

ALSO INSIDE: Solo & Small Firm Conference
Professional Responsibility Commission Annual Report

THE OKLAHOMA BAR Journal

Volume 89 — No. 7 — March 2018

A photograph of a wooden surface with a white puzzle. The puzzle pieces form a silhouette of a family: a man, a woman, and two children. The puzzle is partially assembled, with some pieces missing, particularly a large piece at the bottom left. The background is a dark, textured wood grain.

FAMILY LAW



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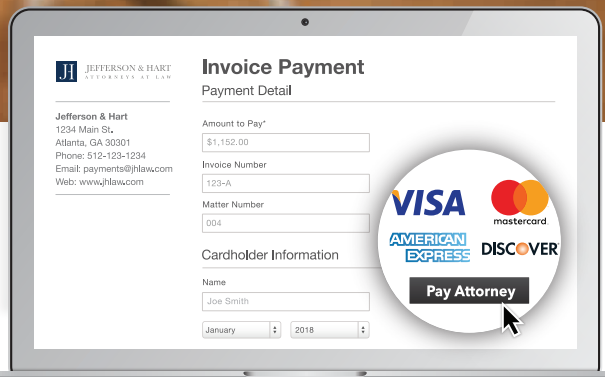
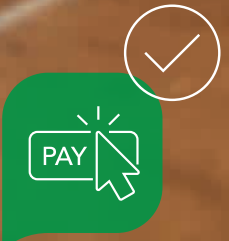


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A GUIDE TO 42 U.S.C. § 1983 PRINCIPLES AND LITIGATION

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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 those who are familiar with 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.

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- First Amendment Developments in 42 U.S.C. § 1983 Cases
Andy Lester, Spencer Fane, LLP
- 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.

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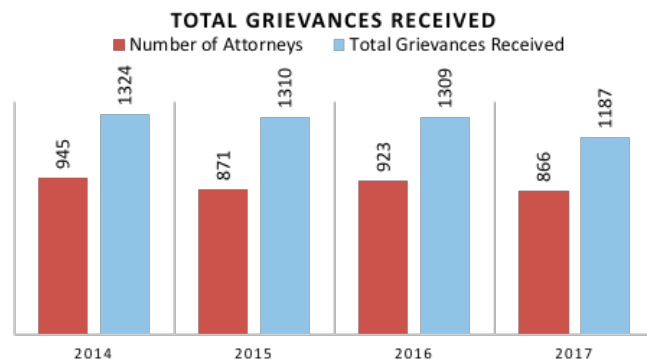
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March Madness – Supporting Your Team

The month of March is a fantastic time for sports fans. In our house we love sports. Our daughter is a member of her college dance team, and our son is a high school baseball player. Our family, like many others, spent a few weeks watching the XXIII Olympic Winter Games. We cheer for the NBA Thunder, and we follow the MLB spring training games as we wait for Opening Day, March 29. Of course, this month the NCAA basketball tournament is the centerpiece of our sports talk. From Selection Sunday through the Final Four, we are checking our brackets.

There is something exciting about cheering for your team, celebrating the victories and enduring the losses. Even if we are not the players on the court, on the field or standing on the sidelines, we become emotionally invested in the success of our team. We wear the team colors, we enjoy the rivalry and the competition. Our allegiance to our team can lead to “spirited” debates between friends. Fans take pride in the achievements of the athletes and often speak about the players as if they were close friends or even family.



Kimberly Hays

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As attorneys, we are all members of a very elite team – our Oklahoma Bar Association. As members of “Team OBA,” each of you can support our bar association by joining, for free, one of our 29 committees. Participating in a committee meeting is as easy as watching a No. 12 seed upset a No. 5 seed in the NCAA tournament – you can do both while sitting at your desk or on your mobile device. The BlueJeans virtual

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I challenge you to attend *just one* committee meeting in the next 60 days. Signing up for a committee is easy. Go to www.okbar.org and find the “Join a Committee” link at the bottom. What is the worst thing that can happen when

I challenge you
to attend just one
committee meeting in
the next 60 days.

you “suit up” for one committee meeting? Most meetings last an hour, and you can attend *for free* via BlueJeans videoconferencing or phone conferencing. Our “team” benefits from the diverse experiences and

ideas from different members.

Spring is a busy time for our OBA committees. Our Law Day Committee is hard at work planning events. The 2018 theme is “Separation of Powers: Framework for Freedom.” Our Legislative Monitoring Committee hosted a successful Day at the Capitol and the committee continues the important work of monitoring legislation, which affects the practice of law, and using electronic media to notify committee members around the state on the status of legislation.

“Team OBA” remains a strong and united team when EACH member makes the effort to leave the bench and join us on the field/court. I invite you to embrace March Madness – cheer for the Cinderella team of the tournament, pick your OBA committee meeting to attend and celebrate your membership in the best team – the practice of law.

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When Billy Wants to Live With Dad

A Guide to Using a Child's Custody Preference in Litigation

By Jimmy Oliver

Frequently the basis for a request for custody in an initial dissolution, paternity case or motion to modify is the expressed preference of the minor child. The purpose of this article is to provide guidelines about the statutory criteria that must be met by the attorney and the trial judge related to a child's preference and practical considerations for both.

INITIAL DETERMINATION

The statute regarding the preference of a child in custody and visitation cases begins with the premise that a child in any action to determine custody or visitation may express a preference as to which parent he/she wants to reside with or visit.¹ Immediately following the initial section, the statute requires the trial court to first determine whether the best interest of the child will be served by allowing the child to express his/her preference. Therefore, the court must find the best interest test is met before the court allows a child to express preference.²

The next qualifier in the statute requires the trial court to determine if the child is

of sufficient age to form an intelligent preference.³ If the child is 12 years of age or older there is a rebuttable presumption that the child is of sufficient age.⁴

There is a common misconception among the public that a child who is 12 or older can determine his or her custody in all situations. A practitioner should caution a client that it is not that simple. The statute makes clear a child's preference is not the only factor for the court to consider, stating in part "Interviewing the child does not diminish the discretion of the court in determining the best interest of the child. The court shall not be bound by the child's choice or wishes and shall take all factors into consideration in awarding

custody or limits of or periods of visitation."⁵

Appellate courts have continuously reiterated a child's preference is only one of the many factors to be examined when deciding what custody arrangements are in the best interest of a child. The Oklahoma Supreme Court held, "The preference of the child is just that – a preference. We have never held that a child's preference is the deciding factor when determining custody or modifying custody. Rather, it is one of the many factors which the Trial Court is required to consider."⁶

Because the term "best interest" can be vague or subject to the opinion of the trial court, it is important that a practitioner

determine exactly the child's reasons for the preference to show the court how those reasons advance what is in the child's best interest. Conversely, when a practitioner is seeking custody of a child over that child's preference, the attorney should strive to show the court how this preference is not made for the right reasons or how it would not be in the best interest of the child to grant his desire. At trial, initial evidence should be provided establishing the child who desires to express his or her preference is mature and able to do so in an intelligent matter. Likewise, if a child is mentally handicapped or has developmental limitations it is necessary for a practitioner to bring this to the attention of the trial court.

POST DECREE MODIFICATION

In 2004, the Court of Civil Appeals held that in a motion to modify an existing custody order the well-founded preference of a child will support a change of custody without any other change of condition.⁷ In so doing, the

Nelson court reaffirmed previous rulings that when a child has requested a change of custody the child's best interests are served by a "serious consideration" of the request and the reasons the child made the request.⁸ There should also be an in-depth assessment of the current custody arrangements by the trial court. If the child can provide good reasons for this preference, the child's preference alone can justify a change of custody.⁹

In 2009, the Court of Civil Appeals, in *Buffalo v. Buffalo*, clarified that a child's preference in a motion to modify case does not allow a court to disregard the hurdles outlined in *Gibbons v. Gibbons*. The *Gibbons* test, as it is commonly called, provides that to modify a child custody order, the moving party must show 1) a permanent, substantial and material change of conditions which directly affects the best interest of the minor child and 2) that due to this change of conditions, the minor child would be substantially better off with regard to his temporal,

mental and moral welfare if the requested change of custody is ordered.¹⁰ The *Buffalo* court held the trial court should evaluate the child's explanation, supporting reasons and factors that lead to the preference to see if the *Gibbons* test has been satisfied. It is not the preference itself that allows for a custody modification but the reasons provided for the preference.¹¹ This decision was affirmed in *Mullendore v. Mullendore*.¹²

Therefore, when a parent seeks to change custody based on the new preference of a child, a practitioner should still take care to show the court how the child's reasons for the requested change of custody constitute a change in conditions and how he or she would be substantially better off if custody was changed. Likewise, if the reasons the child wants to live with a different parent have to do with being closer to friends or a parent's relaxed discipline style a practitioner should caution the client that those reasons alone may not constitute a change of condition under the *Gibbons*'s test.

REQUIRED FINDINGS BY THE COURT

First, the record should reflect a finding by the court that it is in the best interest of the child to express a preference or provide testimony about custody arrangements.¹³ Next, the court must make a record of its determination that the child is of a “sufficient age to form an intelligent preference.”¹⁴

Once the trial court has decided to allow the child to state his or her preference, the court must decide whether to hold an *in-camera* interview with the child or allow the child to provide testimony in open court. Trial courts routinely prefer to conduct *in-camera* interviews of a child over having the child testify in open court. The Oklahoma Supreme Court has articulated many reasons preferring the *in-camera* interview of children including:

- 1) elimination of the harm a child might suffer from exposure to examination and cross-examination and the adversarial nature of the proceedings generally;
- 2) reduction of added pressure to a child to an already stressful situation;
- 3) enhancement of the child’s ability to be forthcoming;
- 4) reduction of the child’s feeling of disloyalty toward a parent or to openly choose sides;
- 5) minimization of the emotional trauma affecting the child, by lessening the ordeal for the child;
- 6) protection of the child from the tug and pull of competing custodial interests; and
- 7) awarding custody without placing the child in an adverse position between the parents.¹⁵

The private interview by the court is to be conducted without the parents, attorneys or other parties present. The exception is the requirement that the previously appointed guardian *ad litem* must be present.¹⁶

Parents and their counsel are allowed to submit questions or topics to be discussed during the interview but the trial court is not bound to ask the questions or explore the suggested topics.¹⁷ Either party may request a record be made of the *in-camera* interview of the child. The transcript of the child’s testimony can only be disclosed if the underlying custody or visitation determination is appealed.¹⁸

Asking the child’s preference could also give the impression that his preference is the only factor the court will consider.

The Supreme Court has also provided guidance on how the trial court should conduct the *in-camera* interview of a child. The child should not be asked directly where he or she prefers to live, “because specifically asking the preference provides an opportunity for parental manipulation or intimidation of the child, as well as the opportunity of the child to manipulate the parents.”¹⁹ Asking the child’s preference could also give the impression that his preference is the only factor the court will consider. Instead, the trial court should conduct the interview to learn the child’s preference while considering how the child is coping with the case, any pressures put on the child

and any motives the child has in stating the preference.²⁰

CONCLUSION

A child’s preference about custody can be a valuable tool in litigation. However, before a practitioner attempts to use this tool it is imperative to know the reasons behind the child’s decisions and to place these reasons in the correct framework for the trial court. It is also important to know the procedure a court must follow prior to taking a child’s preference in order to avoid an insufficient record on appeal to sustain the trial court’s decision.

ABOUT THE AUTHOR

Jimmy Oliver graduated from the OCU School of Law in 2010 and is a partner at DeLacerda & Oliver in Stillwater. He currently serves on the OBA Board of Governors, Saville Center for child Advocacy Board of Directors and as the alternate city judge for the city of Guthrie. Mr. Oliver maintains an active practice in the areas of family law, probate, guardianship and criminal law.

ENDNOTES

1. Title 43 O.S. §113(A).
2. Title 43 O.S. §113(B).
3. Title 43 O.S. §113(D).
4. Title 43 O.S. §113(C).
5. Title 43 O.S. §113(D).
6. *Ynclan v. Woodward*, 2010 OK 29, ¶13, 237 P.3d 145, *Foshee v. Foshee*, 2010 OK 85, ¶16, 247 P.3d 262.
7. *Nelson v. Nelson*, 2004 OK CIV APP 6, ¶4, 83 P.3d 911.
8. *Nazworth v. Nazworth*, 1996 OK CIV APP 134, ¶4, 931 P.2d 86.
9. *Nazworth v. Nazworth*, 1996 OK CIV APP 134, ¶6, 931 P.2d 88.
10. *Gibbons v. Gibbons*, 1968 OK 77, ¶12, 442 P.2d 482.
11. *Buffalo v. Buffalo*, 2009 OK CIV APP 44, ¶18, 211 P.3d 927.
12. *Mullendore v. Mullendore*, 2012 OK CIV APP 100, ¶12, 288 P.3d 948.
13. Title 43 O.S. §113(B).
14. Title 43 O.S. §113(C)(D).
15. *Ynclan v. Woodward*, 2010 OK 29, ¶12, 237 P.3d 145.
16. Title 43 O.S. §113(E).
17. Title 43 O.S. §113(E).
18. Title 43 O.S. §113(F).
19. *Ynclan v. Woodward*, 2010 OK 29, ¶13, 237 P.3d 145.
20. *Id.*

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9:00 A.M. The Starting Line

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Jim Calloway

11:00 A.M. Break

11:10 A.M. How to Manage-Everything!

Jim Calloway

NOON Lunch

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12:30 P.M. Malpractice Insurance and Other Risk Management Issues

Phil Frain, President, Oklahoma Attorneys Mutual Insurance Company

1:00 P.M. Professional in the Practice of Law

Judge David Lewis, Oklahoma Court of Criminal Appeals

1:30 P.M. Break

1:40 P.M. Trust Accounting and Legal Ethics

Gina Hendryx, OBA General Counsel

2:40 P.M. Break

2:50 P.M. Equipping the Law Office

Darla Jackson, Practice Management Advisor, OBA Management Assistance Program

3:30 P.M. Your Money: Accounting and Tax for Law Firms

Ted Blodgett, CPA, CVA, JD, Gray, Blodgett and Company, CPA's

4:30 P.M. Adjourn

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Where to Start? Preparing to Examine a Family Law Expert

By Aaron Bundy and M. Shane Henry



The purpose of this article is to assist lawyers in preparing to examine experts in a family law case. Over recent years, family law trials have increasingly involved the utilization of expert witnesses and their testimony.

In child custody cases, experts may include guardians *ad litem*, investigators from the Department of Human Services, forensic interviewers and mental health professionals, including custody evaluators. In asset cases, experts include appraisers, forensic accountants and business valuers.

There are two major goals for expert testimony. The first goal is an effective presentation of expert testimony that supports the client's position on direct examination, and the rehabilitation of the expert's testimony following cross-examination. The second is an effective challenge, through cross-examination, to the presentation of an unfavorable expert opinion. In order to achieve the two major goals of expert testimony, considerable preparation by the lawyer is required. Otherwise, the desired goals of utilizing expert testimony may slip away. Family lawyers must prepare in advance to achieve the two main goals of expert testimony. The goals of an effective presentation of favorable

expert testimony on direct examination and an effective challenge to unfavorable expert testimony on cross-examination can be achieved with advance thought, research and preparation.

Why do we use experts in family law? Our clients and lay witnesses can testify as to personal observation or as to the facts of a situation as they perceive them. Our clients, the parties to the case, are able to opine on matters such as what they believe is in the best interests of the children.¹ A party may offer an opinion as to the value of his or her property.² However, sometimes one side has less access to financial or property information than the other. Where there is an information imbalance, the question of the value of property or a business interest becomes increasingly complicated. Concerns as to the mental health of parents or the children may arise. In complex circumstances, lay witnesses may be limited or completely unable to give an opinion that will assist the judge in arriving at a decision.³ Finally, the parties

have a stake in the outcome of the matter. It is inevitable that the parties will be perceived as possessing a bias that will erect a barrier to the credibility and objectivity of their testimony. It must be acknowledged that they are testifying about a matter where they stand to benefit from the outcome. As a result, we frequently look to experts to aid the court by offering opinions about such things as property values, mental health questions and children's best interests.⁴

The job of experts is to help the judge understand the evidence or to determine a fact in issue in the case.⁵ Experts, such as accountants or appraisers, in family law cases are most often used to aid the court in understanding or determining actual values of tangible assets. Mental health professionals, such as psychiatrists, psychologists or licensed professional counselors, can provide diagnostic confirmation and recommend behavioral structures that might assist the parents in functioning in a fashion consistent with the

child's best interest. Licensed social workers are educated in methods to investigate matters such as home environments and other information that the court cannot see due to the nature of the courtroom.

There are three qualifications for expert testimony to be admissible:

- 1) Expert testimony must be based upon sufficient facts or data,
- 2) the testimony must be the product of reliable principles and methods accepted within the expert's profession, and
- 3) the expert must have applied the principles and methods to the facts of the case in a fashion that is both reliable and valid.⁶

Oklahoma appellate courts have emphasized and enforced the application requirement in family law cases.⁷ When preparing to question an expert witness, whether on direct or cross-examination, start by thinking about the three criteria.

INFORMATION GATHERING

Preparing to examine an expert witness begins with gathering information. Standards, as well as published rules and regulations related to the acceptable principles and methods criteria, for many types of experts are widely available. At the onset of preparation, the family law attorney should look to the professional's licensing or governing board. For example, appraisers are governed by the Uniform Standards of Professional Appraisal Practice, which is the generally recognized ethical and performance standards for the appraisal profession in the United

States. Licensed clinical social workers and licensed professional counselors are governed by the Oklahoma Licensed Professional Counselor Act.⁸ The existence of such guidelines can extend to the full range of mental health professionals wishing to conduct evaluations involving child custody. Guardians *ad litem* and parenting coordinators are governed and guided by statutes and rules of professional conduct.

Even expert witnesses who do not have controlling statutes or regulations, such as forensic interviewers, have standards and protocols. Forensic interviewers are generally trained and familiar with protocols established by Cornerhouse or the National Institute of Child Health and Human Development.

Evaluations performed by licensed psychologists are expected to adhere to the "Guidelines for Child Custody Evaluations in Family Law Proceeding" as published by the American Psychological Association. Business valuers should be familiar with the American Institute of Certified Public Accountants' *Statements on Standards for Valuation Services No. 1*. These are guidelines rather than requirements, so they must be viewed as aspirational rather than mandatory. Therefore, the question becomes "Don't you aspire to do your best?" The standards, rules and guidelines for the expert's profession may provide an excellent starting point for developing qualifications for direct examination or for identifying vulnerable areas for cross-examination.

Where an expert is working pursuant to a court order, the court order for the expert's work can be a useful tool for preparing to examine the expert

at trial. Request that the court order provide the expert with instructions and expectations for the work. Ask the expert in advance for input into the parameters of the court order. Identify the contact information for the expert specified in the order for the benefit of the parties and the court. Clearly determine the nature and scope of the work that the expert is being asked to undertake. Specify in the order the controlling standards or guidelines for the expert's work. The order should obligate the parties to cooperate with the process. The court order may require the preservation of notes made by the expert as well as production of a written report at the conclusion of the expert's work. With the input of the expert, identify a date for completion of the report (e.g., 10 days before pretrial conference). Where the expert's work may use sensitive information, the court order may include a protective order.⁹ Identify, in the order, to whom the written report may be disclosed.¹⁰

Books related to a field of expertise can help familiarize us with the language used by professionals in the field, the perspectives of the experts in performing forensic work, typical information they need to do their best work, as well as the standards and guidelines for the particular field. Treatises and reference books are widely available for family trial lawyers. *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition*, is available through American Psychiatric Association Publishing. The Minnesota Multiphasic Personality Inventory-2 (MMPI-2) is the most commonly utilized inventory in custody evaluations, and the most widely referenced book for the MMPI-2 is *MMPI-2: Assessing*

Personality and Psychopathology, 5th edition, by John R. Graham. Books such as Shannon Pratt's *The Lawyer's Business Valuation Handbook and Standards of Value: Theory and Applications*, by Jay Fishman, Shannon Pratt and William Morrison, are helpful in cases involving valuation of businesses. There are many other books written for professionals in a specific field of expertise as well as books written for lawyers who wish to have an understanding about a particular profession or field. Such books are great resources for preparing to examine an expert from a particular field.

Family lawyers can use the pretrial discovery process to gather valuable information concerning an expert witness.¹¹ A professional vita provided by the expert can be a most efficient method for collecting such information. Many experts either have websites or social media profiles. Licensing boards may also have information available online. Oklahoma's Discovery Code specifically addresses our ability to request and obtain detailed information about an expert retained by the other side.¹² Valuable information can be gathered with a single interrogatory. Our family law statutes require disclosures by court experts in custody or visitation cases.¹³ When we consider an expert, we should gather information from the expert as to the education, credentials, evaluative procedures and qualifications of the expert. Specialized continuing educational participation that uniquely qualify the expert for custody evaluations are of considerable interest as well.

A conference with the expert witness before trial might be of value. Bring a paralegal or assistant to the meeting to

take notes. Such professional conferences will allow the family law attorney to clarify and confirm elements of the written report required of the expert. It is significant for the attorney to confirm that the written report includes all methods and techniques utilized in this matter. For custody evaluations, all data pertaining to any personality inventory administered and any other projective testing used can be of great benefit. Clarify what techniques and procedures the evaluator did in the case, and ask about the facts of the case and the expert's opinions. Ask questions that allow you to learn about opinions or perceptions that are both assets and liabilities to your client's position.

Clarify what techniques and procedures the evaluator did in the case, and ask about the facts of the case and the expert's opinions.

Read the expert's report thoroughly. If you have the resources, hire an expert consultant to review the report of the expert who will testify, and ask the consultant to assist you with interpretation. A consultant can help identify points to cover with the witness. Familiarize yourself with the testifying expert's qualifications and credentials, and identify the expert's potential biases. Request the expert's file, including notes made during the expert's work, and read the notes.

For custody evaluations, subjective areas where personal

weight and judgments were made by the expert are most dependent upon the clinical interview. The exact nature of the interview can be reviewed by obtaining a copy of the evaluator's notes. Consistent with the Oklahoma Rules of Professional Conduct for Licensed Professional Counselors guidelines, it is not unreasonable to expect the evaluator kept and preserved notes and that the notes will be easily readable.¹⁴ If your examination of the evaluator's notes suggest your client had been treated inequitably as to number of interviews, a variance in methods of child observations or an oversight in the interpretation of a self-report personality inventory, these may be areas for developing cross-examination of the witness. Significant statistical data is available on the most commonly utilized inventory, the MMPI-2. Many custody evaluators may be dependent upon computer-generated narratives rather than their actual training with the MMPI-2. The question may become were the proper, age-appropriate instruments utilized in the evaluation of the child, and is the evaluator properly trained in the utilization of these instruments? Additionally, the most effective instrument might not have been used because the evaluator was not familiar with the instrument.

During the pretrial discovery process, evaluate the nature of the other side's proposed expert testimony for challenge before trial. The United States Supreme Court's holding in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*¹⁵ has been determined to apply in Oklahoma.¹⁶ In *Christian v. Gray*, the Oklahoma Supreme Court applied *Daubert* and added:

... in *Kumho* the U.S. Supreme Court stated that when the evidence is not novel a trial court may make that determination and avoid a prolonged *Daubert* inquiry ... [A] *Daubert* inquiry will be limited to circumstances where the reliability of an expert's method cannot be taken for granted. Thus, a *Daubert* challenge includes an initial determination of whether the expert's method is one where reliability may be taken for granted.¹⁷

An expert opinion may be subject to challenge where there is not a clear connection between the facts of the case and the expert's opinion, where there is a question about the reliability or validity of the proposed expert's testimony or if there is a substantial risk that the proposed expert will confuse or mislead the trial court. Under such circumstances, request a pretrial hearing for exclusion of the proposed expert.¹⁸ Keep in mind that at a pretrial motion hearing for challenge of an expert, you may use leading questions even if you call the expert as your witness for purposes of the motion.¹⁹ Maintain perspective even if your pretrial challenge is overruled.²⁰ A pretrial challenge, even if "lost," may have the court on alert about the issues at trial. The trial lawyer can use the pretrial challenge to establish the lens through which the court will view the case.

EXECUTION

Before trial begins, have a clear concept of the goal you desire to achieve through your inquiry of the expert witness. Consistent with the two goals of expert testimony, lawyers are examining in one of two modes. The modes are either constructive

(use the expert to highlight facts that support your theory of the case) or destructive (attack/discredit). Often each side to a family law case has good facts and bad facts. There are times when bad facts must be confronted and addressed. There are times when bad facts may be completely ignored. Our ethical rules make it crystal clear that none of us shall make a false statement of fact or law or fail to correct such false statements, nor shall we offer false evidence.²¹ However, we do not have an obligation in our case-in-chief to spend a lot of time talking about our bad facts. The

Where there are competing expert opinions, the experts' respective qualifications may be important in determining which opinion will be received.

first comment to Rule 3.4 of the Oklahoma Rules of Professional Conduct says:

The procedure of the adversary system contemplates that the evidence in a case is to be marshalled competitively by the contending parties. Fair competition in the adversary system is secured by prohibitions against destruction or concealment of evidence, improperly influencing witnesses, obstructive tactics in discovery procedure, and the like.

Yet another subjective decision we must make on a case-by-case basis is how much, if any, time or attention we will give to the bad facts of our case at trial. Time spent on an issue at trial is the measure of that issue's overall value to the case. If the bad fact can be explained credibly, it may be worth mentioning. On the other

hand, completely ignoring the bad fact will send the message, "We aren't talking about that because it's not important for this case."

When examining an expert in the constructive mode, there may be value in getting the expert's opinion into evidence as soon as possible, rather than merely at the end of your questioning. In psychology, the primacy effect refers to our tendency as humans to better remember and assign greater value to the first items or information presented in a series than that presented later in the series. Our Evidence Code permits experts to offer their conclusion

– their opinion or inference – at the onset of their testimony.²² Direct examination also brings the opportunity to establish the expert's education, training and experience. The other side may offer to stipulate to the witness's credentials and expertise. Accepting such a stipulation is subjective and should be made on a case-by-case basis. For example, for a witness who testifies in the jurisdiction frequently, a joint stipulation as to the qualifications may save time. A joint stipulation as to the qualifications may enable the "What is your opinion?" question at the very beginning of the examination.

However, there may be value to the court and for the record to spend time highlighting the witness's qualifications. Where there are competing expert opinions, the experts' respective qualifications may be important in determining which opinion will be received. Each constructive



examination should include questions about the data on which the expert relied, the methodology used and how the methodology was applied to the facts of the case by the expert. Constructive examination can be done on cross-examination of an expert whose opinion is unfavorable to your client's objectives.²³ A powerful way to deal with an opposing expert is the juxtaposition of facts that support your client's case against the expert's conclusion. The prepared trial lawyer can change the narrative in the case by using positive facts affirmed by the expert that support your theory of the case. Using leading questions, have the expert affirm facts favorable to your client's case. The positive facts may include client conduct and information acknowledged by the expert in the expert's written report as well as information known by the expert but omitted from the report. A constructive

examination of an expert witness may include hypothetical questions concerning information the witness may not know applies to the case. Thus, a constructive, fact-based cross-examination need not address the expert's adverse opinion. The contrast between the facts affirmed by the witness and the expert's conclusion can be made in closing argument.

For cross-examination, look for facts that show what the expert missed, what the expert could have done, what the expert overlooked, how the principles and methodology are not reliable and how the application was not reliably applied to the facts of the case. Consider hiring an expert consultant to help you develop cross-examination questions for the witness. Use the witness's written report to identify biases, overlooked facts and facts that are good for your case. Seasoned experts sometimes focus on the "summary" nature

of their written reports to excuse the omission of facts that could be viewed as contradicting the expert's conclusion. Early in the cross-examination, use leading questions to have the witness affirm her training in writing reports, experience in writing reports and the use of all her professional skills and judgment to write the report in question. Ask the witness to affirm that she has reviewed the report before the trial, and that there is nothing she wants to add or remove from the report. Tie the expert to her report. After those questions, cross-examine the witness on the facts the witness knew about but left out of the report, as well as the facts in the report that are good for the case. Bias and credibility problems may include failure to interview a key witness, imbalance of time spent with one side over another or a tendency to make the same conclusion in every case.

In the destructive mode, the

goal may be to prevent the expert from testifying altogether or to discredit the expert's testimony. From a practical standpoint, it can be very difficult to disqualify an expert. Each legal community generally has a handful of experts that are called upon to regularly testify. Their qualifications are often well-established and accepted by the courts. Judges in family law cases have broad discretion on matters of evidence and thus may be lenient about letting evidence into the record.²⁴ The judge can separate the "wheat from the chaff" and hear what the expert has to say. While our professional duties work should not be taken personally, it may not bode well for future relationships when a lawyer attempts to have an expert disqualified for a weak claim of bias or lack of expertise. The lawyer should consider all of these points when deciding whether and how to attempt to prevent the testimony of an expert.

One possible approach in the destructive mode is to show the judge that the expert cannot be relied upon in this particular case. In other words, "This is a qualified expert generally, but in this case he got it wrong." Experts are not perfect, and they have no hidden magic or secrets that allow them to predict the future. Identify the subjective areas of the expert's opinion and highlight those areas on cross. Any time the expert uses judgment to assign what weight to give to certain facts this is an area open for attack. Have the expert admit that reasonable experts may differ. Experts get involved, perform their investigation and testing then reach a conclusion and provide a report. There are virtually always areas subject to challenge. The use of hypothetical questions can mute a potential long-term conflict between a child

custody evaluator and a family law attorney. Emphasis in this destructive examination is on application – the expert did not properly apply the principles and methods to the facts of this case in a fashion that is both reliable and valid.²⁵

Closing argument is the time to highlight the evidence brought forth during trial and the meaning of that evidence. Use closing argument to show how the opinion of your client's expert best fulfills all three qualifications for expert testimony and how your client's expert opinion makes sense under the circumstances. Remind the court of the opposing expert's statements of positive facts and favorable admissions. Closing argument is an opportunity to explain and argue the problems with the opposing expert such as lack of expertise, bias or misapplication of the principles and methods to the facts of this case. Discuss the expert testimony work in the context of all the other evidence to show how it all fits and that the logical conclusion is your client's desired outcome of the case.

Family law cases frequently involve experts from various fields. Preparing to question a family law expert begins long before trial. There are a wide variety of resources and information to help us learn about fields of expertise, professional standards and the individual expert in a particular case. The Discovery and Evidence Codes offer a variety of tools and options for creativity. Of course, an expert's opinion is just one brick in the wall, a part of a whole. Many experts forget this fact. The judge still makes the final decision based on all the evidence. With advance thought, planning and work, we can question experts effectively

as part of presenting our client's entire case.

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ENDNOTES

1. *White v. White*, 2007 OK 86, ¶12, 173 P.3d 78, 81.
2. *H.D. Youngman Contractor v. Girdner*, 1953 OK 277, ¶¶12-13, 262 P.2d 693, 696.
3. Okla. Stat. tit. 12 §2701 (1978).
4. Okla. Stat. tit. 12 §2704 (1978).
5. Okla. Stat. tit. 12 §2702 (2009); see Oklahoma Jury Instruction - Civil 3.21; see also Oklahoma Jury Instruction - Criminal 9-42.
6. Okla. Stat. tit. 12 §2702 (2009); Okla. Stat. tit. 12 §2703 (2013).
7. See *Fox v. Fox*, 1995 OK 87, ¶7, 904 P.2d 66, 69, citing *Gorham v. Gorham*, 1984 OK 90, 692 P.2d 1375; "[I]n *Gorham v. Gorham*, 692 P.2d 1375 (Okla.1984), we emphasized the necessity to show a direct and adverse effect on the child's best interests. Recognizing that it is not the function of this Court to enter a judgment based solely upon individualized conceptions of morality, *Gorham v. Gorham* concluded that, **in considering a parent's behavior and a child's best interests, the determinative factor is always the effect of the parent's behavior on the child.**" (emphasis added); see also *McQuay v. McQuay*, 2009 OK CIV APP 59, 217 P.3d 162.
8. Rules of Professional Conduct for Licensed Professional Counselors provide clear guidance to the licensed professional counselor as to the requirements for conducting such evaluations. Okla. Admin. Code 86:10-3-2.
9. Okla. Stat. tit. 12 §3226(C).
10. See *Kelley v. Kelley*, 2007 OK 100, ¶¶1-3, 175 P.3d 400, 401-403.
11. *State ex rel. Prot. Health Services v. Bfc*, 2007 OK CIV APP 24, ¶17, 158 P.3d 484, 489.
12. "(1) a party may, through interrogatories, require any other party to identify each person whom that other party expects to call as an expert witness at trial and give the address at which that expert witness may be located, ...
(3) in addition to taking the depositions of expert witnesses the party may, through interrogatories, require the party who expects to call the expert witnesses to state the subject matter on which each expert witness is expected to testify; the substance

of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion; the qualifications of each expert witness, including a list of all publications authored by the expert witness within the preceding ten (10) years; the compensation to be paid to the expert witness for the testimony and preparation for the testimony; and a listing of any other cases in which the expert witness has testified as an expert at trial or by deposition within the preceding four (4) years. An interrogatory seeking the information specified above shall be treated as a single interrogatory for purposes of the limitation on the number of interrogatories in Section 3233 of this title." Okla. Stat. tit. 12 §3226.

13. "Before the court appoints an individual as a court expert, the following disclosures shall be made by the candidate to the parties: 1. A disclosure of any prior relationships with any party, attorney or judge in the pending action; 2. A complete resume disclosing all personal and professional qualifications to serve as a court expert; 3. Any suspensions from practice, reprimands, or other formal punishments resulting from an adjudication of complaints filed against the person with the professional licensing board or other organization authorized to receive complaints regarding the performance of the individual in question; and 4. Any criminal convictions within the past ten (10) years and inclusion on any sexual offender list." Okla. Stat. tit. 43 §120.7(B).

14. See Rules of Professional Conduct for Licensed Professional Counselors, Okla. Admin. Code 86:10-3-2 Competence (i)(3): "LPCs shall maintain written records, in a form or format that is legible or readable to third persons, of all contacts and information received and used in the preparation of their report."

15. 509 U.S. 579, 113 S.Ct. 2786, 125 L.Ed.2d 469 (1993).

16. *Christian v. Gray*, 2003 OK 10, 65 P.3d 591.

17. 2003 OK 10, ¶11 65 P.3d 591, 599-600.

18. "[C]onclusions and methodology are not entirely distinct from one another. Trained experts commonly extrapolate from existing data. But nothing in either *Daubert* or the Federal Rules of Evidence requires a district court to admit opinion evidence which is connected to existing data only by the *ipse dixit* of the expert. A court may conclude that there is simply too great an analytical gap between the data and the opinion proffered." *General Electric Co. v. Joiner*, 522 U.S. 136, 118 S.Ct. 512, 139 L.Ed.2d 508 (1997) (internal citation omitted).

19. Okla. Stat. tit. 12 §2611(D).

20. "Questions concerning the qualifications of expert witnesses and the admissibility of expert testimony are matters generally within the discretion of the trial court and will not be reversed unless an abuse of discretion is clearly made to appear." *Sharp v. 251st Street Landfill, Inc.*, 1996 OK 109, ¶14, 925 P.2d 546, 551.

21. Oklahoma Rules of Professional Conduct 3.3, 3.4 and 8.4.

22. "An expert may testify in terms of opinion or inference and give reasons therefor without previous disclosure of the underlying facts or data, unless the court requires otherwise. The expert may in any event be required to disclose the underlying facts or data on cross-examination." Okla. Stat. tit. 12 ¶2705.

23. See Dodd Roger and Pozner Larry. *Cross Examination: Science and Techniques* (3rd Ed. 2009, LexisNexis).

24. See, e.g., *Kahre v. Kahre*, 1995 OK 133, ¶¶44-45, 916 P.2d 1355, 1364-1365; but see *Dorsey v. Dorsey*, 2016 OK CIV APP 33, ¶¶7-10, 373 P.3d 1084, 1086-1087.

25. See *McQuay, supra*.

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Court-Ordered Grandparent Visitation

By Chase McBride

The U.S. Supreme Court has held that as long as a grandchild's parent is fit, a state should not interfere with the ability of the parent to make decisions regarding the best interests of the child or who may have visitation with the child.¹

Grandparents do not have a constitutional right to their grandchildren. The right of visitation to any grandparent of an unmarried minor child shall be granted only so far as that right is authorized and provided by order of the district court.² Such rights are limited to those conferred by statute.³ A grandparent may not be awarded court ordered visitation with a grandchild without meeting the statutory requirements laid out in 43 O.S. §109.4.

SITUATIONS IN WHICH A GRANDPARENT CANNOT WIN VISITATION

A step-grandparent cannot win visitation under Oklahoma visitation statutes.⁴ However, a step-grandparent may win guardianship if they can demonstrate the parent is unfit.

A biological grandparent cannot win visitation to a grandchild if the grandchild's parents are still married and both agree the grandparents should not have visitation.⁵ A grandparent

will also not win visitation subsequent to the grandchild being adopted or if the grandchild was placed for adoption prior to the age of 6.⁶ However, a grandparent who already has court-ordered visitation or filed a petition requesting visitation prior to the adoption may be able to continue previously ordered or litigate the petitioned visitation if it was ordered or petitioned prior to the adoption process.⁷

BOOTSTRAPPING GRANDPARENT VISITATION TO A NORMAL PARENTAL CUSTODY HEARING

It must be pointed out that a grandparent can often avoid having to request a court for visitation if the parent of the child demonstrates during their own parental custody proceedings that the child should have a relationship with the grandparent and the parent is willing to let the grandparent see the child during the parent's own visitation time.⁸

In doing this, the parent who wants their own parent to see the child should present evidence in favor of the grandparent



visitation in addition to the evidence for their own custody. If setting up this bootstrap method of grandparent visitation, it is beneficial to have the grandparent testify during the parental custody hearing even if they are only testifying regarding their past visitation and relationship with the grandchild and not the merits of a divorce or custody. An attorney trying to take this approach should prepare for objections to portions of the testimony of the grandparent as being relevant to the parent's custody issue but enough should be admissible to be successful. This type of planning will often result in a successful parent's custody order to allow the grandparent to visit the child during the custodial parent's normal visitation. This creates a "backdoor" way for the grandparents to see the grandchild without having to file their own petition to get a separate order.

Even if parents are awarded joint custody of a child, a parent may allow the grandparent to visit the child during the parent's own visitation time. If a parent chooses to foster a relationship between their own parent and the child by allowing the grandparent to visit with the child, either with or without the parent present, during

times when the parent would ordinarily visit with the child exclusively and such visitation is in the grandchild's best interest, the other parent has no constitutional right to prevent it.⁹

However, it must be remembered that in taking this approach, a grandparent's rights to visitation are not co-equal with that of the parent.¹⁰ Furthermore, this approach requires the cooperation of their own child to allow visitation as the grandparent is only benefitting from their own child's custody right to the child. This method will also only work if the parent wins custody of the child.

GRANDPARENT VISITATION UNDER 43 O.S §109.4

To receive grandparental visitation under the multiprong test established in 43 O.S §109.4, a grandparent must demonstrate the following three things:

- 1) It is the best interest of the child to have visitation with the grandparent;¹¹
- 2) The grandchild's parent is unfit, or if the grandchild has a fit parent, the grandchild would still suffer potential harm without visitation with the grandparents;¹²

- 3) The intact nuclear family has been disrupted.¹³

A grandparent's right to seek visitation vests at the disruption of the intact nuclear family of the grandchild.¹⁴ This third prong of the statute is the easiest of the prongs to prove in court. The statute specifically lists when a nuclear family is disrupted but typical cases involve a divorce, separate maintenance action, annulment or death of one of the grandchild's parents.¹⁵ A disruption can also include when a grandchild's parent deserted the other or is incarcerated.¹⁶ Another disruption is when the grandparent had previously taken care of the grandchild, regardless of court order, and there exists a strong, continuous grandparental relationship that is now being limited.¹⁷

In determining the first prong of the statute, the best interest of the child, the court will consider, among others, the following factors:

- 1) Whether or not the grandparent has a pre-existing relationship with the grandchild;
- 2) Does the grandchild want to have a relationship with the grandparent;

- 3) Does the grandparent encourage for the grandchild to have a close relationship with the child's parents;
- 4) What are the motivations of the grandparent for seeking visitation;
- 5) What previous efforts has the grandparent taken to visit the grandchild;
- 6) Why a parent would not allow the grandparent visitation prior to court action;
- 7) The mental and physical health of the grandparent, the grandchild and parent;
- 8) Is the child in a stable family unit and environment;
- 9) What type of character do others have who visit the home that may interact with the grandchild;
- 10) How much visitation time is the grandparent requesting and the impact on the grandchild's activities.¹⁸

The second prong of the statute is usually the most troublesome for grandparents attempting to receive visitation. A grandparent may attempt to try to achieve visitation by demonstrating in court that a parent is unfit.¹⁹ "Absent unfitness shown by clear and convincing evidence, the best interests of the child are presumed to be with the parent."²⁰ This is a high burden on the grandparents and in many situations a guardianship may be a better cause of action if a parent can be shown to be unfit.

Demonstrating unfitness is so difficult that Oklahoma appellate courts have held that a parent who has a strong history of failing to hold employment, has moved the child repeatedly and failed to give the child a steady living environment still does not demonstrate the parent is unfit.²¹

The court also held that moving a new partner whom a parent had met online a few hours before moving in with the child did not show unfitness.²²

If a grandparent cannot demonstrate that a parent is unfit, they may still meet the second prong by demonstrating the child would suffer harm if they did not see the grandparent. Case law on this issue is very limited. To overcome the presumption that a fit parent knows the best interest of the child, a grandparent will likely need an expert witness familiar with the case or other strong evidence to present at trial to win visitation if appealed.

FILING FOR 43 O.S. §109.4 GRANDPARENTAL VISITATION

A grandparent must file a verified petition requesting visitation with a grandchild under 43 O.S. §109.4.²³ A common mistake made by attorneys of grandparents wanting visitation is to file a motion to intervene into their own child's custody case of the grandchild and argue from an equitable standpoint; however, as some attorneys have learned, this method does not invoke proper jurisdiction for grandparental visitation to be ordered therefore is incorrect and reversible for lack of subject matter jurisdiction.²⁴ "A district court has no subject matter jurisdiction to consider a grandparent visitation request unless the terms of the statute have been followed."²⁵

The petition must be filed in the district court where an ongoing proceeding involving the child is already filed.²⁶ If there is not an existing case involving the child, the petition may be filed in the district where the grandchild or parent resides.²⁷ Notice must be given to the person who has

custody of the child.²⁸ Normally, this is a parent, but this also applies to the state or other person if the court has given custody to someone other than a parent through a previous order.

PRESENTING EVIDENCE TO THE COURT

As you can see, the court will consider and weigh many factors in determining whether grandparents should have court order visitation with a grandchild.

When the power of the state is used to compel a parent to give up custody and control of the parent's child there must be a showing of harm or potential harm to the child to justify such compulsion.²⁹ In presenting evidence, it is important that grandparents show specific facts and instances as to how the above factors should be weighed and considered by the court. A vague generalization about the positive influence many grandparents have upon their grandchildren falls far short of the necessary showing of harm which would warrant the state's interference with this parental decision regarding who may see a child.³⁰

Prior to trial, a grandparent should plan on how to attack the second prong of the statute by either demonstrating that the parent is unfit, or that even though the parent is fit the child would suffer harm without the visitation.

To be successful in winning visitation, a grandparent should gather hard evidence of an existing relationship between the grandparent and the grandchild. This can consist of home video, photos or witnesses that show the child had a strong relationship with the grandparent before visitation became an issue. If the grandparent ever had custody of the child, proof of doctor visits, school records or

other documents that show strong evidence that the grandparent has been present for the child's life carry large amounts of weight.

A grandparent filing for visitation should note that any transportation costs or other costs arising from any visitations granted by the court are to be paid by the grandparent.³¹ Because of this statutory cost, it may be good to show the court how the grandparent is proposing to cover the added financial burden along with the proposed visitation schedule.

Since the court focuses on the best interest of the child, it is more important to show that the child needs a relationship with the grandparent than it is to show the grandparent just wants a relationship with the child. A grandparent should also be advised that the court is going to care more about the grandparent looking moral more so than the parent looking bad. Unless a grandparent can show the parent is unfit, evidence of the parent making decisions differently than that of the grandparent in the way the child is being raised are usually irrelevant to this type of hearing.

ONGOING GRANDPARENT VISITATION AND ENFORCEMENT

If a grandparent wins visitation through the court, the visitation will remain in place until the visitation is modified or until the child is no longer a minor. If, after being granted visitation, a grandparent is still denied visitation, the grandparent may file a motion for enforcement of visitation rights, which the court shall set for an initial hearing.³² Notice of the initial hearing shall be sent to the last-known address of the custodian(s) of the

grandchild at least 10 days prior to the date set by the court, unless ordered differently.³³

Unlike most hearings on motions, at the initial hearing, the court shall direct mediation and set a hearing date for the merits of the motion in the event mediation is unsuccessful.³⁴ After mediation, the mediator shall submit to the court the outcome of the mediation. Upon receipt of the record of mediation termination, the court shall enter an order in accordance with the parties' agreement, if any.³⁵ If a mediation agreement is not reached, the court will conduct its hearing on the merits on the previously scheduled date.

After the hearing, if the court finds that the grandparent visitation rights have been unreasonably denied or otherwise unreasonably interfered with, the court may do the following:

- 1) Enter a specific visitation schedule;
- 2) Allow the grandparent make up visitation time for the time missed;
- 3) Force the parent to post a bond conditioned upon compliance of the visitation order;
- 4) Force the parent to pay legal fees incurred by the grandparent.³⁶

If the court finds the motion was unreasonably filed by the grandparent, the court may assess legal costs against the grandparent.³⁷

CONCLUSION

If a grandparent can demonstrate a parent is unfit, a guardianship may also be an option that a grandparent should consider before filing for visitation rights. If a parent cannot be shown

to be unfit to the court, the most important factors in obtaining grandparental visitation is to show that it is in the child's best interest and that the child may be harmed if a pre-existing relationship between the grandparent and grandchild does not continue.

ABOUT THE AUTHOR

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ENDNOTES

1. *Troxel v. Granville*, 527 U.S. 1069.
2. 43 O.S. §109.4(A)(2).
3. *Murrell v. Cox*, 2009 OK 93, ¶25, 226 P.3d 692, 698.
4. *In the Matter of the Guardianship of H.E.W.*, 2004 OK CIV APP 19.
5. 43 O.S. §109.4(B).
6. 43 O.S. §109.4(D)(3).
7. *Birtciel v. Jones*, 2016 OK 103.
8. *Sicking v. Sicking*, 2000 OK CIV App 32.
9. *Sicking v. Sicking*, 2000 OK CIV App 32 at ¶14.
10. *Murrell v. Cox*, 2009 OK 93, ¶25, 226 P.3d 692, 698 (citing *McGuire v. Morrison*, 1998 OK CIV APP 128, ¶9, 964 P.2d 966, 969).
11. 43 O.S. §109.4(A)(1)(a).
12. 43 O.S. §109.4(A)(1)(b).
13. 43 O.S. §109.4(A)(1)(c).
14. *Birtciel v. Jones*, 2016 OK 103 at 17.
15. 43 O.S. §109.4(A)(1)(c)((1)-(9)).
16. 43 O.S. §109.4(A)(1)(c)((5)).
17. 43 O.S. §109.4(A)(1)(c)((6)).
18. 43 O.S. §109.4(E).
19. 43 O.S. §109.4(B).
20. *In the Matter of Guardianship of M.R.S.*, 1998 OK 38, ¶21.
21. *In re the Matter of E.G.B.*, Oklahoma State Court of Civil Appeals, Unpublished Opinion, 2016.
22. *In re the Matter of E.G.B.*, Oklahoma State Court of Civil Appeals, Unpublished Opinion, 2016.
23. 43 O.S. §109.4(F)(1).
24. *Hillhouse v. Fitzpatrick*, 2013 OK CIV APP 36.
25. *Hillhouse v. Fitzpatrick*, 2013 OK CIV APP 36 at ¶12.
26. 43 O.S. §109.4(F)(1).
27. 43 O.S. §109.4(F)(1).
28. 43 O.S. §109.4(F)(1).
29. *Craig v. Craig*, 2011 OK 27 at ¶25.
30. *In the Matter of the Application of Herbst*, 1998 OK 100 at ¶16.
31. 43 O.S. §109.4(H).
32. 43 O.S. §109.4(F)(2).
33. 43 O.S. §109.4(F)(4).
34. 43 O.S. §109.4(F)(2).
35. 43 O.S. §109.4(F)(3).
36. 43 O.S. §109.4(F)(6)(a-d).
37. 43 O.S. §109.4(F)(7).

Changes to Guardian *Ad Litem* Reporting

By Michelle K. Smith

The Legislature introduced Senate Bill 50 on Jan. 1, 2017. The bill was passed through the House and Senate without changes and was approved by the governor on April 11, 2017. The bill revised the statute dealing with guardian *ad litem* reports and the role of the guardian *ad litem* in family law cases. The revised statute, which took effect Nov. 1, 2017, can be found at 43 O.S. §107.3.¹

GAL RECOMMENDATIONS BEFORE AND AFTER NOV. 1, 2017

The revised statute changed a small, but significant, portion of 43 O.S. §107.3 (2)(d).² The revised statute removed the language which required the guardian *ad litem* to include conclusions and recommendations in the guardian *ad litem* report and clarified that the determination of what is in the best interest of the child is solely up to the judge. The superseded and current portions of the statute are listed below for ease of comparison.

Superseded on Nov. 1, 2017

[The guardian *ad litem* shall] present written reports to the parties and court prior to trial or at any other time as specified by the court on the best interests of the child that include conclusions and recommendations and the facts upon which they are based.³

Effective on Nov. 1, 2017

[The guardian *ad litem* shall]

present written factual reports to the parties and court prior to trial or at any other time as specified by the court on the best interests of the child, which determination is solely the decision of the court.⁴

MAY GAL REPORTS INCLUDE CONCLUSIONS AND RECOMMENDATIONS AFTER NOV. 1, 2017

While the guardian *ad litem* is no longer required to include conclusions and recommendations, there are differing opinions about whether a guardian *ad litem* report *may* contain that information.

Attorneys who believe the revised statute prohibits conclusions and recommendations in a guardian *ad litem* report argue the removal of the language requiring the inclusion along with the added language that the determination of the best interests of the child is solely the judge's decision, make it clear that the legislative intent was to prohibit recommendations.

Attorneys who believe the revised statute does not prohibit conclusions and recommendations in a guardian *ad litem* report argue the Legislature would have added the language "shall not include conclusions and recommendations" if it intended to prohibit recommendations. These attorneys believe the revised statute simply removes the requirement to include recommendations. These attorneys note the determination of the child's best interests has always been the judge's sole decision.

After speaking with various attorneys around the state, it appears many judges are interpreting the revised statute as allowing conclusions and recommendations in a guardian *ad litem* report. Some judges always want the recommendations included as an aid to the court while other judges leave the decision up to the attorneys. Still other judges interpret the revised statute as prohibiting the inclusion of recommendations in a guardian *ad litem* report. This issue

has not been appealed and so it is unknown how the Oklahoma Appellate Court and Oklahoma Supreme Court will view the revised statute.

SUGGESTED BEST PRACTICES

The guardian *ad litem* should seek instruction from the judge regarding whether conclusions and recommendations should be included in the guardian *ad litem* report. The Order Appointing Guardian *Ad Litem* should contain a clear statement regarding conclusions and recommendations in the report. If the judge leaves it up to the attorneys, the guardian *ad litem* should ask both attorneys in writing if the attorneys want conclusions and recommendations included in the guardian *ad litem* report. If the attorneys are unable to come to an agreement the issue should be presented to the judge. The following is an example of language that could be included in the Order Appointing Guardian *Ad Litem*.

Pursuant to 43 O.S. §107.3 the guardian *ad litem* shall provide a written factual report to the court which shall include recommendations and conclusions. The court may consider the report of the guardian *ad litem*; however, the



determination as to the best interest of the child is solely the decision of the court; or

Pursuant to 43 O.S. §107.3, the guardian *ad litem* shall provide a written factual report to the court which shall not include recommendations and conclusions. The court may consider the report of the guardian *ad litem*; however, the determination as to the best interest of the child is solely the decision of the court.

CONCLUSION

The revisions to 43 O.S. §107.3(2)(d)⁵ removed the requirement that a guardian *ad litem* report include conclusions and recommendations and clarified that only the judge can decide what is in the child's best interests. There appears to be a difference of opinion regarding whether the revised

statute actually prohibits the inclusion of recommendations and conclusions. A best practice is to seek guidance from the appointed judge and to include language in the Order Appointing Guardian *Ad Litem* setting forth whether the guardian *ad litem* report will include conclusions and recommendations.

ABOUT THE AUTHOR

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ENDNOTES

1. Okla. Stat. Ann. 107.3, effective Nov. 1, 2017.
2. 43 Okla. Stat. Ann. 107.3(2)(d), effective Nov. 1, 2017.
3. 43 Okla. Stat. Ann. 107.3(2)(d), superseded Nov. 1, 2017.
4. 43 Okla. Stat. Ann. 107.3(2)(d), effective Nov. 1, 2017.
5. *Id.*

Using Trust and Tax Solutions in Divorce Mediation

By Gale Allison and Vale Gonzalez

In the United States, according to Holmes' and Rahe's social readjustment scale, divorce is regarded as the second most stressful life event after the death of a spouse.¹

This article will examine the use of trusts in divorce mediation, the use of specialized mediators, how to avoid gift tax traps and four basic trust types that lend themselves well to divorce mediation.

WHY TRUST SOLUTIONS FOR SOLVING COMMON DILEMMAS?

Trusts offer attractive incentives for divorcing spouses. In a high-stakes divorce and even in a more medium-asset divorce, one party or the other often has justifiable anxiety over the ultimate use and destination of the marital estate funds. Concerns that the marital estate will never make it to the children of the marriage, or other family, upon the deaths of the divorcing spouses is frequently an issue. Divorcing parties with children often want certainty that the children will ultimately inherit what has been built together. The right trust design will get the divorcing couple there.

At least one, and possibly both parties will often want to find a way to ensure the marital assets do not find their way into

the hands of the next spouse. (Predictably, that's because the next spouse just might be waiting in the wings to swoop in and even run off with a substantial chunk.) Property and support settlements that include trusts can solve these problems and act as excellent built-in prenuptial contracts for both parties without the misery of actually having to bring up the words "prenuptial contract" with the next spouses. Prenuptial contracts are still fighting words in our society, while, "I am the beneficiary of this trust that I can never give to you," simply ensures the love is real ... or demonstrates it is not.

Sometimes a divorcing spouse is trying desperately to get away from a controlling person and there is anxiety over being controlled forever. Dealing with a disinterested trustee is most often a far preferable alternative to the monthly "check is in the mail" misery.

Many an ex-spouse has dealt with constant financial uncertainty. The well-designed trust brings greater certainty to an experience fraught with

uncertainty, and it also often will involve a favorable tax solution as well.

Then there is the case of the spouse who is profligate with money or the big-time gambler, an increasing issue in Oklahoma today. A trust can be used to ensure there will be money to sustain a soon-to-be-ex spouse regardless of what the other ex does later, as soon as the ink is dry.

A strong advantage of a trust solution is that funds are permanently set aside for distribution to an ex-spouse in the future; this eliminates uncertainty for that supported spouse. The ex-spouse who is to pay the support has no means to control future financial payments through manipulation of income or by playing the "check is in the mail" game. This certainty is often the true advantage of a trust with a disinterested corporate trustee. A true separation of the spouses can be achieved both emotionally and monetarily. It can be a joy to communicate with a trustee about money instead of an ex-spouse.

The trust solution to solve a divorcing conundrum can go way



beyond the obvious simplistic issues discussed above. For example, the vacation home can be a substantial cause of disagreement. One spouse may want to retain the vacation home or timeshare to continue family vacations for the children. The other spouse wants to do the same, but the rub is how to deal with the property. Neither spouse wants the other to have outright ownership of the vacation home and often, both would rather sell it than let the other have it which ripples through the whole settlement agreement causing additional issues to arise.

A skilled mediator can introduce the concept of a trust to transfer a term-interest in the property which can be a perfect fit for this situation. The property can be transferred to a trust, which can say anything that works for the divorcing couple – from a series of rules to ensure that both exes can continue to use the property separately for an agreed-upon term of years to having it benefit only one. After the term, the property can be sold with the proceeds being distributed amongst the parties as negotiated. By such a mediated agreement, the sales proceeds can

be distributed once the property is sold. The application of a trust allows a better structured divorce settlement and allows the parties to receive a benefit they never knew was available.

THE SPECIALIZED MEDIATOR AND INDEPENDENT RESOURCE EXPERT – THE KEYS TO TRUST AND TAX SOLUTIONS

Mediation will be attempted in almost every divorce. Today, there is a growing trend for mediators to specialize in specific types of mediations for which they have special skills, and this type of mediation is undoubtedly one of those areas.

Unfortunately, divorce attorneys most often will not be comfortable delivering any tax advice during a divorce. Not surprisingly, many divorce attorneys explicitly disclaim any responsibilities regarding tax and estate planning in their engagement letters. In some cases, spouses engaged in a divorce settlement are leaving the negotiation table with thousands of dollars left behind, ignorant of the actual tax result, due to poorly constructed agreements from a tax perspective. For example,

it is not uncommon for an ex-spouse to discover that death taxes are due upon the payment of life insurance proceeds paid pursuant to a divorce settlement. The discovery is often that the receiving spouse must pay the death tax bill, not the estate. Pursuant to current tax laws that life insurance death benefit may be subject to a 40 percent tax at the federal level. This negative result is easily avoided where neither the ex-spouse nor the deceased spouse's estate would owe any death tax.

If trusts were utilized to implement tax solutions, both sides might be able to benefit from an increased pool of funding and a mediation agreement capable of distributing assets creatively. Combining mediation with trust and tax solutions can present a valuable opportunity for a mediator to leave both spouses with a more livable and tax-efficient agreement.

So how can it work? Increasingly, mediation involves the utilization of a resource specialist. If there is any trust confidence or "good faith" left between the parties, they can even agree to use their prior estate planning tax attorney. Such

a resource would not represent either side, but instead, serve as a knowledgeable resource for both of them. Alternatively, a new, independent estate planning tax professional can be engaged to serve both sides. At the very least, both sides can bring their estate planning tax attorneys to ensure the solution and the tax ramifications are well understood by the parties during the process and to serve as the draftsmen of the trust solutions.

Financial planners are also available as specialized resources to be sure the moneys are structured from a financial planning perspective for each

is crisis critical, and it is important that the divorce decree include the transfer of the property. If the transfer is not in the divorce decree, to protect against gift tax traps, I.R.C. §2516 provides an exception for property settlements. Applying the property settlement exception satisfies the requirement for adequate and full consideration necessary for I.R.C. §2512 to not apply.

To satisfy the exception, a written marital agreement connected to the divorce must be implemented “within a 3-year period beginning on the date 1 year before such agreement is entered into.” Either the transfer

the following is a brief review of the top four trusts that can be used to settle divorces. All of these trusts protect the assets from going to the next spouse, can provide creditor protection for the beneficiaries and can limit who will inherit the proceeds on the death of the spouse beneficiary. The transferring spouse can control who gets the remainder of the trust upon the beneficiary spouse’s death or the divorcing spouses can agree on a limited power of appointment to allow the beneficiary spouse to take a second look through estate planning instruments within set limits. For example,

In the divorce context, the irrevocable life insurance trust ensures that *neither* spouse will ever have to use the funds to pay death taxes associated with the death benefit upon the death of the insured.

spouse. Such a financial planner will have received specialized training in this area. The certified divorce financial analyst (CDFA) designation is issued by the Institute for Divorce Financial Analysts (IDFATM), a premier national organization dedicated to the certification, education and promotion of the use of financial professionals in the divorce arena.

THE BASIC TAX RULE – DON’T GET CAUGHT IN THE GIFT TAX

Property transfers can create inopportune situations if not conducted properly. Quite apart from what trust solution gets used, significant gift tax traps exist when transferring any asset, whether it be through a trust or outright. I.R.C. §2512 states that a transfer of property is considered a gift unless the property “transferred [is made] for less than an adequate and full consideration in money or money’s worth.” Avoiding §2512

occurs to settle marital or property rights of one spouse, or the transfer is “to provide a reasonable allowance for the support of issue of the marriage during minority.”² One would think this is easy to comply with, but many have found themselves paying gift taxes on these transfers. This is the first tax issue that shows care must be taken to ensure compliance.

UNLIMITED TRUST DESIGNS AVAILABLE FOR DIVORCE SETTLEMENT AGREEMENTS

Numerous types of trusts exist, and the designs within each general type are limited only by the skill and imagination of the draftsman. Each kind will have tax benefits and/or detriments depending on which spouse you represent.³ Since, in this short article, it is impossible to cover all types of trusts that might be utilized in divorce settlements, much less get into the byzantine tax rules associated with each,

allowing transfers only to the couples’ descendants or only in certain further trust formats are two methods that can alter the outcome at the beneficiary spouse’s death.

Irrevocable Life Insurance Trusts

Irrevocable life insurance trusts are one of the most common, vanilla-type estate tax devices used by estate planners to avoid death taxes in the estates of couples regarding life insurance death benefits. In the divorce context, the irrevocable life insurance trust ensures that *neither* spouse will ever have to use the funds to pay death taxes associated with the death benefit upon the death of the insured.

QTIPS: Qualified Terminable Interest Property Trusts

A qualified terminable interest property (QTIP) trust requires that all the income of the trust

must distribute to the spouse beneficiary.⁴ Both divorcing spouses benefit tax-wisely from using it. Transferors benefit by reducing their overall estate tax liability by not having funds subject to death taxes in their estates. Instead, federal estate taxes apply when transferee spouses die, but only if each individual's assets exceed \$11,200,000 (however this figure will change for cost of living adjustments until 2025 when the congressional estate tax law tweaking will begin again, if not before). In a mediation application, a QTIP can serve to provide the transferee spouse an income for life with no interference from the ex. This scenario can be particularly useful in situations where the divorce is occurring after the second marriage, and the transferor spouse wants the assets to benefit the children from a previous marriage. The assets within the trust get a step-up in basis at the death of the beneficiary spouse, which is very useful to the remainder beneficiaries. The downside for some is that the trust income does not stop being paid when the beneficiary spouse remarries. However, this design can involve a change in other terms upon remarriage; it simply cannot stop the payout of the income.

Retirement Benefit Trusts

Possibly the most complex trust that could be used from a tax standpoint, the retirement benefit trust is used for several purposes. This trust helps to extend the payouts on IRAs, 401(k)s and the like and this prevents the income taxation of the benefits until paid out from the retirement fund to the trust. This trust also allows for the remaining retirement assets to go on to children or others on an irrevocable basis.

Credit Shelter (Bypass Trusts)

A bypass trust allows a more flexible approach for transferor spouses who find their soon-to-be ex-spouse's remarriage an issue. Unlike a QTIP where a transferee spouse must receive income for life, a bypass trust can terminate the transferee spouse's interest at any time, upon any contingency desired. The bypass trust does come with certain disadvantages. In a QTIP, a step-up in basis on all the trust assets occurs when the transferee spouse dies. That does not happen in a bypass trust. Another issue is that the federal gift transfer tax exemption from the transferor spouse may be used, rather than that of the transferee spouse. Although this may not be an issue for most divorces, it can be an issue in high-stake divorces where maximizing tax exemptions is critical.

In a mediation context, a bypass trust is useful for a transferor spouse to create contingencies. Other common contingencies used in a bypass trust are setting a year limit of support to the transferee spouse or, if the transferee spouse acquires an inheritance from someone else, terminating it. In mediation, entertaining the use of a bypass trust could allow the transferor spouse to gain more control of the assets instead of using a QTIP. In exchange for the transferee spouse agreeing to the offer, the transferee spouse can require additional spousal support or child support. The children can also be beneficiaries of these trusts.

CONCLUSION

Divorce mediation that utilizes tax and trust solutions can help dissolve the emotional and financial barriers that exist between divorcing spouses. By

emphasizing favorable tax and permanent irrevocable trust solutions that will ultimately benefit the spouses and their children, efficient and livable settlements can be made. Having a judge decide for the spouses how assets are divided will always fail to take advantage of federal tax exemptions and deductions. Maintaining the well-being of children and reducing or transferring the tax liabilities amongst the spouses is always going to be the best method of settling the divorce. Divorce mediation using tax and trust solutions will get you there.⁵

ABOUT THE AUTHORS

Gale Allison has four decades of estate, trust and tax experience as an estate and trust lawyer and consultant on tax aspects of divorce. Mediation certifications include family and divorce from the Mediation Institute and litigated cases and elder care from Pepperdine. A former litigator for the federal government and estate tax attorney for the IRS, now in private practice, she mediates exclusively through Dispute Resolution Consultants in Tulsa.

Vale Gonzalez is a second-year law student at the TU College of Law, with a BA in criminology from the University of Texas. Fluent in Spanish and English, he has worked in military family utility services, the oil and gas industry and has researched and written for Department of Homeland Security staff.

ENDNOTES

1. See generally Holmes & Rahe, "The Social Readjustment Rating Scale," 11 *J. Psychomatic Research* 213 (1967) (analysis of over 5,000 medical patient records and how stress affects illness in the United States).

2. I.R.C. 2516.

3. For an excellent, albeit long (60 pages!) article, on the many tax implications of divorce settlement trusts and the byzantine tax rules that trap the unwary see Carlyn S. McCaffrey, "The Use of Trusts to Structure Divorce Settlement," 27 *J. Am. Acad. Matrimonial Laws*. 29 (2015).

4. I.R.C. 2056(b)(7).

5. See Carlyn S. McCaffrey, "The Use of Trusts to Structure Divorce Settlement," 27 *J. Am. Acad. Matrimonial Laws*. 29 (2015).

Co-Parenting Woes: There's an App for That

By Darla Jackson and Jim Calloway

Ask any parent and they will likely agree that parenting is a difficult job in the best of circumstances. Co-parenting during and after a divorce, where negative feelings and miscommunication have often been the case, increases the difficulty of focusing on the interest of the children. In today's app-filled world, you would expect there to be apps to help with clear communication, documentation and scheduling between co-parents, and there are.

This article covers six apps that can assist with co-parenting. The use of these apps may be ordered by a court.¹ Sometimes family law attorneys or other professionals recommend the apps to their clients. Divorced or separated parents may locate these tools on their own.

The relationship between the parents, the technological competence of the parents, the device and platforms the apps utilize, the likelihood the parents will use the app and available budget are all factors to be considered when choosing such an app.

FEATURES

While not an all-inclusive list, some of the features of co-parenting apps are:

- 1) Calendars with embedded tools to create parenting schedules, record upcoming events and make requests for trades in parenting time
- 2) Expense and payment

tracking tools that allow parents to communicate about parenting costs and to attach virtual receipts

- 3) A banking feature that allows for transfers between parents' banking accounts for parenting-related costs such as child support or medical expenses
- 4) A feature to maintain a record of vital family information that both parents and caregivers have access to, such as medical insurance, medication, Social Security numbers, etc.
- 5) A message board or message feature where important topics can be discussed
- 6) An accountability tool that dates and timestamps all messages sent as well as the date and time when those messages were viewed²

APPS

We focus on six apps. There are others and, many of the others are

discussed in the articles and blogs referenced.

OurFamilyWizard

OurFamilyWizard (OFW) is perhaps one of the most often recommended³ co-parenting apps. One attorney-authored blog about the app differentiates OFW from other similar apps, indicating that "[w]hile some co-parent communication tools only facilitate messaging, the OurFamilyWizard website offers a full suite of tools to help parents create parenting schedules, log expenses, send reimbursements, and share important family information."⁴ One of the more unique features offered by OFW is its ToneMeter. The ToneMeter, sometimes referred to as an "emotional spellchecker," will "identify and flag emotionally charged sentences within your OurFamilyWizard message. As intuitive as grammar or spell-check, ToneMeter goes beyond sentiment to gauge words and phrases against eight levels of

connotative feeling, allowing the end user to make real-time corrections and adjust the overall tone of messages.”⁵ However, ToneMeter is currently available only for communications in English.

OFW is also favored by some attorneys because it “makes it easy for professionals to work with clients. OFW Family Law Practitioner provides a way to oversee parent activity and access court-ready reports at no cost.”⁶ Yet, while OFW is “one of the oldest and most established of the co-parenting apps [that] ... has been developing and refining their program for the last 15 years”⁷ it received only a 2.2 average rating in the App Store. One attorney has suggested that although he recommended OFW for several years, in part, because of the cost, he has had few clients use the app and had received no feedback from those who did.⁸

The cost of OFW depends on the period of subscription and the package selected. The basic subscription is \$99 per year for each parent.⁹ A professional account is free. As described by OFW, the “professional account gives you the ability to create parent accounts, manage a database of your clients, store important client documents



online (judgment and decree, court orders, etc.), communicate with your clients, create client to do lists, and much more. This account gives you the ability to see what is actually going on in your cases. All of the information is directly tied to the parent accounts that you create.”¹⁰

If you already use a practice management solution with a client portal feature, you can share documents, events and information with your client. However, a practice management solution will not facilitate communications between co-parents. For attorneys wanting to offer the app as part of the legal services provided, OFW offers volume discounts which may represent significant savings depending on the number of subscriptions purchased. For example, for a firm that provides accounts to 20 clients the package pricing is \$240 less than 20 individually priced accounts.¹¹

2Houses

2Houses has been described as “on par with Our Family Wizard and slightly less expensive.”¹² 2Houses offers a calendar to organize events, share information about appointments, a journal to record notes and important reminders and an expense module to manage child-related expenses for both parents.¹³ One of the features of 2Houses users appreciate is the ability to upload and export photo albums.

Even though it has many features, the app is described as “very user friendly, organized, and intuitive.”¹⁴ The cost of 2Houses is \$10 per month or \$120 per year for a family, regardless of the number of family members.

AppClose

AppClose is described on one law firm blog as:

It turned out to be my top choice ... First, it’s free. Second, it’s very user friendly and has most of the features to address common parenting disputes. It keeps track of messages and shows you the latest when you open the app. The shared calendar provides schedule templates, with descriptions like “Alternating weeks” and an explanation of how that schedule is followed. Parents can use a template with specified days/times and apply it to one or more children, or have the option to customize the entire parenting time schedule. Parents have the ability to create events, notify family members, and create reminders. Parents can request a parenting time trade or drop off/pick up change in the app. The reimbursement request has an option to attach an image and allows parents to keep track of their share of the expense and payments that are made.

This app includes a place to keep important, detailed information about each child, but parents will need to do some customization when it comes to organizing that information. I found this app easy to navigate and fairly intuitive after getting accustomed to it. This would be the best alternative to the subscription services ... Also, this app, available at appclose.com, has a separate side for attorneys to communicate with clients and accept electronic payments.”¹⁵

AppClose is a free download from the App Store or Google

Play. Additionally, as suggested previously, AppClose integrates with LawPay to allow electronic payments.¹⁶

Kidganizer

Kidganizer is suggested as “great for a couple who find it difficult to get together, either because of divorce, [difficulty communicating well face to face], or time constraints”¹⁷ or if you “have a number of people involved in the care of your children and need a central point for communication and record keeping.”¹⁸ The app provides parents with the ability to create profiles for each child and input information including scheduling and finances. Updates to the system are in real time, allowing all users of the system to have access to current information.

The cost of Kidganizer is \$1.99, but the app is not available for all platforms.

CustodyJunction.com

CustodyJunction.com is designed to facilitate co-parenting arrangements both before and after the divorce. The calendar and tracking features allow parents to schedule current and future visitation and support arrangements for a significant period of time in advance (up to two years). Custody Junction also generates customized reports on topics of concern such as visitation, support payments, expenses and hours spent with a child. The customized reports can be shared with third parties, including lawyers or court-appointed professionals.¹⁹

Custody Junction is a web-based service and the service cost “is an affordable \$47” for a one-year subscription.²⁰

Talking Parents

Talking Parents is a free service described as being “designed as a secure communication system for divorced and separated parents.”²¹ Talking Parents primary feature is a “secure” messaging system. The system is operated so that “conversations cannot be edited or deleted, allowing for both parents to maintain a verified record of past conversations. Files can be uploaded and attached to messages as well. The system tracks when messages are sent, when parents sign in and out of the system, and when parents view each message for the first time.”²² Additionally, the system has an export feature that, for a fee, allows parents to export a transcript of past communications to a PDF file.

A standard account is available for free. Parents can upgrade to a premium account for \$4.99 per month. “Premium accounts include unlimited access to PDF records; a totally ad-free experience across all devices; a 10 percent discount on printed records; and access to our new iPhone and Android apps which include new message notifications right on their mobile device. Parents can cancel Premium status anytime and their account will revert back to a Standard account.”²³

SECURITY CONCERNS

The discussion of “secure” systems brings to mind a caution regarding app security. While an in-depth discussion regarding the security measures included in these types of apps is beyond the scope of this article, before ordering, recommending or adopting an app, one should inquire about the security measures employed to protect the information and

carefully review the terms of service. Although Talking Parents emphasizes that the app provides a “secure” environment, its terms of service does not address encryption or legal requirements for systems containing medical records. Rather, the terms of service contain the following language:

TalkingParents.com will attempt at all times to keep your information confidential, subject to the other provisions of these Terms Any breach of our security measures will be the sole responsibility of the breaching party and TalkingParents.com will not be subject to any sort of liability as a result. In the event of a security breach, TalkingParents.com will make every reasonable attempt to re-secure our services and will provide an explanation of the breach upon written request.²⁴

It should also be noted that we did not test drive all of these apps. An extensive test drive of all features would be required before recommending the app to clients. At some point a client will ask the lawyer about some function of the app and the response of “I don’t know how to use the app” will not endear the lawyer to the client who had to learn how to use it.

CONCLUSION

There are numerous apps and online resources to assist with the woes of divorcing parents and their attorneys. While tools like client portals may help with communications between clients and attorneys, these tools facilitate more neutral communications between co-parents, reducing the temptation to use their children to carry important communications.

Divorcing and divorced parents are becoming more familiar with these tools and some family law attorneys are promoting and using them as evidenced by the number of reviews and blog posts we have cited. Lawyers with technology skills might develop their own tools, integrate existing resources with their practice management systems²⁵ or suggest use of other communication resources, such as Facetime and Google Calendar.²⁶

Lawyers who practice family law appreciate that the pain, both financial and emotional, of divorce often impairs parents’ ability to communicate and objectively consider what is in the best interests of the children. Knowing that communications are tracked and recorded should improve appropriate communication. Perhaps being “forced by the lawyers to use this app” will be the starting point for other types of cooperation. Cooperation and effective communication will help parents make the decisions about the care of their children and will likely make the work of attorneys and judges easier as well.

ABOUT THE AUTHORS

Jim Calloway is the director of the OBA Management Assistance Program and manages the OBA Solo & Small Firm Conference. He served as the chair of the 2005 ABA TECHSHOW board. His Law Practice Tips blog and Digital Edge podcast cover technology and management issues. He speaks frequently on law office management, legal technology, ethics and business operations.

Darla Jackson is the OBA practice management advisor. She earned her J.D. from the OU College of Law. She also holds a Masters of Library Science from OU and an LL.M. in international law from the University of Georgia School of Law. She has practiced as an Air Force judge advocate and served as a law library director at the University of South Dakota School of Law.

ENDNOTES

1. "We have already seen technology assisting judges in family law cases. Parents have been ordered to provide Skype or Facetime to children so they can communicate with the other parent. They have also been ordered to use apps like "Our Family Wizard" to track parenting time, reduce divorce conflict and remove the "he said/she said" that keeps families returning to court over custody and coparenting issues." Sharon D. Nelson & John W. Simek, *Through a Glass, Darkly*, 74 Or. St. B. Bull. 62 (2013-2014). Two apps, OFW and Talking Parents, even provides language that parties may suggest in preparing orders for courts. The OFW suggested language includes the following: "All parents entries shall be viewable via a Professional Account to both parties' attorney(s) of record and the (Judge / Commissioner / Minor's Counsel/ Parent Coordinator/ Special Masters /GAL) assigned." Our Family Wizard, Common Order Language. www.ourfamilywizard.com/sites/default/files/pdfs/Model_Language8.13.pdf. See also Talking Parents, *Court Enforcement*, www.talkingparents.com/court-enforcement.

2. This list of possible features is summarized from Lisa Brick, *A Must Have App to Co-Parent with Ease*, Huff Post Blog (Aug. 30, 2016 05:34 pm ET, Updated Aug. 31, 2017), www.huffingtonpost.com/karen-mcmahon/a-must-have-app-to-copare_b_11549114.html.

3. Natalie R. Kelly and Michael Monahan, *Legal Tech Tips*, Ga. B.J. 46, Oct. 2017, at 46, [digitaleditions.walworthprintgroup.com/publication/?i=441814#{"issue_id":441814,"page":48}](http://digitaleditions.walworthprintgroup.com/publication/?i=441814#{). recommends OFW as one of three coparenting apps. LawInfo, *Co-Parent App Helps Manage Kids' Lives*, LawInfo Blog (May 3, 2017), blog.lawinfo.com/2017/05/03/co-parent-app-helps-manage-kids-lives/, also list OFW as an app to

help with coparenting.

4. John Harding, *Our Family Wizard, Family Law Lawyer Tech & Practice* (Jan. 20, 2017), familylawyertech.blogspot.com/2017/01/our-family-wizard.html.

5. Our Family Wizard, *Frequently Asked Questions - ToneMeter, Your Emotional Spell-Check*, www.ourfamilywizard.com/help/tonemeter-your-emotional-spell-check.

6. *Id.*

7. Lisa Brick, *A Must Have App to Co-Parent with Ease*, *supra* note 2.

8. Seif & McNamee, *Getting the Most Out of Co-Parenting Technology*, Seif & McNamee Blog (Mar. 29, 2017), law-oh.com/2017/03/29/getting-the-most-out-of-co-parenting-technology/.

9. Our Family Wizard, *Plans and Pricing*, www.ourfamilywizard.com/plans-and-pricing_ (last visited Jan. 9, 2018).

10. *Id.*

11. *Id.*

12. Seif & McNamee, *Getting the Most Out of Co-Parenting Technology*, *supra* note 8.

13. *Id.*

14. *Id.*

15. *Id.*

16. LawPay, *AppClose*, lawpay.com/appclose/ (last visited Jan. 9, 2018).

17. CoParents.com, *Three Useful Co-Parenting Apps*, CoParents.com Blog (Feb. 2, 2016), www.coparents.com/blog/three-useful-co-parenting-apps/.

18. Lucy Good, *5 Apps for Calm and Controlled Co-Parenting*, Beanstalk (Feb. 7, 2016, updated on Sept. 9, 2017), beanstalkmums.com.au/co-parenting-apps-for-calm-and-controlled-parenting/ (last visited Jan. 9, 2018).

19. Tracey Dowdy, *Apps to Help with Co-Parenting*, TheOnlineMom (www.theonlinemom.com/apps-help-co-parenting/) (last visited Jan. 9, 2018).

www.theonlinemom.com/apps-help-co-parenting/ (last visited Jan. 9, 2018).

20. CustodyJunction, *Pricing*, www.custodyjunction.com/pricing.shtml (last visited Jan. 9, 2018).

21. Grant Toeppen and Lora Grevious, *Co-Parenting Apps and Online Resources*, Toeppen & Grevious (Jan. 13, 2016), grantandlora.com/co-parenting-apps-and-online-resources/.

22. *Id.*

23. Talking Parents, *How it Works*, www.talkingparents.com/how-it-works (last visited Jan. 9, 2018).

24. Talking Parents, *Terms of Service*, Talking Parents (Sept. 15, 2017), www.talkingparents.com/terms-of-service.

25. Yet there are security concerns that need to be addressed when resources are integrated or linked. Juliana Hoyt, *Getting Up to Speed: Tech Savvy Tips for ADR Professionals - A Mile Wide, Inch Deep Review of Online Resources for Your Business*, Vermont B.J. (Fall 2010), at 45, www.riverstoneresolutions.com/files/ADR%20Getting%20Up%20To%20Speed%20Tech%20Savvy%20Tips%20for%20ADR%20Professionals%20Hoyt.pdf (web-based version does not reflect pagination of print original).

26. Brandie Weikle, *Divorced Parenting in the 21st Century — There's an App for That*, TheStar.com (Mar. 24, 2016), www.thestar.com/life/2016/03/24/divorced-parenting-in-the-21st-century-theres-an-app-for-that.html, suggests the use of Google Calendar, and Damien McKinney, *Co-Parenting In The Digital Age*, www.themckinneylawgroup.com/co-parenting-digital-age/, addresses the use of Facebook.



MUSCOGEE (CREEK) NATION DISTRICT COURT

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RIVER SPIRIT CASINO RESORT | TULSA
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New and innovative ways to serve clients while protecting their data will be central to the conference this year, with a special focus on limited scope services, client portals and delivering services via a virtual law practice. This year's conference will also provide extended time to meet and network with lawyers from across the state who can provide you with advice, friendship and possible referrals.



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REGISTRANT INFORMATION

Full Name: _____ OBA #: _____
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 Name and city as it should appear on badge if different from above:

GUEST INFORMATION

Adult guest name: _____
 Child guest name : _____ Age: ____
 Child guest name : _____ Age: ____
 Child guest name : _____ Age: ____
 Child guest name : _____ Age: ____

FORM CONTINUED ON NEXT PAGE – INCLUDE BOTH PAGES WHEN FAXING/MAILING

STANDARD RATES FOR OBA MEMBERS

admitted before Jan. 1, 2016

CIRCLE ONE

Early Attorney Only Registration (on or before June 7)	\$200
Late Attorney Only Registration (June 8 or after)	\$250
Early Attorney and One Guest Registration (on or before June 7)	\$300
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Late Family Registration (June 8 or after)	\$400

SPECIAL RATES FOR OBA MEMBERS OF TWO YEARS OR LESS

admitted on or after Jan. 1, 2016

CIRCLE ONE

Early Attorney Only Registration (on or before June 7)	\$125
Late Attorney Only Registration (June 8 or after)	\$150
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Late Attorney and One Guest Registration (June 8 or after)	\$250
Early Family Registration (on or before June 7)	\$275
Late Family Registration (June 8 or after)	\$300

PAYMENT INFORMATION

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

For payment using: VISA Mastercard Discover American Express

Total to be charged: \$ _____ Credit Card Number: _____

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REGISTRATION AND POLICIES

CANCELLATION POLICY

Cancellations will be accepted at any time on or before June 7 for a full refund; a \$50 fee will be charged for cancellations made on or after June 8.

No refunds after June 13.

REGISTRATION, ETC.

Registration fee includes 12 hours CLE credit, including one hour of ethics. Includes all meals: evening buffet Thursday and Friday, breakfast buffet Friday and Saturday, lunch buffet Friday and Saturday.

HOTEL RESERVATIONS

Call 888-748-3731 for hotel reservations. Refer to Oklahoma Bar Association Solo & Small Firm Conference for a discount. Discount rooms available until May 31.

Conference Coming to Tulsa's River Spirit Casino Resort June 21-23

By Jim Calloway

"Serve Your Clients and Protect Their Data" is the theme of the 2018 OBA Solo & Small Firm Conference, June 21-23 at River Spirit Casino Resort in Tulsa.

It is important for all lawyers to guard their clients' confidences and protect themselves against hackers and other wrongdoers while avoiding measures that are financially unaffordable or that a lawyer who is not a technology expert cannot easily manage. This year will include a special Cybersecurity Fair, sponsored by Eide Bailly. New and innovative ways to serve clients will be central to the conference this year, with a special focus on limited scope services, client portals and serving clients via a virtual law practice.

GREAT SPEAKERS AND PROGRAMS

Natalie Kelly, director of the Law Practice Management Program for the Georgia State Bar Association, will be presenting at our conference for the first time. She was chair of the 2014 ABA *TECHSHOW* Planning Board and is a recognized authority on all aspects of law practice management and technology.

She has given literally hundreds of presentations on law office management and technology.

We will also be joined by Brooke Moore, an Arkansas lawyer who operates a virtual law practice at MyVirtual.Lawyer. She is an ABA *TECHSHOW* 2018 speaker and is a 2017 Fastcase 50 Award recipient. She will join me and OBA PMA Darla Jackson for a session on client portals.



Robert Spector, OU College of Law professor emeritus, will present his now-legendary "Family Law Update" and a presentation on "Child Custody Jurisdiction – Understanding the UCCJEA." Mr. Spector is known as a go-to authority on family law in Oklahoma and his long list of accomplishments is well-known to Oklahoma family lawyers.

Chelsey Lambert, founder and publisher of *Lex Tech Review*, will also be sharing her expertise this year. She has had a very varied career in many aspects of law office technology and is an accomplished speaker.

OBA General Counsel Gina Hendryx and I will present "Cyber Ethics in the Digital Age."

Great educational offerings abound at our conference, including "Navigating Tribal Court Practice," "Division of Military Retirement Benefits," "Marketing Your Law Practice on the Web," "Lean Six Sigma in Law Firms" and "Get It In. Keep It Out. – Evidence & Objections." See the accompanying program schedule for the full list of sessions offered.

OPPORTUNITIES FOR NEW AND SEASONED LAWYERS

The conference coincides with the Young Lawyers Division Midyear Meeting and several programs are designed with a focus on skills training for the young lawyer, including Natalie Kelly's "Opening a New Law Practice" and one we have titled "Just a Simple Probate." We all know what sometimes appears to be simple may turn out to be not so simple.



Perhaps the most important aspect of the Solo & Small Firm Conference every year is the people who attend. Many events promote their networking opportunities, but this conference will provide extended time to meet and network with lawyers from across the state who can provide you with advice, friendship and possible referrals.

So mark your calendar now for June 21-23 and visit www.okbar.net/solo for the most up-to-date information on the conference, registration and activities. Details

on children’s activities will be announced online. The resort’s Margaritaville-themed attractions will provide a relaxing backdrop for educational conference offerings that are innovative and interesting. Reserve your hotel room early.

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!

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2018 Solo & Small Firm Conference Schedule

THURSDAY | JUNE 21

3 – 6:30 p.m. **Conference Registration**

6:30 p.m. **Opening Reception**

7 p.m. **Dinner and Entertainment**

FRIDAY | JUNE 22

7 a.m. **Breakfast** (included in seminar registration fee)

8:25 a.m. **Welcome**
OBA President Kimberly Hays

8:35 a.m. **60 Tips in 60 Minutes**
Jim Calloway, Natalie Kelly and Darla Jackson

9:35 a.m. **Break**

9:40 a.m. **Microsoft Office Word – Hidden Tools to Help Your Law Practice**
Kenton Brice

Just a “Simple Probate”
Charles W. Chesnut

Division of Military Retirement Benefits
Jerry Shiles

10:40 a.m. **Break**

10:55 a.m. **Opening a New Law Practice**
Natalie Kelly

Navigating Tribal Court Practice
Stephanie Hudson

Recent Developments in Family Law
Robert Spector

Noon **Lunch** (included in seminar registration fee)

1 p.m. **The Client Portal: An Essential Tool for 21st Century Lawyers**
Brooke Moore, Jim Calloway and Darla Jackson

A Parrot Head’s Guide to Deflocking Stress
Noel Tucker

The Tax Reform Act for Lawyers
Donna J. Jackson

2 p.m. **Break**

2:10 p.m. **The Technology Tools Every Small Firm Lawyer Needs**
Natalie Kelly, Chelsey Lambert and Darla Jackson

3 p.m. **Cybersecurity Fair**
Sponsored by Eide Bailly (no CLE credit) – Prizes, refreshments, fun and important information

6:30 p.m. **Dinner and Evening Entertainment**

SATURDAY | JUNE 23

7 a.m. **Breakfast** (included in seminar registration fee)

8:25 a.m. **Welcome**
OBA Executive Director John Morris Williams

8:30 a.m. **Cyber Ethics in the Digital Age**
Gina Hendryx and Jim Calloway

9:30 a.m. **Break**

9:40 a.m. **Limited Scope Services – My Virtual Law Practice**
Brooke Moore

Marketing: Law Firm Website Design – How to Write for the Web
Chelsey Lambert

Get It In. Keep It Out. – Evidence & Objections
M. Shane Henry and Aaron Bundy

10:30 a.m. **Break** (hotel check out)

10:45 a.m. **Practicing Limited Scope Services Safely and Effectively**
Jim Calloway and Darla Jackson

Child Custody Jurisdiction – Understanding the UCCJEA
Robert Spector

Lean Six Sigma in Law Firms
Frank A. Urbanic

11:55 a.m. **Lunch** (included in seminar registration fee)
Access to Justice in Oklahoma (.5 hours CLE)
OBA Access to Justice Committee Chair Rodney Ring

12:45 p.m. **Who’s Minding the Store? Financial Management Best Practices for the Business of Law**
Natalie Kelly

Drafting LLC Operating Agreements
Mark Robertson

TBA

1:35 p.m. **Break**

1:40 p.m. **What’s Hot and What’s Not in Law Office Management & Technology**
Jim Calloway, Darla Jackson and Natalie Kelly

COUNCIL ON JUDICIAL COMPLAINTS' NEW DIRECTOR OFFERS OVERVIEW OF STATE AGENCY

BY TAYLOR HENDERSON

IN RESPONSE TO BRIBERY SCANDALS THAT SHOOK OKLAHOMANS' CONFIDENCE IN THE JUDICIARY DURING THE 1960S AND IN AN EFFORT TO DISCOVER AND PREVENT FUTURE MISCONDUCT, THE OBA PROPOSED AND THE LEGISLATURE CREATED THE OKLAHOMA COUNCIL ON JUDICIAL COMPLAINTS IN 1974. AT ABOUT THAT SAME TIME THE OBA ALSO PROPOSED, AND BOTH THE SUPREME COURT AND LEGISLATURE ADOPTED, THE CODE OF JUDICIAL CONDUCT.

The Council is the investigative arm of a three tiered system designed to address judicial misconduct. While the Council investigates and determines the appropriate disposition of a complaint, it neither prosecutes nor adjudicates the complaint. Rather, the Council's findings and recommendations are referred to one of five Constitutionally and statutorily enumerated entities: the Supreme Court or the Chief Justice thereof, Governor, Attorney General, Oklahoma Bar Association, or House of Representatives. Those entities may decline the Council referral or prosecute the complaint by invoking the jurisdiction of the Court on the Judiciary, which is responsible for adjudication. In addition the Supreme Court may also adjudicate referrals that do not warrant removal from office.

The Council is empowered to investigate alleged violations of the Code of Judicial Conduct and other state law filed against judicial officers who are subject to Oklahoma's Court on the Judiciary for the purpose of removal, reprimand, or admonition. On that basis, the Council's investigative authority extends to state appellate, district, municipal, and administrative judges, but not federal or tribal judges. Grounds for removal include those set forth in Article 7-A of the Oklahoma Constitution and Title 20 of the Oklahoma Statutes such as gross neglect of duty, corruption, offenses involving

moral turpitude, gross partiality, violations of the Code of Judicial Conduct, acceptance of fees or gratuities, and participation in partisan political activities or campaigns other than their own. Notably missing from this list is the review of judicial decisions involving potential error of law or a mistake of fact. Jurisdiction in this area is vested in the Appellate courts. Moreover, the Council's authority only extends to alleged violations, i.e. conduct which has already occurred. Prospective or hypothetical conduct falling within these areas may otherwise be addressed by either the Judicial Ethics Advisory Panel or Committee on Judicial Elections.

Any person may file a complaint alleging judicial misconduct. Furthermore, the Council may initiate an investigation *sua sponte* based on information derived from any source. The Council receives between 150-200 complaints per year, each of which is investigated and disposed of in a timely manner. The Council's statutory authority includes the power to hold hearings, administer oaths or affirmations, receive testimony and other evidence, and issue subpoenas requiring testimony or the production of books, records, papers or other tangible evidence. The Council's investigations operate similar to the State's multicounty grand jury in that they are conducted entirely in secret, are non-adversarial, and failure to comply with its investigatory



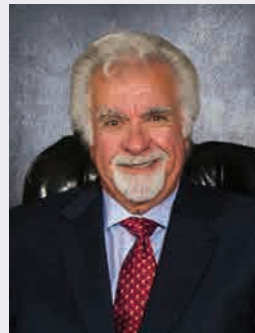
Glen Huff



Cathy Christensen



Jerry Fanklin



Terry West



Taylor Henderson

orders may result in contempt proceedings. In fact, investigations and proceedings thereon are to be held in secret to the same extent as a grand jury and are specifically exempted from the Oklahoma Open Meeting Act and the Oklahoma Open Record Act. To that end, neither the subject of a complaint nor any related entity is notified of an investigation unless so required to conduct the investigation.

After a complaint has been satisfactorily investigated by a majority vote of the Council, it may dismiss the complaint, recommend the initiation of proceedings in the Court on the Judiciary as referenced above, or require the Oklahoma State Bureau of Investigations to initiate a criminal investigation. It is not until a petition is filed with the Court on the Judiciary that a complaint or the ensuing investigation becomes public. Such exclusions in transparency only extend to the Council when conducting, discussing, or deliberating any matter relating to a complaint received or filed with the Council. The Council is otherwise subject to the Oklahoma Open Meeting and Records Acts, such as

in its administration of the agency, which is conducted through its regular meetings held on the fourth Thursday of each month.

The Council is comprised of three members, one of which must be a non-lawyer, each appointed to no more than two five-year terms by the President of the Oklahoma Bar Association, the Speaker of the Oklahoma House of Representatives, and the President Pro Tempore of the Oklahoma State Senate. The current members of the Council are Glen Huff, Chairman; Cathy Christensen, Vice-Chairwoman; and Jerry Franklin, Member. Terry West has served as the Attorney Investigator for the Council since 2011 and Laurie Kensil has served as the Council's Principal Assistant since 1998. As the Council Director I look forward to serving my part in ensuring Oklahomans a fair and impartial judiciary.

Complaint forms can be found at the Council's office at 1901 North Lincoln Boulevard in Oklahoma City or online at cojc.ok.gov. The Council can otherwise be reached at (405) 522-4800.

Bills of Interest

By Angela Ailles Bahm

The Legislative Monitoring Committee continues to be actively engaged for the benefit of the bar association. The committee has already organized and held Legislative Reading Day and Day at the Capitol. My objective from here forward is to continue to keep you posted on legislation that may impact your area of expertise. However, for that I need your help.

Following is a list of bills that were discussed at Legislative Reading Day. Did you create a list using the free tracking service on the Legislature’s website, www.oklegislature.gov? Are you still keeping track of these bills through your personal list? Is there something new others need to know?

The committee has broadened its membership significantly. Again, my hope is to engage as many people as possible so we can help the Legislature avoid “unintended consequences.” I have heard it said many times, and I absolutely believe, that your legislator wants – and needs – your advice and counsel. I urge you to continue to use the resources at the bar association and through the free services on

the Legislature’s website. Get to know your legislator, and be an honest broker for accurate information.

As always if you have any suggestions or if there are any bills you would like to have posted in the Legislative Monitoring Committee’s MyOKBar Community, please let me know.

BILLS TO WATCH

Family Law

Presented on Legislative Reading Day by Judge Sheila Stinson.

- HB 1008
- HB 1257
- HB 1363
- HB 1418
- HB 1442 Child Support/Exclude Military Disability Compensation
- HB 1469
- HB 1818
- HB 1980
- HB 2185
- HB 2573 Child Support/Health Insurance
- HB 2694
- HB 2955
- HB 3286
- SB 93
- SB 149
- SB 198
- SB 681
- SB 776
- SB 979
- SB 1017
- SB 1122

- SB 1298
- SB 1427 Suspension of Child Support Obligation

Criminal Law

Presented on Legislative Reading Day by Bobby Don Gifford and Ed Blau.

- Many bills in Title 21 dealing with Criminal Justice Reform
- HB 1361
- HB 1771
- HB 1726
- HB 3226
- SB 251
- SB 655
- SB 969
- SB 1021
- SB 1738

Estate Planning/Banking/General Business

Presented on Legislative Reading Day by Miles Pringle.

- HB 2533 Min. Wage
- HB 2542 Auto Sales Exemption
- HB 3034
- HB 3028 Pregnant Workers Fairness Act
- HB 3297
- HB 3534 Estate/Elder Protection
- SB 1214 Fire Arm Freedom Act
- SB 1532 Consumer Protection
- SB 1174, SB 1475 Freedom to Work Act
- SB 1003 Uniform Fiduciary Access to Digital Assets Act
- SB 1018 Okla. Decanting Act
- SB 1082 High-Speed Railroads



Randy Grau (standing) moderates a discussion panel with (from left) Rep. Collin Walke, Rep. Chris Kannady and Sen. Julie Daniels during the 2018 Legislative Reading Day at the Oklahoma Bar Center.

Civil Procedure/Courts

Presented on Legislative Reading Day by Matthew Wade.
 HB 2863 Continuance for Legislators
 HB 3482 Atty Fee for State
 HB 3029, HB 3396, HB 3341 Voting/ Proof of Citizenship
 HB 2306
 HB 2538 Marital Status/Insurance Premiums
 HB 3232 Uninsured Motorist
 SB 947, SB 1006, SB 1019 Legislative Vacancies/Penalties
 SB 1108
 SB 1136 Products Liability
 SB 1299 Request for Production
 SB 1550 Evidence

Natural Resources/Oil and Gas

Presented on Legislative Reading Day by Tanner Hicks.
 HB 3282 Service Animals
 HB 2531, HB 2611, HB 2842, HB 2875,
 HB 3440 Gross Production Tax

HB 2775, SB 1143, SB 974 Prod. Revenue Stds Act
 SB 1476 Municipal, State Drilling Permits
 HB 2775, SB 1143, SB 974 "Well Bashing"
 HB 2890, HB 3052 Vertical and Horizontal Operators
 HB 2892, HB 2989, HB 3056 OCC Fees

Government

Presented on Legislative Reading Day by Robert Clark.
 HB 2764 Consolidation in School Districts
 HB 2895 AG Confiscate Campaign Funds
 HB 2806 Initiative Petitions Be Written for Public Understanding
 HB 2910 Consolidate OSBI and OSBN
 HB 3032 Prohibits School Grades
 HB 3130 Charter Schools
 HB 3357 Schools Sell Ads on Buses

SB 422 Reorganize HR/Pers. Admin.
 SB 488
 SB 920 Combines School Districts of 200 Students or Less
 SB 1013 Accounting Standards for State Agencies
 SB 1200 Universities, etc., Adopt Policies Affirming Free Speech
 SB 1014
 SB 1400 Move Dept of Commerce to Lt. Gov.
 SB 1457 Wildlife is the Property of "Almighty God"

Ms. 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.

Professional Responsibility Commission Annual Report

As Compiled by the Office of the General Counsel of the Oklahoma Bar Association | Jan. 1, 2017 – Dec. 31, 2017 | SCBD # 6622

INTRODUCTION

Pursuant to the provisions of Rule 14.1, Rules Governing Disciplinary Proceedings (RGDP), 5 O.S. 2011, ch. 1, app. 1-A, the following is the Annual Report of grievances and complaints received and processed for 2017 by the Professional Responsibility Commission and the Office of the General Counsel of the Oklahoma Bar Association.

THE PROFESSIONAL RESPONSIBILITY COMMISSION

The Commission is composed of seven persons - five lawyer and two non-lawyer members. The attorney members are nominated for rotating three-year terms by the President of the Association subject to the approval of the Board of Governors. The two non-lawyer members are appointed by the Speaker of the Oklahoma House of Representatives and the President Pro Tempore of the Oklahoma Senate, respectively. Terms expire on December 31st at the conclusion of the three-year term.

Lawyer members serving on the Professional Responsibility Commission during 2017 were R. Richard Sitzman, Oklahoma City; Richard Stevens, Norman; David Swank, Norman; Phillip J. Tucker, Edmond; and Sidney K. Swinson, Tulsa. The Non-Lawyer member was Rick Koch, Weatherford. R. Richard Sitzman served as Chairperson and Richard Stevens served as Vice-Chairperson. Commission members serve without compensation but are reimbursed for actual travel expenses.

RESPONSIBILITIES

The Professional Responsibility Commission considers and investigates any alleged ground

for discipline, or alleged incapacity, of any lawyer called to its attention, or upon its own motion, and takes such action as deemed appropriate to effectuate the purposes of the Rules Governing Disciplinary Proceedings. Under the supervision of the Professional Responsibility Commission, the Office of the General Counsel investigates all matters involving alleged misconduct or incapacity of any lawyer called to the attention of the General Counsel by grievance or otherwise, and reports to the Professional Responsibility Commission the results of investigations made by or at the direction of the General Counsel. The Professional Responsibility Commission then determines the disposition of grievances or directs the instituting of a formal complaint for alleged misconduct or personal incapacity of an attorney. The attorneys in the Office of the General Counsel prosecute all proceedings under the Rules Governing Disciplinary Proceedings, supervise the investigative process, and represent the Oklahoma Bar Association at all reinstatement proceedings.

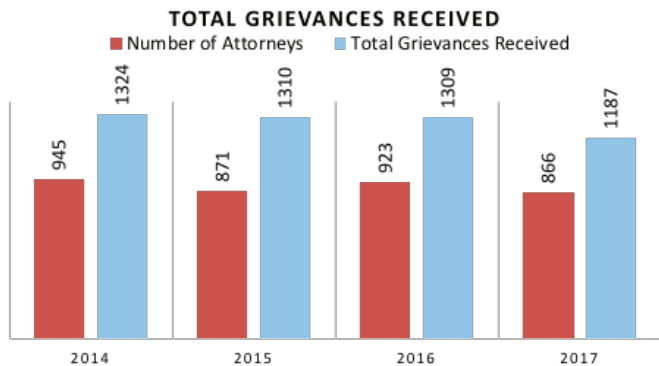
VOLUME OF GRIEVANCES

During 2017, the Office of the General Counsel received 214 formal grievances involving 165 attorneys and 973 informal grievances involving 701 attorneys. In total, 1187 grievances were received against 866 attorneys. The total number of attorneys differs because some attorneys received both formal and informal grievances. In addition, the Office handled 264 items of general correspondence, which is mail not considered to be a grievance against an attorney.¹

On January 1, 2017, 239 formal grievances were carried over from the previous year. During 2017, 214

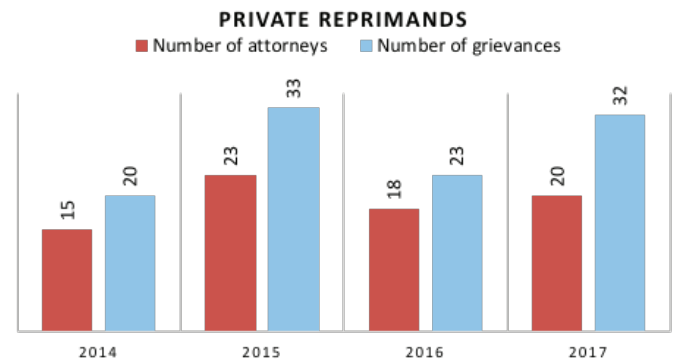
new formal grievances were opened for investigation. The carryover accounted for a total caseload of 453 formal investigations pending throughout 2017. Of those grievances, 312 investigations were completed by the Office of the General Counsel and presented for review to the Professional Responsibility Commission. Therefore, 141 investigations were pending on December 31, 2017.

The time required for investigating and concluding each grievance varies depending on the seriousness and complexity of the allegations and the availability of witnesses and documents. The Professional Responsibility Commission requires the Office of the General Counsel to report monthly on all informal and formal grievances received and all investigations completed and ready for disposition by the Commission. In addition, the Commission receives a monthly statistical report on the pending caseload. The Board of Governors is advised statistically each month of the actions taken by the Professional Responsibility Commission.



DISCIPLINE IMPOSED BY THE PROFESSIONAL RESPONSIBILITY COMMISSION

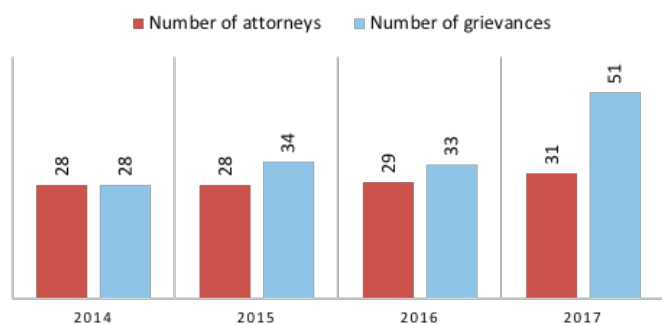
Formal Charges. During 2017, the Commission voted the filing of formal disciplinary charges against six lawyers involving 31 grievances. In addition, the Commission also oversaw the investigation of five Rule 7, RGDP matters filed with the Chief Justice of the Oklahoma Supreme Court.



Private Reprimands. Pursuant to Rule 5.3(c), RGDP, the Professional Responsibility Commission has the authority to impose private reprimands, with the consent of the attorney, in matters of less serious misconduct or if mitigating factors reduce the sanction to be imposed. During 2017, the Commission issued private reprimands to 20 attorneys involving 32 grievances.

Letters of Admonition. During 2017, the Commission issued letters of admonition to 31 attorneys involving 51 grievances cautioning that the conduct of the attorney was dangerously close to a violation of a disciplinary rule which the Commission believed warranted a warning rather than discipline.

LETTERS OF ADMONITION



Dismissals. The Commission dismissed 24 grievances due to the resignation of the attorney pending disciplinary proceedings, a continuing lengthy suspension or disbarment of the respondent attorney. Furthermore, the Commission dismissed nine grievances upon successful completion of a diversion program by the attorney. The remainder were dismissed where the investigation did not substantiate the allegations by clear and convincing evidence.

Diversion Program. The Commission may also refer respondent attorneys to the Discipline Diversion Program where remedial measures are taken to ensure that any deficiency in the representation of a client does not occur in the future. During 2017, the Commission referred 41 attorneys to be admitted into the Diversion Program for conduct involving 69 grievances.

The Discipline Diversion Program is tailored to the individual circumstances of the participating attorney and the misconduct alleged. Oversight of the program is by the OBA Ethics Counsel with the OBA Management Assistance Program Director involved in programming. Program options include: Trust Account School, Professional Responsibility / Ethics School, Law Office Management Training, Communication and Client Relationship Skills, and Professionalism in the Practice of Law class. In 2017, instructional courses were taught by OBA Ethics Counsel Joe Balkenbush, OBA Management Assistance Program Director Jim Calloway, and OBA Practice Management Advisor Darla Jackson.

As a result of the Trust Account Overdraft Reporting Notifications, the Office of the General Counsel is now able to monitor when attorneys encounter difficulty with management of their IOLTA accounts. Upon recommendation of the Office of the General Counsel, the Professional Responsibility Commission may place those individuals in a tailored program designed to instruct on basic trust accounting procedures. In 2017, the OBA

Management Assistance Program opened its trust account diversion classes to all OBA members.

2017 Diversion Program Curriculum	Number of Attorneys
Law Office Management Training	4
Communication and Client Relationship Skills	15
Professionalism in the Practice of Law	5
Professional Responsibility / Ethics School	29
Client Trust Account School	15
Law Office Consultations	10

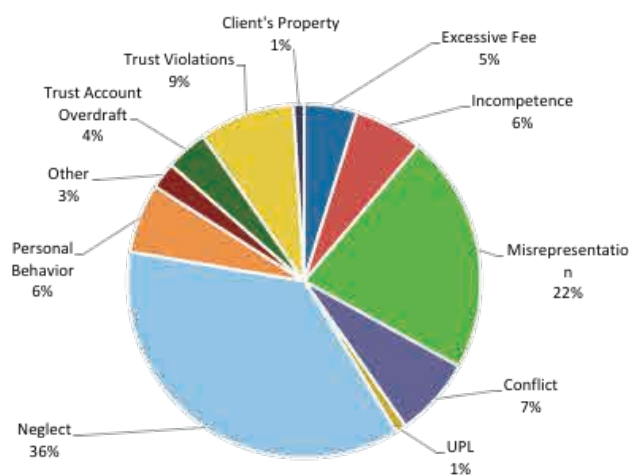
SURVEY OF GRIEVANCES

In order to better inform the Oklahoma Supreme Court, the bar, and the public of the nature of the grievances received, the numbers of attorneys complained against, and the areas of attorney misconduct involved, the following information is presented.

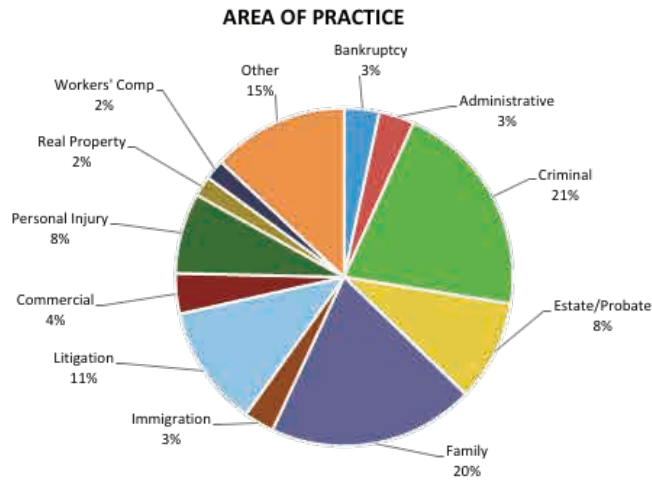
Total membership of the Oklahoma Bar Association as of December 31, 2017 was 17,859 attorneys. The total number of members include 11,946 males and 5,913 females. Formal and informal grievances were submitted against 921 attorneys. Therefore, approximately five percent of the attorneys licensed to practice law in Oklahoma received a grievance in 2017.

A breakdown of the type of attorney misconduct alleged in the 214 formal grievances opened by the Office of the General Counsel in 2017 is as follows:

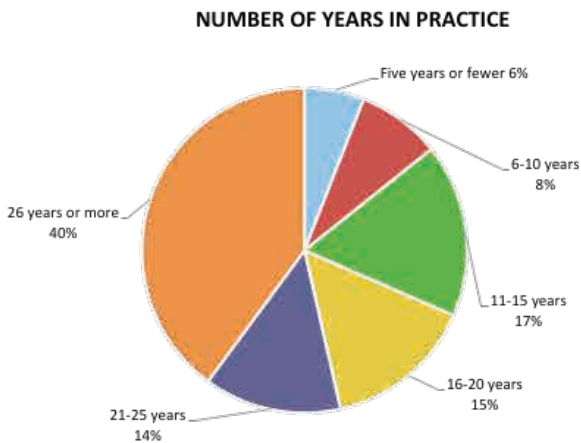
TYPE OF ATTORNEY MISCONDUCT ALLEGED



Of the 214 formal grievances, the area of practice is as follows:



The number of years in practice of the 165 attorneys receiving formal grievances is as follows:



The largest number of grievances received were against attorneys who have been in practice for 26 years or more. The age of attorneys involved in the disciplinary system is depicted below.

Type of Complaint Filed	Rule 6, RGDP	Rule 7, RGDP	Rule 10, RGDP	Rule 8, RGDP
Number of Attorneys Involved	3	11	0	7
Age of Attorney				
21-29 years old	0	0	0	0
30-49 years old	2	7	0	5
50-74 years old	1	4	0	2
75 or more years old	0	0	0	0

Type of Discipline Imposed	Dismissals	Public Censure	Disciplinary Suspension	Resignation Pending Disciplinary Proceedings	Disbarment
Number of Attorneys Involved	4	5	3	7	1
Age of Attorney					
21-29 years old	0	0	0	0	0
30-49 years old	3	4	0	5	1
50-74 years old	1	1	3	2	0
75 or more years old	0	0	0	0	0

DISCIPLINE IMPOSED BY THE OKLAHOMA SUPREME COURT

In 2017, 36 disciplinary cases were acted upon by the Oklahoma Supreme Court. The public sanctions are as follows:

Disbarment.

Respondent	Order Date
Drummond, L. Caroline	3/28/17

Resignations Pending Disciplinary Proceedings Approved by Court. (Tantamount to Disbarment)

Respondent	Order Date
Nachimson, Jeffrey David	1/17/17
Harrison, Amy Elizabeth	6/26/17
Kerr, Robert Samuel IV	11/6/17
Mitchell, Allan E.	11/14/17
Foard, Jean Lea	11/20/17
Solis, Margarita	12/5/17
Corrales, Michael Joseph	12/18/17

Disciplinary Suspensions.

Respondent	Length	Order Date
Hastings, John Christopher	2 years	5/16/17
Hixson, W. Mark	6 months	6/20/17
Hyde, Martha Lynne	6 months	6/27/17

Public Censure.

Respondent	Order Date
Shahan, Ian Michael	2/7/17
McMillen, Mary Elaine Gillen	3/28/17
Hunt, John Marshall	4/11/17
Moody, Chad Ward	4/11/17
Helton, Scott Robert	4/18/17

Dismissals.

Respondent	Order Date
Swartz, Robert Louis (Felony Conviction; Rule 7, RGDP)	2/21/17
McVay, Dalen Dee (Misdemeanor Conviction; Rule 7, RGDP)	3/27/17
Jordan, Eric Michael (Misdemeanor Conviction; Rule 7, RGDP)	9/11/17
Stillwell, Jeremy Brent (Misdemeanor Conviction; Rule 7, RGDP)	12/18/17

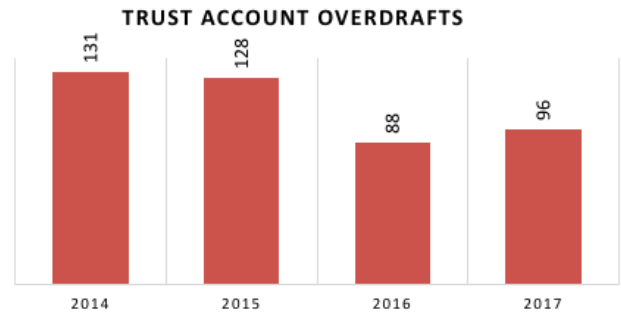
There were 12 discipline cases filed with the Supreme Court as of January 1, 2017. During 2017, five new formal complaints, notice of 11 Rule 7, RGDP, Convictions, and six Resignations Pending Disciplinary Proceedings were filed for a total of 34 cases pending with the Supreme Court during 2017. On December 31, 2017, 19 cases remain filed and pending before the Oklahoma Supreme Court.²

REINSTATEMENTS

There were two petitions for reinstatement pending before the Professional Responsibility Tribunal and one petition for reinstatement pending with the Supreme Court as of January 1, 2017. There were ten new petitions for reinstatement filed in 2017. In 2017, the Supreme Court granted two reinstatements and two were withdrawn by the Petitioner. On December 31, 2017, there were six petitions for reinstatement pending before the Professional Responsibility Tribunal and three petitions for reinstatement pending before the Oklahoma Supreme Court.

TRUST ACCOUNT OVERDRAFT REPORTING

The Office of the General Counsel, under the supervision of the Professional Responsibility Commission, has implemented the Trust Account Overdraft Reporting requirements of Rule 1.15(j), Oklahoma Rules of Professional Conduct, 5 O.S. 2011, ch. 1, app. 3-A (ORPC). Trust Account Overdraft Reporting Agreements are submitted by depository

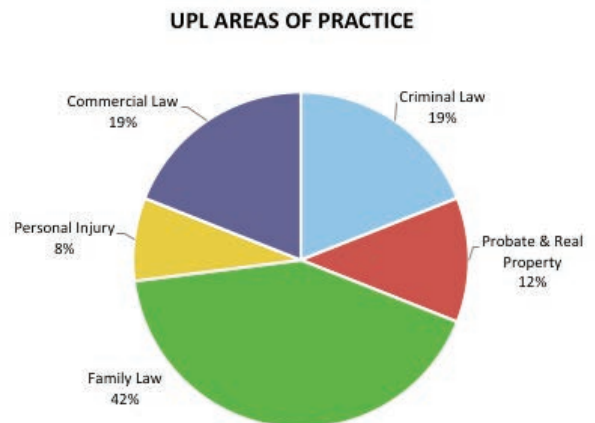


institutions. In 2017, 96 notices of overdraft of a client trust account were received by the Office of the General Counsel. Notification triggers a general inquiry to the attorney requesting an explanation and supporting bank documents for the deficient account. Based upon the response, an investigation may be commenced. Repeated overdrafts due to negligent accounting practices may result in referral to the Discipline Diversion Program for instruction in proper trust accounting procedures.

UNAUTHORIZED PRACTICE OF LAW

Rule 5.1(b), RGDP, authorizes the Office of the General Counsel to investigate allegations of the unauthorized practice of law (UPL) by non-lawyers, suspended lawyers and disbarred lawyers. Rule 5.5, ORPC, regulates the unauthorized practice of law by lawyers and prohibits lawyers from assisting others in doing so.

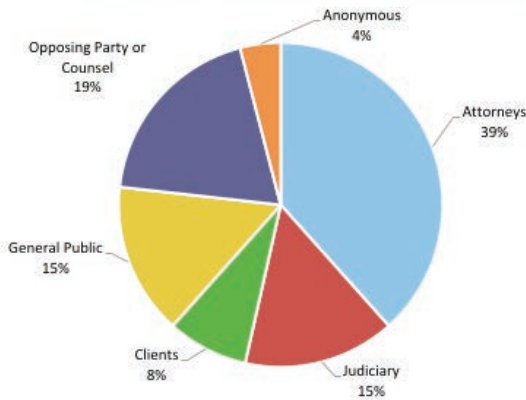
Requests for Investigation. In 2017, the Office of the General Counsel received 26 complaints for investigation of the unauthorized practice of law. The Office of the General Counsel fielded many additional inquiries regarding the unauthorized practice of law that are not reflected in this summary.



Practice Areas. Allegations of the unauthorized practice of law encompass various areas of law. In previous years, most unauthorized practice of law complaints involved non-lawyers or paralegals handling divorce matters but that trend had declined over the last few years. However, in 2017, a significant number of UPL complaints again involved family law matters.

Enforcement. In 2017, of the 26 cases opened, the Office of the General Counsel took formal action in five matters. Formal action includes issuing cease and desist letters, initiating formal investigations through the attorney discipline process, referring a case to an appropriate state and/or federal enforcement agency, or filing the appropriate district court action. Twelve cases were closed for no finding of the unauthorized practice of law. The remainder of the cases is still pending.

REQUESTS TO INVESTIGATE UPL: REFERRAL SOURCES



CLIENTS' SECURITY FUND

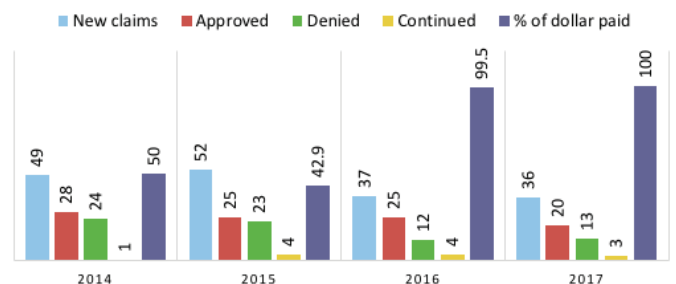
The Clients' Security Fund was established in 1965 by Court Rules of the Oklahoma Supreme Court. The Fund is administered by the Clients' Security Fund Committee which is comprised of 17 members, 14 lawyer members and 3 non-lawyers, who are appointed in staggered three-year terms by the OBA President with approval from the Board of Governors. In 2017, the Committee was chaired by lawyer member Micheal Salem, Norman. Chairman Salem has served as Chair for the Clients' Security Fund Committee since 2006. The Fund furnishes a means of reimbursement to clients for financial losses occasioned by dishonest acts of lawyers. It is also intended to protect the reputation of lawyers in general from the consequences of dishonest acts of a very few. The Board of Governors budgets and appropriates \$175,000.00 each year to the Clients' Security Fund for payment of approved claims.

Referral Sources. Requests for investigations of the unauthorized practice of law stem from multiple sources. In 2017, the Office of the General Counsel received the most complaints from attorneys.

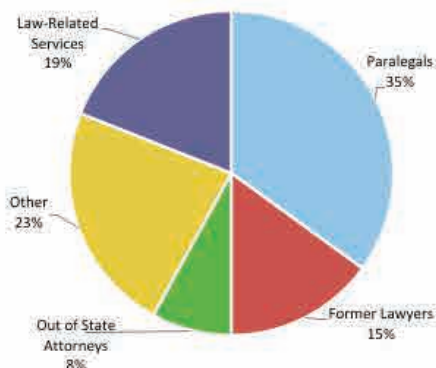
Respondents. For 2017, most requests for investigation into allegations of the unauthorized practice of law related to paralegals.

For purposes of this summary, the category "paralegal" refers to an individual who advertises as a paralegal and performs various legal tasks for their customers, including legal document preparation. The "former lawyers" category includes lawyers who have been disbarred, stricken, resigned their law license pending disciplinary proceedings, or otherwise voluntarily surrendered their license to practice law in the State of Oklahoma.

CLIENTS' SECURITY FUND



RESPONDENTS ALLEGEDLY PARTICIPATING IN UPL



In years when the approved amount exceeds the amount available, the amount approved for each claimant will be reduced in proportion on a prorata basis until the total amount paid for all claims in that year is \$175,000.00. The Office of the General Counsel reviews, investigates, and presents the claims to the committee. In 2017, the Office of the General Counsel presented 36 new claims to the Committee. The Committee approved 20 claims, denied 13 claims, and continued 3 claims into the following year for further investigation. In 2017, the Clients' Security Fund paid a total of \$57,240.62 on 20 approved claims.

CIVIL ACTIONS (NON-DISCIPLINE) INVOLVING THE OBA

The Office of the General Counsel represented the Oklahoma Bar Association in two civil (non-discipline) matters during 2017. One case carried forward into 2018. The following is a summary of all 2017 civil actions against or involving the Oklahoma Bar Association:

Alexander Bednar v. Farabow, Willis, Blasier and Oklahoma Bar Association, Oklahoma County Case No. CJ-2017-1192. Bednar filed suit against the OBA Defendants on February 28, 2017, alleging, among other things, that Defendants exhibited a pattern of harassment and attacks against him and requested the district court declare that his prior attorney discipline was not based on ethical violations and enjoin the OBA from further investigating his actions. Bednar also filed a Motion for Special Master to Investigate, Motion to Quash Administrative Subpoenas and for Protective Order, Motion to Seal Confidential Information and a Supplemental Petition. The OBA moved to dismiss the matter and, after argument, an Order of Dismissal with Prejudice was entered by Judge Dixon and filed August 4, 2017. Bednar filed a Motion to Set Aside for Good Cause on September 5, 2017. After the OBA response and argument, the Court allowed Bednar to supplement his filing with a transcript from the motion to dismiss hearing. At the hearing on January 19, 2018, Judge Davis reconsidered Judge Dixon's order and dismissed Bednar's suit *without* prejudice to refile.

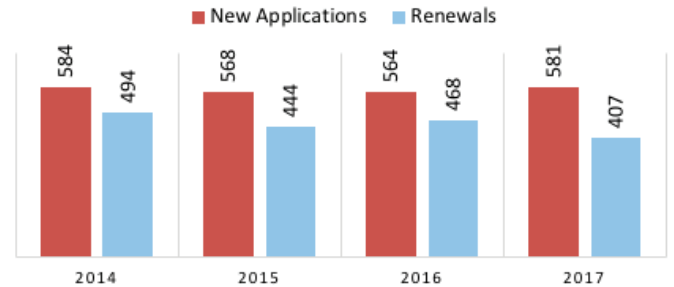
State of Oklahoma v. Leroy McRae Jr., Kay County District Court case No. CF-2016-552. The State subpoenaed the OBA General Counsel and Assistant General Counsel to appear, produce documents and give testimony concerning a grievance filed by the defendant in this matter. On October 5, 2017, the OBA specially appeared and moved to quash the subpoenas based upon the Rules Governing Disciplinary Proceedings. On October 11, 2017, the district court granted the OBA's motion and the General Counsel and Assistant General Counsel were released from the subpoenas.

ATTORNEY SUPPORT SERVICES

Out-of-State Attorney Registration. In 2017, the Office of the General Counsel processed 581 new applications and 407 renewal applications submitted by out-of-state attorneys registering to participate in a proceeding before an Oklahoma Court or Tribunal. Out-of-State attorneys appearing pro bono to represent criminal indigent defendants, or on behalf of persons who otherwise would qualify for representation under the guidelines of the Legal Services Corporation due to

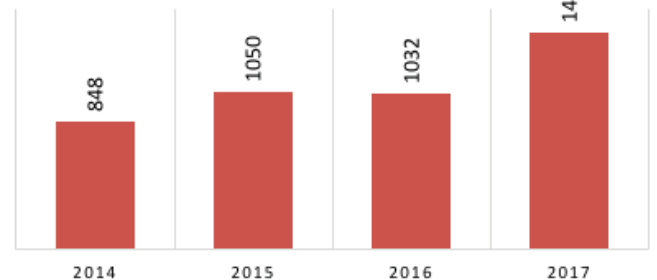
their incomes, may request a waiver of the application fee from the Oklahoma Bar Association. Certificates of Compliance are issued after confirmation of the application information, the applicant's good standing in his/her licensing jurisdiction and payment of applicable fees. All obtained and verified information is submitted to the Oklahoma Court or Tribunal as an exhibit to a "Motion to Admit."

OUT-OF-STATE ATTORNEY REGISTRATION



Certificates of Good Standing. In 2017, the Office of the General Counsel prepared 1,436 Certificates of Good Standing/Disciplinary History at the request of Oklahoma Bar Association members.

CERTIFICATES OF GOOD STANDING



ETHICS AND EDUCATION

During 2017, the General Counsel, Assistant General Counsels, and the Professional Responsibility Commission members presented more than 60 hours of continuing legal education programs to county bar association meetings, attorney practice groups, OBA programs, law school classes, and various legal organizations. In these sessions, disciplinary and investigative procedures, case law, and ethical standards within the profession were discussed. These efforts direct lawyers to a better understanding of their ethical requirements and the disciplinary process, and informs the public of the efforts of the Oklahoma Bar Association to regulate the conduct of its members. In addition, the General Counsel was a regular contributor to *The Oklahoma Bar Journal*.

The attorneys, investigators, and support staff for the General Counsel's office also attended continuing education programs in an effort to increase their own skills and training in attorney discipline. These included trainings by the Oklahoma Bar Association (OBA), National Organization of Bar Counsel (NOBC), and the Organization of Bar Investigators (OBI).

RESPECTFULLY SUBMITTED this 1st day of February, 2018, on behalf of the Professional Responsibility Commission and the Office of the General Counsel of the Oklahoma Bar Association.



Gina Hendryx, General Counsel
Oklahoma Bar Association

ENDNOTES

1. The initial submission of a trust account overdraft notification is classified as general correspondence. The classification may change to a formal grievance after investigation.
2. Five cases were stayed by the Court and are still considered pending by the Office of the General Counsel: SCBD 6318, Rule 7, RGDP; SCBD 6354, Rule 7, RGDP; SCBD 6512, Rule 7, RGDP; SCBD 6553, Rule 7, RGDP; and one Rule 10 Confidential matter, OBAD 2071.



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Consider Limited Scope Representation to Expand Your Practice

By John Morris Williams

I am going to talk about limited scope practice one more time. Rule 1.2 (c) of the Oklahoma Rules of Professional Conduct states:

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

Previously, I discussed the two-part test of reasonableness and informed consent and the very difficult issues with legal service providers outside of the state of Oklahoma meeting the test and regulating sellers of legal services beyond our jurisdiction.

Last year the Rules for District Courts of Oklahoma were amended to include a new Rule 33 that states:

Rule 33. Limited Scope Representation

A lawyer providing limited scope representation under Rule 1.2 (c) of the Oklahoma Rules of Professional Conduct may draft pleadings or other documents for a pro se litigant

to file with or present to a district court without the lawyer entering an appearance in the matter. A lawyer shall disclose such assistance by indicating their name, address, bar number, telephone number, other contact information and, optionally, a signature on said pleading or other document with the phrase “No appearance is entered as counsel of record.”

We must communicate to the public they can go to a lawyer and get a better product and that the services are licensed and regulated to ensure integrity and quality in the process.

Together the two rules provide the guidance to provide legal services in certain instances to clients who otherwise cannot afford full representation. For years I have heard OBA members complain about the “Divorce \$199” signs that pretty much blanket metro Oklahoma City. We all know these are unlicensed form sellers who often create some pretty big messes. *Pro se* litigants with bad forms show

up at courthouses all over Oklahoma and clog dockets. Many of these *pro se* litigants end up frustrated and angry at the judges and court staff because someone selling the forms gave them bad advice. Ultimately, it is the legal system that is blamed, and confidence in the courts is eroded because of the negative experiences of many *pro se* litigants. We can – and we must – do better.

Oftentimes I suspect the practicing bar ignores the unauthorized practice of law by the form sellers because they are dealing with people who could not afford a lawyer to begin with. That is just not good enough. We need to ensure access to justice for everyone and work to instill confidence in our legal system. Rather than just let the “have nots” suffer at the hands of unlicensed, unregulated form sellers, we need

to fill this void with competent, affordable lawyers providing limited scope services.

There is another factor that the bar should also consider. With the advancement of technology, some of these form sellers are going to develop many types of forms, and they will at some point affect the bottom line in more than one law office. More than five years ago I surveyed our young lawyers and about 75 percent of them stated they felt online legal service providers had negatively impacted their practices. It is not good business for the public or the bar to continue on the course we are on today.

The good news is we have rules in place for Oklahoma lawyers to provide low-cost limited scope representation to a large number of people who make too much to qualify for legal aid but cannot afford full representation. The OBA has already offered programming to teach and assist Oklahoma lawyers to competently represent clients in limited scope representation.

We must communicate to the public they can go to a lawyer and get a better product and

that the services are licensed and regulated to ensure integrity and quality in the process. The real value of a lawyer in any legal matter is judgment and advice – not a form.

I have reviewed the economics of some of the online form sellers and financially they are doing better than many lawyers. We have moved to a place where people who are not in dire straits go first to the internet for about all their services. It is time for Oklahoma lawyers to move into this new reality and to embrace limited scope practice or else I fear we will find ourselves no longer relevant or needed in many types of legal matters. Price and expediency will win out over quality and time-honored legal principles if unlicensed and unregulated form sellers continue to represent more and more people every day.

I have always said do good business and the rest takes care of itself. It is good business to provide limited scope representation where appropriate. The OBA stands ready to assist its members in moving into this new reality. It is the right thing to do to protect the public, to help

people of limited means and to preserve our legal system.



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

How Are You?

By Joe Balkenbush

One of the most important issues discussed at the recent National Organization of Bar Counsel (NOBC) meeting was attorney well-being.

The topic is so important in 2015 the ABA created an Attorney Well-Being Committee, and in August 2016 The National Task Force on Attorney Well-Being was created by the ABA Commission on Lawyer Assistance Programs (CoLAP), NOBC and Association of Professional Responsibility Lawyers (APRL).

In 2016 the ABA in conjunction with the Hazelden Betty Ford Foundation, published an in-depth study concerning “The Prevalence of Substance Use and Other Mental Health Concerns Among American Attorneys.”¹ The study found that almost one-third of lawyers presently suffer from addiction or mental health issues. A similar study was done 20 years ago. Unfortunately, the percentage of lawyers experiencing issues has not changed.

After the ABA/Hazelden study was published, the National Task Force on Attorney Well-Being performed a more in-depth examination of the results of the study and found that 50 percent of the approximately 12,500 lawyers who responded to the study did not answer questions regarding the prescription drug use/abuse.

Using our “powers of the lawyerly deduction,” it logically follows that the actual incidence of mental health or addiction issues among lawyers is higher than one-third.²

Think about that – more than one-third of us are not doing well. That doesn’t necessarily mean we are incapacitated, but it does mean we are not performing as well as we could/should be. I would offer that the incidence of addiction or mental health issues is in reality much higher, because the stigma attached to admitting you

“...we must make time to ensure we are physically, mentally, emotionally and spiritually healthy.”

have issues is significant enough that many lawyers would not admit it, even with the assurance the information provided was confidential.

The ABA recently stated that health and wellness are every lawyer’s ethical and professional responsibility. So, what does that mean? It means we *must* make time to ensure we are physically, mentally, emotionally and spiritually healthy. These characteristics are basic to our health and well-being.

PERSONAL WELL-BEING

In that regard, how are you doing? Are you taking care of yourself? Are you taking time to ensure you are physically, mentally, emotionally and spiritually healthy? The bottom line is that you have got to take care of yourself. No one else is going to do it for you. Take total responsibility for you! Your personal well-being *must* be one of your priorities. You are worth it!

Awareness is the first step. Please pay attention to how you’re feeling, what you are thinking and how you react to stressful situations. Take a moment and assess your personal well-being. Are you are stressed out or overwhelmed? Are you depressed, anxious, irritable, lethargic, don’t have your usual spark? Are you suffering from an addiction? Are your personal relationships suffering? If you need help in any way, the OBA Lawyers Helping Lawyers Assistance Program (LHL) is available to help you.

LAWYERS HELPING LAWYERS

The OBA LHL Committee was created decades ago. There are literally hundreds of OBA members who volunteer their time to help other lawyers in need. As OBA ethics counsel, I am a member of this committee. It wasn’t until I attended my first meeting that I came to understand

what program really does. It is not just for alcoholics or drug addicts. LHL also provides services to any OBA member who is experiencing mental, emotional, psychological, medical and/or financial issues. As an OBA member benefit, six hours of counseling services are provided at no cost. If additional counseling is needed, there's a good chance the Lawyers Helping Lawyers Foundation will fund more sessions.

The 24/7 hotline number for LHL is 800-364-7886. Additional information regarding LHL can be found at www.okbar.org/LHL or by contacting the OBA Office of Ethics Counsel at 405-416-7055. Again, the services provided are free of charge, confidential and privileged per Rule 8.3 of the Oklahoma Rules of Professional Conduct.

Mr. Balkenbush is OBA ethics counsel. Have an ethics question? It's a member benefit and all inquiries are confidential. Contact him at joeb@okbar.org or 405-416-7055; 800-522-8065.

ENDNOTES

1. *Journal of Addiction Medicine*, Feb. 2016, https://journals.lww.com/journaladdictionmedicine/Fulltext/2016/02000/The_Prevalence_of_Substance_Use_and_Other_Mental.8

2. www.americanbar.org/groups/lawyer_assistance/task_force_report.html

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www.okbar.org/LHL



Oklahoma Bar Association
Lawyers Helping Lawyers
Assistance Committee

Meeting Summary

The Oklahoma Bar Association Board of Governors met Thursday, Jan. 11, at the Oklahoma Bar Center in Oklahoma City.

REPORT OF THE PRESIDENT

President Hays reported she attended the Legislative Monitoring Committee meeting via BlueJeans, OBA Family Law Section meeting and Oklahoma Attorneys Mutual Insurance Co. quarterly meeting. She prepared 2018 committee appointments, presented CLE to the Garfield County Bar Association, was filmed for a video message to new admittees and a meet-the-president video for the OBA and also prepared for the swearing-in ceremony.

REPORT OF THE VICE PRESIDENT

Vice President Stevens reported he attended the Cleveland County Bar Association luncheon and CLE.

REPORT OF THE PRESIDENT-ELECT

President-Elect Chesnut reported he attended the Ottawa County Bar Association meeting and OBA 2018 budget presentation to the Oklahoma Supreme Court.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he attended the staff holiday and monthly celebration, meeting with the

Legal Aid Services of Oklahoma executive director, funeral for former OBA President Michael Evans, Legislative Monitoring Committee meeting and staff directors meeting.

REPORT OF THE PAST PRESIDENT

Past President Thomas, unable to attend the meeting, reported via email she presented Angela Ailles-Bahm with her President's Award and attended the Washington County Bar Association Christmas party and toy drive, funeral for former OBA President Michael Evans and OBF Trustees meeting via BlueJeans.

BOARD MEMBER REPORTS

Governor Beese reported he attended the Muskogee County Bar Association meeting and Christmas party. **Governor Coyle** reported he attended the Oklahoma County Bar Association meeting and Christmas party and hosted the Oklahoma County Criminal Defense Lawyers Christmas party. **Governor Hennigh** reported he attended the January Garfield County Bar Association meeting and OBA Communications Committee meeting via BlueJeans. **Governor Hermanson** reported he attended the District Attorneys Training

Conference and Ponca City Chamber of Commerce Board of Directors meeting. He also served as day chair for the Ponca City Leadership Class County Government Day. **Governor Hicks** reported he attended meetings with Tulsa County Bar Association leadership, TCBA Golf Committee, Tulsa County Bar Foundation planning for 2018 in addition to fielding questions about two versions of 12 O.S. Section 3234 as amended by the Legislature in 2017. **Governor Hutter** reported she attended the Cleveland County Bench and Bar Committee meeting and Cleveland County Bar Association monthly meeting. **Governor Kee** reported he contacted county bar presidents in his district and reports only two of nine county bar associations hold regular meetings. He offered each president an ethics CLE at their next meeting – an offer that was well received. **Governor Morton** reported he attended the Williams J. Holloway Inns of Court meeting. **Governor Oliver** reported he attended the Payne County Bar Association Christmas party and county bar monthly meeting. **Governor Williams** reported he conferred with Tulsa County Bar Association leadership regarding current county bar issues.

REPORT OF THE YOUNG LAWYERS DIVISION

Governor Richter reported he attended the YLD Executive Committee meeting.

REPORT OF THE SUPREME COURT LIAISON

Justice Edmondson reported he was stunned at the latest information on the high attrition rate of court reporters, which is 40 percent. A new program will be started to accelerate court reporter training. He also said several applications have been received for the Supreme Court vacancy created with the retirement of Justice Joseph Watt, and he has a list of applicants if anyone is interested. The Judicial Nominating Commission will be conducting interviews and making its recommendations for the governor's selection.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported on the number of investigations closed in 2017 and the number carried over into 2018. She reported on one civil action that is currently pending in Oklahoma County District Court involving the OBA. The matter had been previously dismissed with prejudice but a Motion for

Reconsideration is pending. A written report of PRC actions and OBA disciplinary matters for December was submitted to the board for its review.

BOARD LIAISON REPORTS

Governor Oliver reported the **Law-Related Education Committee** will meet tomorrow, and Executive Director Williams has talked to the new chairperson. Governor Hermanson reported the **Law Day Committee** is working on *Ask A Lawyer* TV show segments. They plan to add a woman as host, keeping Dick Pryor as panel moderator. The committee is committed to Spanish outreach and will contact Chief Justice Combs to confirm his participation in Law Day activities. Governor Hermanson reported the **Communications Committee** is close to finalizing three short educational videos about the Judicial Nominating Commission that will be combined to use for presentations to community groups. A handout and notes for speakers not using the video have also been created. The committee recommended Past President Thomas and President Hays would be the most effective recruiters for a speakers bureau. Governor Hennigh encouraged existing board members to

volunteer as speakers. Plans to continue printing the consumer legal brochures and promoting the brochure information on the OBA website were approved. Executive Director Williams reported the **Legislative Monitoring Committee** is ready for Legislative Reading Day. Information is available on the committee's Communities page. President Hays asked board members to docket March 6, which will be OBA Day at the Capitol.

REQUEST TO REVIVE THE OKLAHOMA LAW STUDENT DIVISION

Executive Director Williams reported he received an email from 3L law student Dan Sloat requesting the OBA's Law Student Division be revived. Executive Director Williams said the division still exists but became inactive because of lack of interest. He shared the challenges faced by students participating in another activity in addition to their studies and questioned how the OBA could demonstrate value to law students under the current circumstances. Nothing has been budgeted to support the division. Executive Director Williams said he encouraged Mr. Sloat to pursue it.

OKLAHOMA INDIAN LEGAL SERVICES BOARD OF DIRECTORS

The board approved President Hays' appointment of Taiawagi Helton, Oklahoma City, to complete the unexpired term of Gary Pitchlynn and appointment of Kymberly Cravatt, Ada, to complete the unexpired term of Leslie Taylor with terms expiring 12/31/2018.

PROFESSIONAL RESPONSIBILITY COMMISSION

The board approved President Hays' appointment of Heather Burrage, Durant, with a term expiring 12/31/2020.

YLD LIAISON APPOINTMENTS TO OBA STANDING COMMITTEES

Governor Richter reported he has appointed a YLD liaison to each OBA standing committee.

APPOINTMENT OF OBA STANDING COMMITTEE CHAIRS, VICE CHAIRS AND BOARD OF GOVERNORS LIAISONS

President Hays reported she has appointed or reappointed committee leaders for most committees; however, a few vacancies remain.

LEGAL ETHICS ADVISORY PANEL

President Hays reported she has appointed Tamera Childers, Tulsa, and Brita Haugland-Cantrell, Tulsa, to the Tulsa panel with terms expiring 12/31/2020.

CREATION OF AGING IN THE PROFESSION TASK FORCE

President Hays reported she has appointed Peggy Stockwell, Norman, as chairperson of the new Aging in the Profession Task Force. General Counsel Hendryx will serve as staff liaison, and Vice President Stevens will serve as Board of Governors liaison.

LEGISLATIVE UPDATE

Executive Director Williams reviewed the status of legislation regarding the redistricting of Supreme Court districts and advised the OBA should only involve itself under limited circumstances.

NEXT MEETING

The Board of Governors met in February and 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 Friday, April 20, at the Oklahoma Bar Center in Oklahoma City.



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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.

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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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Scholarship Recipient Highlights

OBF W.B. CLARK SCHOLARSHIP



Michael Nash

Hometown:	Ponca City
Law School:	OU College of Law
Graduation Date:	2017
What field of law are you studying:	Antitrust
Undergraduate:	OU
Undergrad Major:	Entrepreneurship and Venture Management
Graduation Date:	2011

What made you decide to attend law school?

Throughout my undergraduate years, I always had the idea of going to law school in the back of my mind. It wasn't until after my college graduation, in my first job, where I saw how versatile a law degree could be. Each law graduate I worked with, whether actively practicing or not, told me that they would not have had the opportunities to discover their current careers had it not been for their legal backgrounds. Although I was not exactly sure what I hoped for my own career, I was confident that I would learn more about myself in law school than I could ever expect.

What are your goals?

In December, I will be moving to Washington D.C. to begin working in antitrust at the Department of Justice. I'm very excited about this move and for the opportunity to gain such great experience. Oklahoma is home though, so I am looking forward to one day coming back here to continue my career.

Which historical figure inspires you and why?

Abraham Lincoln. We of course know the history of his incredible impact on this country, but I've recently been reading more about him as a person. These books largely analyze his thought processes, which I find very interesting. They highlight his ability to manage several conflicting forces while still pushing toward a common goal.

What is the most important thing you have learned in law school or undergrad?

Always take time to listen, regardless of how busy your day is. Even on those days where work and life seem to require more time than you can afford, making time for people — whether they are clients, co-workers or others. It is extremely important.

CHAPMAN-ROGERS SCHOLARSHIP



Abigail Wilburn

Hometown:	Ponca City
Law School:	OCU School of Law
Graduation Date:	2018
What field of law are you studying:	Criminal Law
Undergraduate:	UCO
Undergrad Major:	Criminal Justice-Police with a minor in Spanish
Graduation Date:	2015

What made you decide to attend law school?

I decided to go to law school, because I wanted to enter a challenging career field in which I could help the public. Before I decided to go to law school, my original career plan was to become a police officer and work my way up to a detective position. After some reflection, I felt that I would be better able to assist the public as a prosecutor at either the federal or state level.

I want the opportunity to help achieve justice for the victims in this world and the families who have lost loved ones. I have had several events in my life that have drawn me to this field along with the desire to help others. The one that stands out the most involved a family friend who became involved in a domestic violence situation. At one point, she left her husband and moved in with my family. I witnessed first-hand how domestic violence affects families, and the total hopelessness that the victims feel. I want to be able to be the voice for victims and their families in the court system.

What are your goals?

My first short-term goal both professionally and personally is to finish my last year of law school and pass the bar. After passing the bar, I hope to have employment in a small county district attorney's office, where I can experience a wide variety of cases and accumulate courtroom experience. My long-term professional goal is to either be employed by the federal government at the United States Attorney's Office or for a nonprofit law office whose goal is to help free victims of human traffic and slavery in the United States and abroad. One of my long-term personal goals is to travel abroad and experience as many different cultures as I can.

What historical figure inspires you and why?

Amelia Earhart is one of the many historical figures who inspire me. She lived her life defying expectations and stereotypes. She was quoted saying, "The most difficult thing is the decision to act. The rest is merely tenacity. The fears are paper tigers. You can do anything you decide to do. You can act to change and control your life and the procedure. The process is its own reward." Amelia Earhart was a dreamer, but she achieved those dreams through hard work and determination. I want to live my life with her type of determination.

YLD Happenings and Midyear Meeting

By Nathan D. Richter

March! Already? In the words of Steve Miller, “time keeps on ticking, ticking, ticking ... into the future.” Many of you know well the difficulty lawyers face with managing time. Between running a practice, meeting your clients’ needs, meeting court demands and juggling a family – well, I’m tired just writing about it. Yet, as lawyers we have a particular set of skills – cue Liam Neeson meme – that has wide application in our communities.

Because of this, it’s not uncommon for us to be called into service in many areas for a variety



Assembling Bar Exam Survival Kits are, from left, Grant Kincannon, Jordan Haygood, Brittany Byers, Caroline Shaffer, Melanie Christians and Nathan Richter.

of different reasons. Service is our calling and our passion – otherwise we would have chosen a different line of work. We have only a finite amount of time to make the world better than we found it, and the time to start doing so is now!

So, what’s happening with the YLD? Recently, we assembled the Bar Exam Survival Kits for the February bar exam. The Bar Exam Survival Kits have become a brand for the YLD, and serve as a small blessing to those who courageously sat for the exam. Best of luck to all of the test takers, and we look forward to welcoming those who passed into the association.

The Oklahoma delegation for the ABA YLD attended the ABA Midyear Meeting in Vancouver, Canada.

Our delegates also recently attended the YLD Assembly and voted on matters affecting the practice of law for Oklahoma young lawyers and young lawyers across the nation. We enjoyed collaborating with other young lawyers from around the country discussing the trends in the legal community and the future of our profession. The future is bright because of you!

With several big events behind us, planning for our YLD Midyear Meeting has begun.

TO ALL YOUNG LAWYERS (*i.e.* you folks practicing 10 years or less), you are invited and encouraged to come to the YLD Midyear Meeting held in conjunction with the OBA Solo & Small Firm Conference at the River Spirit Casino Resort in Tulsa June 21-23.

Have you made your summer plans yet? Do you and your family want to get away for a couple days? We all know that feeling...

Come spend a few days with us at the casino this summer. Bring the family, or better yet, leave the kids with family and you and your significant other can go on an outing and not even have to leave the state.

In addition to the wonderful programming planned for the conference, come enjoy one of the largest gaming floors in Oklahoma (if that’s your thing), or indulge in several dining and nightlife options including Ruth’s Chris or Jimmy Buffett’s Margaritaville Casino and Restaurant.

If you are not yet convinced to attend, here are three more reasons why you should attend.

1. Collaboration: Rarely in your day-to-day routine is there an opportunity to meet and get to know lawyers from across the state, while enjoying fantastic CLE and getting away from the office! Yes. Getting away from the office!
2. Discount pricing: What's the cost? Early-bird pricing for the event is \$200 if you register on or before June 7. For those of you who have practiced two years or less, you will receive a discount and pay only \$125. See details in this issue of the *Oklahoma Bar Journal*. Reservations for rooms can be made with the River Spirit Casino at 888-748-3731. Be sure to mention you are with the OBA Solo & Small Firm Conference to get the discount rate.
3. Fun: Why else would you attend? I bet if the conference were boring you would not be interested. I have good news – the conference is far from boring. In addition to collaborating with lawyers from across the state and discounted pricing, fun is woven throughout the programming and planned events. Plans for

networking events at the casino and off-site locations are in the works, and you will not be disappointed!

Bonus reason: CLE! The CLE offering is targeted for young lawyers and for those entering into private practice. On Friday, there will be a “basics” track on the basics of divorce, jury trials, probate and guardianship cases. The focus is to help lawyers for their first time in any one of these areas.

As for the YLD Midyear Meeting, all young lawyers are

invited to attend. Our midyear meeting will occur Thursday, June 21. We will discuss the state of the YLD, plans for the last half of the year and begin focusing on the OBA Annual Meeting. I hope you take this opportunity for you and your practice and come join us in Tulsa this June.

Nathan 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.



Grant Kincannon, Mathew Sheets, Caroline Shaffer and Melanie Christians build survival kits for those who took the bar exam in February.

FOR YOUR INFORMATION

DIGITAL OKLAHOMA LEGAL DIRECTORY NOW AVAILABLE

The Oklahoma Legal Directory is now available online to all members at no additional cost. The directory provides contact information for federal, state and county officials, schools of law, members of the state Legislature, national and state associations, court personnel, Oklahoma attorneys and firms. It also includes a city and county list, descriptive information about the terms, rules and jurisdiction of state and local courts and expert and useful service references for attorneys. The digital version can be found at tinyurl.com/OKLegalDirectory.



CONNECT WITH THE OBA THROUGH SOCIAL MEDIA

Have you checked out the OBA Facebook page? It's a great way to get updates and information about upcoming events and the Oklahoma legal community. Like our page at www.facebook.com/OKBarAssociation and be sure to follow @OklahomaBar on Twitter and @OKBarAssociation on Instagram.

LHL DISCUSSION GROUP HOSTS APRIL MEETING

"Mindfulness/Relaxation/Stress Management" will be the topic of the April 5 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 onelife@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:

David Storey Barnes
OBA No. 528
1825 Hunters
Forest Dr.
Winston-Salem,
NC 27103-6632

Lance Wyrill Behnke
OBA No. 664
701 Fifth Ave.,
Ste. 6200
Seattle, WA 23294-
4129

Lawrence Eugene
Bonnell
OBA No. 10034
1436 SW Park Ave.,
Apt. #500
Portland, OR 97201

Ruth Ellen Grant
OBA No. 3534
620 26th Street S.E.
Paris, TX 75460

Lee D. Groeneveld
OBA No. 17871
102 Dolphin Terrace
Amarillo, TX 79118

Cornelius M.
Hayes III
OBA No. 32170
One Shoreline Plaza
800 N. Shoreline,
Ste. 800 S
Corpus Christi,
TX 78401

Richard Leopold
Hortstman
OBA No. 15071
1352 Wakefield Dr.
Houston, TX 77018

Melinda Jane Martin
OBA No. 5737
4656 Tuscana Drive
Sarasota, FL 34241

Linda Fay McCart
OBA No. 13315
405 N. Baldwin Street
Madison, WI 53703

Michael Orin Treinen
OBA No. 30833
Klatt, Augustine,
Treinen & Rastede
P.O. Box 2363
Waterloo, IA 50704-
2363

Anthony William
Villani
OBA No. 10505
9030 Devonshire Dr.
Dallas, TX 75209-2410

Denise Cotter Villani
OBA No. 10255
8117 Preston Rd.,
Ste. 500
Dallas, TX 75225

ON THE MOVE

Dru A. Prosser joined the Tulsa office of McAfee & Taft in the firm's litigation group. He will focus his practice on the representation of automakers and other leading manufacturers and distributors.

Kayce L. Gisinger of Oklahoma City has been promoted to director and shareholder at Phillips Murrah. She practices product liability, auto and trucking negligence, premises liability, medical malpractice, legal malpractice, employment law and insurance litigation. **Susan E. Bryant** joined the firm's Oklahoma City office where she practices in the firm's securities and private equity practice group as an of counsel attorney.

Joseph H. Bockock opened Bockock Law PLLC. The firm can be reached at 119 N. Robinson, Suite 320, Oklahoma City, 73102, or by phone at 405-602-1591.

D. Benham Kirk, Michael J. English and **Rebecca D. Bullard** have been named partners at

Doerner, Saunders, Daniel & Anderson LLP. Mr. Kirk practices commercial transactions and litigation in the firm's Oklahoma City Office. Mr. English practices commercial litigation in the firm's Oklahoma City office. Ms. Bullard practices labor and employment litigation in the firm's Tulsa office.

Alberto Franco opened a new office in Tulsa. The Law Office of Alberto Franco is located at 1408 S. Denver Ave., 74119. His new phone number is 918-629-6216. Mr. Franco will focus his practice on divorce, DUIs, criminal defense, personal injury and workers' compensation.

Daniel Carter and **Chris Warzecha** have been named partners at the Tulsa office of Conner & Winters. Mr. Carter practices in both litigation and transactional matters. Mr. Warzecha practices in the areas of civil, business and appellate litigation.

Jesse Gordon joined Farzaneh Law Firm. Mr. Gordon represents clients in immigration, criminal

and civil matters. Farzaneh Law Firm has moved to 1025 SW 4th Street, Suite 201, Moore, 73160. The firm can be reached at 405-528-2222.

Sammy Duncan and **J.P. Hill** have opened Duncan & Hill PLLC located at 1601 N. Blackwelder, Suite 6, Oklahoma City, 73106. The firm will focus in the areas of criminal defense and juvenile law.

Nick Thurman and **Jim Kaufman** joined the Oklahoma City-based law firm of Smith Simmons. Mr. Thurman joins the firm as an associate and will practice civil and domestic litigation. Mr. Kaufman joins the firm as of counsel and will practice business and civil litigation.

John P. Cannon opened Cannon Law PLLC, a firm focusing on criminal defense and family law. The firm can be reached at P.O. Box 30791, Edmond, 73003, by phone at 405-990-0774 or email at JPCannonLaw@yahoo.com.

KUDOS

Kenneth Stoner has been appointed as an Oklahoma County district judge. Mr. Stoner is a private practice attorney focusing on corporate, entertainment and criminal law.

Mike Turpen of Oklahoma City was awarded with the Aubrey McClendon Visionary Award for the Arts. The award honors those

who support the arts, understand the necessity of arts in creating a healthy community and encourage the integration of arts into all aspects of society.

Sara C. Miller of Tulsa has been selected as a member of the 2018 DirectWomen Board Institute class. The mission of DirectWomen is to promote women lawyers for

service on the boards of public companies.

Brad West of Shawnee has been named president of the Oklahoma Chapter of the American Board of Trial Advocates (ABOTA) for 2018. ABOTA's mission is to educate citizens about the importance of the trial by jury system in America.

AT THE PODIUM

Jeff Curran of Oklahoma City spoke at the 2017 DRI Annual Meeting in Chicago to the DRI Product Liability Committee on “We’re Not in Kansas Anymore: Trying Cases in Unfamiliar Jurisdictions.”

Brandon Bickle of Tulsa spoke at the Oklahoma Bankers Association’s Consumer Lending School about general bankruptcy matters.

Sid Swinson of Tulsa spoke at a seminar co-sponsored by the OBA Health Law and OBA Bankruptcy and Reorganization sections, titled: “Developments in Rural Health Care That Every Practitioner Needs to Know.”

Lloyd Landreth of Tulsa was on a Vapor Intrusion Panel for the American College of Environmental Lawyers.

Chris Thrutchley and **Lauren Oldham** of Tulsa presented at a National Business Institute seminar on “HR Law: Recruiting and Hiring.”

Tom C. Vincent II of Tulsa presented a two-part series to

the Tulsa County Bar Association on “How Attorneys Can Protect Themselves Against Cyber Insecurity” and “How to Respond to a Data Breach.” Mr. Vincent also presented to TU on career opportunities in cybersecurity law.

Derrick DeWitt of Oklahoma City spoke at The Gavel’s annual national conference in Boca Raton, Florida. Mr. DeWitt spoke about the investigation, evaluation and defense of traumatic brain injury cases.

Mark D. Christiansen of Oklahoma City spoke at the 69th Annual Oil & Gas Law Conference held in Houston in February. He was on a panel to discuss the latest trends in oil and gas class action royalty lawsuits.

Janie Simms Hipp of Fayetteville, Arkansas, offered testimony before the Senate Committee on Indian Affairs (SCIA) during their oversight hearing and roundtable. Ms. Hipp also offered testimony at the Expert Group Meeting on Sustainable Development in the Territories of Indigenous Peoples at the UN Headquarters in New York City.

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 May issue must be received by April 2.

IN MEMORIAM

Richard Barnes of San Francisco died Dec. 29, 2017. He was born Nov. 16, 1939, in Bartlesville. He was a graduate of College High School in Bartlesville. In 1964, he graduated from the OU College of Law. During his legal career, Mr. Barnes worked for Texas Eastern Transmission, Haliburton, William Pipeline Co., Kothe, Nichols and Wolfe, Hall Estill and as a solo practitioner. He was instrumental in passing Oklahoma's clean indoor air policy that eliminated smoking in the workplace in 2003. He continued his anti-tobacco mission by moving to San Francisco to join the Center for Tobacco Control, Research and Education. He enjoyed traveling and theatre. He was also a long-time member of La-Chaine-des-Rotisseurs, a society for gourmet "foodies." Donations in his honor may be made to the Oklahoma Chapter of the American Lung Association.

Loutitia Denison Eason of Oklahoma City died Jan. 9. She was born Dec. 12, 1945, in Broken Arrow. She earned a Bachelor of Science and Master of Science in microbiology from OU. In 1979, Ms. Eason earned her J.D. from the OU College of Law. After being admitted to the bar, she worked for the Oklahoma Department of Securities. In 1983, she entered into private practice where she practiced securities and public trust law. She later served as general counsel for the Oklahoma Housing Finance Agency. In 2002, Ms. Eason became the chancellor of the Catholic Archdiocese of Oklahoma City. She served in that capacity until her retirement in

July 2017. Donations in her honor may be made to the Catholic Foundation of Oklahoma, Eason Family Endowment Fund, P.O. Box 32180, Oklahoma City, 73123.

Carolyn Joan Furr of Oklahoma City died Jan. 25. She was born Sept. 19, 1946, in Farris. She received her bachelor's degree from Northwestern State University. Ms. Furr received her Master of Art from OU and her J.D. from the OCU School of Law. Prior to becoming an attorney, she taught history, government and language arts at Tuttle and Norman public schools. She maintained a private practice in Watonga prior to working for the Oklahoma state government, first at the Oklahoma Criminal Justice Resource Center and later at the Oklahoma State Bureau of Investigations. She received the Medal of Service Award during her period of service at the Oklahoma State Bureau of Investigation. Ms. Furr loved movies, musicals and literature from around the world.

Denzil Garrison of Bartlesville died Jan. 15. He was born Nov. 20, 1926, in Norman. **He served in World War II and the Korean War. Mr. Garrison then served in the Oklahoma Army National Guard and the Reserves.** He earned his undergraduate degree at OU where he was a member of Beta Theta Pi fraternity. In 1953, he earned his J.D. from the OU College of Law. He entered private practice in Bartlesville with Garrison, Brown and Carlson and became Washington County attorney in 1955. Mr. Garrison served as representative

for Washington County in the Oklahoma State House of Representatives from 1957 until 1960. In 1960, he was elected to the state Senate and held the position of minority leader until 1974. After leaving the Senate he served as legislative liaison to Gov. David Boren. He enjoyed history, genealogy, reading, writing and supporting the Sooners.

Helen Marie Gigger of Oklahoma City died Jan. 4. She was born Dec. 24, 1944, in Houston. She attended Frederick Douglas Elementary and James D. Ryan Junior High. In 1961, Ms. Gigger graduated from Jack Yates Senior High School in Houston. She received her bachelor's degree from the Texas Southern University and her J.D. from the Thurgood Marshall School of Law. She was a member of the Divine Nine Delta Sigma Theta Sorority. Ms. Gigger served in several leadership capacities with the sorority on a local and national level. She worked for the City of Oklahoma City for 37 years as an attorney and department head.

John William Harker of Tulsa died Aug. 7, 2017. He was born June 30, 1960. He received his J.D. from the TU College of Law in 1991. Mr. Harker practiced immigration law providing family and business immigration services to clients from around the world. He was an active participant in the American Immigration Lawyers Association. Mr. Harker regularly volunteered with TARC, a Tulsa-based advocacy group for persons with developmental disabilities. He enjoyed sailing, traveling, hiking, skiing, cooking,

fine dining and reading. Memorial contributions may be made to TARC, organizations that advocate for immigrant rights or to a charity of your choice.

William Walter Hentz of Dallas died June 21, 2013. He was born Jan. 6, 1915, in Oklahoma City. **He served in the U.S. Army and was stationed in London during WWII.** After WWII, he went back to college and graduated from the OU College of Law in 1948. He practiced law in Oklahoma City for many years but moved to Dallas in the early 1970's when he was appointed as federal judge. He enjoyed this position immensely and did not retire until well into his 70's. After retirement, he continued to improve his golf game. He also loved to garden and spend time outdoors.

H. Dale Jordan of Oklahoma City died May 22, 2017. He was born March 5, 1916, in Jenks. He earned his bachelor's degree in engineering from OU. **Mr. Jordan enlisted in the Army Air Corp at the beginning of WWII. He remained in the Air Force Reserve and was called again to active duty during the Korean War.** He returned to Oklahoma City and earned his J.D. from the OU College of Law. After practicing law for many years, he co-founded Frigiquip Corporation and began manufacturing car air conditioners. Mr. Jordan later founded Southwest Factories Inc. He enjoyed golf and Sooner football. He was a long-standing member of the First Presbyterian Church in Oklahoma City and the Oklahoma City Golf and Country Club.

Norman A. Lamb of Enid died Jan. 5. He was born Feb. 27, 1935, in Canute. He graduated

from Enid High School where he later worked as a coach and teacher. Mr. Lamb received his undergraduate degree from OU. In 1953, he earned his J.D. from the OU College of Law. He served as a county attorney in Chickasha, city attorney in Oklahoma City, chief prosecutor for Garfield County and state senator for several counties in north west Oklahoma. During his legislative and public service career, Mr. Lamb worked closely with more than six governors. He was appointed and served as secretary of veterans' affairs for Govs. Frank Keating and Brad Henry. **He served in the U.S. Army and the Army Reserves.** Donations in his honor can be made to the Baptist General Convention of Oklahoma.

Mark Leblang of Tulsa died Jan. 2. He was born Jan. 4, 1953, in Fort Dix, New Jersey. He graduated with a bachelor's degree from Syracuse University in 1975. In 1977, he earned his J.D. from the TU College of Law. He practiced law as an immigration attorney until his retirement in 2010. He enjoyed playing bridge, collecting stamps, playing internet games and watching science fiction and superhero movies. He also enjoyed family vacations to Disney World and the East Coast. Memorial donations can be made to Korengold AMN Research Fund, 24 Oxbox Rd. Wayland, MD 01778.

Gary Lewis of Tulsa died Jan. 17. He was born Aug. 3, 1943, in Muskogee. He attended Edison Preparatory School where he excelled as a left-handed pitcher. Upon graduating high school, he signed with the New York Yankees where he played in the minor leagues for five years. Due to his ardent love of the Yankees,

he chose to play for them in the minors rather than pursue major league offers. While playing for the Yankees he attended OSU, earning a degree in finance. He subsequently earned a J.D. from the TU College of Law by attending law school at night while working at Cities Service by day. As an international tax attorney, he served as tax director for Parker Drilling.

James N. Khourie of Santa Rosa, California, died Jan. 22. He was born Oct. 21, 1930, in Boynton. He received his undergraduate degree from Northeastern State University in Tahlequah and a J.D. from the OU College of Law. **Mr. Khourie served in the U.S. Air Force.** As an attorney, he worked to protect civil rights, preserve the Illinois River and stop the Black Fox nuclear power plant lawsuits. He enjoyed poetry and writing.

Jerry D. Kirk of Moss Bluff, Louisiana, died Sept. 26, 2015. He was born Nov. 9, 1936, in Sand Springs. He received his bachelor's degree from McNeese State College. In 1960, he received his J.D. from the OU College of Law. **Mr. Kirk then served four years in the U.S. Army as a captain in the JAG Corps.** He opened his own law firm in Lake Charles, Louisiana, and retired in 2014. He built and operated Dove Creek Mobile Home Park. He attended Sale Street Baptist Church and served as the president of the Boys and Girls Village for a number of years. Mr. Kirk was an artist and enjoyed painting and telling jokes.

Lewis Groves Mosburg Jr. of Oklahoma City died Dec. 21, 2017. He was born March 2, 1933, in Tulsa. He graduated from OU with a bachelor's degree

in political science. He was a member of Sigma Chi fraternity and the Pride of Oklahoma Marching Band. In 1956, Mr. Mosburg received his LL.B from the OU College of Law. He was inducted into Phi Beta Kappa and Order of the Coif while at OU.

He began his law career as staff attorney for Stanolind Oil Co. before entering private practice in 1958. He was a frequent lecturer and an accomplished writer. He authored or edited over 50 books.

Lewis was a member of the Army Reserve, attaining the rank of major.

Cecil E. Munn Jr. of Fort Worth, Texas, died Nov. 18, 2011. He was born Aug. 8, 1923, in Enid. He was a graduate of OU, where he was a member of Phi Delta Theta fraternity. He received his J.D. from Harvard Law School. He began his practice in 1947 in private practice and later joined the law department of Champlin Petroleum, where he became vice president, general counsel and director of the corporation. In 1960, Mr. Munn joined the Fort Worth firm of Cantey & Hanger as partner. He was an active member of the American Bar Association, serving from 1970 to 1971 as national chairman of the Natural Resources Law Section. He was also a Fellow in the American College of Trial Lawyers.

Githen K. Rhoads of Lawton died June 5, 2017. He was born Dec. 8, 1920, in Mesilla Park, New Mexico. He attended Cache High School, Cameron College and OU. **Having joined the Army Air Corps in 1941, he spent time in the British Isles, North Africa, Sicily, Sardinia, Italy, France, Belgium and Germany. Following active service, Col. Rhoads served in the Air Force Reserve until**

his retirement. After earning his J.D. from the OU College of Law in 1948, he served as Comanche County attorney and as an Oklahoma state representative. Mr. Rhoads practiced law for more than 50 years in Lawton.

Jason Roselius of Oklahoma City died Jan. 4. He was born May 11, 1969, in Amarillo, Texas. He graduated from Panhandle High School in 1987, West Texas State University in 1991 and received his J.D. from the OU College of Law in 1995. He was a member of the Oklahoma County Bar Association and the Arkansas Bar Association. Mr. Roselius' practice focused on personal injury and wrongful death. He was also a businessman and entrepreneur. He enjoyed hunting, fishing, paddle boarding, surfing and skiing. He was an avid reader with a passion for history. Memorial donations may be made to the Juvenile Diabetes Research Foundation, Dallas Chapter 9400 N. Central Expressway #1201 Dallas, Texas 75231.

James Andrew Simms of Tahlequah died Dec. 31, 2017. He was born Oct. 18, 1980, in Lander, Wyoming. He received his undergraduate degree from OSU in 2003. In 2006, he graduated from the OU College of Law. After passing the bar, Mr. Simms practiced law in Tahlequah and in 2017 he moved to Dallas to work with Brashier and Crosby PLLC. He focused his practice on rendering oil and gas title opinions.

Raymond Kenneth Stafford of Lenexa, Kansas, died March 23, 2014. He was born Sept. 7, 1925, in Wichita, Kansas. **In 1943, he joined the U.S. Navy, serving in the South Pacific during**

WWII. In 1954, he received a bachelor's degree in business administration from TU. After graduating and starting his career as a CPA, he worked for Coopers & Lybrand accounting firm in Tulsa. He received his J.D. from the TU College of Law in 1958. Mr. Stafford accepted a position with Hess Oil Co. in 1960 and moved to Mississippi, New Jersey and later New York. He retired in 1990 as senior vice president of finance. For the next 10 years he worked on the Marine Preservation Association board to establish emergency clean-up facilities in the major shipping ports of the continental United States.

Harley E. Venters of Oklahoma City died Jan. 15. He was born Nov. 12, 1922, in Fox. He was a cadet pilot before graduating West Point in 1946. Mr. Venters earned his J.D. from the OCU School of Law in 1953. After passing the bar, he was elected as Carter County attorney. In 1955, he was elected as a state representative. In 1960, he became a judge. After years in public service he ran a private practice for the next 40 years. He was active in his community and was one of the founding members of The Interfaith Alliance of Oklahoma. The Harley E. Venters Award for Philanthropy was created in his honor. He enjoyed ranching and cows. Memorial donations may be made to Real Rescue Inc., P.O. Box 358, Arcadia, 73007.

Calm Clients' Anxiety About Testifying

Testifying can be a frightening thing. No matter how much you think you have prepared your client, they can still arrive nervous and answer questions inconsistently. Here are five ways to help calm your clients' anxiety about testifying.

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St. Patrick's Day in Oklahoma

St. Patrick's Day is a time to wear all your green clothes and celebrate the luck of the Irish. No matter what you are looking for, Oklahoma has a St. Patrick's Day celebration for you! TravelOK provides a list of Oklahoma's top Irish pubs, restaurants, parades and festivals.

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Prepare for a Happy Retirement

Whether you are in your 20s or 60s, it is never too late to start thinking about retirement and preparing for your future. Thinking in advance about life after your career will help ease the transition. Start today and lay the groundwork for your retirement!

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Four Truths About Time Management

Time management is an important skill for lawyers to have, yet most lawyers say yes to too many things, think they can do it all and don't acknowledge their weaknesses. If you want to learn to manage your time you'll need to adopt these four truths.

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

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

EDMOND/OKCLAW FIRM SEEKS TITLE ATTORNEY. Experience with Oklahoma title and HBP title preferred. Please submit cover letter, resume and references to Bcato@dcslawfirm.com.

PROGRESSIVE, OUTSIDE-THE-BOX THINKING BOUTIQUE DEFENSE LITIGATION FIRM seeks a nurse/paralegal with experience in medical malpractice and nursing home litigation support. Nursing degree and practical nursing care experience a must. Please send resume and salary requirements to edmison@berryfirm.com.

EDMOND FIRM SEEKING OIL AND GAS TITLE ATTORNEY. Prefer 3+ years' experience rendering Oklahoma title opinions. Pay commensurate with experience. Please send resume and example title opinion to edmondattorney@gmail.com.

OKC AV RATED LAW FIRM SEEKS LITIGATION ATTORNEY with 10–20 years' experience, preferably oil and gas related. Superior writing, case management and communication skills required. Salary commensurate with experience. Send cover letter, resume and writing sample to "Box K," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

POSITIONS AVAILABLE

CONNER & WINTERS, a regional full-service firm, seeks associate attorneys with 1 to 5 years of experience for full-time litigation or corporate transaction positions in Oklahoma City. The ideal candidate will possess excellent legal writing and research skills, a willingness to work closely with senior attorneys while independently taking responsibility for challenging projects and cases in a variety of industries. These positions will be part of dynamic teams responsible for complex cases or transactions involving unique and strategic client issues in multiple states. Creativity and a strong academic background will contribute to the teams' analysis and implementation of critical key solutions in major cases and transactions. These partnership track positions are immediately available and provide top of the market compensation and benefits. Applicants should submit resume, law school transcript and writing sample under cover letter to "Recruiting Coordinator" via email to OKCRecruiting@cwlaw.com. All applications are confidential.

GIBBS, ARMSTRONG, BOROCHOFF, P.C. SEEKS AN ASSOCIATE ATTORNEY in its Tulsa office. Ideal candidate will have 3-7 years of experience in civil litigation, with a preference for experience in the areas of insurance defense or medical malpractice. Send cover letter, resume and writing sample to pbeck@gablawyers.com.

THE DEPARTMENT OF HUMAN SERVICES, Legal Services, is seeking recently licensed applicants (0-3 years) for an assistant general counsel I position housed in Oklahoma City. The ideal applicant must have an interest in civil litigation, focusing on civil rights, tort and employment law in state and federal court (at both district and appellate court levels). The duties of this litigation position require effective writing and communication skills to provide legal representation and advice affecting the largest state governmental agency. The chosen candidate must be highly organized and ready to step in to assist with ongoing cases in various stages of litigation and involving a variety of legal issues. Salary is based on qualifications and experience. Excellent state benefits. Send resume, references and a recent writing sample (less than one year old) to JudithJudi.Abrams@okdhs.org or mailed to Judi Abrams, Operations Manager, Office of General Counsel, Dept. of Human Services, P.O. Box 25352, Oklahoma City, OK 73125-0352.

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SEEKING OIL & GAS TITLE ATTORNEY IN OKLAHOMA CITY to prepare complex oil and gas title opinions on a contract hourly basis. Oklahoma HBP experience preferred. Hourly rate negotiable and dependent upon experience. Please send resume to OklahomaTitleOpinions@gmail.com.

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THE UNIVERSITY OF TULSA COLLEGE OF LAW INVITES APPLICANTS for one full-time entry-level assistant professor of legal writing position beginning in August 2018. <https://utulsa.edu/about/working-at-tu/available-positions/assistant-professor-legal-writing-college-law/>.

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

METRO AREA LAW FIRM seeking ASSOCIATE CRIMINAL DEFENSE ATTORNEY and ASSOCIATE FAMILY LAW ATTORNEY. Qualified candidates will have 1 to 3 years of experience in criminal law and/or family law. ADA experience or internship is a plus. Health insurance and 401K benefits available immediately. Please send resume to office@ballmorselow.com.

OKLAHOMA CITY AV RATED MEDICAL MALPRACTICE and insurance defense firm seeks an associate attorney with zero to three years' experience. Candidate must be highly motivated, possess the ability, experience and confidence to appear in court for motion hearings and trial. Position requires strong communication, research and writing skills. Competitive benefits and compensation package will be commensurate with experience. All replies are kept in strict confidence. Applicants should submit resume, cover letter and writing sample to emcpheters@johnsonhanan.com.

ESTABLISHED OKLAHOMA CITY LAW FIRM SEEKS AN OF COUNSEL or office share arrangement with an attorney or attorneys with a minimum of 5 years of experience. The firm's current practice concentrates primarily on general and business litigation and real estate. Resumes should be sent to "Box QQ," Oklahoma Bar Association, P.O. Box 53036, Oklahoma City, OK 73152.

OKLAHOMA CITY LAW FIRM SEEKS AN ASSOCIATE ATTORNEY with at least four years litigation experience to assist with business transactions, employment law matters and litigation. Must be self-motivated, organized and able to handle caseload independently. Strong analytical writing and oral advocacy skills are required. Resumes should be sent to Cheek & Falcone PLLC, Attn: Angela Hladik, 6301 Waterford Blvd., Suite 320, Oklahoma City, OK 73118 or ahladik@cheekfalcone.com. All applications will remain confidential.

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Piñatas and Poor Choices

By Stefan A. Mecke

My wife and I recently traveled to Fort Worth, Texas, to attend a rodeo and celebrate our son's birthday. On the day of the party, we slipped away from our family and roamed the area on foot looking for party supplies and treats. We were almost breathless when we saw the perfect piñata. We couldn't believe our good fortune. We quickly purchased the piñata and all the candy and small toys we could carry to fill it.

We scouted out a beautiful outdoor area, hung the piñata and informed our boy and his cousins to join us just before the city of Fort Worth would entertain us with an epic fireworks display. While waiting, my wife and I looked at each other with the kind of adoration parents do when they have really hit a home run for their kids. Yes, we had done it again ... or had we? We had planned a perfect party and executed on that plan ... we had thought of everything ... or so we thought.

While waiting on the kids, two cowboys approached the area on horseback. This was not entirely unexpected as we were in the Fort Worth Stockyards area that hosted daily cattle drives down the streets and featured several photo opportunities with cattle and horses. What was unexpected is what happened next.

The pair slowly trotted toward the tree prepped with our piñata.

I yelled over to the pair to prevent any confusion and informed them the piñata was spoken for. One cowboy lifted the piñata from the tree and hoisted it on the back of his horse and slowly backed away from the tree. As I ran after the pair, my wife darted passed me (in her flip-flops) in pursuit of the desperate desperados who ultimately galloped to freedom, with our little boy's piñata in tow.

Within minutes the kids arrived for the piñata party and questioned what had happened to their piñata. The kids were all decked out in cowboy hats and boots they had purchased at the local stores, and I was not sure what I would say to the excited bunch that had been waiting

all day for the highly coveted piñata party. My wife instantly and articulately summarized the events for the children, "Some bad boys made some bad choices."

Our legal profession gives us the opportunity and responsibility to help those who find themselves in situations where they have made bad choices and to assist those who have been negatively impacted by them. Regardless of our legal practice areas, we are all called upon to help individuals and companies navigate through bad situations that are often as unexpected, bizarre, confusing and emotionally charged as the foiled piñata party.

Mr. Mecke practices in Tulsa.



FIRST ANNUAL SPRING ELDER LAW CONFERENCE

OF THE OKLAHOMA
CHAPTER OF NAELA
(National Academy of
Elder Law Attorneys)



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 the 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.

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

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.



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