

ALSO INSIDE: Assessing the Validity of Work Policies • Abatement *Ab Initio*
Milestone Member Anniversaries • High School Mock Trial Program

THE OKLAHOMA BAR Journal

Volume 89 — No. 10 — April 2018

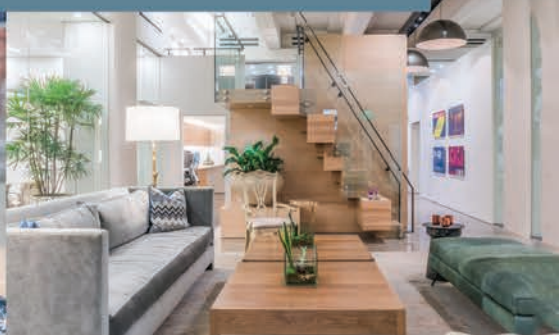


LAW DAY 2018

SEPARATION OF POWERS: FRAMEWORK FOR FREEDOM



A DIFFERENT APPROACH. BIG CASES, WITHOUT BIG EGOS



ACCIDENTS

- Trucking
- Aviation
- Heavy Equipment & Machinery
- Rollover
- Gross Negligence

CLASS ACTIONS

- Oil & Gas Royalty
- Wage & Hour
- Consumer Protection
- Environmental
- Whistleblower

SERIOUS HARM

- Birth Injuries
- Brain & Spinal Cord Injuries
- Amputations & Burns
- Wrongful Death
- Negligent Care & Abuse

PRODUCT LIABILITY

- Roundup® – Non-Hodgkin Lymphoma
- Talcum Powder – Ovarian Cancer
- Power Tool Injuries
- Vehicle Defects
- Consumer Product Defects

PHARMACEUTICAL & MEDICAL DEVICE

- Hip Implant Failures & Revision Surgeries
- Taxotere® – Permanent Alopecia
- Abilify® – Compulsive Gambling
- Hernia Mesh Defects
- Opioid – Addiction Epidemic

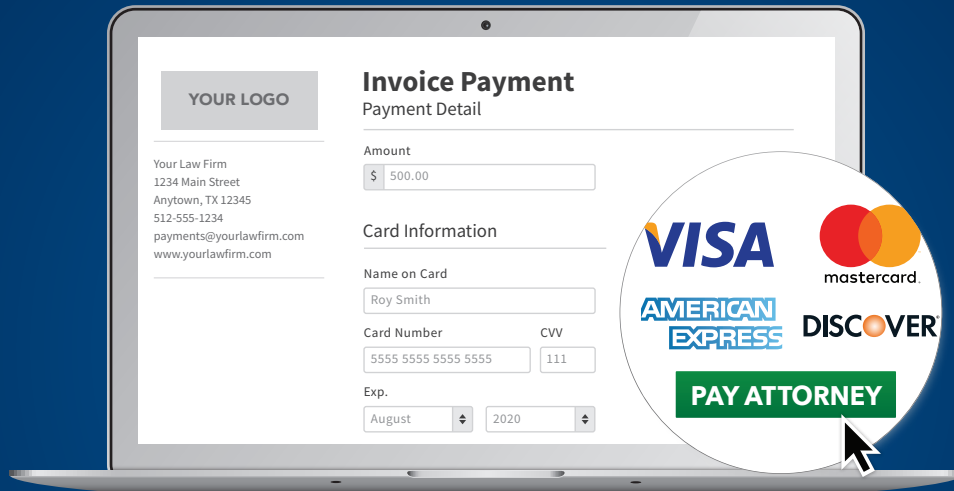
INSURANCE COVERAGE & BAD FAITH

- Automobile Policy Disputes
- Storm Damage Claims
- Life Insurance Disputes
- Fire Damage Claims
- Health Insurance Fraud



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6/0

Join us by leaping into the law of Bankruptcy.

Learn the basics of Bankruptcy Law, case administration, how to prepare a case for filing and your client's discharge and more.

Early registration by April 27, 2018 is \$150.00. Registration received after April 27, 2018 is \$175.00 and walk-ins are \$200.00. Registration includes continental breakfast and lunch. To receive a \$10 discount on in-person programs register online at www.okbar.org/members/CLE. Registration for the live webcast is \$200. Members licensed 2 years or less may register for \$75 (late fees apply) for the in-person program and \$100 for the webcast. All programs may be audited (no materials or CLE credit) for \$50 by emailing ReneeM@okbar.org to register.

PROGRAM PLANNER:

William Mark Bonney,

Chapter 13 Trustee,
Eastern District of Oklahoma

Topics & Presenters:

- **Representing the Client**
Jerry D. Brown, Jerry D. Brown, P.C., OKC
- **It's All in the Schedules**
Brian Huckabee, Tulsa
- **I've got the Automatic Stay, Now what?**
Elaine M. Dowling, Dowling Law Office, OKC
- **Who are the United States Trustee?**
Charles Snyder, Trial Attorney, Office of the U.S. Trustee, OKC
- **Is Chapter 13 the best option for my Client?**
Greggory T. Colpitts, The Colpitts Law Firm, Tulsa
Linda Ruschenberg, Chapter 13 Trustee for the Northern District of Oklahoma
- **Panel Discussion**
William Mark Bonney, Jerry D. Brown, Brian Huckabee, Elaine M. Dowling, Charles Snyder, Greggory T. Colpitts, & Linda Ruschenberg

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The Power of Three

Law Day is May 1, and I hope you are planning to be a part of the important day. Your county bar association is planning local events, and our OBA Law Day Committee is putting the finishing touches on our OBA celebrations. This year the Oklahoma Bar Association will be celebrating the 67th anniversary of Law Day. The year 2018 will mark the 42nd year OBA members are offering free legal advice to the public. The *Ask A Lawyer* TV show will air May 3 at 7 p.m. on OETA.

The 2018 Law Day theme is “Separation of Powers: Framework for Freedom.” We learned in elementary school that the Founding Fathers drafted a constitution that created a national government consisting of three branches. All three branches were needed to have a working government, and no one branch was to have too much power.

Do you think our Founding Fathers were influenced by the power of the number three when



Kimberly Hays

President Hays practices in Tulsa.
kimberlyhayslaw@aol.com
918-592-2800

they were creating the framework for our government?

Look around and take note of the ways in which the number THREE is front and center in everyday life. Only three primary colors (red, yellow and blue) are needed to mix most other colors. A batter has three strikes in baseball. Trilogies are powerful and memorable: “snap, crackle, pop,” “ready, set, go!”

I encourage you to take the opportunity of the 2018 Law Day theme to remind others that our framework of freedom remains strong when our three branches of government remain separate and equal.

and “the good, the bad and the ugly.” A genie grants three wishes, Goldilocks has her three bears and the three little pigs fight valiantly against the big, bad wolf. Good things come in threes!

As attorneys, we must continue to educate the public about our founders’ greatest legacy – a republic composed of THREE separate and *equal* branches, with the judicial branch entrusted with ensuring that all Americans receive justice under the law. An indispensable element of our system

of government is an independent judiciary.

We must ensure that our heritage of an independent third branch is passed on to our future generations. I encourage you to take the opportunity of the 2018 Law Day theme to remind others that our framework of freedom remains

strong when our three branches of government remain separate and equal. Now, “go, see and conquer” the excitement of Law Day.

Author’s Note: Many thanks to Oklahoma Court of Criminal Appeals Judge Dana Kuehn for her recent presentation in Tulsa, which inspired this examination of the number three.

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Volume 89 — No. 10 — April 2018

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Our Favorite Time of the Year: Law Day

By Roy D. Tucker

We learned in middle school there are three independent branches of government: the legislative, which makes the laws; the executive, which enforces the laws; and the judicial, which interprets the laws. No one branch is more powerful than the other, ensuring a fair system of checks and balances upon the other. This constitutional framework is most often referred to as the separation of powers doctrine.



This year's Law Day theme is "Separation of Powers: Framework for Freedom." It is intended to remind us that balanced power within the government protects our individual freedoms and liberties. It teaches that we must be mindful that this doctrine requires us, as the governed, to continually ensure that these checks and balances are kept sacred through activism, being informed, voting and in one way or another participating in our government. We frequently

hear the term "constitutional crises" used by media outlets nationwide to describe actions that are believed to either violate or diminish in some way the balance of power within the government. These instances, if true, should be a terrifying assault to our freedom. As James Madison once said, "[t]he accumulation of all powers, legislative, executive, and judiciary, in the same hands, whether of one, a few or many, and whether hereditary, self-appointed, or elective, may justly be pronounced the very definition of tyranny."

We, as lawyers, are the ensurers of the "check" in the check and balance of power.

One of the primary objectives of Law Day has always been education and reverence for the rule of law. As lawyers, we are necessarily educators. We educate our clients, jurors and, in some cases, opposing counsel. We do it all the time, and by training,

excel at it. We should not leave our special talents at our office door.

Being celebrated in Oklahoma since the 1950s, Law Day is an excellent opportunity to share our talents with another generation. It is an opportunity to work with our favorite colleagues, old and new, to do something meaningful and to stir the same fire for the law that we have in our careers.

ASK A LAWYER TV SHOW

This year's *Ask A Lawyer* program will air Thursday, May 3, at 7 p.m. on OETA, Oklahoma's public television stations across the state. The topics cover the success of mental health court, estate planning and record expungement. Attorney Courtney Blau will host the show, joining veteran newscaster and attorney Dick Pryor as moderator. We expect this to be one of the best shows yet!

The necessity of mental health court will be discussed by District

Attorney David Prater and OKC attorney Catherine Burton. This segment will focus on the too-often ignored problem of mental health and how courts are recognizing the need to punish not only the actions, but also to treat the underlying impetus that lead to those actions.

The estate planning segment will feature attorney Donna Jackson and two of her clients. This segment will focus on the wisdom for planning so that with

our passing, our loved ones are not saddled with unnecessary stress and burdens.

The expungement segment will focus on attorney Clint James and his client who will discuss the methods of expunging criminal records and how to use existing law to give individuals a second chance at gainful employment and quality of life.

OBA President Kimberly Hays will talk about the impact the Ask A Lawyer free legal advice project


and other community service efforts have on Oklahomans. Oklahoma Supreme Court Chief Justice Douglas Combs will share his thoughts on this year's theme and will recognize the Law Day Contest winners.



Reginald Lee, a 2017 graduate of the Oklahoma County Mental Health Court, shares his experience with mental health court.



Law Day Committee member Jennifer Tunder interviews Donna Jackson for the estate planning segment.



ASK A LAWYER



2018

Thursday, May 3 7-8 p.m. on OETA

Featuring Segments On:
**Mental Health Court
Estate Planning
Expungement**

Hosted by **Courtney Blau** and
moderated by **Dick Pryor**

Special Guests:
**Oklahoma Supreme Court
Chief Justice
Douglas Combs and
OBA President Kimberly Hays**

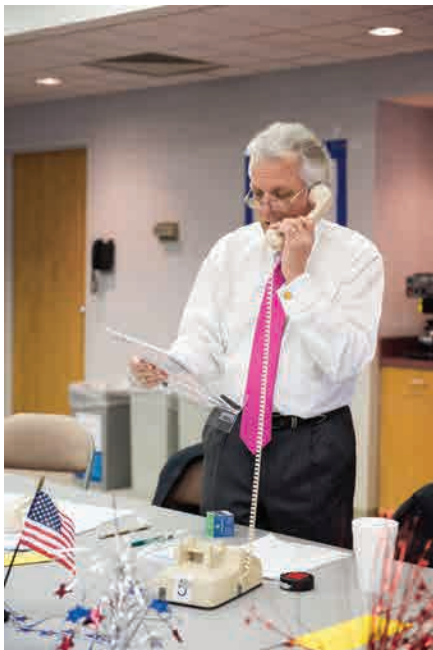



CONTESTS AND ACTIVITIES

More than 900 students from across the state submitted entries focused on this year's theme, "Separation of Powers: Framework for Freedom." The entries ranged from writing to coloring and art mediums. A ceremony was held at the Oklahoma Judicial Center on March 27 for first-place winners. Those earning second place or an honorable mention were honored in their home county with the help of their county bar association. See the names of all the winners and their winning entries online at www.okbar.org/lawday or in this issue.

FREE LEGAL ADVICE

For the 42nd year, we are organizing the Ask A Lawyer community service project, providing free answers to Oklahomans' legal questions. This year's project will be Thursday, May 3. Oklahomans will have the option to email their question or to call in and speak to an attorney.



Attorney Mack Martin provides a caller with legal advice during the 2017 Ask A Lawyer event.

Two email addresses have been created – askalawyer@okbar.org and pregunteaunabogado@okbar.org for Spanish-speaking Oklahomans. Participating in Ask A Lawyer is a great way for all Oklahoma lawyers to celebrate Law Day. This annual event gives us the opportunity to provide a much-needed community service while promoting a positive public image of lawyers and the OBA.

The Law Day Committee is also committed to assisting the Hispanic community by offering free legal advice in Spanish. To help ensure we have adequate bilingual coverage, Spanish-speaking callers will be asked to call the statewide toll-free number between 3 and 9 p.m. If you speak Spanish or know lawyers who do, please let us know.

Oklahoma and Tulsa county lawyers will work together to staff the statewide toll-free hotline from 9 a.m. to 9 p.m. For other counties, the Law Day Committee works with each county's Law Day chairperson to establish a network of local county phone numbers in addition to the statewide number. Volunteer lawyers in each participating county staff phones at their local location for a predetermined time period and the numbers are advertised during the *Ask A Lawyer* TV program.

Anywhere you live or work, your help is needed to make this community service project a success. It takes a total of 30 attorneys for each two-hour shift to fully staff the statewide number. That effort, combined with the local county bars and those answering email questions, creates a huge need for lawyers to step forward.

To volunteer, contact your local county Law Day chairperson, listed in this issue or online at www.okbar.org/lawday.

DIRECTIVE AND PROCLAMATION

Supreme Court Chief Justice Douglas Combs is continuing the OBA Law Day tradition of issuing a Law Day Directive, encouraging courts to host Law Day events or to visit schools speaking on the role of the judiciary. Gov. Mary Fallin has also signed a proclamation designating May 3 as Law Day in Oklahoma.

GET INVOLVED

We urge you to participate by volunteering for the Ask A Lawyer event or by contacting your local county bar and participating in the many activities occurring throughout the state. We are always seeking interested lawyers to get involved in the Law Day Committee and will soon be planning next year's activities. Please let me or committee Co-Chair Kara Pratt know if you are available to lend your expertise. Contact us: Roy Tucker, rtucker@muskogeeonline.org; or Kara Pratt, KPratt@BarberBartz.com.

Read John Morris Williams' call to arms on page 56 and get involved!

ABOUT THE AUTHOR

Roy D. Tucker is the city attorney for the City of Muskogee and is an associate justice on the Supreme Court of the Citizen Potawatomi Nation. He is a past member of the OBA Board of Governors, representing District 7, and is a past chair of the YLD. He is a 2003 graduate of the TU College of Law.

Law Day 2018
Thursday, May 3

**VOLUNTEER
LAWYERS
NEEDED!**

ASK A LAWYER

statewide free legal advice

Phone banks located at OETA studios in Oklahoma City and Tulsa, or local lawyers' offices in nonmetro counties.

Volunteers may also answer questions by email.

Oklahoma City:

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405-236-8421

connie@okcbar.org

www.okcbar.org/events

Tulsa:

Dan Crawford

539-664-4289

lawdaytulsa@okbar.org

Other counties:

Contact your Law Day chairperson for details.

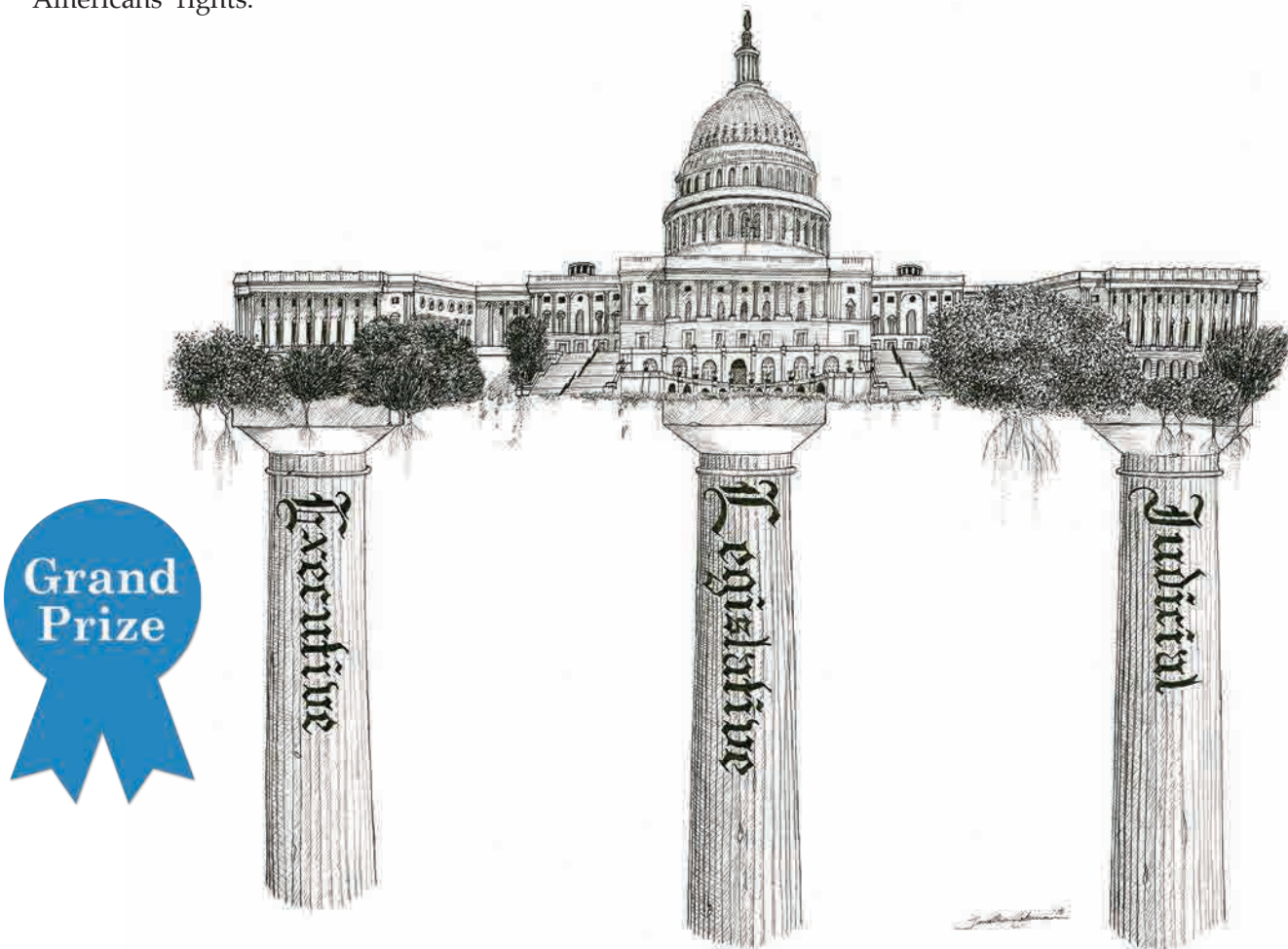
See the list of chairs at www.okbar.org/lawday.



Contest Winners from Across the State

The OBA Law Day Committee would like to thank Oklahoma educators, students and their families for participating in the 2018 Law Day Contest. This year more than 900 students from 55 schools in 19 counties across the state entered the contest.

This year's theme was "Separation of Powers: Framework for Freedom." First- through 12th-grade students demonstrated their knowledge of the history and concepts of the theme through essays and multimedia art. Pre-K and kindergarten students were given a choice of coloring activity pages related to the theme, allowing them to show off their budding creative and writing abilities. For both elementary and secondary students, the contest gave them an opportunity to explore how state and federal separation of powers helps guarantee and protect all Americans' rights.



Jonathan Coleman
Grand Prize
Twelfth Grade Art
Mingo Valley Christian School,
Tulsa

1

Draw the other half of the U.S. Capitol Building.

1st



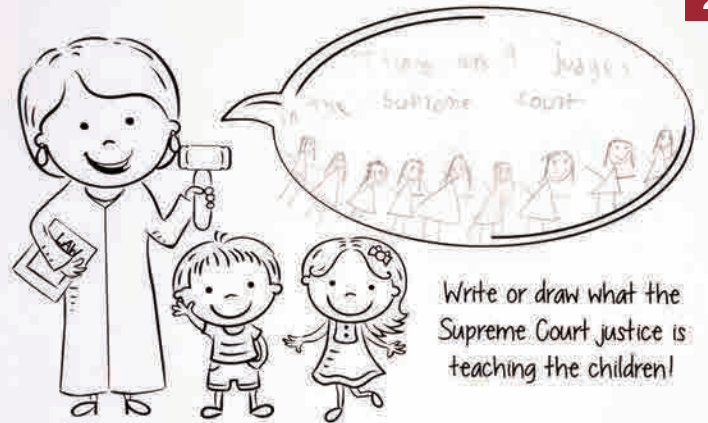
The Capitol Building is where the Senate and Congress discuss and vote on bills that become laws.



Law Day is a public community service of the Oklahoma Bar Association. Visit tinyurl.com/lawdaycontest for contest details and more information.



2



The Supreme Court helps make sure laws are fair and constitutional.



Law Day is a public community service of the Oklahoma Bar Association. Visit tinyurl.com/lawdaycontest for contest details and more information.



3

Write the name or draw a picture of a president the class is learning about!



The president works and lives at the White House and can sign bills to make them laws.



Law Day is a public community service of the Oklahoma Bar Association. Visit tinyurl.com/lawdaycontest for contest details and more information.



Write the name or draw a picture of a president the class is learning about!



The president works and lives at the White House and can sign bills to make them laws.



Law Day is a public community service of the Oklahoma Bar Association. Visit tinyurl.com/lawdaycontest for contest details and more information.



1st

4



1.
Kaley Stricklen
First Place
Pre-K Coloring
Covenant Community School,
Stillwater

2.
Makena Murimi
Second Place
Pre-K Coloring
South Rock Creek School,
Shawnee



3.
Berlin Hutton
First Place
Kindergarten Coloring
Seiling Elementary School,
Seiling

4.
Amelia Kwok
Second Place
Kindergarten Coloring
Nichols Hills Elementary,
Oklahoma City

7

What Makes a Good Leader?

By Chloe

Thy triy to be mature and Help. A bad leader does not help when somone is Herte. a good leader knows how to care for people.

A good leader will stad up for somone.

1st

1st



5



6

8

A Good Leader by Jude
A good leader helps people and shares with people. they know how to take care of people. A good leader can help people that or sick.

1st

OUR DEMOCRATIC HERITAGE

United States of America does not have king or queen because citizens of the 13 colonies started saying "no" to the things king or queen wanted, and they started a revolutionary war. After that, they were free so USA became democratic country and George Washington was the first president. The United States has three branches Judicial, Executive, and Legislative. All the branches share power, legislative makes the bill and in executive branch president pass the bill and judicial impose after it becomes a law with most votes. *Read the rest at www.okbar.org/LawDay.*

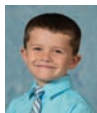
5.

Bruce Campbell

First Place

First Grade Art

Covenant Community School,
Stillwater



6.

Sophie Buchanan

Second Place

First Grade Art

Virginia Smith Elementary,
Harrah



7.

Chloe Longnecker

First Place

First Grade Writing

Hope Christian Academy,
Skiatook

8.

Jude Wier

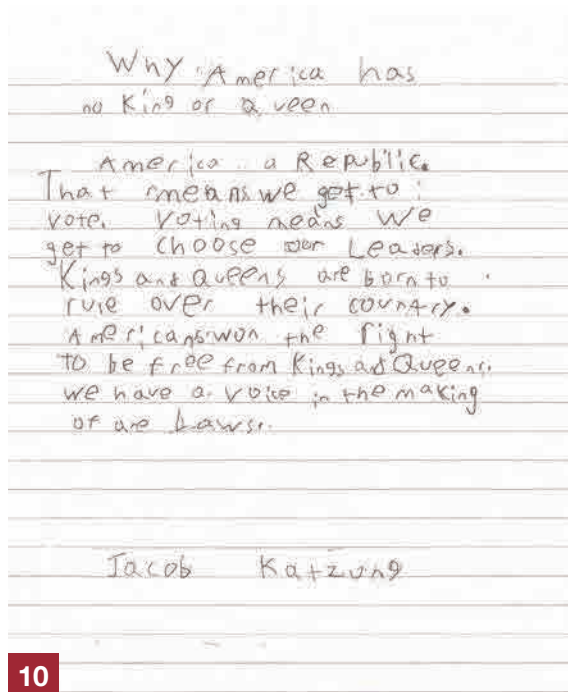
Second Place

First Grade Writing

Hope Christian Academy,
Skiatook



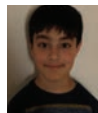
9



12



9.
Elizabeth Kwok
First Place
Second Grade Art
Nichols Hills Elementary,
Oklahoma City



10.
Dustin Hitchcock
Second Place
Second Grade Art
Covenant Community School,
Stillwater

11.
Cyrus Vij
First Place
Second Grade Writing
West Field Elementary,
Edmond

12.
Jacob Katzung
Second Place
Second Grade Writing
Covenant Community School,
Stillwater



Law day 2018 by vann nasal Roed

I day James Lankford decided that kids who are under 21 years old should not be allowed to be in the army. So he wrote a law congress passed the law the president signed the law then a boy who was 18 wanted to join the army but could not he sued the army and the judge decided James Lankford's law was good and the boy had to wait until he was 21 to go to the army.



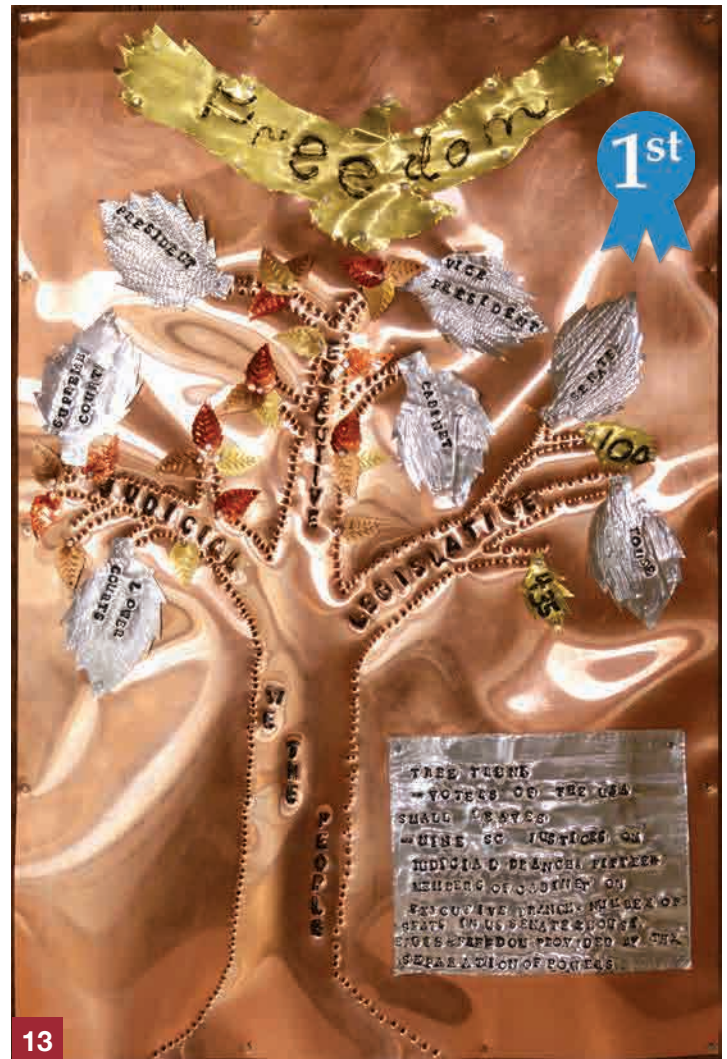
13.
Paetyn Gilliam
First Place
Third Grade Art
Covenant Community School,
Stillwater

14.
Dylan Mills
Second Place
Third Grade Art
Salina Elementary School,
Salina



15.
Maxine Nevarez
First Place
Third Grade Writing
Jackson Elementary,
Pauls Valley

16.
Vann Nasalroad
Second Place
Third Grade Writing
Covenant Community School,
Stillwater



BRANCHES OF GOVERNMENT

There are three branches of government. Number one is the Judicial, this branch makes sure that the laws agree with the Constitution. This is the Supreme Court. The next branch is Executive, This branch makes sure that the laws are obeyed. This branch includes the president. The next branch is Legislative. This branch makes the laws. This branch includes congress. I think the three branches are cool and good for us and the world because they maintain order.



SEPARATION OF POWERS

The United States government established three separate branches of power. The Constitution divides the powers of the federal government among three branches. The three branches of government are the Legislative branch, the Executive branch, and the Judicial branch. The Legislative branch helps make the laws. The Executive branch enforces the law. It can veto or refuse to sign a law. Last is the Judicial branch, and they decide if the laws are Constitutional. Read the rest at www.okbar.org/LawDay. *Read the rest at www.okbar.org/LawDay.*

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17



18



THE THREE BRANCHES OF THE U.S. GOVERNMENT

20

When our Founding Fathers set up our government they established the Checks and Balance methodology. The first branch of government is the Executive Branch. This branch of government is reserved for the President of the United States. The President has the power to make executive orders and make split second decisions that affect our country's security. However, the court systems have the authority to overrule the President if needed. They represent the Judicial Branch of the government. There are various district courts located all over the United States. *Read the rest at www.okbar.org/LawDay.*

17.

Miles Bryant

First Place

Fourth Grade Art

Covenant Community School,
Stillwater



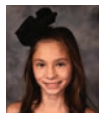
18.

Natalie Bryant

Second Place

Fourth Grade Art

Covenant Community School,
Stillwater



19.

Avery Walther

First Place

Fourth Grade Writing

Nichols Upper Elementary,
Miami

20.

Kyndal Sadler

Second Place

Fourth Grade Writing

Covenant Community School,
Stillwater



CREATING THE UNITED STATES

23

The three branches legislative, executive and judicial were established in order to all have the same power. The government wanted to protect all individuals' freedom and prevent power abuse. The theory behind that choice was that there would always be some person or institution that rules a nation. It needs power in order to function. More power than the Articles of Confederation provided.

The first lesson learned was to be patient. It took eight years of conflict for independence to be declared. Benjamin Franklin is often quoted as having said, "He that can have patience can have what he will." *Read the rest at www.okbar.org/LawDay.*



21.
Julia Chen
First Place
Fifth Grade Art
Fisher Elementary,
Oklahoma City



23.
Maci Hall
First Place
Fifth Grade Writing
Middleberg Public Schools,
Blanchard

UNITED STATES BRANCHES OF GOVERNMENT

24

The United States created the three branches of government in order that on one has more power than the next branch. This was done to help the people of the United States. It also made the separation of powers foundation, checks and balances in order that equal power is handed out. *Read the rest at www.okbar.org/LawDay.*

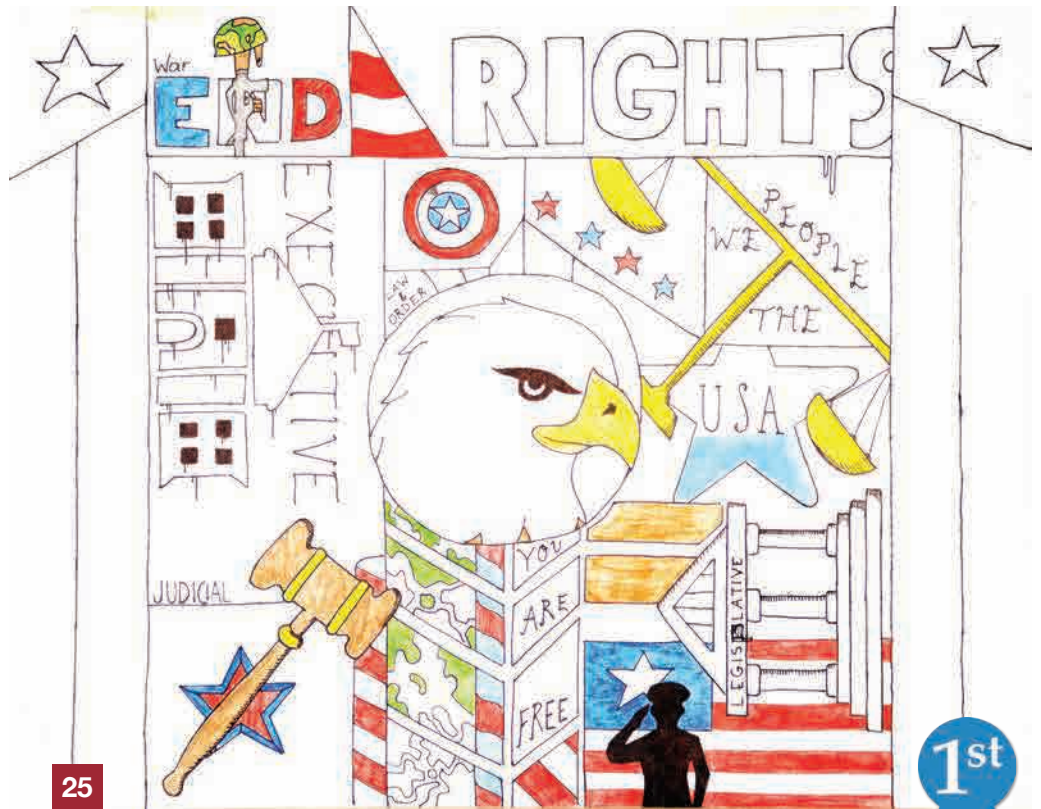


24.
Gage Ellison
Second Place
Fifth Grade Writing
Middleberg Public Schools,
Blanchard

THE SEPARATION OF THE THREE BRANCHES OF GOVERNMENT AND ITS IMPORTANCE HAIKU

Government power
Our design is the very best
Heads above the rest
England had a king
When we gained independence
No more tyranny
Our founders were wise
Gave power to the people
A mixed government
Separate powers
With three different branches
Checks and balances
*Read the rest
at www.okbar.org/LawDay.*

28



25

26



SEPARATION OF POWERS IN BRANCHES

27

Did you know that the U.S. was the first nation to have separation of powers in branches? Well, I am here to tell you why separation of powers were set in place, and why they are important. First we are going to talk about checks and balances. Checks and balances are divided into three branches, which are the Legislative, Executive, and the Judicial Branch. They each have their own power. This keeps it balanced and prevents one branch from gaining too much power. It would not be fair to the other branches if one branch had more power. This also prevents cruel and oppressive rule of government. *Read the rest at www.okbar.org/LawDay.*

1st

25.

Jaziel E. Villapando
First Place
Sixth Grade Art
Waller Middle School,
Enid



26.

Loren Simpson
Second Place
Sixth Grade Art
Waller Middle School,
Enid



27.

Olivia Shelton
First Place
Sixth Grade Writing
Middleberg Public Schools,
Blanchard

28.

Trevor Waugh
Second Place
Sixth Grade Writing
Newman Middle School,
Skiatook

WHAT WOULD HAPPEN?

31

What do you think would happen if there were no separation of powers, or only one branch of government, or if all the nations in the world were led by one branch or person? Complete disorder and confusion, or what I like to call chaos. I'm going to tell you about separation of powers and the three branches of government in the Eastern Hemisphere. So here goes something. *Read the rest at www.okbar.org/LawDay.*



32

SEPARATION OF POWERS

The concept and implementation of separation of powers was most important in American history during the Founding Father's creation of an effective constitutional structure of political institutions. The Constitution set up the Nation's future by establishing a system of checks and balances in government and protecting the rights of citizens. Two important aspects of the U.S. Constitution are federalism and the separation of powers, these ideas represent the framers' efforts to divide governmental power. Federalism limits government by creating two sovereign powers - the national government and state governments, there by restraining the influence of both. Separation of powers imposes internal limits by dividing government against itself, giving different branches separate functions and forcing them to share power. *Read the rest at www.okbar.org/LawDay.*

29.

Elsa Stewart
First Place
Seventh Grade Art
Waller Middle School,
Enid



30.

Kadie Evans
Second Place
Seventh Grade Art
Waller Middle School,
Enid

31.

Jaci Reagle
First Place
Seventh Grade Writing
Middleberg Public Schools,
Blanchard



32.

Clara Wright
Second Place
Seventh Grade Writing
Middleberg Public Schools,
Blanchard

33

1st

PEOPLES' RIGHTS PROTECTION

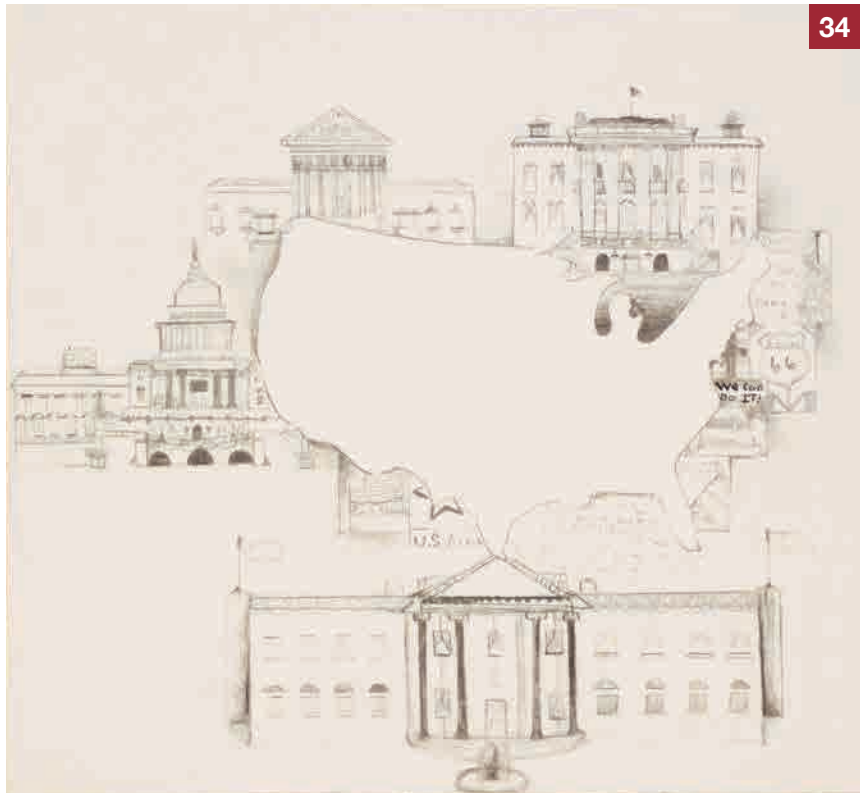
36

In the United States of America, we have a democracy. Under this democracy we need to have a stable government, which means we need to balance the Federal government's power. The Founding Fathers wanted to create checks and balances to equal out the branches of government. The framers were worried that the central government would misuse the power so they wrote the Constitution to create the separation of power. This made the Federal government's power balanced among three equal but separate parts. By splitting the federal government, each branch could check or limit the power over each other. The three branches are the Legislative Branch, the Executive Branch, and the Judicial Branch. *Read the rest at www.okbar.org/LawDay.*

THE PEOPLE'S RIGHTS

35

Every day, people around the world strive for an equal and safe society. Whether it be in our communities, state or nation, leaders and innovators change our society for the better. Burdened with the task of creating a new republic that paved the way for change, the Founding Fathers created the system of checks and balances, or a system of division of power. Ensuring the future and legacy of the new country, they split power apart between divisions of the government. Because of the system of checks and balances that were introduced through the creation of the United States Constitution, the people's rights were valued and protected within the new government. *Read the rest at www.okbar.org/LawDay.*

1st

34



33.
Thomas Buchanan
First Place
Eighth Grade Art
Harrah Middle School,
Harrah

34.
Harley Angel
Second Place
Eighth Grade Art
Covenant Community School,
Stillwater



35.
Charlie McDonald
First Place
Eighth Grade Writing
Monte Cassino School,
Tulsa

36.
Reese Woosley
Second Place
Eighth Grade Writing
Monte Cassino School,
Tulsa

LAW DAY POEM

Executive, Legislative,
Judicial,
No one branch has
All of the powers.
The Legislative branch
Passes the law,
The Executive Branch
Enforces the plan,
The Judicial branch
Interprets the law.
To divide the powers.
The branches depend
On each other so that they can
Get the work done.
A Law must pass
Through all branches to
be approved.
This is what we call
Checks and Balances.
This is what we call
The Separation of Powers.

40

37



39

FREE VERSE POEM

Branches, resembling that of
a tree,

A single body, many
intricate parts.

Operating together to
accomplish a goal,

Each possessing its own job, its
own level of importance.

United as one, divided
into many,

Like the citizens which
they protect.

Great minds in action,
One mind chosen to oversee all.

Balanced equally,
No one branch to become too
powerful, or it will fall.

Established to protect,
Upheld to withstand.

The principles of
our forefathers,
Instituted into modernity.



38



37.

Grace Jones

First Place

Ninth Grade Art

Mingo Valley Christian School,
Tulsa



38.

Jeffrey Phillips

Second Place

Ninth Grade Art

Mingo Valley Christian School,
Tulsa



39.

Caleb Kolman

First Place

Ninth Grade Writing

Mingo Valley Christian
School, Tulsa

40.

Kalyn Venable

Second Place

Ninth Grade Writing

Kiefer High School,
Kiefer



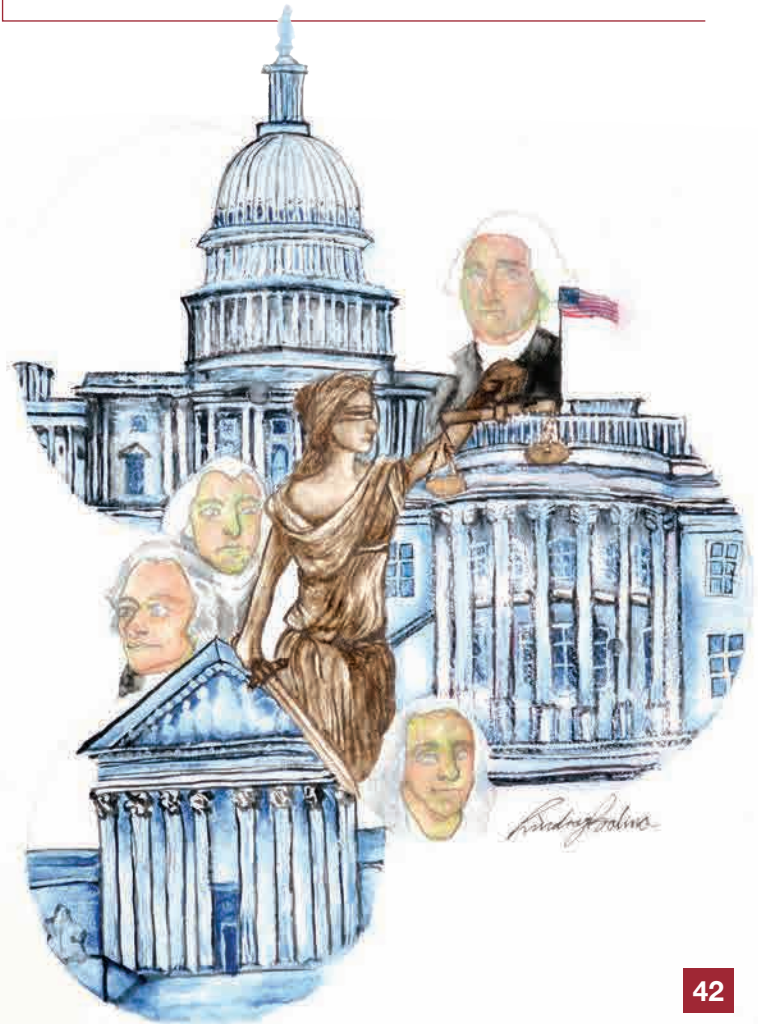
LAW DAY

On December 27 of 2017, I went to the public library in the town of Lawton, Oklahoma, to find research material for a school assignment. While I was wandering through the rows and rows of books, I took observations of the people around me. The realization then hit me. The realization that many of the people around me right now probably wouldn't be here right now if it was not for the checks and balances placed on the government through the case of *Skinner v. Oklahoma* in 1942. This life altering case involved the end of sterilization in habitual criminals and psychiatric patients across the state. Therefore, the *Skinner v. Oklahoma* case shows the continuous importance of the checks and balance system in American society. *Read the rest at www.okbar.org/LawDay.*



SEPARATION OF POWERS; UNEQUAL POWERS

It is commonly believed that all branches of America's government are equal. But is this modern day conclusion truly what history reveals? Is this conclusion what America's founding fathers had in mind while they created the constitution? The people of the United States of America have been blinded by the Supreme Court and not many realize it. As a nation, the people are experiencing a takeover. It is quiet, it is slow, but it is happening. The worst thing about the whole situation is that the American people are allowing it to happen right in front of them. They have allowed one branch of government to control them. *Read the rest at www.okbar.org/LawDay.*



41.
Katie Williams
First Place
Tenth Grade Art
Pocola Middle School,
Pocola

42.
Lindsay Bolino
Second Place
Tenth Grade Art
Norman North High School,
Norman



43.
Bianca Karnes
First Place
Tenth Grade Writing
Lawton High School,
Lawton

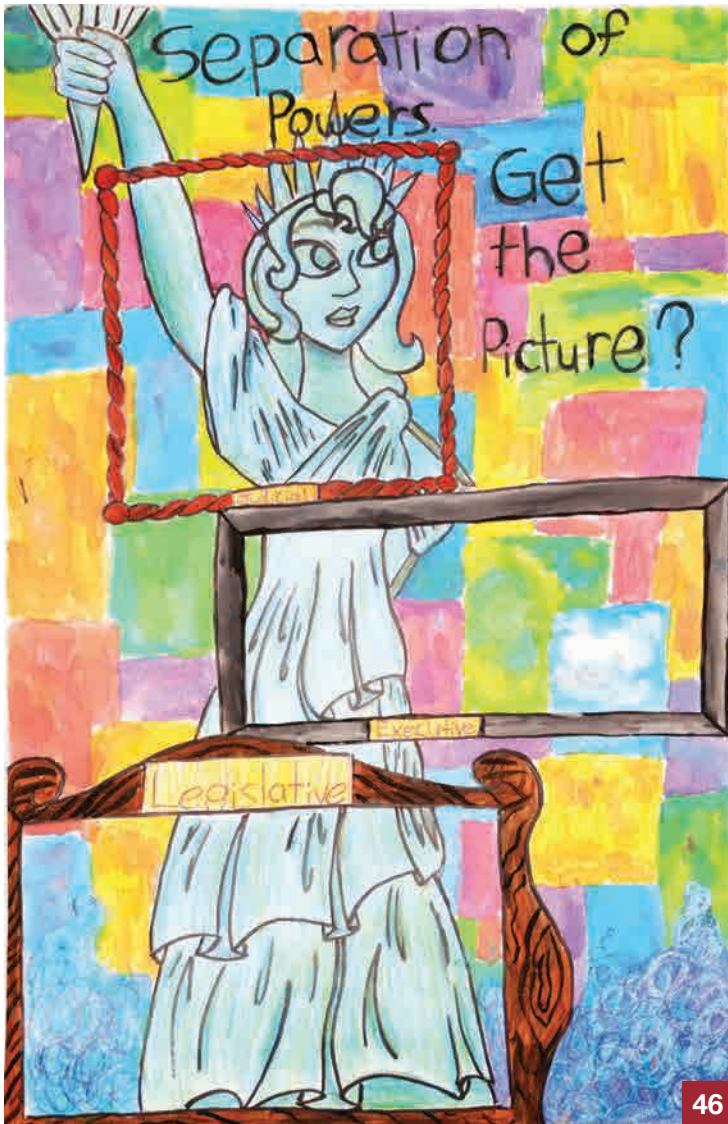
44.
Kristen Morgan
Second Place
Tenth Grade Writing
Salina

ABRAHAM LINCOLN: THE LIBERATOR OR LIBERTY VIOLATOR

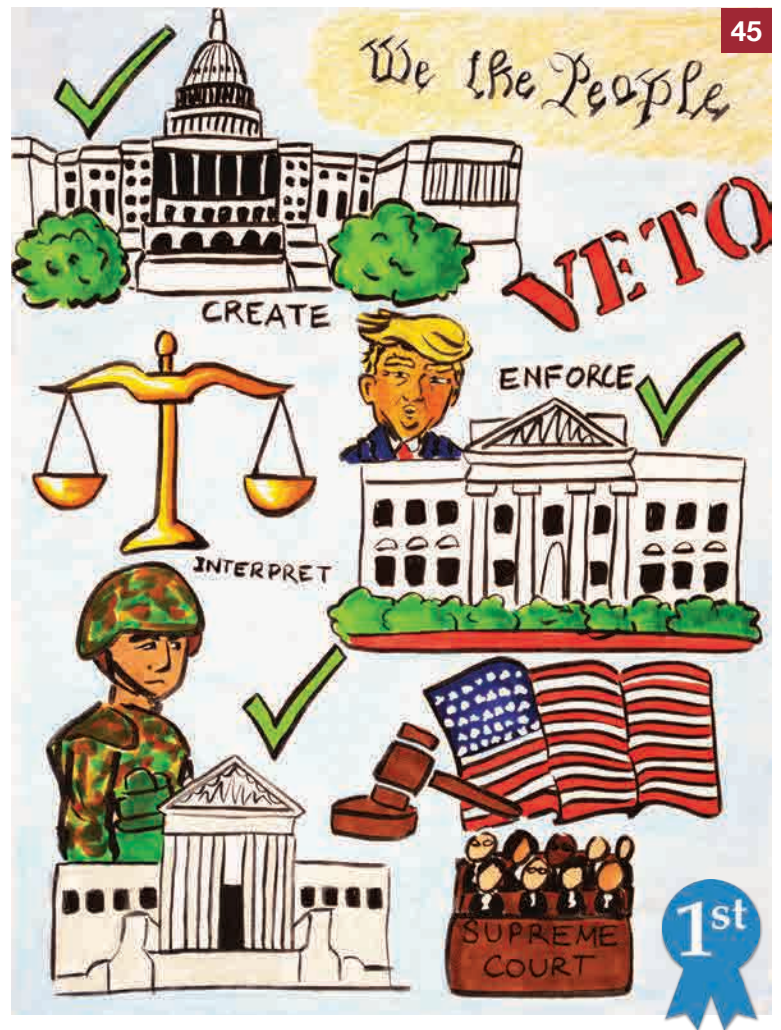
President Abraham Lincoln once said, "Those who deny freedom to others deserve it not for themselves. Although sixteenth president Abraham Lincoln is widely appraised for issuing the Emancipation Proclamation and preserving the Union, he is widely criticized for his use of executive power throughout the Civil War. President Lincoln fundamentally changed the authority of the president and the state through his exercise of power throughout his term. Read the rest at www.okbar.org/LawDay.



47



46



45

1st

PROTECTING THE RIGHTS OF THE PEOPLE

As Thomas Jefferson stated, "We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness" ("Declaration of Independence"). At times, the people's rights may be tested or violated, but the primary role of the judicial branch of government is to interpret the Constitution and determine which laws and policies are constitutional. This function ultimately protects an individual's rights as a citizen. The judicial branch uses the process of judicial review to secure rights and define responsibilities given within the constitution. Read the rest at www.okbar.org/LawDay.

48



45.
Helena Singleton
First Place
Eleventh Grade Art
Booker T. Washington High School, Tulsa

46.
Haliagh Sautler
Second Place
Eleventh Grade Art
Pocola Middle School, Pocola



47.
Christine Nguyen
First Place
Eleventh Grade Writing
Edmond Santa Fe High School, Edmond

48.
Cassidy Beck
Second Place
Eleventh Grade Writing
Pawnee High School, Pawnee

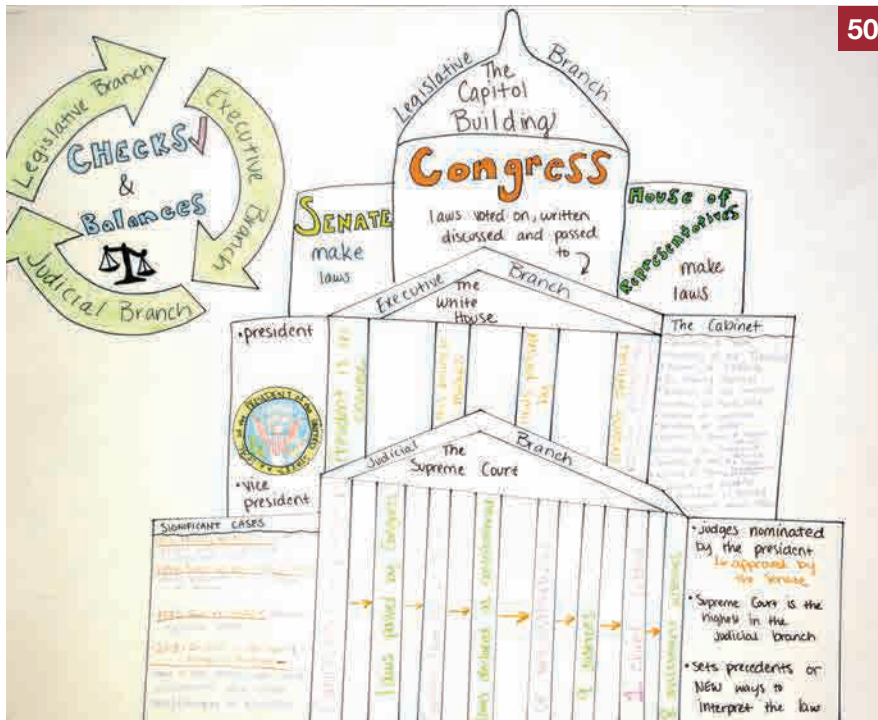
GOVERNMENT TREE

Three branches on a tree
They all have
equal leaves
Each branch has a
different purpose
No branch can gain too
much authority
Separating the branches
protects the liberty
Of every leaf
Here's how they work!
Legislative branch ...
passes laws
Executive branch ...
enforces laws
Judicial branch ...
interprets laws
Three branches on a tree
They all have
equal leaves

52



49



50

THE CONTINUING IMPORTANCE OF 'CHECKS AND BALANCES

The world seems to be full of quotes about balance, that "life is all about balance" or "balance is key". This is very true, in order for anything to succeed in our world it must have a certain level of balance. This is especially accurate when talking about our government. The United States achieves this kind of equilibrium though the system of Checks and Balances and the structure of Separation of Powers. These two components are extremely crucial parts of the US government and have exhibited examples of how they provide balance to the running of our country. Read the rest at www.okbar.org/LawDay.



51

49.

J. Michael Bond
First Place
Twelfth Grade Art
Mount St. Mary Catholic High School, Oklahoma City



50.

Peyton Buchanan
Second Place
Twelfth Grade Art
Mingo Valley Christian School, Tulsa



51.

Morgan Duckwall
First Place
Twelfth Grade Writing
Newcastle High School, Newcastle

52.

Lucy Miller
Second Place
Twelfth Grade Writing
Kiefer High School, Kiefer

County Law Day Chairpersons

Adair

Joe D. Adair
918-696-2172

Beaver

Todd Trippet
580-625-4597

Canadian

Blake Sawyer
405-376-2212

Carter

Steve Oliver
580-224-0900
and
Justin Landgraf
580-226-6277

Choctaw

John Frank Wolf III
580-326-6427

Cimarron

Stanley Ed Manske
580-544-2571

Cleveland

Julia Mills Mettry
405-701-8856

Coal

Johnny Sandmann
580-927-2314

Comanche

Jasmine Redd
580-248-4675

Craig

Jason Seabolt
918-944-8665

Custer

Dana Hada
580-323-3232

Dewey

Judge Rick Bozarth
580-328-5371

Ellis

Joe Jackson
580-885-7503

Garfield

Benjamin Barker
580-234-5144

Greer

Eric Yarborough
580-782-4020

Harmon

Judge Mike Warren
580-688-2553

Hughes

Ryan H. Pitts
405-379-5445

Jackson

Cole McMahan
580-482-5551

Johnston

Dustin Rowe
580-371-9561

Kay

John Andrew
580-767-0451

Kingfisher

John Salmon
405-375-3893

Latimer

Ron Boyer
918-429-5020

Love

Judge T. Todd Hicks
580-276-3373

Mayes

Chase McBride
918-825-4558

McClain

Haley Dennis
405-527-7575

McCurtain

Emily Herron
580-286-7611

Murray

Mark Melton
580-369-2376

Muskogee

John Tyler Hammons
918-683-0309

Noble

Shane Leach
580-336-2039

Okfuskee

Don McFarland
918-623-2717

Oklahoma

Amber Martin
405-236-8888
and
Kellie Howell
405-706-9132

Ottawa

Georgeann Roye
918-542-1845
and
Jennifer McAffrey
918-542-5547

Payne

Halli A. Martin
405-241-4492
and
Michael O'Rear
405-377-5000

Pittsburg

Eric Grantham
580-380-1526

Rogers

Tim Wantland
918-341-5973

Seminole

Judge Tim Olsen
405-257-3386
and
Jack Cadenhead
405-382-6341

Sequoyah

Kent S. Ghahremani
918-775-5900

Stephens

Carl J. Buckholts
580-252-3240

Texas

Evan Humphreys
580-338-3868

Tulsa

Judge Martha
Rupp Carter
918-596-5372

Wagoner

Richard Loy Gray Jr.
918-485-2889

Woodward

Erin N. Kirksey
580-256-9000



A GUIDE TO 42 U.S.C. § 1983 PRINCIPLES AND LITIGATION

FRIDAY, APRIL 27, 9 A.M. - 2:50 P.M.

Oklahoma Bar Center - Live Webcast Available

6/0

During this seminar, the most recent cases and principles involving 42 U.S.C. Section 1983 and the litigation of these issues in federal and state court will be discussed. This seminar will be useful for those who are presently Section 1983 litigators as well as those who are interested in getting involved with 1983 cases on both the plaintiff and defense side. The presenters are experienced in federal constitutional issues and litigation.

Early registration by April 20, 2018 is \$150.00. Registration received after April 20, 2018 is \$175.00 and walk-ins are \$200.00. Registration includes continental breakfast and lunch. To receive a \$10 discount on in-person programs register online at www.okbar.org/members/CLE. Registration for the live webcast is \$200. Members licensed 2 years or less may register for \$75 for the in-person program and \$100 for the webcast. All programs may be audited (no materials or CLE credit) for \$50 by emailing ReneeM@okbar.org to register.

PROGRAM PLANNER:

David W. Lee, Riggs, Abney Neal, Turpen, Orbison & Lewis

Topics & Presenters:

- Recent Developments in 42 U.S.C. § 1983
David W. Lee, Riggs, Abney Neal, Turpen, Orbison & Lewis
- First Amendment Developments in 42 U.S.C. § 1983 Cases
Andy Lester, Spencer Fane, LLP
- Municipal Employment, Due Process, and Official and Individual Liability under 42 U.S.C. § 1983
Margaret McMorrow-Love, Love Law Firm
- Arrest and Search and Seizure Issues in 42 U.S.C. § 1983 Cases
W. Brett Behenna, Coyle Law Firm
- Depositions, Opening and Closing Arguments in a 42 U.S.C. § 1983 Case
Melvin C. Hall, Riggs, Abney Neal, Turpen, Orbison & Lewis
- Education, Teachers, and Student Rights Under 42 U.S.C. § 1983
F. Andrew Fugitt, The Center for Education Law, P.C.

County Bar Association Activities

BEAVER COUNTY BAR ASSOCIATION

The Beaver County Bar Association will participate in the Ask A Lawyer program from 7-8 p.m. in conjunction with the statewide effort to provide free legal advice.

CANADIAN COUNTY BAR ASSOCIATION

The Canadian County Bar Association will participate in the Ask A Lawyer program from 6-8 p.m. in conjunction with the statewide effort to provide free legal advice.

CARTER COUNTY BAR ASSOCIATION

The Carter County Bar Association will participate in the Ask A Lawyer program from 7-8 p.m. in conjunction with the statewide effort to provide free legal advice.

CHOCTAW COUNTY BAR ASSOCIATION

On May 5, the Tri-County Bar Association, comprised of Choctaw, McCurtain and Pushmataha counties, will host a Law Day Banquet at the Idabel Country Club. The dinner will

begin at 6 p.m. and the cost is \$20 per person. Please RSVP to Emily Herron at 580-286-7611.

CIMARRON COUNTY BAR ASSOCIATION

The Cimarron County Bar Association will participate in the Ask A Lawyer program from 7-8:30 p.m. in conjunction with the statewide effort to provide free legal advice.

CLEVELAND COUNTY BAR ASSOCIATION

The Cleveland County Bar Association will celebrate Law Day by selling Law Day T-shirts, holding a Law Day luncheon at noon on May 2 in Judge Thad Balkman's courtroom featuring Supreme Court Justice Noma Gurich speaking on judicial independence and participating in the Ask A Lawyer program from 6:30 to 9 p.m. in conjunction with the statewide effort to provide free legal advice.

COMANCHE COUNTY BAR ASSOCIATION

To celebrate Law Day, the Comanche County Bar Association will host a scholarship application process

for local high school seniors. A committee of attorneys, paralegals and administrative assistants will receive the applications and select winners to receive scholarship awards toward higher education.

The Comanche County Bar Association will also host its annual Law Day Luncheon on Thursday, May 3, at 11:30 a.m. in the Great Plains Coliseum Annex Building in Lawton. The Law Day Luncheon is an event for those in the legal profession, including judges, attorneys, paralegals, court clerks, bailiffs and administrative assistants. Awards will be given to members of the legal profession, scholarships will be presented to local high school students and a speaker will share words of encouragement. For more information, please contact Jasmine Redd at 580-248-4675.

The CCBA annual Law Day Golf Tournament will be May 4 at the Lawton Country Club. The golf tournament is set for a 9:30 a.m. shotgun start. If you are interested in participating or if you have questions, please contact Golf Tournament Chair Monty Hightower at 580-355-8920.

Local attorneys will visit area high schools to speak to students. The attorneys will discuss law as a career, legal rights and responsibilities once the students turn 18.

The CCBA will also participate in the Ask A Lawyer program from 6-8 p.m. in conjunction with the statewide effort to provide free legal advice.

GARFIELD COUNTY BAR ASSOCIATION

The Garfield County Bar Association will celebrate Law Day by participating in the Ask A Lawyer program from 6-8 p.m. in conjunction with the statewide effort to provide free legal advice. GCBA members will also speak at area schools on May 4 on the importance of separation of powers and equal branches of government.

GREER COUNTY BAR ASSOCIATION

The Greer County Bar Association will give free legal advice from 6-8 p.m. on April 24. The GCBA will also conduct a mock jury trial at the Greer County Courthouse in Mangum. Following the mock trial, junior high and high school students

will be able to attend a question and answer session with several lawyers.

HUGHES COUNTY BAR ASSOCIATION

The Hughes County Bar Association will partner with the Seminole County Bar Association to celebrate Law Day. The HCBA and SCBA will host a Law Day Luncheon at the Rudolph Hargrave Community Center at

noon on May 2. Supreme Court justices are expected to attend and OBA President Kimberly Hays will be the keynote speaker.

JACKSON COUNTY BAR ASSOCIATION

The Jackson County Bar Association will participate in the Ask A Lawyer program from 6-8 p.m. in conjunction with the statewide effort to provide free legal advice.



Seminole attorney Zack Pyron shares the history of Law Day with junior high students at New Lima School, something he does every year.

JOHNSTON COUNTY BAR ASSOCIATION

The Johnston County Bar Association will host a public reception honoring the late Judge Charles J. Migliorion at the Johnston County Courthouse on May 1 at 10:30 a.m.

KAY COUNTY BAR ASSOCIATION

To celebrate Law Day, the Kay County Bar Association will host a Lawyers in the Classroom event where legal professionals will talk to students across Kay County about the profession. Members of the KCBA will also present Tonkawa Public School students with their Law Day Art and Writing Contest awards. The KCBA will also participate in the Ask A Lawyer program from 7-8 p.m. in conjunction with the statewide effort to provide free legal advice.

MAYES COUNTY BAR ASSOCIATION

The Mayes County Bar Association will participate in the Ask A Lawyer program from 5-6:30 p.m. in conjunction with the statewide effort to provide free legal advice.

MCCLAIN COUNTY BAR ASSOCIATION

The McClain County Bar Association will participate in the Ask A Lawyer program from 5-7 p.m. in conjunction with the statewide effort to provide free legal advice.

MCCURTAIN COUNTY BAR ASSOCIATION

On May 5, the Tri-County Bar Association, comprised of Choctaw, McCurtain and Pushmataha counties, will host a Law Day Banquet at the Idabel Country Club. The dinner will

begin at 6 p.m. and the cost is \$20 per person. Please RSVP to Emily Herron at 580-286-7611.

Also on May 5, the MCBA will host a live Ask A Lawyer program on KKBI 106.1 FM at 8:30 a.m. The public is invited to call in and local attorneys will be answering questions.

The MCBA will also speak to schools in McCurtain County on the importance of separation of powers and equal branches of government throughout the month of May.

MUSKOGEE COUNTY BAR ASSOCIATION

The Muskogee County Bar Association will host a Wills for Heroes event at Arrowhead Mall from 9 a.m.-5 p.m. on May 3. All first responders are eligible if they have an estate of less than \$600,000. Additionally, members will participate in Lawyers in the Classroom where they will speak at local schools on the importance of separation of powers and the legal profession.

The MCBA will also participate in the Ask A Lawyer program from 6-8 p.m. in conjunction with the statewide effort to provide free legal advice.

OKFUSKEE COUNTY BAR ASSOCIATION

The Okfuskee County Bar Association will participate in the Ask A Lawyer program from 7-8 p.m. in conjunction with the statewide effort to provide free legal advice.

OKLAHOMA COUNTY BAR ASSOCIATION

The Oklahoma County Bar Association will host the 2018 Law Day Luncheon on Tuesday, May 1, at noon at the Skirvin Hilton Hotel. The featured speaker this

year will be OU College of Law Dean Joseph Harroz Jr. Tickets are available by calling the OCBA at 405-236-8421.

The Ask A Lawyer program will take place Thursday, May 3, at the OETA studio from 9 a.m. to 9 p.m. and county bar members will staff the state hotline. This community service event allows attorneys to assist the public by giving free legal advice over the telephone or via email. To sign up for this event, go to www.okcbar.org or call Connie Resar at 405-236-8421.

OTTAWA COUNTY BAR ASSOCIATION

The Ottawa County Bar Association will celebrate Law Day by holding a mock trial for all fourth- and fifth-grade students in Miami at the Ottawa County Courthouse. The trial will involve a civil suit where Mr. Wolf sues Little Piggy for damages caused when he came down Ms. Piggy's chimney into a pot of boiling water. Additionally, presentations will be made to fourth- and fifth-grade students from Nichols Elementary recognizing them for their winning art and essay entries in the OBA Law Day Art and Writing Contest.

The OCBA will also participate in the Ask A Lawyer program from 7-8 p.m. in conjunction with the statewide effort to provide free legal advice.

PAYNE COUNTY BAR ASSOCIATION

The Payne County Bar Association will kick off Law Day with a bowling tournament on May 2 for association members and the court clerk's office. All proceeds from the bowling tournament will go to a local charity.

An art, essay and YouTube contest will be held for students



Oklahoma County Bar Association members help staff the Ask A Lawyer hotline to give free legal advice.

in PreK through 12th grade. Each age group will be given a prompt encouraging them to reflect and express the importance of separation of powers in our government. Awards and cash prizes will be presented to the winning students at the PCBA Honor Docket on May 3.

The PCBA will also host Ask A Lawyer at the Stillwater Library on May 4. Local attorneys will be available to offer free legal advice to community members.

The annual Law Day Banquet will be May 8 at the Stillwater Country Club from 9 a.m. to 2 p.m. and the PCBA will wrap everything up by celebrating courthouse staff with a cookout on the courthouse lawn at noon.

PUSHMATAHA COUNTY BAR ASSOCIATION

On May 5, the Tri-County Bar Association, comprised of Choctaw, McCurtain and Pushmataha counties, will host a Law Day Banquet at the Idabel Country Club. The dinner will

begin at 6 p.m. and the cost is \$20 per person. Please RSVP to Emily Herron at 580-286-7611.

SEMINOLE COUNTY BAR ASSOCIATION

As its birthplace, Law Day has always been special in Seminole County, and this year will be no different. To open Law Week celebrations, Seminole County's young lawyers will speak to junior high students across the county about the legal profession and the importance of separation of powers in conjunction with this year's theme.

The county bar will host its third annual essay contest open to all county junior high students and high school seniors. The association will award a \$500 college scholarship to the winning senior essay contestant and a gift certificate to the winning junior high essay contestant.

The association will hold its annual Law Day CLE May 2. There will be six hours of CLE (including one hour of ethics)

beginning at 8:30 a.m. at the Seminole County Courthouse in Wewoka.

The SCBA will partner with the Hughes County Bar Association to host a Law Day Luncheon at the Rudolph Hargrave Community Center at noon on May 2. Supreme Court justices are expected to attend. OBA President Kimberly Hays will be the featured speaker.

Lastly, the SCBA will participate in the Ask A Lawyer program from 7-8 p.m. in conjunction with the statewide effort to provide free legal advice.

SEQUOYAH COUNTY BAR ASSOCIATION

The Sequoyah County Bar Association will participate in the Ask A Lawyer program from 6-8 p.m. in conjunction with the statewide effort to provide free legal advice.

STEPHENS COUNTY BAR ASSOCIATION

The Stephens County Bar Association will host its annual

Law Day Luncheon on Friday, May 4, at noon at the Duncan Golf and Tennis Club. The annual James Patterson Memorial Golf Tournament will be held immediately after the luncheon at the Territory Golf and Country Club.

TEXAS COUNTY BAR ASSOCIATION

The Texas County Bar Association will participate in the Ask A Lawyer program from 7-8 p.m. in conjunction with the statewide effort to provide free legal advice.

TULSA COUNTY BAR ASSOCIATION

The Tulsa County Bar Association will celebrate Law Day with a variety of events. On April 11, an immigration clinic and Naturalization Ceremony will be held at noon at the Federal Court Building. The featured speaker will be Moises Echeverria, executive director of the Oklahoma Center for Community and Justice.

An art and writing contest will be held for students in PreK through 12th Grade. The deadline to enter is April 13. Monetary prizes will be awarded by the Tulsa County Bar Foundation and art entries will be displayed at the Law Day Luncheon.

The TCBF will sponsor a single showing of the award-winning film documentary *100 Years* at Circle Cinema. There will be a reception from 6-6:45 p.m. with the film starting at 7 p.m. Introductory comments will be made by TCBF President Jim Hicks. Melinda Janko, the film's producer, director and writer, will be part of a panel discussion following the film. The panel will also include a Tulsa Indian law attorney and the TCBF Law Day chair.

A Law Day Book Club will meet April 25, May 15 and June 12. Up to 15 participants will meet to discuss *Snow Falling on Cedars* by David Guterson, *Orange is the New Black* by Piper Kerman and *Billy Budd, Foretopman* by Herman Melville.

The Law Day Luncheon will be held at the downtown Hyatt Regency on May 1, with Tulsa Mayor G.T. Bynum to be the keynote speaker. The Liberty Bell Award, honoring a nonlawyer's contribution to the legal system, the Sandra Day O'Connor Award, honoring an educator who teaches legal civics, and the Brunton-Will Continuing Legal Education Award, honoring a TCBA member who has dedicated years of services to educating other attorneys, will be given to deserving winners.

On May 3, the TCBA will participate in the Ask A Lawyer

program by helping staff the state hotline from 9 a.m. to 9 p.m. in conjunction with the statewide effort to provide free legal advice.

WAGONER COUNTY BAR ASSOCIATION

The Wagoner County Bar Association will participate in the Ask A Lawyer program from 6-9 p.m. in conjunction with the statewide effort to provide free legal advice.

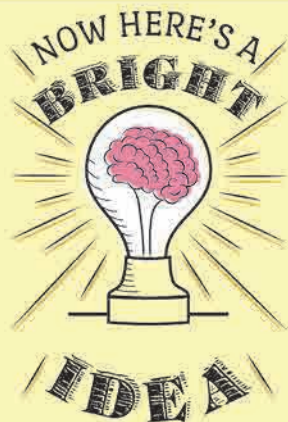
WOODWARD COUNTY BAR ASSOCIATION

The Woodward County Bar Association will participate in the Ask A Lawyer program from 6-7 p.m. in conjunction with the statewide effort to provide free legal advice.

The WCBA will also talk to county high school seniors about criminal law, torts, family law, estate planning and contracts.



Two immigrants celebrate their new American citizenship at a naturalization ceremony, part of Tulsa County's annual Law Day activities.



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Proclamation and Directive





DOUGLAS L. COMBS
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E-mail Address: Douglas.Combs@oscn.net

OKLAHOMA SUPREME COURT DIRECTIVE

OBSERVANCE OF LAW DAY MAY 1, 2018


"Separation of Powers: Framework for Freedom"

All courts in each of the twenty-six judicial districts in Oklahoma are urged to hold Law Day activities. These activities may include courtroom ceremonies, courthouse tours and mock trials. The cooperation of the judges and court clerks is essential for Law Day special events.

This year is the 61ST annual nationwide observance of Law Day. Law Day is sponsored by the Oklahoma Bar Association, each of the seventy-seven County Bar Associations and the American Bar Association. Law Day programs should be keyed to the 2018 theme: "Separation of Powers: Framework for Freedom."

DONE THIS 15TH DAY OF MARCH, 2018.

SUPREME COURT OF OKLAHOMA


Douglas L. Combs
Chief Justice



Oklahoma Supreme Court Chief Justice Douglas Combs (seated) signs the Law Day Directive. Witnessing the signing are Law Day Committee Co-Chair Roy Tucker (left) and OBA Vice President Richard Stevens.

2018
Patrick A. Williams
**CRIMINAL DEFENSE INSTITUTE
&
OCDLA ANNUAL MEETING**

**JUNE 28 & 29, 2018
RIVER SPIRIT CASINO RESORT
TULSA, OK**



The Oklahoma Criminal Defense Lawyers Association, Oklahoma Indigent Defense System, Oklahoma County and Tulsa County Public Defender Offices proudly present the ***Patrick A. Williams* Criminal Defense Institute & OCDLA Annual Meeting**. This year the CDI will be held at the River Spirit Casino Resort in Tulsa, OK.

The OCDLA awards presentation & Annual Meeting will take place on Thursday evening of the Institute, along with dinner and a happy hour. Awards to be given are:

The Clarence Darrow Award, Thurgood Marshall Appellate Advocacy Award & Lord Thomas Erskine Award, Jack D. Pointer Criminal Defense Advocacy Award

Cutoff date for nominations is June 1, 2018 @ 5:00pm.
For OCDLA information, awards criteria & past award winners,
please visit www.ocdlaoklahoma.com

Please send nominations to:

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PO Box 2272
OKC, OK 73101-2272

Email: bdp@for-the-defense.com

Fax: 405-212-5024

2018 CRIMINAL DEFENSE INSTITUTE

(FULL AGENDA AVAILABLE at www.ocdlaoklahoma.com)

THURSDAY, JUNE 28, 2018

- Federal Gun Law, Traps for the State Practitioner – *William Campbell, Oklahoma City*
- Panel Discussion-Criminal Charges & the Client with Mental Health Issues
- What Happens When Your Client Goes To OK Forensic Center- *Jeanne Russell, Ph.D., Tulsa*

TRACK 1

- Properly Federalizing Briefs & Motions
- Rookie Lawyer Mistakes
- Indian Country & The Criminal Charge
- State & Federal Case Update

TRACK 2

- DUI TRACK
&
- Practical Aspects of Search & Seizure Law

FRIDAY, JUNE 29, 2018

- Things That Drive Court Reporters Crazy - *Allison Hall, Tulsa District Court*
- Snitches-Lessons from The Orange County Snitch Scandal – *Scott Sanders, Orange County PD*
- The Exclusionary Rule Since Katz – *John Echols, Tulsa*
- Issues Common to The Solo Practitioner- *Lorenzo Banks, Edmond, OK*

Registration Fees (Awards Dinner Included)

-OCDLA Member	_____	\$ 250.00
-Non Member	_____	\$ 300.00
-Registration after June 20th	_____	\$ 275.00 (OCDLA Member)
	_____	\$ 325.00 (Non Member)
-Printed Materials	_____	\$ 40.00
-Dinner Guest	_____	\$ 30.00

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LOCATION

The River Spirit Resort has a room rate of \$99.00 for the CDI. This rate is good until June 12th. For room reservations please call 1-888-748-3731 or online @ www.riverspirittulsa.com. If calling, reference the Oklahoma Criminal Defense Lawyers Association or visit OCDLA website for direct link.

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New Standard Applies to Assessing the Validity of Work Policies Under the National Labor Relations Act

By Donn Meindertsma and Hayley Stephens

For well over a decade the National Labor Relations Board has freely invalidated seemingly neutral, common-sense workplace rules simply because employees might understand them to limit their rights under federal labor law. Rules were held unlawful even if they were neither intended to limit employee rights nor ever applied in a way that actually interfered with those rights. However, a recent decision by a newly constituted, Republican-majority board adopts a new analysis for determining if workplace rules are lawful.¹ The new test will be applied to future cases as well as all pending cases. Practically speaking, this is one of the most significant and employer-friendly legal decisions of 2017 in the labor and employment law arena.

All employees, unionized or not, have the right to engage in concerted employment-related activities under the National Labor Relations Act (NLRA).² Since 2004, the board has held that workplace rules violate the NLRA if employees might “reasonably

construe” them to interfere with their rights.³

Instructing employees to be civil in the workplace could very well be unlawful, for example, because that requirement might be interpreted to prohibit protests of working conditions.⁴ Furthermore, any ambiguity in a rule was construed against the employer.

Workplace rules have fallen left and right under that test, and most employee handbooks probably contain provisions that would not pass muster under the test. For example, in a single case last year, the board struck down all of the following:

- a rule prohibiting employees from allowing unauthorized individuals to access information without prior written approval;
- a Code of Business Conduct provision that prohibited arguing with co-workers, subordinates or supervisors; failing to treat others with respect; or failing to demonstrate appropriate teamwork;

- a rule requiring employees “to maintain a positive work environment by communicating in a manner that is conducive to effective working relationships;” and,
- a rule prohibiting employees from making recordings in the workplace.⁵

Applying the 2004 test, the board determined that all four of the rules violated the NLRA and could be reasonably construed to discourage unionizing or other concerted activities protected by the act.⁶

Despite compelling criticism that the 2004 test led to federal micromanagement of the workplace, that test has survived – until now. The new board decision involved a Boeing policy that prohibited employees from taking photos or videos at Boeing worksites without a valid business need and approval. The policy further provided that an authorizing manager would decide if there is a business need for camera use (*e.g.*, as necessary to meet contractual commitments,

for training or for other purposes that provide a positive benefit to the company). An administrative law judge struck down the policy because Boeing had adequate protections for its secured military and commercial information, and the policy amounted to an impermissible infringement on NLRA rights because it could chill employees from exercising those rights. The board reversed that ruling.

The new framework established in the *Boeing* case requires balancing the nature and extent of a workplace rule's potential limitation on NLRA rights against the employer's business justifications for the rule. (Of course, a rule is lawful, and no balancing is required, if it has no tendency in the first place to interfere with employee rights.) In addition, as part of the balancing analysis, the board is to keep in mind certain aspects of its duties. The duties are to 1) provide parties certainty and clarity; 2) distinguish among types of NLRA protected activities and compare to different types of business justifications; 3)



refrain from further analysis of a facially neutral rule that, when reasonably interpreted, does not violate NLRA rights; 4) focus on an employee's perspective when evaluating a rule's impact on employees; and 5) find that a rule can be maintained even if the rule cannot be applied against employees engaging in NLRA protected conduct.

If the justifications for the rule outweigh its adverse impact on NLRA rights, then the rule is lawful; conversely, if the impact outweighs the justifications, it is unlawful.

Applying the new standard, the board held that Boeing's policy limiting camera use was lawful. The board reasoned that, while the rule may, in some circumstances,

affect the exercise of NLRA rights, the adverse impact is comparatively slight. The board further concluded that the policy's potential adverse impact is outweighed by the substantial and important justifications, such as Boeing's need to maintain heightened security protocols to maintain its accreditation as a federal contractor.

The board further announced that, going forward, three categories of rules will be delineated to provide greater clarity to employees, employers and unions. The first category will include rules that the board designates as lawful to maintain, either because 1) the rule, when reasonably interpreted, does not prohibit or interfere with the exercise of NLRA rights; or 2) the potential adverse impact on protected rights is outweighed by justifications associated with the rules. Examples of these types

of rules are those such as the one at issue in *Boeing* and rules requiring employees to abide by basic standards of civility and to maintain harmonious relationships in the workplace.

The second category will include rules that warrant scrutiny, on a case-by-case basis, as to whether the rule would prohibit or interfere with NLRA rights, and if so, whether any adverse impact on NLRA-protected conduct is outweighed by legitimate justifications. Finally, the third category will include rules that the board will designate as unlawful to maintain because they would prohibit or limit NLRA-protected conduct, and the adverse impact on NLRA rights is not outweighed by justifications associated with the rule. As an example, the *Boeing* decision indicates that a rule that prohibits employees from discussing wages or benefits with

one another would fall into this third category.

The *Boeing* decision should offer employers a greater sense of certainty and an increased level of predictability regarding the lawfulness of their workplace policies. However, with the chairman's departure earlier this month at the end of his term, the board is now split two and two along party lines. Further application of the new *Boeing* test by the board will likely be delayed until a new board member is nominated and confirmed, which is likely several months away.

ABOUT THE AUTHORS

Donn Meindersma is a partner in Conner & Winters LLP's Washington, D.C., office. Mr. Meindersma has been assisting clients with labor and employment law issues for more than 30 years. He frequently appears before administrative and regulatory agencies, including the EEOC, Department of Labor and National Labor Relations Board.

Recent Developments in Delaware Corporate and LLC Litigation

Thursday, May 10, 2018 from 8:30 a.m. – 12:30 p.m.

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Hayley Stephens is an associate at Conner & Winters LLP. Ms. Stephens is based in the firm's Tulsa office where she practices labor and employment law and tort defense. Prior to joining Conner & Winters, she earned a Bachelor of Arts, *summa cum laude*, from the University of Arkansas and obtained her J.D. from Vanderbilt University Law School.

ENDNOTES

1. See *Boeing Co.*, 365 NLRB 154 (2017) (abrogating the *Lutheran Heritage* "reasonably construed" standard).

2. Pursuant to Section 7 of NLRA, "[e]mployees shall have the right to self-organization, to form, join,

or assist labor organizations, to bargain collectively through representatives of their own choosing, and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection." 29 U.S.C. §157. Section 8(a)(1) provides enforcement of that policy by stating that it shall be "an unfair labor practice" to "interfere with, restrain, or coerce employees in the exercise of the rights" protected.

3. See *Lutheran Heritage Village-Livonia*, 343 NLRB 646 (2004) (adopting the "reasonably construed" standard for determining whether a facially neutral policy was unlawful under the NLRA), abrogated by *Boeing*, 365 NLRB 154 (2017).

4. Many neutral, well-intentioned and seemingly lawful employer policies have been held unlawful under the "reasonably construed" standard. See, e.g., *Hills & Dales General Hosp.*, 360 NLRB 611, 612 (2014) (finding that employee handbook

provision requiring employees to represent the employer "in the community in a positive and professional manner in every opportunity" was an unlawful violation of the NLRA); *William Beaumont Hosp.*, 363 NLRB No. 162 (April 13, 2016) (board majority finding unlawful a rule that prohibited employees from engaging in conduct that "impedes harmonious interactions and relationships" and from making "negative or disparaging comments about the . . . professional capabilities of an employee or physician to employees, physicians, patients, or visitors.").

5. *T-Mobile USA, Inc.*, 363 NLRB No. 171 (April 29, 2016).

6. On appeal, the 5th Circuit found that the board had erred in finding that a reasonable employee would construe the first, second and fourth rules as prohibiting protected activity. *T-Mobile USA, Inc. v. NLRB*, 865 F.3d 265, 268 (5th Cir. 2017).



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Abatement *Ab Initio*

Old Wine in New Casing or Old Wine With a New Kick?

By Mbilike M. Mwafulirwa

Aaron Hernandez – the convicted former New England Patriots football star – recently committed suicide; his death has resurrected interest in a little known but important legal concept in American criminal law and procedure: abatement *ab initio*.¹ The doctrine of abatement *ab initio* applies when a convicted defendant, like Hernandez, dies before his appeal rights are fully exhausted. When applicable, the doctrine wipes clean the defendant's slate, as though the indictment, conviction and punishment never happened.² For example, if as a result of a conviction, a criminal fine had been levied but not collected, abatement *ab initio* makes the obligation to pay go away.³ The converse, however, is not true. When a defendant dies before exhausting his appeal rights but after having already paid costs, fines and restitution as a result of his conviction, despite the conviction being wiped clean, the deceased's estate has no right to recoup the money previously paid.⁴ Until now.

In *Nelson v. Colorado*,⁵ the U.S. Supreme Court held, consistent with the Due Process Clause, that when a conviction is invalidated with no prospect of future reprosecution, government levied fees, penalties, restitution and court costs that rest on that conviction must be refunded to the defendant.⁶

Therefore, the question presented is: In light of *Nelson v. Colorado*, does the Due Process Clause mandate a refund of fines and restitution to a deceased defendant's estate after invalidation of a defendant's criminal conviction on the basis of abatement *ab initio*? Yes it does, subject to the specific form of abatement doctrine applicable in a given jurisdiction.

A FOOTNOTE IN HISTORY – THE STAR THAT NEVER FULLY WAS

Aaron Michael Hernandez was born into a family renowned for success on the gridiron.⁷ In 2010, the New England Patriots signed him as a fourth-round draft.⁸ Life was good.

Hernandez's fortunes quickly took a turn for the worst on June 17, 2013. On that day, Odin Lloyd, a semi-pro football player, was found dead a mile from Hernandez's home.⁹ Hernandez and Lloyd were acquainted; Hernandez's fiancé, Shayanna Jenkins, was Lloyd's girlfriend's sister.¹⁰ After conducting investigations, the police discovered evidence linking Hernandez to the crime; he was arrested and charged with the murder.¹¹ After a 3.5 month trial, a Massachusetts jury convicted Hernandez of first-degree murder and some other related fire arm charges.¹² Hernandez filed a notice of appeal that same day.¹³

On April 19, 2017, Hernandez was found dead in his prison cell.¹⁴ The autopsy found that Hernandez died of asphyxia by hanging, that was later ruled a suicide.¹⁵ Following his death, Hernandez's appellate counsel filed a motion to abate his conviction.¹⁶ The Commonwealth of Massachusetts opposed the motion.¹⁷ After a round of briefing, the trial court granted the motion,

effectively vacating Hernandez's conviction.¹⁸ The trial court found that the doctrine of abatement *ab initio* was deeply rooted in Massachusetts law, and that the state's supreme judicial court, had affirmed the principle less than a year before this case.¹⁹ Because he filed his notice of appeal before death, Hernandez's conviction deserved to be abated.²⁰

HISTORICAL UNDERPINNINGS OF ABATEMENT *AB INITIO*

"[D]eath pending direct review of a criminal conviction abates not only the appeal but also all proceedings had in the prosecution from its inception."²¹ As a result, the underlying criminal conviction is dismissed.²² Some federal courts hold that "the rule of abatement applies equally to cases in which a defendant . . . dies prior to the entry of judgment."²³

Abatement *ab initio* has a checkered history. Neither the Constitution nor any specific federal or state statute mandates abatement *ab initio* in criminal

cases; rather, it is a judicially crafted doctrine.²⁴ Since then, almost every federal circuit religiously applies the rule whenever a defendant dies before his direct appeal rights are exhausted.²⁵

Two rationales have been advanced in support of abatement *ab initio*. The first is the finality rationale.²⁶ Appreciating that a conviction is not final until the appeal process is over, the finality rationale states that the government should not stain a person with guilt until he has exhausted his appeal rights.²⁷ The finality principle is closely intertwined with the constitutional presumption of innocence afforded to every criminal defendant, which remains intact until the person is proven guilty beyond reasonable doubt at the completion of the criminal process.²⁸ The second rationale for abatement *ab initio* is the punishment principle.²⁹ That principle recognizes the limits of penal measures – that the government cannot punish a dead person.³⁰ The rule (that recognizes

the limited utility of punishment when the wrongdoer dies) also applies in the civil context in the majority of jurisdictions, especially when punitive damages against the deceased are at issue.³¹

There is a federal circuit split on abatement *ab initio*'s effect on criminal monetary sanctions. On the one hand, federal courts all agree that when a conviction results in a criminal fine, but the fine order remains unpaid at the time of death, the obligation to pay is extinguished.³² But if a conviction results in a restitution order, the federal appellate courts take varying approaches. The 4th Circuit, for example, holds that a restitution order does not abate when a defendant dies before his appeal rights are exhausted, meaning that the defendant's estate has to pay the amount after his death.³³ In that court's view, restitution orders, which the common law does not consider to be punishment, are akin to compensation to the victims of crimes.³⁴ Just like in the civil context, the right to collect compensation against a defendant



does extinguish upon death; rather, the obligation continues against the deceased's estate.³⁵ Other courts, like the 5th and 11th circuits for example, hold that death abates unpaid restitution orders.³⁶ The federal appellate courts, however, are in accord in their approach to criminal fines and restitution orders that have already been paid – the general rule is that once paid, criminal monetary sanctions are not abated.³⁷ In other words, the money is nonrefundable.³⁸

State courts are equally animated in their response to a criminal defendant's death before direct appellate review. One line of cases holds that death abates the conviction, but fines and restitution orders already paid are left intact.³⁹ Another line of cases dismisses the appeal as moot, but says nothing about the underlying judgment and its incidents.⁴⁰ In Oklahoma, the appeal abates with varying consequences: sometimes the trial court is directed to also abate the underlying proceedings, other times it is not, but in either scenario, there is no specific mention of restitution or fines already paid.⁴¹ Other states abate the appeal and all penal elements of the underlying judgment but leave in effect restitution orders and fines previously paid.⁴² Some

states allow substitution of parties, and the appeal proceeds with the substituted party.⁴³ Alabama dismisses the appeal but leaves the judgment intact with a notation on the record defendant died before a final decision.⁴⁴

NELSON V. COLORADO

The Supreme Court's decision in *Nelson* could have altered the nonrefundability rule on due process grounds. In *Nelson*, petitioner Nelson had been convicted of two felonies and three misdemeanors, after which the trial court ordered her to pay \$8,192.50 in court costs, fees and restitution, as well as serve a 20-year prison sentence.⁴⁵ In the other consolidated case, petitioner Madden was convicted of attempted sexual assault on a child; the trial court imposed a custodial sentence and an order to pay \$4,413 in costs and restitution. Both petitioners' convictions were set aside.⁴⁶ In Nelson's case, her conviction was reversed on appeal. After a retrial, she was acquitted of all charges.⁴⁷ In Madden's case, his convictions were reversed on appeal and in post-conviction proceedings.⁴⁸ In both cases, however, the Colorado Department of Corrections withheld the money the petitioners paid in costs, fees and restitution.⁴⁹

In subsequent court proceedings to recoup the money paid, Nelson's entire request was denied, while Madden was refunded costs and fees, but the restitution amounts were denied.⁵⁰ On appeal, the Colorado Court of Appeals permitted full refunds.⁵¹ The Colorado Supreme Court reversed, holding that Colorado's Compensation for Certain Exonerated Persons Act⁵² was the sole pathway for petitioners to recoup their money paid, and since neither had utilized the statute, the court lacked jurisdiction to afford them relief.⁵³ Additionally, despite that the Exoneration Act required petitioners to prove their actual innocence in a distinct proceeding, the court found no due process violation because the statute provided sufficient process by which petitioners could recoup their money.⁵⁴

The U.S. Supreme Court reversed. The court held that the Colorado scheme violated the Due Process Clause.⁵⁵ As the court explained, when a conviction has been reversed with no prospect for reprosecution, the presumption of innocence reattaches.⁵⁶ At that point, the government's right to retain the property (costs, fees and restitution) disappears.⁵⁷ Indeed, as the court explained, the rule applies regardless of how the reversal came about because a "'reversal is a reversal' regardless of the reason."⁵⁸ The court also found that the Exoneration Act did not provide an adequate remedy for recoupment of money paid as a result of an overturned conviction.⁵⁹ The court applied the oft-familiar *Matthews v. Eldridge*⁶⁰ test.⁶¹ The court rejected Colorado's argument that the restrictive criminal due process standards articulated in *Medina v. California*⁶² governed the inquiry

in the present case.⁶³ Adopting Chief Justice Robert's dissent in *Kiley v. United States*,⁶⁴ the court limited *Medina* to cases where there were questions about "the allocation of burden of proof and the type of evidence qualifying as admissible."⁶⁵ Additionally, *Nelson*, unlike *Medina*, concerned the government's continued retention of property after legal basis for doing so – i.e., the underlying conviction – had been reversed or vacated with no possibility of a future reprosecution.⁶⁶ As there were no issues in *Nelson* concerning the burdens of proof or standards for admission of evidence or prospective criminal processes, *Medina* was inapplicable; instead *Mathews* was the proper analysis.⁶⁷ The *Mathews* test has three prongs: "[a] the private interest affected; [b] the risk of erroneous deprivation of that interest through the procedures used; and [c] the governmental interest at stake."⁶⁸

Nelson had a confluence of all three *Mathews* factors, tilting the scales in favor of a due process violation. First, the court found that petitioners had an undeniable interest in the money they paid to the government because of their convictions.⁶⁹ Once their convictions had been overturned, however, the presumption of innocence reattached and the petitioners' rights to possession of their property was restored.⁷⁰ Second, as a result of the overturned convictions, there now existed a high risk of erroneous deprivation of the criminal defendants' property if the government attempted to retain money exacted on the basis of an overturned conviction.⁷¹ When a conviction is overturned, as the court explained, the government loses its right to retain money paid based on that overturned

conviction.⁷² Any post-deprivation remedy that 1) fails to pay back in full the money exacted or 2) imposes onerous obstacles – like requiring defendants prove their actual innocence – before money is paid back falls far short.⁷³ Third, given that the government's sole basis for retaining petitioners' money was eviscerated, it had no countervailing interest to rebut a defendant's request.⁷⁴ The government could not impose more than minimal procedures to secure refunds of money taken based on overturned convictions.⁷⁵

As other commentators have noted, *Nelson* represents a high mark in constitutional remedies. Ordinarily, the U.S. Constitution only expressly spells out two

reprosecution.⁷⁸ With the vacation of the conviction or abatement of criminal proceedings, "no further criminal process is implicated," so *Mathews*, not *Medina*, "provides the relevant inquiry."⁷⁹

We address first *Nelson*'s threshold requirement – that a private interest is affected by governmental action.⁸⁰ For the petitioners in *Nelson*, just like the criminal defendants who claim recourse to abatement *ab initio*, the government's right to retain money exacted against them as part of a criminal sentence (court costs, fines, penalties and restitution) rests solely on the underlying convictions.⁸¹ For the petitioners in *Nelson*, when the underlying conviction was reversed with no prospect for

With the vacation of the conviction or abatement of criminal proceedings, "no further criminal process is implicated," so *Mathews*, not *Medina*, "provides the relevant inquiry."⁷⁹

remedies: just compensation for the taking of property and the ancient writ of *habeas corpus* for liberty violations.⁷⁶ *Nelson* departed from this expressly delineated constitutional blueprint when it ordered restitution, not compensation, for an unlawful governmental property deprivation.⁷⁷

AB INITIO WITH A NEW KICK?

Nelson's principles are applicable to abatement *ab initio* cases. Just like in *Nelson*, abatement *ab initio* cases with already-paid criminal fines and restitution orders concern the government's continued retention of property after legal basis for doing so – i.e., the underlying conviction – has been vacated with no possibility of a future

reprosecution, the presumption of innocence reattached.⁸² As a result, the government's sole basis for retaining the property (costs, fees, penalties and restitution) disappeared.⁸³ Likewise, for the convicted criminal defendant who dies before his appeal rights are exhausted, abatement *ab initio* has the same effect – the government's sole basis for retaining the money exacted – the underlying criminal conviction – disappears.⁸⁴ At that point, the deceased defendant, like the petitioners in *Nelson* who had their convictions overturned, all enjoy the presumption of innocence.⁸⁵ Even though the reversals in *Nelson* were a result of an acquittal and trial error, as opposed to the operation of law (as is with abatement *ab initio*), that distinction is inconsequential;

the U. S. Supreme Court made clear that a “‘reversal is a reversal’ regardless of the reason.”⁸⁶ The fact that the money exacted is deemed compensation, as opposed to merely criminal sanctions, makes no difference. To be sure, even if the compensation rationale is accepted, the sole basis for the compensation order – defendant’s criminal conviction – was eviscerated by his death.⁸⁷

The second *Nelson* factor – risk of erroneous deprivation – is also satisfied in abatement *ab initio* cases. As noted, abatement *ab initio* sets aside a defendant’s criminal conviction.⁸⁸ The defendant’s conviction was the sole basis for the government’s retention of his property, but once it is set aside, the right to retain eviscerates.⁸⁹ Under those circumstances, the government’s countervailing interest in retaining the property is minimal.⁹⁰ If the government’s end goal in retaining a dead defendant’s property is punishment, as other courts have reasoned,⁹¹ that rationale is questionable at best. When a defendant dies, a number of courts have recognized, the utility of punishment is lost because it is not possible to meaningfully punish a dead person.⁹² If, on the other hand, the government relies on the antecedent trial conviction as a basis for its countervailing interest of retaining the deceased defendant’s property, that position is fraught with problems.⁹³ The finality rationale is the first obstacle to clear. In the specific context of abatement *ab initio*, that principle provides that the criminal justice system only yields a “final judgment” after the appellate process is exhausted.⁹⁴ Acknowledging the fallibility of the human experience generally, and the trial process, Judge Gorsuch, writing for the

10th Circuit, has explained that an untested conviction is “both unreliable and illegitimate.”⁹⁵ As mature and developed as the American criminal justice system is, it has failed to “convincingly” eradicate wrongful convictions.⁹⁶ So, to be sure, we “double- and sometimes triple-check the result[ing] [conviction] through our layered appellate system.”⁹⁷ Only then, is finality accorded

Of course, the government could oppose restitution on the ground that the reversal was due to a legal technicality not actual innocence, but that would be a difficult position to maintain in light of *Nelson*.

to the results of the criminal process.⁹⁸ Thus, when a criminal defendant dies before his direct appellate rights are exhausted, his conviction and all its incidents are unreliable, illegitimate and cannot in fairness serve as a basis for a permanent penal property deprivation order.⁹⁹

The third factor in the *Nelson* analysis – government interest at stake – could be satisfied (but this warrants a more detailed examination). In *Nelson*, the analysis was simple: the court concluded that in the wake of the defendants’ convictions being reversed, the state had “zero claim” to the property seized based on those eviscerated criminal judgments.¹⁰⁰ Indeed, against this background, the

government could not lawfully impose stringent retrieval procedures.¹⁰¹ Against this holding in *Nelson*, the argument could likewise be made that with the underlying criminal conviction abated, the government’s interest in the defendant’s property (be it previously paid fines, costs or restitution orders), which rested on the eviscerated conviction, should be zero or none.¹⁰² Of course, the government could oppose restitution on the ground that the reversal was due to a legal technicality not actual innocence, but that would be a difficult position to maintain in light of *Nelson*. First, one of the defendants in *Nelson*, his conviction was vacated based on a technicality on appeal.¹⁰³ Second, in view of that fact, the court made it clear that relief was warranted because a “‘reversal is a reversal’ regardless of the reason.”¹⁰⁴

That does not mean, however, that the criminal defendant’s estate would automatically be unjustly enriched. As previously noted, whether this actually happens depends on whether the case is in state or federal court. Thus far, it is clear that the majority of federal courts apply complete abatement *ab initio* in *toto*, such that *Nelson* might actually compel a return of fines or restitution paid.¹⁰⁵ Even then, the government and all those civil plaintiffs injured by the deceased’s injuries can still pursue civil claims through the Fraud Claims Act, common law and various other equitable remedies to prevent the estate from being unjustly enriched.¹⁰⁶

State court, however, presents a different scenario. Oklahoma has not clearly determined whether abatement *ab initio* abates a criminal conviction and its incidents in *toto*.¹⁰⁷ It

has, however, provided certain guideposts: thus, it is settled that a “personal representative of the deceased is not responsible for the alleged violation of the law by the defendant during his lifetime, and cannot be required to satisfy the judgment rendered against him.”¹⁰⁸ Unless this rule is revoked, as a *fortiori*, uncollected fines would appear to be precluded because that would necessarily require enforcing a judgment against the deceased’s estate based on his criminal wrongdoing.¹⁰⁹ Collected fines present a different challenge; so far, research has failed to yield controlling precedent on these issues. Nonetheless, Oklahoma’s abatement principles appear to rest on the acknowledged futility of punishing a dead person.¹¹⁰ Against that backdrop, a fine that is collected as part of a penal measure against a dead person must yield, unless there be a mechanism by which the soundness of the underlying conviction be tested by an appellate court.¹¹¹ As Judge Gorsuch (as he was then) wrote for the 10th Circuit, an untested conviction is “both unreliable and illegitimate.”¹¹²

For as long as Oklahoma applies abatement *ab initio*, restitution orders should abate upon the defendant’s death. The Legislature has vested Oklahoma courts with discretion to award restitution to victims of crimes following a guilty verdict.¹¹³ Under Oklahoma law, restitution is not punishment, but “compensation” awarded to victims of crime.¹¹⁴ Given that Oklahoma’s abatement principles rest on the acknowledged futility of punishing a dead person,¹¹⁵ it logically follows that restitution – which is not a form of punishment – should not be abated.¹¹⁶ *Nelson*, however, makes this position

untenable: due process mandates that when the underlying conviction is set aside, monetary exactions (fines, restitution orders and penalties) cannot stand.¹¹⁷ Additionally, Oklahoma’s criminal restitution statute is contingent on a conviction.¹¹⁸ With the defendant’s conviction abated, a restitution order cannot be made.¹¹⁹

An interesting question would arise if an administrator of a defendant’s estate wanted to recoup restitution already paid. At that point, the claim would probably be that with the defendant’s conviction abated, it is no longer certain that the underlying conviction is safe or correct and as consequence, the restitution order should not stand.¹²⁰ When a defendant is alive, the propriety of a criminal sentence that includes restitution is a criminal matter,¹²¹ but when the defendant dies, the answer is not so clear. The penal aspect of the judgment goes away, *supra*, but what of the remedial / restitutionary aspect of the judgment? The Supreme Court of Idaho, for example, considers these latter issues as falling within the civil domain; in fact, the court has intimated (without definitely deciding) that the civil substitution provisions would allow the administrator of the defendant’s estate to continue the appeal to test the propriety of the underlying conviction, and as *fortiori*, the restitution orders.¹²² Oklahoma has no criminal rule that permits substitution of parties; the substitution rules seem to only apply to civil cases.¹²³ Oklahoma, unlike Idaho, has separate criminal and civil appellate systems, so it is unclear how this would be handled under Oklahoma law because the demarcation between criminal and civil matters is not always

clear.¹²⁴ Those concerns aside, it is likely that the Oklahoma Court of Criminal Appeals would have jurisdiction because the restitution order is an incident of a criminal sentence.¹²⁵ As previously noted, the rule of abatement is judge-created; if presented with a challenge to the propriety of the restitution order and as a consequence, the underlying conviction, instead of abating the appeal, the Oklahoma Court of Criminal Appeals, like other courts, should proceed to determine the merits of the appeal, and consequently, the propriety of the restitution order.¹²⁶

CONCLUSION

A criminal defendant’s death before disposition of a direct appeal can present complex issues of law and policy. On the one hand, abatement *ab initio* precludes the stain of a criminal conviction from resting eternally on a deceased defendant when its correctness has not been tested on appeal. However, victims of the defendant’s criminal acts also need to be considered: They bear the physical, financial, emotional and psychological scars of the consequences of crime.¹²⁷

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ENDNOTES

1. See, e.g., John R. Ellement, *et al.*, *The Boston Globe*, “In Wake of Suicide, Aaron Hernandez Conviction Could be Voided,” bostonglobe.com/metro/2017/04/19/hernandezdismiss/BvCcJQ1Ubg3mJAe0tpvJ/story.html (last accessed Dec. 27, 2017).

2. See *United States v. Logal*, 106 F.3d 1547, 1551-1552 (11th Cir. 1997) (“[I]t is as if the defendant had never been indicted and convicted.”).

3. *United States v. Estate of Parsons*, 367 F.3d 409, 417 (5th Cir. 2004) (en banc); accord *Logal*, 106 F.3d at 1552. But see *United States v. Dudley*, 739 F.2d 175, 178 (4th Cir. 1984) (death does not abate restitution orders).

4. See, e.g., *United States v. Zizzo*, 120 F.3d 1338, 1343 (7th Cir. 1997).

5. 137 S.Ct. 1249 (2017).

6. *Id.* at 1252.

7. *Biography.com*, "Aaron Hernandez," biography.com/people/aaron-hernandez-21269741 (last accessed Dec. 27, 2017).

8. See text accompanying footnote 7.

9. *Id.*

10. *Id.*

11. *Biography.com*, "Aaron Hernandez," *supra*, text accompanying footnote 7.

12. *Commonwealth v. Hernandez*, No. 2013-CR-00983, 2017 WL 2115360, at *1 (Mass. Sup. Ct. Dep't, May 9, 2017).

13. *Id.*

14. *Id.*

15. *Id.*

16. *Id.*

17. See Mot'n and Memo. In Opp. to Def's Mot'n to Abate Pros., *Commonwealth v. Hernandez*, No. 2013-CR-00983, 2017 WL 1543524, at **1-2 (Mass. Sup. Ct. Dep't May 1, 2017).

18. *Hernandez*, 2017 WL 2115360, at * 2.

19. *Id.*

20. *Id.*

21. *United States v. Davis*, 953 F.2d 1482, 1486 (10th Cir. 1992) (quoting *Durham v. United States*, 401 U.S. 481, 483 (1971) (per curiam), *overruled on other grounds*, *Dove v. United States*, 423 U.S. 325, 325 (1976) (per curiam)). *Dove* overruled *Durham* with regard to discretionary appeals – abatement *ab initio* does not apply. 423 U.S. at 325.

22. *In re Estate of Parsons*, 367 F.3d at 413.

23. *United States v. Asset*, 990 F.2d 208, 211 (5th Cir. 1993), *abrogated on other grounds*, *Parsons*, 367 F.3d at 409.

24. See, e.g., *List v. Pennsylvania*, 131 U.S. 396, 396 (1888) (The U.S. Supreme Court simply declared that since "it appear[ed] that this is a criminal case . . ." and defendant had died, case was abated and the direct appeal was dismissed).

25. *Durham*, 401 U.S. at 483 ("The unanimity of the lower federal courts . . . [on abatement *ab initio*] . . . is impressive. We believe they have adopted the correct rule.") (emphasis added).

26. See *In re Estate of Parsons*, 367 F.3d at 413.

27. *Id.* at 413-414; see also *Griffin v. Illinois*, 351 U.S. 12, 18 (1956) (a post-conviction direct appeal "is an 'integral part of [our] system for finally adjudicating [the] guilt or innocence [of a defendant]'" (emphasis added); but see *McCoy v. Ct. of App. of Wisc.*, 486 U.S. 429, 436 (1988) ("After a judgment of conviction has been entered, however, the defendant no longer protected by the presumption of innocence.").

28. See *Johnson v. Mississippi*, 486 U. S. 578, 585 (1988).

29. *In re Estate of Parsons*, 367 F.3d at 414.

30. *Id.*; *United States v. Dudley*, 739 F.2d 175, 177 (4th Cir. 1984).

31. *Morris v. Barton*, 1947 OK 260, ¶58, 190 P.2d 451, 459 ("where the defendant in a tort action dies after commencement of the action and before trial, his executors or administrators may not be held liable for exemplary damages.").

32. *In re Estate of Parsons*, 367 F.3d at 415; *United States v. Christopher*, 273 F.3d 294, 299 (3d Cir. 2001); *United States v. Volpendero*, 755 F.3d 448, 454 (7th Cir. 2014); *Logal*, 106 F.3d at 1552.

33. See *Dudley*, 739 F.2d at 178.

34. *Id.*; accord *Christopher*, 273 F.3d at 299.

35. See Okla. Stat. tit. 12 §1052.

36. *In re Estate of Parsons*, 367 F.3d at 415; *Logal*, 106 F.3d at 1552.

37. *In re Estate of Parsons*, 367 F.3d at 413 & n. 6; *United States v. Zizzo*, 120 F.3d 1338, 1347 (7th Cir. 1997).

38. See, e.g., *Zizzo*, 120 F.3d at 1343; *Estate of Parsons*, 367 F.3d at 417.

39. *Surland v. State*, 895 A.2d 1034, 1035 (Md. 2006).

40. *Id.*

41. See *Hardcastle v. State*, 1939 OK CR 105, 93 P.2d 547, 548; *Wilson v. State*, 1947 OK CR 98, 184 P.2d 634, 634.

42. *Surland*, 895 A.2d at 1035.

43. *Id.*

44. *Id.*; *Wheat v. State*, 907 So.2d 461, 464 (Ala. 2005) (citing Rule 43(a), Ala. R. App. P.).

45. *Nelson*, 137 S.Ct. at 1252-1253.

46. *Id.* at 1253.

47. *Id.*

48. *Id.*

49. *Id.*

50. *Nelson*, 137 S.Ct. at 1253.

51. *Id.*

52. Colo. Rev. Stat. §§13-65-101, *et seq.*

53. *Id.* at 1254.

54. *Id.*

55. *Id.*

56. *Nelson*, 137 S.Ct. at 1255.

57. *Id.*

58. *Id.* at 1256 n. 10 (emphasis added)(citations omitted).

59. *Id.* at 1255-1256.

60. 424 U.S. 319 (1976).

61. *Nelson*, 137 S.Ct. at 1255.

62. 505 U.S. 437 (1992).

63. *Nelson*, 137 S.Ct. at 1255.

64. 134 S.Ct. 1090, 1110 n. 4 (Roberts, C.J., dissenting).

65. *Nelson*, 137 S.Ct. at 1255.

66. *Id.*

67. *Id.*

68. *Id.* (citations omitted).

69. *Id.* at 1255-1256.

70. *Id.* at 1256.

71. *Id.* at 1255-1256.

72. *Nelson*, 137 S.Ct. at 1257.

73. *Id.*

74. *Id.* at 1257-1258.

75. *Id.* at 1258.

76. Note, *Fourteenth Amendment – Due Process – Nelson v. Colorado*, 131 Harv. L. Rev. 283, 291(Nov. 10, 2017) (quoting U.S. Const. art. 1, §9 (the Suspension Clause providing for the writ of *habeas corpus*) and U.S. Const. amend. V (Takings Clause providing for just compensation for governmental taking of property)).

77. See *Nelson*, 137 S.Ct. at 1255-1258.

78. See, e.g., *Zizzo*, 120 F.3d at 1343; *In re Estate of Parsons*, 367 F.3d at 417.

79. *Nelson*, 137 S.Ct. at 1255.

80. *Id.* at 1255 (quoting *Kaley*, 134 S.Ct. at 1110 n. 4).

81. *Id.* at 1255-1256; *In re Estate of Parsons*, 367 F.3d at 413 & n. 6; *Zizzo*, 120 F.3d at 1347.

82. *Nelson*, 137 S.Ct. at 1255-1256.

83. *Id.*

84. *Logal*, 106 F.3d at 1551-1552.

85. *Johnson*, 486 U. S. at 585.

86. *Nelson* at 1256 n. 10 (emphasis added) (citations omitted).

87. See *Logal*, 106 F.3d at 1551-1552.

88. *Id.*

89. See *Nelson* at 1255-1256.

90. *Cf. id.*

91. See, e.g., *Asset*, 990 F.2d at 211.

92. *In re Estate of Parsons*, 367 F.3d at 414; *Dudley*, 739 F.2d at 177.

93. See, e.g., *McCoy*, 486 U.S. at 436 ("After a judgment of conviction has been entered, however, the defendant no longer protected by the presumption of innocence.").

94. *Prost v. Anderson*, 636 F.3d 578, 582(10th Cir. 2011) (Gorsuch, J.).

95. Rosanna Cavallaro, *Better Off Dead: Abatement, Innocence, and the Evolving Right of*

Appeal, 73 U. Colo. L. Rev. 943, 954 (2002); *Prost*, 636 F.3d at 582.

96. *Prost*, 636 F.3d at 582.

97. *Id.*

98. *Id.*

99. See generally *id.*

100. *Nelson*, 137 S.Ct. at 1258.

101. *Id.* at 1257-1258.

102. *Cf. id.*; see also *In re Estate of Parsons*, 367 F.3d at 414.

103. *Nelson*, 137 S.Ct. at 1253.

104. *Id.* at 1256 n.10 (emphasis added); *United States v. Libous*, 858 F.3d 64, 66-69 (2d Cir. 2017) (applying *Nelson* in abatement *ab initio* case and rejecting that paid fine equals time served).

105. *Supra* text accompanying note 35-36.

106. See, e.g., Restatement (Second) of Torts §926 cmt. a; Restatement (Third) of Restitution and Unjust Enrichment §1 (2011); The False Claims Act, 31 U.S.C. §3729 *et seq.*

107. If Oklahoma's position is an abatement *ab initio* in *toto*, then like the federal courts, *Nelson* might compel repayment of fines and restitution orders, *supra*. But if Oklahoma adheres to some modified (or limited form of abatement), then the result might be different, as explained herein.

108. *Boyd v. State*, 1910 OK CR 87, 108 P.431, 431.

109. *Id.*

110. *Boyd*, 1910 OK CR 87, 108 P. at 431; *Hardcastle*, 1939 OK CR 105, 93 P.2d at 548.

111. *Cf. Hughey v. United States*, 495 U.S. 411, 418 (1990) ("restitution [has] to be tied to the loss caused by the offense of conviction.") (emphasis); *cf. Blackwell v. State*, 113 N.E. 723, 723 (Ind.1910); accord *In re Stauch's Estate*, 301 A.2d 615, 616-617 (Pa. 1973).

112. *Prost*, 636 F.3d at 582 (citations omitted).

113. See Okla. Stat. tit. 22 §991a(A)(1)(a).

114. Okla. Stat. tit. 22 §991f(A)(1).

115. *Hardcastle*, 1939 OK CR 105, 93 P.2d at 548 (futility of punishing dead person).

116. See, e.g., *State v. Devin*, 142 P.3d 599, 605-606 (Wash. 2006) (refusing to abate restitution orders); *In re Estate of Vigliotto*, 870 P.2d 1163, 1165-1166 (Ariz. Ct. App. 1993).

117. *Nelson*, 137 S.Ct. at 1255-1256.

118. See Okla. Stat. tit. 22 §991a(A)(1)(a), §991f(A)(1).

119. *United States v. Brooks*, 872 F.3d 78, 89-90 (2d Cir. 2017).

120. *Cf. Baltimore & Ohio R. Co. v. United States*, 279 U.S. 781, 786 (1929) ("The right to recover what one has lost by the enforcement of a judgment subsequently reversed is well established.").

121. See *Smith v. Okla. Dep't of Correct.*, 2001 OK 95, ¶6, 37 P.3d 872, 873.

122. See *State v. Korsen*, 111 P.3d 130, 132-133 (Idaho 2005).

123. See Okla. Stat. tit. 12 §§1051-1054; *Pitts v. State*, 2003 OK CR 21, ¶6, 78 P.3d 551, 553 (unless statutorily authorized, civil procedure provisions are generally inapplicable in criminal cases).

124. *Parsons v. Dist. Ct. of Pushmataha Cnty.*, 2017 OK 97, ¶17, 408 P.3d 586, 594 ("Generally speaking, the demarcation line between civil and criminal subject matter is well defined and obvious, but that is not always the case.") (emphasis added).

125. See *In the Matter of M.B.*, 2006 OK 63, ¶14, 145 P.3d 1040, 1047.

126. See, e.g., *United States v. Christopher*, 273 F.3d 294, 299 (3rd Cir. 2001) (declining to abate restitution order and inviting litigating parties to brief the merits of the restitution order); *Commonwealth v. Walker*, 288 A.2d 741, 742* (Pa.1972) (Court proceeded with appeal despite death of defendant).

127. *Devin*, 142 P.3d at 605-606.

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 Kenneth R. Burton Jr., *Katy, TX*
 Thomas B. Deal, *Fairview, TX*
 Peter Michael Frank, *Stuart, FL*
 Robert E. Funk Jr.,
Bethany Beach, DE
 Francis Keith Good, *Perryton, TX*
 Robert H. Henry, *Wichita Falls, TX*
 Bion Earl Hitchcock,
Sugar Land, TX
 William Philip Horton,
Eugene, OR
 Ely Hurwitz, *Bethesda, MD*
 Louis Daniel Igo, *Seal Beach, CA*
 Richard Iorio, *Wichita, KS*
 Joel Jankowsky, *Washington, D.C.*
 William C. Jones III, *Dallas, TX*

John Vernon Jones,
Chattanooga, TN
 Martin F. Klingenberg, *Naples, FL*
 Roger Allen Lapham, *Houston, TX*
 Joseph Jordan McCain Jr.,
Dallas, TX
 Joe Bailey McMillin Jr.,
Rancho Mirage, CA
 Frederick Heins Miller, *Edina, MN*
 Robert Charles Murray, *Keller, TX*
 Harold David Murry Jr.,
Charlotte, NC
 Ralph Benard Pinskey,
Harrisburg, PA
 Richard H. Ruth, *Durango, CO*
 Jesse Leon Smith, *Buford, GA*
 Lance Stockwell,
South Lancaster, MA
 Edwin B. Tatum, *Clovis, NM*
 Ray Lee Wall, *Rio Rancho, NM*
 Dennis J. Whittlesey,
Washington, D.C.
 Douglas Earl Woodward,
Plano, TX

In 1968 humans first orbited the moon in Apollo 8, first successful heart transplant performed, first Big Mac goes on sale in McDonalds for 49 cents, emergency 911 phone service started in the U.S. and Martin Luther King Jr. and Robert Kennedy are assassinated.

Day at the Capitol Highlights

By Angela Ailles Bahm

On March 6 the OBA celebrated the annual Day at the Capitol. It was another excellent opportunity to learn about the legislative process, bills of interest and to hear from the guest speakers. Lori Carter, director of Legislative Affairs from the Attorney General's Office, Chief Justice Douglas Combs and Administrator of the Courts Jari Askins spoke on issues of interest to us all.

Ms. Carter reviewed the AG's efforts to address opioid abuse in Oklahoma. Some of the statistics were overwhelming. In the last 15 years, opioid overdoses have increased by 91 percent. In the last three years, approximately 1,300 babies showed exposure at birth and had to go through withdrawals. They expect that number will increase to 1,000 babies for just this year alone. The office filed a lawsuit against

manufacturers in Cleveland County, which is expected to go to trial in May 2019. They established a nine-member commission that has created 31 recommendations, including legislative measures, to address this epidemic. A copy of the report can be seen at www.oag.ok.gov/ocoa.

Chief Justice Combs and Ms. Askins addressed issues associated with the budget crisis and the impact of that on the courts. A complicated and not pretty picture was painted. Needless to say, the impact can be severe on employees of the court and the ability to get cases addressed or tried.

I reviewed the legislative website and how to use it to track bills. I encouraged attendees to teach others, members of their office, friends and family how to use this excellent tool to track bills and contact legislators.

Another piece of information I have found very helpful is the press releases you can get by signing up on the site. Go to the Senate page at www.oksenate.gov/index. At the bottom toward



At the Capitol are, from left, Miles Pringle, Angela Ailles Bahm shaking hands with Oklahoma Press Association Vice President Mark Thomas, together with OBA President Kimberly Hays and OBA Executive Director John Morris Williams.

the right, you will see a button below "Signup for Updates from the Oklahoma State Senate." Keep following this through to a list of other agencies, including the governor's office, which you can sign up for to receive their press releases through email or text message. Because of signing up for these releases, each time the governor has chosen a new judge, I was notified the day it was announced.

OBA Legislative Liaison Clay Taylor discussed a number of bills and the legislative calendar. By April 12, measures from the opposite chamber must be out of committee. April 26 is the deadline for the third reading in the opposite chamber. The end of the session is May 25. Mr. Taylor reviewed the following bills.

- HJR 1051 to eliminate the Court of Criminal Appeals
- HB 2941 that affects title insurance and title work
- HB 3277 and SB 1340 that are the respective chambers' workers' compensation bill
- SB 698 to conform the content

of the petition with the federal rules

- SB 1136 that applies several liabilities to products liability cases
- SB 1447 to exempt health care providers from liability under certain circumstances
- SB 1550 that allows for post judgment review of new evidence

Afterward, all attendees had lunch and then had an opportunity to go to the Capitol to visit with their legislators.

JUDICIAL LEGISLATIVE UPDATES

For a welcome change, there are fewer efforts at changing or disbanding the Judicial Nominating Commission. However, SB 700 as of the writing of this article is still advancing and requires the six attorney members to be appointed by the president pro tem and the house speaker. Chief Justice Combs also discussed efforts at changing the Supreme Court districts to match those of the Congressional districts.

The bill is HB 1925 and provides for five justices from the current Congressional districts and four at-large positions. In addition, SB 699 applies mandatory retirement to all appellate judges and justices at 80 years of age.

If you have any bills that should be broadly noted, please contact me or post them to the MyOKBar Communities Legislative Monitoring Committee page. The committee will have one more meeting before the end of the session, May 1 at noon at the bar center. Please join us. And as always, if you have any suggestions to improve the committee, please email me.

ABOUT THE AUTHOR

Angela Ailles Bahm is the managing attorney of State Farm's in-house office and serves as the Legislative Monitoring Committee chairperson. She can be contacted at angela.ailles-bahm.ga2e@statefarm.com.

Mock Trial: A Competition of Constructive Madness in March

By Kevin H. Cunningham

On Tuesday evening, March 6, in the Bell Courtroom at the OU College of Law, a particularly impressive performance occurred between two competitive teams with the winner being determined in court, rather than on the court. The Oklahoma High School Mock Trial 2018 Finals was won by Owasso, after defeating Owasso. For the first time in competition history, the final two teams were from the same school. Owasso's Audrey Cantrell team prevailed and will represent the state of Oklahoma at the National High School Mock Trial Competition this May in Reno, Nevada.

The competition this year involved more than 40 teams from across the entire state. The fact that Owasso High School had two teams in the finals is a testament to the level of skill possessed by those student-competitors and the level of dedication from their teachers, attorney-coaches, parents and other volunteers associated with the team. This program would not function without the work of many volunteers. Over 400 judges and attorneys donate time to work with mock trial teams

directly, to score and judge the teams throughout the competition and as members of the Mock Trial Committee, to plan, prepare, write, conduct and oversee the competition. Personally, I want to thank the hundreds of volunteers who help with the mock trial competition each and every year.

Presiding judge for the final round was Retired Judge Edward Cunningham. Scoring panelists were Justice Patrick Wyrick, a former high school mock trial competitor, Judge Sarah Hall, Judge David Lewis, Judge Jequita Napoli and Judge Shon Erwin. Each of the scoring panelists is a current sitting judge and the panel, collectively, possesses decades of experience and involvement with the mock trial program. Very few practicing attorneys will ever face a judicial panel of such experience and skill. The fact that high school students stood before this group of jurists and delivered their performances exemplifies how the life-long skills and talents attained through mock trial competition can be developed relatively early in life.

In Justice Wyrick's own words, "The mock trial program made

an enormous impact on me as a high school student, so it was especially rewarding to me to get to serve as a judge and see a new generation of students in action."

I want to extend my sincere appreciation to the entire panel and the presiding judge for their work this year.

As with most competitions, the competitors are the primary focus, and this program was no different. The students involved in this competition were impressive. The professionalism displayed at all levels of the program, culminating at the finals, was on par with what we see from the best practicing attorneys throughout the courtrooms of our state. At times, those of us not directly involved with the students have to remind ourselves that these competitors have not yet taken a first-year law school class, or even a freshman-level undergraduate class! The attorneys in this case, looked, sounded and acted like seasoned litigators. Objections were raised and argued, with specific citations to rules of evidence, with professional accuracy.

The opening and closing arguments were presented with

clear and persuasive narration. The witnesses delivered testimony better than many people who take the witness stand at trial. The ability to effectively respond to cross-examination can often be the tipping point between a particular witness being believed or not. The students that portrayed witnesses in the finals were some of the best to take the witness chair.

Even though this March competition did not involve any buzzer-beating half-court shots, there was plenty of in-court drama as the competitors sought the win after weeks of competition and months of preparation. The state of Oklahoma will be represented quite well by the students from Owasso Audrey Cantrell. Their portrayals of professional litigators and witnesses were effective, persuasive and compelling. Thank you to the Owasso High School Audrey Cantrell team, teachers, coaches, parents and volunteers. You represent the best of our state, and I look forward to your competition at nationals.



Mock Trial Committee members at the finals are from left Todd Murray, Andrea Medley, Coordinator Judy Spencer, Orion Strand, Lydia Anderson Fields, Melissa Peros, Weston Watts, Shea Bracken and Kevin Cunningham.



Judging the final championship round were, from left, Judge Shon Erwin, Judge Sarah Hall, Judge Jequita Napoli, Retired Judge Edward Cunningham, Judge David Lewis and Justice Patrick Wyrick.

Finally, this competition could not exist without significant help from the Oklahoma Bar Foundation. The foundation has been a steadfast supporter since day one and the entire High School Mock Trial Program is supported by funds received from the Oklahoma Bar Foundation. I thank the Oklahoma Bar Foundation, and its members across this state, for their support of a program that unquestionably benefits so many people in our community. All former mock trial competitors know the value of the program first-hand. Whether your professional path included law or not, the skills and talents developed from participation provide a lifetime of benefit. To every mock trial competitor, past, present and future, your involvement makes this program the best it can be. Sincerely, thank you.

ABOUT THE AUTHOR

Kevin Cunningham practices in Mustang and serves as chairperson for the Oklahoma High School Mock Trial Committee.

TRIAL SITE COORDINATORS

Andrew Casey
Deresa Clark
Dustin Compton
Dan Couch
Kevin Cunningham
Lydia Fields
Dillon Langlely
Patrick Layden
April McClure
Andrea Medley
Anne Mize
Todd Murray
Michael Nesser
Melissa Peros
Nathan Richter
Susie Summers
Chris Szlichta
Leah Terrill-Nessmith
Carolyn Thompson
Kathryn Walker

ATTORNEY COACHES

Ranada Adams
Clifton Baker
Eli Bland
Judge James Bland
Judge Daman Cantrell
Eric Cavett
Stephana Colbert
Angie Dean
Chance Deaton
Judge Deirdre Dexter
Eddie Forarer
Valery Giebel
Randy Gill
Eric Grantham
Celo Harrel
Terry Harrison
Clint Hastings
Clifford Heckert
Shane Henry
William Hickman
Andrew Hofland
Mike Horn
Michon Hughes
Linda Jaha
Aaron Johnson
Chris Jones
Judge Douglas Kirkley
Nicole Longwell
Blake Lynch
Tom Maxcey
Brian McLaughlin
Judge Tim Mills
Anthony Moore
Rob Neal
Ellen Quinton
Rob Ridenour
Adam Scharn
Judge Matt Sheets
Desmond Sides
David Smith
Connie Smothermon
Richard Smothermon
Bob Speed
Frank Stout
Laura A. Thomas
Carolyn Thompson
Ken Underwood
Kyle Wasson
Judge Jill Weedon

VOLUNTEER PRESIDING JUDGES AND SCORING PANELISTS

Patrick Abitbol**
Stacy Acord
Kim Adams
Emma Arnett
Kara Bacon
B.J. Baker
Matthew Ballard
Luke Barteaux
Susan Beaty
Kristina Bell
Andrew Benedict
Lewis Berkowitz
Lou Berkowitz
Howard Berkson****
Brandon Bidde
Larry Biddolph
Kelly Bishop*
Jack Bowyer
Ruseal Brewer
Elisabeth Brown
Libby Brown
Alyssa Campbell
Abby Carmine
Dietmar Caudle
Jason Christopher**
Jack Coppedge***
Michael Coulson
John Cramer
Kymberly Cravatt
Dan Crawford****
Judge Ed Cunningham****
Erin Dailey
Chance Deaton
Michael Denton
Mike Dial
Charles Dickson
Monica Dionisio
Susan Dobbins*
Joshua Edwards
Tony Edwards
Kathleen Egan
Judge Shon Erwin***
Greg Farrar***
Rachel Farrar
Alayna Farris
Rodney Ferguson
Craig Fitzgerald
Marna Franklin
Matt Frisby
Mykel Fry

Ryan Fulda
 Mitchell Garrett
 Debra Gee
 Rachel Gessouroun
 Amy Gioletti
 Jason Glidewell
 Scott Goode
 Stephen Gray**
 Mark Graziano
 David Guten****
 Deb Hackler
 Matthew Haire
 Alex Handley***
 Keenan Haught
 Rick Hawthorn
 Stephen Haynes
 Rick Henthorn
 Judge Hess
 Kurt Hoffman**
 Madison Holder
 Chad Horsha
 Craig Hoster
 Trevor Hughes
 Judge Lori Jackson
 Dalinda Jeffers
 Jo Lynn Jetter
 Brittney Jewett
 Erik Johnson
 Courtney Jordan
 Reign Karpe
 David Keglovits
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 Deanna Kelso
 Jennifer Kerns
 Kaye Kirk
 Lita Kirk
 Lindsay Kistler
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 Kent Larason
 Trent Lauridson
 Niki Lindsey
 Grant Lloyd
 Rand Long
 Randy Long
 Mark Lyons
 Robert Margo
 Amber Masters
 Kevyn Mattax*
 J. W. McBee*
 April McClure
 Shelly McCorkle
 Kassie McCoy

Hilary McKinney
 Paige McLaughlin
 Evan McLemore
 Andrew McMahon
 Law McMeans*
 Jan Meadows
 Julia Metry
 Paul Middleton
 Jennifer Miller
 Mike Miller
 Sam Miller
 Tony Morales
 Scott Mosteller
 Michael Mullins*
 Judge Jequita Napoli
 Drew Neville
 Brenda Nipp
 Tahlina Nofire
 Paul Northcutt
 Brandi Nowakowski
 Katie Ogden
 L. Earl Ogletree
 Ivan Orndorff Jr.***
 Jessica Ortiz
 Jenna Owens
 Matt Patterson
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 Ted Pepper
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 Paiten Qualls
 Jasmin Redd
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 Ryan Reeves*
 Greg Reilly
 Maxey Reilly*
 Dale Rex
 Jacqueline Rhodes**
 Greg Riley
 Alison Roberts
 Thomas Robertson*
 Charles Rogers
 Jacob Rowe
 Hilary Sadhoo
 Teri Sahs
 Jenny Sanbrano*
 Mark Schwebke*****
 Gessica Sewell
 Randall Sewell
 Micah Sexton
 Matt Sheets
 Shelby Shelton

Chelsea Shields***
 Chris Shields
 Carmelita Shinn
 Judge Steven Shreder
 Kim Slinkard
 Angela Smith
 Jared Smith
 Karen Smith
 Rusty Smith
 Toni Smith
 Jeanne Snider
 Beth Stanley
 Luke Stephens
 Joshua Stockton
 Orion Strand**
 Jim Stuart
 Chuck Sullivan
 Thomas Swafford II
 Brian Swenson***
 Scott Thomas
 Carolyn Thompson*
 Joe Trail*
 Renee Troxell
 Roy Tucker
 Scott Tully
 Jonathan Udoka
 Georgina Van Tuyl**
 Laina Vaughn
 Kyle Vazquez
 Jon Vittitow
 Keith Ward
 Laura Wardrip
 Mark Warman****
 Richard Warzynski
 Weston Watts
 Sabre Weathers
 Zack West
 Matthew Wheatley
 Ed White
 Alex Wilson
 Michael Wilson

**two rounds*

***three rounds*

****four rounds*

*****five rounds*

******six rounds*

Don't Do Anything for Law Day

By John Morris Williams

Let it pass. Be apathetic and let others do all the work. Law Day came out of what some might call a corny reaction to the Soviet Union May Day celebration of communism and a heavily armed totalitarian government. Most Oklahoma lawyers know the story and the history surrounding Hicks Epton of Wewoka and the birth of Law Day.

Although in some respects the names have changed, the threat to the rule of law has never been greater than it is today, foreign governments trying to influence elections, accusations of foreign agents occupying the highest levels of our government.

The only branch of government that is properly functioning and protecting us as citizens and legal professionals seems to be the courts. I do not want to get into partisan politics. The rule of law and what we celebrate on Law Day is so much more. In fact, Law Day is about the absence of politics and the higher calling of the law and the Constitution – the source and guiding mark for all

we hold in high esteem in our system of government.

My experience is that in most places the youngest and newest lawyers get put in charge of Law Day. I appreciate the energy and efforts of those who chair their county Law Day activities. But, let us all not forget that those May Day parades and the totalitarian

When no one shows up, Law Day and what it stands for will no longer exist.

forces have taken new and it appears more deceptive forms. There are many things that might be proper to hand off to the younger generation. This is not one of them. We all, regardless of age or position, swore to uphold the rule of law, and we all have an obligation to show up and support efforts to preserve our democracy.

Law Day is one day, or maybe a short season at best. Yet it is our one opportunity annually to come together and to not just celebrate

but – by our presence – reaffirm our commitment and oath to uphold the rule of law. More than one person has said showing up is a huge component to success. When no one shows up, Law Day and what it stands for will no longer exist. When we all relegate and delegate it to someone else, the end of our democracy will be in plain sight.

So, I say this to you. If you are too busy, too important, too wealthy or too consumed with tasks deemed too important to take a break from your comfortable life of freedom to support and attend your local Law Day events, I question your dedication to the rule of law.

Yes, I did it. I threw down the gauntlet. I know as the hired help I should be more upbeat and less confrontational about such matters, doggonit, this is important. At this point in our country's history we need to come together and not only celebrate, but rededicate ourselves to persevering the rule of law. While some in our government want to assemble military parades and

disassemble our legal system, we need to preserve the rule of law. Now, more than ever are the ideas behind Law Day worth celebrating and preserving.

Do not let it pass. Do not be apathetic. Do not leave it to others.

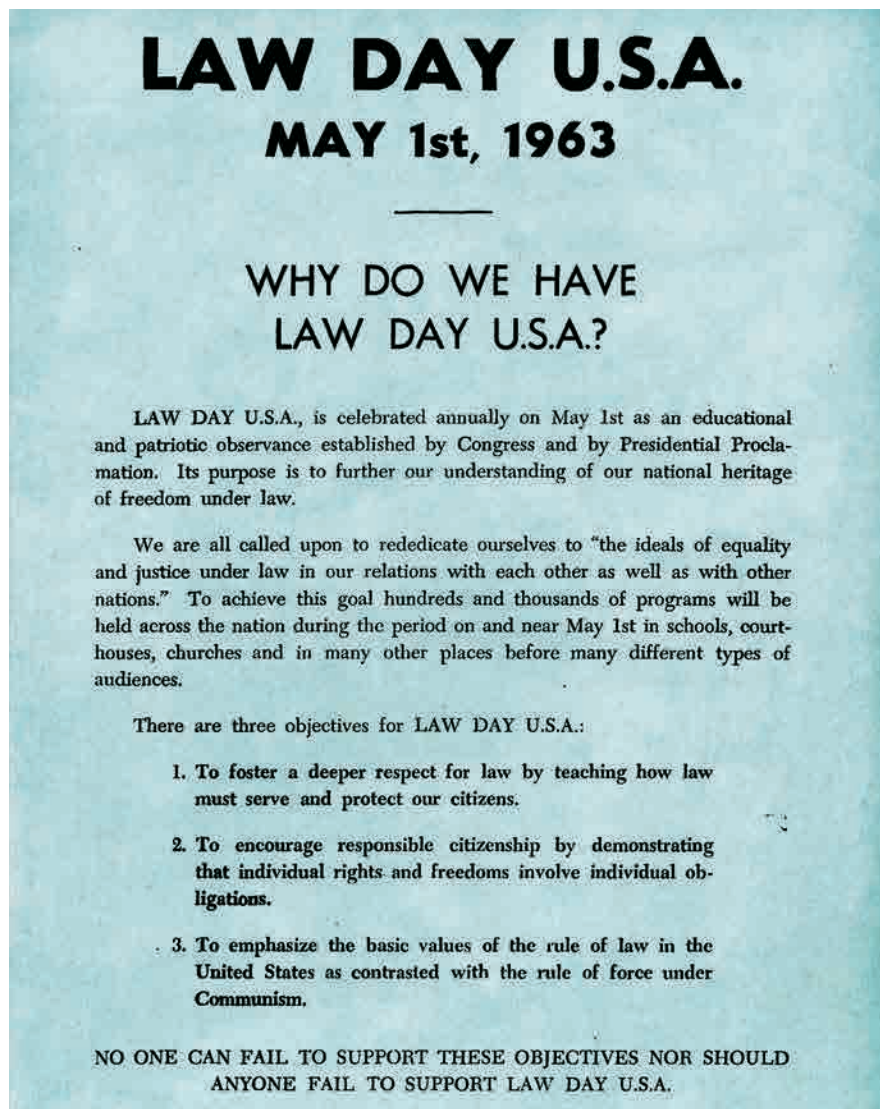
Go out and make Law Day the biggest and best this year. All who love freedom and democracy are counting on you to do so.

No pressure. Just show up and be counted.



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

A page from a 1963 Oklahoma Bar Journal emphasizing the importance of Law Day.



LAW DAY U.S.A.

MAY 1st, 1963

WHY DO WE HAVE LAW DAY U.S.A.?

LAW DAY U.S.A., is celebrated annually on May 1st as an educational and patriotic observance established by Congress and by Presidential Proclamation. Its purpose is to further our understanding of our national heritage of freedom under law.

We are all called upon to rededicate ourselves to "the ideals of equality and justice under law in our relations with each other as well as with other nations." To achieve this goal hundreds and thousands of programs will be held across the nation during the period on and near May 1st in schools, court-houses, churches and in many other places before many different types of audiences.

There are three objectives for LAW DAY U.S.A.:

1. To foster a deeper respect for law by teaching how law must serve and protect our citizens.
2. To encourage responsible citizenship by demonstrating that individual rights and freedoms involve individual obligations.
3. To emphasize the basic values of the rule of law in the United States as contrasted with the rule of force under Communism.

NO ONE CAN FAIL TO SUPPORT THESE OBJECTIVES NOR SHOULD ANYONE FAIL TO SUPPORT LAW DAY U.S.A.

Keeping the Customer Satisfied

By Jim Calloway

Yes, I know our profession has clients and not customers, but bear with me.

"A satisfied customer is the best business strategy of all," according to business book author Michael LeBoeuf. Customer (or client) satisfaction has long been an aspect of business management. Many business empires have been built on good to average products or services combined with excellent customer satisfaction models.

I recall the first time I heard the phrase, but it didn't have much to do with business principles. The song "Keep the Customer Satisfied" by Paul Simon was on the 1970 Simon and Garfunkel album *Bridge Over Troubled Water*.

With consumer products, the satisfaction or lack of satisfaction is generally directly tied to the quality of the product with any associated customer services sometimes adding (or subtracting) value.

With services, particularly professional services, in some situations the method of service delivery has as much to do with satisfaction as the actual service itself. This is particularly true with legal services. With medical services, a sick patient can become well or a broken bone will heal. With legal services, successful delivery of the services is often couched in terms that were

previously not familiar to the client like decrees, court orders, injunctions, closings and the like. Even with a phrase that is familiar to most, like "last will and testament," few people besides lawyers have ever considered what a "testament" might be.

Of necessity, the lawyer often has the role of helping define the problem, outlining a possible solution or approach and then delivering the appropriate legal services. The client must rely on the lawyer and trust the lawyer's judgment. Maintaining a relationship of trust is very important.

Both legal professionals and medical professionals now deal with different consumer expectations today. Let's look at something as simple as an office visit.

Decades ago, it was common to arrive at the doctor's office at the appointed time to find a waiting room full of patients. One might wait a long time before getting to see the doctor. This state of affairs was passively accepted by patients. Doctors, after all, were very important people.

Lawyers sometimes had full waiting rooms and extended waits, but that was more common for the lawyers serving individual clients than for the large law firms serving corporate America. Bankers and corporate

officers, after all, were very important people.

Today, when one arrives for a doctor's appointment one rarely experiences a long wait. Many patients would walk out before they would wait an extended period for a doctor and might even decide to change doctors if they were treated that way. Today we are all busy people with a lot of items on our personal schedules.

For today's lawyers, there is another risk besides simply losing the client if they were offended by the lawyer's tardiness. The client might not terminate the lawyer in the middle of a representation, but the client may perceive the waiting time as disrespectful, which could damage the client's trust in the lawyer. Since the lawyer and client often have many decisions to make during the course of representation, this lack of trust may have many negative consequences.

We have often heard that failure to return client phone calls is the number one complaint that is made about lawyers. Communication is addressed in Rule 1.4 Oklahoma Rules of Professional Conduct. Comment 4 was amended by the Oklahoma Supreme Court in 2016 to expand the reference that phone calls should be promptly returned or acknowledged with other forms of communication. Comment 4 now provides:

[4] A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, paragraph (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. A lawyer should promptly respond to or acknowledge client communications.

There can be a major difference in perception between the lawyer and client on this simple situation. The consumer client is used to friends and family promptly returning personal phone calls while a lawyer may have court hearings, depositions or deadlines on other matters that keep a lawyer from returning calls as promptly as the lawyer might like. This is one reason why having a policy about how promptly phone calls are returned and to explain to a new client why this is a particular challenge for lawyers and set the client's expectations that a nonemergency call will be returned within a certain time

frame. That is also the time to explain that some of the many communication channels are not appropriate and some "inboxes" may not be regularly monitored by the firm. Just because a new client was attracted to the firm by its Facebook page does not mean they should communicate to the law firm via Facebook Messenger.

As I have mentioned before, client portals should be explained to the client as a 24-hour client

The client might not terminate the lawyer in the middle of a representation, but the client may perceive the waiting time as disrespectful, which could damage the client's trust in the lawyer.

service that allows the client to review documents at their convenience and leave secure messages, but giving the client handouts during or after office visits is another important service satisfaction plan.

Perhaps the most important thing about client satisfaction is to remember that the client's perception of legal representation service quality may differ from yours. You cannot really judge what it is like to be a client. This is why obtaining some form of post-representation feedback is very important.

Today, many law firms use an online tool to survey clients

like SurveyMonkey, which has affordable pricing. Couch any survey questions to obtain feedback. Don't just ask, "Did we do anything wrong?" People may be too polite or uncomfortable to say. Ask, "What is one thing we could have done better?"

Corporate America invests heavily in obtaining customer feedback. How many times have you been handed a receipt and been told there is a link on the

receipt where you can be entered to win a free gift card? Law firms and lawyers should seek feedback as well.

Successful law firms want to have "clients for life" who return for future services and refer others, so it is more important than ever to "keep the customer satisfied."

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, 800-522-8065 or jimc@okbar.org. It's a free member benefit!

Attorney Discipline Decisions

By Gina Hendryx

The following is a summary of several attorney discipline matters recently issued by the Oklahoma Supreme Court. The court has exclusive, original jurisdiction over the licensure and discipline of Oklahoma attorneys.

STATE EX REL. OKLA. BAR ASS'N V. BOUNDS, 2018 OK 19

A summary disciplinary proceeding was initiated against respondent John K. Bounds after his felony and misdemeanor convictions. Bounds was convicted by a jury in Choctaw

County of felony unlawful possession of methamphetamine and misdemeanor possession of drug paraphernalia. He received a two-year deferred sentence with probation on the felony conviction and served a 30-day imprisonment on the misdemeanor conviction. The Oklahoma Supreme Court issued an order of interim suspension upon notification of respondent Bounds' convictions and then conducted *de novo* review of the record to determine if misconduct occurred and what, if any, is the appropriate

discipline. The court found that respondent Bounds' convictions were of considerable concern and suspended him for a period of two years and one day. Should respondent Bounds seek reinstatement, he must show his continued sobriety.

STATE EX REL. OKLA. BAR ASS'N V. BROOKING, 2018 OK 8

A disciplinary action was brought against respondent Megan E. Brooking for turning back the date on the court's clerk's filing stamp to reflect that a pleading was filed on April 15, 2017, when, in fact, it was filed on April 19, 2017. Respondent Brooking admitted she had turned back the filing stamp on this occasion and that she had also done so on other occasions. The court found that she acted with intent and with the purpose to deceive the court and the opposing party. Her actions constituted a "serious offense" and suspended her from the practice of law for 60 days.

STATE EX REL. OKLA. BAR ASS'N V. KLEINSMITH, 2018 OK 5

This is a reciprocal discipline matter filed based upon respondent Philip M. Kleinsmith being disbarred from the practice



of law in Colorado. Respondent Kleinsmith is licensed to practice law in Oklahoma and Colorado. The Supreme Court of Colorado found that respondent Kleinsmith misappropriated approximately \$57,000 from a corporate client. In reciprocal discipline matters, the court may impose the same discipline imposed in the other jurisdiction or one of greater or lesser severity. The Oklahoma Supreme Court disbarred respondent Kleinsmith based upon his misconduct in Colorado and the fact that he had been previously disciplined in Oklahoma. Kleinsmith received a public censure based upon discipline he received in Arizona for negligently filing improper arbitration certificates.¹

IN THE MATTER OF THE REINSTATEMENT OF CLAYBORNE, 2017 OK 93

Petitioner Mark A. Clayborne sought reinstatement to the practice of law after his disbarment in 2013. Petitioner was convicted of subornation of perjury on April 3, 2011, in Oklahoma County. The Oklahoma Supreme Court held that the conviction constituted clear and convincing evidence of his unfitness to practice law and serious interference with

the administration of justice.² Clayborne became eligible for reinstatement on June 20, 2016. The court found that Clayborne possesses the good moral character sufficient to be readmitted to the OBA and that he met all the requirements for readmission. Petitioner Clayborne testified to his remorse for the disrepute brought upon the legal profession by his conviction and to his consciousness of the wrongfulness of the conduct for which he was convicted despite maintaining his innocence throughout the criminal and disciplinary proceedings. The court ordered Clayborne reinstated to membership in the OBA on Nov. 20, 2017.

Ms. Hendryx is OBA general counsel.

ENDNOTES

1. See *State ex rel. Okla. Bar Ass'n v. Kleinsmith*, 2013 OK 16.

2. See *State ex rel. Okla. Bar Ass'n v. Clayborne*, 2013 OK 92.

Meeting Summary

The Oklahoma Bar Association Board of Governors met Feb. 16 at the Oklahoma Bar Center in Oklahoma City.

REPORT OF THE PRESIDENT

President Hays reported she took the oath of president at the swearing-in ceremony, delivered remarks to the Judge Chappelle / MLK Tournament mock trial participants, judged a round of the mock trial competition, continued working on various committee appointments, delivered welcome remarks at Legislative Reading Day, communicated with various committee chairs and presented a summary of OBA events at the Southern Conference of Bar Presidents meeting. She attended the board has been party, Legislative Monitoring Committee meeting via phone, OBA Family Law Section monthly meeting / CLE and OBA FLS leadership retreat. In Vancouver, British Columbia, she attended the National Conference of Bar Presidents meeting, various NCBP events, Oklahoma ABA delegation dinner, ABA Midyear Meeting and ABA House of Delegates.

REPORT OF THE VICE PRESIDENT

Vice President Stevens reported he attended the Board of Governors swearing-in ceremony, has been party, Legislative Reading Day and Cleveland County Bar Association February meeting / CLE.

REPORT OF THE PRESIDENT-ELECT

President-Elect Chesnut reported he attended the Board of Governors swearing-in ceremony, has been party, Legislative Reading Day, Oklahoma Bar Foundation meeting and Ottawa County Bar Association meeting. In Vancouver, British Columbia, he attended the Southern Conference Bar Presidents meeting, National Conference of Bar Presidents meeting, various NCBP events, Oklahoma ABA delegation dinner, ABA Midyear Meeting and ABA House of Delegates. He also participated in recruiting a candidate for appointment as *Oklahoma Bar Journal* associate editor.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he attended a meeting with deans at OCU, swearing-in of new Board of Governors officers and governors, YLD board meeting, Bar Center Facilities Committee meeting to begin planning for landscape masterplan, National Association of Bar Executives conference, National Conference of Bar Presidents meeting, a meeting with Lawyers Helping Lawyers leadership to discuss documentation of current

processes and development of a new contract with the third-party provider to clarify the relationship in relation to HIPPA, Legislative Reading Day and Legislative Reading Day meetings.

REPORT OF THE PAST PRESIDENT

Past President Thomas reported in Vancouver, British Columbia, she attended the Southern Conference of Bar Presidents meeting, Fastcase dinner and presentation, National Conference of Bar Presidents meeting, various NCBP events, ABA Oklahoma delegation dinner, ABA Midyear Meeting and ABA House of Delegates.

BOARD MEMBER REPORTS

Governor Beese reported he was sworn in as a new governor at the swearing-in ceremony and attended the Muskogee County Bar Association meeting. **Governor Coyle** reported he attended the has been party and Oklahoma County Criminal Defense Lawyers meeting and seminar. **Governor Fields** reported he attended the has been dinner, swearing-in ceremony and Pittsburg County Bar Association meeting. **Governor Hermanson** reported he attended the swearing-in ceremony, has been party, FY 19 joint budget

performance review hearing at the state Capitol, District Attorneys Council board meeting, Oklahoma District Attorneys Association board meeting and Kay County Bar Association meeting. He spoke at Ponca Politics in Ponca City. **Governor Hicks** reported he attended the board's swearing-in ceremony and has been dinner in Oklahoma City, ABA Midyear Meeting and National Conference of Bar Foundations in Vancouver, British Columbia, Tulsa County Bar Association Board of Directors meeting and Tulsa County Bar Foundation Board of Trustees meeting. **Governor Hutter** reported she attended the new Board of Governors member swearing-in ceremony, OBA Bench and Bar Committee meeting, Cleveland County Bar Association executive meeting and Cleveland County Bar Association monthly meeting. **Governor Kee** reported he attended the swearing-in ceremony and has been party. **Governor Morton** reported he attended the swearing-in ceremony to take the oath as a new Board of Governors member, McClain County Bar Association monthly meeting and Legislative Reading Day at the bar center. He also volunteered as a scoring judge for the Judge Chappelle Mock Trial Competition in Tulsa. **Governor**

Oliver reported he attended the has been party and swearing-in ceremony. He also served as a judge for Law Day contest writing entries. **Governor Will** reported he attended the Board of Governors swearing-in ceremony, Young Lawyers Division dinner honoring immediate YLD Past Chair Lane Neal and Bar Center Facilities Committee meeting. **Governor Williams** reported he attended the has been dinner to honor outgoing governors, swearing-in ceremony and Tulsa County Bar Association Board of Directors January meeting. He participated in the coordination of a Golden Sponsorship for the Tulsa County Bar Foundation's Judicial Dinner and served on an OBA Professional Responsibility Tribunal hearing on a reinstatement petition.

REPORT OF THE YOUNG LAWYERS DIVISION

Governor Richter reported he chaired the YLD board meeting and has a great group of lawyers on the board this year. He attended the swearing-in at the Capitol, Solo & Small Firm Conference Planning Committee meeting, Military Assistance Committee meeting, Roast and Toast Dinner for Immediate Past YLD Chair Lane Neal, Canadian County Bar Association meeting

and ABA YLD Midyear Meeting in Vancouver, British Columbia.

BOND PURCHASE

Executive Director Williams reported the OBA bylaws require the executive director to have a fiduciary bond but language refers to it as a fidelity bond. He explained the options are to take steps to amend the bylaws or to buy a fidelity bond that can be purchased from Oklahoma Attorneys Mutual Insurance Co. The board voted to buy a fidelity bond in the amount of \$5,000.

HIRING OF OUTSIDE COUNSEL

Executive Director Williams reported there is a need to hire outside counsel to handle a matter related to the Professional Responsibility Tribunal. Oklahoma City attorney Mark Stonecipher has agreed to handle the representation. Discussion followed. The board authorized the hiring of outside counsel.

BOARD LIAISON REPORTS

Governor Oliver reported the **Law-Related Education Committee** assisted with the judging of Law Day entries. They are also working on updating their portion of the OBA website. Governor Hutter reported the **Bench and Bar Committee** is

working on distributing the VPO video. The committee is also working on organizing a rapid response team to deal with the unfair criticism of judges. MAP Director Calloway reported the **Access to Justice Committee** held its first monthly meeting. Governor Morton called board members' attention to the Day at the Capitol agenda, which has been planned by the **Legislative Monitoring Committee**. He said the committee discussed recruiting people to go over before March 6. Board members were encouraged to join the committee. Governor Hermanson reported the **Law Day Committee** continues to work on TV show filming. Attorneys Dick Pryor will serve as panel moderator, and Courtney Blau will serve as host. A total of 909 contest entries were received, up 10 from last year. Efforts to engage a Spanish Outreach Subcommittee are underway. Governor Williams reported the **Diversity Committee** is considering a partnership with the LSAT company and is looking into the subject of implicit bias as a CLE seminar.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported a written report of Professional Responsibility Commission actions and OBA disciplinary matters for January was submitted to the board for its review.

PROFESSIONAL RESPONSIBILITY TRIBUNAL AND PROFESSIONAL RESPONSIBILITY COMMISSION REPORTS

General Counsel Hendryx reported PRT and PRC reports are required to be submitted to the Supreme Court each year. She pointed out the PRC report shows the number of complaints

in 2017 is lower than the previous year; however, the severity of complaints is greater, which seems to be a national trend. She noted the carryover of cases is lower than usual, which is good for both the public and lawyers in that fewer stressful grievance issues are pending. She reviewed the types of diversion classes offered.

BOARD OF EDITORS

The board approved President Hays' appointment of Clayton Baker, Vinita, as an associate editor to represent District 1. The term expires Dec. 31, 2020.

APPOINTMENT OF COMMISSION TO REVIEW GRIEVANCE PURSUANT TO 5 O.S. CHP. 1, APP. 1-A, RULE 3

General Counsel Hendryx said a complaint has been received involving the Office of the General Counsel. The board approved President Hays' appointment of Melissa DeLacerda, Stillwater; Stephen Beam, Weatherford; and Bill Grimm, Tulsa, to serve on a commission to act on a grievance which could lead to the filing of a formal complaint against the general counsel.

COUNCIL ON JUDICIAL COMPLAINTS EXTENSION OF LEASE

Executive Director Williams said the council has been located in the bar center for many years. Rules require its lease to be approved annually. The board approved the lease.

REPORT ON LEGISLATIVE READING DAY

Executive Director Williams said about 60 people attended Legislative Reading Day, held on Saturday, Jan. 27. A list of bills broken down by practice areas has been created by the Legislative Monitoring Committee.

NATIONAL CONFERENCE OF COMMISSIONERS FOR UNIFORM STATE LAWS

President Hays said she has submitted the names of Ryan Leonard, Oklahoma City; Cheryl Hunter, Oklahoma City; and James Milton, Tulsa; to the governor for consideration of two appointments with terms to expire May 31, 2022.

GOVERNORS ASKED TO SUBMIT LAW DAY EVENT DETAILS

President Hays asked governors to send information about Law Day events in their counties to her. A list will be created and shared.

OETA FESTIVAL

Communications Director Manning briefed board members about the OBA's annual volunteer project to take pledges to support OETA, Oklahoma's public television station. The event will take place at OETA Studios in Oklahoma City on March 8, from 5:45 – 10:30 p.m. Donation pledges will also be collected from OBA members, whose generosity keeps the association listed among the top-level donors. Past President Thomas and Executive Director Williams shared remarks about their past experiences. Executive Director Williams, who serves on the OETA Foundation board, said there is a good chance OETA's federal funding may be cut.

NEXT MEETING

The Board of Governors met in March at the Oklahoma Bar Center in Oklahoma City. A summary of those actions will be published after the minutes are approved. The next board meeting will be at noon on Friday, April 20, at the Oklahoma Bar Center in Oklahoma City.

Your support changes lives!

Fellows Programs

Fellows – for individuals

\$100/year Sustaining Fellow
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\$500/year Leadership Fellow
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Community Fellows – for organizations or businesses

\$1,000/year Community Partner
\$2,500/year Community Supporter
\$5,000/year Community Champion
\$7,500/year Community Pillar
\$10,000/year Community Cornerstone

Memorials & Tributes

Make a tribute or memorial gift in honor of someone. OBF will send a handwritten tribute card to them or their family.

Unclaimed Trust Funds

Unclaimed trust funds can be directed to the OBF. Please include the client name, case number and as much detailed information as possible about the funds on your company letterhead with the enclosed check.

Interest on Lawyer Trust Accounts (IOLTA)

OBF Prime Partner Banks give at higher interest rates, so more money is available for OBF Grantees to provide legal services. Select a Prime Partner Bank when setting up your IOLTA account: BancFirst, Bank of Oklahoma, MidFirst Bank, The First State Bank, Valliance Bank, First Oklahoma Bank Tulsa, City National Bank of Lawton, Citizens Bank of Ada, First Bank and Trust Duncan.

Cy Pres Awards

Leftover monies from class action cases and other proceedings can be designated to the OBF's Court Grant Fund or General Fund as specified.



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\$1.4 Million in Grants to Defend Homes, Build Communities

By Candice Jones-Pace

The Great Recession proved to be the worst economic downturn in our country since the Great Depression. According to CoreLogic, 5.5 million homes were lost due to foreclosure in the U.S. since 2008. Quantifying the number of homes lost is the easy part; it is calculating the feelings of loss, displacement, communities torn apart and the whole heap of legal issues that come with mass foreclosure that is difficult. The recession may be

over, but the aftermath still lingers in communities across our country and in our state.

Although the past cannot be changed, the future can still look bright as the Oklahoma Bar Foundation begins to focus on a new initiative to create a sustainable source of funding and allocations process to defend homes and build communities in Oklahoma.

Grants totaling \$1,441,602 have been awarded to aid 17 nonprofit

organizations. These funds are part of the settlement of nationwide class action litigation commenced by the U.S. Department of Justice against financial entities alleged to have participated in fraudulent lending activities that contributed to the 2008 housing market collapse. The OBF was one of 57 state nonprofit entities administering IOLTA funds who received a portion of the settlement funds.

Grantees of the Defend Homes-Build Communities Initiative:

Grantee	Program	Area Served	Grant
Catholic Charities	Immigration Legal Services	Western Oklahoma	\$75,000
Neighbors Building Neighborhoods	Indigent Criminal Defense	Muskogee County	\$85,000
OCU Law School	Pro Bono Housing Foreclosure and Eviction Assistance	Oklahoma County	\$53,800
Operation Care Ministries	Community Redevelopment	Jackson County	\$25,000
Trinity Legal Clinic	The Good Neighbor Initiative	Oklahoma City	\$75,000
Tulsa County Bar Association	Courthouse Assistance Expansion	Eastern Oklahoma	\$15,000
Tulsa County Public Defenders	Veteran's Court Civil Services	Tulsa County	\$150,000
Tulsa Lawyers for Children	Improving Foster Care Placement Stability	Statewide	\$50,000
TU College of Law	Spanish for Lawyers	Eastern Oklahoma	\$12,802
Total			\$541,602

Grantees receiving funding in partnership with Legal Aid Services of Oklahoma for an onsite staff attorney:

Grantee	Program	Area Served	Grant
Center for Employment Opportunities	Legal Services for Employment Opportunities	Tulsa County	\$75,000
Community Action Agency	Community Legal Counsel Center	Oklahoma and Canadian counties	\$75,000
Disabled American Veterans of Oklahoma	Legal Services for Disabled Veterans	Northeast Oklahoma	\$75,000
Legal Aid Services of Oklahoma	Foreclosure Prevention Legal Services	Statewide	\$300,000
Neighbors Building Neighborhoods	Legal Services & Muskogee Bridges Out of Poverty	Muskogee County	\$75,000
South Tulsa Community House	S. Tulsa Community Legal Services	South Tulsa	\$75,000
Tulsa County Juvenile Bureau	Phoenix Rising Alternative School	Tulsa County	\$75,000
Women's Haven Inc.	Legal Services & Domestic Violence Prevention	Stephens and Jefferson counties	\$75,000
Total			\$825,000

Grantees will submit quarterly reports to the OBF explaining how funds are being used. The foundation will be sharing a series of articles highlighting the work of these nonprofits and how this funding is making a difference in the lives of Oklahomans.

Ms. Jones-Pace is director of development and communications for the Oklahoma Bar Foundation



‘App’y Law Day!

By Nathan D. Richter

In 1961 by joint resolution of Congress, May 1 was proclaimed as Law Day around the country. Since then, the American Bar Association has lead the national Law Day campaign while the Oklahoma Bar Association has lead the campaign for our great state.

What is Law Day? Law Day is a national event wherein our country recognizes and sets aside a day to celebrate equality and justice established under our laws. President Eisenhower said about Law Day, “In a very real sense, the world no longer has a choice between force and law. If civilization is to survive it must choose the rule of law.” The rule of law is the glue that binds our democracy together. It also serves as the fertile battleground for policy makers to advance their agenda to make the country a better place for its citizens.

Throughout the years local county bar associations have organized bar activities and performed community service to observe Law Day. In fact, the OBA recognizes the county bar association holding the best Law Day activities and participation that year through the Hicks Epton Law Day Award presented at the Annual Meeting each year. For 2018, the OBA Law Day theme is “Separation

of Powers: Framework for Freedom.” The focus is to educate people on the importance of our democracy’s framework and organization to the government’s overall purpose.

The Constitution’s principles of separation of powers was intended to preserve liberty through a system of checks and balances on the power given to the government by the people. The framework provides the liberty and justice we all are entitled to under our laws. Yet, the framework is not self-executing and requires of us all to continually act to ensure that our constitutional democracy continues for future generations. Preserving our liberties and advancing our rights is the fertile battleground you see play out day to day in our political system. The 2018 Law Day theme focuses our reflection on the separation of powers as a fundamental tenet to our constitutional purpose and our consideration on how our governmental system is working for ourselves and our posterity.

NEW YOUNG ADULT GUIDE APP

So, what is the YLD doing to support Law Day? Glad you asked. In prior years, the YLD has taken an active role in educating high schoolers on their

transition into adulthood and the legal matters they will face. The division worked with the Law-Related Education Committee to publish a young adult legal guide titled “You’re 18 Now – It’s Your Responsibility!” that was also offered as an app. Last year, the YLD undertook the task of updating the guide’s content and making it available as a new and improved mobile app. As an app, the association has greater access to updating the information at a fraction of the cost. It is currently available from the Apple App Store and will be available for Android through Google Play soon. The YLD is actively promoting this resource to school districts around the state. If you know students, parents, teachers or administrators who could use the app, it can be found by searching for “OBA Young Adult Guide” in the App Store (and Google Play when available).

I encourage you to spread the word via social media using the hashtag #You’re18Now and also to share with your family, friends and communities. We owe it to our youth to leave this world better than it was when we came into it, and one method we can use to accomplish this is to teach our youth the rule of law – and, more importantly, why the law is so important to our existence.



The “OBA Young Adult Guide” is now available as an app for iPhone users. Coming soon for Android.

PROJECT TO ASSIST SERVICE MEMBERS

The YLD also continues to serve as the public service arm of the OBA. The division is working with the Military Assistance Committee to plan a community service project for our service members. Their sacrifices allow us to live free, and we should honor their sacrifices by serving their needs whenever the opportunity presents itself.

Look for details via the YLD Facebook page and the MyOKBar Community page in the coming months.

SUMMIT INVITATION

Lastly, the YLD has been invited to attend an ABA Regional Summit in Wyoming. The summit programming will address law practice and deposition skills for young lawyers, client intake strategies,

how to start your own law firm, mental health and wellness in addition to networking events. We are humbled to have received the invitation and look forward to participating in this great event!

Mr. Richter practices in Mustang and serves as the YLD chairperson. He may be contacted at nathan@dentonlawfirm.com. Keep up with the YLD at www.facebook.com/obayld.

FOR YOUR INFORMATION

OBA MEMBERS RAISE FUNDS TO SUPPORT OETA

The OBA raised nearly \$10,000 in private donations as part of its volunteer effort to support the state's PBS TV station during the annual OETA Festival. President Kimberly Hays presented a check to the station, which partners with the bar association to produce the annual Ask A Lawyer TV show in conjunction with Law Day.

The amount donated keeps the OBA at the top sponsorship level that is recognized in the station's monthly programming guide.

Many thanks to those who made financial contributions and to the 20 OBA members and staff who volunteered. This year's volunteers were Brittany Byers, Harold Drain, OBA President Kimberly Hays, Dick Rouse, Ricki Sonders, David Swank,

Michael Shanbour, Margaret Travis, Mary Travis, Greg Milstead, OBA Governor Brian Hermanson, Rachel Gallagher, Rhonda McLean, Marvin Ludlum,

Robert Don Gifford, Richard Vreeland, Ricki Walterscheid, OBA Executive Director John Morris Williams, Ami Swank and Melinda Alizadeh-Fard.



OBA Executive Director John Morris Williams and OBA President Kimberly Hays present OBA member and OETA host Kim Brasher with a check for \$9,977.

LHL DISCUSSION GROUP HOSTS MAY MEETING

"The Challenges of Work, Relationships and Parenting" will be the topic of the May 3 meeting of the Lawyers Helping Lawyers monthly discussion group. Each meeting, always the first Thursday of the month, is facilitated by committee members and a licensed mental health professional. The group meets from 6 to 7:30 p.m. at the office of Tom Cummings, 701 N.W. 13th St., Oklahoma City. There is no cost to attend and snacks will be provided. RSVPs to oneline@plexisgroupe.com are encouraged to ensure there is food for all.



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 of about 500 words to OBA Communications Director Carol Manning, carolm@okbar.org.



OBA MEMBER RESIGNATIONS

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

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San Antonio, TX 78216

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Ransom Canyon, TX 79366

Brian L. Ashurst
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Oakland, CA 94605

David P. Batow
OBA No. 12706
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Tulsa, OK 74137

Joseph Phelps Bicknell
OBA No. 774
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Denver, CO 80201

Colleen O'Brien Bishop
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Oklahoma City, OK 73156

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Jacquelyn V. Clark
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Seattle, WA 98144

Vicki J. Vaniman
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Tulsa, OK 74105

Bonnie Epperson Wick
OBA No. 9582
84 Mark Street
Destin, FL 32541

Thomas Reid Young
OBA No. 9978
1006 E. 17th Place
Tulsa, OK 74120-6804

ON THE MOVE

Eric Combs joined the Oklahoma City office of Spencer Fane LLP as an associate. He will practice in the firm's Environmental and Energy Group.

Robert Spoo joined the Tulsa office of McAfee & Taft. He will practice in the firm's Intellectual Property Group.

Ken Ray Underwood has moved his practice to the Beacon Building at 406 S. Boulder Ave., Suite 640, Tulsa, 74103. He can be reached by phone at 918-809-1323 or by email at ken@ulawok.com.

Kara E. Pratt and **Taylor A. Burke** have been named shareholders

and **David P. Page** as of counsel at the Tulsa-based law firm of Barber & Bartz. Ms. Pratt practices family law. Mr. Burke practices general civil litigation and appellate law. Mr. Page practices environmental law and litigation.

Mark Hendrickson joined the Regional Public Defender's Office in the Terrell, Texas, office. His practice focuses on capital defense.

Clark W. Crapster and **Mary Ann Godsby** joined the Tulsa office of Steidley & Neal PLLC. Mr. Crapster joins the firm as a partner practicing commercial, business and insurance litigation. Ms. Godsby joins the firm as an

associate practicing personal injury, employment and general civil litigation.

Matt Farris joined Commerce Trust Co. as senior vice president and market executive. He will lead a team in providing wealth management, financial planning, trust and private banking services in the state of Oklahoma.

David B. Custar has joined the Norman-based firm of Barnum & Clinton PLLC as a senior associate. His practice will focus on workers' compensation defense and civil litigation matters.

KUDOS

Tim Rhodes, director of administration for the Oklahoma Corporation Commission, was appointed to the State Governmental Technology Applications Review Board (GTARB). GTARB acts in an advisory capacity to the state's chief information officer and reviews for approval various IT processes utilized by state agencies.

Frederick H. Miller, professor emeritus at the OU College of

Law, is this year's recipient of The Homer Kripke Achievement Award from the American College of Commercial Finance Lawyers. The award recognizes a career of noteworthy leadership and a history of exceptional dedication to the improvement of commercial finance law and practice.

Judge Michael McGivern of Tulsa and **Don Bullard** of Oklahoma City were inducted into The College of Workers' Compensation Lawyers. The college is considered

the highest honor for the nation's workers' compensation attorneys, judges and academicians.

Stanley Evans and **Breea Clark**, both of Norman, are recipients of the Ralph Ellison Foundation's Shadow and Act Award. The award celebrates those who make a positive impact on the community through literacy, music and the arts.

AT THE PODIUM

Mark Darrah delivered the Carl G. and Gladys L. Herrington Distinguished Lecture at Rogers State University April 5. The

lectureship was established by the Herringtons as a way to provide exceptional educational opportunities for students. Mr.

Darrah is a civil and probate attorney in Tulsa.

IN MEMORIAM

Phillip Craig Bailey of Tulsa died Jan. 18. He was born Oct. 30, 1954, in Kansas City, Missouri. He graduated from Archbishop O'Hara High School in 1972, Missouri State University in 1977 and earned his J.D. from the TU College of Law in 1980. Following graduation from law school he worked as an oil and gas attorney in Houston, eventually returning to Tulsa where he worked at the Oklahoma Court of Civil Appeals for 18 years. In 2003, Mr. Bailey returned to private practice at Young, Bowden & Bailey. He then worked with McKenna & Prescott in Tulsa before retiring in 2017. He was an officer of the Sigma Tau Gamma social fraternity, a member of Delta Theta Phi law fraternity and American Bar Association. He served on the board of the Tulsa SPCA and was a founding member of the Tulsa Humane Society. Donations in his honor may be made to The Dog Ranch at lakesidespayandneutercenter.com.

Rodney Allen Bassel of Altus died Sept. 3, 2017. He was born Feb. 12, 1946, in Altus. He graduated from Duke High School and Southwestern Oklahoma State University in Weatherford. In 1973, he received his J.D. from the OU College of Law. Mr. Bassel practiced law in Lawton for many years including serving as a judge in Comanche County. He served in the U.S. Air Force Reserves. He enjoyed the outdoors, especially fishing and hunting. Donations in his honor may be made to the charity of your choice.

Seth Christian Murphy of Oklahoma City died Oct. 3, 2017. He was born June 5, 1986.

He graduated from UCO with a bachelor's degree in philosophy. Mr. Murphy graduated from the OCU School of Law as a Hatton Sumner Scholar in 2011. He worked as an oil and gas attorney. He served as a deacon and with the children's and music ministry at Forest Hill Christian Church. Donations in his honor may be made to Blood:Water Mission and Compassion International at bloodwater.org.

Gene E. Griffin of Tulsa died Feb. 10. He was born Dec. 1, 1939, in Huntsville, Arkansas. He graduated from Clarence High School at 16 and joined the U.S. Air Force in 1957. After his career in the military, Mr. Griffin was involved in ministerial and missionary work. He lived in Israel for two years before moving to Oklahoma City in 1971 to work as director of youth activities at Christian Center. In 1974, he received a bachelor's degree from UCO in business administration. In July of that same year, he moved to Tulsa to work as assistant vice president of National Bank. Mr. Griffin left that position to work as president and director of Insight Ministries. In 1991, he received his J.D. from the TU College of Law and provided pro bono work to Neighbor-for-Neighbor for two years. In 1995, he opened his own practice. He also served as a Tulsa County assistant municipal judge.

Warren L. Griffin of Edmond died Jan. 6. He was born July 22, 1941. He graduated from Edmond High School in 1959 where he was a state champion wrestler. Mr. Griffin served in

the U.S. Army from 1960 to 1962. He graduated from Central State College in 1964. He received his J.D. from the OU College of Law in 1967. Mr. Griffin started his private practice in Midwest City in 1968. He later served as a city attorney for the next 20 years. In 1998, he moved his practice to the Belle Isle area. He was an avid golfer and a member of the Oak Tree Country Club. He enjoyed quail hunting, training bird dogs and watching OU football.

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:
Lacey Plaudis
Communications Dept.
Oklahoma Bar Association
405-416-7017
barbriefs@okbar.org

Articles for the August issue must be received by July 5.

2018 ISSUES

AUGUST

Education Law

Editor: Luke Adams

ladams@tisdalohara.com

Deadline: May 1, 2018

SEPTEMBER

Bar Convention

Editor: Carol Manning

OCTOBER

Sports Law

Editor: Shannon Prescott

shanlpres@yahoo.com

Deadline: May 1, 2018

NOVEMBER

Torts

Editor: Erin L. Means

erin.l.means@gmail.com

Deadline: Aug. 1, 2018

DECEMBER

Ethics & Professional Responsibility

Editor: Leslie Taylor

leslietaylorjd@gmail.com

Deadline: Aug. 1, 2018

2019 ISSUES

JANUARY

Meet Your Bar Association

Editor: Carol Manning

FEBRUARY

Estate Planning

Editor: Amanda Grant

amanda@spiro-law.com

Deadline: Oct. 1, 2018

MARCH

Criminal Law

Editor: Aaron Bundy

aaron@fryelder.com

Deadline: Oct. 1, 2018

APRIL

Law Day

Editor: Carol Manning

MAY

Technology

Editor: C. Scott Jones

sjones@piercecouch.com

Deadline: Jan. 1, 2019

AUGUST

Appellate Law

Editor: Luke Adams

ladams@tisdalohara.com

Deadline: May 1, 2019

SEPTEMBER

Bar Convention

Editor: Carol Manning

OCTOBER

Indian Law

Editor: Leslie Taylor

leslietaylorjd@gmail.com

Deadline: May 1, 2019

NOVEMBER

Starting a Law Practice

Editor: Patricia Flanagan

Patriciaaflanaganlawoffice@

cox.net

Deadline: Aug. 1, 2019

DECEMBER

Ethics & Professional Responsibility

Editor: Melissa DeLacerda

melissde@aol.com

Deadline: Aug. 1, 2019

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



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HeinOnline lets you view, print or download any article or issue going back to 1930. Access it through MyOKBar.



It's a free member benefit!

Smartphones vs. Pocket Notebooks

Despite the large migration to electronic media, Bull Garlington, award-winning humorist and speaker, argues the benefits of using a simple pocket notebook. Here is why you should put your smartphones down and instead pick up a pad of paper.

[Goo.gl/q8SD62](https://goo.gl/q8SD62)



Be a Better Public Speaker

Does the thought of speaking in front of a group of people make you anxious, insecure or unsettled? Find your confidence and learn how to appear calm, confident and in control so people will listen to your message.

[Goo.gl/pQFjpF](https://goo.gl/pQFjpF)



What to Deep Clean This Spring

It's that time of the year again to open your cleaning supplies cabinet and tackle all of the spots you've likely neglected for the past year. Here are 20 things you should be deep cleaning this spring and tips on how to tackle them like a pro.

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Make Every Day Earth Day

Earth Day is celebrated every year on April 22 by nearly 175 countries worldwide, but why limit it to just one day? Make every day Earth Day by implementing these 44 simple and easy tips to help you go green, protect the earth and save money!

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JANITORIAL SERVICES. Serving Oklahoma City metro areas including Stillwater and Shawnee. References upon request. cleanok@gmail.com; 405-202-2401.

SERVICES

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POSITIONS AVAILABLE

WATKINS TAX RESOLUTION AND ACCOUNTING FIRM is hiring attorneys for its Oklahoma City and Tulsa offices. The firm is a growing, fast-paced setting with a focus on client service in federal and state tax help (e.g. offers in compromise, penalty abatement, innocent spouse relief). Previous tax experience is not required, but previous work in customer service is preferred. Competitive salary, health insurance and 401K available. Please send a one-page resume with one-page cover letter to Info@TaxHelpOK.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 Margaret Travis, 405-416-7086 or heroes@okbar.org.

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LANDOWNERFIRM.COM IS LOOKING TO FILL TWO POSITIONS in the Tulsa office: 1) a paralegal or legal assistant with strong computer skills, communication skills and attention to detail and 2) an attorney position – the ideal candidate will have excellent attention to detail with an interest in writing, drafting pleadings, written discovery and legal research. Compensation DOE. Please send resumes and any other applicable info to tg@LandownerFirm.com. Applications kept in strict confidence.

POSITIONS AVAILABLE

ONEOK INC. SEEKS MANAGING ATTORNEY. ONEOK Inc., a Fortune 500 midstream energy company, seeks a managing attorney for its Tulsa, Oklahoma headquarters. The managing attorney will perform commercial contracting activities primarily relating to ONEOK Inc.'s natural gas gathering and processing business segment, with additional support for ONEOK Inc.'s natural gas liquids business segment. The managing attorney will provide legal advice to management on midstream commercial matters and will review, draft, prepare and negotiate commercial agreements. The managing attorney will also retain and supervise outside counsel for the company. Bachelor's degree in business law, business administration, energy management, economics, management or related field preferred plus Juris Doctorate with experience providing legal counsel to companies in the energy industry, including matters involving the commercial relationships between natural gas producers, processors, gatherers and marketers. Currently admitted to practice by a state bar association; if not currently admitted to practice in Oklahoma, then must be eligible to become admitted in Oklahoma. Applications should be submitted through ONEOK Inc.'s careers website at <http://www.oneok.com/Careers>.

ONEOK INC. SEEKS MANAGER OF SERVICE CONTRACT ADMINISTRATION. ONEOK Inc., a Fortune 500 midstream energy company, seeks a manager of service contract administration for its Tulsa, Oklahoma headquarters. The manager will be responsible for the management of ONEOK Inc.'s service contract function, which administers service agreements and certain procurement contracts including environmental services, capital construction projects, information technology and services related to the operation and maintenance of company assets. The manager will also assist business sponsors and legal counsel in the preparation, negotiation and finalization of service agreements, work orders, bid documents and other related documents as needed. Bachelor's degree in law, accounting, business administration, engineering, other related field or an equivalent combination of formal education and job-related experience required. Strong preference for Juris Doctor degree or significant experience in a law firm or legal department setting. Applications should be submitted through ONEOK Inc.'s careers website at <http://www.oneok.com/Careers>.

POSITIONS AVAILABLE

OKLAHOMA CITY LAW FIRM concentrating in the statewide representation of mortgage lenders seeks associate attorney. Title examination experience preferred, but will train right candidate. Statewide travel required. Send resume and salary requirement to "Box T," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

CHILD SUPPORT SERVICES is seeking a full-time attorney for our Rogers CSS District Office located at 515 East Patti page Blvd, Claremore, OK 74017. The position involves negotiation with other attorneys and customers as well as preparation and trial of cases in child support hearings in district and administrative courts and the direction of staff in the preparation of legal documents. In addition, the successful candidate will help establish partnership networks and participate in community outreach activities within the service area in an effort to educate others regarding our services and their beneficial impact on families. Position will provide recommendations and advice on policies and programs in furtherance of strategic goals. In depth knowledge of family law related to paternity establishment, child support and medical support matters is preferred. Preference may also be given to candidates who live in or are willing to relocate to the service area. Active membership in the Oklahoma Bar Association is required. This position has alternate hiring levels. The beginning salary is at least \$42,771 annually with an outstanding benefits package including health and dental insurance, paid leave and retirement. Interested individuals must send a cover letter noting recruitment number 18-S044U, resume, three reference letters and a copy of current OBA card to www.jobs.ok.gov, under unclassified positions. Applications must be received no earlier than 8 a.m. on March 19, 2018, and no later than 5 p.m. on April 27, 2018. For additional information about this job opportunity, please email Stefanie.Hanson@okdhs.org. This position may be filled at an alternate hiring level as a Child Support Services attorney III (beginning salary \$4,321.67 monthly), Child Support Services attorney II (beginning salary \$3,942.92 monthly), or as a Child Support Services attorney I (beginning salary \$3,564.25 monthly). The State of Oklahoma is an equal opportunity employer.

POSITIONS AVAILABLE

HELMERICH & PAYNE INC IS SEEKING A CORPORATE SECRETARY. The corporate secretary is responsible for communicating with Helmerich & Payne board members, managing the coordination of board and shareholder meetings, acting as a liaison for board and shareholder communications and general outreach to shareholders on corporate governance matters. The corporate secretary responds to shareholder requests for information, prepares all necessary agendas and documents required for board and shareholder meetings and coordinates shareholder lists and registrations. The corporate secretary executes and maintains all required official corporate filing, documents, reports and records according to applicable laws and regulations. The corporate secretary will report to the general counsel. If you are interested in this position, please visit our website at www.hpinc.com for the full job description and complete an online application.

OKLAHOMA CITY UNIVERSITY SCHOOL OF LAW INVITES APPLICATIONS FOR THE ASSISTANT DEAN FOR LAW CAREER SERVICES. This full-time position requires a Juris Doctor degree and 2+ years' experience in the legal profession. To apply visit <http://ocuemployment.silroad.com/>.

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An Anonymous Inspiration

By Daniel V. Flatten

Spring, 1968. Fifty years ago. A depressing time. The unhappy progress of the Vietnam War dominated both foreign and now, domestic affairs, and as if the Kennedy assassination five years earlier were not sufficient, we now had the Martin Luther King Jr. assassination and increasing dissention and lawlessness. In January, an aggressive but decidedly second-rate power, North Korea, had captured a U.S. Navy intelligence ship, the *Pueblo*.

In other circumstances, we would have made the military response such piracy merited. But although we had overwhelming military superiority, we were already bogged down in one Asian war, and civilian leadership concluded that national consensus would not support another.

I viewed all this from the secure precincts of Tinker AFB, Oklahoma, in the still more secure role of an Air Force judge advocate. Still, even that far removed from the events themselves, one could not be immune to their depressing effects.

Imagine then the events of June 5-6. The California Democratic primary. Bobby Kennedy, the popular heir to his brother's political legacy had won a convincing victory. But that very

night, in the midst of celebration, he was gunned down by a disgruntled Palestinian, Sirhan B. Sirhan.

Oh no! Another assassination! Another insult to our lawfulness, our openness, our electoral process, our pride in our country. When will it end? How much more will our loyalty to our principles be tested? Where is justice?

The next day, with flags at half-staff, daily mass at base chapel No. 1. Probably only a dozen of us in attendance, but we had an organist. A woman in the base parish. For daily mass, she probably received \$1, which was the typical stipend, as a bonus, she lent her clear soprano voice to the hymns.

Anyway, she took us through the almost pro forma hymns of the Kyrie and Gloria near the beginning of mass and the Credo, mid-way. But at communion, as we approached the altar in silence, something decidedly *not* part of daily Catholic ritual sounded – the stirring strains of “The Battle Hymn of the Republic.”

“Mine eyes have seen the glory...”

Every back stiffened, every step quickened, every prayer halted, every chin lifted.

“He hath sounded forth the trumpet that shall never call retreat...”

We looked up. We looked at each other. Father ... (I confess while I remember him well, I have forgotten his name) paused in distributing the Eucharistic. We wept – unapologetically. Then smiled.

“His truth is marching on.”

That high, clear intonation of Julia Ward Howe's powerful anthem inspired us as it has done in times of trial since its inception in the American Civil War. Our pride in country, commitment to duty, respect for our fellow citizens, trust in our leadership were all reinforced by that unheralded act. I wish I knew her name. I wish I had thanked her. I didn't. But I remember. And on this 50th anniversary of those events, I reflect on what she salvaged from such an unhappy day. If, as I suspect, she has gone to her eternal reward, it surely included merit for such a worthy act. If not, I hope she remembers it as vividly as I do. In either event, God bless her!

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



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FRIDAY, APRIL 20, 9 A.M. - 2:50 P.M.

Gaylord-Pickens Museum, 1400 Classen Drive, Devon Classroom, OKC

A reception from 3 – 4:30 p.m. will follow Friday's program at Gaylord-Pickens Museum and is open to all attendees.

THIS CLE WILL NOT BE WEBCAST OR RECORDED FOR FUTURE VIEWING

Early registration by Friday, April 13, 2018, is \$150; Registrations received after April 13th will increase \$25 and another \$25 increase for walk-ins. Registration includes continental breakfast and a networking lunch. To receive a \$10 discount on in-person programs register online at www.okbar.org/members/CLE.

Oklahoma Chapter

NAELA MEETING

SATURDAY, APRIL 21, 9 A.M. - 3 P.M.

Donna J. Jackson Law Office, 10404 Vineyard Blvd., Ste. E, OKC

On Saturday, April 21st, Oklahoma Chapter NAELA members may register to attend the first chapter unprogram meeting from 9:00 a.m. – 3:00 p.m. Lunch will be catered. There will be a \$50 registration fee. For information on becoming an OK Chapter NAELA Member go to www.naela.org. To register for the meeting go to www.okbar.org/members/CLE.

6/0

PROGRAM MODERATOR:

Donna J. Jackson, President of the Oklahoma Chapter of NAELA

Topics & Presenters:

- Background of the National Academy of Elder Law Attorneys (NAELA) & Elder Law
Hyman Darling, Bacon Wilson Attorneys at Law, MA
- Elder Law and the Importance of NAELA
Donna J. Jackson, CPA, JD, LLM, Oklahoma City, OK
- Jacobson Trusts and Work on (d)(4)(A) Trust for Children in Foster Care
Sara Murphy, Legacy Legal Center, OK
- Special Needs Trusts
Barb Helm, Executive Director, Arcare, Inc., KS
- Veterans Administration and Medicaid Planning
Dale Krause, JD, LLM, and Thomas Krause, JD, Krause Financial Services, WI
- Oklahoma Medicaid
Travis Smith, Oklahoma Dept. of Human Services



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