tulsa

Frederic Griffin Dorwart
Tulsa

Frederick L. Dunn III
Tulsa

Kenneth Charles Ellison
Tulsa

John A. Gaberino Jr.
Tulsa

Ray F. Hamilton III
Tulsa

Donald Erwin Herrold
Tulsa

P. Jay Hodges
Tulsa

W. Douglas Jones
Tulsa

J.C. Joyce
Tulsa

Samuel Joyner III
Tulsa

Anthony Martin Keating
Tulsa

John J. Livingston
Tulsa

J. Thomas Mason
Tulsa

Sheppard F. Miers Jr.
Tulsa

Reece B. Morrel
Tulsa

Robert Ralph Scroggins
Tulsa

Samuel Clifford Stone
Tulsa

John Hampton Tucker
Tulsa

William Womack VanDall
Tulsa

Henry German Will
Tulsa

Warren F. Young
Tulsa

WASHINGTON COUNTY

Jerald M. Maddux
Bartlesville

WOODS COUNTY

William A. Hadwiger
Alva

WOODWARD COUNTY

Donald R. Liles
Woodward

OUT OF STATE

L. Jack Barton
Neosho, MO

John C. Brannan Jr.
Dallas, TX

James Richard Clark
Glen Allen, VA

Joe Bruce Cox
Naples, FL

Floy E. Dawson
San Francisco, CA

Gary W. Dugger
Houston, TX

M. John C. Fredenberger
Paris, France

Michael Livingston Green
Palm Springs, CA

Alan Hanson
Pratt, KS

David Mark Harbour
Paradise Valley, AZ

News Headlines 50 Years Ago:

- Soviet Union's Luna 10 became first spacecraft to orbit the moon
- U.S. Supreme Court *Miranda* decision was made; suspect must be informed of rights
- Sheila Scott completed first round-the-world solo flight by a woman
- Medicare went into effect
- The Chevrolet Camaro, originally named Panther, was introduced
- Dr. Seuss' *How the Grinch Stole Christmas* aired for the first time on CBS

Samuel I. Hellman
Water Mill, NY

Robert Herzog
Boynton Beach, FL

Noel Blake Le Crone
Waco, TX

Lewis J. Ottaviani
Venice, FL

James Malcolm Parker
Albuquerque, NM

Bobby E. Potts
Horseshoe Bay, TX

Ben Gene Price
Huffman, TX

David Lee Reynolds
New Haven, CT

Arthur Donald Rhoads
Walnut Creek, CA

Archie Lew Robbins
Keller, TX

Ralph Joseph Salerno
Bloomfield, NJ

Richard B. Standefer
Midland, TX

Leigh Herbert Taylor
West Vancouver BC

Warren Paul Taylor
Newhall, CA

William R. Wines
Horseshoe Bay, TX

James B. Zongker
Wichita, KS

Diversity Awards: Committee Encourages Nominations

Deadline July 15

The inclusion of people of differing races or cultures in a group or organization perfectly describes diversity and. One of the primary goals of the Oklahoma Bar Association's Diversity Committee is to honor those in the legal profession and community who continuously work toward acceptance, tolerance and respect in our profession.

The Diversity Committee is now accepting nominations for the Ada Lois Sipuel Fisher Diversity Awards to be given on Oct. 21. The awards categories include: members of the judiciary, licensed attorneys, and groups and entities that have championed the cause of diversity. All nominations must be received by July 15, 2016.

NOMINATIONS AND SUBMISSIONS

- Include name, address and contact number of the nominee.
- Describe the nominee's contributions and accomplishments in the area of diversity.
- Identify the diversity award category (business/group/organization, licensed attorney or judiciary) in which the nominee is being nominated.

The submission deadline is July 15.

Submissions should not exceed five pages in length.

Submit nominations to diversityawards@okbar.org.

SELECTION CRITERIA AND NOMINATION PROCESS

One or more diversity awards will be given to a business, group or organization that has an office in the state of Oklahoma and has met one or more of the following criteria:



Ada Lois Sipuel Fisher by Mitsuno Reedy from the Oklahoma State Capitol Art Collection, used with permission, courtesy of the Oklahoma Arts Council.

- Developed and implemented an effective equal opportunity program as demonstrated by the organization's commitment to the recruitment, retention and promotion of individuals of underrepresented populations regardless of race, ethnic origin, gender, religion, age, sexual orientation, disability or any other prohibited basis of discrimination
- Promoted diversity initiatives that establish and foster a more inclusive and equitable work environment
- Demonstrated continued corporate responsibility by devoting resources for the improvement of the community at large

- Exhibited insightful leadership to confront and resolve inequities through strategic decision-making, allocation of resources and establishment of priorities

Two more diversity awards will be given to licensed attorneys and an additional award will be given to a member of the Oklahoma judiciary who has met one or more of the following criteria:

- Demonstrated dedication to raising issues of diversity and protecting civil and human rights
- Led the development of innovative or contemporary measures to fight discrimination and the effects

- Fostered positive communication and actively promoted inter-group relations among populations of different backgrounds
- Participated in a variety of corporate and community events that promoted mutual respect, acceptance, cooperation or tolerance and contributed to diversity awareness in the community and workplace
- Reached out to a diverse array of attorneys to understand firsthand the experiences of someone from a different background

ADDITIONAL INFORMATION

For more information regarding the selection criteria and nomination process, visit www.okbar.org or contact OBA Diversity Committee Chair Tiece Dempsey at 405-609-5406.




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free listing on
the OBA's lawyer
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your myokbar account.**

**Then click on the
"Find a Lawyer" Link.**

SAVE THE DATE



**The Third Annual
OKLAHOMA
Workers' Compensation
Educational Conference**

Presented by
The Oklahoma Workers' Compensation Commission

October 13-14, 2016
Embassy Suites Norman
Hotel & Conference Center

*Early bird registration begins online July 1, 2016.
Visit ok.gov/wcc/events for more information.*

Nominate Your Deserving Colleague for an OBA Award

Job satisfaction, for many in the legal profession, comes from knowing they've worked toward an outcome that benefits people or a cause. But that feeling is amplified when they've been recognized by their professional organization and their peers.

Once a year, during the Annual Meeting, the OBA Awards are given in recognition of deserving lawyers and organizations with a nomination from their fellow attorneys. It only takes a moment to nominate someone, and it could mean the world to a bar colleague or organization that is making Oklahoma a better place.

"The 2015 OBA Award that I received was a really big deal...to my family, my partners and my clients," said Mike Turpen. "I am very proud to be an attorney and to be honored by my peers is about as good as it gets. I am very grateful to the Oklahoma Bar Association for recognizing my civic and professional achievements."

Take a look at the award categories. The Awards Committee has made the nomination process as streamlined as possible. Awards will be presented at the OBA Annual Meeting Nov. 2-4 in Oklahoma City.

AWARDS UP FOR GRABS

Outstanding County Bar Association Award - for meritorious efforts and activities

2015 Winner: Tulsa County Bar Association

Hicks Epton Law Day Award - for individuals or organizations for noteworthy Law Day activities

*2015 Winners: Creek County Bar Association
Payne County Bar Association*

Golden Gavel Award - for OBA Committees and Sections performing with a high degree of excellence

Not awarded in 2015

Liberty Bell Award - for nonlawyers or lay organizations for promoting or publicizing matters regarding the legal system

Not awarded in 2015

Outstanding Young Lawyer Award - for a member of the OBA Young Lawyers Division for service to the profession

2015 Winner: Kaleb Hennigh, Enid

Earl Sneed Award - for outstanding continuing legal education contributions

*2015 Winners: William S. Leach, Tulsa
Gail Stricklin, Oklahoma City*

Award of Judicial Excellence - for excellence of character, job performance or achievement while a judge and service to the bench, bar and community

2015 Winner: Judge David L. Russell, Oklahoma City

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Helpful Award Info Online

Go to www.okbar.org/news/Recent/2016/OBA Awards.aspx to find:

- **Nomination form** (You don't need one, but if you want one – you've got it!)
- **Award winner history** (Helpful so you don't nominate someone for an award they've already received)
- **Bios on the people honored to have awards named for them**
- **Tips for writing stronger nominations** (You want your nominee to win, right?)

Fern Holland Courageous Lawyer Award - to an OBA member who has courageously performed in a manner befitting the highest ideals of our profession

Not awarded in 2015

Outstanding Service to the Public Award - for significant community service by an OBA member or bar-related entity

*2015 Winners: David Bernstein, Norman
Noble McIntyre, Oklahoma City
Hugh Robert, Tulsa
Michael C. Turpen, Oklahoma City*

Award for Outstanding Pro Bono Service - by an OBA member or bar-related entity

2015 Winner: Bruce Peabody, Bartlesville

Joe Stamper Distinguished Service Award - to an OBA member for long-term service to the bar association or contributions to the legal profession

2015 Winner: Stephen D. Beam, Weatherford

Neil E. Bogan Professionalism Award - to an OBA member practicing 10 years or more who for conduct, honesty, integrity and courtesy best represents the highest standards of the legal profession

2015 Winner: Renée DeMoss, Tulsa

John E. Shipp Award for Ethics - to an OBA member who has truly exemplified the ethics of the legal profession either by 1) acting in accordance with the highest ethical standards in the face of pressure to do otherwise or 2) by serving as a role model for ethics to the other members of the profession

2015 Winner: William J. Baker, Stillwater

Alma Wilson Award - for an OBA member who has made a significant contribution to improving the lives of Oklahoma children

2015 Winner: Christine Deason, Edmond

Trailblazer Award - to an OBA member or members who by their significant, unique visionary efforts have had a profound impact upon our profession and /or community and in doing so have blazed a trail for others to follow.

Not awarded in 2015

HOW TO NOMINATE

1 Anyone can submit an award nomination, and anyone nominated can win.

2 The deadline is Friday, Aug. 12, but get your nomination in **EARLY!**

3 Nominations don't have to be long; they can be as short as a one-page letter.

The entire nomination cannot exceed five single-sided, 8 1/2" x 11" pages (including exhibits).

5 Make sure the name of the person being nominated and the person (or organization) making the nomination is on the nomination.

If you think someone qualifies for awards in several categories, pick one award and only do one nomination. The OBA Awards Committee may consider the nominee for an award in a category other than one in which you nominate that person.

7 You can mail, fax or email your nomination (pick one). Emails should be sent to awards@okbar.org. Fax: 405-416-7089. Mail: OBA Awards Committee, P.O. Box 53036, Oklahoma City, OK 73152.

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INDIVIDUALS FOR WHOM AWARDS ARE NAMED

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

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

FERN HOLLAND — Fern Holland's life was cut tragically short after just 33 years, but this young Tulsa attorney made an impact that will be remembered for years to come. Ms. Holland left private law practice to work as a human rights activist and to help bring democracy to Iraq. In 2004 she was working closely with Iraqi women on women's issues when her vehicle was ambushed by Iraqi gunmen, and she was killed. The Courageous Lawyer Award is named as a tribute to her.

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

JOHN E. SHIPP — John E. Shipp, an attorney from Idabel, served as 1985 OBA president and became the executive director of the association in 1998. Unfortunately his tenure was cut short

when his life was tragically taken that year in a plane crash. Mr. Shipp was known for his integrity, professionalism and high ethical standards. He had served two terms on the OBA Professional Responsibility Commission, serving as chairman for one year, and served two years on the Professional Responsibility Tribunal, serving as chief-master. The OBA's Award for Ethics bears his name.

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

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

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

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Legislative Session to End May 27

By Luke Abel

The 2016 Oklahoma legislative session is nearly complete. While the session only has one week remaining, there are still active measures that are being tracked by the Legislative Monitoring Committee. *Sine die* adjournment of this year's legislative session is May 27, 2016, at 5 p.m. [Oklahoma Constitution, Article V, section 26].

This article offers an update on proposed legislation, which is still on the Legislative Monitoring Committee's "watch list." The update will identify bills signed by the governor and bills in conference committee. Legislation can be amended or rewritten after it has been sent to conference committee, so they will continue to be followed.

Because of the limited time left in the session, the status of active measures may change before this update is printed, but this article is correct as of May 8.

You can always check the updated status of any measure at www.okbar.org/members/legislative.

ENROLLED RESOLUTIONS – STATE QUESTIONS

SJR 72 Amendment to repeal Section 5 of Article II of the Oklahoma Constitution. If approved, this amendment would allow public money to be used for religious purposes

BILLS SIGNED BY GOVERNOR

HB 2275 Requires submission of DNA samples from those arrested for felony crimes

HB 2281 Relates to Open Records, Internet access



HB 2349 Exempts veterans' disability payments from being considered household income related to the homestead exemption

HB 2399 Modifies the Protection from Domestic Abuse Act; provides a jurisdictional requirement for emergency *ex parte* orders

HB 2426 Relates to grandparental visitation rights; deletes references to previously repealed statute

HB 2431 Relates to children and permanent guardianships for deprived children

HB 2443 Relates to criminal law and extends the period time during which an individual is eligible to seek sentence modification

HB 2444 Modifies civil penalties for violations of pipeline safety rules, regulations and orders

HB 2472 Provides district attorneys with discretion to file a charge as misdemeanor rather than a felony

HB 2479 Modifies penalties under the Uniform Controlled Dangerous Substances Act

HB 2483 Permits a court to conduct a nonjury trial for the termination of parental rights when a party fails to appear for jury trial; allows attorney to request matter proceed without party present

HB 2555 Modifies penalties related to a second and subsequent convictions for driving under the influence

HB 2595 Allows a veteran's post-traumatic stress disorder to be a mitigating factor in criminal sentencing

HB 2621 Allows a court to separate siblings when determining custody or placement under certain circumstances

HB 2751 Modifies the penalties for embezzlement and writing bogus checks of an amount less than \$1,000

HB 2761 Modifies provisions of the Oklahoma Insurance Code

HB 2934 Permits a district attorney to dismiss an action or indictment prior to the commencement of the preliminary hearing, prior to being set for trial

HB 2962 Requires insurance coverage for autistic disorders

HB 2963 Modifies provisions of the Oklahoma Adoption Code

HB 2965 Prohibits a governing body or entity from interfering with the child abuse reporting obligation and from retaliating against a reporting individual; also allows for recovery of damages

HB 2996 Requires stop-loss insurance coverage to provide aggregate retention of no less than 110 percent of the expected claims

HB 3146 Creates the Impaired Driving Elimination Act

HB 3158 Increases Corporation Commission's authority to act without notice and hearing to respond to emergency situations

SB 874 Increases the monetary limit on property that can be transferred to the successor of a decedent through an affidavit

SB 912 Amends the Administrative Procedures Act

SB 1095 Limits the liability for any person with motor vehicle insurance who volunteers to provide transportation to the extent of the limit of such insurance policy, except for gross negligence or willful or wanton conduct

SB 1113 Allows a court to order a plaintiff to pay attorney fees, costs, postjudgment interest and actual interest in forfeiture proceedings in which a defendant prevails

SB 1122 Requires the Corporation Commission to work with the secretary of Energy and Environment, the Oklahoma Water Resources Board and the Department of Environmental Quality to encourage industrial use of produced water

SB 1219 Directs the Oklahoma Water Resources Board to promulgate rules that establish a permitting process for aquifer storage and recovery

SB 1491 Modifies the definition of "prior pattern of physical abuse" as it relates to domestic violence

SENT TO GOVERNOR

HB 2757 Modifies factors used to calculate the income of a parent who owes child support; also authorizes a court to approve a modification of child support which deviates from the child support guidelines

SB 1071 Relates to the termination of tenancy and establishes exception to eviction proceeds

SB 1083 Modifies the workers' compensation insurance requirements under the Roofing Contractor Registration Act

SB 1214 Modifies the verdict in criminal cases associated with an insanity defense

SB 1249 Establishes a deadline of six months by which a final protective order must be resolved

STILL ACTIVE

The deadline to request conference committee in the House was May 5, 2016. Without an extension of this deadline, measures not currently in conference were dead as of May 5, 2016. Historically, extensions of this deadline are common. For measures in conference, the deadline to file the first conference committee report was May 17, 2016.

HB 2397 Modifies criteria for expungement of an arrest record. In House, Senate amendments rejected; conference requested

HB 2416 Sunset extension for the State Board of Examiners of Certified Shorthand Reporters. Senate amendments proposed to eliminate judicial districts which currently contain Tulsa and Pawnee counties and replace them with judicial districts containing Pawnee and Osage counties. In House, rejected Senate amendments; in conference

HB 2651 Creates Oil & Gas Waste Efficiency and Recycling Act. In House, rejected Senate amendments; in conference. Contains same language as SB 1122

HB 2758 Modifies the procedure for nominations to the Oklahoma Uniform Building Code

Commission. In House, rejected Senate amendments; in conference

HB 2936 Relates to condemnation actions; awards costs and attorney fees to owner. In House, Senate amendments read, but not yet approved or rejected

HB 3098 Relates to firearms and Self-Defense Act; allows open carry for legal residents 21 years or older. In House, rejected Senate amendments; in conference

HB 3128 Creates the Prenatal Nondiscrimination Act of 2016. In House, rejected Senate amendments; in conference

HB 3119 Allows a judge to waive costs and fees for an offender who has successfully completed the drug court program. In House, rejected Senate amendments; in conference

HB 3162 Eliminates Judicial Nominating Commission appointing authority. In House, Senate amendments rejected; in conference

SB 902 Prohibits anyone who is not a citizen or legal resident of the United States from being appointed guardian of property for a minor or incapacitated person. In Senate, House amendments rejected; in conference

SB 1123 Amends the Oklahoma Real Estate Code. In Senate, House amendments rejected; in conference

SB 1414 Creates the Oil & Gas Water Recycling & Reuse Act. In Senate, House amendments read, but not yet approved or rejected

SB 1495 Relates to adult guardianship and protective proceedings. In Senate, House amendments read, but not yet approved or rejected

PROPOSED CONSTITUTIONAL AMENDMENTS

SJR 68 Amendment to repeal Article XXVIII and enacting a new article regarding alcoholic beverages. House amendments rejected; in conference

Clearly, our monthly updates cannot discuss every piece of proposed legislation. The Legislative Monitoring Committee reports are designed to update attorneys regarding those likely to impact the practice of law. The Legislative Monitoring Committee welcomes any questions or suggestions on how the committee's monthly updates could be improved.

HOW DO I RESEARCH OTHER BILLS?

To research the status of a current bill, go to www.oklegislature.gov. You can also stay informed about legislation the OBA is monitoring at www.okbar.org/members/legislative.

ABOUT THE AUTHOR



Luke Abel is an attorney at Abel Law Firm in Oklahoma City, who serves as the vice chairman of the Legislative Monitoring Committee. His practice is focused on handling personal injury claims, and he can be reached at label@abellawfirm.com.



New Lawyers Admitted to the OBA

Board of Bar Examiners Chairperson Monte Brown announces that 95 applicants who took the Oklahoma Bar Examination on Feb. 23-24 were admitted to the Oklahoma Bar Association on Tuesday, April 19 or by proxy at a later date. Oklahoma Supreme Court Chief Justice John Reif administered the Oath of Attorney to the candidates at a swearing-in ceremony at the Oklahoma Capitol. A total of 147 applicants took the examination.

Other members of the Oklahoma Board of Bar Examiners are Vice Chairperson Bryan Morris, Ada; Juan Garcia, Clinton; Robert D. Long, Ardmore; Loretta F. Radford, Tulsa; Roger Rinehart, El Reno; Donna L. Smith, Miami; and Thomas M. Wright, Muskogee.

The new admittees are:

Alia Rula Al-Assaf
 Ross Ryan Alexander
 Sheema Hossaini Anvar
 April Arnesen
 Russell Don Bedard
 Mary Jordan Berglund
 Travis Walter Brown
 David Aaron Bruner
 Darlene Mayre Carroll
 Sean Phillip Chesley
 Haleigh Ann Collins
 Heather Marie Cook
 Dallas Lauren Coplin
 Travis James Couch
 Anne Field Daniel
 Kayla Elizabeth DeWitt
 Joshua Stephen Donaldson
 Tiffani Dawn Dragg
 Amber Celeste Duncan
 William Zane Duncan
 Sara Ann Dupree
 Taylor Renee Edwards
 Frances Cassandra Ekwerekwu
 Robert Edward Epps, III
 Micah Joseph Felton
 Ericka Carmen Burey Fisher

Kaylie Sue Fogle
 Christopher Wallis Foshee
 Timothy Andrew Franco
 Westley Wayne Franklin
 Evan Jordan Frey
 Barrett Ford Fuller
 Andrew Stephen Goforth
 Kayla Janae Grant
 Justin Lee Hall
 Jeremy Kyle Hamby
 David Marshall Hammer
 Krystle LeJoyce Hampton
 Hayley Anne Hartman
 Virginia L. Hefner

Bradford Alexander Hillman
 Madison Nicole Holder
 Michael Sean Hollman
 Andrew Tyler Hudgens
 Caroline Elizabeth Jane Hunt
 Jonathan Michael Irwin
 Jasmine Denise Lashae Johnson
 Sheri Marie Johnson
 Joy Dawn Jones
 Meagan Marie Kania
 Anakaren Aguilar Kennedye
 Evan William King
 Meghan Julia LeFrancois
 William Charles Maxcey



Law school students from the TU College of Law take their oath.

Cole McMahan
 Andrew Michael McMahon
 Cathleen Whitaker McMahon
 Rebecca Audrine Mickey
 Bradley Major Mitchell
 Howard Tremayne Morrow
 Justin Wade Mosteller
 Kevin Thomas O'Shields
 Jordan Lee Pace
 Ariel Nicole Parry
 Amy Catherine Cranmer
 Pearsons
 Julie Elizabeth Peters
 Alexandra Elizabeth Pratt
 Joshua Lynn Pyron
 Oishy Reza
 Joshua B. Romano



Law school students from the OCU School of Law take the oath to become lawyers.

Allison Paige Roso
 Elizabeth Rebecca Rumley
 Chynna Gaylene Scruggs
 Geoffrey Wayne Seay
 Jericah Jenee Selby
 John Shelby Shelton
 Rebecca Lyn Sher
 Christopher Jeffrey Snyder
 Kevin Woodward Stump
 Laura Ruth Talbert
 Meltem Karla Tankut
 Miles Grayden Taylor
 Stephen Robert Taylor
 Jason Marshall Temple
 Stephen Wayne Tencleve
 Devon Paul Walke
 Clark Wilson Wheeler
 Heather Healey Whiteside
 Michael A. Whiting
 Richard James Wilson
 Pierce Waid Winters
 Daniel Bryant Woolston
 Edward William Wunch IV
 Austin Joseph Young
 Ashley Erin Zamudio



Students from the OU College of Law and out-of-state schools take the Oath of Attorney.

Law Day 2016

County Bar Association Law Day Events



Seminole County Bar Association President Vic Kennemer presents Wewoka attorney Bill Huser with his pin for 50 years as a member of the OBA at the Seminole County Law Day Luncheon on April 27 in Wewoka.



Seminole attorney Zack Pyron shares the history of Law Day with junior high students at New Lima School, something he has done every year since returning to Seminole County to practice law.



(From left) Judge Ken Farley, Former Judge Tony Benson, Criminal Court of Appeals Presiding Judge Clancy Smith, Judge Michael DeBerry, Judge Jana Wallace, Judge Gary Brock and Judge Bill Baze celebrate Law Day at a banquet held by the Choctaw, McCurtain and Pushmataha County Bar Associations.



Attorney Dan Crawford celebrates 25 consecutive years of coordinating the Tulsa County volunteer hotline for Ask A Lawyer.



Keynote speaker Laura Nirider delivers her address to attendees at the Tulsa County Law Day luncheon in downtown Tulsa.



(From left) J.A. Allford receives his 60-year OBA membership pin and Richard "Whitey" Cornish and Gary McKnight receive their 50-year OBA membership pins at a Pittsburg County Law Day dinner. Also pictured are Eddie Harper, Don Hackler and Robert "Bob" Ivester who have all been practicing more than 50 years.



OBA President Garvin A. Isaacs answers legal questions on the Ask A Lawyer hotline in Oklahoma City.



(From left) Volunteers attorney Sarah Jordan, attorney Randa Adams, paralegal Dian Wood, Judge Marion Fry, attorney Amanda Grant and Law Day 2016 Co-Chair and attorney Jolyn Noel Belk assist with the mock trials held in Leflore County to celebrate Law Day 2016.



(From left) Pittsburg County lawyers Mike Hogan, Nils Rauniker and Paul Northcutt answer legal questions during the Pittsburg County Ask A Lawyer event.



Journal Record editor Ted Strueli presents Susan Shields with the 2016 Journal Record Award.

Thank you!

*Thanks to everyone involved,
Oklahoma celebrated another
fantastic Law Day!*



**A special thanks to those who partnered with the
OBA Law Day Committee to support Law Day in Oklahoma.**

Oklahoma Supreme Court
Chief Justice John Reif

OBA President
Garvin A. Isaacs

OETA
LawPay

Soup Soup Carry Out
& Catering

Roderick H. Polston, P.C.

BlackFin IRS Solutions

LexisNexis

Lawyers Helping Lawyers

Vital Outdoor

Linda Herndon,
massage therapist

Astrud Ray-Kubier,
massage therapist

Beale - 3000
Insurance Group

Candor Public Relations

Oklahoma County Bar
Association Auxiliary

Stigler Printing

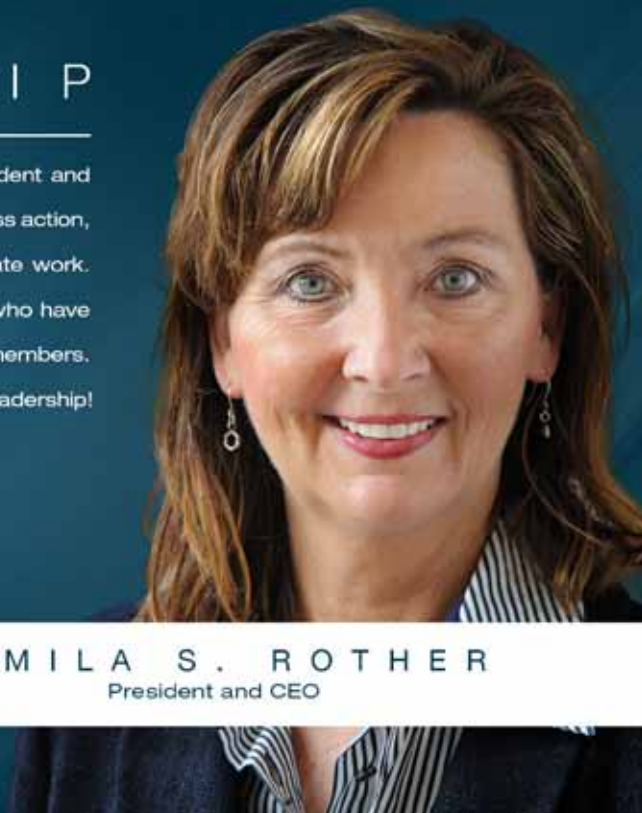
Oklahoma County Bar
Association Young
Lawyers Division

LEADERSHIP

Crowe & Dunlevy has elected Timila S. Rother President and CEO. Her legal experience ranges from litigation in class action, insurance, business and healthcare cases to appellate work. Timila is the latest in a long line of female attorneys who have served as firm President and Executive Committee members. We offer her our congratulations and thanks for her leadership!



TIMILA S. ROTHER
President and CEO



2016 TENTH CIRCUIT BENCH & BAR CONFERENCE

September 1-3, 2016 - Colorado Springs, CO

The 2016 Tenth Circuit Bench & Bar Conference website is live!

U.S. Supreme Court Associate Justices Sonia Sotomayor and Elena Kagan will be among the distinguished guest speakers.

Other conference sessions will include:

- Recent Supreme Court Decisions
- Legalized Marijuana
- Tribal Law
- The Reconstruction Amendments
- Employment Law
- Bankruptcy
- Federal Sentencing
- Ethics
- and many more.

Visit our website to review the full schedule and to obtain information on conference registration, CLEs and hotel reservations.

www.tenthcircuitconference.org

Join us at the Broadmoor in Colorado Springs.



OKLAHOMA BAR ASSOCIATION

SOLO

& SMALL FIRM CONFERENCE | YLD MIDYEAR MEETING
JUNE 23-25, 2016 | CHOCTAW CASINO RESORT | DURANT

REGISTER NOW!



ONLINE

Registration and more info at www.okbar.net/solo



MAIL FORM

CLE Registrar, P.O. Box 53036, Oklahoma City, OK 73152



FAX FORM

405-416-7092

POLICIES & INFORMATION

HOTEL RESERVATIONS

Call 800-788-2464 for hotel reservations. Refer to OBA-Oklahoma Bar Association when reserving room and/or block code 1606OBAOKL.

CANCELLATION POLICY

Cancellations will be accepted at any time on or before June 9, 2016, for a full refund; a \$50 fee will be charged for cancellations made on or after June 10, 2016. **No refunds after June 15, 2016.**

REGISTRATION, ETC.

No discounts. Registration fee includes 12 hours CLE credit, including one hour ethics. Includes all meals: evening buffet Thursday and Friday, breakfast buffet Friday and Saturday, lunch buffet Friday and Saturday.

FAX / MAIL FORM

Full Name: _____ OBA #: _____

Address: _____

City/State/Zip: _____

Phone: _____ Fax: _____

Email: _____

List name and city as it should appear on badge if different from above:

STANDARD RATES FOR OBA MEMBERS (admitted before Jan. 1, 2014)

CIRCLE ONE

Early Attorney Only Registration (**on or before June 9, 2016**) \$200
Late Attorney Only Registration (**June 10, 2016, or after**) \$250

Early Attorney & One Guest Registration (**on or before June 9, 2016**) \$300
Late Attorney & One Guest Registration (**June 10, 2016, or after**) \$350

Guest Name: _____

Early Family Registration (**on or before June 9, 2016**) \$350
Late Family Registration (**June 10, 2016, or after**) \$400

Guest Name: _____ Guest Name: _____

Guest Name: _____ Guest Name: _____

SPECIAL RATES FOR OBA MEMBERS OF TWO YEARS OR LESS* (admitted on or after Jan. 1, 2014)

CIRCLE ONE

Early Attorney Only Registration (**on or before June 9, 2016**) \$125
Late Attorney Only Registration (**June 10, 2016, or after**) \$150

Early Attorney & One Guest Registration (**on or before June 9, 2016**) \$225
Late Attorney & One Guest Registration (**June 10, 2016, or after**) \$250

Guest Name: _____

Early Family Registration (**on or before June 9, 2016**) \$275
Late Family Registration (**June 10, 2016, or after**) \$300

Guest Name: _____ Guest Name: _____

Guest Name: _____ Guest Name: _____

*** Special rate discount registrations must be submitted by mail.**

FAX/MAIL PAYMENT INFORMATION

Make check payable to the Oklahoma Bar Association and mail registration form to CLE REGISTRAR, P.O. Box 53036, Oklahoma City, OK 73152. Fax registration form to 405-416-7092.

For payment using: ☐ VISA ☐ Mastercard ☐ Discover ☐ American Express

Credit Card Number: _____

Expiration Date: _____ Authorized Signature: _____

INCLUDE BOTH PAGES IN FAX/POSTAL FORM

2016 SOLO & SMALL FIRM CONFERENCE

Thursday, June 23

3 -
6:30 p.m.

Registration

7 p.m.

DINNER *(Included in Seminar Registration Fee)*

Friday, June 24

7:30 a.m.

Rx Mind-Body Techniques to Feel Better All the Time (No MCLE credit)
Hallie Love

8:25 a.m.

Welcome

OBA President Garvin A. Isaacs

8:30 –
9:30 a.m.

60 Tips in 60 Minutes
Jim Calloway, Ben Schorr & Tom Mighell

9:30 a.m.

Break

9:40 –
10:40 a.m.

**Positive Psychology for Lawyers -
A Tool for Superior Professionalism**
Hallie Love

**Basics - Advising the
Business Client**
Mark A. Robertson

10:40 a.m.

Break

10:50 –
11:50 a.m.

**Who's Afraid of the
Big Bad Word?**
Ben Schorr

**Fastcase 7: New
Powerful Tools**
Ed Walters

**Basics - Your First
Divorce Case**
Alissa Hutter

**Powerful Cross
Examination
Techniques**
David McKenzie

11:50 a.m. –
12:45 p.m.

LUNCH *(Included in Seminar Registration Fee)*

12:45 –
1:45 p.m.

**The Challenges of
Unbundled
Legal Services**
Jim Calloway

**Mobile: Can iOS &
Android be Friends?**
Tom Mighell

Solo Quick Takes
Cosmolex, University of
Tulsa Law Incubator, Citrix
ShareFile, Smokeball,
OAMIC, LawPay

**Basics - Your First
Jury Trial**
John W. Coyle III

1:45 p.m.

Break

2 –
3 p.m.

**Windows 10: To
Upgrade or Not?**
Ben Schorr

**New Laws,
New Challenges**
Noel Tucker

**Free or Low Cost Sites
for Online Research**
Darla Jackson

**Basics - Probate &
Guardianship**
Bryon J. Will

3:15 p.m.

General Practice Solo & Small Firm Section Annual Meeting

3:30 p.m.

YLD Meeting

4:30 p.m.

YLD Networking Event

Friday, June 24			
6:30 p.m.	DINNER (Location TBD)		
Saturday, June 25			
7:30 a.m.	Introduction to Integrative Restoration (No MCLE credit) Hallie Love		
8:25 a.m.	Welcome OBA Executive Director John Morris Williams		
8:30 – 9:20 a.m.	Professionalism Issues for Solo & Small Firm Lawyers Oklahoma Supreme Court Chief Justice John F. Reif		
9 a.m.	Board of Editors Meeting		
9:20 a.m.	Break		
9:30 – 10:20 a.m.	Plenary – Solo Quick Takes (20 minute sessions) The Transformation of Law: An Unintended Consequence – Bob Christensen Data is the New Oil – Refining Information from Data: Lessons from John D. Rockefeller and Standard Oil – Ed Walters Getting Hip to HIPAA – Jim Calloway		
10:20 a.m.	Break (Hotel check out)		
10:30 a.m.	Board of Governors Meeting		
10:45 – 11:35 a.m.	Basics - Trust Accounting Joe Balkenbush & Gina Hendryx	Work Smarter and the Power of Recharge Hallie Love	The Dirty Dozen: 12 Pervasive Document Errors Banished by Document Automation Bob Christensen
11:35 a.m. – 12 p.m.	CLE POWER LUNCH (Included in Seminar Registration Fee)		
12 – 12:30 p.m.	A Lawyer’s Civic Responsibility OBF Executive Director Renée DeMoss & OBA President Garvin A. Isaacs		
12:30 p.m.	Transition Break		
12:35 – 1:25 p.m.	Creating Compelling Content: Podcasts & Videos Tom Mighell	Windows 10: To Upgrade or Not? (Repeat of Friday) Ben Schorr	Be Proactive and Be Protective: How to Avoid and How to Prepare for the Most Common Bar Complaints Gina Hendryx
1:25 p.m.	Break		
1:35 – 2:30 p.m.	What’s Hot & What’s Not in Law Office Management & Technology Tom Mighell, Ben Schorr, Jim Calloway & Darla Jackson		

Approved for 12 Hours MCLE / 1 Hour Ethics

I Know Why

By John Morris Williams

On more than one occasion I have said that no one writes on their law school application that he or she wants to aid the powerful and oppress the downtrodden. My guess is that we all said we wanted to help people, to ensure justice is done and to stand for righteous constitutional principles.

As I mentioned in an earlier article, that moment in the film *To Kill A Mockingbird* where Atticus is leaving the courtroom and the people in the balcony stood was life changing for me. It was a moment about an ordinary man doing an extraordinary thing in an ordinary courtroom in an ordinary town. Although it is fiction, I found it highly relevant to the times I was witnessing in the 1960s. While the movie is set in an earlier time, the issues of poverty and race very much were on the national conscious.

The calendar has turned a few pages since my first viewing of that most sacred piece of cinematography. This year as I gave out 50-year certificates and pins, I pondered on just how much the world has changed in the lives of members who have “hung half a hundred” in their practices. I also noted that this was the entering class after the 1963 debut of this classic film. I regret not asking any of them if the movie had an effect on their vocational choice.

So, I decided to randomly call up a member and asked why he

became a lawyer. Here is what he said:

Oh my goodness, I am probably not the best person to ask. I had a heart murmur and got discharged from the Marines and was not very good at math. I knew some lawyers; it has been a good choice, and I have enjoyed

“To all of those extraordinary OBA members who do extraordinary things to help people and make a difference, I salute you.”

it. It has been a true profession and the thing I have enjoyed the most is the chance to help people and to make a difference.

Oh my goodness, I think I picked the perfect person to ask. A bit of humor, a bit of humility and the heart of a lion (even if it has a murmur). I find this answer to be very common among lawyers. I also find they have kept good on their word.

The countless hours of pro bono work, civic participation, professional involvement and service to their nation in one form or another are so typical of OBA members.

I must admit that I too filled out the application for law school with dreams of raising up the unfortunate, freeing the wrongfully accused and righting great wrongs. Those dreams have not left me. I just occupy for the moment a different seat. As the hired help, I do not often get the chance to be the first chair. However, I have the unique and good fortune to work for, and witness closely, those lawyers who do indeed daily turn those dreams into reality. There is no question why they became lawyers. Every day they tell me their reasons for being a lawyer without ever saying a word.

To all of those extraordinary OBA members who do extraordinary things to help people and make a difference, I salute you. I truly do know why you do what you do. If you are ever in a courtroom with a balcony, look up — I will be the guy standing as you pass by.



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

Proposed Agenda for Your Law Office Retreat

By Jim Calloway

This probably seems like a presumptuous title. Every law firm is a little bit different, so there are different items they may want to focus on during a law firm planning retreat.

But many law firms also have reinvention and repurposing challenges they need to consider. It seems like an agenda on these topics might be helpful.

At the risk of competing for a captain attorney obvious title, there is no doubt today's practice of law is different than the practice of law was decades ago. Future lawyers will likely have practices that by necessity are managed differently. This difference may be so radical that the practice of law will be almost unrecognizable to many in the profession. Many of the differences are spurred by the introduction of today's technology tools.

The following list is not necessarily intended to be exclusive, and hopefully there will be some sections on which your firm is already moving in the right direction. Where possible, I have included links to some online resources for your perusal.

DIGITAL CLIENT FILES

How much progress have you made on conversion to dig-

ital client files? Law firms everywhere are converting to digital client information management. While it is challenging to convert a law firm from paper client files to digital ones, the benefits cannot be overstated. These include remote access to the entire client file, the ability to do data backup of the entire client file rather than just a backup of the documents the firm has created, the ability to

“Law firms everywhere are converting to digital client information management.”

make up-to-date billing information easily accessible and not being tied to a paper client file. In my opinion, for conversion to digital files to work, the process must be powered by a practice management software tool.

Suggested Reading:

- “‘Paperless’ Office Doesn’t Really Mean Paperless — It Does Mean New Processes

and Procedures”
(OBJ — Sept. 12, 2015)
goo.gl/02tmvM

- “Is It Possible to Go Completely Paperless In A Law Office?” goo.gl/jZEdJD
- “Step Right Up to the Paperless Law Office” goo.gl/6yYyFy

PRACTICE MANAGEMENT SOFTWARE

Have you invested in a practice management software tool? If so, how efficiently are you using it? The paperless law office is powered by practice management software tools. Today many of these tools are cloud-based, making it very easy for the small law firm with no dedicated IT staff to easily manage. I recognize some readers will dismiss this advice as “not the way we work,” but digital client files powered by practice management software tools is the way many law firms are working today and almost all law firms will work in the future. We have 10 practice management software tools as sponsors of the OBA Solo & Small Firm Conference (June 23-25 at the Choctaw Casino Resort in Durant). Each of these law practice solutions will have staff available to show you the features of their services. No matter what your

firm size you won't find a better shopping opportunity for practice management solutions than this year's OBA Solo & Small Firm Conference. So, why not register now?

Suggested Shopping Expedition

- OBA Solo & Small Firm Conference www.okbar.net/solo/

Suggested Reading

- "Why Your Clients Will Thank You for Investing in Law Practice Management Software" goo.gl/BsA3zT

CLIENT COMMUNICATIONS

How are you handling client communications and are your communications meeting your clients' expectations? As with most professional services firms, the client of a lawyer does not receive a tangible product to examine. Instead, the client learns of the value of the representation through communication from the firm and legal documents that may be created and delivered. You are encouraged to read (or reread) the following article and examine how well your firm does on topics such as the initial client interview, the attorney-client agreement, communications during the representation and setting and fulfilling client expectations.

Suggested Reading:

- "Care and Feeding of the Law Firm Client" (*OBJ* — May 16, 2015) (Note: This article has links to other online articles and a link to download "The Ten Commandments of Good Client Relations," which you might consider printing out and posting in the law firm breakroom.) goo.gl/VZgpfj

SECURITY AND CONFIDENTIALITY CONCERNS

An ad attached to the cover of the May 2016 issue of *Legaltech News* contained the following quote by former FBI Director Robert Mueller, "There are only two types of companies: those that have been hacked and those that will be." As lawyers, we have an obligation to protect our client's confidential and privileged information. Not disclosing your client's confidential matters to others is the easy part of that equation. But in today's world the challenge, of course, is that we are lawyers and not digital security experts. We can probably best start by educating ourselves on email encryption and security of our office network.

Suggested Reading:

- Texas Center for Legal Ethics Opinion Number 648 on communicating confidential information by email, goo.gl/zDEsFI
- Free trial of Citrix ShareFile encryption solution for OBA members, goo.gl/X201SB
- "Client Portals: The Solution to The Email Security Problem" goo.gl/1tc9u6
- "Encryption Made Easier" goo.gl/F9MZIb
- "Law Firm Data Security: Experts on How to Protect Legal Clients' Confidential Data" goo.gl/cMiHlF

AUTOMATED DOCUMENT ASSEMBLY

What progress are you making on automated document assembly? From templates to macros to quick parts to full-blown document assembly tools, there are many ways to

make your document creation more efficient. In some circumstances, document automation can remove some of the drudgery of your day-to-day work and allow you to provide better work products for your clients. Of course, this concept also goes hand-in-hand with alternative fee agreements.

Suggested Reading:

- "Document Assembly for Lawyers" (*OBJ* — April 14, 2012) goo.gl/Lmhuv

Also, attend the session titled "The Dirty Dozen: 12 Pervasive Document Errors Banished by Document Automation" at the OBA Solo & Small Firm Conference.

ONLINE MARKETING PLAN

What's your online marketing plan? Every law firm's marketing plan should be less about print and more about online marketing. This does not mean all traditional marketing efforts should be abandoned, but in today's environment people search for all sorts of consumer goods and services online, including legal services. It is particularly important that most solo and small firm lawyers have an online presence. The minimum presence would include a traditional website that has pictures of all of the attorneys in the firm.

Traditional graphic images like gavels and bookshelves full of law books should be minimized, if not banished, in favor of more interesting graphic elements. The bare minimum is that the website is reviewed and updated at least twice a year and the best practice is that it be updated much more frequently. Other personal social media that should be linked to the website include

LinkedIn profiles for all of the lawyers and a law firm Facebook page. Ideally the Facebook page would be updated at least several times per month.

Suggested Reading:

- “Thoughts on Social Media: Risks, Rewards and Uncertainties” (OBJ — Jan. 16, 2016) goo.gl/1xIo6k
- “Getting Noticed Online” (OBJ — Aug. 7, 2012) goo.gl/alwos7

TRUST ACCOUNTING

How are you managing your trust accounting? The concept of trust accounting is one that hasn’t changed much over the years, but there are different tools to help you manage your

trust accounting. Many of these tools allow you to automatically generate client ledgers, which can be a significant timesaver.

Suggested Reading:

- “Tips for Handling Client Funds” goo.gl/1uqg30
- “Capterra’s Best Trust Accounting Software for 2016” goo.gl/quyCBy

CONCLUSION

One thing we can say for certain is that this agenda looks nothing like the agenda for a law firm retreat a few decades (or even a few years) ago. But that’s true for many different aspects of business in society. There is certainly no doubt that

more changes are ahead. But certain things will never change in the legal profession like our commitment to deliver the best possible legal services and advice to our clients.

If the above agenda looks a little intimidating for your law firm retreat, then maybe the solution is to schedule your law firm retreat in a really nice and stress-free setting, away from the office and maybe even in a fun out-of-state location.

Mr. Calloway is OBA Management Assistance Program director. Need a quick answer to a tech problem or help solving a management dilemma? Contact him at 405-416-7008, 1-800-522-8065 or jimc@okbar.org. It’s a free member benefit!

MEMBER BENEFIT



eBooks | webinars | legal research | blog

- national coverage
- unlimited usage
- unlimited customer service
- unlimited printing
- Mobile Sync

**No cost
to OBA
members!**

To use Fastcase, sign in with your MyOKBar username (OBA number) and password on the OBA website.

For more member perks, visit www.okbar.org/members/members/benefits

Trust and Accountability, Overdraft Notification and Protection

Both Are Your Ethical and Moral Obligation

By Gina Hendryx

In 2008 Oklahoma joined the majority of jurisdictions that employ some form of trust account overdraft notification. At that time, a provision to Oklahoma Rule of Professional Conduct 1.15 was added. It requires Oklahoma lawyers to maintain their trust accounts in financial institutions that agree to notify the Office of the General Counsel in the event any properly payable instrument is presented against a lawyer trust account containing insufficient funds, irrespective of whether or not the instrument is honored. When a financial institution sends notice of an overdraft, an inquiry is mailed to the lawyer requesting an explanation for the negative balance. It is important to note this is an “inquiry” and not a “grievance.”

Notification does not automatically equate with a bar complaint. The lawyer is asked to respond and include any documents which might be of assistance in understanding the error. In most cases, the explanation is sufficient and the inquiry closed. In others, such as when a lawyer has had multiple overdrafts, a more detailed examination of the trust account records may

be necessary. One option available for a lawyer with multiple overdrafts is a trust account review course, taught by the OBA ethics counsel. Records of funds in the trust account must be kept in accordance with generally accepted accounting procedures. The trust account training program employs this practice and instructs lawyers on proper documentation and accounting practices.

MOST COMMON OVERDRAFT EXPLANATIONS

The most common explanations for trust account overdrafts include:

I forgot to make the deposit.

Most leave the bank deposit until the end of the day. Routinely, the deposit is overlooked and doesn't go to the bank until the next day. Set a specific time and person to make bank deposits. It should be a priority and not left until the time of day when other deadlines are looming.

I deposited the money into the wrong account. Depositing trust funds into an operating account is commingling. Care should be taken to use the proper deposit slips. Often the deposit books look similar.

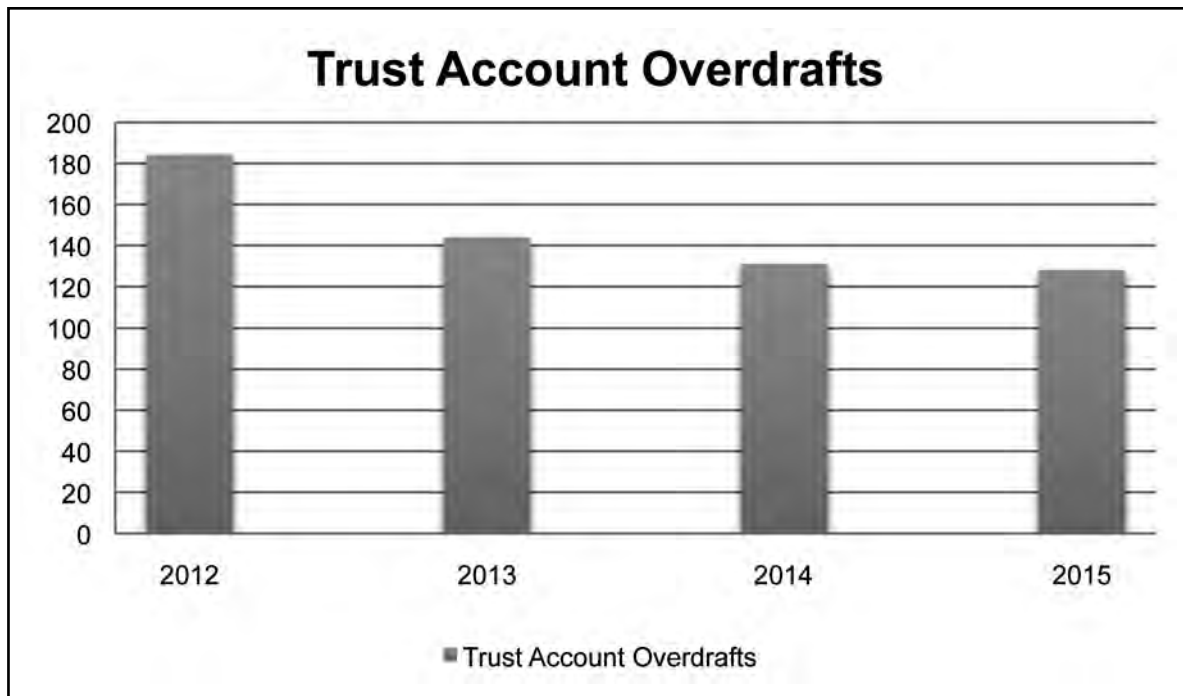
Something as simple as color coding the deposit books may solve this problem. A more drastic, but effective, solution is to have the trust account at a different financial institution from the operating account.

I recorded the deposit twice.

Other variations of this include forgetting to subtract a withdrawal. Failure to keep good records often is indicative of serious problems with a trust account. Whether you use a computer program or a Big Chief tablet, it is imperative that the lawyer maintain good trust account documentation. At any given time, the lawyer should, at a minimum, be able to identify the source of the funds in the trust account, the names of all persons for whom the funds are held and the amounts attributable to same.

The client beat me to the bank.

This occurs most often when a lawyer receives a check made payable to lawyer and client. Client endorses the check and receives his portion in the form of a trust account check made payable to the client. Even though you repeatedly caution the client to wait a few days before negotiating the trust account check, the cli-



ent will invariably leave your office and drive to the nearest check cashing outlet causing an overdraft of the trust account. You should never disburse funds that are not in the account. Wait for the deposit to clear before writing the client's check.

The client's retainer check was returned causing overdrafts in my account. The same rule applies as in the previous explanation. Do not disburse funds until the deposit has cleared and the funds are available. If you have doubt about the deposit, discuss it with your bank officer. Deposits may be presented

for payment in a manner that will ensure the availability of the funds.

From the chart, you can see that overdraft notices have significantly decreased since the rule change went into effect. The primary reason for the decrease is the availability of trust accounting classes and instruction available through the OBA. If you have questions or need assistance with trust account matters, you should contact either OBA Ethics Counsel Joe Balkenbush (www.okbar.org/members/EthicsCounsel) or the OBA Management Assistance Department (www.okbar.org/

members/MAP). These resources are available to assist you with your law practice questions.

If you receive an inquiry regarding an overdraft from the Office of the General Counsel, respond promptly and fully. The likelihood is that the matter will go no further. However, if you continue to have repeated issues with overdrafts, a more extensive investigation will be undertaken to fully explore the causes for same and to identify remedial measures.

Ms. Hendryx is OBA general counsel.



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Meeting Summary

The Oklahoma Bar Association Board of Governors met at the Oklahoma Bar Center in Oklahoma City on March 7, 2016.

REPORT OF THE PRESIDENT

President Isaacs reported he spoke at the Oklahoma County Bar Association Santa Fe Ski Trip CLE Seminar in New Mexico and at the Cleveland County Bar Association meeting.

REPORT OF THE PRESIDENT-ELECT

President-Elect Thomas reported she attended the new board member orientation and Tulsa County Bar Association judicial dinner. She served as “on-call” election/voter protection monitor for Washington County at the request of Sen. Kay Floyd, monitored legislation targeting the Judicial Nominating Commission and judicial independence, had daily ongoing discussions with bar leaders, attorneys and judges, contacted Rep. Earl Sears regarding HB 3162, HJR 1037 and HJR 1042, sent numerous emails and social media posts summarizing HB 3162 and outlining her opinion of the effect such legislation would have on the independence of the judiciary.

REPORT OF THE PAST PRESIDENT

Past President Poarch reported he attended the Cleveland County Bar Association luncheon, which featured President Isaacs as the keynote speaker.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he attended a portion of the new board member orientation, House of Representatives Rules, Government Oversight & Accountability and Judiciary & Civil Procedure Committee meetings, numerous meetings on proposed legislation involving the Judicial Nominating Commission, Tulsa County Bar Association judicial dinner, Bar Association Technology Committee meeting, OETA Gala Planning Committee meeting, Access to Justice Commission meeting and YLD board meeting.

BOARD MEMBER REPORTS

Governor Coyle reported he attended the new board member orientation and the Oklahoma County Bar Association Board of Directors meeting.

Governor Gotwals reported he drafted and assisted in the request to the Tulsa County Bar Association Family Law Section for possible referees and/or special masters and worked on educating others about the JNC. He attended the TCBA/TCBF judicial appreciation dinner and the TCBF Golf Tournament meeting. **Governor Hennigh** reported he attended the new governor orientation, Garfield County Bar Association meeting and made visits at the Capitol to the speaker’s chamber and to offices of northwest Oklahoma state legislators regarding legislation. **Governor Kee** reported he was subpoenaed to testify in a criminal case in Anchorage, Alaska.

Governor Kinslow reported he attended the Comanche County Bar Association meeting and helped organize the appreciation dinner to take place April 11 for Comanche County law enforcement officers and their families, which is sponsored by the Greater Lawton Rotary Club and the Comanche County Bar Association. **Governor Marshall** reported he reviewed and disseminated JNC material and also reviewed and contributed input regarding a potential *amicus curiae* brief on a recent Court of Appeals case. **Governor Porter** reported she attended the Cleveland County Bar Association monthly meeting and chaired a General Practice/Solo & Small Firm Section officers meeting. **Governor Sain** reported he attended the McCurtain County Bar Association luncheon and McCurtain Memorial Foundation board meeting. **Governor Tucker** reported he attended the Law Day Juror Appreciation Subcommittee meeting and Law Day Committee meeting.

REPORT OF THE YOUNG LAWYERS DIVISION

Governor Will reported he chaired the YLD monthly meeting at which board members assembled bar exam survival kits, and he attended the new governor orientation. He sent personal letters to county bar association presidents asking them to encourage young lawyers to attend the YLD Midyear

Meeting to be held in conjunction with the Solo & Small Firm Conference in June.

BOARD LIAISON REPORTS

Governor Tucker reported the Law Day Committee recently judged its contests to determine the winners. The Law Day Juror Appreciation Subcommittee recently met and recommends that juror appreciation activities be conducted in September. They are considering the idea to present a large plaque and a poster at each courthouse across the state. Subcommittee members are emailing each other with ideas for the text for both. In addition to reaching out to judges, the project will also involve reaching out to county and city attorneys. Governor Will reported the Bar Association Technology Committee is recommending that OBA-NET be replaced with Higher Logic, a cloud-based private online community that integrates into existing platforms. The committee is also looking at products for video-

conferencing. Governor Gotwals reported the Awards Committee recently met to review current awards presented and to consider a new award suggested by the OBA Alternative Dispute Resolution Section. The committee's recommendation will be on the agenda for the April board meeting. Governor Gotwals reported the Professionalism Committee is working with Educational Programs Director Susan Krug to obtain a speaker for an upcoming symposium. He said the committee is seeking private funds to purchase ethics books to give to each new lawyer at the swearing-in ceremony.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported that to date the Oklahoma Supreme Court has approved the resignations pending discipline proceedings of two attorneys, entered disbarment orders against four attorneys and has issued orders

of immediate interim suspension in two matters.

CHILD DEATH REVIEW BOARD

The board approved President Isaacs' recommendation to submit the names of John Wesley Gile, Oklahoma City; Laura H. McConnell-Corbyn, Oklahoma City; and Gregory E. McCracken, Oklahoma City as nominees for a position on the Child Death Review Board. The director of the Oklahoma Commission on Children and Youth will select the commission member from the nominees.

NEXT MEETING

The Board of Governors met April 22 and May 20, 2016. Summaries of those actions will be published after the minutes are approved. The next board meeting will be 10:30 a.m. Saturday, June 25, 2016, in conjunction with the OBA Solo & Small Firm Conference at the Choctaw Casino Resort in Durant.

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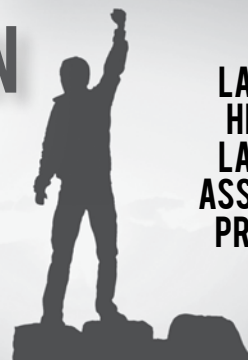
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Foundation Celebrates 70 Years

By Candice Jones

Excitement was in the air as the Oklahoma Bar Foundation celebrated their 70th-year anniversary at their Silver & White Party on April 8 at Park House in Oklahoma City. In attendance were members of the OBA Board of Governors, OBF Board of Trustees, foundation donors, law firms and leadership from foundation grantees.

Glasses were raised as Board of Trustee Past President Jack Brown made a toast to honor the past 70 years of foundation impact with over \$12 million in funding for legal services, court improvement projects and law school scholarships. The toast also alluded to the enthusiasm and vision of the board for the next 70 years. Board President Judge Millie Otey passionately told the crowd that the foundation has come alive by taking on many new, exciting projects with the intention to further support the critical work of the foundation's grantees.



For more information about the work of the Oklahoma Bar Foundation visit www.okbarfoundation.org.

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ABOUT THE AUTHOR



Candice Jones is director of development and communications for the Oklahoma Bar Foundation.

see photos on following pages



Past President Dietmar Caudle (left) and Vice President Alan Souter

(From left) Faye Rodgers, Jennifer Castillo, LeAnne Zimmerman McGill, Christa Figgins, Molly Aspan



(From left) Members of Tisdal & O'Hara: Patrick O'Hara, Pat O'Hara, Mart Tisdal and Jason Hartwig with their wives Karla O'Hara, Laura O'Hara, Marian Tisdal and Kelly Hartwig

OBF Staff: (front row) Deb Holt, Jessi Hesami; (back row) Candice Jones, Renée DeMoss



*Past President Jack Brown
toasting 70 Years*



Grantees: (from left) Stephanie Hudson Burghart from Oklahoma Indian Legal Services, Katie Alsup from YMCA, Lori Harless and Casey Ross-Petherick from the OCU School of Law's American Indian Wills Clinic



OBF past and current presidents: (from left) Richard Riggs, Michael Mayhall, Deitmar Caudle, Jack Brown, O.B. Johnston III, Renée DeMoss, Judy Hamilton Morse, Hal Ellis, Judge Millie Otey, Retired Judge Nancy Coats, Mart Tisdal



*President-Elect Kevin Donelson with
OBF Board of Trustee Paul Kluver and
his wife Hong Kluver*

*Board of Trustee President Judge Millie Otey
recognizes grantees, groups and sponsors*

Midyear Meeting Opportunities Not to Be Missed

By Bryon J. Will

To all of those who are newly admitted to practice law please let me say, "Welcome to the Bar!" I wish each of you the best of luck in your endeavors and your future. I also want to encourage you to begin your involvement within your legal community; whether it is with your county bar association or the Oklahoma Bar Association. As a new admittee to the OBA, you are automatically a member of the Young Lawyers Division and remain so until you have been licensed with the OBA for 10 years. Please keep tabs on the YLD article in your monthly *Oklahoma Bar Journal* for upcoming YLD events in which you can be involved.

Also, it's never too early to get started on your OBA networking, and you can begin by attending the 2016 YLD Midyear Meeting in conjunction with the OBA Solo & Small Firm Conference which will take place at the Choctaw Casino and Resort in Durant. **Please accept this as my personal invitation to each of you to attend.**

I also want to take this opportunity to remind everyone about the 2016 YLD Midyear Meeting, and I look forward to seeing you there. Here is a

reprise from the March article with details on the upcoming midyear meeting:

WHAT YOU CAN EXPECT

The Choctaw Casino is a world-class resort located in southern Oklahoma. The amenities are amazing with beautiful rooms, great food and, oh yes, probably the most amazing pool and poolside in the state. For those of you who joined us

“You don’t have to be great to start, but you have to start to be great!”

Zig Ziglar

there in 2012 and 2013 a new tower and rooms have been added, not to mention the laser tag facility, stadium seating first-run movie theaters and a bowling alley.

WHAT WE OFFER YOU ON THIS VACATION

Discount pricing: What’s the cost? Early bird pricing for the event is \$200 if you register on or before June 9. For those of you who have practiced two years or less, you will receive a discount and pay only \$125. If you do not want to attend the CLE portion, you pay only \$80. See details within this issue of the *Oklahoma Bar Journal* or on the website at www.okbar.net/solo. You will have to make reservations for rooms with the Choctaw Casino.

Entry Level CLE: Are you a young lawyer practicing as a sole practitioner or in a small law firm? This CLE track is for you! The CLE offering is targeted for young lawyers and for those entering into private practice. On Friday there will be a “Basics” track on the basics of divorce, jury trials, probate and guardianship cases. The focus is to help prepare lawyers for their first time in any one of these areas.

Networking: Who do you know within the YLD? Better yet, who do you know within the OBA in general? We will have various networking activities focusing on young lawyers

including the YLD Midyear Meeting, networking social and laser tag. For laser tag we have already made reservations. As for the YLD Midyear Meeting, all young lawyers are invited to attend. There will also be other opportunities for young lawyers to network with others throughout the OBA. There you will be in midst of other new attorneys and seasoned attorneys, all who are either solo practitioners or part of a small law firm.

As a new practitioner, you will embark upon challenges of being a new attorney, whether they are in a law firm, as a solo practitioner, in a large city or in a small town. Please know the OBA has resources available for you for whatever challenges you face. The YLD board and its membership is made up of attorneys who contend with

these same aspects and we are also here to help. I encourage you to contact your YLD district board member to engage in and become familiar with the YLD and its membership.

Till next month.



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- **Bowling alley**
- **Basic track CLE**
- **Networking**

ABOUT THE AUTHOR



Bryon Will practices in Oklahoma City and serves as the YLD chairperson. He may be contacted at bryon@bjwilllaw.com.



Go.

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Fellers Snider Supports Redbud Classic and SuperStan

The law firm of Fellers Snider had a dual-purpose April 10 as it sponsored a water stop along the 10K route of the Redbud Classic. Volunteers wore bright blue “SuperStan” T-shirts to rally around the two-year-old grandson of Harry Selph, one of the firms most tenured attorneys. “SuperStan” was diagnosed with brain cancer and is currently undergoing treatment at OU Children’s Hospital.

“Our firm has a long relationship with the Redbud Classic with many of our lawyers serving on its Board of Directors and as past presidents,” said Fellers Snider President Bryan King. “Redbud’s emphasis on community and charity is a natural fit to Fellers Snider’s own values, and in this special year, it was the perfect opportunity to support one of our own and his grandson’s fight with cancer.”



OBA Law Day Committee Wraps Up Another Successful Year

The OBA Law Day Committee would like to thank everyone who helped make Law Day 2016 a success! This year 243 lawyers in 30 different counties volunteered to participate in the Ask a Lawyer community service where legal questions were answered for free by phone and email. More than 1,500 phone calls were received and nearly 300 email questions were answered. Forty-four county bar associations also planned and hosted activities including contests for school children, Law Day banquets, mock trials, courthouse tours and much more.

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.



OBA Upgrades Technology in Emerson Hall

Emerson Hall is now 100 percent digital! The two front projectors and three side TVs have been replaced with two 90-inch HDTVs at the front of the room and six 65-inch HDTVs. No matter where you sit in the room, you will be able to see a high quality image. A 42-inch TV also hangs in front of the podium, allowing presenters to view their materials. The new technology allows wireless presentation capabilities to those using iPads and the room can be separated into multiple different rooms with a minimum of two TVs per room.



Bar Journal Takes Summer Break

The *Oklahoma Bar Journal* theme issues are taking a short break. The next issue, devoted to "Bankruptcy," will be published Aug. 20. Deadline for submissions will be July 18. You'll still receive issues containing court material twice a month in June and July. Have a safe and happy summer!



Important Upcoming Dates

Don't forget the Oklahoma Bar Center will be closed Monday, May 30, and Monday, July 4, in observance of Memorial Day and Independence Day. Remember to register and join us for the 2016 Solo & Small Firm Conference in Durant June 23-25, and be sure to docket the OBA Annual Meeting to be held in Oklahoma City Nov. 2-4.

OBA Member Resignations

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

Zachary Edward Bernard
OBA No. 31344
7118 Hartland St.
Houston, TX 77055

Neal A. Gerstandt
OBA No. 3329
2230 Mimosa B
Houston, TX 77019

Phillip W. Gordon
OBA No. 3473
2802 Desirae Drive
Chickasha, OK 73018

Stephen Alan Kepner Jr.
OBA No. 17396
2617 Lauriston
Norman, OK 73072-3946

William B. "Pete" King
OBA No. 14501
628 Stoner Avenue
Shreveport, LA 71101

Liza Marie McGinn
OBA No. 20910
8479 Ulysses
Universal City, TX 78148

James Craig McMillin
OBA No. 17206
5824 N. Barnes Circle
Oklahoma City, OK
73112-7330

Carolyn Davis Moon
OBA No. 12146
1 Keahole Place, #1205
Honolulu, HI 96825

Polly Cox Owen
OBA No. 18124
Senior Counsel, Intellectual
Property
Eastman Chemical Co.
P.O. Box 511, B-75
Kingsport, TN 37662-5075

Maria Kristina Roberts
OBA No. 18134
614 Mindora Street
Pittsburgh, PA 15211-2204

Jeffrey Ray Schoborg
OBA No. 10603
1719 S. Norfolk Ave.
Tulsa, OK 74120

Ryan Kevin Swartwood
OBA No. 30924
17900 Hianatha St., Apt. 111
Northridge, CA 91326



The Litigation Counsel of America (LCA) recently named Crowe & Dunlevy attorneys **Kevin D. Gordon**, **Mack J. Morgan III**, **Judy Hamilton Morse**, **Terry M. Thomas** and **John M. Thompson** as senior fellows, and attorney **Brooke S. Murphy** as a fellow. LCA is an invitation-only trial lawyer honorary society established to reflect the new face of the American bar.

John Hunsucker of the Hunsucker Legal Group has been selected as a regent for the National College for DUI Defense (NIDD). NIDD is a 2,000 plus member defense organization dedicated to DUI defense. Additionally, Mr. Hunsucker and **Austin Young** co-authored "Representing a Military Client in a DUI Case" which was e-published in the March edition of *The Champion*, the monthly publication by the National Association of Criminal Defense Lawyers.

The board of the American Bar Foundation (ABF) has elected **Karl Rysted** to be a fellow. The fellows is an honorary organization of attorneys, judges, law faculty and legal scholars whose public and private careers have demonstrated outstanding dedication to the welfare of their communities and to the highest principles of the legal profession. Members are nominated by their peers and

elected by the board of the ABF. Mr. Rysted received his J.D. from the OCU School of Law in 1992.

UCO professor **Mary Teal** was honored with the Oklahoma Society of Certified Public Accountants' 2016 Outstanding Accounting Educator Award during the Oklahoma Accounting Educators Conference on April 2 at UCO in Edmond. Ms. Teal, an assistant professor of accounting at UCO, received her bachelor's and master's degrees in accounting from UCO, her J.D. from the OCU School of Law and her post-doctoral bridge certificate in finance and accounting from the University of Florida. She also is the Founder of the Clean Slate Program, which helps at-risk youth improve grades, attendance and overall academic performance.

James W. Connor Jr. of Richards & Connor PLLP in Tulsa was recently inducted into the International Academy of Trial Lawyers (IATL) at their annual meeting held April 2-6. IATL's general purposes are to cultivate the science of jurisprudence, promote reforms in the law, facilitate the administration of justice and elevate the standards of integrity, honor and courtesy in the legal profession. IATL honors those who have achieved a career of excellence through demonstrated skill and ability in jury trials, trials before the court and appellate practice who have attained the highest level of advocacy.

Evelyn Aswad, law professor at OU, received OU's 2016 David L. Boren Award for Outstanding Global Engagement at the university's annual A Tribute to the Faculty. The award was established to recognize faculty who have exhibited outstanding commitment to and support for the university's international mission. She joined the OU College of Law faculty in 2013 after serving for 14 years as an attorney in the legal bureau at the U.S. Department of State, most recently as the head of the Office of Human Rights and Refugees.

Michael C. Redman of Neuens Mitchell Bonds PLLC was recently elected as president of the Board of Directors for the American Civil Liberties Union of Oklahoma, a nonpartisan organization dedicated to defending individual's civil rights. Mr. Redman graduated from the OU College of Law in 1988 and practices employment law and civil litigation in Tulsa.

Cynda C. Ottaway has been named president of the American College of Trust and Estate Counsel (ACTEC). ACTEC is a nonprofit association of lawyers and law professors skilled and experienced in the preparation of wills and trusts, estate planning, probate procedure and administration of trusts and estates of decedents, minors and incompetents. Ms. Ottaway has held several other leadership roles with ACTEC,

including secretary, treasurer and president-elect. Ms. Ottaway earned her J.D. from the OU College of Law.

Bob Burke was inducted into the College of Workers' Compensation Lawyers at an American Bar Association meeting in New Orleans. He was nominated by a member of the college's Board of Directors.



Stinson Law Group announced additions to the firm. **Rhonda McLean** is a 2011 graduate of the OCU School of Law. Her practice focuses on oil and gas title law and title curative matters including probates and quiet title actions. **Kyndal Kliewer** is a 1997 graduate of the OCU School of Law. She adds an adoption practice to the firm, while also adding to the estate planning and business law areas.

Justice William C. Wantland, a citizen of the Seminole Nation and chief justice of the Seminole Nation Supreme Court, retired March 24. Justice Wantland presided over a session of the Supreme Court at which **Justice Roger Wylie** of the Creek Nation was elected chief justice to succeed. The outgoing chief justice also swore in as district judge **Peary Robertson** and as his successor on the Supreme Court **Kyle Haskins**. Justice Wantland had served as chief justice for the past five years and served as chief magistrate of the

Court of Indian Offenses for the Seminole Nation for six years prior to his appointment to the Supreme Court. Judge Robertson is a citizen of the Seminole Nation and an attorney in private practice in Seminole. Justice Haskins, a citizen of the Cherokee Nation, practices law in Tulsa, has served as special district judge in Tulsa County and as an associate justice of the Cherokee Supreme Court.

Daniel A. Nickel has joined GableGotwals as an of counsel attorney in the firm's Oklahoma City office where his practice will focus on oil and gas law and commercial law. Nickel is a graduate of the OU College of Law.

Fuller, Tubb, Bickford & Krahl announced **Courtney K. Warmington** has joined the firm as its newest partner. She is a 1999 graduate of the OCU School of Law, a former administrative law judge at the Oklahoma Department of Labor and has taught as an adjunct professor at the OCU School of Law.

Michael L. Brooks has become a partner in the Brooks Law Firm LLC, formerly Gary L. Brooks and Associates PLLC. Mr. Brooks received his J.D. in 2010 from the OU College of Law. Mr. Brooks will continue to focus on appellate practice and constitutional matters, in addition to representing plaintiffs in medical malpractice and other personal injury cases.

Dunlap Coddling announced **Michael A. Schade** has returned to the firm as senior counsel and biotechnology practice group leader. His practice includes all areas of intellectual property law including patent,

trademark, copyright, technology and e-commerce and he assists clients with intellectual property matters requiring litigation, licensing, technology counseling and complex transactions. He is currently an adjunct professor and lecturer at the OU College of Law. Mr. Schade received his J.D. from the OU College of Law.

Eller & Detrich PC announced **Nathalie M. Schaefer** has joined the firm as an associate attorney. Ms. Schaefer earned her J.D. from the TU College of Law in 2015. Ms. Schaefer's emphasis will be in real estate transactions, civil litigation, probate and estate planning.

The law firm of Fellers Snider welcomed **Rebecca Wood Hunter** to the firm. Ms. Hunter earned her J.D. from the OU College of Law in 2002. She has 14 years of experience in business law, estate planning, elder law, family and divorce law. She will be based out of the firm's Tulsa office where her practice will focus on estate planning.

Reginald Smith has been assigned to the Food and Drug Administration's Center for Drug Evaluation and Research Division of Information Disclosure Policy. He will focus on Freedom of Information Act issues. He obtained his J.D. from the OCU School of Law in 2008.

Cazes Roberts PLLC, announced **Dale B. Cazes** will head the newly launched Oklahoma Tax Help. Oklahoma Tax Help was created by the firm to fight for tax resolution and mitigation for individuals and companies.

Richards & Connor announced **Bradford J. Williams Jr.** has become of counsel with the firm. Mr. Williams graduated from the TU College of Law while also serving in the Air National Guard. Mr. Williams practices primarily in the fields of real estate, franchising, employment and contracts and also continues as general counsel for Mazzio's LLC.

Graeves McLain PLLC announced the relocation and expansion of the law firm to its new office at 4137 S. Harvard Ave., Suite F, Tulsa, 74135. The firm continues to provide legal representation in the area of personal injury law, including automobile collisions, medical malpractice, wrongful death and defective medical devices. Graves McLain PLLC also welcomed **Brian Carter** as an associate to the firm. Mr. Carter's area of practice will focus on personal injury, including motor vehicle collision, premise liability and medical malpractice. Mr. Carter is a 2015 graduate of the TU College of Law.

Hall Estill announced the opening of its fifth office in Denver. The new Denver office will initially be composed of long-time energy industry attorney **James J. "Jim" Bender** and Denver-area lawyers. The immediate focuses of the Denver practice will include oil and gas, corporate, intellectual property and environmental law. Mr. Bender also serves as an independent director of two publicly traded companies.

Crowe & Dunlevy has named **Timila S. Rother** president and CEO and elected its 2016 Executive Committee, including **James W.**

Larimore as vice president of economics and **Joel W. Harmon**, **Jeffrey T. Hills** and **Drew T. Palmer** as members. Ms. Rother is a director and member of several practice groups, including litigation and trial, insurance, health-care and appellate. Her experience and practice focus includes commercial, class action, insurance and health-care litigation. She is also experienced in ethics and professional liability litigation and serves as loss prevention and claims counsel to the firm. She is a graduate of the OU College of Law. A director at the firm, Mr. Harmon serves in the banking and financial institutions and bankruptcy and creditor's rights practice groups. He focuses his practice in commercial and banking law, lending transactions, workouts and restructurings, bankruptcy litigation, creditor's rights law and defense of financial institutions. He obtained his J.D. from the OU College of Law. Mr. Palmer is a director and member of the firm's intellectual property practice group, specializing in litigation and conflict resolution in the software, internet and other high-technology industries. He handles patent, copyright and trademark infringement matters for his clients and assists in the protection and enforcement of his clients' other intellectual property interests. Mr. Palmer received his law degree from the OU College of Law.

Hall Estill announced the addition of **Raymond "Ray" S. Rudnicki** and **Moiria C.G. Watson**, to the firm's Oklahoma City office. Mr. Rudnicki joins the practice as a shareholder and Ms. Watson joins as special coun-

sel. Mr. Rudnicki received his J.D. from the OU College of Law in 2001. He has experience in oil and gas acquisitions and divestitures, transactions and general corporate matters as well as experience in global sales and operations legal support. Ms. Watson received her J.D. from the University of Pennsylvania Law School in 2005. Her practice will focus on corporate, banking and financial services.

At The Podium

UCO professor **Marty Ludlum** recently spoke to the Southern Academy of Legal Studies in Business in San Antonio. His three presentations were *Katie's Law: Oklahoma's Medical Marijuana Law*, *Forget Video Poker Kemo Sabe: Sell Marijuana on Tribal Lands* and *Employee Privacy Outside the Workplace*.

Kevin Kuhn, a 1977 graduate of the OU College of Law, was a featured speaker at the Defense Research Institute's 2016 Medical Liability and Health Care Seminar in New Orleans on March 10-11. Mr. Kuhn co-presented *The Hearts Have It*, a multidisciplinary discussion of the anatomy and function of the heart, diagnostic tools to measure heart function, indications and timing of surgery versus catheterization and new hybrid catheterization labs where surgeon and cardiologist meet. He is a civil-litigation defense attorney, a retired U.S. Air Force colonel and former JAG prosecutor.

Faith Orlowski spoke to the Sooner Association of Division Order Analysts at the Tulsa County Club on April 13. She discussed *Acquisitions and Divestitures from the Division Order Analyst's Point of View*. She received her J.D. in 1978 from the University of Texas.

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:
Laura Stone
Communications Dept.
Oklahoma Bar Association
405-416-7018
barbriefs@okbar.org

Articles for the Sept. 10 issue must be received by Aug. 8.

IN MEMORIAM

Lauren Lester Allison of Bristow died March 17. She was born April 22, 1982, in Tulsa. She obtained a B.A. from TU and went on to earn her J.D. from the TU College of Law in 2006. She worked in private practice throughout Creek County for three years before taking the position of coordinator of academic resources and bar support for the TU College of Law. There she worked directly with students preparing for the exam and served as a liaison with bar prep professionals. She served as president of the Creek County Bar Association, a CLEET certification instructor and a member of the OBA Professionalism and Civil Procedure Committees. She also completed the inaugural Oklahoma Bar Association Leadership Class in 2009. At the time of her death she was president and CEO of Soundless Echo Media LLC in Bristow.

Judge Elvin J. Brown of Norman died March 24. He was born April 4, 1922, and grew up on the family farm in Larned, Kansas, attending rural school and graduating from Zook High School in 1940. **He left college to join the U.S. Navy in September 1942 where he trained as a pilot.** He returned to McPherson College in 1946 to complete his degree and then went on to graduate from the OU College of Law in 1950. He served as assistant county attorney from 1950 to 1955, then was elected Cleveland County judge. He was later appointed as district judge for Cleveland, McClain and Garvin counties where he presided for 24 years. He then entered private practice in Norman until his retirement in 2010. He served on several boards, including the Cleveland County Law Library Board, Board of Bar Examiners and was active with several civic organizations including the Salvation Army, Health for Friends, J.D. McCarty Center,

Boy Scouts, 40 & 8, Norman Lions Club, Masons and the India Unit of the Shriners. Judge Brown believed that part of the responsibility of an attorney is to give back to the community that he is part of and he lived that responsibility.

Cynthia Shea Goosen of Sherman, Texas, died April 20. She was born Sept. 10, 1960, in Dallas and lived in Sherman for most of her life, graduating from Sherman High School. She later graduated *magna cum laude* with a B.A. from Southern Methodist University in 1982. She then went on to the SMU Dedman School of Law where she earned many honors including *magna cum laude* and Order of the Coif, receiving her J.D. in 1985. She began the practice of law with Cowles & Thompson, becoming partner. There she learned the art of advocacy and zealous representation of her clients, most especially, the medical profession she loved and served throughout her career.

In 1992, Ms. Goosen became a partner at Cooper & Scully, building and maintaining its Sherman office. She earned the admiration and respect of countless judges, colleagues, adversaries, clients and jurors throughout north Texas.

Charles Gordon Harris of Tulsa died Feb. 16 in Idabel. He was born Sept. 13, 1966, in Oklahoma City. After high school, he graduated from OU in 1992 with a B.A. in philosophy. Mr. Harris worked in the Child Support Enforcement Division of DHS from 1997-2003 when he left to attend Washburn University in Topeka, Kansas, where he obtained his J.D. and was admitted to the Oklahoma bar in 2005. He returned to work for DHS as a child support enforcement specialist and was promoted to a child support enforcement attorney in the Tulsa Child Support Enforcement - West Office in 2007. He was eventually appointed as the managing attorney in the McCurtain County Child Support Office in Idabel. He worked every day to serve the public and to support his staff in that shared pursuit.

Bill Larson of Edmond died April 15. He was born July 14, 1920, in Bartlesville but grew up in Oklahoma City and graduated from Classen High School. He received both his B.A. and J.D. from OU. **He served in the U.S. Army during WWII as a pilot in-structor and continued his military service with the 95th Division Army Reserve. He was recalled to active duty during the Korean Conflict and flew 111 combat missions. He last served in the Army as staff judge advocate**

with the rank of lieutenant colonel, retiring in 1966 after a total of 22 years. He had a general law practice from 1948-1957 before joining his father's manufacturing company until his retirement in 1982. After retirement he continued to provide pro bono legal service to nonprofit organizations. He founded Free to Live animal sanctuary, was a life member of the Oklahoma County Mental Health Association, a founding board member of the CARE Center, served as a volunteer for Lawyers for Children and was presented the National Volunteer of the Year award from the National Children's Alliance for his work on behalf of Oklahoma County's abused children. In lieu of flowers, donations can be made to Free to Live (or better yet, rescue an animal in his honor).

Tom "Tommie" R. Stephenson of Oklahoma City died April 9. He was born June 8, 1938, in Callaway, Nebraska, and graduated from East High School in 1954. He attended Wichita University from 1954-1959 and the OCU School of Law where he obtained his J.D. in 1967 and M.L.A. in 1994. **Mr. Stephenson served in the U.S. Army Reserve from 1958-1965.** He was admitted to the Oklahoma bar in 1967 and practiced law for 45 years. He was appointed as a special judge for the Oklahoma City Municipal Court in 2004. He also served three terms in the Oklahoma Legislature from 1974-1980 as a proud democrat. He enjoyed local theater and was an avid pilot, serving on the Oklahoma Aeronautics Commission

for several years. He taught at OCCC, Redlands and Rose State Colleges. In lieu of flowers, send a donation to the general scholarship fund at OCCC or other school of your choice.

Gregory Louis Sweeney of Houston died March 25. Mr. Sweeney was born Aug. 20, 1945, in Fairborn, Ohio. He received his B.A. from the University of Texas in 1965 and his J.D. from the University of Houston Law Center in 1970. **After graduation, he proudly served his country and practiced law in the U.S. Air Force while on active duty, retiring as a major in the Air Force Reserve.** For many years he practiced law in the oil and gas industry. He was involved with Big Brothers and Big Sisters, Knights of Columbus, numerous veteran charities, various other civic organizations and was a lifetime member of the Houston Livestock Show and Rodeo. In lieu of flowers, donations in Mr. Sweeney's memory may be directed to Society of St. Vincent de Paul at 713-403-4197.

Phyllis L. Zimmerman-Wade of Tulsa died April 4. She was born March 24, 1931, in Arkansas City, Kansas, but moved with her family to Ponca City and later Tulsa. She graduated from Will Rogers High School in 1948, attended Oklahoma Baptist University, then later graduated from TU in 1952. After several years of working as an executive or legal secretary, in 1963 she received her J.D. from Washington College of Law at the American University in Washington, D.C. She was admitted to the Oklahoma bar in 1963 and was

also admitted to practice before the U.S. Supreme Court and Northern District of Oklahoma. She practiced real estate, probate and guardianships but her passion was for adoption law and she handled

more than 5,000 adoption cases in her 50-year law career. She was nationally honored as an "Angel in Adoption," received the Mona Salyer Lambird Spotlight Award from the OBA Women

in Law Committee, was a temporary judge of the Oklahoma Court of Appeals and received the Outstanding Community Service Award from the Oklahoma Adoption Coalition.

OKLAHOMA BAR JOURNAL EDITORIAL CALENDAR

2016 Issues

- 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
Trial by Jury
Editor: Melissa DeLacerda
melissde@aol.com
Deadline: Aug. 1, 2016
- December
Ethics & Professional Responsibility
Editor: Renée DeMoss
rdemoss@gablelaw.com
Deadline: Aug. 1, 2016

2017 Issues

- January
Meet Your Bar Association
Editor: Carol Manning
- February
Energy Law
Editor: Luke Adams
ladams@tisdalohara.com
Deadline: Oct. 1, 2016
- March
Work/Life Balance
Editor: Melissa DeLacerda
melissde@aol.com
Deadline: Oct. 1, 2016
- April
Law Day
Editor: Carol Manning
- May
Constitutional Law
Editor: Erin L. Means
erin.l.means@gmail.com
Deadline: Jan. 1, 2017

- August
Technology & Office Management
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amanda@spiro-law.com
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- September
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- November
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Deadline: Aug. 1, 2017
- December
Ethics & Professional Responsibility
Editor: Leslie Taylor
leslietaylorjd@gmail.com
Deadline: Aug. 1, 2017

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

What's Your Sign?

OBA MAP Director Jim Calloway discusses the importance of first impressions and how the signage for your business should be well maintained.

goo.gl/XRWyaB



Master Difficult Conversations

Do you avoid difficult conversations with clients for fear of it going badly? Learn how to map out a strategy that maximizes the possibility of favorable outcomes.

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Memorial Day in Oklahoma

If you're looking for something to do on Memorial Day, look no further! Here are 15 different ways to celebrate in Oklahoma from attending a patriotic ceremony to enjoying a weekend on the water.

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42 iPad Apps for Trial Lawyers

The iPad has become an important tool for lawyers. Here are 42 new apps that will help you organize cases, present evidence, conduct research, pick jurors and much more.

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WANT TO PURCHASE MINERALS AND OTHER OIL/GAS INTERESTS. Send details to: P.O. Box 13557, Denver, CO 80201.

OFFICE SPACE

LUXURY OFFICE SPACE FOR LEASE – One or two offices for lease in S. OKC, 9905 S. Pennsylvania. Lease includes use of reception area, conference rooms, receptionist, kitchen, copier, fax and high speed Internet. One office is \$900, two offices is \$1600. If interested, please contact Courtney at 405-692-7676 or kyle@bmclawok.com.

OFFICE SPACE

FOR SALE/ LEASE LUXURY LAW OFFICE BUILDING 6,531 sq. ft. 2417 E. Skelly Drive in the heart of Tulsa, OK, available for immediate occupancy. Fully furnished, conference room, reception area and secretary cubicles. Newer color and collating copier also stays. \$595,000. Contact John Thetford at 918-633-2259 or j.thetford@lsh-law-firm.com.

LUXURY OFFICE SPACE - Two offices for lease, one at \$670 and one at \$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.

LAW OFFICES FOR LEASE IN NEAR-NORTH OKC. Pretty setting off major street. Drive-up parking. Telephone, high-speed Internet, access to copy machine and receptionist provided. For more information, email patballrealty@gmail.com.

OKLAHOMA CITY AV RATED SMALL FIRM seeking attorney for office share and eventual possible merger or acquisition of general practice in existence for 25 years. Must have at least 5 years' experience and significant litigation and jury trial experience. Submit a confidential resume with references to "Box R," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

POSITIONS AVAILABLE

LAW FIRM HAS AN IMMEDIATE OPENING for a full-time legal assistant. Minimum of 3 years of legal experience. Typing speed of 85+ WPM, excellent proofreading skills, advanced skills in Microsoft Office Suite and Adobe, trial prep assistance as needed. Duties include ordering supplies and office administrative support as needed. Must be highly organized and a team player. Please submit cover letter, resume, references and salary requirements to patballrealty@gmail.com.

THE U.S. ATTORNEY'S OFFICE FOR THE WESTERN DISTRICT OF OKLAHOMA IS SEEKING APPLICANTS for one or more assistant U.S. attorney positions which will be assigned to the Criminal Division, not to exceed 14 months, which may be extended. Salary is based on the number of years of professional attorney experience. Applicants must possess a J.D. degree, be an active member of the bar in good standing (any U.S. jurisdiction) and have at least two (2) years post-J.D. legal or other relevant experience. See vacancy announcement 16-OKW-1699761-A-02 at www.usajobs.gov (Exec Office for U.S. Attorneys). Applications must be submitted online. See "How to Apply" section of announcement for specific information. Questions may be directed to Denea Wylie, Human Resources Officer, via email at Denea.Wylie2@usdoj.gov. This announcement is open from May 20, 2016, through June 3, 2016.

POSITIONS AVAILABLE

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.

DOWNTOWN LITIGATION FIRM SEEKING ATTORNEY with 3-7 years' experience. Excellent research and writing skills required. Salary competitive and commensurate with experience. Send resume, writing sample and references to Brown & Gould, 136 NW 10th, Ste. 200, Oklahoma City, OK 73103.

SEEKING ASSISTANT DISTRICT ATTORNEY FOR LOGAN COUNTY DISTRICT ATTORNEY'S OFFICE located in Guthrie. Minimum 5 years major crimes jury trial experience required. Prosecution experience preferred. Must have strong work ethic and ability to professionally work with partner agencies, law enforcement and the bar. Send resume and contact information to scott.staley@dac.state.ok.us.

CONNER & WINTERS, A REGIONAL FULL SERVICE FIRM, SEEKS ASSOCIATE ATTORNEY with 2 to 4 years of experience for a full-time litigation position in Oklahoma City. The ideal candidate will possess excellent legal writing and research skills, a willingness to work closely with senior attorneys while independently taking responsibility for challenging projects and cases in a variety of energy related industries. This unique position will be part of a dynamic litigation team responsible for complex, multi-party cases involving unique and strategic client issues in multiple states. Creativity and a strong academic background will contribute to the team's analysis and implementation of critical key solutions in major cases. This partnership track position is immediately available and provides top of the market compensation and benefits. Applicants should submit resume, law school transcript and writing sample under cover letter to "Recruiting Coordinator" via email to OKCRecruiting@cwlaw.com. All applications are confidential.

PAYCOM IS HIRING A STAFF ATTORNEY. Experience in contract drafting and negotiating preferred. Ideal candidate has 1-3 years' experience in tax, employment and/or corporate law. Must be licensed to practice in Oklahoma. Salary and benefits. Apply at careers.paycom.com.

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.

POSITIONS AVAILABLE

SOUTH TULSA LAW FIRM HAS AN OPENING FOR A PARALEGAL. We are looking for a candidate that has background experience in insurance defense; trucking experience would be a plus. The duties involve the management of all of the documents related to the defense of personal injury cases. The ability to request, organize and review medical records is a must. The duties also include preparing matters for significant events such as a deposition, mediation or trial. Candidate should have excellent organization skills. Please send your resume to amy@csmlawgroup.com.

STILLWATER CITY ATTORNEY'S OFFICE seeks applications from qualified individuals to fill an entry level assistant city attorney position. This attorney will be responsible for transactional work, special projects and some board/committee representation. Strong communication, writing and research skills are required. Recent law school graduates and newly licensed attorneys are encouraged to apply. Starting salary is competitive with Oklahoma City and Tulsa area markets and includes a generous city employee benefits package. Relocation benefits may also be offered. Send resume, short writing sample and references by June 1, 2016, to Kerry Lee, Human Resources Department, City of Stillwater, P.O. Box 1449, Stillwater, OK 74076 or email to klee@stillwater.org.

ATTORNEY POSITION IN SOUTH OKC FIRM. We are looking for one or two highly motivated attorneys to help assist with personal injury, criminal defense and family law case load as well as any other areas the attorney is versed in. Pay can be based on percentage of work, salary or combination of both. Send resume to kyle@bmclawok.com.

TWO ATTORNEY POSITIONS OPEN FOR WORK IN THE OKLAHOMA CITY metropolitan area beginning July 1, 2016. Moderate to heavy criminal defense caseload. Experienced preferred, but not mandatory. Base pay of \$3,500 per month with opportunity for additional income available. Office space, secretary and malpractice insurance provided. Additional benefits not provided. Include a letter of interest and writing sample with your resume. Send to "Box K," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

OKLAHOMA CITY BOUTIQUE OIL AND GAS FIRM SEEKS TITLE ATTORNEY with at least five years of direct experience rendering title opinions for lands in Texas. Must be licensed to practice law in Texas. Please submit cover letter and resume to MR.resumes1@gmail.com.

TULSA LAW FIRM SEEKS STAFF ATTORNEY OR ASSOCIATE to lead growing personal injury division. Experienced PI practitioners and newly licensed attorneys with PI internships are encouraged to inquire. Negotiable compensation includes base salary plus performance incentives. All inquiries are confidential. Send replies to "Box NN, Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

POSITIONS AVAILABLE

MCAFEE & TAFT IS SEEKING AN ASSOCIATE ATTORNEY WITH 1-3 YEARS EXPERIENCE to join its Litigation Practice Group in its OKLAHOMA CITY office. Ideal candidates will have experience in research and writing, fact investigation, hearings, depositions and case evaluation, and will be highly motivated and able to manage a diverse caseload of civil litigation matters. Top academic performance, strong writing and analytical skills, interpersonal skills and the ability to work in a team environment are required. Please submit resume, law school transcript, and a writing sample to Rodney Hunsinger at McAfee & Taft A Professional Corporation, Two Leadership Square, 10th Floor, 211 N. Robinson, Oklahoma City, OK 73102. All inquiries will be treated confidentially. No emails or phone calls, please.

PAYCOM IS HIRING A COMPLIANCE ATTORNEY. Experience in payroll/tax, benefits, employment, immigration or HR law preferred. Ideal candidate has 3-7 years' experience researching in one or more of these areas. Must be licensed to practice in Oklahoma. Salary and benefits. Apply at careers.paycom.com.

MCAFEE & TAFT IS SEEKING AN ASSOCIATE ATTORNEY WITH 1-3 YEARS EXPERIENCE to join its Litigation Practice Group in its TULSA office. Ideal candidates will have experience in research and writing, fact investigation, hearings, depositions and case evaluation, and will be highly motivated and able to manage a diverse caseload of civil litigation matters. Top academic performance, strong writing and analytical skills, interpersonal skills and the ability to work in a team environment are required. Please submit resume, law school transcript and a writing sample to Craig Buchan at McAfee & Taft A Professional Corporation, 1717 S. Boulder, Suite 900, Tulsa, OK 74119. All inquiries will be treated confidentially. No emails or phone calls, please.

FAST-PACED OKC INJURY FIRM SEEKS ASSOCIATE ATTORNEY. Ideal candidate will possess 1 - 5 years of experience in personal injury and/or insurance defense. We are looking for someone who is hard-working, highly-organized and able to work independently. Offering competitive pay with excellent income potential. Please submit resume and writing sample to "Box BB," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

AV RATED DOWNTOWN OKC INSURANCE DEFENSE FIRM seeks associate with 7 to 10 years litigation experience in bad faith/civil litigation. Candidate should be self-motivated, detail oriented and have strong research and writing skills. The primary duties of the position will involve briefing and written discovery. Salary and benefits commensurate with experience. Send replies to "Box GG," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

POSITIONS AVAILABLE

THE OK HEALTH CARE AUTHORITY IS SEEKING AN ATTORNEY II/III. Serve as second chair in state and federal court litigation. Assist attorneys of higher level with legal research and assists with discovery. This may include court appearances for the agency, pleadings in state and federal court and negotiation with counsel. Conduct administrative hearings for the agency. Litigate administrative actions for the agency regarding program issues within the Medicaid Program. Defend OHCA post-payment audits. Represent the agency in administrative proceedings by defending appeals filed by medical providers challenging post-payment audit appeals. This may include filing pleadings and briefs, conducting discovery, legal research, witness preparation, and entering negotiations and potential settlement with the opposing party. Coordinate with the Office of the Attorney General Medicaid Fraud and Control Unit concerning Medicaid fraud and abuse. Serve as principal contact for the provision of legal advice and assistance to major administrative units (e.g. Human Resources, Program Integrity, Finance, etc.). Serve in-house counsel needs for particular questions regarding program area in consultation with other attorneys in the division regarding legal matters. Answer general program questions. Analyze, review and determine impact of proposed legislation. Act as liaison to the legislature on select issues. Review, analyze, and appear at legislative committees when requested to take agency position or answer legal questions regarding agency action. Analyze, research and review record requests that involve the Open Records Act, HIPAA or Medicaid confidentiality laws. Annual salary of \$64,997-\$76,087. Must be an active member in the State Bar of Oklahoma and have at least three years of experience in the practice of law. Preference may be given to candidates with legal experience within the health care industry and/or experience processing administrative law cases. To apply visit www.okhca.org/jobs. Submit application by May 30, 2016. EOE. Reasonable accommodation may be made for individuals with disabilities.

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ATTORNEY SEEKING A PART-TIME POSITION in the Tulsa, Owasso or surrounding area. Extensive experience in preparing Supplemental and Division Order Title Opinions. Experience in preparing wills and trusts. Available to work in your office or offsite. Call Sandra at 918-798-6655.

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LOOKING TO EITHER PURCHASE A FIRM/BOOK OF BUSINESS OR A PARTNERSHIP in Oklahoma City or Tulsa. This could be a great opportunity for someone looking to retire, move or switch careers. Also, I have extensive experience in civil litigation and could compliment your area of practice if you consistently have clients looking for a civil/trial attorney. Please contact me at OKAttorney2016@gmail.com. All inquiries will be kept strictly confidential.

POSITIONS AVAILABLE

OKLAHOMA CITY AV RATED MEDICAL MALPRACTICE AND INSURANCE DEFENSE FIRM SEEKS AN ASSOCIATE ATTORNEY with zero to three years' experience. Candidate must be highly motivated, possess the ability, experience and confidence to appear in court for motion hearings and trial. Position requires strong communication, research and writing skills. Competitive benefits and compensation package will be commensurate with experience. All replies are kept in strict confidence. Applicants should submit resume, cover letter and writing sample to emcpheeters@johnsonhanan.com.

TRUST OFFICER POSITION AVAILABLE IN SOUTH-EAST OKLAHOMA. Large national bank with well-established trust department is seeking attorney with 5 years' experience in mineral management and oil and gas leasing. Undergraduate degree in business administration, accounting or finance is required. Position involves management of 30 - 40 current trust accounts and coordination with in-house auditors and CPAs for trust clients. Applicants must have good communication skills, work well with the elderly and disabled and the team of trust officers in the department. Applicants must be admitted to practice law in Oklahoma. Bank offers health insurance and 401(K) plan matching program. Submit cover letter and resume with references to stimmmons@visionbankok.com.

STAFFING CHANGE

JOHN M. MAHONEY HAS RETIRED from his associate general counsel position with the Oklahoma Education Association (OEA) in Oklahoma City effective April 29, 2016. Timothy M. Melton has also joined the OEA as an associate general counsel effective June 1, 2016. The OEA wishes John well in his retirement endeavors and extends a warm welcome to Tim in his new position.

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The Navy Blazer

By Mark S. Darrah

In 1975 John T. Molloy wrote *Dress for Success* advising men how to choose and wear clothes to succeed in their chosen professions, and in the corporate world. His book for women followed two years later, both becoming best sellers. When law students started thinking about interviewing for jobs in those days, they read the results of Molloy's studies and followed his suggestions.

When I graduated from law school in 1982, I bought a gray pinstripe suit, a dark blue suit and a navy blazer with two sets of trousers. Mr. Molloy would have been proud.

The insurance defense firm where I worked represented a major insulation manufacturer in asbestos litigation. Asbestos, that platypus of the mineral world, is a stone, but has fibers like a plant. Durable and resistant to fire and heat, asbestos proved to be a versatile building material in the first half of the 20th century, most commonly used as fireproof insulation. In the post-World War II construction boom, the use of asbestos became ubiquitous.

Asbestos turned out to be far less than ideal. It is toxic. Exposure to its micro-particles can lead to asbestosis, mesothelioma and lung cancer. Tiny fibers lodge in one's lungs and trigger a chronic inflammatory process that results in COPD, cancer and often death. Years pass before symptoms develop. By the early

1980s, vast numbers of those involved in the building trades had become ill or died.

Mass tort claims were not consolidated then. Each party claiming injury or death separately sued the major producers of asbestos and related products.



One defense lawyer deposed each plaintiff following a script. Young associates attended for the other defendants and asked few questions. It seemed like everyone had an asbestos claim and the hard-edged skepticism

that well serves attorneys often descended into dark cynicism.

One early summer afternoon, I gathered with other lawyers for the deposition of an asbestos widow in the conference room of an Oklahoma City attorney. Mrs. Jones was in her mid-50s and had the ash blonde hair of a Breck model. Except for the court reporter, the witness was the only female in the room. Lead defense counsel began his bloodless inquiry. I looked around and realized every attorney in the room wore a navy blazer or had one hanging on the coat rack in the corner.

Tears rolled down Mrs. Jones' face when asked the date she had married her husband. More tears fell when questioned about her late husband's children. When asked the date of his death, Mrs. Jones wept with the heartbreak of only those who have ever truly loved.

The lead attorney stopped his rote questions and took a break. Not one of us gathered lawyers showed this woman any compassion. Not one. When the deposition concluded, I found my navy blazer among the others on the coat rack and drove back to Tulsa.

That jacket was put on a few more times and then set aside.

I haven't worn a navy blazer since.

Mr. Darrah is a general civil practice attorney in Tulsa



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Oklahoma Judicial Center,
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The film is based on the true story of the late Maria Altmann, an elderly Jewish refugee, who, together with her young lawyer, Randy Schoenberg, fought the government of Austria for almost a decade to reclaim Gustav Klimt's iconic painting of her aunt, Portrait of Adele Bloch-Bauer I, which was stolen from her relatives by the Nazis in Vienna just prior to World War II. Altmann took her legal battle all the way to the Supreme Court of the United States, which ruled on the case *Republic of Austria v. Altmann* (2004).

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Gary L. Brooks, Ann Brooks, and Michael L. Brooks are pleased to announce their new partnership and the formation of The Brooks Law Firm, LLC.

Gary and Ann have practiced in the firm Gary L. Brooks & Associates, PLLC, since 1994. Together, they have over 63 years' experience representing plaintiffs in medical-malpractice and other personal-injury cases. Gary is certified by the National Board of Trial Advocacy (Civil Trial Advocacy) and the American Board of Professional Liability Attorneys (Medical Malpractice), and he serves on the Board of Directors of both organizations. Ann serves on the ABA Standing Committee on Legal Specialization. Gary and Ann founded the nationally recognized American College of Board Certified Attorneys.

After graduating first in his law-school class and serving as Editor-in-Chief of the Oklahoma Law Review, Michael clerked for a federal appellate judge and then spent four and a half years practicing with a large Oklahoma City firm, where he handled primarily appeals and complex commercial litigation. Michael has attained several noteworthy appellate victories, including reversals of adverse trial-court rulings in cases with millions of dollars at stake. He is currently a member of the Tenth Circuit Appellate Criminal Justice Panel and the Chair-Elect of the OBA Appellate Practice Section.

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