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THE OKLAHOMA BAR Journal

Volume 90 — No. 5 — May 2019

Technology

A close-up, shallow depth-of-field photograph of a desk. In the foreground, a stack of three smartphones is visible, with the top one being a silver iPhone. Behind it, a laptop is open, and a pair of black-rimmed glasses rests on its surface. The background is softly blurred, showing more of the desk and a hint of a chair.

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MCLE CREDIT 2/2

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THE OKLAHOMA BAR Journal

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Living a 'Four Square' Life

By Charles W. Chesnut

WHEN I WAS GROWING UP in Miami, there was a businessman who enjoyed giving away books. One day he invited me to his office. When I arrived, he gave me a book by a man named William Danforth, the founder of Ralston Purina. The name of the book I remember was *I Dare You*.

That company's checkerboard logo we know today actually relates to the principles of this book that espoused his personal philosophy, the "four square" life. He believed that each person has not one but four lives to live: physical, mental, social and spiritual. "The ingredients for life are a body, a brain, a heart and a soul," Danforth would say. "All four must grow in balance with each other."

I think we can all look back at our lives and see where certain events have had a lasting impact. That book had a lasting impact on me.

We live in a time where there is much discussion about "wellness," especially in the legal profession. It's a topic of conversation because we, as attorneys, are a profession where chronic stress exists which often results in high rates of depression and substance abuse.

That certainly impacts our ability to practice law and affects our competence.

It's easy to let the demand of the practice of law crowd out a healthy balance of living; and yet our lives are infinitely better when we allow ourselves time for fresh air and sunlight, physical exercise, intellectual stimulation, social time with friends and attention to the spiritual side of our lives.

It's a goal of many to be successful in our lives. The definition of success is going to be different for each person. For me, one of my goals was to have a successful, busy law practice. Unfortunately, at times I was so busy and so "successful"

that my life got off course. As a result, I became extremely stressed and very unhappy.

It required some major work within me to get back to a "four square" life. I think my story is legion.

Attorney wellness is really just individual wellness. It is an active process of becoming aware and making choices toward a healthy and fulfilling life. It is a dynamic process that embraces change and growth.

The Oklahoma Bar Association is working on programming that promotes wellness in the practice of law. It would be nice to shift our culture toward one that makes well-being in all its aspects a priority among practitioners.

We'd love to have your input and your participation. Contact me if you'd like to be a part of this.

It's easy to let the demand of the practice of law crowd out a healthy balance of living; and yet our lives are infinitely better when we allow ourselves time for fresh air and sunlight, physical exercise, intellectual stimulation, social time with friends and attention to the spiritual side of our lives.



A handwritten signature in black ink that reads "Chuck".

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Text Messaging for Lawyers

By Jim Calloway

TEXT MESSAGING (OR TEXTING) is one of the technology advances that has impacted how most people interact with each other. Like many consumer technology tools, texting can be a time waster, but sometimes it is the absolute perfect tool. When you're running late for a social meeting, a quick text of "OTW" or "B there in 5 min" relieves stress for both parties.

My personal opinion on text messaging for lawyers has evolved over the years from "Avoid it. Too hard to document. Who knows about security?" to "Well, everyone is doing it, so you have to manage it somehow" to "Emerging texting tools make this a much better communication tool."

Like so many technology-based tools, today's lawyer has to deal with text messaging. So, let's discuss how lawyers and law firms can deal with texting.

There are a lot of positives to text messaging as a business tool. It's easy. It's personal. It's immediate. There's an extremely strong likelihood the recipient reads your communication.

The negatives are the other side of the same features. Because texting is so easy and immediate, it is often intrusive. Most lawyers are now well-versed in dealing with email on their smartphones, but the buzz or ping of an incoming text is a greater interruption than deciding to check your email. Some clients may use text messages to their lawyer in an inappropriate way that negatively impacts the lawyer's life.

So, before we get into some more important technical aspects of text messaging for lawyers (and

a really nice texting tool or two), we should appreciate that text messaging is a very limited communications method. It works great for letting someone know you're running five minutes late for your luncheon meeting or passing on a quick congratulations or kudos to someone.

Think of the most distracted time you have ever received a text message. By now most of us have received a text message, quickly glanced at it and only later figured out we misunderstood the message, or it was from a different person with the same first name. With text messages there is a risk you are advising your client in a bowling alley, a bar or on a first date.

As convenient as texting is, it is very limited and is a poor tool for almost every complex legal discussion. One needs to learn to use the medium's strengths and to avoid its weaknesses. That means lawyers will sometimes be forced to decline or defer some text message conversations, but our ethical guidelines indicate we must respond to client inquiries. Here are some suggestions for a polite but clear response:

- That's too complicated to discuss via text message. Call my office to schedule an appointment.
- That's an important strategic decision. We need to discuss in person.

The above examples may sound like you are putting off your client, and while that is true to some extent, it provides the immediate responsiveness many clients crave today without the potential problem of discussing complicated matters via a channel that tends to dangerously oversimplify complex communication.

Certain areas of substantive law, like possible mergers or acquisitions or other topics related to securities law, likely mean your text messages should be friendly but very limited in scope. In fact, you probably need to discuss this challenge with new clients during the engagement process.

With a criminal defense engagement, I suggest you explain to the client that texting should be limited to scheduling and appointments. A good way to phrase it may be to say, "Never discuss what happened that caused you to be arrested with anyone besides

- No. Don't do that! Call me to discuss why.

Phone lock codes are not required by the Oklahoma Rules of Professional Conduct, but common sense dictates that a lawyer should set up the lock code so someone cannot pick up their phone and use it, especially if there is any client information on the phone.

your lawyer. Even discussing those events with me should be in person or on the phone – never by text message or email. People go to jail for writing out confessions on electronic devices.” With a defense matter, I am most concerned about the message residing on the client’s phone than an interception. People tend to handle their phones very casually, sometimes sharing their lock codes, and some people do snoop through other’s personal business on a phone if they have the opportunity.

Let’s be clear. Despite the concerns noted above, almost all lawyers are texting now and almost all lawyers have more business-related text messages in their future. The tool is powerful and ubiquitous.

Lawyers, due to our cautious natures and training, might be less likely to commit text messaging errors than most of our clients. It is incumbent with each new client engagement that the lawyer takes the time to discuss all possible challenges with all forms of digital communication including text messaging and email.

ARE TEXT MESSAGES SECURE?

The original and very common format of text messages is SMS (short message service). These are not encrypted and theoretically could be intercepted. Your mobile carrier retains SMS records including the metadata of who you texted. One of Edward Snowden’s exposures of U.S. intelligence operations was that the national security agency collected this data.

Is email more secure than SMS? You can read contradictory opinions on this, but I believe that SMS text messages are more secure than emails for a variety of reasons, including that email is currently a more common target for attack and many emails are often stored locally on several different devices. Email messages tend to contain more information that is valuable for wrongdoers as well. Just for the record, being more secure than unencrypted email is faint praise.

Lawyers seeking a truly secure option need to understand encrypted text messaging.

Before we move on, it is important to note that phone security is compromised when someone else has access to your phone and

access code. So, handing your phone to someone after unlocking it means you are confident they will only access what you intended. This may be a judgment on the person’s integrity or just paying attention as they use your phone, but being a lawyer is now a good reason to decline to let your phone out of your possession. If you’re going to frequently text clients, then the message preview feature of your phone should also be set so the content of the messages is not displayed on the lock screen.

Phone lock codes are not required by the Oklahoma Rules of Professional Conduct, but common sense dictates that a lawyer should set up the lock code so someone cannot pick up their phone and use it, especially if there is any client information on the phone.

iPhone texting is more secure than SMS. This is because of iMessage encryption, which means it only applies to messaging between iPhones, iPads and Macs. As I have noted before, encryption is demonstrated by the “blue bubble” in iMessage where the “green bubble” means it was not encrypted, normally because it was not

received by an “i device.” It is true that a device being off-line or on the edge of a cell tower may result in a message being stepped down to SMS and not being encrypted, so it is not 100 percent. Generally, these will be encrypted.

WHATSAPP AND SIGNAL: END-TO-END ENCRYPTION TOOLS

The great thing about end-to-end encryption tools is that they are strong, safe and secure.

The challenge is they only work if the person you wish to communicate with agrees to install and use the app for that particular tool.

WhatsApp is one such tool, and the company’s website carries a strong message about security, “From day one, we built WhatsApp to help you stay in touch with friends, share vital information during natural disasters, reconnect with separated families, or seek a better life. Some of your most personal moments are shared with WhatsApp, which is why we built end-to-end encryption into our app. When end-to-end encrypted, your messages, photos, videos, voice messages, documents, and calls are secured from falling into the wrong hands.”¹

As you can note, WhatsApp encrypts more than just text messages. WhatsApp is owned by Facebook, which will be a concern for some.

Signal Private Messenger is perhaps the best-known messaging encryption tool and can be used to send “group, text, voice, video, document, and picture messages anywhere in the world without SMS.”² It has been endorsed by some well-known security experts and privacy lawyers. *Wired* magazine published an article in late 2017 saying everyone should be using it.³ Again, the challenge is getting others to download and use the app. It is free to use, as is WhatsApp.

ENTERPRISE TEXTING

The best solution may be enterprise texting, a business tool that is not free but provides many useful features. I’m only going to cover ZipWhip. It is a leading tool, and the corporate offices let me test drive the service for a substantial time, so I could get a good idea of how it operates.

ZipWhip enables texting from your existing business phone number. It doesn’t use your business phone line but displays that number to those who receive a text message from the lawyer via ZipWhip. The reality of how people use communication tools today means that many of us do not want to widely share our mobile phone numbers. With ZipWhip you can install an app on your phone, so you can use ZipWhip to text from your phone as you normally would – but without sharing a mobile phone number.

The service gives you a text inbox that’s available online or in the various apps it supports. That addresses one of the other concerns with lawyers and text messaging – that the messages will not be appropriately saved in the client file. Those who follow the ZipWhip inbox can see all the text conversations that have taken place using the tool, and they can be easily saved to the client file.

Searching, scheduled messages, SMS, MMS and automatic text replies are just a few of the features available. Review all the features at www.zipwhip.com/features. Since those at the office who use ZipWhip can see all text message threads from all attorneys, some special training may be required for staff members who will use it.

Other tools in this class include Sendhub and TextMagic.

Here’s another commonly asked question about text messaging. Can I send a text message from my computer without subscribing to

one of these services? The answer is “Yes, by using a technique called Email-to-SMS Gateway.” Hong Dao of the Oregon State Bar Professional Liability Fund wrote about this on their blog. The link is bit.ly/emailtexts.

CONCLUSION

Like email, communicating by text message, aka texting, is likely going to be with us for a while. It is incredibly convenient and a time-saving tool, which is why it is so popular and widely used.

As is true of many things related to the legal representation of clients concerning their confidential business and private matters, we – as members of the legal profession – have to look beyond the convenience factor to ensure we are not compromising our clients’ interests or our own personal and professional interests by thoughtless use of text messaging communication by the lawyer *or* the clients.

ABOUT THE AUTHOR

Jim Calloway is the director of the OBA Management Assistance Program. He served as 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.

ENDNOTES

1. www.whatsapp.com/security.
2. <https://signal.org>.
3. “Ditch All Those Other Messaging Apps: Here’s Why You Should Use Signal,” *Wired* Magazine, Nov. 5, 2017, www.wired.com/story/ditch-all-those-other-messaging-apps-heres-why-you-should-use-signal.

Is Virtual Reality the Future of Courtrooms?

By Ron Vaughn

VIRTUAL REALITY (VR) HAS MADE A SPLASH the last few years in the video and gaming markets. People can strap on an Oculus Rift or HTC Vive and feel like they're stepping into another reality. You can go on a roller coaster, swim with sharks or visit a haunted house. However, in the last few years VR has started to make its way into courtrooms as well.

Think about it...

What better way to take a juror back to the scene of a crime than to put a VR mask on their face and drop them right in the middle of a car accident or murder scene.

Folks who aren't familiar with VR might think it's like playing a video game or the graphics are equivalent to a game of Sonic the Hedgehog, but that's not the case. Jurors and other members of the courtroom are finding the visuals are crystal clear, the impact is almost like reality and people can see and feel exactly what it would be like to be at a particular scene.

Tech-savvy attorneys are using this to their advantage.

Clear back in 1992, a virtual reality presentation took jurors to the scene of a motorcycle accident and persuaded the jury that a motorcyclist had chosen to ride on dangerous terrain, and that Honda Motor Co. was not responsible for the accident.¹ But, it's come a long way since then!

Currently, the Bavarian State criminal office is using VR in the Nuremburg trials by creating a virtual reality version of the infamous Auschwitz concentration

camp.² Jurors get to literally walk around and see the horrendous environment, the terrible conditions and the thousands of innocent people that were put to death in gas chambers! That has the potential to literally change the outcome of a trial!

Marc Lamber and James Goodnow, with Lamber Goodnow in Phoenix, sum up the new opportunity well. "Virtual reality can do more than just transport jurors to the accident scene, it can put them in the car at 'impact.' The sense of 'presence' that VR provides has the potential to be a game changer in the practice of law," they said.

It can also be used to poke holes in the opposing team's arguments. Perhaps there is a key witness who is testifying they saw the entire accident from where they were standing. If you can take the jury back to the corner where the witness was standing and show them a tree was right in the way and there was no way the witness could have a clear view, that could really help your case ... don't you think?

Kenton Brice, a former trial lawyer and now director of technology innovation at the OU

College of Law, has been informing students and professionals alike about the various uses of VR in the courtroom.

"VR opens up discovery or evidence presentation to a limitless degree. Before we had poster boards, then we had PowerPoint; now we will have this 3D content that we actually import into a courtroom," he said. "We have been using photographs in the courtroom for years. It is the same idea. It is just wrapping your mind around this photo — instead of being flat, it is now textured."

WHAT IS THE DOWNSIDE OF VR IN THE COURTROOM?

One of the obvious problems surrounding the use of VR in a courtroom is the fact that depending on how the video or scene is designed, it can easily present a one-sided narrative, thereby giving the jury a biased perspective.

"Imagine recreating a murder scene. I could show you that murder scene from the perspective of the victim, or I could show you that murder scene from the perspective of the killer. And whichever way you see it is going



to give you a completely different perspective of that crime,” Damian Schofield, a professor of human computer interaction at the State University of New York, said.³

Essentially, that means if you can present your perspective better, you win. This is all dependent on whether the judge allows the VR re-creation into the courtroom of course.

WHAT DOES IT TAKE TO BRING VR TO THE COURTROOM?

Now we have you convinced of the value VR can bring to any court case, but that leads to more questions such as:

- How do you create virtual reality scenes?
- How does it work in the courtroom?
- How much is VR for your case?

Most law firms that are currently using VR are working with

experts to 3D scan the relevant environment, transfer it to wire frame and then build it out – based on the physical evidence.

The 3D experts then turn it over to accident reconstructionists, biomechanical engineers and other experts who can scientifically explain what happened at the scene of the accident or crime. They are the ones who can put together a final product that is ready for your jurors to experience in virtual reality.

However, it’s not as simple as making a VR presentation and showing up in the courtroom. Your VR experts will need to be prepared to testify in court regarding the accuracy of their models, and before that, the judge will decide if it can even enter the courtroom. Your experts will receive intense cross-examination from the opposing attorneys and will be subjected to quite the gauntlet before a headset is ever placed on a juror’s head.

Cost is a big factor as well!

Even though the cost for creating virtual reality scenes for the courtroom is inching its way down, it’s still a game of whoever has the deepest pockets wins. The cost for a digitized recreation of a scene will generally run in the six figures.

“We can make it look as realistic as you see in Hollywood, pretty much,” said Gregory “Frenchy” Hedon, digital strategist and content director at Kitchen Sink Studios. “Is it always necessary? Absolutely not. Is it costly? Absolutely yes.”⁴

However, it’s noteworthy to consider virtual reality as a cost saving tool compared to transporting the jury outside of the courtroom to the physical scene of an incident or crime.

SO, IS VIRTUAL REALITY WORTH YOUR TIME AS AN ATTORNEY?

It really comes down to the specific evidence you are trying to

The use of virtual reality for visualizations of mechanical or electrical systems in product liability or intellectual property cases could be particularly powerful tools for juror education and persuasion.

present to the jury. Sometimes taking them to the scene is valuable beyond measure, but other times, a simple chart or graph can do the trick and save lots of time and hassle – and present less opportunities for the opposing lawyers to pick holes in your evidence.

The answer is, there really isn't an answer. VR can be used in so many different ways, it's hard to broadly say when it's good and when it's bad. The use of virtual reality for visualizations of mechanical or electrical systems in product liability or intellectual property cases could be particularly powerful tools for juror education and persuasion. What about taking the jury inside the lungs of a mesothelioma patient?

Although the opportunities are there, if you factor in the costs and other drawbacks, it remains to be seen whether VR proves more effective than other methods of presentation.

The widespread use and overall adoption of VR will ultimately depend on whether it can be shown that no other media is as effective or "truthful" in showing the substantive aspects of the case. Looking into the future, VR will

no doubt continue to change how the legal profession tells stories. Will you be one of the early adaptors or not? It's definitely something to consider!

ABOUT THE AUTHOR

Ron Vaughn is a solutions specialist for EMSCO Solutions, a managed IT services company in Oklahoma City that provides technology services, including virtual reality, network security and cloud computing.

ENDNOTES

1. See Dunn, J. (1995), "Virtual Reality Evidence," *The 'Lectric Law Library*, Retrieved Dec. 28, 2018, www.lectlaw.com/files/lit04.htm (citing *Stephenson v. Honda Motors Ltd. of America* (Cal. Super. Case No. 81067, June 25, 1992)).
2. Cieslak, M. (2016), *Virtual Reality to aid Auschwitz war trials of concentration camp guards*, Retrieved Dec. 28, 2018, www.bbc.com/news/technology-38026007.
3. Varinsky, Dana. (2016), *Virtual reality is being used to recreate crime scenes in the courtroom*, Retrieved Dec. 28, 2018, www.businessinsider.com/virtual-reality-in-the-courtroom-2016-11.
4. Alba, A. (2017), *Virtual Reality Is Heading To The Courtroom*, Retrieved Dec. 28, 2018, www.vocativ.com/397353/virtual-reality-courtroom-trial/index.html.

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The Ethics of Using Cloud-Based Services and Products

By Darla Jackson and Kenton Brice

IN 2012, THE ABA'S HOUSE OF DELEGATES voted to amend Comment 8 to Model Rule 1.1 regarding competence to provide that to "... maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, including the benefits and risks associated with relevant technology ..."¹ Since the amendment, 36 states, including Oklahoma,² have adopted some form of Comment 8 or an equivalent³ and a great deal has been written and blogged about what technology competence really means.⁴

In writing about the adoption of the comment, OBA General Counsel Gina Hendryx has warned, "Maintaining competence may very well require knowledge of e-discovery, online filing, electronic document retention policies, etc."⁵ Another article opines that because of "... the recentness in most states' adoption of the duty of technological competence to Rule 1.1, few courts have had an opportunity to address this unique issue."⁶ While this may be true, advice provided by Ms. Hendryx suggests that businesses "today run on technology-based tools and most now depend on the communication provided by the internet ... The best advice is to pay attention to cyber ethics issues and try to behave reasonably. If you don't know about best practices, attend CLEs and read ..."⁷

Oklahoma is one of the few states that has had a technology-related case. In *State v. Oliver*,⁸ the Oklahoma Supreme Court publicly censured an attorney who failed to properly notify clients and the Oklahoma Supreme Court

that he had been suspended from practicing before the United States Bankruptcy Court for the Western District of Oklahoma. The respondent's suspension from practicing in the bankruptcy court resulted from his failure to gain competence in preparing and e-filing bankruptcy documents. The majority opinion characterized his conduct less harshly and encouraged him to "continue to improve his computer skills" or to hire an "adept administrative assistant" to perform tasks such as preparing pleadings.⁹ In contrast, the dissent noted that the evidence did not suggest that "... Respondent will represent future clients with any more competence than he displayed in his bankruptcy practice, and find his lack of candor and blatant disregard for the Bankruptcy Court's orders disturbing." As a result, the dissenting justices would have suspended the attorney for two years and one day.¹⁰

While *Oliver* may be an extreme case and the proceedings were based on the attorney's failure to report his suspension and not a

failure to maintain technology competency, it does provide an example of the potential for disciplinary proceedings resulting from failure to maintain technology competence.¹¹ Mr. Oliver's initial disciplinary woes, however, were not the result of a failure to appreciate the risks of using a web-based technology e-filing system but were based, in part, on his failure to appreciate the benefits of e-filing and to then acquire the skill necessary to take advantage of the web-based system.

Since the ABA adopted the now infamous Comment 8 to Model Rule 1.1, most writers and commentators have been sounding the warning: attorneys must understand the risks associated with the relevant use of technology to stay competent. While understanding the risk of utilizing technology (or not using technology) is a key-stone to an attorney's competence, little has been written about an attorney's competence in understanding the benefits of relevant technology. The hope is that this



article will encourage attorneys to view their ethical duty of technology competency in a more positive way by helping lay a framework for how understanding various cloud-based services and products can benefit an attorney's practice, and hopefully, their capabilities in representing their clients.

HOW TO UNDERSTAND THE RISK OF EMPLOYING CLOUD-BASED TECHNOLOGIES

Before moving forward, however, there are some resources for attorneys to aid the evaluation of cloud-based services and feel more confident in employing these services. The first is the Legal Cloud Computing Association, a group of "legal cloud computing companies" that created a formal set of security standards "intended to help lawyers, bar associations, law societies, and cloud computing companies agree on what 'reasonable care' means in a cloud computing world."¹² The 21 standards are grouped into five sections: scope, physical and environmental measures, data integrity measures, users and access control and terms of service and privacy policy. While not completely exhaustive of all aspects of security and privacy possibilities or concerns with cloud-based services, these standards are a helpful roadmap for attorneys who are concerned

about the security, confidentiality, ownership and access of the information stored or processed in the cloud. For example, Standard 15 states in part that “In general, all user information entered into a SaaS¹³ application should be treated as confidential, private information that cannot be used by the SaaS provider for any purposes other than support of system integrity and usability objectives. Furthermore, the SaaS provider should only be permitted to view any of your private information with users [sic] explicit consent.”¹⁴ By ensuring that any SaaS provider utilized by an attorney follows this standard, the attorney would arguably be satisfying their ethical responsibility under Rule 1.6(c) to ensure that they take reasonable efforts to prevent unauthorized access to client information.

LEVERAGING THE CLOUD FOR SENDING AND RECEIVING DOCUMENTS

After understanding and assessing the risk of SaaS providers and their offerings, the benefits of taking advantage of these services can be incredible. Attorneys can do more now than ever to communicate with clients, draft and share documents and even automate their work, all in a more secure and arguably ethical environment. Online file-sharing and client portals are probably the most valuable SaaS services available to attorneys. Sending and receiving documents have always been part of a lawyer’s routine. From carrier pigeons¹⁵ to telegraphs and from fax machines to email,¹⁶ innovative technologies have always persisted in providing faster, more efficient and more confidential means of sending documents. Client portals and online file sharing are continuing this trend and should begin replacing fax machines and email as the preferred

method of sending documents to third parties. The reasons are clear: these services provide secure, traceable, fast and authenticated document transmission.

Much has been written about the security of online storage and requisite encryption and LCCA

services due to human error and not necessarily some nefarious coders sitting in a dimly lit basement.¹⁹

Human behavior can cause security breaches with any technology – have you ever sent a confidential fax to the wrong fax number? In

Client portals and online file sharing are continuing this trend and should begin replacing fax machines and email as the preferred method of sending documents to third parties. The reasons are clear: these services provide secure, traceable, fast and authenticated document transmission.

Standards 3 and 5 specifically address these security issues. For the purposes of this article, just know that most commercially available file-sharing and client portal services provide robust security and encryption protocols. For instance, Citrix ShareFile provides from 128-bit to AES 256-bit encryption for documents in transit (depending on the web browser being used) and protects stored documents for U.S. clients using AES 256-bit encryption at SSAE 16 Type II (SOC 1) audited datacenters hosted by Amazon Web Services.¹⁷ In other words, documents are stored in well-protected physical and digital locations that no one can access unless they have the correct credentials, *i.e.*, a password or encryption keys.¹⁸ Furthermore, most hacks of cloud-based

fact, the structure and features of cloud-based services can actually alleviate most security breaches caused by human behavior, providing greater control over documents, audit capabilities and real-time collaborative abilities. Cloud-based services transform document sending to document sharing, with documents rarely being actually “transmitted” to another party. Instead, the owner of the document provides access to the document for viewing, copying or printing and the document never actually leaves the control of the originating party.

To accomplish this, documents must first be stored in a cloud-based system. Then, the owner of the document sends a hyperlink to the stored document (or folder containing the document) instead of the actual document itself,

providing enhanced access control and audit capabilities. When faxing, emailing or even mailing a document the sender loses control over that document once it has been sent. However, when using a cloud-based service and sending links to documents stored in the cloud, the sender retains complete control over the document. The recipient must access the document through the provided hyperlink and the document owner has the ability to receive notifications each and every time the document is accessed. Additionally, access to the document is recorded and the owner has an effective audit trail of who, when, where and how the document was accessed, including IP addresses, geo-locations and time-stamps of when the document was accessed.

The owner can also set a variety of access parameters and permissions for the document or the documents contained in a folder. For instance, Egnyte²⁰ provides multiple options for sharing links with external individuals: expiration of the link on a certain date or after a certain number of clicks, whether the individual can access the most recent version of the file or the original version of the document at the time the link was created, the various access levels (open, password protected, only those in the organization or a specific user), whether the document can be downloaded or printed and whether to receive notifications each time the link is clicked.²¹ These types of settings provide attorneys with more assurance their documents are not being accessed, copied or further shared with unauthorized persons. Try that with email or a fax machine!

Finally, client portals move cloud-based document sharing to another level. Client portals, whether part of a case or practice management system or

a standalone system, provide valuable features for constant contacts, such as clients or expert witnesses. First, they provide outside users with a dedicated portal they can access at any time. Documents can be uploaded into the portal, alleviating the need to create and email hyperlinks whenever a document is shared. Most systems allow for the outside user to receive an automatic email notification that a new document was uploaded, removing the need for the attorney to notify the client to check the portal. For clients, these portals can also provide other useful information, such as calendar events for their matter, billing records and contact information for assigned attorneys and staff.

Additionally, portals can provide outside users the ability to share documents with the attorney or firm in a secure environment. Instead of clients using email or fax, they can easily upload their sensitive documents to the portal. The attorney and any staff assigned to that matter would then receive an email notification and an alert in the system itself. Finally, client portals provide a quick and seamless method for attorneys to eliminate access to any documents that have been shared outside of the firm by removing a person's access to the portal.

E-DISCOVERY

As noted in a previous article on technology competence, “[s]ome courts have authored scathing reprimands of attorneys who have defended discovery misconduct with claims of computer illiteracy.”²² California’s Standing Committee on Professional Responsibility and Conduct issued an often-cited opinion in 2015 stating that an attorney’s “... obligations under the ethical duty of competence evolve as new technologies develop and become

integrated with the practice of law. Attorney competence related to litigation generally requires, among other things, and at a minimum, a basic understanding of, and facility with, issues relating to e-discovery, including the discovery of electronically stored information (“ESI”).”²³

An attorney who is competent in investigating a case should also be concerned with collecting data in such a way that it can be used as evidence in subsequent litigation. One of the key barriers to admission of potential social media evidence has been authentication. However, with the December 2017 implementation of Federal Rule of Evidence 902(14), there is a distinct advantage in using web-based technologies to not only discover social media evidence but to capture it through means that will facilitate authentication.

FRE 902(14) provides:

The following items of evidence are self-authenticating; they require no extrinsic evidence of authenticity in order to be admitted.

...

(14) Certified Data Copied from an Electronic Device, Storage Medium, or File. Data copied from an electronic device, storage medium, or file, if authenticated by a process of digital identification...

Printing a social media post would not qualify as “a process of digital identification,” but tools such as X1 Social Discovery,²⁴ SMI²⁵ and Page Vault²⁶ can not only assist with the discovery of potential social media evidence but also provide a process for digital identification (by the collection of metadata)²⁷ which would permit self-authentication with an affidavit from qualified individuals.

LEGAL RESEARCH/ ANALYTICS²⁸

Another area where the benefits of web-based services may be implemented is legal research. Westlaw and Lexis have provided web-based services for so long that they are often not even considered “cloud computing” services. However, as the use of folders on both systems has continued to expand along with the development of folder analysis on Westlaw Edge,²⁹ more attorneys are storing work product via these research platforms and sharing research with co-counsel and clients via system features. Further, use of web-based research tools has the benefit of ensuring that research materials are updated and provide citator services allowing attorneys to check the status of cases and statutory authority. Westlaw Edge integrates artificial intelligence (AI) technology to provide additional information regarding the status of laws and cases with a new KeyCite warning which suggests when “law that has been indirectly overturned.”³⁰

The Fastcase legal research system has been a member benefit of

the Oklahoma Bar Association since January 2007. The advantages of using the web-based Fastcase legal research platform, as noted by Ed Walters, CEO of Fastcase, include:

citation analysis, data visualization, mobile apps, and big data analysis to help lawyers identify the seminal cases in their area – to find them fast and with confidence. Forecite uses patent-pending citation analysis to find cases that keyword searches miss. Fastcase 7 includes new analytical tools, such as an enhanced Bad Law Bot, the world’s first big data tool to identify negative case history, and a tag cloud that identifies legal concepts hidden in search results.³¹

Another benefit of using web-based legal research tools is the availability of legal analytics. Some go so far as to conclude that “legal decisions in the future will be made with data. Not all at once, but starting now, and increasing every year from here forward. This is not controversial – it is malpractice to think otherwise.”³² Others take a more positive approach and

emphasize the benefits of legal analytics for litigation (and negotiation) planning and strategy, as well as pricing and budgeting.³³

For example, Picture It Settled is a web-based tool that has “aggregated negotiation statistics and built a predictive platform.”³⁴ Lexis Advance Context is a feature that launched in November 2018 and is based on Ravel Law, which was acquired by Lexis in 2015. It provides an analysis of the language of opinions authored by judges to identify cases and arguments the judge finds persuasive.³⁵ Context does this for not only federal judges, but also some state court judges, including select Oklahoma judges. Westlaw Edge added Precedent Analytics in 2019³⁶ that performs a similar function. Bloomberg Law also provides docket-based litigation analytics that are useful in litigation planning and addressing client expectations, Context provides the additional opinion language analysis. Use of cloud-based practice management software to collect data to make effective pricing determinations for alternative billing arrangements can also provide a competitive advantage to small firms.

Certain types of legal services are becoming more commoditized. Does commodity pricing mean that the price of legal services has to trend to zero? No, but it does mean that lawyers will have to differentiate their services ... In a competitive market, clients will insist on fixed-fee engagements, and lawyers who offer them (and who price them correctly) will be the most competitive in this environment ... The key to pricing fixed-fee engagements lies with data ... More experienced lawyers and firms may be able to access some of the most important information from their practice management or billing software ...³⁷



ROSS Intelligence and Casetext are two AI-fueled legal research services that provide different options for AI to assist attorneys.

AI IS A CLOUD-BASED SERVICE: LEGAL RESEARCH AND BEYOND

AI is a revolutionary, cloud-based service that can reshape and augment how attorneys do their work. In fact, the recent development of networked computation (aka, the cloud), is part of what has led to the recent boom and realization of AI technology. Today's AI is nothing like its predecessors. It is also nothing like the AI of science fiction. Instead of a machine overlord, AI instead plays an augmenting role for attorneys to automate their services. AI is fueling advances in legal research, as well as other areas of legal work, including litigation document drafting and due diligence reviews.

ROSS Intelligence and Casetext are two AI-fueled legal research services that provide different options for AI to assist attorneys. Leveraging AI, ROSS allows for question and answer style legal research. An attorney simply asks ROSS a question and then ROSS goes through what is essentially a three-step process – understanding, retrieval and ranking³⁸ – to provide the attorney with a variety of relevant passages from cases. The ranking element is actually the most important part of the process, where the AI system 1) leverages its training (through machine-learning) to actually read passages of cases to 2) find meaning

in the grammatical structure of the passages it is reading and then 3) creates word-based relationships to create syntax and word patterns that would help answer the question. Finally, through the ranking process, ROSS then attempts to match the facts and procedural posture of the attorney's case with the research results, creating contextual results depending on the needs of the attorney.³⁹

Casetext announced the newest iteration of their AI-assisted legal research service, CARA.AI, in May 2018. Similar to a service from ROSS called EVA,⁴⁰ CARA.AI creates context-aware legal research based on legal briefs and work-product uploaded by the attorney into the system. After uploading the brief, CARA.AI then provides brief-specific, context-aware legal research that customizes your legal search and results based on the facts and legal issues actually discussed in the brief. With this kind of tool, attorneys can perform research faster, more efficiently and with better results.⁴¹

AI can actually do more than just augment legal research. LaxGeex recently identified 11 areas of law practice, including legal research, where AI tools currently exist to augment attorneys' work.⁴² Of these categories, most AI tools are assisting attorneys in recognizing patterns in data and with decision-making. There is one

service, launched in 2018, that takes AI in law practice to the next level. LegalMation⁴³ is a first of its kind AI system that can actually draft legal documents for you with its Complaint or Discovery Analyzer solutions. Leveraging IBM's Watson, LegalMation's Complaint Analyzer will actually draft an answer to a complaint, together with all potential affirmative defenses, based on the causes of action and facts pleaded in the complaint.⁴⁴ Likewise, the Discovery Analyzer, which is currently in beta, will read through discovery requests, such as requests for production and interrogatories, and then draft shell discovery responses, including objections using its SmartObject feature.⁴⁵ LegalMation's services are only available in limited jurisdictions at the moment, including California, New Jersey and Texas, but LegalMation has shown that AI can actually start drafting documents, which can be an incredible help for over-worked, deadline-driven attorneys. Casetext has also hinted that AI-assisted drafting is part of its "roadmap" for future services.⁴⁶

SUMMARY

While there are certainly risks associated with employing web-based technologies, it is equally important to understand the benefits that can be reaped from the use of these technologies as part of maintaining competence and

delivering the best legal services to clients. In the current environment, clients are demanding that all businesses, including their lawyers, take advantage of developing web-based technologies. It is impossible to be an expert on every new technology, but to comply with their ethical duty of technology competence lawyers should develop at least a familiarity with web-based technology tools and act reasonably when gathering information about adopting tools that could benefit their practice.

ABOUT THE AUTHORS

Darla Jackson is a research librarian at the OU College of Law. She previously served as a practice management advisor for the OBA and as a judge advocate in the U.S. Air Force. She is an ABA TECHSHOW speaker and a graduate of the OU College of Law and School of Library and Information Studies.

Kenton Brice is the director of Technology Innovation at the OU College of Law. A 2009 graduate of the OU College of Law, he teaches courses and workshops on legal research, technology in practice and legal innovation at the college and multiple conferences, including the OBA Solo & Small Firm Conference.

ENDNOTES

1. Model Rules of Prof'l Conduct r. 1.1 (Am. Bar Ass'n 2012), www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_1_competence/comment_on_rule_1_1/.
2. *In Re Oklahoma Rules of Professional Conduct*, 2016 OK 91, www.oscn.net/applications/oscn/DeliverDocument.aspx?citeid=479331.
3. Robert J. Ambrogio, "35 States Have Adopted the Duty of Technology Competence," *LawSites* (n.d.), www.lawsitesblog.com/tech-competence/.
4. See, e.g. Tad Simons, "For a Lawyer, What Does 'Technology Competence' Really Mean?," *Legal Executive Institute* (April 20, 2018), www.legalexecutiveinstitute.com/lawyers-technological-competence/; Tyler Roberts, "What Is A Lawyer's Duty Of Technology Competence?," *SmartLawyer* (Fri, 02/02/2018 - 11:29am), www.nationaljurist.com/smartlawyer/what-lawyers-duty-technology-competence/; Steven M. Puiszis, "A Lawyer's Duty of Technological Competence," www.americanbar.org/content/dam/aba/events/professional_responsibility/2017%20Meetings/Conference/conference_materials/

[session4_information_governance/puiszis_lawyers_duty_technological_competence.athcheckdam.pdf](http://www.legalcloudcomputingassociation.org/about/).

5. Gina Hendryx, "Recently Adopted Changes to the ORPC," 88 *Okla. B. J.* 1747 (2017).
6. Alexandra G. Ah Loy, "The Attorney's Ethical Duty to Maintain Technological Competence," *Okla. B. J.* December 2018, at 15,16.
7. Gina Hendryx and Jim Calloway, "Cyber Ethics in the Digital Age" at the 2018 OBA Solo & Small Firm Conference (June 23, 2019) (Session materials on file with authors).
8. *State ex rel. Oklahoma Bar Ass'n. v. Oliver*, 2016 OK 37, 369 P.3d 1074 (Subsequent proceedings at 2018 OK 95), www.oscn.net/applications/oscn/DeliverDocument.aspx?citeid=483376.
9. *State ex rel. Oklahoma Bar Ass'n. v. Oliver*, *supra* note 8, at ¶15.
10. In December 2018, Mr. Oliver resigned pending disciplinary proceedings regarding complaints unrelated to his technological competence. *State ex rel. Oklahoma Bar Ass'n. v. Oliver*, 2018 OK 95.
11. *State ex rel. Oklahoma Bar Ass'n. v. Oliver*, 2018 OK 95.
12. Legal Cloud Computing Ass'n, www.legalcloudcomputingassociation.org/about/ (last visited Jan. 25, 2019).
13. SaaS is shorthand for "Software as a Service." This is an alternative name for a cloud-based service.
14. "LCCA Security Standards, Standard 15 Privacy Policy," *Legal Cloud Computing Ass'n*, www.legalcloudcomputingassociation.org/standards/#section5 (last visited Jan. 25, 2019).
15. Among many uses of carrier pigeons, Paul Julius Reuter (of Thomson Reuters fame) at one time used carrier pigeons to transmit stock prices. "CHRONOLOGY: Reuters, from pigeons to multimedia merger," *Reuters* (Feb. 19, 2008), www.reuters.com/article/us-reuters-thomson-chronology/chronology-reuters-from-pigeons-to-multimedia-merger-idUSL1849100620080219.
16. Most modern email is cloud-based too. If you are using Gmail, Yahoo.com or other "hosted" service, you are using the cloud.
17. *ShareFile Security and Compliance Frequently Asked Questions*, Citrix, www.sharefile.com/resources/citrix-sharefile-security-and-compliance-frequently-asked-questions (last visited Jan. 25, 2019).
18. For more information about using cloud-based storage safely, check the LCCA standards.
19. Carmen Reinicke, "The Biggest Cybersecurity Risk to US Businesses Is Employee Negligence, Study Says," *CNBC* (June 21, 2018), www.cnbc.com/2018/06/21/the-biggest-cybersecurity-risk-to-us-businesses-is-employee-negligence-study-says.html.
20. Egnyte, www.egnyte.com/ (last visited Jan. 25, 2019).
21. "Sharing with File/Folder Links in Egnyte," *Egnyte Community*, helpdesk.egnyte.com/hc/en-us/articles/201637104-Sharing-Files-in-Egnyte#settings (last visited Jan. 25, 2019).
22. Alexandra Ah Loy, *supra* note 6, at 16.
23. State Bar of Cal. Standing Comm. on Prof'l Responsibility & Conduct, Formal Op. 2015-193 (2015), available at [www.calbar.ca.gov/Portals/0/documents/ethics/Opinions/CAL%202015-193%20%5B11-0004%5D%20\(06-30-15\)%20-%20FINAL.pdf](http://www.calbar.ca.gov/Portals/0/documents/ethics/Opinions/CAL%202015-193%20%5B11-0004%5D%20(06-30-15)%20-%20FINAL.pdf).
24. X1SocialDiscovery, www.x1.com/products/x1-social-discovery/ (last visited Jan. 25, 2019).
25. SMI, smiaware.com/ (last visited Jan. 25, 2019).
26. Page Vault, www.page-vault.com/ (last visited Jan. 25, 2019).
27. U.S. Library of Congress, Sustainability of Digital Formats, www.loc.gov/preservation/digital/formats/fdd/fdd000236.shtml (last visited Jan. 25, 2019).
28. A distinction between legal research and legal analytics has been discussed. See, e.g. Owen Byrd, "Legal Analytics vs. Legal Research: What is Difference?," *Law Technology Today* (June 12, 2017), www.lawtechnologytoday.org/2017/06/

- [legal-analytics-vs-legal-research/](http://www.lawtechnologytoday.org/2017/06/legal-analytics-vs-legal-research/). However, for purposes of this short piece, the topics will be discussed with limited treatment of the distinction.
29. "Westlaw Enhancements," *Thomson Reuters*, store.legal.thomsonreuters.com/law-products/westlaw-legal-research/enhancements#folder-enhancements.
 30. Jean O'Grady, "Thomson Reuters Launches Precedent Analytics to Challenge Lexis Context (formerly Ravel Law)," *Dewey B Strategic Blog* (Jan. 28, 2019), www.deweybstrategic.com/2019/01/thomson-reuters-launches-precedent-analytics-challenge-lexis-context-formerly-ravel-law.html. Also see, Jason Tashea, "Thomson Reuters Announces Westlaw Edge, increasing role of AI and analytics," *ABA Journal* (July 12, 2018), www.abajournal.com/news/article/thomson_reuters_announces_westlaw_edge_increasing_role_of_ai_and_analytics/.
 31. Ed Walters, "The Tyranny of Hunches: Using Analytics to Give Your Firm a Strategic Advantage," *Florida Bar Journal*, January 2016, at 46, 47, www.floridabar.org/the-florida-bar-journal/the-tyranny-of-hunches-using-analytics-to-give-your-firm-a-strategic-advantage/.
 32. Ed Walters, *supra* note 28, at 46.
 33. David Curle, "Take Your Small Law Firm to The Next Level by Leveraging Legal Data Analytics," *Above the Law* (Aug. 9, 2018), abovethelaw.com/small-firm-center/2018/08/take-your-small-law-firm-to-the-next-level-by-leveraging-legal-data-analytics/.
 34. R. Amani Smathers, "The 21st-Century T-Shaped Lawyer," *Law Practice*, July/August 2014, at 32,35.
 35. Bob Ambrogio, "'Context,' Launching Today from LexisNexis, Applies Unique Analytics to Judges and Expert Witnesses," *LawSites*, (Nov. 29, 2018), www.lawsitesblog.com/2018/11/context-launching-today-lexisnexis-applies-unique-analytics-judges-expert-witnesses.html.
 36. Thomson Reuters announced the release of Precedent Analytics that includes information about which cases judges cite to most often by topic. Jason Tashea, "Westlaw Edge Adds Judicial Citation Analytics," *ABA Journal* (Jan. 28, 2019), www.abajournal.com/news/article/westlaw-edge-adds-judge-analytics/.
 37. Ed Walters and Morgan Morrisette Wright, "The Decision Advantage - Making Small Data Work for Your Firm," *Okla. B. J.*, May 2018, at 32, 34, www.okbar.org/barjournal/may2018/obj8913walterswright.
 38. *A Visual Guide to AI*, Ross, rossintelligence.com/what-is-ai.html (last visited Jan. 25, 2019).
 39. *Id.*
 40. Meet Eva, Ross, eva.rossintelligence.com (last visited Jan. 25, 2019).
 41. Jean O'Grady, "CARA AI: Did Casetext Just 'Drop Kick' Keywords Out of the Legal Research Process?" *Dewey B. Strategic Blog* (May 1, 2018), www.deweybstrategic.com/2018/05/cara-ai-casetext-just-drop-kick-keywords-legal-research-process.html.
 42. "3 charts that show the unstoppable growth of Legal Tech," *LawGeex Blog* (May 22, 2018), blog.lawgeex.com/3-charts-that-show-the-unstoppable-growth-of-legal-tech/.
 43. LegalMation, www.legalmation.com/ (last visited Jan. 25, 2019).
 44. Alison Arden Besunder, "Not Your Parents' Robot," *N.Y. St.B.A.J.*, Mar/Apr 2018, at 20, www.nysba.org/Journal/2018/Apr/Not_Your_Parents%E2%80%99_Robot/.
 45. Gabrielle Orum Hernández, "New Beta LegalMation Module Can Draft Discovery Response Documents," *LegalTechNews* (July 16, 2018), www.law.com/legaltechnews/2018/07/16/new-beta-legalmation-module-can-draft-discovery-response-documents/ (with subscription)
 46. O'Grady, *supra* note 40.



OBA REAL PROPERTY SECTION

2019 Cleverdon Real Property Roundtable Seminar

The Materials for this course have been submitted to the Oklahoma Bar Association Mandatory Continuing Legal Education Commission for approval of 4 hours of CLE credit, including one hour of ethics.

The seminar is limited to sixty (60) participants per location in order to encourage open discussion. At the event, participants will choose three (3) of the roundtable sessions to attend but will receive the materials for all of the presentations. Following the roundtable sessions, lunch will be provided during the final CLE topic: *"Ethics and Attorney Well-Being."* Registration and Check-in begins at 8:30 A.M. The first session begins at 9:00 A.M.

This seminar is free for members of the Real Property Section and \$25.00 for non-members

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"The Stigler Act Amendments: Don't Panic!"

"Surveying 101: What Real Property Attorneys Really Need to Know"

"Oklahoma's Renewable Energies and Real Property Issues"

"Ethics and Attorney Well-Being"

SPEAKERS

Kraettli Q. Epperson
Mee Mee Hoge & Epperson

Dean Couch
GableGotwals

Stephanie Moser-Goins
Ball Morse Lowe

Bruce Pitts, PLS
Oklahoma Board of Licensure for Professional Engineers and Land Surveyors

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When Elephants Collide

Maintaining Technological Competence vs.
Complying With Discovery Rules

By Alexandra G. Ah Loy and Mbilike M. Mwafulirwa



When two elephants fight, it is the grass that suffers.
– African Proverb

THE TRUMPET FOR TECHNOLOGICAL COMPETENCE in legal practice has sounded. Gone are the days when electronic research, filing, pleading, discovery software and tech-filled trials were phenomena – all those are now an indispensable part of modern practice. Gone too are the days when lawyers could turn a blind eye to those technological developments.¹ The rules of legal ethics now make it an ethical requirement for lawyers to become familiar with relevant technological advances affecting their practices.² For added measure, courts in Oklahoma have shown themselves willing to discipline lawyers who fall short.³ The rules do not, however, give specific guidance on the scope of what is “relevant” for the purposes of satisfying technological competence. In the specific context of discovery, for example, does this mean that a lawyer’s duty of electronic competence is gauged by prevailing norms in a given practice area or by the locale in which the attorney maintains her practice? Relatedly, early guidance in 2007 and 2008 from the Alabama, Arizona and New York bar advisory ethical opinions suggested that lawyers should “scrub documents” of metadata before disclosing to opposing counsel.⁴ Oklahoma has not taken a position on the issue, and as we outline below, with good reason.

Both the Federal Rules of Civil Procedure and the Oklahoma Discovery Code require that documents and electronically stored information be produced in the “form or forms in which it is ordinarily maintained” by the disclosing party “or in a reasonably usable form or forms.”⁵ This rule, several courts have held, requires that if electronic documents and things are requested, metadata should also be disclosed; a failure to do so can be a breach of discovery obligations.⁶

Therein lies the conflict for the Oklahoma attorney and the subject of this article. As in the African proverb of the two elephants colliding outlined above, here the first elephant represents the lawyer’s ethical obligations for technological competence, the second elephant is the lawyer’s duty as an officer of the court to comply with her discovery obligations and the grass represents the lawyer in the middle of these *seemingly* conflicting legal obligations. To the extent possible, we provide guidance on these issues.

THE DUTY OF TECHNOLOGICAL COMPETENCE

Over the past two decades, many courts and advisory opinions have addressed lawyers’ ethical obligations and duties related to the advancements in technology.⁷ As such, it was no surprise when Comment 8 to ABA Model Rule 1.1 was amended in 2012 to read:

Maintaining Competence

[8] To maintain the requisite knowledge and skill, a lawyer should keep abreast of changes in the law and its practice, *including the benefits and risks associated with relevant technology*, engage in continuing study and education and comply with all continuing legal education requirements to which the lawyer is subjected.

This amendment does not impose any new obligations on attorneys but instead acknowledges the evolving duty of competence by recognizing the impact of technological advancements on legal practice. In its report to the House of Delegates, the ABA Commission on Ethics 20/20 explained that “the amendment is intended to serve as a reminder to lawyers that they should remain aware of technology, including the benefits and risk associated with it, as part of a lawyer’s general ethical duty to remain competent.”⁸ Thus, competent representation includes the duty to adapt to new technologies that affect legal practice.⁹

Likewise, Rule 1.1 of the Oklahoma Rules of Professional Conduct largely mirrors its ABA counterpart. Rule 1.1 provides that “[c]ompetent representation requires the legal knowledge, skill thoroughness and preparation reasonably necessary for that representation.”¹⁰ In 2016, Comment 6 to Rule 1.1 was amended to make clear that the duty of competence includes the “benefits and risks *associated with relevant technology*.”¹¹ Unfortunately, given the ever-changing nature of technology, the duty of technological competence is constantly evolving and unclear at times.¹² To exemplify the point, we will consider the thorny issues raised by metadata in discovery.

PROVIDING NECESSARY CONTEXT: METADATA EXPLAINED

Metadata is “information describing the history, tracking, or management of an electronic file.”¹³ This can encompass “embedded data, including computer programs” “retain[ed] draft language, editorial comments, and other deleted matter...in an electronic file.”¹⁴ Courts have defined metadata to include “information about a particular data set which describes how, when and by whom it was collected, created, accessed or modified and how it is formatted (including data demographics such as size, location, storage requirements and media information)” and “all of the contextual, processing, and use information needed to identify and certify the scope, authenticity, and integrity of active or archival electronic information or records.”¹⁵

Not all metadata is treated the same; the content of the data determines how it should be handled. Three scenarios underscore the point. First consider, for example, a joint project by opposing lawyers to prepare court documents like joint status reports, agreed protective orders or draft pretrial orders. This necessitates a back and forth between the respective lawyers of several electronic drafts, most likely with track changes, deletions and editorial comments. Based on our working definition from the Federal Civil Procedure Rules Advisory Committee, all that back and forth data with the edits and comments would qualify as metadata.¹⁶ With regard to that kind of metadata, the ordinary expectation is that the parties would freely share this information to facilitate a just and speedy review of edits and the drafting exercise.

The second scenario involves internal systems data for a particular business or enterprise. This

could encompass, for example, the time that the system users logged on, the data that they generated, altered or removed during their period of use, software used (e.g., computer software used to generate financial projections on spreadsheets).¹⁷ Again, applying our broad-working definitions of metadata, that information would easily qualify.¹⁸

Finally, consider a scenario where a client forwards an electronic document to her attorney for review. The attorney redlines the document with edits and several comments that provide the client legal guidance. Although the data generated by the attorney might also qualify as metadata,¹⁹ this fact-pattern raises thorny privilege issues and the lawyer’s duty to preserve confidentiality in client documents.²⁰ As a result, if this metadata was not properly protected and inadvertently disclosed there could be significant legal ramifications for both lawyer and client.

PRODUCTION OF METADATA IN DISCOVERY

The Oklahoma Discovery Code envisions that “[c]ivil trials no longer be conducted in the dark. Discovery, consistent with recognized privileges, provides for the parties to obtain the fullest knowledge of the issues and facts before trial.”²¹ Specific to production of documents and things, Oklahoma law allows a requesting party to request and obtain discoverable “electronically stored information.”²² The requesting party is allowed to “specify the form or forms in which electronically stored information is to be produced.”²³ If, on the other hand, the requesting party fails to specify the preferred form of electronic production, the responding party “shall produce the information in a form or forms in which it is ordinarily maintained or in a reasonably

usable form or forms . . .”²⁴ If an objection is lodged to the requested form of production but not to releasing the information generally, the disclosing party should indicate “the form or forms it intends to use.”²⁵ After a meet-and-confer, the requesting party is then empowered to move for a court order with respect to any objection to or other failure to respond to the request.²⁶

Thus far, there are no published Oklahoma cases that have specifically addressed parties’ electronic discovery obligations under the Oklahoma Discovery Code. Several federal courts, however, have addressed such issues while construing Fed. R. Civ. P. 34, the federal analogue to 12 O.S. §3234.²⁷ Those courts have recognized there is a split of authority on whether, and to what extent, metadata must be produced.²⁸ The cases appear to show this is a case-by-case determination, taking into account (among other things) whether there was a specific request for metadata,²⁹ the relevance, the applicability of privileges, whether the costs of seeking such discovery is proportionate to the needs of the case and whether objections and claims of privilege are timely asserted by the party objecting to production.³⁰

The Federal District Court in Kansas was among the first to spearhead discovery of metadata. In *Williams v. Sprint/United Management*, the producing defendant had “scrubbed” the metadata and had “locked” certain data on the electronic spreadsheets prior to production.³¹ The specific scrubbed metadata at issue included “information such as file names, dates of the file, authors of the file, recipients of the file, print-out dates, changes and modification dates and other information.”³² To justify the scrubbing of such metadata, the defendant claimed that it

acted “to preclude the possibility that Plaintiffs could ‘undelete’ or recover privileged and protected information properly deleted from the spreadsheets.”³³ The court rejected those arguments. The court held that the new amendments to the Federal Rules of Civil Procedure contemplate that if metadata is specifically requested and is relevant, it should be produced.³⁴ Several other federal courts have also followed suit.³⁵

Other courts have squarely rejected that a producing party must produce electronic documents with metadata intact.³⁶ Interestingly, courts on both sides of the spectrum relied on the emerging standards of electronic discovery in reaching opposite conclusions. Those courts refusing disclosure emphasized, however, that it is incumbent upon the parties to discuss e-discovery issues, including whether and in what format metadata should be produced and the bases for objecting to any such production, prior to seeking relief from the court.³⁷

in a case.³⁸ The party opposing discovery “has the burden of addressing proportionality.”³⁹ Cost is not the lone dispositive consideration in the proportionality analysis.⁴⁰ In short, in addition to relevance, proportionality considerations play an important part in metadata discovery requests, just as they do in varied other discovery contexts.⁴¹

IS THERE REALLY A CONFLICT BETWEEN THE DISCOVERY RULES AND LEGAL ETHICS?

The prevailing view is that there is no conflict. The American Bar Association (ABA) issued Formal Ethical Opinion 06-442 that addressed the use of metadata. To begin with, the ABA took the position that a lawyer can review metadata in electronic documents from opposing counsel or third parties.⁴² The formal opinion also draws a distinction between different kinds of metadata; on the one hand, the opinion recognizes metadata that relates to when the data was saved or altered, who

Thus far, there are no published Oklahoma cases that have specifically addressed parties’ electronic discovery obligations under the Oklahoma Discovery Code.

A word about the new proportionality requirement in the discovery rules. The proportionality requirement, drawn from the Federal Rules of Civil Procedure, is a “case specific determination” that ensures that no more than necessary discovery is utilized

created the data, when and so on – as to this there is no specific prohibition in the ethics rules from reviewing that data.⁴³ On the other hand, the opinion also notes different types of metadata – for example, confidential attorney-client confidences – for which



appropriate safeguards are warranted.⁴⁴ When privileged information is at issue, the lawyer should remove the privileged data, retain it, disclose the nonprivileged information and, if necessary, seek a protective order for the withheld information.⁴⁵ The D.C. Bar Ethics Opinion 341 and Maryland State Bar Opinion 2007-09 mirror this approach.⁴⁶ Understood in this sense, the removal of privileged metadata is no different to other situations that involve discovery of information that is subject to recognized privileges; after all, recognized privileges stand as a permissible barrier to otherwise discoverable information.⁴⁷

Against this background, the ethical guidance from the Alabama, Arizona and New York bars – that suggested that lawyers should “scrub documents” of metadata before disclosing to opposing counsel – can now be understood within its proper context. Those opinions do not go against the grain of the preceding analysis; rather, they address an *entirely different* situation premised on the assumption that privileged metadata had been inadvertently disclosed to opposing counsel. The New York opinions expressly disclaimed taking a position on “electronic documents that have

been produced in the way of discovery,” while both the Alabama and Arizona opinions were in accord with New York on inadvertent disclosures, they parted ways with New York by expressly permitting discovery of metadata in discovery, as long as privileged data is safeguarded.⁴⁸

Inadvertently disclosed metadata poses very difficult questions. More so, if that data contains privileged data or information that implicates a lawyer’s duty to maintain client confidences.⁴⁹ Rule 4.4(b) of the Oklahoma Rules of Professional Conduct provides that “[a] lawyer who receives a document or electronically stored information relating to the representation of the lawyer’s client and *knows or reasonably should know* that the document or electronically stored information was inadvertently sent shall promptly notify the sender.”⁵⁰ In 2008, Comment 2 was added to Rule 4.4, which discussed ethical obligations arising out of inadvertent disclosures.⁵¹ In 2016, Comment 2 to Rule 4.4 was amended to specifically address inadvertent disclosures of electronic information, including metadata.⁵² Although there is no legal authority interpreting the impact of the amended Comment 2 to Rule 4.4, the amendment

recognizes that metadata can be – and is sometimes – inadvertently disclosed, and there may be a duty upon the receiving party in certain circumstances – especially if the receiving lawyer “knows or reasonably should know that the metadata was inadvertently sent” – to notify the sender so she can take protective measures.⁵³

Even then, as Comment 2 makes clear, inadvertent disclosure of metadata can also constitute waiver of applicable privileges,⁵⁴ but whether there has actually been a waiver is a case-specific determination for courts to determine with regard to all the pertinent circumstances. This is the same approach Oklahoma law takes for disclosure of information covered by the attorney-client privilege or the work-product doctrine.⁵⁵ This approach would most likely be expected to carry over into various other privilege claims.

CONCLUSION

During discovery, when metadata is at issue, the lawyer’s obligation remains to disclose unprivileged, relevant data that is proportional to the needs of the case. Legal ethics do not excuse this duty. Even then, the lawyer has a competing duty to prevent inadvertent disclosure of privileged data. To properly discharge these competing obligations, the lawyer should first carefully assess the electronic information to determine whether it contains sensitive metadata, so that privileges and objections may be timely asserted. Finally, if the lawyer determines it is necessary or prudent to scrub such metadata, the lawyer should take appropriate measures to ensure the metadata is preserved in its original form as well and seek protection from the court, if need be.

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ENDNOTES

1. See Alexandra G. Ah Loy, "The Attorney's Ethical Duty to Maintain Technological Competence", 89 *O.B.J.* 14, 15-17 (2018).
2. Rules of Prof'l Conduct, Rule 1.1, OK ST RPC Rule 1.1 (2016).
3. See *State ex rel. Okla. Bar Ass'n v. Oliver*, 2016 OK 37, ¶¶3-8, 369 P.3d 1074 (issuing public censure to lawyer for failing to report his discipline by the Western District of Oklahoma Bankruptcy Court for repeated electronic filing violations).
4. See A. Ah Loy, "The Attorney's Ethical Duty" 17, *supra* note 1 (citing NYCLA Ethics Op. 738 (2008); see also AL State Bar Op. 2007-02 (2007) (prohibiting mining of an adversary's inadvertently produced electronic metadata; AZ Bar Ethics Op. 07-03 (2007)).
5. Fed. R. Civ. P. 34(b)(2)(E)(ii); 12 O.S. §3234(B)(2)(e)(2).
6. See, e.g., *Williams v. Sprint/United Mgmt. Co.*, 230 F.R.D. 640, 656 (D. Kan. 2005).
7. See, e.g., *Housing Rights Ctr. v. Sterling*, No. 03 Civ. 859, 2005 WL 3320739, at *3, 7 (C.D. Cal. March 2, 2005); Prof'l Ethics of the Fla. B., Op. 06-2 (2006); *Garcia v. Berkshire Life Ins. Co. of Am.*, No. 04-cv-01619-LTB-BNB, 2007 WL 3407376, at *5 (D. Colo. Nov. 13, 2007); *Phoenix Four, Inc. v. Strategic Resources Corp.*, No. 05 Civ. 4837 (HB), 2006 WL 1409413, at *5 (S.D.N.Y. May 23, 2006); *In re A&M Flo. Props. II, LLC*, No. 09-15173 (AJG), 2010 WL 1418861, at *5 (Bankr. S.D.N.Y. April 7, 2010); *Delegates*, 105A (May 7, 2012); *James v. Nat'l Fin. LLC*, No. CV 8931-VCL, 2014 WL 6845560, at *12 (Del. Ch. Dec. 5, 2014).
8. ABA Comm. on Ethics 20/20, *Report to the House of Delegates*, 105A (May 7, 2012).
9. *Id.* Fed. R. Civ. P.
10. Rules of Prof'l Conduct, Rule 1.1, OK ST RPC Rule 1.1 (2016).
11. *Id.* (emphasis added).
12. See generally A. Ah Loy, "The Attorney's Ethical Duty" 15-17, *supra* note 1.
13. Advisory Committee Comment to Fed. R. Civ. P. 26(f) (2006 Amendment); *Black's Law Dictionary* 1080 (9th ed. 2014); accord *Sedona Glossary*, 15 *Sedona Conf. J.* 305, 339 (2014).
14. Advisory Committee Comment to Fed. R. Civ. P. 26(f) (2006 Amendment).

15. *Williams*, 230 F.R.D. at 646 (quoting *The Sedona Guidelines: Best Practice Guidelines & Commentary for Managing Information & Records in the Electronic Age*, App. F (2005)).
16. See Advisory Committee Comment to Fed. R. Civ. P. 26(f) (2006 Amendment).
17. See Ronald J. Hedges, et al., *Managing Discovery of Electronic Information: A Pocket Guide for Judges* 4 (Fed. Jud. Cntr. 3rd ed. Sept. 20, 2017).
18. *Id.*
19. *Id.*
20. See, e.g., Okla. Stat. Tit. 12, § 2502 (attorney-client privilege).
21. *State ex rel. Protect. Health Servs. v. Billings Fairchild Cntr., Inc.*, 2007 OK CIV APP 24, ¶17, 158 P.3d 484, 489 (emphasis added); Okla. Stat. Tit.12, §3226(A)(1).
22. Okla. Stat. Tit. 12, §3234(A)(1)(a).
23. *Id.* §3234(B)(1)(c).
24. *Id.* §3234(B)(2)(e)(2).
25. *Id.* §3234(B)(2)(d).
26. *Id.* §3234(4)(d).
27. *Hall v. Goodwin*, 1989 OK 88, ¶7, 775 P.2d 291, 293 (looking to federal decisions as a guide to construing Oklahoma Discovery Code).
28. See, e.g., *Williams*, 230 F.R.D. at 656.
29. The Advisory Committee Notes to Fed. R. Civ. P. 34(b) (2006 Amendment) provide that the "amendment to Rule 34(b) permits the requesting party to designate the form or forms in which it wants electronically stored information produced... *Specification of the desired form or forms may facilitate the orderly, efficient, and cost-effective discovery of electronically stored information.*" (emphasis added).
30. See, e.g., *State v. Louisiana Land & Expl. Co.*, 2017-755 (La. Ct. App. Dec. 20, 2017).
31. *Williams v. Sprint/United Management Co.*, 230 F.R.D. at 652.
32. *Id.* at 644.
33. *Id.* at 642-645.
34. *Id.*
35. See *Morgan Hill Concerned Parents Ass'n v. Cal. Dep't of Edu.*, No. 2:11-cv-3471 KJM AC, 2017 WL 445722, at **4-5 (E.D. Cal. Feb. 2, 2017) (under F.R.C.P. 34(b) (1) (C) "the requester 'may specify the form or forms in which electronically stored information is to be produced,'" responding party cannot choose the form of production); accord *Dixon v. Experian Info. Sol., Inc.*, No. 2:13-cv-227-PPS-PRC, 2014 WL 2881589, at **3-5 (N.D. Ind. June 25, 2014); *Anderson Living Trust v. WPX Energy Prod., LLC*, 298 F.R.D. 514, 526 (D.N.M.2014) (noting that "[i]t is only if the requesting party declines to specify a form that the producing party is offered a choice between producing in the form in which it is ordinary maintained — native format — or in a reasonably useful form or forms") (emphasis added); *In re Porsche Cars N. Am., Inc., Plastic Coolant Prods. Litig.*, 279 F.R.D. 447, 449 n. 5 (S.D. Ohio 2012) ("If the requesting party does not specify a form, therefore, the producing party is within its right to produce the ESI in static image form (TIFF or PDF) with no metadata."); *Aguiar v. Imm. & Cust. Enforce. Div. of U.S. Dep't of Homeland Sec.*, 255 F.R.D. 350, 355 (S.D.N.Y. 2008) ("If the requesting party does not specify a form for producing ESI, the responding 'party must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms."); *F.D.I.C.V. v. Bowden*, No. CIV 413-245, 2014 WL 2548137, at *11 (S.D. Ga. June 6, 2014) (same).
36. See, e.g., *Kentucky Speedway, LLC v. Nat'l Ass'n. of Stock Car Auto Racing*, CIV.A. 05-138-WOB, 2006 WL 5097354, at *8 (E.D. Ky. Dec. 18, 2006).
37. *Id.*

38. *Reibert v. CSAA Fire & Cas. Ins. Co.*, No. 17-CV-350-CVE-JFJ, 2018 WL 279348, at *4 (N.D. Okla. Jan. 3, 2018) (applying Fed. R. Civ. P. 34); Okla. Stat. Tit. 12, §3226(B)(1)(A).
39. *Id.*
40. *Id.* at **4-5.
41. See Ronald J. Hedges, et al., *Managing Discovery of Electronic Information* at 19-22, *supra* note 17.
42. See ABA Formal Ethics Opinion 06-442 at *1 (Aug. 5, 2006).
43. *Id.* at *3.
44. *Id.* at **2-3.
45. *Id.* at **4-5.
46. See D.C. Bar Ethics Op. 341 (2007); see also Maryland State Bar Op. 2007-09 (2007).
47. See *Billings Fair Child*, 2007 OK CIV APP 24, ¶17, 158 P.3d at 489.
48. See, e.g., NYCLA Ethics Op. 738; accord N.Y. State Bar Op. 749; AL State Bar Op. 2007-02 (2007) (prohibiting mining of an adversary's inadvertently produced electronic metadata but acknowledging that permissive rules apply to metadata properly requested and exchanged as part of discovery); A.Z. Bar Ethics Op. 07-03 (2007) (same).
49. See D.C. Bar Ethics Op. 341; see also generally ABA Formal Op. 06-442 at **4-5.
50. See Rules of Prof'l Conduct, Rule 4.4, OK ST RPC Rule 4.4 (2016) (emphasis added).
51. See Rules of Prof'l Conduct, Rule 4.4, OK ST RPC Rule 4.4, Comment [2] (2008).
52. See Rules of Prof'l Conduct, Rule 4.4, OK ST RPC Rule 4.4, Comment [2] (2016).
53. *Id.*
54. *Id.*
55. See Okla. Stat. Tit. 12, §2502(E).

Do Attorneys Dream of Electronic Wills?

By Martin Postic Jr. and David M. Postic

OURS IS AN INCREASINGLY DIGITAL SOCIETY. In fact, you can live almost your entire life online. You can have a career, travel to faraway places, build and maintain relationships and generally transact most of your day-to-day business – all without leaving the comfort of your computer chair. These technological advancements have even trickled down to the often slow-to-adapt legal profession. Contracts are negotiated and executed online. Deeds and other conveyancing instruments are recorded online. Entire practice areas have emerged to manage digital assets, digital privacy, digital advertising and other innovations spawned by the internet of things.

So why do we still require wills to be typed on paper? Why can we not – with all the technological tools at our disposal – create electronic wills?

TESTAMENTARY FORMALITIES: RULES AND EXCEPTIONS

When proving a will, a probate court must ask two broad questions of testamentary intent: Did the decedent intend to make a will, and if so, what are its terms?¹ Strict statutory requirements – that the will be in writing,² signed³ and attested⁴ – help a court determine and effectuate the testator’s intent, free from incapacity,⁵ duress, fraud⁶ and undue influence.⁷ In short, these formalities confront the issue of authenticity and thus primarily serve an evidentiary purpose.

Traditionally, will formalities were strictly observed and wills were regularly rejected by probate courts for trivial mistakes.⁸ Over

time, however, states developed statutory exceptions to these formal procedures. For instance, many states allow handwritten (or holographic) wills. In Oklahoma, a holographic will must be signed, dated and entirely written in the handwriting of the testator or testatrix.⁹ It does not need to be witnessed or notarized.¹⁰ The will merely needs to make “apparent that it was the intention of the deceased that the paper should stand for her last will and testament.”¹¹

Oklahoma and several other states also allow oral (or nuncupative) wills, albeit in extremely limited circumstances.¹² A nuncupative will cannot make bequests with a cumulative value over \$1,000 (the equivalent of about \$25,000 today),¹³ must be proved by two witnesses who heard the testator make his will, must be reduced to writing within 30 days after it was spoken and the decedent must have been in military field service

or in actual contemplation, fear or peril of death at the time the will was made.¹⁴

These exceptions are not minor deviations from testamentary formalities but rather are drastic aberrations that appear to work against the fundamental purpose of those statutory requirements. Take a nuncupative will for example: not only is it unwritten and unsigned by the testator, it is essentially a hearsay recollection of the testator’s wishes. While this type of evidence may be admissible under evidentiary rules regarding unavailable declarants,¹⁵ it lacks any assurance of testamentary capacity – the condition precedent to executing any testamentary document.¹⁶ Indeed, a person on the verge of death is arguably *less likely* than a person in ordinary circumstances to have testamentary capacity. Holographic wills similarly offer no proof of testamentary capacity and provide no defense against undue influence



or fraud, there being no witnesses to watch the testator write and sign the will.

If holographic and nuncupative wills offer none of the assurances and protections supplied by testamentary formalities, why are they allowed? The reason is quite simple: the law recognizes certain situations in which formalities are impractical. Where an individual does not have the time or financial resources to visit an attorney and execute a formal, attested will, the law allows him to write his own. Where a member of the armed services is gravely injured in the line of duty with no pen or paper in sight, the law allows him to express his wishes verbally.

Exceptions to will formalities represent a practical adaptation of the law to the needs of society, and in an age when people generally carry smartphones rather than pen and paper, the needs of society dictate that we should revisit and revise testamentary formalities to account for the rapid development and omnipotence of technology. Enter the “electronic will.”

The term “electronic will” can be used to refer to any one of several kinds of documents.¹⁷ It could describe an “offline” electronic will, which is a will typed (or “handwritten” using a stylus)

by the testator or by an attorney, subscribed with an electronic signature and stored on a computer hard drive. “Online” electronic wills, on the other hand, involve a third party such as a website, *e.g.*, where a testator posts testamentary wishes on Facebook, intending for that to serve as his will. These third-party actors generally retain user information and can provide evidence such as a time stamp documenting precisely when (and/or from where) a document was created. Lastly, “custodial electronic wills” are where a “qualified custodian” stores and/or supervises the execution of a testator’s electronic will, subject to certain regulations.¹⁸ While this article makes no distinction among them, characteristics of each type of electronic will should be analyzed when considering a legislative change.

If testamentary formalities are concerned primarily with authenticity of documents, then there is no practical difference between traditional and electronic wills. There are no inherent risks that, as a rule, make electronically generated, subscribed, attested and/or stored documents any less authentic or reliable than documents prepared and executed by traditional means (particularly holographic or

nuncupative wills). In an age when hard copies can be imperceptibly doctored and replaced and signatures copied and printed in perfect color, the same risks exist whether a document is on paper or in the cloud. Indeed, the Uniform Electronic Transactions Act (UETA)¹⁹ recognizes the expediency and reliability of technology by allowing electronic records and signatures in other circumstances. “If a law requires a record to be in writing, an electronic record satisfies the law ... If a law requires a signature, an electronic signature satisfies the law.”²⁰

Importantly, however, the UETA does not apply to “the creation and execution of wills, codicils, or testamentary trusts.”²¹ Even though the UETA was written in 1990 and enacted in Oklahoma in 2000, the exclusion of testamentary documents is puzzling. Oklahoma courts already accept and rely on electronic recordings, emails, text messages, video depositions and video testimony of trial witnesses. Allowing electronic wills would not represent a radical change but rather a harmonizing of probate statutes with other areas of law. So, how can this be accomplished?

There are no inherent risks that, as a rule, make electronically generated, subscribed, attested and/or stored documents any less authentic or reliable than documents prepared and executed by traditional means (particularly holographic or nuncupative wills).



A PRACTICAL SOLUTION FOR OKLAHOMA

There are two main ways Oklahoma statutes could be amended to allow electronic wills. First, the Legislature could amend existing statutory provisions in Title 84 to include (or enact separate statutes which apply only to) wills created, subscribed, attested and/or stored using electronic means. Second, it could adopt some version of the Uniform Probate Code's (UPC) "harmless error" doctrine.

Under the first approach, the Legislature would be able to narrowly tailor formalities to ensure that electronic wills contain sufficient indicia of reliability for a probate court to adequately effectuate the testator's intent. Nevada is currently the only state to follow this approach;²² however, several other states – including Arizona, Florida, Indiana, New Hampshire and Virginia – have all recently considered legislation to allow electronic wills.²³ Such proposals have been met with varying levels of enthusiasm but none have yet been enacted.

Any statute allowing electronic wills should take into consideration, and effectively secure, the purpose behind testamentary formalities. Yet the complexity and fluidity of technology makes this a difficult, if not impossible, task.

How should a document be subscribed by the testator or attested by witnesses? There are electronic, digital, biometric and other means available, but which are sufficient to ensure the authenticity of the document? How should an electronic will be stored? It can be stored on a hard drive, in the cloud or with a qualified administrator. Which is more reliable? The law should also account for holographic wills. If a testator writes an electronic will on a password-protected phone or computer, should that have the same effect as a handwritten will? What if a testator writes the will on Facebook? What if he writes it on an iPad using a stylus? Considering the rate at which technology advances, a tailored statutory fix would likely need to be amended every few years to address new technological threats or capabilities.

A better solution, therefore, would be to adopt the UPC's "harmless error" doctrine. The harmless error doctrine, adopted by 11 states,²⁴ allows a will not executed in compliance with statutory formalities to nevertheless be admitted to probate if the proponent can show, by *clear and convincing evidence*, that the testator intended the noncompliant document to be his will.²⁵ Last July, the Michigan Court of Appeals applied

harmless error in holding that a document which existed only in electronic form was a valid last will and testament.²⁶ In that case, prior to committing suicide, the decedent left a handwritten, undated and unsigned note that stated:

I am truly sorry about this ...
My final note, my farewell is on my phone. The app should be open. If not look on Evernote, "Last Note[.]"²⁷

The note also provided information to access the decedent's Evernote account,²⁸ in which was stored a typed document dictating how the decedent wished for his estate to be distributed after his death.²⁹ The court held that the decedent "clearly and unambiguously expressed his testamentary intent," and thus the electronic note should constitute a valid last will and testament.³⁰

There is a dearth of case law revealing how other states will apply the "harmless error" doctrine to electronic wills. However, adopting this standard and allowing courts to validate documents as wills, where appropriate, is a more efficient solution than constantly amending statutory provisions to address new technologies as they develop.³¹ Importantly, this efficiency does not come at the price

of authenticity. “By placing the burden of proof upon the proponent of a defective instrument, and by requiring the proponent to discharge that burden by clear and convincing evidence (which courts at the trial and appellate levels are urged to police with rigor), [harmless error] imposes procedural standards appropriate to the seriousness of the issue.”³²

CONCLUSION

Technological change is a constant. As society progresses further into the 21st century, legal practitioners are best situated (and some would even say obligated) to identify the problems and opportunities caused by those changes and to craft innovative solutions that adapt laws to the changing needs of society. Yet, somehow, estate planning remains essentially unchanged from a century ago. The time has come, then, to re-examine the rigid rules for testamentary documents and to acknowledge that the world has moved on.

ABOUT THE AUTHORS

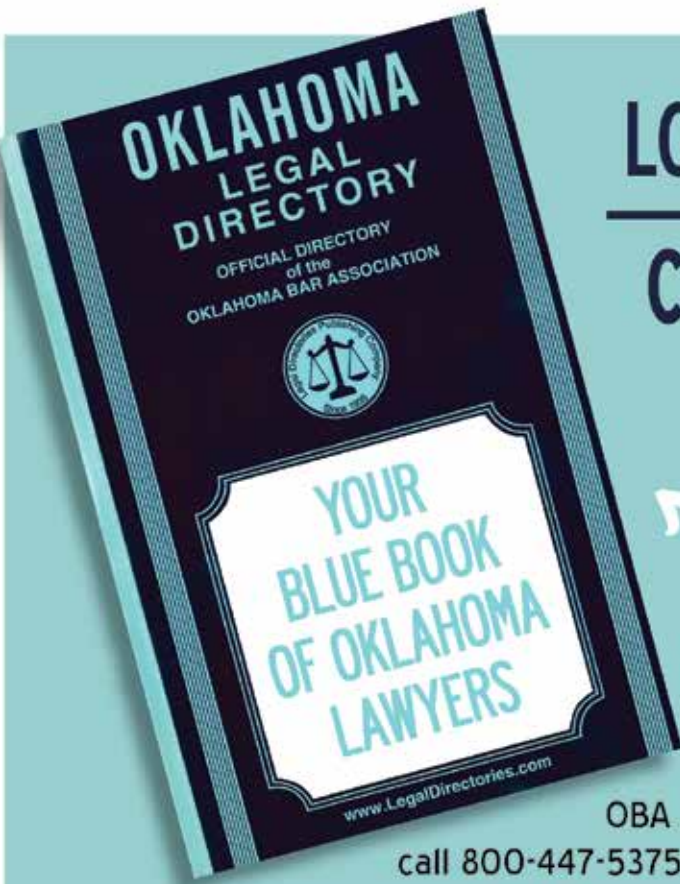
Martin Postic Jr. is the president of Postic & Bates PC in Oklahoma City. He is a member of the OBA Real Property Law and Estate Planning Probate and Trust sections. His practice concentrates in the areas of estate planning, probate and real property. He can be reached at posticm@posticbates.com.

David M. Postic is an estate planning and probate attorney at Postic & Bates PC in Oklahoma City. He is a member of the Ruth Bader Ginsburg American Inn of Court and serves on the OBA Civil Procedure/Evidence Code Committee. He can be reached at posticd@posticbates.com.

ENDNOTES

1. John H. Langbein, “Substantial Compliance with the Wills Act,” 88 *Harv. L. Rev.* 489, 491 (1975).
2. 84 O.S. §55. Oklahoma probate procedure also generally requires that the *original* be admitted to probate. See 58 O.S. §24.1; but see O.S. §§81-84.
3. 84 O.S. §55.
4. *Id.*
5. See 84 O.S. §41 (testator must be of legal age and sound mind); R. Robert Huff, Oklahoma Probate Law and Practice, §5.1 3rd Ed. 1995 (testator must have testamentary capacity).
6. See *Johnson v. Johnson*, 1954 OK 283, ¶¶1-4, 279 P.2d 928, 932 (Corn, J., concurring).
7. See *In the Matter of the Estate of Carlson*, 2016 OK 6 ¶13, 367 P.3d 486 (citing 84 O.S. §151) (“Of paramount importance in a probate proceeding is discerning and implementing a decedent’s intent.”). Cf. Lon L. Fuller, “Consideration and Form,” 41 *Colum. L. Rev.* 799, 800 (1941).
8. Langbein, *supra* note 1, at 489.
9. 84 O.S. §54.
10. *Id.*
11. *Hooker v. Barton*, 1955 OK 81, ¶10, 284 P.2d 708.
12. See generally 58 O.S. §§91-93.
13. 84 O.S. §46.
14. See Huff, *supra* note 5, at §7.1.
15. 12 O.S. §2804(B)(2).
16. See, e.g., *In Re Estate of Gerard*, 1995 OK 144 ¶12, 911 P.2d 266 (“To have testamentary capacity, a person must know in a general way the character and extent of his property and understand his relationship to the beneficiary of his gift as well as his relationship to those who ought to be in his mind, and he must understand the nature and effect of his act.” (internal quotation marks omitted)).
17. See Note, “What is an Electronic Will?,” 131 *Harv. L. Rev.* 1715, 1790 (2018).
18. *Id.* at 1806-09.
19. Codified in Oklahoma Statutes at 12A O.S. §§15-101 *et seq.*
20. 12A O.S. §15-107(c)-(d).

21. 12A O.S. §15-103(b)(1).
22. Nev. Rev. Stat. §133.085; see also Nev. Rev. Stat. §§133.086 and 133.320 (requiring that, to be self-proving, an electronic will must be stored by a custodian using “a system that protects electronic records from destruction, alteration or unauthorized access and detects any change to an electronic record”).
23. See Dan DeNicuolo, “The Future of Electronic Wills,” *Bifocal*, Vol. 38, No. 5, at 76-78.
24. See Robert H. Sitkoff & Jesse Dukeminier, *Wills, Trusts, and Estates* 176 (10th ed. 2017).
25. Unif. Probate Code §2-503 (amended 2010) reads: “Although a document or writing added upon a document was not executed in compliance with Section 2-502, the document or writing is treated as if it had been executed in compliance with that section if the proponent of the document or writing establishes by clear and convincing evidence that the decedent intended the document or writing to constitute:
 - (1) the decedent’s will,
 - (2) a partial or complete revocation of the will,
 - (3) an addition to or an alteration of the will, or
 - (4) a partial or complete revival of his [or her] formerly revoked will or of a formerly revoked portion of the will.”
26. *In re Estate of Duane Francis Horton*, Case No. 339737, at 1 (Mich. App. Ct. July 17, 2018).
27. *Id.*
28. Evernote is a mobile application designed for note taking, organizing tasks and archiving.
29. *Id.* at 1-2.
30. *Id.* at 5-8 (citing MCL 700.2503, Michigan’s “harmless error” rule).
31. See, e.g., Scott S. Boddery, “Electronic Wills: Drawing a Line in the Sand Against Their Validity,” 47 *Real Prop. Tr. & Est. L.J.* 197, 199 (2012).
32. Unif. Prob. Code §2-503 cmt. (amended 2010). See also *id.* (“Indeed ... the dispensing power actually prevents a great deal of unnecessary litigation” because it eliminates disputes about technical lapses and limits the zone of dispute to the functional question of whether the instrument correctly expresses the testator’s intent.”) (internal quotation marks omitted).



LOOKING FOR SOMETHING?

CHECK YOUR BLUE BOOK!

It's all u here!

The Oklahoma Legal Directory is the official OBA member directory and includes a guide to government offices and a complete digest of courts, professional associations including OBA committees and sections. To order a print copy, call 800-447-5375 ext. 2 or visit www.legaldirectories.com. A free digital version is available at tinyurl.com/2018oklegaldirectory.

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It's a free member benefit!

Make Time to Submit a Nomination

By Kara I. Smith

THE TIME OF THE YEAR is upon us to again take the time to recognize deserving individuals and groups who serve our community through their leadership, their service to the public and their service to the legal profession. This is the real beginning of the OBA Awards year, and the real work of the OBA Awards Committee starts now with publicizing the nomination process.

As you reflect on those deserving to be recognized, I also ask you to reflect on how such service and

leadership impacts our community, the people in your lives, you personally and reflect on the void that would exist without such commitments to service and leadership.

I ask you to help the OBA Awards Committee find those deserving to be honored and those who make us all want to do better. It is understandable that despite our appreciation and desire to acknowledge deserving individuals and groups, finding that time can just be a challenge.

So, for this very reason, we have made the nomination process as painless and the least time consuming as possible. We encourage you to reflect on this year's list of awards and to take the time to nominate someone, so we may have the opportunity to say thank you.

In addition, I solicit you to encourage your colleagues and friends to submit a nomination and share with them that their time and effort means so much to this organization, and their nomination could very well turn

NOMINATION RULES AND TIPS

- The deadline is 5 p.m. Monday, July 1, but get your nomination in EARLY! Nominations, complete with all supporting material, MUST be received by the deadline. Submissions or supporting material received after the deadline will not be considered.
- Make sure the name of the person being nominated and the person (or organization) making the nomination is on the nomination.
- If you think someone qualifies for awards in several categories, pick one award and only do one nomination. The OBA Awards Committee may consider the nominee for an award in a category other than one in which you nominate that person.
- Submission options (pick one):
 - 1) email awards@okbar.org (you will receive a confirmation reply);
 - 2) fax: 405-416-7089;
 - 3) mail: OBA Awards Committee, P.O. Box 53036, Oklahoma City, OK 73152.
- Visit www.okbar.org/awards for the nomination form if you want to use one (not required), history of previous winners and tips for writing nominations.



out to be what an honoree needed to reinvigorate their passion for service and leadership.

Past president and OBA Awards Committee member Joe Crosthwait said, “While most lawyers contribute to the good of society and the profession, many are particularly conspicuous by their contributions. It is only appropriate that those persons be recognized who have given selflessly of their time, talent and treasure for us all. Those who witness or benefit from those contributions need to nominate them. Honoring those special people makes us all that much prouder to be lawyers.”

Access to Justice Committee Chair Rod Ring said, “I don’t know who nominated the committee for the Golden Gavel Award last year and can’t thank them enough. Committee members worked on several projects – giving their time to help Oklahoma meet the promise of justice for all regardless of economic ability or location. Receiving the award reinforced for all committee members that our efforts are worthwhile, and I hope encouraged OBA members to learn more about access to justice.”

ABOUT THE AUTHOR

Kara Smith is the chief assistant attorney general in the Civil Rights Enforcement Unit of the Office of the Oklahoma Attorney General. She serves as Awards Committee chairperson.

AWARDS

OUTSTANDING COUNTY BAR ASSOCIATION AWARD – for meritorious efforts and activities

2018 Winners: Kay County Bar Association and Tulsa County Bar Association

HICKS EPTON LAW DAY AWARD – for individuals or organizations for noteworthy Law Day activities

2018 Winners: Comanche County Bar Association and Creek County Bar Association

GOLDEN GAVEL AWARD – for OBA committees and sections performing with a high degree of excellence

2018 Winner: OBA Access to Justice Committee

LIBERTY BELL AWARD – for nonlawyers or lay organizations for promoting or publicizing matters regarding the legal system

2018 Winners: The Parent Child Center of Tulsa and Nathan Hedge, Oklahoma City

OUTSTANDING YOUNG LAWYER AWARD – for a member of the OBA Young Lawyers Division for service to the profession

2018 Winner: Lane Neal, Oklahoma City

EARL SNEED AWARD – for outstanding continuing legal education contributions

2018 Winner: Paul Brunton, Tulsa

AWARD OF JUDICIAL EXCELLENCE – for excellence of character, job performance or achievement while a judge and service to the bench, bar and community

2018 Winner: Judge Ronald L. Kincannon, Boise City

FERN HOLLAND COURAGEOUS LAWYER AWARD – to an OBA member who has courageously performed in a manner befitting the highest ideals of our profession

2018 Winner: Josh Lee, Vinita

OUTSTANDING SERVICE TO THE PUBLIC AWARD – for significant community service by an OBA member or bar-related entity

2018 Winners: Allen Pease and Miss Chance, Broken Arrow and William C. “Bill” Kellough, Tulsa

AWARD FOR OUTSTANDING PRO BONO SERVICE – by an OBA member or bar-related entity

2018 Winner: Sara Murphy Bondurant, Oklahoma City

JOE STAMPER DISTINGUISHED SERVICE AWARD – to an OBA member for long-term service to the bar association or contributions to the legal profession

2018 Winner: M. Joe Crosthwait, Midwest City

NEIL E. BOGAN PROFESSIONALISM AWARD – to an OBA member practicing 10 years or more who for conduct, honesty, integrity and courtesy best represents the highest standards of the legal profession

2018 Winner: R. Victor Kennemer, Wewoka (posthumous)

JOHN E. SHIPP AWARD FOR ETHICS – to an OBA member who has truly exemplified the ethics of the legal profession either by 1) acting in accordance with the highest ethical standards in the face of pressure to do otherwise or 2) by serving as a role model for ethics to the other members of the profession

2018 Winner: Gerald L. Hilsher, Tulsa

ALMA WILSON AWARD – for an OBA member who has made a significant contribution to improving the lives of Oklahoma children

2018 Winner: Sharon Wigdor Byers, Edmond

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

Not awarded in 2018

INDIVIDUALS FOR WHOM AWARDS ARE NAMED

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

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

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

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

JOHN E. SHIPP – John E. Shipp, an attorney from Idabel, served as 1985 OBA president and became the executive director of the association in 1998. Unfortunately, his tenure was cut short when his life was tragically taken that year in a plane crash. Mr. Shipp was known for his integrity, professionalism and high ethical standards. He had served two terms on the OBA Professional Responsibility Commission, serving as chairman for one year, and served two years on the Professional Responsibility Tribunal, serving as chief-master. The OBA's Award for Ethics bears his name.

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

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

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

Diversity Awards: Nominations Due July 31



Ada Lois Sipuel Fisher signs the Register of Attorneys in July 1952. The OBA Diversity Awards are named to honor Fisher, a noted leader in Oklahoma's civil rights movement, who applied for admission to the OU College of Law to challenge the state's segregation laws and to become a lawyer. Photo Credit: Courtesy of the Oklahoma Historical Society.

THE DIVERSITY COMMITTEE

is now accepting nominations for the Ada Lois Sipuel Fisher Diversity Awards to be presented in October. The three award categories are members of the judiciary, licensed attorneys and organizations that have championed the cause of diversity. All nominations must be received by Wednesday, July 31.

For additional information, please contact OBA Diversity Committee Chair Telana McCullough at 405-267-0672 or visit www.okbar.org/diversityawards.

SELECTION CRITERIA

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

- Developed and implemented an effective equal opportunity program as demonstrated by the organization's commitment to the recruitment, retention and promotion of individuals of underrepresented populations regardless of race, ethnic origin, gender, religion, age, sexual orientation, disability or any other prohibited basis of discrimination;
- Promoted diversity initiatives that establish

and foster a more inclusive and equitable work environment;

- Demonstrated continued corporate responsibility by devoting resources for the improvement of the community at large; and
- Exhibited insightful leadership to confront and resolve inequities through

strategic decision-making, allocation of resources and establishment of priorities.

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

- Demonstrated dedication to raising issues of diversity and protecting civil and human rights;
- Led the development of innovative or contemporary measures to fight discrimination and its effects;
- Fostered positive communication and actively promoted inter-group relations among populations of different backgrounds;
- Participated in a variety of corporate and community events that promoted mutual respect, acceptance, cooperation, or tolerance and contributed to diversity awareness in the community and workplace; and
- Reached out to a diverse array of attorneys to understand firsthand the experiences of someone from a different background.

NOMINATIONS AND SUBMISSIONS

- Include name, address and contact number of the nominee.
- Describe the nominee's contributions and accomplishments in the area of diversity.
- Identify the diversity award category (organization, licensed attorney or member of the judiciary) in which the nominee is being nominated.
- The submission deadline is July 31.
- Submissions should not exceed five pages in length.
- Submit nominations to diversityawards@okbar.org.

LAW DAY ★ 2019



MANY THANKS

THE OBA LAW DAY COMMITTEE APPRECIATES THE CONTRIBUTIONS THAT HELPED MAKE THIS YEAR'S STATEWIDE LAW DAY ACTIVITIES AND COMMUNITY SERVICE SO SUCCESSFUL.



Ask A Lawyer TV show filming



Ask A Lawyer hotline



Law Day contest winner ceremony

Chief Justice Noma Gurich

OBA President Chuck Chesnut

Law-Related Education Committee

OETA Television

Oklahoma County Bar Association
Auxiliary

Oklahoma County Bar Association
Young Lawyers Division

The Oklahoman

Soup Soup Carry Out & Catering

Scott's Printing

Tulsa County Bar Association

Volunteer lawyers statewide who
staffed the hotline



THE SOVEREIGNTY SYMPOSIUM XXXII

Treaties, Etc.

*Presented by the Oklahoma Supreme Court
and the Sovereignty Symposium, Inc.*

June 5 - 6, 2019 | Skirvin Hilton Hotel | Oklahoma City, Oklahoma

Wednesday Morning

4.0 CLE credits / 0 ethics included

7:30 - 4:30 Registration

8:00 - 8:30 Complimentary Continental Breakfast

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

12:00 - 1:15 Lunch on your own

8:30 - 11:45 PANEL A: ECONOMIC FUTURES | CRYSTAL ROOM

CO-MODERATOR: JAMES COLLARD, Director of Planning and
Economic Development, Citizen Potawatomi Nation

CO-MODERATOR: LISA BILLY, (*Chickasaw*), Oklahoma
Secretary of Native American Affairs

MATT PINNELL, Lieutenant Governor of Oklahoma

KAREN BELL, British Consul General, Houston

KAY RHOADS, (*Sac and Fox*), Chief of the Sac and Fox Nation

MELOYDE BLANCETT, Oklahoma House of Representatives,
District 78

LESLIE OSBORN, Oklahoma State Labor Commissioner

JOHN BUDD, Chief Operating Officer for Oklahoma

REGGIE WASSANA, (*Cheyenne and Arapaho*), Governor,
Cheyenne and Arapaho Tribes of Oklahoma

JOY HOFMEISTER, Oklahoma Superintendent of
Public Instruction

DANA MURPHY, Chair, Oklahoma Corporation Commission

TERRY NEESE, Institute for the Economic Empowerment
of Women

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

Artwork: Poteet Victory, The Night Guardian; Joseph French Photography

8:30 - 11:45 PANEL B: SIGNS, SYMBOLS AND SOUNDS | GRAND BALLROOMS A-C

(THIS PANEL CONTINUES FROM 3:00 - 6:00)

CO-MODERATOR: JAY SCAMBLER, Collector of Native American Art

CO-MODERATOR: ERIC TIPPECONNIC, (*Comanche*), Artist and Professor, California State University, Fullerton

WILLIAM DAVIS, (*Muscogee (Creek)*), Singer

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

JERI REDCORN, (*Caddo/Potawatomi*), Potter

VANESSA JENNINGS, (*Kiowa/Gila River Pima*), Artist

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

HARVEY PRATT, (*Cheyenne/Arapaho*), Peace Chief, Artist, Designer of the Smithsonian's National Native American Veterans Memorial

GORDON YELLOWMAN, (*Cheyenne*), Peace Chief, Assistant Executive Director of Education, Cheyenne and Arapaho Tribes

POTEET VICTORY, (*Cherokee/Choctaw*), Artist, 2019 Symposium Poster

CHRIS MORRISS, Oklahoma State Protocol Officer

GREGORY H. BIGLER, (*Euchee*), District Judge, Muskogee (Creek) Nation

8:30 - 11:45 PANEL C: SPIRITUAL TRADITIONS | CENTENNIAL 1-2

MODERATOR: NOMA GURICH, Chief Justice, Oklahoma Supreme Court

KRIS LADUSAU, Reverend, Dharma Center of Oklahoma

ROBERT HAYES JR., Bishop, United Methodist Church, Retired

ELIZABETH KERR, Special Judge, Oklahoma County

LINDSAY ROBERTSON, Faculty Director, Center for the Study of American Indian Law and Policy, Professor, University of Oklahoma

GORDON YELLOWMAN, (*Cheyenne*), Peace Chief, Assistant Executive Director of Education, Cheyenne and Arapaho Tribes

BRADFORD MORSE, Dean of Law, Thompson Rivers University

ROBERT JOSEPH, (*Maori*), Senior Lecturer, Research Centre Director MIG (Law), The University of Waikato

11:45 LUNCHEON HONORING TRIBAL LEADERS AND FACULTY | VENETIAN ROOM

MASTER OF CEREMONIES: NOMA GURICH, Chief Justice, Oklahoma Supreme Court

PRAYER: WILLIAM WANTLAND, (*Seminole, Chickasaw and Choctaw*), Episcopal Bishop of Eau Claire, Retired

GREETING: EMMA NICHOLSON, BARONESS NICHOLSON OF WINTERBOURNE, HOUSE OF LORDS

Wednesday Afternoon

4 CLE credits / 0 ethics included

7:30 - 4:30 Registration

2:45 - 3:00 Tea / Cookie Break for All Panels

6:00 Mini Reception in Honor of the Flute Circle

1:10 CAMP CALL: GORDON YELLOWMAN,

(*Cheyenne*), Peace Chief, Assistant Executive Director of Education, Cheyenne and Arapaho Tribes

1:15 - 2:45 OPENING CEREMONY AND KEYNOTE ADDRESS | GRAND BALLROOMS D-F

MASTER OF CEREMONIES: STEVEN TAYLOR, Justice, Oklahoma Supreme Court, Retired

PRESENTATION OF FLAGS

HONOR GUARD: KIOWA BLACK LEGGINGS SOCIETY

SINGERS: SOUTHERN NATION

INVOCATION: KRIS LADUSAU, Reverend, Dharma Center of Oklahoma

INTRODUCTION OF KEYNOTE SPEAKER: KAREN BELL, British Consul General, Houston

SPEAKER: EMMA NICHOLSON, BARONESS NICHOLSON OF WINTERBOURNE, House of Lords

WELCOME: NOMA GURICH, Chief Justice, Oklahoma Supreme Court

WELCOME: KEVIN STITT, (*Cherokee*), Governor of Oklahoma

WELCOME: DAVID HOLT, (*Osage*), Mayor, Oklahoma City, Oklahoma

WELCOME: CHARLES CHESNUT, President, Oklahoma Bar Association

PRESENTATION OF AWARDS: YVONNE KAUGER, Justice, Oklahoma Supreme Court

HONOR AND MEMORIAL SONGS: SOUTHERN NATION

CLOSING PRAYER: ROBERT HAYES JR., Bishop, United Methodist Church, Retired

3:00 - 6:00 PANEL A: INTERTWINED INTERNATIONAL INDIGENOUS ECONOMIC INTERESTS | CRYSTAL ROOM

CO-MODERATOR: WAYNE GARNONS-WILLIAMS, Senior Lawyer and Principal Director, Garwill Law Professional Corporation, Chair, International Intertribal Trade and Investment Organization

CO-MODERATOR: RODGER RANDLE, Director, Center for Studies in Democracy and Culture and Professor, University of Oklahoma

RICHARD HYDE, British Consul General Designate, Houston

ROBERT JOSEPH, (*Maori*), Senior Lecturer, Research Centre Director MIG (Law), The University of Waikato

BRADFORD MORSE, Dean of Law, Thompson Rivers University

BINA SENGAR, Assistant Professor, Department of History and Ancient Indian Culture, School of Social Sciences, Dr. Babasaheb Ambedkar Marathwada University

RICO BUCHLI, Honorary Consul, Switzerland
ENRIQUE VILLAR-GAMBETTA, Honorary Consul, Peru
JAMES COLLARD, Director of Planning and Economic
Development, Citizen Potawatomi Nation

3:00 - 6:00 PANEL B: SIGNS, SYMBOLS AND SOUNDS | GRAND BALLROOMS A-C

CO-MODERATOR: JAY SCAMBLER, Collector of Native
American Art
CO-MODERATOR: ERIC TIPPECONNIC, (*Comanche*), Artist
and Professor, California State University, Fullerton
CHAD SMITH, (*Cherokee*), Attorney
KENNETH JOHNSON, (*Muscogee/Seminole*), Contemporary
Jewelry Designer and Metalsmith
JAMES PEPPER HENRY, (*Kaw/Muscogee (Creek)*), Director and Chief
Operating Officer, American Indian Cultural Center Foundation
JIM VAN DEMAN, (*Delaware*), Artist and former Vice-Chief of the
Delaware Nation
KELLY LEWIS, Talk Jive Radio
THOMAS WARE, Talk Jive Radio
JEROD IMPICHCHAACHAHA' TATE, (*Chickasaw*), Composer
TIMOTHY TATE NEVAQUAYA, (*Comanche*), Artist and Musician
BRENT GREENWOOD, (*Chickasaw/Ponca*), Artist and Southern
Nation Singer

3:00 - 6:00 PANEL C: CRIMINAL LAW | CENTENNIAL 1-2

CO-MODERATOR: DANA KUEHN, (*Choctaw*), Vice-Presiding
Judge, Oklahoma Court of Criminal Appeals
CO-MODERATOR: ARVO MIKKANEN, (*Kiowa/Comanche*)
Assistant United States Attorney and Tribal Liaison, Western
District of Oklahoma
TRENT SHORES, United States Attorney for the Northern
District of Oklahoma
COLLEEN SUCHE, Judge of the Manitoba Court of Queen's Bench
MIKE HUNTER, Attorney General of Oklahoma
ROBERT RAVITZ, Chief Public Defender, Oklahoma County
JOHN CANNON, Attorney The Cannon Law Firm
STEVE MULLINS, Attorney, Lyle, Soule and Curlee
CALLANDRA MCCOOL, (*Citizen Potawatomi*), Research Editor, American
Indian Law Review, University of Oklahoma College of Law

**WEDNESDAY PROGRAMS WILL CONCLUDE
WITH A FLUTE CIRCLE IN GRAND BALLROOM
A-C. PLEASE BRING YOUR FLUTE TO
PARTICIPATE IN THIS EVENT.**

**6:00 MINI RECEPTION IN HONOR OF THE FLUTE
CIRCLE | HALLWAY OUTSIDE OF GRAND
BALLROOMS A-C**

Thursday Morning

4.0 CLE credits / 2 ethics included

7:30 - 4:30 Registration

8:00 - 8:30 Complimentary Continental Breakfast

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

12:00 - 1:15 Lunch on your own

8:30 - 12:00 PANEL A: JUVENILE LAW AND CHILDREN'S ISSUES | GRAND BALLROOMS A-B

CO-MODERATOR: DEBORAH BARNES, Vice Presiding Judge,
Oklahoma Court of Civil Appeals, Division Two
CO-MODERATOR: MIKE WARREN, Associate District Judge,
Harmon County, Oklahoma
STEVE HAGER, Director of Litigation, Oklahoma Indian
Legal Services
RICHARD KIRBY, Associate District Judge, Oklahoma County
ALAN WELCH, Special Judge, Oklahoma County
GREGORY RYAN, Special Judge, Oklahoma County
PHIL LUJAN, (*Kiowa/Taos Pueblo*), Judge of the Seminole and
Citizen Potawatomi Nations
JACK TROPE, Senior Director, Casey Family Programs
DORIS FRANSEIN, District Judge, Tulsa County, Retired

8:30 - 12:00 BEYOND CONSERVATION: PREPARING FOR THE FUTURE AND THE FOODS OF THE LAND | GRAND BALLROOMS D-F

CO-MODERATOR: PATRICK WYRICK, District Judge, United
States District Court for the Western District of Oklahoma
CO-MODERATOR: JANIE HIPPIE, (*Chickasaw*), CEO, Native
American Agriculture Fund
BLAKE JACKSON, (*Choctaw*), Policy Officer/Staff Attorney
at Indigenous Food and Agriculture Initiative, University
of Arkansas
BLAYNE ARTHUR, Secretary and Commissioner of Agriculture,
Oklahoma
JOHN BERREY, Chairman, Quapaw Nation
JERRY MCPEAK, (*Muscogee (Creek)*), Former Oklahoma
State Legislator
JOHN HARGRAVE, Attorney
NATHAN HART, (*Cheyenne*), Executive Director, Department of
Business, Cheyenne and Arapaho Tribes
VINCE LOGAN, (*Osage*), CFO/CIO, Native American Agriculture Fund
ANOLI BILLY, (*Chickasaw*), Representing the Voices of Next
Generation Food Producers
JULIE CUNNINGHAM, Executive Director, Oklahoma Water
Resources Board

8:30 - 9:30 PANEL C: ETHICS | CENTENNIAL 1-3

MODERATOR: JOHN REIF, Justice, Oklahoma Supreme Court, Retired

FOLLOWED BY A DISCUSSION OF THE CONCERNS OF STATE, FEDERAL AND TRIBAL JUDGES MODERATED BY JUSTICE REIF

JOHN TAHSUDA, Principal Deputy Assistant Secretary of Indian Affairs
SUZANNE MITCHELL, Magistrate, United States District Court
for the Western District of Oklahoma

WILLIAM HETHERINGTON, Judge, Oklahoma Court of Civil Appeals, Retired

RICHARD OGDEN, District Judge, Oklahoma County

ALETIA HAYNES TIMMONS, (*Cherokee*), District Judge,
Oklahoma County

CARLA PRATT, Dean, Washburn University School of Law

GREGORY D. SMITH, Justice, Pawnee Nation Supreme Court

ELIZABETH BROWN, (*Cherokee*), Associate District Judge,
Adair County

BRENDA PIPESTEM (*Eastern Band of Cherokee Indians*),
Associate Justice, Eastern Band of Cherokee Indian
Supreme Court

MIKE KISS, MIS Interim Director, Administrative Office of the Courts

8:30 - 12:00 PANEL D: TREATIES | CRYSTAL ROOM

MODERATOR: BOB BLACKBURN, Executive Director,
Oklahoma Historical Society

JAY HANNAH, Executive Vice-President of Financial Services, BancFirst

LINDSAY ROBERTSON, Faculty Director, Center for the Study of
American Indian Law and Policy, Professor, University of Oklahoma

LEE LEVY, Former AFSC Commander

ROBERT MILLER, Professor of Law, Arizona State University,
Sandra Day O'Connor College of Law

KELLY CHAVES, Professor of History and Director of Fine Arts,
Oklahoma School of Science and Mathematics

Thursday Afternoon

4.5 CLE credits / 0 ethics included

3:30 - 3:45 Tea / Cookie Break for All Panels

12:00 - 1:30 WORKING LUNCH FOR FEDERAL, STATE AND TRIBAL JUDICIARY | CENTENNIAL 1-3

FACILITATOR: DOUGLAS COMBS, (*Muscogee (Creek)*),
Justice, Oklahoma Supreme Court

1:30 - 5:30 PANEL A: JUVENILE LAW | GRAND BALLROOMS A-B

CO-MODERATOR: DEBORAH BARNES, Vice Presiding Judge,
Oklahoma Court of Civil Appeals, Division Two

CO-MODERATOR: MIKE WARREN, Associate District Judge,
Harmon County, Oklahoma

ELIZABETH BROWN, (*Cherokee*), Associate District Judge,
Adair County, Oklahoma

STEVEN BUCK, Executive Director, Oklahoma Office of Juvenile Affairs

JARI ASKINS, Administrative Director of the Courts

JOE DORMAN, Oklahoma Institute for Child Advocacy

NIKKI BAKER LIMORE, (*Cherokee*), Executive Director,
Child Welfare, Cherokee Nation

NORMAN RUSSELL, Associate District Judge, Kiowa County, Retired

1:30 - 5:30 PANEL B: GAMING | GRAND BALLROOMS D-F

CO-MODERATOR: NANCY GREEN, ESQ., (*Choctaw*), Green
Law Firm, P.C., Ada, Oklahoma

CO-MODERATOR: MATTHEW MORGAN, (*Chickasaw*), Director
of Gaming Affairs, Division of Commerce, Chickasaw Nation

ERNIE STEVENS, (*Oneida*), Chairman, National Indian Gaming Association

JONODEV CHAUDHURI, (*Muscogee (Creek)*), Chairman,
National Indian Gaming Commission

KATHRYN ISOM-CLAUSE, (*Taos Pueblo*) Vice Chair, National
Indian Gaming Commission

MIKE MCBRIDE, III, Crowe and Dunlevy

GRAYDON LUTHEY, JR., Gable Gotwals

WILLIAM NORMAN, JR., (*Muscogee (Creek)*), Hobbs, Straus,
Dean and Walker

ELIZABETH HOMER, (*Osage*), Homer Law

SHEILA MORAGO, (*Gila River Indian Community*), Executive
Director, Oklahoma Indian Gaming Association

KYLE DEAN, Associate Professor of Economics, Director of Center
for Native American & Urban Studies, Oklahoma City University

TRACY BURRIS, (*Chickasaw*), Executive Director, Muscogee
(Creek), Nation Office of Public Gaming

1:30 - 5:30 PANEL C: ECONOMIC FUTURES | CRYSTAL ROOM

CO-MODERATOR: JAMES COLLARD, Director of Planning and
Economic Development, Citizen Potawatomi Nation

CO-MODERATOR: LISA BILLY, (*Chickasaw*), Oklahoma
Secretary of Native American Affairs

BILL LANCE, Secretary of Commerce, Chickasaw Nation

TIM GATZ, Executive Director, Oklahoma Department of
Transportation and the Oklahoma Turnpike Authority

SEAN KOUPLEN, Oklahoma Secretary of Commerce and
Workforce Development

CHRIS BENGE, Executive Director, Center for Rural and Tribal
Health, Oklahoma State University

TAMMYE GWIN, Senior Director of Business Development,
Choctaw Nation of Oklahoma

DEREK OSBORN, Tulsa Field Office Director for Senator
James Lankford

This agenda is subject to revision.

NOTICE

There will be a working lunch for State, Tribal and Federal Judges to be held at 12 noon on June 6, 2019.

A panel on the mutual concerns of State, Tribal and Federal Judges will be held beginning at 9:30 on June 6, 2019.

The Sovereignty Symposium XXXII

June 5 - 6, 2019
Skirvin Hilton Hotel
Oklahoma City, Oklahoma

Name: _____ Occupation: _____

Address: _____

City: _____ State _____ Zip Code _____

Billing Address (if different from above) _____

City: _____ State _____ Zip Code _____

Nametag should read: _____

Other: _____

Email address: _____

Telephone: Office _____ Cell _____ Fax _____

Tribal affiliation if applicable: _____

Bar Association Member: Bar # _____ State _____

16.5 hours of CLE credit for lawyers will be awarded, including 2.0 hours of ethics. **NOTE:** Please be aware that each state has its own rules and regulations, including the definition of "CLE;" therefore, certain portions of the program may not receive credit in some states.

# of Persons		Registration Fee	Amount Enclosed
_____	Both Days	\$275.00 (\$300.00 if postmarked after May 21, 2019)	_____
_____	June 6, 2019 only	\$175.00 (\$200.00 if postmarked after May 21, 2019)	_____
		Total Amount	_____

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

THE SOVEREIGNTY SYMPOSIUM, INC. The Oklahoma Judicial Center, Suite 1 2100 North Lincoln Boulevard Oklahoma City, Oklahoma 73105-4914

Presented By THE OKLAHOMA SUPREME COURT and THE SOVEREIGNTY SYMPOSIUM

New Attorneys Admitted to the OBA

BOARD OF BAR EXAMINERS CHAIRPERSON Thomas M. Wright announces that 81 applicants who took the Oklahoma Bar Examination on Feb. 26-27, were admitted to the Oklahoma Bar Association on Tuesday, April 16, or by proxy at a later date. Oklahoma Supreme Court Chief Justice Noma Gurich administered the Oath of Attorney to the candidates at a swearing-in ceremony at the Oklahoma Judicial Center in Oklahoma City. A total of 123 applicants took the examination.

Other members of the Oklahoma Board of Bar Examiners are Vice Chairperson Juan Garcia, Clinton; Robert Black, Oklahoma City; Monte Brown, McAlester; Tommy R. Dyer Jr., Jay; Brant Elmore, Norman; Bryan Morris, Ada; Loretta F. Radford, Tulsa; and Roger Rinehart, El Reno.

THE NEW ADMITTEES ARE:

Misbauddin Ahmed
Jessica Christine Allen
Joshua Wayne Anderson
Wriley Kenneth Anderson
Aisosa Arhunmwunde
Erika Louiez Artinger
Jeffrey Douglas Bacon Jr.
Scott Thomas Beyea

Allison Nicole Biscoe
Logan Ashton Blackburn
Jason Craig Bollinger
Jessica Lyn Brown
Zackary Austin Brown
Darrell Leon Buck
Farrah Yong Burgess
Candace Lee Carter

Jason Lee Cotton
Emilee Noelle Crowther
David Anthony Davis
Robert Evan Davis
Joseph Lee DeGiusti
Anthony Bruce Dickenson
Anja du Toit
Lauren Ashley Fournier
Rodney Gavin Fouts
Jose Valentin Gonzalez
Paige Nicole Green
Joseph Albert Griffin
Logan Andrew Harrison
Rilee Dean Harrison
Lindsay Nicole Hearn
Javier Giovanni Hernandez
Christopher James Hollingsworth
John Marshall Homra
James Derick Hopper
Brian Edward Jackson
Francisco Jasso Jr.
Brayden Micah Jennings
Leslie Lanay Jones
Ronald Cecil Jones II
Thomas Richard Jones III
Zachariah Ahmad Kanaa
Carrie L Kincade
Tamara Webster Kinyanjui
Mary Estelle Leavell
Nathan Alan Lobaugh





Tiffany Amber Lueck
 Kelby Winson Luna
 Daniel Patrick McClure Jr.
 Margaret Spence Moon
 Taylor Anthony Moulton
 Ashley Swindell Nix
 Andrew Edward Polchinski
 Matthew Carson Porter



Colton Loy Richardson
 Valerie Marie Salem
 Jacob Marland Sargent
 Christine Suzanne Schem
 Colton Grant Scott
 Hope Elizabeth
 Sheppard-Mahaffey
 Paul Alan Sims

Brent Allen Smith
 Morgan Taylor Lee Smith
 Brandt Steven Sterling
 Keaton Anthony Michael Taylor
 Spencer Byron Torbett
 James Arthur Trummell
 Natalie Anne Tupta
 Carson Quay Turner
 Miroslava Ivanova
 Vezirska-Gabrovski
 Jose Alberto Villarreal
 Gentry Carlin Wahlmeier
 Bailey Malone Warren
 Nicholas Weeks
 Nicholas Charles Williams
 Emily Kathleen Wilson
 Andrew Lawrence Junk
 Winningham
 Charles Martin Woner
 Dakota James Wrinkle
 John Paul Yeager
 Jazmin Guadalupe Zaragoza

Update on Reading Day Bills as End of Session Nears

By Angela Ailles Bahm

HAPPY SPRINGTIME from the Legislative Monitoring Committee! The end of the session is slated to be May 31, aka *Sine Die* (which means in Latin “without day,” referring to the fact there will be no further meetings or hearings). By the time you see this article, the last deadline will have passed for the third reading in the opposite house, and legislation will be working its way through the house of origin in hopes to make it to the governor’s desk. (Every time I write one of these articles, I have the tune from the TV show *Schoolhouse Rock* in my head “I’m Just a Bill.”)

At the bottom of the article is the “original” list from Reading Day with only those bills that are still “live rounds” for this session. Others have not made it out of their house or out of committee. Remember that because the legislative session is bicameral, all bills filed this year will be available to be revived during next year’s session.

Our guest speakers during Day at the Capitol discussed several bills, some of which have been signed into law already by the governor. Attorney General Mike Hunter discussed “Francine’s Law” HB 2640. It is named after Francine Frost, a woman who went missing in Tulsa over 30 years ago. It would require all state agencies to include unidentified remains



in a database called the National Missing and Unidentified Persons System (NamUs). This bill continues to advance.

Chief Justice Noma Gurich addressed HB 2366 which would realign the Supreme Court and the Court of Criminal Appeals from the current nine districts to five districts to match the current congressional districts. The bill effectively creates five districts from which Supreme Court justices would be selected and the other four would be at-large positions. Judge Thad Balkman discussed HB 2612, the “Unity Bill” which addresses many issues associated with medical marijuana. It was signed by the governor in March.

Other bills that have become law and were discussed by the governor’s General Counsel Mark Burget, deal with agency reform and accountability. SB 456, SB 457, HB 2480, HB 2479 and HB 2483 have all been signed into law and impact the ODOT, ODOC, OHCA, Department of Mental Health and Substance Abuse Services and the Office of Juvenile Affairs. Generally, the governor will choose the agency administrator and some members of the board.

The committee will be planning a Legislative Debrief Day, like we had in August last year. I anticipate it will be held again in August before the new laws become law, which is usually Nov. 1. As always if you have any suggestions on how to improve the Legislative Monitoring Committee, please let me know.

UPDATED READING DAY BILLS

Family Law Bills

HB 1276 Title 43 Child custody; provides court shall provide equal shared parenting time

HB 2270 Title 10 Relates to uniform parentage act and limitations of paternity actions

HB 1274 Title 10A Defines and addresses situational neglect

HB 2604 Title 10 A Pertains to perpetrator registry

HB 2189 Title 12 New law allows for alternative methods of providing testimony in criminal cases

HB 2091 Title 22 Increases number of members on Domestic Violence Fatality Review Board

HB 1061 Title 63 New law relating to Child Abuse Prevention Act and providing of information related to termination of parental rights

SB 833 Title 63 Modifies information to be gathered and incorporated into the annual report of the Office of Child Abuse Prevention

HB 1022 Title 10 New law creating the Task Force on Trauma-Informed Care

HB 1222 Title 16 Provides for effective conveyances by married grantors

SB 742 Title 63 Pertains to child abuse prevention and school districts

Criminal Law

HB 1019 Oklahoma criminal discovery code – access to discovery

HB 1030 Title 37A New law; alcoholic beverages; allows certain felons to possess an employee's license

HB 1145 Pertains to expungements

HB 2019 New law broadens judicial discretion for pregnant women or caregivers

Estate Planning/Banking/ General Business

SB 732 Title 14A UCC. Changes to dollar amounts from Reference Base Index

SB 737 Title 18 Adds real estate appraisers to Professional Entity Act

SB 204 Title 18 Includes a “natural person” as a “charitable organization”

Government Law

HB 1391 Title 74 Pertaining to fingerprinting and background checks

HB 1921 Title 62 New law; Oklahomans Virtually Everywhere Act

SB 179 Title 62 Provides for training employees as financial managers

SB 198 Title 74 New law; guidelines for social media

Civil Procedure/Courts

HB 1092 Provides for collection of attorney's fees in small claims cases

HB 1332 Title 47 Allows ATVs to be driven on certain municipal and county roadways

Environmental/Natural Resources

SB 702 Title 27A New law requiring DEQ and Water Resources Board to share information in certain circumstances

HB 1403 Title 82 New law pertaining to “treasured stream”

HB 2474 Title 82 Disclosure and website of applications to Oklahoma Water Resources Board

Schools

HB 1065 Modifies definition of threatening behavior

SB 441 Pertains to length of school year

Indian/Real Estate Law

HB 1916 Title 60 New law prohibiting transfers of certain items of tangible personal property to public trust

HB 1220 Title 16 False affidavit shall result in award of costs and attorneys fees

HB 1223 Title 16 Pertains to claims and purchases of mineral interests

HB 2121 Title 60 Provides for notice relating to Uniform Unclaimed Property Act

SB 915 Title 16 Relates to remote online notarial acts

Also provided an update to the Stigler Act amendments in the lawsuit, *Carpenter v. Murphy*

Marijuana Law

HB 1100 Modifies certain prohibited acts; relates to Uniform Controlled Dangerous Substances Act

ABOUT THE AUTHOR

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

I Dare You to Not Go to the Solo & Small Firm Conference

By John Morris Williams

I DARE YOU TO NOT GO to the Solo & Small Firm Conference – unless you are prepared and willing to become a better lawyer. Once upon a time, the concept of a conference for solo and small firm practitioners on issues unique to them was born. The Oklahoma Bar Association was not the first state to seize upon this programming opportunity; however, it was very early in the game. Today, several states use this platform to reach out to its solo and small firm members.

As it was at the time of its origin, and still true today, most Oklahoma lawyers are solo or small firm practitioners. The concept of entering solo practice immediately upon passing the bar has continued to be an upward trend. So, today there are more lawyers who never had the benefit of practicing with a more experienced lawyer upon entering practice. This phenomena at times makes even relatively basic practice tips extremely valuable.

The Solo & Small Firm Conference, June 20-22 at River Spirit Casino Resort in Tulsa, is so much more than getting some good forms or tips on family or criminal law. The conference has always been broad and featured programming for even the most seasoned lawyers.

Given the ever-increasing utilization of technology and new practice aids, today's Solo & Small

Firm Conference has relevancy to every lawyer, regardless of firm size. Much of the new management software is scalable and e-discovery and artificial intelligence software are not firm-size dependent in the least.

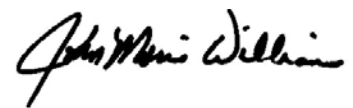
At times, the Solo & Small Firm Conference has provided training and introduction to practice pointers that may exceed anything being readily available to larger firm practitioners. The multiplication of “boutique” firms doing highly challenging and intellectual work has also transformed solo and small firm practice. One would be highly mistaken to think that solo and small firm practitioners are not handling major litigation or doing very complex legal work.

My observations are a transition is occurring with the use of technology that even surpasses the advent of word processing. Regardless of firm size, one lawyer and a lot of technology can produce and assimilate lots of data. Additionally, compartmentalization in very large firms can have the effect of being in a small firm as far as the size of the group you work with every day.

Since the first Solo & Small Firm Conference in 1998, the world and the practice of law have greatly changed. What has not changed is very high-quality programming and a warm, family friendly atmosphere at this conference.

This year's conference offers high quality and diverse programming that will serve every Oklahoma lawyer regardless of firm size. You should not let your firm size discourage your attendance. The only thing that should stop you from attending is an absolute desire to NOT grow or learn.

Otherwise, I dare you to attend and not have a good time and learn a few things. I double dare you to show up if you are from a larger firm and not learn something that helps your practice and your firm. Details and online registration are at www.okbar.org/solo.



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



River Spirit Casino Resort | Tulsa

www.okbar.org/solo
Early registration discounts end June 6!

MORE CLE OPTIONS ADDED

OBA legal research member benefit Fastcase is coming to the conference to teach educational sessions and answer questions from OBA members. Learn about the new features of Fastcase 7, which will be launched to all OBA members this summer.

ADDITIONAL SPONSORS HAVE SIGNED UP

CO-PRODUCER

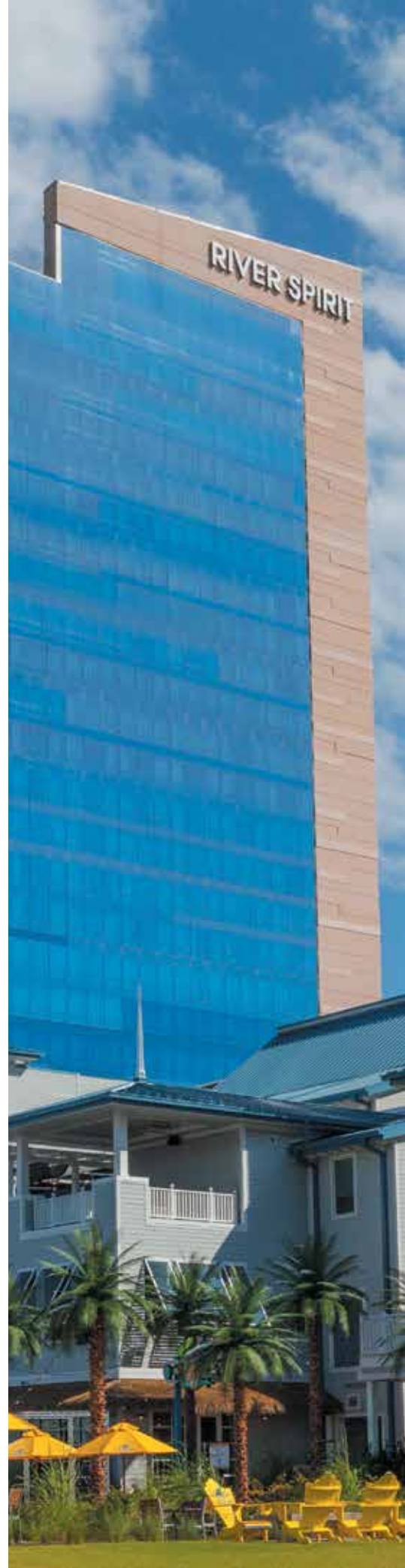
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and Trust Section
OBA Family Law Section
OBA General Practice/Solo
and Small Firm Section
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2019
Patrick A. Williams
**CRIMINAL DEFENSE INSTITUTE
&
OCDLA ANNUAL MEETING**

JUNE 27 & 28, 2019
RIVER SPIRIT CASINO RESORT
TULSA, OK



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

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

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

Cutoff date for nominations is May 31, 2019 @ 5:00pm.
For OCDLA information, awards criteria & past award winners,
please visit www.ocdlaoklahoma.com

Please send nominations to:

Mail: **OCDLA**
PO Box 2272
OKC, OK 73101-2272

Email: bdp@for-the-defense.com

Fax: 405-212-5024

2019 CRIMINAL DEFENSE INSTITUTE

(FULL AGENDA AVAILABLE at www.ocdlaoklahoma.com)

THURSDAY, JUNE 27, 2019

- Lessons From Stan Lee – World Building for Our Clients – *La Mer Kyle Griffiths – Still She Rises*
- Dealing With Stress, Secondary PTSD & Depression* – *Tom Cummings – Oklahoma City*

TRACK 1: BASIC LITIGATION

- Voir Dire
- Search & Seizure
- Cross Examination

TRACK 2: REPRESENTING WOMEN DEFENDANTS

- Pregnancy in Custody
- Juvenile & Neglect Cases

TRACK 3: ADVANCED PRACTICE

- Appellate Concerns
- Objections Revival
- Art of the Oral Argument

FRIDAY, JUNE 28, 2019

- Cross Exam of the DRE Witness – *John Hunsucker, Oklahoma City*
- Cellbrite Technology & Social Media – *Robert Aguerro, Murrieta, CA*
- Case Law & Statute Update – *James Hankins, Oklahoma City*

Small Firm / Solo Practice Afternoon Section:

- Branding / Building Digital Value / Marketing 2019 / Insurance & Investments for Small Firms
- Basics of Divorce & Child Custody

Registration Fees (Awards Dinner Included)

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

TOTAL: _____

Name: _____ Bar #: _____

Address: _____ City/State/Zip: _____

Phone: _____ Email: _____

Credit Card Info: # _____ Exp. Date _____

MCLE Credit

- OK - 15 Hours Possible, includes 1 hour ethics*

LOCATION

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

Visit www.OCDLAOKLAHOMA.com to register or mail this ad with payment to:
OCDLA, PO BOX 2272, OKC, OK 73101

FOR MORE INFO: Email: bdp@for-the-defense.com or call the OCDLA: 405-212-5024

Technology and the Legal Profession

By Jim Calloway

MUCH WAS BEEN WRITTEN about the antipathy of the legal profession toward adoption of modern technology. “The relationship between lawyers and technology is complicated” begins a column in *Forbes* magazine titled “Lawyers and Technology: Frenemies or Collaborators?” by Mark A. Cohen, noting many lawyers “curious ambivalence” toward adopting technology.¹ That observation is no surprise to those in the field of legal technology.

Recently, a lawyer contacted me because a client had restored a smartphone to the factory settings that contained some very important text messages. There were other complications. I gave him the name of an expert. He later sent us both an email that included a good-natured tirade about his hatred of smartphones. “I call them ‘instruments of the devil.’ ...Being a Luddite could mean that I will remain the only sane person living in a world of cellphone zombies.”

Every month or so, some lawyer introduces himself to me with the phrase, “I’m a dinosaur.” Other lawyers often enjoy pulling out an ancient flip phone, sometimes patched with tape, to show me their phone of choice.

OBA Practice Management Advisor Julie Bays had been on the job just a few months when she offered to email a lawyer some

material. “I refuse to use email” was the blunt response. No problem. We still know how to use envelopes and stamps.

I wonder if in the early days of telephone services some lawyers refused to use that “instrument of the devil.” I can recall that fax machines were quickly adopted by law firms because of the savings in time and money. Local courier services were not cheap and overnight delivery to other states paled in comparison to faxing, but let’s face it, faxing was easy.

Speaking of faxing, as I was preparing to write this column, I noted a tweet from an Oklahoma City lawyer, which is reproduced below with permission.

On the other hand, I know a lot of lawyers, in Oklahoma and across the country, who are very sophisticated users of technology. Some of the smartest legal technologists I know are lawyers. Sometimes an Oklahoma lawyer will contact me with a technology question and also share a new technology tip with me.

TECHNOLOGY COMPETENCY

Since almost all of us are going to be using tech-based tools for the rest of our careers, I thought this technology-themed issue of the *Oklahoma Bar Journal* would be a good opportunity to share some skill-building tools for lawyers.



Jeff Taylor
@jeffrey_taylor

If you're a lawyer and you (1) still use fax as your primary means of correspondence, or (2) can't formulate a coherent text message, or (3) won't use email, PLEASE RETIRE. I am tired of having to sign up for free fax services just to communicate with you.

2:58 PM - 26 Mar 2019

Oklahoma is one of the majority of states where a comment about technology competency has been added to the Rules of Professional Conduct noting that a lawyer should keep abreast of changes in the law and “the benefits and risks associated with relevant technology.”²

So, what are some basic technology concepts that most Oklahoma lawyers should understand and skills most lawyers should have?

I will note that some of these are dependent on your practice areas. A lawyer who only does estate planning may not have to understand much about Facebook, but a lawyer handling contested family law matters certainly does.

Here are a few suggested topics for some summertime reading and skill building.

FASTCASE

Oklahoma lawyers receive Fastcase as a free OBA member benefit. I am surprised some Oklahoma lawyers still haven’t used this powerful tool yet. Even if you choose to use another commercial research service, you should know how to use Fastcase if you ever need a backup or if an opinion you need is not included in your subscription database. There are a couple of things Fastcase does better than most other services, like creating a public link to an

opinion that you can share with others, including those who don’t have access to Fastcase. Printing an opinion to PDF or Word in Fastcase yields a very readable result. Fastcase also has other cutting-edge features that you may not appreciate without having some Fastcase training. Right now, the default view is Fastcase 6, but you can toggle to use Fastcase 7 right now by clicking on the little FC button in the upper right-hand corner, next to the “Welcome” and your name. Fastcase 7 will become the default this summer.

Improving Your Fastcase Competency

- If you have never tried Fastcase before, give it a try. You can log into your OBA-provided account on your MyOKBar profile page.
- Visit www.fastcase.com/support/ to view on-demand video tutorials, but also to register for Fastcase’s online CLE webinars that will help you appreciate the differences of this service. At a minimum, you will want to register for “Introduction to Legal Research” on Fastcase.
- After your training, create a public link to an opinion and also print an opinion to PDF or Word. There is a greater chance to retain the skill if you try it yourself.

- If you have a challenge or need assistance with Fastcase, reach out to Fastcase support. Call 866-773-2782 (select option 2) Monday-Friday 9 a.m.-9 p.m. CST or email support@fastcase.com.
- We have expanded the CLE offerings at our Solo & Small Firm Conference to include Fastcase training. A Fastcase team member will also be available for individual consultations during the conference.

DIGITAL INFORMATION SECURITY

There are many things written on digital information security. We have copies of the book *Locked Down: Practical Information Security for Lawyers, Second Edition* by David G. Ries, John W. Simek and Sharon D. Nelson in our OBA-MAP Lending Library. Many lawyers have practices focused in this growing area as risk management questions include much more than just the technology. More lawyers will be focusing on this in the future.

However, every lawyer should understand the basics of protecting personal and client information.

There are many threats today, but for lawyers the biggest potential disasters are losing the information we need to operate, a compromise of confidential or privileged client

Technology has changed the way we process words, and more changes are ahead. From my observations, this is an area where we will see significant changes sooner rather than later as more technology-assisted document drafting tools enter the marketplace.

information or having a financial loss to an online criminal. Sadly, today a critical part of data security is planning for a data breach or corruption of data. Lawyers in Oklahoma have been attacked by ransomware that encrypted their information. Next time it could be your firm. Paying the ransom is often no longer an option as law enforcement will move quickly to block the criminal's payment avenue. Restoring from a recent backup is often your best response.

Improving Your Digital Security Competency

- Mention to your staff every few months about how scammers are improving their schemes. Make sure they understand the danger of clicking on email links or attachments from an unfamiliar source. Share reading materials you come across like "Twelve Most Common Phishing Email Subject Lines"³ from John Simek's *Your IT Consultant* blog.
- Keep your software and operating system patched and updated. Although I

have done it differently in the past, the best plan today is to have Windows Update install updates automatically.⁴ Many of these updates are security updates.

- Protect your data. Backup your data properly and know how to restore from a backup. Draft a written office procedure on how both tasks are accomplished. A properly vetted, secure cloud storage is generally considered safer than anything you can do on your own. Read (or re-read) my recent columns "Eliminating the Terror of Lost Client Files"⁵ and "Cloud Computing for Lawyers – 2019."⁶
- Install a data security suite. *PC Magazine's* "The Best Security Suites for 2019" outlines several options.⁷ If the security suite that was included with your computer purchase has not been renewed, you should consider paying for a security suite as a high-priority item.

- Password managers and two-factor authentication remain top security steps, even though they will impact your daily workflow. See my recent column "Two-Factor Authentication is Critical Today."⁸

DOCUMENT PREPARATION

Lawyers create documents. Sometimes these are short, routine documents and sometimes they are complex, heavily formatted documents. Technology has changed the way we process words, and more changes are ahead. From my observations, this is an area where we will see significant changes sooner rather than later as more technology-assisted document drafting tools enter the marketplace.

Recently, a lawyer asked me "Am I really going to have to give up WordPerfect?" The majority of our profession (and all of the business world) has long ago moved from WordPerfect, Multimate and many other word processing tools to Microsoft Word. Office 365 adoption will make it more difficult to resist the change.

However, I still know of one very tech-savvy law firm of significant size that still uses WordPerfect because they have developed many macros and templates that automate their document production. That's different from someone hanging onto a copy of WordPerfect that is years out of date just because they hate change.

Changing from WordPerfect to Word is not a simple transition. Document formatting is done differently. The difference between the formatting scheme of WordPerfect with its formatting code hidden throughout the document that can be made visible with "reveal codes" is much different from Word's formatting applied through styles.

My personal opinion is most lawyers using WordPerfect should consider learning to use Microsoft Word, with a few standing out as exceptions like the firm noted above. But, to each his or her own and some of the improvements noted below apply to all word processing tools.

Improving Your Word Processing Competency

- It is a poor practice to use the documents you used the last time you handled a matter like this as a form for a new matter. Invest the time in organizing your forms so you always begin with an appropriate "gold standard form" with all possible provisions. It is much easier to delete unneeded material from a form than to add additional clauses. See my column in *ABA Law Practice Magazine* "Implementing the Gold Standard."⁹
- If your typing skills are not developed, it is time to give speech recognition products like Nuance Dragon Professional Individual a try. Make sure you have

lots of memory installed in the computer as Dragon is a memory hog.

- Setting aside the time to improve your Word skills is a challenge for a busy lawyer, but finding training tools is not. Basic online searches will provide lots of free training videos, like "Word Tutorial: Learn Word in 30 Minutes" by Sali Kaceli.¹⁰ Deborah Savadra's *Legal Office Guru*¹¹ is a great resource with both free short tutorials and affordable online courses. Our 2019 Solo & Small Firm Conference features Kenton Brice, director of technology innovation at the OU College of Law, giving a deep dive into Microsoft Word.
- Know what you don't know. If you are working on a legal project with a deadline, that is not the time to build word processing skills but try to make a note when you know there's a better way to do something, so you can go back later and take a look at it.
- Everyone in the law office doesn't have to be a Word expert, but someone in the office should be. See my column in *Law Practice Magazine* "Your Document Czar."¹²
- Start with a simple project that benefits everyone. Saving a form document as a Word template means you will not accidentally overwrite a form when using it. Build a simple template for your "soft letterhead" so everyone can open the template and have a blank document with all of the letterhead information already included.

CONCLUSION

Many lawyers have a challenging relationship with their business technology, but everyone is coping with technology-generated change in many aspects of their lives. You don't want to be a dinosaur. We know what happened to them,¹³ but you are not a dinosaur. Lawyers are resourceful, intelligent and know how to research. You just need to invest the time it takes to improve some aspect of your technology skills. There will be a payback in time saving and a lowered level of frustration.

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, 800-522-8060, jimc@okbar.org. It's a free member benefit!

ENDNOTES

1. Mark A. Cohen, "Lawyers and Technology: Frenemies or Collaborators?," *Forbes*, Jan. 16, 2018, www.forbes.com/sites/markcohen/2018/01/15/lawyers-and-technology-frenemies-or-collaborators/#2b0d9c5222f1.
2. Oklahoma Rules of Professional Conduct, Rule 1.1, Comment 6.
3. youritconsultant.senseient.com/2019/03/twelve-most-common-phishing-email-subject-lines.html.
4. Windows Update: FAQ, support.microsoft.com/en-us/help/12373/windows-update-faq; Install Office Updates, support.office.com/en-us/article/install-office-updates-2ab296f3-7f03-43a2-8e50-46de917611c5?ui=en-US&rs=en-US&ad=US.
5. 90 *Oklahoma Bar Journal* 44 (February 2019).
6. 90 *Oklahoma Bar Journal* 56 (January 2019), www.okbar.org/map/articles/obj9001calloway/.
7. www.pcmag.com/roundup/254982/the-best-security-suites.
8. 90 *Oklahoma Bar Journal* 66 (March 2019).
9. *Law Practice Magazine*, May/June 2017, page 72. dashboard.mazsystems.com/webreader/49127?page=74.
10. www.youtube.com/watch?v=h30gwD0misA.
11. legalofficeguru.com.
12. *Law Practice Magazine*, July/August 2015 page 74. dashboard.mazsystems.com/webreader/30731?page=76.
13. "The Day the Dinosaurs Died," *The New Yorker*, April 9, 2019, www.newyorker.com/magazine/2019/04/08/the-day-the-dinosaurs-died.

Meeting Summaries

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

REPORT OF THE PRESIDENT

President Chesnut reported he attended the Ottawa County Bar Association monthly meeting and Annual Meeting planning meeting. He also wrote the president's message for the April bar journal.

REPORT OF THE VICE PRESIDENT

Vice President Neal reported he attended the OBA Law Schools Committee visit to the OU College of Law.

REPORT OF THE PRESIDENT-ELECT

President-Elect Shields reported she attended the CLE Task Force meeting and signing of the Law Day directive by Chief Justice Gurich.

REPORT OF THE EXECUTIVE DIRECTOR

Executive Director Williams reported he met with a possible vendor regarding the bar center's irrigation system and attended the investiture of new OCU School of Law dean, staff directors meeting, monthly staff celebration, Annual Meeting planning meeting and National Association of Bar Executives Nominating Commission meetings.

REPORT OF THE PAST PRESIDENT

Past President Hays reported she attended the OBA CLE Task Force meeting and OBA Family Law Section monthly meeting.

BOARD MEMBER REPORTS

Governor Beese reported he attended the OBA CLE Task Force meeting and the Muskogee County Bar Association meeting. **Governor DeClerck** reported he communicated with the Disaster Assistance Committee chair to confirm his appointment as liaison and with the Communications Committee chair regarding the board's discussion concerning updating the OBA brochures. He also discussed with Woods County Bar Association members a joint fundraising event with the Garfield County Bar Association. **Governor Fields** reported he attended the Pittsburg County Bar Association meeting. **Governor Hermanson** reported he attended the OBA Law Day Committee meeting and legislative breakfast with his local senator and representative. He had discussions with Kay County Bar Association members about the upcoming board meeting in Ponca City and spent many hours reviewing and discussing legislative issues. **Governor Hicks** reported he attended the Tulsa County Bar Foundation planning meeting. **Governor Oliver**, unable to attend the meeting, reported via email he attended the CLE Task Force meeting and Payne County Bar

Association monthly meeting. **Governor Pringle** reported he attended the Oklahoma County Bar Association *Briefcase* Committee meeting, Oklahoma City Rotary Club meetings and board meeting for Rainbow Fleet Inc. **Governor Williams** reported he attended the OBA CLE Task Force meeting and started work on drafting a resolution to increase the mandatory CLE requirement of 12 hours (including one hour of ethics) to 15 hours (including 1 hour of ethics and three hours of professionalism). He also researched graffiti removal from the Tulsa County Bar Association/Tulsa County Bar Foundation offices and made recommendations. He prepared and presented an environmental update for the Oklahoma Municipal League's/Oklahoma Municipal Utility Providers' 2019 Water/Environmental Summit.

REPORT OF THE YOUNG LAWYERS DIVISION

Governor Nowakowski reported the YLD board assembled bar exam survival kits instead of holding its regular meeting. The kits were handed out to those taking the exam in late February. She also attended the CLE Task Force meeting.

BOARD LIAISON REPORTS

Governor Hutter said the **Bench and Bar Committee** has filmed the Spanish version of its VPO video. He reported on behalf of the **Solo & Small Firm**

Conference Planning Committee that an article with all the conference details was published in the March *Oklahoma Bar Journal* magazine. Governor Beese said the **Legal Internship Committee** has two issues regarding background check that are moving forward. Vice President Neal said the **Law Schools Committee** visited the OU College of Law, and he shared details about the events that took place at the law school. Committee members will visit the TU College of Law next. Executive Director Williams was asked the purpose of the committee, which he said is to do a goodwill tour and provide an opportunity for students to meet bar members.

Governor Hermanson said the **Law Day Committee's** work on the TV show segments is progressing. The committee would like to add a female host to the TV show and is researching possibilities. They are seeking a volunteer to coordinate the legal questions emailed in for Ask A Lawyer Day, and last year's project leader will be asked if she would do it again. Contest entries have been judged, and first place winners and their teachers have been notified; awards for all winners are being prepared. He said first-place winners will be invited to a ceremony April 2 hosted by Chief Justice Gurich. The committee chair and vice chair briefed the committee on their meeting with the chief justice, at which she signed the Law Day Directive (encouraging courthouses to host events). Governor Pringle

said the **Legislative Monitoring Committee** will hold Day at the Capitol March 12, and he encouraged board members to participate.

REPORT OF THE GENERAL COUNSEL

General Counsel Hendryx reported a written report of PRC actions and OBA disciplinary matters from Jan. 11 – Feb. 15, was submitted to the board for its review.

OBA AWARD RECOMMENDATIONS

Awards Committee Chair Kara Smith said the committee recommends no changes in the awards. She said two suggestions for new awards were received and discussed by the committee, but action is not recommended this year. She said information about the proposed awards will be added to committee minutes and given more consideration next year. The board approved the committee's recommendation.

LEGISLATIVE SESSION REPORT

Legislative Liaison Clay Taylor said over a third of members elected to the Legislature are new this year, so Day at the Capitol will be an opportunity to meet them. He briefed board members on the legislative leaders and said he has identified another legislator who is an OBA member, Sen. Mary Boren of Norman, who has not practiced. He predicted major topics during this legislative session will be the budget, court system,

gun legislation, abortion, criminal justice reform and Supreme Court redistricting. Mr. Taylor also provided updates on other subject areas.

The Oklahoma Bar Association Board of Governors met for a special meeting Monday, April 1, at the Oklahoma Bar Center in Oklahoma City.

EXECUTIVE SESSION

The board voted to go into executive session, met in session and voted to come out of session.

HIRING OF OUTSIDE COUNSEL

The board voted when Executive Director Williams is served in the lawsuit naming him in his official capacity, Executive Director Williams and President Chesnut are authorized to interview and select outside counsel, including giving consideration to the Oklahoma attorney general, subject to ratification by the Board of Governors.

NEXT MEETING

The Board of Governors met for a regular meeting in April. A summary of those actions will be published in the *Oklahoma Bar Journal* once the minutes are approved. The next board meeting will be Friday, May 17, at the Oklahoma Bar Center in Oklahoma City.

Scholarship Recipient Highlight

OKLAHOMA BAR FOUNDATION FELLOWS SCHOLARSHIP



S. Grace Williams

Hometown: Bethany
Law School: OCU School of Law
Graduation Date: May 2019
What field of law are you studying: It's more about connecting with clients than a specific area of law
Undergraduate: Southern Nazarene University
Undergrad Major: Sociology with a minor in Spanish
Graduation Date: 2015

What are your short-term and long-term goals?

My goal is to serve vulnerable populations to ensure that every person has access to justice no matter what their means and circumstances. I enjoy working with clients on individual problems that improve the circumstances of their life. I hope to work for a nonprofit providing legal services to low-income clients.

What made you decide to attend law school?

I decided to attend law school after an internship with the Oklahoma County Public Defender's Office in the Juvenile Division. I worked on deprived cases, and I was inspired by the attorneys there who had so many flexible skills to help their young clients. They could speak and play with the children in a loving, trauma-informed way and then turn around and be a strong, intelligent advocate in the courtroom.

What historical figure inspires you and why?

Gandhi because he changed the world with nonviolence.

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

To get anywhere worth going, you just need to be kind and disciplined.

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WAYS TO SUPPORT THE OKLAHOMA BAR FOUNDATION



Fellows Program

An annual giving program for individuals



Community Fellows Program

An annual giving program for law firms, businesses and organizations



Memorials & Tributes

Make a gift in honor of someone — OBF will send a handwritten card to the honoree or their family



Unclaimed Trust Funds

Direct funds to the OBF by mailing a check with the following information on company letterhead: client name, case number and any other important information



Cy Pres Awards

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



Interest on Lawyer Trust Accounts

Prime Partner Banks give higher interest rates creating more funding for OBF Grantees. Choose from the following Prime Partners for your IOLTA:

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THURSDAY, JUNE 27, 2019

21c MUSEUM HOTEL, OKC | 5:30 P.M. – 9:00 P.M.

WWW.OKBARFOUNDATION.ORG/EVENTS/

Activities Welcome New Lawyers

By Brandi Nowakowski

HERE WE ARE, nearly half way through the year. It is hard to believe just how quickly it goes. Throughout this year, the Young Lawyers Division has been actively participating in bar and community events and activities. Recently, I had the incredible honor of helping welcome our new colleagues as they were sworn in before the Oklahoma Supreme Court. I think we can each remember our own swearing-in. It is such a momentous occasion, a pivotal time in our lives, the culmination of so many years of hard work. I am so proud for these new members of the bar, and I look forward to their contribution to the profession and their communities.

The YLD helped to celebrate the admission of this newest batch of Oklahoma attorneys by hosting a welcome reception for the new admittees, their families and friends after each swearing-in ceremony. The YLD takes pride in participating in this long-standing tradition. Later that day, the YLD hosted happy hours at Fassler Hall in both Oklahoma City and Tulsa where practicing attorneys could meet, greet and toast to our newest colleagues.

SERVICE PROJECT POSTPONED

Due to weather, our service project after the April board meeting with Rebuilding

Together OKC was canceled – but we’re working to reschedule it. Rebuilding Together OKC is a nonprofit organization dedicated to rebuilding lives and neighborhoods, making homes safe, warm and dry. They bring volunteers together to improve the homes and lives of low-income, elderly homeowners in the Oklahoma City metro area. Rebuilding Together OKC will provide a great opportunity for members to get their hands dirty to serve the community in a very real and tangible way. Look for information about the event on our Facebook page, www.facebook.com/OBAYLD.

YLD MIDYEAR MEETING

Finally, the YLD is looking forward to the YLD Midyear Meeting that takes place during the Solo & Small Firm Conference in June. As I’ve stated before, this is a great opportunity to meet and socialize with lawyers from across the state, get some great CLE and have a good time. I will once again encourage all lawyers, but especially young lawyers, to attend. Don’t miss out! Register now at www.okbar.org/solo.



From left YLD member Melanie Dittrich, YLD Chair Brandi Nowakowski and YLD District 5 Director Brittany Byers welcome new lawyers at receptions following the admission ceremonies.

Ms. Nowakowski practices in Shawnee and serves as the YLD chairperson. She may be contacted at brandi@stuartclover.com. Keep up with the YLD at www.facebook.com/yld.

FOR YOUR INFORMATION

JUSTICE RICHARD DARBY TO SERVE AS VICE CHIEF JUSTICE

Justice Richard Darby was elected to serve as the vice chief justice of the Oklahoma Supreme Court effective April 15. Since January, the position of vice chief justice was held by Justice Patrick Wyrick. He resigned from the Supreme Court to accept the position of U.S. District Judge for the Western District of Oklahoma.



Justice Darby of Altus served as district judge for District 3 for 23 years. Prior to serving as district judge, he served as special judge and associate district judge for Jackson County, both for four years.

Gov. Fallin appointed Justice Darby to the Oklahoma Supreme Court on April 4, 2018, to fill the unexpired term of now retired Justice Joseph M. Watt.

Justice Darby received his J.D. from the OU College of Law and is married to Dr. Dana Darby, head of school at Altus Christian Academy.

BAR JOURNAL TAKES SUMMER BREAK



The *Oklahoma Bar Journal* theme issues are taking a short break. The

next issue, devoted to access to justice, will be published in August. You'll still receive electronic issues containing court material twice a month in June and July. Have a safe and happy summer!



OBA ADR Section Chair Cliff Magee and past chair Larry Lipe present Steve Barghols with the Peter Bradford Award, which is displayed permanently in the Oklahoma Bar Center.

STEVE BARGHOLS RECEIVES THE PETER BRADFORD DISTINGUISHED ACHIEVEMENT AWARD

Steve Barghols received the Peter Bradford Distinguished Achievement Award in Alternative Dispute Resolution. The award honors the late Peter B. Bradford and is presented to a member of the OBA practicing in the field of alternative dispute resolution who achieves the standards personified by Peter Bradford.

Mr. Barghols has conducted over 3,500 mediations as well as arbitrations in his more than 40 years of

service. He has served as advisor and mentor with countless attorneys wishing to be involved in the ADR processes.

He is active in both the Oklahoma and Oklahoma County bar associations having received the Joe Stamper Distinguished Service Award and the Neil Bogan Professionalism Award. He is past Trustee of the Oklahoma Bar Foundation and past president of the Oklahoma County Bar Association.

OBA MEMBER RESIGNATIONS

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

Kymala Beth Carrier
OBA No. 17745
12100 Maple Ridge R
Oklahoma City, OK 73120

Neilson David Lea
OBA No. 31621
305A Prospect St.
Cuba, MO 65453-1974

Robert B. Mills
OBA No. 6239
6400 Oak Heritage
Edmond, OK 73025-2782

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.

IMPORTANT UPCOMING DATES

Don't forget the Oklahoma Bar Center will be closed Monday, May 27, and Thursday, July 4, in observance of Memorial Day and Independence Day. Remember to register and join us for the 2019 Solo & Small Firm Conference in Tulsa June 20-22, and be sure to docket the OBA Annual Meeting Nov. 6-8 in Oklahoma City.

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ON THE MOVE

Roger Dodd, Shane Henry and **Allyson Dow** have formed **Dodd & Henry**, a law firm focused on trial work. Their trial work will be in all areas of practice and in all Oklahoma counties, as well as all federal courts and other states.

Michael J. McMillin, Vijay Madduri and **Bryson J. Williams** have been named partners to the firm **Munson & McMillin**. Additionally, **Ryan W. Schaller** has joined the firm as an associate. Mr. Schaller will be the practice leader for the firm's Real Estate Practice Section with a focus on all matters related to real estate, including surface title opinions.

Lindsey Albers and **Rebecca Newman** have joined the firm **Rhodes, Hieronymus, Jones, Tucker & Gable PLLC**. Ms. Albers' practice centers on civil defense litigation and appellate

practice with an emphasis on insurance defense, complex civil litigation and employment discrimination. Ms. Newman's practice will focus on civil defense with a broad scope of experience from commercial litigation and insurance defense to product defect and trusts.

Lee Pugh co-founded **JPR & Associates LLC**, a professional investigations firm staffed by recently retired FBI agents. **JPR & Associates LLC** provides professional investigative, litigation support and fraud examination services to Oklahoma City attorneys and companies.

Sarah B. Edwards and **Chris R. Kelly** joined **Hartzog Conger Cason**. Ms. Edwards practices corporate and commercial law. Mr. Kelly's practice focuses on health law and health care clients.

Tracy L. McCreight and **Benton T. Wheatley** have joined **Duane Morris LLP's** Austin office as partners in the firm's Trial Practice Group. **Meredith Mills Gregston** has also joined the firm's Trial Practice Group as an associate in the Austin office. Ms. McCreight focuses her practice on representing owners in construction defect matters and contract disputes. Mr. Wheatley focuses his practice on construction law matters and handles administrative matters related to the construction and design industry, as well as environment and commercial litigation. Ms. Gregston practices in the area of litigation and has experience with employment litigation and general commercial litigation.

HOW TO PLACE AN ANNOUNCEMENT:

The *Oklahoma Bar Journal* welcomes short articles or news items about OBA members and upcoming meetings. If you are an OBA member and you've moved, become a partner, hired an associate, taken on a partner, received a promotion or an award, or given a talk or speech with statewide or national stature, we'd like to hear

from you. Sections, committees, and county bar associations are encouraged to submit short stories about upcoming or recent activities. Honors bestowed by other publications (*e.g., Super Lawyers, Best Lawyers, etc.*) will not be accepted as announcements. (Oklahoma based publications are the exception.) Information selected for publication is printed at no cost, subject to editing and printed as space permits.

Submit news items to:

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

Articles for the August issue must be received by July 1.

Rachel Blue was honored with the 2019 Fern Holland Award by the TU College of Law. The award is given annually to a Tulsa-area attorney who embodies the spirit of Fern Holland and advocates for human rights or the empowerment of women.

Rex Hodges was honored with the ABA Military Pro Bono Project Outstanding Services Award for his extraordinary pro bono services in 2019 through the ABA Military Pro Bono Project.

Meagen Burrows has been certified as an HR professional (SHRM-CP). SHRM-CP certification is an HR certification offered by the Society for Human Resources Management.

M. Joe Crosthwait Jr. was invited to attend the 66th National Security Forum at Maxwell Air Force Base in Montgomery, Alabama. The forum provides distinguished, hand-selected civilians with an opportunity to engage in open and candid discussions with senior military and civilian leaders on

national and international security topics. The OCU School of Law held its annual Awards Dinner Saturday, April 6. **Elaine Turner** received the Community and Public Service Award, **Monica Ybarra** received the Outstanding Young Alumna Award, **Sandra Mitchell** received the Distinguished Alumni Award and **Justice James Winchester** received the Marian P. Opala Lifetime Achievement in Law Award. **Retired Oklahoma Supreme Court Justice Steven W. Taylor** has been appointed to the Oklahoma State Regents for Higher Education. The Oklahoma State Regents for Higher Education is a constitutional body that oversees the state's higher education system.

Thomas M. Askew obtained a General Player Agent Certification and will represent major league baseball athletes nationwide. He is one of 1,200 members registered with the Major League Baseball Players Association.

Melvin C. Hall was presented the Opio Toure Champion of Justice Award at the Oklahoma Association of Black Lawyers Annual Scholarship and Awards Dinner. The award is presented annually to a person or entity who exhibits integrity and an adherence to the highest principals and traditions of the legal profession, in addition to superior professional competence and extraordinary professional accomplishments which benefit the nation, state and local community.

AT THE PODIUM

Paul R. Foster presented "Dynamic Interactive Question and Answer," a panel of banking regulators from the Federal Reserve, FDIC, OCC and Oklahoma State Banking Department at the Community Bankers Association of Oklahoma's Winter Leadership Conference in Coronado, California.

Marty Ludlum spoke to students at Chien Hsin University in Zhongli, Taiwan, on international trade.

Appellate Litigation & Consulting

Harvey D. Ellis

Author on Oklahoma Procedural Law:
Oklahoma Appellate Practice (Thomson Reuters)
Oklahoma Civil Procedure Forms and Practice (LexisNexis)

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Solo & Small Firm Conference

June 20-22
River Spirit
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Register online at www.okbar.org/solo/registration

Register before June 7 for an early bird discount!

IN MEMORIAM

Alan W. Agee of Pauls Valley died Oct. 21, 2018. He was born Jan. 9, 1934, in Oklahoma City. He was a Pauls Valley graduate and continued his education at OU. **After graduation, he served his country in the United States Air Force where he was commissioned at the rank of captain.** He graduated from the OU College of Law and quickly became a partner with R. B. Garvin Law Firm in Pauls Valley, where he practiced until his final days. He was a member of the Pauls Valley Elks, the First Christian Church, Rotary and Pauls Valley Quarter Back Club. Memorial donations may be made to the Oklahoma Medical Research foundation at omrf.org.

Rex Dwain Brooks of Oklahoma City died March 29. He was born Feb. 2, 1937, in Blanchard, and he graduated from Blanchard High School in 1955. **He was a veteran of the U.S. Army and served in Okinawa from 1960-1962.** He received his BBA in finance from OU in 1965, an LL.B. from OU in 1967 and his J.D. from the OU College of Law in 1970. His legal career began in 1967 as an associate attorney with Elliott, Woodard and Ralston. In 1968, he served as a staff attorney for Maryland Casualty Co. and in 1974, he entered private practice and continued until his death.

David Colin Buckles of Norman died March 12. He was born Nov. 16, 1980, in Dayton, Ohio. He graduated from Centerville High School in 1998 and from OU with a bachelor's degree in aviation management. He loved flying and was a gifted pilot. Later, while working

full-time, he attended the OCU School of Law and received his J.D. in 2014. He loved all animals, fly fishing, working on classic British sports cars and music of all kinds. Memorial donations may be made to Together We Rise or the Bella Foundation.

Bill W. Burgess Jr. of Lawton died Feb. 8. He was born June 1, 1956. He graduated from Cameron University and earned his J.D. from the OU College of Law. He and his brother were partners in the law firm of Burgess and Hightower. He was active in many business organizations including serving as chairman of Leadership Oklahoma, Oklahoma Business Roundtable and Lawton Chamber of Commerce. He was inducted into the Oklahoma Hall of Fame in 2008 and was named Corporate Entrepreneur of the Year by the U.S. Association for Small Business and Entrepreneurship. Memorial donations may be made to the Cameron Foundation or OU Foundation.

Richard E. Comfort of Broken Arrow died March 11. He was born Aug. 17, 1937, in El Paso, Texas. He received his J.D. from the TU College of Law in 1970 and served on the bench in Tulsa and Pawnee counties from 1973-1981. After leaving the bench in 1981, he practiced law in Tulsa with several firms including Hall Estill and Comfort, Lipe & Green, and finally as a solo practitioner until he retired in 2009. Memorial donations may be made to the Alzheimer's Association at www.alz.org.

John Patrick "Pat" Cremin of Tulsa died Feb. 6. He was born Nov. 18, 1944. He graduated from TU with a B.A. in journalism in 1966 and received his J.D. from the TU College of Law in 1973. He began his legal career at Hall, Estill, Hardwick, Gable, Golden and Nelson PC where he remained in practice until his death. He loved Tulsa and was proud to serve the community. He served on the City of Tulsa Human Rights Commission, as the representative of District 11 for the Greater Tulsa Council and was on the City-County Jail Advisory Commission. Memorial donations may be made to Holy Family School or TU.

Morris Anthony Galloway of Oklahoma City died March 7. He was born Dec. 15, 1945, in Kansas City, Missouri. He graduated from the OU College of Law in 1973. Upon graduating, he was a manager of a C.R. Anthony store in Stroud. He worked at various banks in Oklahoma, and the last 10 years of his life he practiced criminal law in El Reno. He was a member of Crown Heights Christian Church and served as an elder there for several years. Memorial donations may be made to Free to Live or Crown Heights Christian Church.

Christopher Ryan Hobza of Cowasso died Feb. 11. He was born March 20, 1973, in Texarkana, Texas. He graduated from Idabel High School in 1991 and continued his education at OSU where he earned his bachelor's degree in philosophy. In 1999, he received his J.D. from the TU College of Law. He spent most of his working life as an attorney and was

associate general counsel with Hire Right in Tulsa. He was a faithful member of First Church in Owasso and enjoyed all types of music and attending concerts. Memorial donations may be made to Next Generation Ministries, c/o First Church, 10100 North Garnett Road, Owasso 74055.

Greg Maddux of Tulsa died March 25. He was born Nov. 14, 1956. He attended Central High School and OSU and received his J.D. from the TU College of Law in 1983. Memorial donations may be made to the American Heart Association.

William L. Peterson Jr. of Kansas City died March 5. He was born Nov. 16, 1930, in Okmulgee and graduate from Okmulgee High School. He attended OU where he earned both his B.A. and LL.B. and was admitted to the Oklahoma bar in 1954. **He then served two years in the U.S. Air Force as a JAG officer.** After completing his military services, he began practicing law in Oklahoma City, where he developed a commercial litigation practice. He finished his legal career as an administrative law judge for the Oklahoma Corporation Commission, a position from which he retired at the age of 82. Memorial donations may be made to Armour Oaks Senior Living Community.

Lori Lorraine Lessard Stroud of Frisco, Texas, died March 10, 2018. She was born June 10, 1966, in Omaha, Nebraska. She received her J.D. from the OU College of Law in 1989. She was a senior attorney adjudicator for more than 20 years and was a member

of many organizations including Sigma Kappa and McDermott Road Church of Christ. She will be remembered by her family and friends for her happy and vibrant personality.

Chad Doyle Upton of Oklahoma City died March 18. He was born Feb. 2, 1976, in Ardmore. He graduated from Tishomingo High School in 1994 and from Southeastern Oklahoma State University in 1999. He received his J.D. from the University of Dayton School of Law in 2005. He spent his years working in the oil field and practicing law in Tishomingo. He loved his family dearly and enjoyed every minute he got to spend with them.

Sherry Lynn Walkabout of Tulsa died March 10. She was born July 29, 1954, in Siloam Springs, Arkansas. She attended TU where she earned a Bachelor of Arts in 2000 and graduated from the TU College of Law in 2006. She was an active volunteer for Tulsa Legal Aid, serving impoverished women. She also did pro bono legal work for numerous friends that needed her assistance and would always make herself available when a request for help came her way. She had a love for bowling, attending pro football and baseball games and auto racing. Memorial donations may be made to Sip for Sight at www.sipforsight.com.

John Paul Walters of Edmond died March 5. He was born Oct. 17, 1921, and graduated from Edmond High School in 1939. **In 1942, he was called to active duty and served three years in**

the Army Air Corps. He was in the 15th Air Force stationed in southern Italy. After the war, he attended OU where he received his LL.B. in 1950. He began his law career in private practice in Edmond in 1951. He then went on to serve as Grady County attorney and assistant attorney from 1953-1961, attorney and chief counsel to the Oklahoma Department of Highways from 1962-1971 and trial attorney for OG&E from 1972-1982 before returning to private practice. Memorial donations may be made to Breakfast on Boulevard, First Christian Church, P.O. Box 3547, Edmond 73083.

Robert Wheeler of Oklahoma City died March 29. He was born Aug. 26, 1935, in Clinton. He graduated from Tipton High School in 1953, from OU with a Bachelor of Business Administration in 1959 and from the OU College of Law in 1963. He practiced law in Oklahoma City for more than 50 years.

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APPLICATIONS MUST BE RECEIVED AT DHS BY 11:59 PM OF THE CLOSING DATE OF THIS JOB ANNOUNCEMENT. Apply online at <https://jobapscloud.com/OK/sup/bulpreview.asp?R1=190320&R2=UNCE&R3=123>. Basic purpose of position: The DHS Child Support Services – South OKC CSS Office has an opening for a full-time attorney (CSS Attorney IV, \$5,044.91 monthly) with experience in child support enforcement. This position will be located at 2701 S. Harvey, Oklahoma City, OK, 73125-0637. Typical functions: The position involves preparation and filing of pleadings and trial of cases in child support related hearings in district and administrative courts. Duties will also include consultation and negotiation with other attorneys and customers of Oklahoma Child Support Services, and interpretation of laws, regulations, opinions of the court and policy. Position will train and assist staff with preparation of legal documents and ensure their compliance with ethical considerations. Knowledge, skills, and abilities (KSA's): Knowledge of legal principles and their applications; of legal research methods; of the scope of Oklahoma statutory law and the provisions of the Oklahoma Constitution; of the principles of administrative and constitutional law; of trial and administrative hearing procedures; and of the rules of evidence; and skill in performing research, analyzing, appraising and applying legal principles, facts and precedents to legal problems; presenting explanation of legal matters, statements of facts, law and argument clearly and logically in written and oral form; and in drafting legal instruments and documents. Minimum qualifications: Preference may be given to candidates with experience in child support and/or family law. This position may be filled at an alternate hiring level as a Child Support Services attorney III (beginning salary \$4,405.00 monthly), Child Support Services attorney II (beginning salary \$4,067.91 monthly), or as a Child Support Services attorney I (beginning salary \$3,689.25 monthly), dependent on child support or family law experience and minimum qualifications as per state policy. Notes: A conditional offer of employment to final candidate will be contingent upon a favorable background check and a substance abuse screening. Veteran's preference points do not apply to this position. If you need assistance in applying for this position contact Oklahoma Department of Human Services, Talent Acquisitions at 405-521-3613 or email STO.HRM.TA@okdhs.org. Benefits: This is a full-time unclassified state position with full state retirement and insurance benefits, including paid health, dental, life and disability insurance. Annual leave of 10 hours per month and sick leave of 10 hours per month begin accruing immediately.

True Stories from Rural Oklahoma

By Holly Cinocca

MY HUSBAND AND I practiced law in Tulsa for 17 years, when my husband decided to become a Methodist minister. His first assignment was to a couple of small churches in southeastern Oklahoma. Having practiced civil litigation in Tulsa my entire career, I knew it was not going to be easy to find a job in rural Oklahoma. Luckily, the local courthouse needed an assistant DA, and so my stint as a prosecutor for LeFlore County, America,

the goat case on Monday.” Now if that’s not funny enough in and of itself, I actually had to ask him, “Which one?” I’m pretty sure this is the only county with more than one pending goat case. At any rate, this guy’s goats kept getting out and going in his neighbor’s yard, so the neighbor eventually called the sheriff – and called and called.

The sheriff went out there a half dozen times to tell the guy to keep the goats penned up. We’re talking about 27 goats here, which

to chase all the goats back to the owner’s yard.” I would love to have body cam video of that. Well, after I began preparing for goat trial number one, the defense attorney called and decided to settle the case (his client’s been *baaaaaaad*). It’s a good thing, since I’m not sure I could’ve argued it with a straight face.

The following week, I read a complaint from a woman who wanted her own husband arrested for making obscene and threatening phone calls. She had a tape. I listened, and sure enough, the husband sounded plenty mad and fairly obscene. He kept cussing someone named “Brother Dewayne.” So I asked her, “Who is Brother Dewayne?” “Well, he’s our preacher,” she said. “Why is your husband threatening the preacher?” I asked. “Um ... probably because he caught us in bed together.” “Oh, *that* explains a lot,” I responded. I decided not to file any charges.

One of our judges would always query male defendants who wore sleeveless t-shirts to court. One of my favorites went like this, “Sir, do you know where you are?” “Uh... court?” “Yes. You’re in court. Now *WHERE* are your sleeves?” (Long pause while the judge taps his finger.) “I think they’re in my other shirt.” Giggles were heard from the prosecution’s table.



began. It was a bit of a culture shock, and I ended up writing a book about our three-year adventure there. Here are a couple of snippets from my book, *Greetings From LeFlore County!*

One Friday, my boss (the DA) came in my office and said, “It looks like you’re gonna have to try

I’m pretty sure could eat an entire double-wide trailer if given enough time. The particular sheriff’s deputy who went out there is a guy who’s about as wide as he is tall. In one report, he wrote, “There was goat poop all over the neighbor’s carport” (yeah, 27 goats worth of poop), and in another it said, “I had

Ms. Cinocca practices in Tulsa.

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2019 KEYNOTE SPEAKER: **MARCIA COYLE**

Marcia Coyle is the Chief Washington Correspondent for The National Law Journal, a national weekly newspaper that covers law and litigation. Marcia, a lawyer as well as a journalist, has covered the Supreme Court for 25 years. She is also a regular contributor of Supreme Court analysis to PBS' The NewsHour.

Before joining the NLJ, she covered state and national government and politics for a Pennsylvania Times-Mirror daily newspaper for more than a decade. Besides her work for the Law Journal, she has written about the Supreme Court and other legal issues for such publications as Vogue, Ms. magazine and the New York Times Book Review, and she is a contributing author to a book on the Supreme Court, *A Year in the Life of the U.S. Supreme Court* (Duke University Press). She also is the author of *The Roberts Court*, published in the spring of 2013.

She earned her B.A. degree from Hood College, Frederick, Md.; her M.S. in journalism from Northwestern University, Evanston, Ill., and her J.D. degree from the University of Baltimore School of Law, Baltimore, Md.

Her reporting has garnered such national journalism awards as the George Polk Award for legal reporting, the Investigative Reporters and Editors Award for outstanding investigative reporting, the American Judicature Society's Toni House Journalism Award for a career body of work involving coverage of the nation's courts and justice system, and the Scripps-Howard Foundation Award for environmental journalism, among others.

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